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Portland Edition

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Managing an HOA can be a lonely and frustrating task. Take heart. Help is on the way.



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## Lifting the Veil

In real estate sales, sellers are required to disclose any material fact that any prudent buyer would want to know before completing a purchase. Property located over a toxic waste dump would be an obvious example of disclosure and the need for it. There are less catastrophic issues, like roof condition or a leaking crawlspace but the idea is the same.

Anything that could negatively impact the value or marketability of the property needs to be divulged before closing. While there are usually statutory disclosure requirements of single family house sellers, these same disclosures are generally not required of homeowner association home sellers. This is a huge problem and here's why:

Homeowner associations (HOA) impose substantial financial obligations to the members. So, while a buyer may purchase a condo in great condition and needing no repairs, that same buyer is also obligated to share the cost of certain repairs for all the other condos, which may be in very bad condition. Since there is no specific legal requirements in most states to disclose these obligations, the buyer often finds out after closing when presented with a special assessment that can amount to thousands of dollars.

Here's the key to unclocking this problem: The board of directors controls the quality and quantity of disclosure information. The responsible board treats the HOA like the business that it is and keeps certain basic information easily available (website) such as:

**Governing Documents.** Includes the Declaration, Bylaws, Rules & Regulations, Resolutions which are the specific obligations each member has.

**Newsletters.** Reveal events (renovation, litigation, etc) that could indicate a possible special assessment.

**Meeting Minutes.** Same as newsletter but with more specifics.

**Annual Budgets for Last 3 Years.** Could reveal expense trends and failure to adjust for inflation and known cost increases to utilities and contract services.

**Financial Reports.** Monthly reports comparing actual expenses to budget should be available to track income and expenses.

**Collection Activity.** How much of the assessments are overdue 30, 60 or 90 days? If some don't pay, guess who gets to?

**Litigation Activity.** Are there any pending lawsuits that could trigger a special assessment?

**Reserve Study.** A 30 year plan to maintain components like roofs, painting, paving, etc. This is the biggest time bomb in the many homeowner associations that lack one. Failure to plan for predictable long range expenses often mirrors a lack of ongoing maintenance which causes property values to fall.

**Percentage of Rental Units.** More than 50% rentals could directly affect financing options and saleability.

**Key Contact Information.** How to contact the board and manager.

This list of items is the same information that any informed buyer would want. It's the board's responsibility to make it available to owners so they, in turn, can provide proper disclosure to their buyers. If buyers are informed of their responsibilities, they will make better neighbors. Does the HOA really want members that don't care how business is handled? Is your board prepared to lift the veil on disclosure? ☀

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## Ask the HOA Expert

**Q** One of the homes in the community was used as a model home and the irrigation system sprinkles part of the common area. The home sold and the buyer apparently was aware of this and did not have a problem with it. The home has now sold again and the new owner is wanting the HOA to reimburse him for irrigation costs. Is the HOA responsible since this was an agreement between the developer and owner (prior to turn-over)? Does the obligation pass to subsequent owners?

Also the new owner resodded part of this common area without permission and wants the HOA to reimburse him for that as well.

**A** The developer has no authority to make deals with individual owners regarding common area maintenance or expenses. It's unusual that the original owner would agree to pay for irrigating common area but the second owner is certainly entitled to reimbursement. The cleanest way to handle this is to install a separate irrigation meter and have the HOA pay the bill directly. The original builder should have installed a separate meter to avoid this obvious problem in the making.

The HOA is under no obligation to reimburse for owner work in the common area and, indeed, the owner has no authority to be doing this in the first place.

**Q** The new board is saying that the president, per Robert's Rules, is not allowed to vote. Before I retired, I managed over 20 communities and this issue never came up. The president always voted. Do you have any wisdom on this?

**A** What you describe is a common misconception about voting. The president is allowed to vote just like any director although often doesn't need to unless to break a tie. If the vote is important, it is advisable for the president to cast a vote regardless so that the minutes

reflect who voted in favor and who against.

**Q** Our HOA rules attempt to enhance the residential character and appearance. For example, our parking rules state that "oversized vehicles must park in area behind the pool". In other words, these vehicles must not park in their driveways or in the street. The board has established that an "oversized vehicle" is one that will not fit in the garage. We have some habitual offenders. For the most part, it has been effective and most folks comply. Are we correct in trying to maintain this standard?

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**A** Rules should be reasonable. If a resident uses an SUV that won't fit in the garage for personal transportation, it is not reasonable to require that resident to park a distance away. Driveways are intended for a residents' and his guests' use. Having this kind of policy goes too far. There is Sample Parking Policy at [www.Regenesis.net](http://www.Regenesis.net) in the Policy Samples section.

**Q** When a developer turns over the homeowners association to the owners, can the new board then enforce rules that were not enforced previously? For example, I erected a shed that has a county permit and was never challenged by the developer controlled board. Now I fear that the new board may try to force removal of the shed.

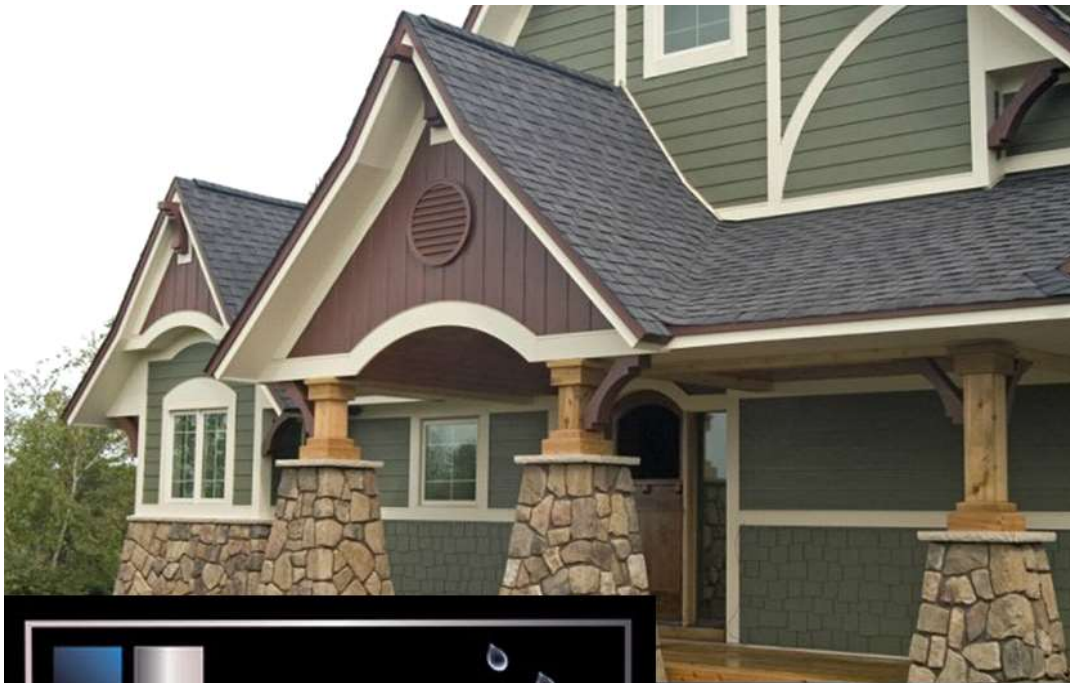
**A** It's common for developers to turn a blind eye to violations and, yes, the new board does have the right to enforce the rules after turnover. You can make the argument based on the time that has elapsed but unless you can show that you had permission in the first place, your construction is not defensible. In fact, you apparently knew it wasn't permitted when you did it.

If you can convince the current board that the shed is acceptable, more power to you, but allowing your violation would allow a precedent. Unless the board also agrees that sheds like yours are generally acceptable, this is bound to cause ill will with some neighbors now or in the future.

**Q** What is the average number or percentage recommended for a quorum? We were estimating about 1/4 or 25% would represent a quorum, could this be a smaller number like 1/5? We are currently having monthly owner meetings to address all the new issues and establish our long term goals. We have had very slim turnouts for these meetings. Our last meeting only 6 of 30 members present and 2 of them were married, so we only had 5 voting members. Most of the owners are not interested in attending the meetings. They just want informed of the decisions and the opportunity to vote on them when applicable. Can it be written into the by-laws that any meeting where the board officers and at least two non-board owners are present, that this would represent a quorum?

**A** To determine what the meeting quorum requirements are for your HOA, you need to read





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and understand your governing documents. Quorum requirements are often different for board versus owner meetings and even according to the subject matter. Some bylaw changes may require 100% owner approval while others a simple majority or less.

HOAs typically have several board meetings (usually four or more) and one owner meeting per year. Once the owners elect a board, the board holds board meetings and takes care of business. The owners meet once a year to elect new directors as their terms expire and to discuss business that requires owner vote (like amending the bylaws and possibly approving a special assessment).

**Q** There are two components to management of our HOA, the outside property management company and the onsite manager who is hired by the board and is an employee of the HOA. The fee for the management company is disclosed in our annual budget. However, the salary paid to the manager is aggregated with other building employees. When we asked the board to disclose the salary paid to the manager, the board refused citing confidentiality and privacy. They have repeatedly refused to disclose the costs of the manager and have no standards of performance.

**A** The board should not withhold onsite manager salary information unless they are currently shopping for one and don't want to risk compromising negotiations. Otherwise, the owners have the right to know how their money is being spent.

**Q** Our pet free condominium is experiencing more exception requests for "service animals". We are aware of traditional seeing eye and hearing dogs but now we're faced with "emotional support animal" requests. Has the definition of such things changed?

**A** In the past, the issue was straightforward. If you were blind, you had a seeing eye dog; if you were deaf, a hearing dog.

Now, service animals can be just about anything (dog, cat, snake, horse, pig, what-have-you). It has become quite a trap for landlords and HOAs. There are often both state and federal statutes that address the issue. Those denying housing for those claiming to have a service animal can trigger large financial penalties for violation.

Under current statutes, if the disability is obvious (blind, deaf, wheel-chair bound), no verification from a doctor is needed. The HOA board can establish a policy that only "qualified" service animals are allowed which applies to both long term residents and vacation rentals. When the nature of the disability is not obvious, a verification letter from a qualified physician can be required. The board should run any such policy passed the attorney before implementing. 🗳️

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### Ahead of the Game

Deferring maintenance of HOA common elements has negative and lasting effects. While postponing maintenance may seem to be a money-saving technique, the consequences are usually a much higher cost.

**Painting** is one of the largest elements of routine common area maintenance for many associations. If ignored, a poorly maintained paint finish will lead to extensive costs for the homeowner association at the time such upkeep is eventually completed. The paint on the exterior of any building is a very important component of any maintenance plan. Wood trim should be painted every 3-4 years. The complete painting of buildings should be done every 6-8 years in wetter climates. Add 3-4 years in dry climates.

**Drainage.** Rain gutters are an important component of the common area which need twice annual cleaning (more often where there is heavy tree

coverage) to help insure proper water run-off. Clogged and overflowing gutters cause premature trim and siding rot.

**Light fixtures and poles** need to be serviced regularly. Salt air, in particular, can rapidly deteriorate and short-circuit light fixtures.

**Concrete sidewalks and slabs** to be inspected annually for cracks and raised areas, as well as degradation of the surface. Raised areas create a trip hazard which can be corrected by grinding or removal and replacement.

**Asphalt** needs to be repaired and seal coated every 3-5 years to properly protect it so it will achieve its maximum useful life of 25-30 years.

**Roofs** need to be part of Spring and Fall maintenance plan. They need to be inspected and serviced by a qualified roofing maintenance contractor.

**Recreation Areas.** Playground equipment should be inspected and maintained frequently to ensure child safety.

**Directional Signage** should be in good repair and easily readable in order to assist emergency response services like police, fire and pizza delivery ☺. Directories with name and addresses also facilitate emergency response. The directory should be regularly updated for accuracy.

**Reserve Study.** Completing and annually updating a Reserve Study will help the board to schedule, budget and properly maintain the common elements. It is highly recommended that the study be done and updated by experienced professionals like PRA (Professional Reserve Analysts) members of the Association of Professional Analysts (see [www.apra-usa.com](http://www.apra-usa.com) for a directory PRA members).

Use these hints to help craft your own Preventive Maintenance Plan. Deferring maintenance is a sucker bet that will come back to bite. Stay ahead of the game.

*Excerpts from an article by Association Times.* 🗳️



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## Newsletter Basics

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## Annual Meeting Celebration

The annual homeowner association meeting is required. But rather than approach it in the “Do I have to?” mode, make it a celebration of accomplishments: Bills got paid, volunteers served and survived and projects were completed. There are always things to celebrate. So, while the business meeting may be mundane, dress it up for a party! All good parties takes planning:

**Start Early.** At least three months is needed to properly prepare.

**Appoint Nominating Committee.** Identify three or more owners to serve on a committee which will locate qualified director nominees. The committee’s job is to seek out candidates that have the time, concern and ability to serve as directors.

**Time is a two edged sword.** Some candidates are time poor due to commitments. But even busy people can make time if they want to. How much time is required? Say, “Directors are expected to attend four two hour board meetings a year and to stay informed about HOA business. The job should take an average of four hours a month and the term is two years.” Now, that’s not so bad, is it?

**Concern.** Is the candidate concerned with how the board does business? (“Concern” is defined as “wanting business run in a professional manner” not “I’m going to make sure my building gets painted first”).

**Ability.** Does the candidate have special talents to lend like leadership ability, accounting skills, contracting experience or journalism background? While these aren’t prerequisites, they help.

**Schedule Meeting Time & Place.** Tuesday, Wednesday or Thursday, 6 -

**The Regenesi.s Report**

8 pm time frame usually works best for avoiding conflicts. The meeting place should be large enough to accommodate all owners and spouses.

### Add the Celebration.

- A. Cater a buffet and advertise a mouth watering menu.
- B. Have a drawing for cool prizes.
- C. Distribute awards and recognitions.

**Send Agenda & Proxies.** Depending on requirements in your governing documents, 30 days is recommended. Include:

- A. **Agenda** Time and location
- B. **Proposed Bylaw Amendments.**
- C. **Election Information.** Candidates and bios; Request for more candidates
- D. **Other Business.** Include information about other issues to be voted on (like a special assessment).
- E. **Proxy.** A written authorization for a representative to vote on behalf of the giver. It should be completed, signed and returned by all owners one week prior to the meeting. Include a stamped envelope marked “**Proxy**” to encourage return. **Do not** allow people to collect proxies for themselves directly since this allows for fraud. All proxies should be returned directly to the board or management.
- F. **Ballot.** While governing documents may allow vote by mail, unless many owners are nonresident, this practice is not recommended since it doesn’t allow for discussion of the issues and candidates which could change the voting outcome.

### One Week Prior

- A. **Round Up Proxies.** One week prior to the meeting, tally the proxies and pick up those that are missing. Since the meeting cannot be held unless a proper quorum is reached, *this is very important.* All owners should return proxies to ensure a quorum. If they attend the meeting, the proxies are returned to them.
- B. **Forms.** Prepare a sign-in sheet, ballots, election tally and handouts. If there are a number of handouts, print each on a different color of paper.

### Meeting Day.

- A. **Organize Seating** with current board at a head table facing the audience in gallery seating. If the room is large enough to need it, get

microphones and speakers so all can hear. If there are visuals planned, set up the equipment in advance.

B. **Turn On Heat or A/C** if needed at least six hours prior to the event.

C. **Set Up Registration Table** to sign people in and return their proxy if appropriate.

### Meeting Begins

- A. Call Meeting to Order
- B. Introduce Board & Manager
- C. Proof of Notice & Quorum. Announce form of notice and date sent plus total owners represented at the meeting in person and by proxy. The total should meet the minimum required by the governing documents. (If not, adjourn the meeting and reconvene when a quorum can be attained).
- D. Open Owner Forum: Limit to 3-5 minutes per person
- E. Review & Approve Minutes of Last Annual Meeting
- F. Officer Reports
  - Year in Review - President
  - Financial Report - Treasurer
- G. Manager’s Report (if any)
- H. Committee Reports (if any)
- I. Bylaw Amendments (if any)
- J. Elections. Ask for nominations; Introduce candidates; Hold election by acclamation, if appropriate, or distribute ballots and have them tallied by Election Committee. Announce results.
- K. Awards & Presentations. Recognize directors and other volunteers.
- L. Meeting Adjourned: Invite everyone to stay for the banquet to celebrate.
- M. Organizational Board Meeting immediately following the annual meeting to select officers

The Annual Meeting should be a celebration of the HOA’s accomplishments while handling necessary business. A well organized meeting shouldn’t run more than 1 - 2 hours. Finish on a high note: Ceremoniously announce recognitions and then adjourn to a sumptuous feast. Make it a “feel good” event. Party on! 🎉

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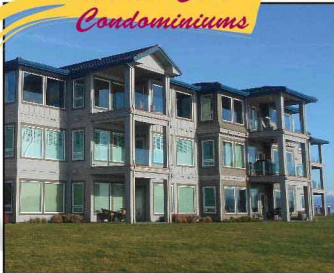
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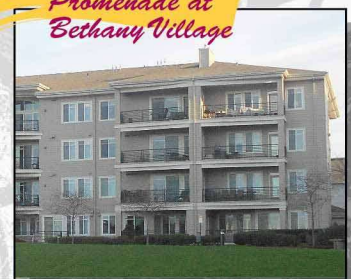
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## Winterizing Vacants

For colder climate common wall homeowners associations, doing preventive winterization on vacant units can avert the considerable damage often caused by freezing conditions. If you haven't already done so, share this with the vacant unit owners.

### GENERAL

❑ **Check Your Insurance.** Consult with your insurance agent to see that your content coverage is adequate. The Association's insurance will not cover loss of or damage to your personal property.

❑ **Emergency Contact Information.** (VERY IMPORTANT) Leave information with the manager and board president including expected return date.

❑ **Landlords.** Post this notice in a visible location within the unit.

❑ **Weekly Inspection.** Have someone inspect your unit at least weekly, especially if there is a prolonged cold spell or recent freezing temperature.

### INSIDE

❑ **Adjust Hot Water Thermostat.** Turn gas hot water heaters to minimum (pilot light only) or turn electric hot water heater completely off.

❑ **Adjust Thermostat.** Do not turn the heat completely off. Set the thermostat to no lower than 55°F to protect against freezing conditions.

❑ **Draperies & Blinds.** Adjust so interior view is minimal.

❑ **Exterior Doors.** Secure all including the garage door, if applicable.

❑ **Fireplace.** Close flue and doors and put reminder note on mantle: "Flue Closed".

❑ **Leave Sink Cupboard Doors Open.** Leave cupboard doors open under kitchen and bathroom sinks to keep pipes warm.

❑ **Lighting.** Install clock controls on living room and bedroom lamps so they turn on and off each evening automatically for security purposes.

❑ **Pipe Thawing.** If the pipes freeze, use a hair dryer or wait until the weather moderates. When thawed, listen for running water when faucets are turned off. If you hear it, there may be a broken water line. Is so, reported to the board or management immediately.

❑ **Refrigerator.** Turn thermostat to

minimum setting and remove all perishables.

❑ **Windows.** Close and secure all windows.

### OUTSIDE

❑ **Lighting.** Install photocell in exterior entry fixture for automatic night lighting.

❑ **Close Main Water Valve.** If you have access to a valve *that controls your unit only*, close it.

❑ **Electric Tape on Pipes.** If applicable, verify working condition.

❑ **Exterior Faucets.** Install styrofoam covers by October 15 to prevent freezing. Leave in place until April 15.

❑ **Exterior Vents.** If your unit has them, close them or install vent plugs by October 15. Open them again by April 15. Close or open later if weather dictates.

❑ **Patio/Deck.** Store all plants and pots. Store or protect furniture.

❑ **Sump Pumps.** If applicable, verify working condition.

❑ **Snow & Ice Conditions.** Keep a supply of an ice melt product handy (no salt or kitty litter). Keep a broom and snow shovel handy to keep your steps and walkways clear of snow.

### SERVICES & UTILITIES

❑ **Mail.** Advise the post office to hold or forward your mail.

❑ **Newspaper.** Discontinue or suspend service.

❑ **Utilities.** Prepay to ensure continued heating during your absence. 🔥

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## Friends & Politics

The next time you want to dissolve a friendship over politics, read this, then read it again.

It is common knowledge in DC that the late Supreme Court Justices Antonin Scalia and Ruth Bader Ginsburg were close personal friends. They shared a love of opera, went souvenir shopping together when they traveled and rode an elephant in India with Scalia up

front. Their families spent New Year's Eve together, and when Chief Justice Roberts announced the death of Ginsburg's husband, Marty, Scalia wept on the bench. When Scalia died in 2016, Ginsburg said, "we were best buddies." They never spoke politics or ideology to one another because as one seasoned observer said, "there would be no point." Scalia himself would say, "if you can't disagree ardently with your colleagues about some issues of law and yet personally still be friends, get another job for Pete's sake."

On her part, Ginsburg said of Scalia, "as annoyed as you might be about his zinging dissent, he's so utterly charming, so amusing, so sometimes outrageous, you can't help but say, I'm glad he is my friend." She said she sometimes had to pinch herself to not laugh when he would say something audacious in the courtroom.

In an era when we are being purposefully divided over political and social differences, and friendships and families are being ripped apart in the process, Scalia and Ginsburg were The Odd Couple. They held the deepest respect for each other and kept their disagreements intellectual, not transactional. (Little known fact, it was Scalia that begged Obama to appoint Ellen Kagan to the Court. He wanted her there so he would have someone to argue with in an intelligent manner.)

When he learned of Ginsburg's passing, Scalia's son, Christopher, shared the following story from Judge Jeffrey Sutton about an encounter late in his father's life:

"During one of my last visits with Justice Scalia, I saw striking evidence of the Scalia-Ginsburg relationship. As I got up to leave his chambers, he pointed to two dozen roses on his table and noted that he needed to take them down to Ruth for her birthday."

"Wow," I said, "I doubt I have given a total of twenty-four roses to my wife in almost thirty years of marriage." "You ought to try it sometime," Scalia retorted.

Unwilling to let him have the last word, I pushed back: "So what good have all those roses done for you? Name one five-four case of any significance when





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"This book gives the property management industry an insight on what HOAs expect from us. It's a real estate management template for success."

*Nestor Correa - Netscore RSource Management*

"Trade HOA Stress For Success should be required reading for all HOA board members. I plan to make sure that a copy of it is distributed to all new members!"

*George Burns - Board President*

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you have got Justice Ginsburg's vote." Scalia replied, "some things are more important than votes."

This is what we have lost: two earnest and caring people who could place all differences aside for the sake of friendship and an abiding love for each other.

I say to everyone, be a Nino; be a Ruth. Remember what is good in every person you know even when you have to work a little harder to find it or need to let go of anger or hard feelings. God did not put us here in pre-formed harmony, He put us here with differences so we could find it on our own.

Finally, if you are being unduly influenced by anyone who through their speech and actions encourages you to hate or disregard others because they may be or believe something different from you, tune them out and turn them off. They simply do not have your best interest at heart, and are in the business of keeping you riled up for the sake of their own self-interest and profit.

Again, be a Ruth; be a Nino. Be kind to one another. Choose love over votes. It truly is 'bigger than anything in its way,' especially politics.

*By Michael Neidigh* 🌱

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### How Do You Know?

How do you know what you know...not in some deep philosophical sense, but on a practical everyday level? On any particular day you might tell someone that your living room is painted green, that the Philadelphia Eagles are going to win the Super Bowl, that the earth goes around the sun, that democracy is the best form of government and that you know the way to San Jose. These are different assertions based on different ways of knowing.

The first way to know something is through personal experience. You

know your living room is painted green because you've been there and saw it. Similarly, you know what a bird is and how to get to the mall, all by direct experience.

The second way to know things is by authority. That is, you rely on some source of information, believing it to be reliable, when you have no personal experience of your own. Most people believe the earth goes around the sun even though no one can really detect the motion. Many people believe democracy is superior to other forms of government even though they haven't lived under any other type. They rely on the authority of textbooks and politicians. Of course other societies do the same and their defenders rely on authority too. You know the way to San Jose because you can consult a map that informs the way.

But how about those Eagles? How do you know they are going to win this year? You are not basing it on their recent record which has been abysmal. In fact, you don't know that they are going to win. "Knowing" in this sense is just a figure of speech.

You can also know by faith. This means you know that there is a power that is in control of processes and events that you can't comprehend. Is this form of knowing blind or uninformed? It can be. Taking someone's word for the inexplicable without question or reflection can lead to tragic results like the Heaven's Gate cult of 1997, the Branch Davidians of 1993 and the Jonestown mass suicide in 1978. Even faith should be based on reason and empirical evidence. Blind faith relies on the integrity of others that "interpret" it. All too often that integrity is lacking and self servers lead the blind faithful off the edge.

So really knowing what you know takes careful consideration. Do you know because you really know or do you know because you have blindly taken someone's word for it? One thing is clear: The universe is immense, yet carefully crafted. We live in a complex matrix of cause and effect. Those that claim to understand it, know very little and those that admit they know very little are wise beyond measure.

*Excerpts taken from Darwin's Black Box by Michael Behe.* 🌱

### Wright's Wrongs

Steven Wright is an erudite (comic) scientist who once said: "I woke up one morning, and all of my stuff had been stolen and replaced by exact duplicates." His mind sees things differently than most of us do. Here are some of his gems:

1. I'd kill for a Nobel Peace Prize.
2. Borrow money from pessimists -- they don't expect it back.
3. Half the people you know are below average.
4. 99% of lawyers give the rest a bad name.
5. 827% of all statistics are made up on the spot.
6. A conscience is what hurts when all your other parts feel so good.
7. A clear conscience is usually the sign of a bad memory.
8. If you want the rainbow, you got to put up with the rain.
9. All those who believe in psycho kine-sis, raise my hand.
10. The early bird may get the worm, but the second mouse gets the cheese.
11. I almost had a psychic girlfriend, but she left me before we met.
12. OK, so what's the speed of dark?
13. How do you tell when you're out of invisible ink?
14. If everything seems to be going well, you have obviously overlooked something.
15. Depression is merely anger without enthusiasm.
16. When everything is coming your way, you're in the wrong lane.
17. Ambition is a poor excuse for not having enough sense to be lazy.
18. Hard work pays off in the future; laziness pays off now.
19. I intend to live forever... So far, so good.
20. If Barbie is so popular, why do you have to buy her friends?
21. Eagles may soar, but weasels don't get sucked into jet engines.
22. What happens if you get scared half to death twice?
23. My mechanic told me, "I couldn't repair your brakes, so I made your horn louder."
24. Why do psychics have to ask you for your name.
25. If at first you don't succeed, destroy all evidence that you tried.
26. A conclusion is the place where you got tired of thinking.
27. Experience is something you don't get until just after you need it. 🌱



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# The Regenesi s Report

**Rich Thompson**

**☎ 503.481.7974**

**[rich@regenesi s.net](mailto:rich@regenesi s.net)**

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