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National

Innovative Homeowner Association Management Strategies

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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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Generationalizing

Homeowner associations can be a melting pot of age groups which carry unique values and perceptions of the world. At times, these values can clash at the HOA level and the board is challenged to restore balance and harmony with the warring factions. There's more to it than loud music, wandering pets and illegally parked RVs. There are certain heartfelt philosophies that simply don't mix. Consider the dynamics of these groups:

Silent Generation was born between 1920 and 1945. They're the veterans of the World and Korean Wars. They survived the Great Depression. Their core values include survival and sacrifice. They stockpile food, wear clothes out and eat leftovers. They believe that a rule is a rule. They resist changes in technology which puts them at a disadvantage in the workplace. They believe in traditional family structure and that marriage is a life long commitment. Most attended the College of Hard Knocks.

Baby Boomers were born between 1946 and 1964. Many are career driven workaholics who don't see the need to follow rules. They believe in the notion of "meaningful work" rather than working simply to survive and the workplace is a major part of their self-identity. Many experienced growing up with only one parent. Many thought college was an birthright.

Generation X was born between 1965 and 1980. This group questions their parents' values and believes that jobs and housing are disposable. They place greater value on family and personal life than the Baby Boomers do, and they feel that a balanced life is more important than professional accomplishments. Many grew up as "latch-key" kids who were left home alone frequently because one or both parents worked outside the home. They view college as a means to an end.

Generation Y was born between 1981 and 2000. People in this group have always known computers, the Internet and cell phones. South Africa's policy of apartheid has not existed in their lifetime, genetic

testing and DNA screening have always been available. Generation Ys are tolerant of multiculturalism, internationalism and interracial relationships. This generation focuses on individual choices and goals. Many grew up in merged families which combined children from different parents.

What these differences point to is that people communicate based on their generational backgrounds. Each generation has distinct attitudes, behaviors, expectations, habits and motivational buttons. Learning how to communicate with the different generations can eliminate many major confrontations and misunderstandings.

So what's the board to do with such disparate ways of thinking? Fortunately, it's not the board's job to make sure neighbors get along. While reasonable rules need to be enforced, personality reconciliation does not. What the board can do is to facilitate social activities and reinforce areas of commonality.

Social Events. A potluck event costs the HOA nothing yet provides an opportunity for different age groups to mingle and acquaint themselves. These can be carried off as barbecues, Christmas parties or at annual meetings.

Reinforcing Commonality. Regardless of age, HOA members share in the need for security, peace and sustained property values. When the board acts to protect the general good in these areas, age is no barrier and all will be unified in a common cause. Conversely, when the board enacts rules that target certain age groups (like children), discontent and rancor is sure to follow from the kids and their parents.

Stay Out of the Middle. Given time and opportunity, generational conflicts can be resolved by face to face meeting of the parties. The board should not interrupt this process by trying to solve the problem. Encourage the parties to meet and talk (without weapons and lawyers).

Balancing the generations that populate your homeowner association is on the one hand a great challenge and on the other hand a

gratifying exercise. While value and perception differences will conflict from time to time, facilitating social activities, reinforcing those issues all generations hold in common and letting them work out differences face to face will help them bond. 🌱

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Accounting Issues

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Ask the HOA Expert

Q In an HOA, who typically pays for a cracked window (called a "stress crack" by the window repair company)? Our CC&Rs require the HOA to cover repairs and maintenance of "exterior finishes" but windows are not specifically mentioned.

A Usually, window repair is an owner responsibility unless the governing documents indicate otherwise or the problem is related to structural settling. If structural settling caused the cracked window, the HOA should do the repair and stabilize the structural issue as soon as possible. Of course, if the crack is present in this unit, other units should be checked for similar problems.

Q We are trying to formulate our rules violation policies. Who should receive complaints from residents about rule violations, the board or the manager?

A The manager should process complaints. However, the board must adopt policies and procedures so the manager knows how to respond. If those policies are in place, the manager simply executes them (the policies, not the rule violators ☺).

Neither the board nor manager should automatically accept a complaint. If this is a first time complaint about a neighbor, the complainer should be required to first take the matter directly to that neighbor both in person and in writing rather than expect the HOA to do the dirty work. That way, the manager knows that

reasonable action was taken to resolve the issue before it was presented for resolution to the HOA.

If this has been done, the manager should accept the complaint in writing with precise details which include the time and events together with copies of correspondence between the neighbors. That way, the manager knows that the complainer took personal action to resolve the issue. If the complainer is not willing to put the matter in writing to both the offender and the manager, the manager should not take action until it is provided. Of course, there can be extenuating circumstances, like an aggressive or violent neighbor. The manager can make the judgment whether to intercede or not.

The manager may have a question from time to time on how to proceed with a complaint. Specific direction should be provided by the president. Aside from this, the manager should have authority to handle most matters. This is one of the great advantages of having professional management...not having to enforce rules on neighbors.

Finally, not all complaints are the HOA's responsibility. For example, if spouses are having violent altercations, it's a matter for the police.

Q Our governing documents contain this provision: "No dwelling shall be used for any purpose other than for a single family residence." A board member has been housing a teenage nephew and his friend. No rent is being charged. Does this constitute something more than a single family residence? The situation is causing problems among the neighbors due to complaints of late night parties and traffic.

A Extended family is generally accepted under the "single family residence" definition as long as no rent is being charged. The friend issue is pushing the definition envelope.

However, late night activity that disturbs the neighbors, whether by family or guests, is a violation of HOA rules. This particular homeowner is a board member so the duty to comply with basic rules is even more important.

The real issue is the disturbance, not the rental arrangement. The issue needs to be framed plainly: Either the kids abide by the rules or there will be ramifications (assuming that the HOA has established fines and penalties). Of course, the neighbors should be encouraged to call the police if there is any illegal activity going on which frequent late night traffic often suggests.

Q We are having an issue regarding allowing signs on the common property. Our governing documents requires board approval for all signs. In the past, the board has given approval for For Sale signs only but not For Rent signs or any other sign. Recently, there were three For Sale signs up at once, all with board approval. Several homeowners complained that the signs were detracting from the appearance of the property and the board adopted a policy to not allow any signs on the property. Thoughts?

A If the board has the authority to approve signs, the board has the authority to enact a Sign Policy. However, the board cannot enact a policy that prohibits signs since the governing documents imply that signs are allowable. Only an appropriate majority of members as defined by the governing documents can vote to amend the governing documents to eliminate signs altogether.

But such an amendment is not recommended. For Rent and For Sale signs are standard fare in every part of the country with the exception of a few elite communities. These signs are temporary and designed to assist members in a legitimate business enterprise. It is, however, appropriate to control the size, look, number, longevity and topic of signs. Political signs, for example, should only be displayed for, say, 30 days before an election and then be removed within 48 hours of the event.

There is a sample Sign Policy in the Policy Samples section of www.Regenesi.s.net that can be adapted to your use. The sample policy is a reasonable approach to this issue.

Q One of our homeowners sued the board over a disputed policy decision. Our board did not purchase Directors & Officers

insurance, even though the governing documents required it, so attorney fees were paid for from the HOA operating funds. Some of us think that's not right. What should be done?

A If the governing documents require the HOA to have Directors & Officers (D&O) insurance, that's what it means. D&O is specifically designed to provide legal defense for the board in situations like you describe. There are many HOA boards that haven't a clue what D&O insurance is and have never read the governing documents to even know there is a requirement for it. As long as the HOA doesn't get sued, they look like heroes because they saved the HOA premium expense. But now that your board has been sued and there was no D&O, they don't look so smart.

So, was the oversight out of ignorance or deliberate defiance of the requirement? If the board made a conscious decision not to spend the money for this insurance, to quote Ricky Ricardo, "You got some 'splaining to do". Since D&O is inexpensive, there is no good reason not to have it. 🗿

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Robert's Rules for HOAs

Meetings need guidelines by which to operate. If there were no ground rules, large meetings would have a tendency to become unruly. Much of Robert's Rules of Order is intended for large assemblies. But small meetings can become unruly too. With a little thought, a meeting protocol can be developed that is simple to follow and based on the guiding principles of Robert's Rules.

Whenever people are gathered together to have discussions and conduct business, there should be an orderly way of doing that. Thus, Robert's Rules in all its glory. Did you know there is a section in Robert's Rules for small boards of a dozen or less.

Generally, board meetings for homeowners associations are considered small meetings even though there may be a fair number of owners present. However, owners are present to listen, not to conduct the business of the association. The board of directors does that.

Procedure for Small Boards (from Roberts Rules 11th Edition)

1. Members may raise a hand instead of standing when seeking to obtain the floor, and may remain seated while making motions or speaking.
2. Motions need not be seconded.
3. There is no limit to the number of times a member can speak to a debatable question.
4. Informal discussion of a subject is permitted while no motion is pending.
5. When a proposal is perfectly clear to all present, a vote can be taken without a motion having been introduced. Unless agreed to by unanimous consent, however, all proposed actions must be approved by vote under the same rules as in larger meetings, except that vote can be taken initially by a show of hands, which is often a better method in small meetings.
6. If the chairman is a member, he may, without leaving the chair, speak in informal discussions and in debate and vote on all questions.

Adopting the Procedure for Small Boards makes it easier for business to be conducted. Some boards have set up a process to document various operating procedures like meeting protocol. When a meeting protocol exists, it ends the back and forth discussions that can drag down a meeting. Statements like "the president can't vote", "I need a second" and "We need a motion before we can discuss the topic" are addressed by the Procedure for Small Boards and provides a clear path for an orderly meeting.

By Sharon D. Brimer 🗿

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CYA: Cover Your Assets

From time to time, a story is run about a homeowner association that had thousands of dollars embezzled by a trusted manager or board member. More times than not, the whole story is never told because of the embarrassment to the Board. There is a natural tendency to sweep it under the carpet. But let's face it, when easy access to large sums of money is dangled as bait, someone, sometime is likely to take a bite. It happens and it could happen to *your* HOA. But there are things that can be done to avoid such calamity. Use the CYA formula: Cover Your Assets.

If Managed by a Property Manager:

- Maintain control of your funds by keeping both operating and reserve accounts in the name of the homeowner association.
- Limit the size of the check the management company can sign keeping in mind regular expenses like utilities and service contracts. In other words, don't limit the manager to \$500 if the monthly water bill averages \$1500. Set a limit that allows the manager to deal with the routine. Anything above that amount should require the signature of the president or treasurer or other officers included on the bank signature card. It's best to have the president sign whenever possible.
- Writing checks or transferring funds from the reserve account should be restricted to authorized board members only since the need to access reserves is infrequent.
- Make sure your manager has a fidelity bond in an adequate amount insuring the HOA against loss. The recommended formula is the amount held in reserves plus three months regular assessments.
- Have the bank email bank statements directly to the president and treasurer. It's a deterrent to a would-be embezzler to know someone is watching.

If Managed by Board or Employees:

- Purchase Fidelity Insurance in an adequate amount that includes wrongful acts of officers and managers.
- Restrict check signing authority to the president and treasurer.

- Require the checking account be balanced within a week of receipt of statement.
- Send a duplicate bank statement to the president.
- Never pre-sign checks.
- Keep blank checks secured.

Have a CPA perform a full audit at developer or property manager turnovers or at least every three years, annually if the budget is \$100,000+ or when state law requires.

When it comes to handling HOA funds, a CYA policy is absolutely essential. Setting boundaries is healthy for all money handlers, reminds them that others are watching and builds trust among the members. Remember to cover *your* assets and you won't have to cover your...well, you know what. ☹️

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Your Own Money

In recent years, the importance of accumulating reserves has become a long overdue reality for many homeowner associations (HOAs). Proper long range planning drives an HOA's ability to adequately care for the common assets by having both adequate reserve funds and a realistic renovation schedule to follow. A well executed reserve study calls for a funding plan that systematically grows reserves to address future renovation without the need for special assessments which are unfair to many and difficult to collect.

As a rule of thumb, the average garden variety condominium has 15-20 common components to maintain. Based on that, the HOA should have around \$6000 per unit in reserves. (Do the math for your condominium HOA.) However, there are many HOAs that should have much more than that because of deferred maintenance or more common elements. For example, high rise condominiums can easily have 50 or more common components.

Even the most modest homeowner associations should often have hundreds

of thousands of dollars socked away in reserves. Larger, more complex properties should accumulate reserves in the millions. To truly know what level of reserves applies, a reserve study must be performed by an experienced and qualified reserve analyst.

The board should only invest in guaranteed and insured investments unless the *entire membership* (100%) votes to be more aggressive. In either case, there should be a clear and written investment policy for the board to follow.

As reserve funds grow, it's extremely important to have an investment plan. Wisely investing reserves can reduce owner contributions by many thousands of dollars over time. While your friendly banker always has some investment options available, the board should explore other options. For example, opening an account in an investment advisory company like Edward Jones will give the HOA access to the highest yielding Certificates of Deposit (CDs) available. Buying CDs with different maturities like 3, 5 and 10 years (called laddering) will create an average return that is significantly higher than any savings or money market account. By synchronizing CD maturity dates with reserve renovation events, the HOA will have liquid cash when needed.

A word about depositor insurance. FDIC Insurance is currently limited to \$250,000. But some banks catering to homeowner association business have additional private depositor insurance that protects a much larger amount of HOA funds. While this addresses the depositor insurance question, the board still needs to consider whether the bank offers the best rates.

When considering your HOA's reserve funds, treat it like your own money. Invest in things that don't risk principal yet return interest at levels that keep pace with inflation. ☹️

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Change is Inevitable

There is an old saying that goes "change is inevitable except from a vending machine". But when it comes to renovation projects, homeowner associations should be wary of "change orders". Change orders are a sneaky way for unscrupulous contractors to jack up the price of a project they've won with a low bid. But change orders are sometimes necessary since it's impossible to identify all of the underlying conditions in a building or predict every potential problem before a project begins. Therefore, the key questions are: What are legitimate change orders and how much should be allotted for them?

Many HOA projects run over budget because the firm hired to prepare the scope of work, the budget projection and the construction documents for bidding don't spend enough time doing investigative site work during the discovery phase. This leads to problems and to money spent addressing overlooked conditions that should have been spotted.

Don't Duplicate Work. On a typical project, a knowledgeable construction expert should conduct a hands-on examination of the proposed work to determine underlying conditions. This is necessary to verify the condition of the building and the extent of repairs needed. Of course, even the best design work is dependent on properly administering the quality of construction.

Set Aside a Contingency. Every project should include an additional contingency of 20% of the total bid for unforeseen circumstances that will need change orders. The contingency should take into account items that cannot be detected during the initial site inspection. Older, neglected buildings or buildings inadequately repaired previously are more likely to have hidden problems that go undetected.

Unexpected problems aside, a contingency also gives the board the option to add items or features during the course of construction. Working with a cost cushion enables the board to choose, for example, a better quality but more expensive waterproofing material than originally specified. The contingency allowance is not intended to cover major

changes to the scope of work that should have been accounted for during the design phase.

Two Requirements. To control excessive change orders, your agreement with the contractor should state that:

1. The price of a base-bid item will be renegotiated when its quantity increases by more than 10 percent above what was specified in the original bid document.

2. All change orders are to be put in writing and signed by the board or manager before the additional work is undertaken. Orally approving change orders will only lead to arguments later about who agreed to what.

To avoid unnecessary cost overruns, make sure to prepare a well investigated and comprehensive scope of work and never pay for any changes not approved in writing. That way, more of the "change" remains in the HOA's pocket.

*By Stephen Varone and Peter Varsalona
- Rand Engineering & Architecture*

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Finding Wisdom 2

Sometimes we say that someone has no common sense. Indeed, common sense is a part of wisdom. Common sense is applying knowledge to solve the everyday problems common to all people in a way that is better than that which might come naturally. As a society, in trying to create a law for every situation, we have lost the perspective of the principles common to a community of people. We too can become so tightly focused that we lose our ability to apply what we learn generally to our own lives specifically. And so we lack common sense.

Knowledge that doesn't take shape in deeds—that doesn't apply itself to life—is trivia. If you can't apply it, it's just knowledge for knowledge sake; it's just something to get intellectual about.

Knowledge alone leads to arrogance. This is not to undervalue knowledge, but there must be some thinking as to what are the ends of the knowledge being attained, of the relationship of the knowledge you are gaining to the conduct of your life and to the life of those around you. Why do you know what you know? And what are you doing about it?

Knowledge alone does not result in clear vision, a proper perspective, meaning, and the right behavior. But when this transformation does occur, we call it wisdom. How do we get wisdom? How do we develop it and make it a part of our lives?

Fundamentally, it is important to understand that wisdom is grounded in reality in two ways. To connect with reality and develop wisdom, we need to learn to be aware. Aware of ourselves and aware of those around us. We can learn from other people's success and we can learn from their mistakes. From early on, we have all been told that we should learn from other people's mistakes. Yet we see people in trouble all the time, but we forget to learn from their mistakes. Every person you come into contact with, good or bad, is for you, a lesson in living if you will only be aware. You need to define where they are off or what they are doing right and then determine what that means for you. Everything that you observe is a chance for you to figure out what it means and what you are supposed to do about it. When you see a problem in life, yours or someone else's, something is wrong. What is it you are seeing? Figure it out. It is important that you know.

Second, if you know something works and you don't do it, that's being disconnected from reality. We human beings are the only living things that can decide to disconnect ourselves from reality. We are inclined to do what we want and not what we know we should do. We can, and often do, choose to live according to what is unreasonable; what makes no sense. We can do things in the same old way and justify doing it. But, we are only kidding ourselves. Living with reality takes an effort on our part. But, it is essential that we do the things that we know must be done and stop doing those things we know we shouldn't be doing.

Understand the law of Cause & Effect. Things happen to us for a reason. We are the sum total of the decisions we have made and the actions we have taken to this point. When you make a mistake, don't gloss over it. Take a look at it. Seek to understand why you did it and why it doesn't work, why it doesn't get you the results you want. Articulate it. To learn something is to be able to put it into words. Then when you catch yourself doing something that is counter productive, something you know from observation doesn't work, stop. Make one little change in your life. Begin to practice what you learn in order to create habits. If it is right, keep at it whether you see immediate results or not. A successful life is made up of a series of course corrections. They all add up to create the substance of your life.

By Michael McKinney

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Right Wording

Communication is both a skill and an art form. When babies cry, the motivation is to get their needs met. Meeting the needs of others is nowhere in a baby's method. While infant communication is primitive, it is highly effective. A crying baby gets fed, diapers changed, burped, etc. With maturity and training comes more sophisticated and usually less self-serving ways to communicate. Homeowner associations are charged with communicating with the members. The reasons for communicating vary including:

Socialization. As moderns become more isolated from each other, the need to find connecting points becomes more important. HOAs can provide a platform to coax members out of their isolation by offering volunteer opportunities and social functions. Introducing the members to new residents through newsletters grows the connections as well. A Welcoming Committee not only provides the human touch, it can provide

early warning about important HOA rules and regulations so that newcomers don't inadvertently get crosswise with the HOA from the get go.

Paying the Bills. There are few things more immediate and urgent than collecting HOA fees. Without money, HOA services suffer or are curtailed. Without money, maintenance lags and property values drop. So, getting 100% payment compliance is extremely important. While the hope is that it is done voluntarily, sometimes it must be coerced by legal means. But even when lawyers are brought into the matter, a carefully worded demand letter can produce quick results.

Getting Compliance. Every HOA has rules. Hopefully, those rules are few, necessary and not overly intrusive. When a rule is made, explaining the need for it and the goal in having it can go a long way to encouraging compliance rather than defiance. Whenever a rule is being contemplated, the board should always, always, always solicit member input. This tactic reduces the likelihood of challenge.

Communication comes in many shapes and sizes. The common ones include signs, newsletters, meeting minutes, postings, emails and the HOA's website. These communications can have a variety of meanings: to inform, to warn (rule violations), to invite (summer social) and to congratulate (kudos for a job well done).

The more the words, the less the meaning. When it comes to effective communication, less is more. Use words economically. This takes thought. In conversation, many words are used to test impact on the listener. So, in conversation, it's not uncommon for the same thing to be repeated with different words in an effort to embellish or give greater impact to the meaning being conveyed. If folks write the way they talk, their writings, would rarely get to read because they are an unending ramble. Without a careful selection of words, communications can be misinterpreted or ignored. So, effective writing requires careful thought because "an arrow, once loosed, cannot be retrieved".

Words have both strengths and weaknesses. One weakness of the written word is that it may be read by an unintended audience which doesn't have the background the writer needs to be understood. Another pitfall is that some of the audience may be prejudiced against the writer and refuse to understand the communication the way it's intended. These folks will actually take the message, add their own spin and circulate the "real story". A war of words ensues. The time and emotional energy it takes for damage control may discourage future communication altogether.

As it is written, "In the beginning, there was the Word." Words are with us forever. It's what we do with those words that make all the difference. Like blacksmithing, right wording takes hammering and shaping before the whole thought can take shape.🔥

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The Job Application

Murphy applied for a fork lift operator post at a famous Irish firm based in Dublin. A Norwegian applied for the same job and since both applicants had similar qualifications, they were asked to take a test and led to a quiet room with no interruptions by the manager.

When the results were in, both men had scored 19 out of 20.

The manager went to Murphy and said, "Thank you for coming to the interview, but we've decided to give the Norwegian the job."

Murphy replied "And why would you be doing that? We both got 19 questions right. This being Ireland and me being Irish, surely I should get the job!"

The manager said, "We have made our decision not just on the correct answers, but on the question you got wrong."

"And just how would one incorrect answer be better than another?"

The manager responded, "For question number 7 the Norwegian wrote down, 'I don't know.' For the same question, you put down, 'Neither do I.'"🔥

Not So Dumb

A blonde and lawyer are seated next to each other on a flight from LA to NY. The lawyer asks if she would like to play a fun game. The blonde just wants to take a nap, so she politely declines and turns to catch a few winks. The lawyer persists (as lawyers are wont to do) and explains that the game is easy and a lot of fun. He says, "I ask you a question, and if you don't know the answer, you pay me \$5 and vice versa."

Again, she declines and tries to get some sleep. The lawyer, now agitated, says, "Okay, if you don't know the answer you pay me \$5, and if I don't know the answer, I'll pay you \$500." This catches the blonde's attention and, figuring there will be no end to the torment unless she plays, agrees to the game.

The lawyer asks the first question, "What's the distance from the earth to the moon?" The blonde doesn't say a word, reaches in her purse, pulls out a \$5 bill and hands it to the lawyer. "Okay," says the lawyer, "your turn."

She asks the lawyer, "What goes up a hill with three legs and comes down with four legs?" The lawyer, puzzled, takes out his laptop computer and searches all his references, no answer. He taps into the air phone with his modem and Googles the internet, still no answer. Frustrated, he sends e-mail to all his friends and coworkers, all to no avail. After an hour, he wakes the blonde and hands her \$500.

The blonde says, "Thank you," and turns back to get some sleep. The lawyer, more than a little miffed, wakes the blonde and asks, "Well, what's the answer?" Without a word, the blonde reaches in her purse, hands the lawyer \$5 and goes back to sleep.🔥