



The Regenesis Report



National Edition

Innovative Homeowner Association Management Strategies

March 2011

Regenesis means making new beginnings using eternal principles in innovative ways.

Regenesis believes that the goal of every homeowner association board should be to promote harmony by effective planning, communication and compassion.

The Regenesis Report provides resources and management tools for just that purpose. Every month, articles of common interest to homeowner associations nationwide are offered along with innovative strategies for addressing common problems.

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



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HOA Know How

When you purchase a into a homeowner association (HOA), you automatically become a member and obligate yourself to financially support the operation and obey the rules. That said, few buyers take the time to examine the information to make an informed decision. Here are some of the basic Know Hows:

HOA Fees. As a member of the HOA, you will pay fees to support management and maintenance. High rise condominiums and HOAs with clubhouses, pools and parks typically have higher fees than those with few common elements. If the HOA does not have and fund a reserve study (30 year plan for major repairs and replacements) for common elements like roofing, painting, asphalt, decks and fences, a special assessment will be charged to each owner that can run into many thousands of dollars. Since boards of HOAs that don't follow a reserve study tend to react rather than plan, these special assessment can happen with little notice and the financial obligation will fall on all owners, including new ones. **HOA KNOW HOW:** Review and understand the current budget and reserve study. If you are considering buying into a HOA that does not have a reserve study, move on. It's an accident waiting to happen.

Delinquencies. HOAs can be great when the finances are handled well. Sharing the cost of costly amenities makes them more affordable for all. However, when one or more owners do not pay their share, either the rest must make up the slack or services cut. There is no government bail-out for HOAs. All must pay or all must suffer the consequences. **HOA KNOW HOW:** Ask for the current amount of delinquencies and number of owners that are delinquent. If the is over 5% of the annual budget, walk away.

HOA Rules. In addition to maintaining common elements, HOAs also have certain rules and regulations that must be followed. Those rules may include architectural and design restrictions which control the look of your unit or house or lifestyle rules that control pets, parking and other things. Failure to comply may result in fines or restriction from common element use (like the pool). **HOA KNOW HOW:** Request copies of all rules and regulations *before* you buy to make sure there

is nothing there you can't live with.

Get the Big Picture. While the home or unit you are considering may be newly remodeled and picture perfect, as an HOA owner, you have an undivided financial interest in all common elements. **HOA KNOW HOW:** Look at *all* the buildings and common elements, not just the unit you are interested in buying. Do you see deferred maintenance like peeling paint, dilapidated roofing and fences and broken up paving? If so, you are either buying into a soon-to-happen-special assessment or a board with its head in the sand which will fail to maintain your biggest investment. Either way, this is not good news for your property value. This is particularly important in common wall HOAs.

How the Board Does Business. Inquire how often the board meets (should be at least quarterly). Get copies of board meeting minutes for the past year and read them to determine the kinds of issues the board is dealing with. When you read the minutes, do you see evidence of board action to protect and maintain the common elements? If you see a board pattern of "does little" in the minutes, like Nero, the board is fiddling while the HOA burns. **HOA KNOW HOW:** Walk away.

Professional Management? If the HOA is self managed, this is a BIG RED FLAG. This means the fate and maintenance of your largest investment is in the hands of untrained part time volunteers. **HOA KNOW HOW:** If you are the kind of person that loves a challenge and willing to dedicate many hours of volunteer time to steer board business, this may be the place for you. If you are not, walk away.

Rental Restrictions. As lenders become more aggressive in setting rental limits to HOA loans, rental restrictions are becoming more common. They come in two flavors:

- **Limited Restrictions.** Only a certain percentage or number of the homes or units can be rented. The board/manager must administrate this moving target.

• **Total Restriction.** All owners are restricted from renting. While the most fair approach, a slow real estate market can force certain owners into a difficult position if they can't sell or rent. **HOA KNOW HOW:** If your objective is to buy and rent the home and there are rental restrictions, move on.

HOA Insurance Coverage.

Investigate the specifics, particularly if you're in an area prone to flood, earthquake, tornado or hurricanes.

Consider the HOA Lifestyle. Do you hate being told what you can do with your property? **HOA KNOW HOW:** If the HOA has extensive architectural and design control, walk away.

A homeowner association can be your best friend when it prevents your neighbor from painting her house neon pink, but your worst enemy when they fail to properly maintain the common property or impose overly restrictive rules. Make sure you know exactly what you are getting into before you sign the dotted line. 🗺️

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Ask the HOA Expert

Q Our homeowner association is properly incorporated with the state. Our attorney is our Registered Agent for the corporation. Should we change that?

A The states have different requirements for registered agents. Typically, the agent must be a legal resident of the state in question or, in states that allow entities to serve as registered agents, an entity authorized to do business in the state. All states allow a corporate officer of the corporation to serve and all allow the corporation's lawyer to serve. Most allow business entities to serve as registered agents. Because most states permit one business entity to serve as a registered agent for others, some businesses exist to serve that exact function, charging a fee to act as the registered agent for hundreds or thousands of businesses in a given state. (Information from Wikipedia)

Usually the board president or secretary acts as the registered agent since the state directs the annual report renewal information to that person. This is the recommended so that the corporation files timely annual reports. If you don't submit and pay for your annual report, your corporate status will lapse and the board will no longer have the corporate shield to protect it. To change registered agent, contact the state agency that handles corporate records (often the Secretary of State's office) and change your Registered Agent name and contact information to the president or some other board member. This can often be done over the internet.

Q The HOA has just purchased a ladder and a power washer for our residents to use in and around their units. One of our residents has suggested that the HOA is liable if residents hurt themselves while using this equipment. Do we need to include something in our insurance to cover this or is there a simpler way?

A It's not advisable to provide things like HOA owned ladders and power washing equipment to owners. Either one of these could result in serious injury if misused. Owners should rent their own equipment or hire a contractor to do the work.

Q We have a board vacancy that requires an appointment to fill. Our president wants the board to vote by email. Doesn't

voting need to be done at a member meeting or a special meeting?

A Board vacancies are typically done by the board at a board meeting. That board meeting should be open to the owners.

Q Our board wants to build a larger pool and upgrade the clubhouse and is considering borrowing \$200,000 and use our \$50,000 reserve fund. While the expansion concept is supported by the members, I question the wisdom of borrowing money and using reserves earmarked for other things to do it.

A A homeowner association borrowing money, particularly for discretionary spending like this, is a bad idea. The costs associated with this kind of borrowing are high since it is considered a commercial loan which carries a higher interest rate, shorter term and high closing costs. And the loan must still be repaid by the owners just like any loan but with the added liability of the HOA being responsible to collect the payments. If this project is desirable, the funds to do it should come from the members themselves by whatever means they may have available - cash in savings, home equity loan or Uncle Ralph. That way, the HOA stays out of the loan business and the repayment issue does not impact the fee structure or increase the HOA's administrative duties.

Q Our rules include things like "garages are for cars and not to have multiple vehicles parked outside, no trampolines and basketball hoops". Our management company has advised the board that the HOA is powerless to enforce these rules. We have several infractions and have advised the offending members, but they ignore our four step process for resolution. We charge and collect fines, but that is about it for our effectiveness.

A A resolution process is great for mediating disputes. But unless the majority of the HOA members would like to rescind certain rules, they are charged to obey them and the board to enforce them. A resolution process is not appropriate for

this kind of enforcement.

Apparently, the fines being charged are not a big enough incentive to correct the violations. Usually, an escalating per day fine eventually gets attention. If the fines are ignored, the HOA can use the services of an attorney to file a lien against the offender's home. Usually the threat of filing a lien will get payment and future compliance from most. For the cases where a member is willing to squander money in court to defend his actions, the board should consider a compromise. Spending thousands of HOA dollars in court to enforce a rule makes little sense.

Q Our HOA has no satellite dish installation policy. The board has received requests to approve such installations but seems to be at a loss on a policy.

A Federal Communications Commission (FCC) Regulations require that homeowner associations allow satellite dishes but allow the HOA to control where they are placed as long as the location(s) afford adequate signal. Those approved locations should take into consideration curb appeal and maintenance concerns like damage done by screwing hardware to siding or roofs. Sometimes the best solution is to erect a pole to which multiple dishes can be attached on the roof or a shielded-from-the-street location of common area. While this still would be unsightly, at least it would centralize the issue and maintain the HOA's control over it.

Q The board is reviewing our sign policy. Our governing documents allow for sale or for rent signs. But there is also a need to have a policy for political, garage sale signs, yard decorations and flags. Any advice?

A The main purpose of sign, decoration and flag restrictions is to limit the number, size, number, theme and longevity of them. Yard decorations are not signs but can be garish, tasteless and long lasting. Holiday decorations can certainly be garish as well but are short lived like political signs (usually).

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Flags can come in many forms but the US flag has federal protections. Others are subject to board rules.

It's best to have a sign, flag and decoration philosophy rather than an extensive list of acceptable or unacceptable items. The philosophy should stress curb appeal and good taste. Since we all know that some lack good taste, the board may need to intercede on a case by case basis and may need to compromise when confronted by an intractable resident rather than squander precious emotional and financial resources trying to enforce the rules.

One thing is clear, the HOA has the right to control what is placed in the common area which includes the building exterior surface which includes most common wall communities. These issues can produce volatile responses so the board needs to be willing to be flexible.☹

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Unruly Meetings

If you are lucky, your board and owners' meetings are calm, civilized and organized. But that is not always the case. Emotions often run high at homeowner association meetings, sometimes stemming from an unpopular board decision, increased assessments, or rule violation letters sent to an angry owner. While the conflict and unrest may be inevitable, if the board comes to the meeting

prepared, it is possible to run in and control an unruly meeting attended by angry owners.

One of the best tools any board can use to control unruly meetings is a "conduct-of-meetings" policy. This policy should specify when and for how long owners are permitted to speak, require civility when speaking, and allow the chair to require attendees to leave if he/she gets out of order or fails to follow the policy.

Some additional tools to help you control an unruly meeting are summarized below:

- If the board anticipates a heated discussion at a meeting, attempt to diffuse the problem prior to the meeting by discussing concerns with the upset individuals prior to the meeting;
- Require owners who wish to speak on a topic to sign up at the beginning of the meeting, rather than calling on raised hands during the meeting;
- Set specific time limits for any owner desiring to speak, which should be uniform for all speakers;
- Allow an owner to only speak once on a particular topic;
- Appoint a committee to investigate the issue and report back to the board;
- Have the HOA's attorney present, which can help to reign in emotions.

While many HOAs have conduct-of-meetings policies and set ground rules for meetings as described above, it is the responsibility of the chair of the meeting to retain control and follow the policy or ground rules.

The chair of the meeting must be organized, composed and remain calm. If the chair is faced with a particularly hostile or difficult owner, the chair should first warn the person and call him or her to order. If the difficult owner refuses to come to order the chair should ask the disruptive owner to leave the meeting (as a last resort). An alternative to removing the disruptive person is to adjourn the meeting and reconvene again when emotions have cooled. *by Trisha K. Harris, Esq.*☹



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From Difficult to Reasonable

As with any relationship in life, we hope for harmony but often experience a share of “difficult” people. Some may remember their first encounter with that bad kid at school. Others may recall the co-worker who made every meeting unbearable with constant whining. Serving on a board of directors or committee for a homeowners association (HOA) can be challenging in many ways; dealing with individuals who are difficult is part of the landscape. However, there are issues to consider, whether we are the recipient or the cause of this negativity.

There are some fundamental techniques in dealing with challenging personalities, whether you encounter them at an HOA meeting or just walking around a neighborhood. First, try to understand what motivates people to be difficult. Some owners may attend a board meeting because they received a rule violation notice. There could be other underlying reasons for the tirade. Second, don’t discount the value of criticism. If we step back from our defensive inclinations, we might find a great suggestion or solution. Finally, maintain realistic expectations. It’s true that an HOA has rules, but those rules may have just enough flexibility to enable the board to compromise.

There are simple strategies for just getting along with difficult people:

1. Listen for understanding – amidst the rant from a difficult person, it may be difficult not to tune them out, but try harder to listen.
2. Demonstrate empathy – understand the difficult person’s feelings.
3. Manage your attitude – you can be perceived as being as difficult as the other person.
4. Control your emotions – assume it’s not personal and remain as professional as you can.
5. Begin with something positive – you may know what’s coming at a meeting so you can be prepared.
6. Build on agreement – find common ground and build on it.
7. Avoid “why” questions – these can easily be construed as accusatory.
8. Stay focused on the issue – straying from it makes finding a solution more difficult.
9. Avoid personal attacks – even if you are being attacked, don’t respond in kind.

Remember, people are important – even the difficult ones – and we have a choice every day whether to have a positive or negative effect on them. Even more important, we may sometimes forget that, as board members or community volunteers, we might be the difficult ones based on how we choose to react to challenging people. Can we admit when we are wrong and accept constructive criticism? Can we overlook our own need to be right and recognize that there is an issue at hand to be addressed by both ourselves and a difficult person? Granted, some of the strategies are easier said than done. However, when a person becomes difficult at an open meeting, practice the tips above and focus on the goal of converting that difficult person to a reasonable and happy homeowner.

By *Kim M. DiStefano*
www.assocliving.com 

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An Ounce of Fraud Prevention

Fraud is a criminal deception. Embezzlement is the act of diverting money fraudulently for one’s own use. Does this happen in homeowner associations? You bet it does! And when it does, large sums are usually involved. Embezzlement is a violation of trust by people often regarded as friends and confidants. When it happens, it is often swept under the carpet due to embarrassment by those that should have been watching more closely.

Most states have laws that impose significant responsibility on the HOA account holder or property manager for preventing and detecting fraud. By not acting prudently and quickly, legal options may be limited.

Separate Responsibility. Maintaining adequate checks and balances is essential in protecting your HOA from embezzlers. There are several ways to do this: Involve more people in the process to reduce the chances of it happening; Separate responsibility for issuing checks from that of reconciling the bank statement; Reconcile your bank statement within two or three days after receipt, and; Make sure you have adequate supervision for office employees

Account Information Security
Safeguarding key information is critical:

- ✓ Always store blank and canceled checks and bank statements in a secure location.
- ✓ Always verify the check number, date, amount and payee.
- ✓ Never use a rubber signature stamp or a signature that is illegible or easily forged.
- ✓ Notify the bank immediately when

financial officers (President and Treasurer) or employees change.

✓ Periodically review bank signature cards and access codes.

Prudent Personnel Practices Make sure that directors or employees handling HOA funds are trustworthy and have no criminal record. Always verify references and the last place of employment of any new employee. And be alert to major changes in spending patterns or financial circumstances.

Fraud Prevention Checklist

- ☒ Are bank account statements reconciled in a timely manner?
- ☒ Are bank statements reviewed by someone other than the person who issues checks?
- ☒ Are employees or directors involved in positions of trust bonded?
- ☒ Are all financial employees or directors required to take annual vacations to break the cover-up cycle?
- ☒ Is there adequate supervision of employees at all times?
- ☒ Is the mail opened by someone other than the bookkeeper?
- ☒ Is the list of checks received prepared by someone other than the bookkeeper?
- ☒ Are cash receipts deposited daily?
- ☒ Is the bookkeeper prohibited from signing checks?
- ☒ Is the supply of unused checks secured?
- ☒ Is signing blank checks prohibited?
- ☒ Are signed checks mailed out without being returned to the preparer?
- ☒ Do you issue checks in numbered order? A check way out of sequence could have been stolen.
- ☒ Are all invoices approved for payment and, when paid, canceled or noted as having been paid? This prevents the same bill being paid over and over.
- ☒ Are invoices checked for unexplained past-due notices?
- ☒ Is the integrity of bank PINs, passwords and access codes maintained?
- ☒ Has the HOA considered using a “lockbox” service that allows assessments to be deposited directly to the bank?

Part of the board’s fiduciary duty is good stewardship of HOA funds. Protecting them from crooks is a basic.

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Following these procedures will reduce your losses. Additional suggestions from your accountant may be helpful. Remember, an ounce of prevention...🐛

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Mailbox Mess Redress

Disgusted by all of those unsolicited credit card offers clogging up your mailbox? Tired of lugging catalogs and junk mail to the recycling bin? All of this unwanted mail creates nothing but headaches and wasted paper, so it’s no wonder putting an end to it is a priority for many people. While you can’t eliminate everything, you can noticeably reduce the avalanche of paper in your mailbox just by picking up the phone or hopping online.

Here are a few simple ways to put a kibosh on the heaps of junk mail that keep piling up:

So Long, Pre-Screened Credit Offers:

If your credit is anywhere near good, credit bureaus—Equifax, Experian and TransUnion—are selling your name to credit card companies as a hot prospect. That’s why you’re getting those “you’ve been pre-approved” offers every day.

Put an end to it by calling 1-888-5-

OPT-OUT (1-888-567-8688). You will need to provide your name, address, telephone number, Social Security number and date of birth to ensure your opt-out request matches your credit record rather than someone else who shares your name. You can also opt out via the Internet at: www.optoutprescreen.com/opt_form.cgi.

If you prefer not to disclose your Social Security number and date of birth, the online form does not require this information. However, the website strongly urges you to provide this information because it helps ensure that your request will be processed correctly, and it protects your information from unauthorized access.

Opting out is good for five years. However, if you’d like your name removed permanently, you will be mailed a confirmation form within about five business days to sign and return. For more information see the FTC’s Facts for Consumers, *Prescreened Offers of Credit and Insurance* at www.ftc.gov/bcp/edu/pubs/consumer/credit/cre17.shtm

Remember, this won’t stop all credit offers—only those that result from screening your credit report. Your bank or credit card company may still send you offers for new credit or share information about you with other companies.

Although you don’t have total control over the information that’s shared by financial companies, you do have some. For more on how to limit data sharing by banks and other financial institutions, read the Privacy Rights Clearing house Fact Sheet 24, *Protecting Financial Privacy in the New Millennium: The Burden Is on You*, at www.privacyrights.org/fs/fs24-finpriv.htm.

Jettison the Junk Mail: You can reduce other types of junk mail—magazine offers, sweepstakes and other national advertising mail—by contacting the Direct Marketing Association’s (DMA) Mail Preference Service (MPS). This opt-out lasts for five years and can be renewed. Go to



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Cut Out the Catalogs: When you buy something from a mail-order catalog, your transaction is likely to be reported to Abacus, a company that compiles a cooperative database of catalog and publishing companies' customers. Your name is then sold to other mail-order companies that send you catalogs and offers. This explains why you are likely to receive several unsolicited catalogs after ordering anything by mail.

To opt out of the Abacus database, write to Abacus, PO Box 1478, Broomfield, CO 80038 or email abacusoptout@epsilon.com. Include your full name and current address (and

previous address if you have moved recently). For more information, visit www.abacusoptout.com.

You'll have to notify companies yourself that do not participate in the DMA and Abacus opt-out programs. Contact the customer service department and request that your name and address not be shared with other companies. Contact magazines, charities, nonprofit organizations and professional associations to which you have either donated money or joined.

It may take a few months to see results, but eventually the mess in your mailbox will thin out. 🗑️

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An Unsharpened Pencil

In 2000, Billy Graham, the famous Christian evangelist, was invited to a luncheon in his honor in Charlotte NC. He initially hesitated to accept because he struggles with Parkinson's disease. But the host said, "We don't expect a major address. Just come." So he agreed.

After wonderful things were said about him, Dr. Graham stepped to the podium, looked at the crowd, and said, "I'm reminded today of Albert Einstein, the great physicist who was honored by Time magazine as the Man of the Century. Einstein was once traveling from Princeton on a train when the conductor came down the aisle punching the tickets of every passenger. When he came to Einstein, Einstein reached in his vest pocket. He couldn't find his ticket, so he reached in his trouser pockets. It wasn't there. He looked in his briefcase but couldn't find it. Then he looked in the seat beside him. He still couldn't find it.

The conductor said, "Dr. Einstein, I

know who you are. I'm sure you bought a ticket. Don't worry about it." Einstein nodded appreciatively. The conductor continued down the aisle punching tickets. As he was ready to move to the next car, he turned around and saw Einstein down on his hands and knees looking under his seat for his ticket.

The conductor rushed back and repeated, "Dr. Einstein, Dr. Einstein, don't worry, I know who you are. I'm sure you bought a ticket." Einstein looked at him and said, "Young man, I too know who I am. What I don't know is where I'm going."

Dr. Graham continued, "See the suit I'm wearing? It's a brand new suit. My children and my grandchildren are telling me I've gotten a little slovenly in my old age. I used to be a bit more fastidious. So I went out and bought a new suit for this luncheon and one more occasion. You know what that occasion is? This is the suit in which I'll be buried. But when you hear I'm dead, I want you to remember this: I not only know who I am. I also know where I'm going."

Life without God is like an unsharpened pencil - it has no point. ☹️

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Senior Moments

1. I think part of a best friend's job should be to immediately clear your computer history if you die.
2. Nothing sucks more than that moment during an argument when you realize you're wrong.
3. I totally take back all those times I didn't want to nap when I was younger.
4. There is great need for a sarcasm font.
5. How are you supposed to fold a fitted sheet?
6. Was learning cursive really necessary?
7. Map Quest really needs to start their directions on # 5. I'm pretty sure I know how to get out of my neighborhood.
8. Obituaries would be a lot more interesting if they told you how the person died.
9. I can't remember the last time I wasn't at least kind of tired.
10. Bad decisions make good stories.
11. You never know when it will strike, but there comes a moment when you know that you aren't going to do anything productive for the rest of the day.

12. Can we all just agree to ignore the next round of technology? I don't want to have to restart my collection...again.
13. I'm always slightly terrified when I exit out of Word and it asks me if I want to save any changes to my ten page report that I swear I did not make any changes to.
14. I keep some people's phone numbers in my phone just so I know not to answer when they call.
15. I think the freezer deserves a light as well.
16. I wish Google Maps had an "Avoid Ghetto" routing option.
17. I have a hard time deciphering the fine line between boredom and hunger.
18. How many times is it appropriate to say "What?" before you just nod and smile because you didn't hear or understand a word they said?
19. I love the sense of camaraderie when an entire line of cars team up to prevent a jerk from cutting in at the front. Stay strong!
20. Shirts get dirty. Underwear gets dirty. Pants? Pants never get dirty, and you can wear them forever.
21. Sometimes I'll look down at my watch three consecutive times and still not know what time it is. ☹️