



The Regenesis Report



National Edition

Innovative Homeowner Association Management Strategies

Priceless

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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Rule Revival

It may come as little surprise that quite a few homeowner association boards fail miserably in rule enforcement, especially in self managed HOAs. Let's face it, confrontation with neighbors is not something most people look forward to. So when certain members play fast and loose with the rules, these boards turn a blind eye or run for cover. If this failure to enforce goes long enough, a reform group often appears to run for election and make a change. Once elected, Big Questions arise like "How do we go about enforcing long unenforced rules?" and "How aggressive should we get?" Good questions.

All rules are not created equal. Some are much more important than others. The board should focus on those that degrade curb appeal, market values and livability. In the case of planned communities, for example, a homeowner's failure to maintain his roofing, paint, fences and landscaping has a direct impact on the market values of neighboring properties. So, issues that impact curb appeal and market value should be a high priority.

Livability issues are important as well. Does the HOA have a problem with, say, uncontrolled pets or loud and rowdy residents? While the police are the answer to extreme behaviors, the HOA can control the less extreme through warnings, and if necessary, fines.

To get a handle on the scope of rule issues, the board should make a list of violations by type and address and then prioritize by blatancy. While all violations should be addressed, focus attention on the big ones with a goal of getting compliance or compromise on all within a reasonable period of time.

To establish the board's position and intent, a written notification should be sent to all members. Here's a suggested format which can be adapted to your use:

Dear Members,
The board of directors discussed rules compliance at the last board meeting. In particular, there has been ongoing issues with parking, pets and architectural design issues. In

years past, prior to the current board taking office, rule enforcement has been inconsistent. The board is charged with and given authority in the governing documents to enforce rules, regulations and policies for the benefit of all members. These rules, regulations and policies are design to enhance the livability and help sustain all member home values.

To that end, please be advised that the board will begin regular and consistent enforcement of rules, regulations and policies effective (date). Written violation notices will be directed to the violator (or landlord if the violation was done by a renter), a description of violation, the corrective action required, the penalty for failure to comply and a right of appeal.

Deadlines for compliance are based on the type of violation. The deadline may be immediate (as in the case of illegal parking) or days (as in the case of correcting an Architectural violation). See a copy of the rules, regulations and policies attached for the specifics.

The board appreciates your understanding and attention to this matter. Our goal is to facilitate the best possible living conditions for all residents by establishing reasonable standards. Your cooperation in this matter is appreciated. Please don't hesitate to direct your written comments and questions to (email address) or (mail address). All feedback will be reviewed by and responded to by the board within 30 days. We also invite you to attend the next board meeting (time) on (date) at (location) to express your views on this communication.

Sincerely,
I.M. Incharge
Board President

Rules in homeowner associations should be few and necessary. When reviving rule enforcement, focus on the

ones that truly make a positive impact on value and livability. Treat your members with respect and understanding. Be prepared for compromise if it's in the best interest of the HOA. Rule on! 🗳️

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Ask the HOA Expert

Q At our recent annual meeting, an issue was brought up and a motion was made on something that was not on the agenda for the meeting. The president allowed the motion to be made, seconded and voted on. There was not a sufficient amount of homeowners at the meeting to constitute a quorum. The homeowners not present had no idea this was being voted on or even brought. Was this a legal vote?

A The vote was illegal both due to lack of quorum and failure to notify other members in advance. All that is needed now is for a notice to go out informing all members of the "confusion" which led to an illegal vote which has now been rescinded. If the rowdies don't like it, tough. There is a right and a wrong way to do things. Just because the board president made a mistake doesn't legitimize the vote.

Q We have several volunteers that want to perform selected HOA maintenance like changing light bulbs and painting curbs to save us all money.

A While volunteer efforts are appreciated, it may turn out to be unreliable or have quality control problems. In other words, you may get what you pay for. Doing minor repairs is okay. Just stay off the roofs, out of the trees and leave skilled labor jobs to the skilled labor.

Q One of our owners was outraged that the board meets for thirty minutes in private prior to allowing homeowners into the meeting. Typically, the board talks about collection issues. This information is summarized in the minutes without names or addresses and posted in the community mail room for everyone to review. This owner was livid that the board would not discuss collections in the open meeting citing the Freedom of Information Act.

A It is appropriate for the board to meet in executive session to discuss sensitive topics like collections, contract negotiations, litigation and employment issues. General financial matters should, however, be discussed openly in the board meeting. Even collections can be discussed in a board meeting if no names or unit numbers are mentioned.

The Freedom of Information Act allows the public access to information held by the federal government so does not apply to homeowner associations. But as a general rule, board meetings should be open to the members. This means that they should be noticed well in advance and held in a visitor friendly venue. Closed door meetings always breed suspicion. Tread carefully on the use of executive sessions.

Q What are the powers of the board in regards to committees and appointments?

A The board can appoint committees or positions like Clubhouse Director to manage certain aspects of the HOA's

business. The board should provide those committees and positions with detailed job descriptions so there is no misunderstanding what their authority is. The board can approve a budget for a committee or position which allows it to spend money on behalf of the HOA. In other words, the board does not need to micromanage everything, however, those committees and appointed positions need oversight. If the board has approved a budget for a committee, the board should pay the bills incurred.

Q Have you published articles that deal specifically with towing illegally parked vehicles? We would like some guidelines.

A Towing is a very emotional issue and requires an enormous amount of oversight on someone's part to track. Some towns are no brainers: If a car is parked in the Fire Lane, automatic tow. Reserved parking tows are less urgent except to the person whose spot has been commandeered. These events can happen 24/7.

Before any towing is done, you should have a formally adopted Parking Resolution that addresses the various violations and penalties. There is a sample policy at www.Regensis.net under Policy Samples available to subscribers. There are several articles on this topic at www.Regensis.net Article Archive. 🗳️

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Greasing the Wheels

Money is the grease that oils the homeowner association's wheels. Without it, HOA business screeches to a grinding halt. Without money, bills go unpaid, needed repairs are delayed, property values fall and tempers rise. In most HOA budgets, there is little margin for slow or no payers so attention to timely collection is essential. Yet, it's a recurring problem

in many HOAs because boards are reluctant to enforce collection on neighbors and/or friends. But there is no government bailout for HOAs. If all don't pay, the remaining members must make up the difference. The picture ain't pretty.

While the governing documents empower the HOA to collect the money it needs to operate, the details on collection is left to the discretion of the board. There is much to consider:

- Should a Late Fee be charged?
- How about charging interest on the outstanding balance?
- Bad check charge?
- Should a lien be filed?
- Should an attorney be used for collections?
- Can the HOA get reimbursed from the debtor for costs of collection?
- Should the HOA consider foreclosure in some cases?
- Can the HOA garnish wages?

The answers to these questions is "Yes". And all should be integrated into a Collection Policy that should be adopted and followed consistently by the board and manager. The primary goal of the policy should be to keep the HOA bill at the top of the debtor's bill paying stack.

Since a Collection Policy is complex, it should be formalized in a Board Resolution which recites the governing document authority and the details of the procedure. As with all resolutions, it should be circulated among the membership prior to enactment for review and input. Once adopted, the Collection Resolution should be posted on the HOA's website and attached to each attempt to collect a delinquency. That way, members know exactly what the process is and are forewarned of consequences.

Collection Policies vary in procedure but the following reflects a sequence commonly used unless the governing documents indicate otherwise:

1. Homeowner fees (dues, assessments) are due on the first of the month.
2. On the 10th, a Late Charge is applied and Notice of Balance Due sent which includes a Right of Appeal and

Repayment Plan Request.

3. After 30 days, a 10 Day Notice of Intent to Lien is sent.

4. After 40 days, the account is turned over to the HOA's attorney for further action.

5. Attorney immediately sends a 10 Day Demand for Payment letter again citing the Intent to Lien.

6. By 60 days late, attorney files a lien against the debtor's property and may, if appropriate, invoke termination of HOA paid utilities provided to the owner, restriction to amenities (like pool, clubhouse, etc.), acceleration of fees due for the remainder of the fiscal year, garnishment of wages, seizing assets for resale (cars, boats, etc.), taking an assignment of rents if the unit is rented and other allowable options.

7. By 120-180 days late, the HOA should consider processing a foreclosure action if allowed by state law.

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Here are details on selected actions:

Late Charge. A late charge is appropriate for each month the account is delinquent. Generally, a flat fee of \$10 to \$25 per month is acceptable. If partial payment is received, it should always be applied to the oldest balance so that Late Fees are levied for each month there is a balance due.

Notice of Balance Due. This statement advises the debtor early of the Late Fee. It usually results in a speedy payment. The debtor may have an explanation (check's in the mail, Post Office lost it, dog ate it. etc.) which can be considered.

Right of Appeal. The debtor may dispute the validity of the debt,

especially if there are fines and other charges that are not part of the regular fees. They are entitled to appeal the billing. Of course, convincing evidence must be presented that negates the charges. The board has the final say and Appeals should be heard quickly and not delay the collection schedule.

Repayment Plan Request. There can be extenuating circumstances like injury, disability, job loss or other unavoidable financial setback that the board should consider in allowing a repayment plan. Repayment plans should not be granted automatically since they put an additional burden on the other members to fund the shortfall. However, filing an aggressive collection on someone that is unable to pay for valid reasons could alienate an otherwise good neighbor, unnecessarily increase the debt on someone who can't even pay the principal and tip the debtor into premature bankruptcy. If there is a reasonable expectation of financial recovery, it's often in the HOA's best interest to work with the debtor.

In general, repayment plans should serve as a stop gap measure only and extend only a few months. The plan should be strictly adhered to so the HOA doesn't lose ground as time passes. Approving the plan needs to be considered in the overall scheme of the HOA's cash flow. If the HOA needs every penny every month, approving a repayment plan means others will have to ante up the cash so bills can be paid. This translates into a "special assessment" (the longest four letter word there is). In other words, if the HOA has no excess cash to draw on, the *members* should approve the plan.

Notice of Intent to Lien. This warning notice advises the debtor of the costly consequences for non-payment. In most cases, outstanding balances are resolved before the deadline.

Lien Recording. Recording a lien against the debtor's unit/home is the most important collection action the HOA can take since it secures payment of the balance due. It is very important that the lien be properly prepared and recorded. A knowledgeable HOA attorney should always be used for this

purpose.

The attorney will need:

1. Copies of all notices sent to the debtor.
2. Copies of appeals, repayment proposals and responses, if any, from the debtor.
3. A copy of the unit deed verifying who the legal owner is.
4. Mailing address of the legal owner.
5. Property Tax ID number.
6. A current account balance with all charges detailed including late fees and interest charges.
7. Copy of the Collection Policy.

Acceleration of Assessments. Some governing documents provide the right to accelerate the balance of the current fiscal year's assessments in the event of default. Invoking this right is subject to the board's discretion which includes the number of times a particular owner has been delinquent and the amount of the delinquency. If your HOA has this right, it's best for the board to establish the criteria under which it is invoked (like, if the debtor has been delinquent twice in the previous 12 months or the balance exceeds, say, \$1000).

Foreclosure. Foreclosure of debtor property is the most extreme form of HOA collection and not particularly easy to pull off. The HOA must be able to buy out prior lien holders like lenders and, possibly, the IRS. Debtors enjoy Homestead Right protection in most states which protects tens of thousands of dollars of equity. After all prior lien holders are satisfied, there must be enough equity remaining to justify the action, that is to say, to pay the outstanding balance owed.

Foreclosures are politically charged inasmuch they usually involve a person's home. If the owner is disabled or elderly, the issue gets even more sensitive. For a variety of reasons, the board should seriously consider whether foreclosure should be pursued. Unless the debt is significant (many thousands of dollars), it is generally more prudent to wait until the property sells. The attorney should make a recommendation to the board after all the facts are known and discussed at length. Foreclosure should never be undertaken lightly or automatically.

Money comes and money goes but mostly goes. Money is hard to come by. Keeping the HOA's financial wheels greased is a never ending task. To ensure that your homeowner association never lacks the lubrication it needs, develop and follow a fair but firm Collection Policy. Then hire a professional manager to enforce it. Keep that HOA rolling. 🗝️

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Paintenance

Paint maintenance is no different than roof, landscape, pool or asphalt maintenance. A good plan requires periodic inspections, timely and proper surface preparation and repair in addition to quality paint applied at recommended intervals by a knowledgeable professional. Here are some areas that should fit in a good paint maintenance plan:

Surface Preparation Properly prepared surfaces will resist the wood rot common to the cool, damp climates. If the wood fence, trim or siding gives easily to finger pressure, the wood is rotten beneath the existing paint and should be replaced prior to painting. When replacing rotted trim and siding, inspect for dryrot in the underlayment, studs or joists by probing with a screw driver. If the wood is soft, additional repairs will be necessary to stop the dryrot from spreading. DO NOT cover it up with new siding or paint. Dryrot is a wood cancer that grows best in dark, wet environments. Only use knowledgeable contractors that are experienced in dryrot repair and abatement.

Chalking If wiping your hand across a painted surface picks up white residue, the paint is chalking and it's time to repaint. If the chalky surface isn't removed with a power washer, a special primer can be added to the paint.

Sprinkler Overspray Keep sprinkler

heads on the landscaping and off the buildings and fencing. Over spray causes a lot of paint damage like mildew, cracking, paint peeling and rust. Sprinkler heads get misdirected for a variety of reasons. Make sure your landscaper is made aware as soon as possible to correct the situation.

Wrought Iron Fencing Repainted every two to three years or whenever rust starts to appear. Wrought iron used as fencing around landscaping is exposed to constant watering. If it is not maintained regularly you will end up replacing entire sections of fencing. Wrought iron rails will probably last longer than fencing because it will be exposed to less water in those areas. However, you will want to paint these areas every three to five years.

Wood Fencing The average repainting period for wood fencing is between five and seven years. As with any type of fencing, constant exposure to watering causes these areas to deteriorate more rapidly than your eaves and trim.

Wood Trim & Siding Semi-transparent stains on wood siding will need to be recoated every two to three years. Solid color stains will last five years, and good 100 percent acrylic paint in these areas will last five to seven years.

Stucco If your stucco is not painted you will want to power wash it annually to eliminate the staining that occurs from roof runoff, mildew and pollutants. Power washing may not work for severely stained stucco and may require painting with a good 100 percent acrylic paint.

Plan Ahead If you are planning to paint this year, get your paint bids now and book the job. When good weather hits, good painters are hard to find, less price competitive and may not be able to fit you into the schedule. 🗝️

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Codes, Reports & Standards, Oh My!

The board of a homeowner association is tasked at times with interpreting and understanding complex information so it can make informed decisions. In that regard, it is important for the board to understand the differences between building codes, evaluation reports and industry standards.

Building Codes. These codes establish minimum requirements to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy and locations of all buildings and structures. A lot of modern building code is focused on the issues of fire resistance, structural strength and stability and means of egress for occupants.

These same codes address the somewhat less critical issues of waterproofing the building envelope by using performance language that simply establishes the general 'intent' of the codes. A small amount of water intrusion does not constitute the crisis created by a fire or earthquake. Short-term leaks do not necessarily represent a code violation. The key question concerning water intrusion is whether it can result in harm to building occupants or in diminished building integrity and service.

Evaluation Reports. To aid the local building official's review process, building code organizations have created independent testing firms that provide a comprehensive product evaluation service for many materials and systems. Products that pass such testing are issued evaluation reports that indicate to building officials that these items can be permitted with full confidence. Further, they will provide service that is equivalent to the traditional products and systems that are addressed within the building codes.

Product evaluation reports are simply a means for extending the scope of building codes. In contrast, building envelope industry standards provide specific regional or national guidance

for how best to implement the intent of the codes so that structures provide satisfactory long-term weather-resistive service.

Industry Standards. An industry standard is a written consensus document that has been reviewed and accepted by representative leaders of the industry. Industry standards serve to supplement the minimalist instructions of the building codes and to provide specific guidance for how best to implement the intent of the codes. Industry standards allow the local building official to approve the use of alternate materials, designs and methods for construction that are not addressed with the building codes but instead have been demonstrated through independent testing to provide a level of performance that meets or exceeds minimum code requirements. An example is vinyl siding, which once was an approved alternate cladding product, but now is included within our building codes.

So, when buildings are built, a number of standards are used in the construction to integrate materials and designs. That's why not all buildings look alike.☹

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Pernicious Contradiction

There is a vicious rumor going around. The board is talking about raising the dues again and everyone's up in arms. They raised the dues last year! And the year before! It's time to fire up the tar and pluck the chicken!

Ever hear this kind of thunder roll through your HOA? At the core of this storm is a pernicious contradiction. Members want the property taken care of but expect the board to do it on a slumlord's budget. With too little money chasing too many expenses, maintenance suffers, home values slide and livability diminishes. Yet, year after year, the Spend No Money Drum

gets beaten.

But it wasn't always thus. In the beginning, when the homes were new and the future bright, members basked in the glow of their own ignorance. The developer kept the homeowner fees low and, heck, why shouldn't they be? It doesn't cost anything to maintain something that's new. Let's worry about that when the time comes. Well, the time is now, the pot is empty, the assets worn out and recriminations abound. A \$3000 special assessment! Who's responsible for this? Why wasn't money being socked away years ago? I can't pay it! I *won't* pay it! Where's my lawyer?

It's at times like these that outside professionals are called for. The board is authorized to hire the expertise it needs to run HOA business. HOA consultants like managers, lawyers, architects and engineers can assist the board in making its case to the members. In the case of deferred maintenance and inadequate reserves, the board should hire a Professional Reserve Analyst (PRA) to perform a Reserve Study. PRAs are credentialed by the **Association of Professional Reserve Analysts**. For a list of PRAs and their contact information, go to www.apra-usa.com Members.

A Reserve Study will consider *all* the repair and replacement issues, not just the urgent ones. A Reserve Study looks thirty years down the road and charts a course to proactively deal with these issues. The Reserve Study will identify priorities which the board can further prioritize according to funding.

Hiring a knowledgeable consultant to supervise each project is a real bonus. For example, roofing projects should have a roofing consultant who can detail the scope of work, draft a contract, gather proposals from qualified contractors, ensure that the project is done to proper specifications and lien waivers executed. Consultant oversight ensures that the material warranty is not voided because of faulty installation. The cost of a consultant is typically only 1-2% of the total project cost. Clearly, this is an investment worth making. The same principle applies to other major

projects like structural repairs, painting and landscape renovation.

Playing catch up on major repairs costs a lot of money over a short time period. In an effort to soften the blow to the members, the tendency may be to piecemeal the repairs over a number of years and break large costs into more manageable chunks. But, piece mealing causes the costs to go *up*! The bigger the project, the cheaper the cost per unit. Piece mealing also creates an imbalance in member asset values. If Building A gets new paint this year, those units are more attractive and valuable from a buyer's perspective than those in unpainted Buildings B, C and D. This inequity will lead to resentment among the members that didn't get the benefit of the repairs.

To avoid these costly traps, the board should only perform complete projects. If repairs must be split up by years, do them by type, not location. If painting is to be done, do all buildings at the same time. Same for roofing. Do it all at once, minimize disruption, get it over with and save a bundle.

If your HOA is suffering from deferred maintenance, consider raising the money to do multiple projects the same year. For example, if siding needs to be replaced, those energy inefficient windows should be replaced as well. The improved livability and value increase always far exceeds the cost so this is one of the best investments the members can make. And just consider the advantages to ending the bickering, debate and back biting. The sooner completed, the sooner the community chest will swell with pride and past resentment forgotten.

So, recognize your HOA's pernicious contradiction when it raises it's ugly head. This is one monster that's best dealt with directly and quickly. The harmony of your community hangs in the balance. 🐘

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Eating an Elephant

Procrastinating is a habit which takes time and desire to change. Some have accepted it as unchangeable while others yearn for change. (Those that have accepted their fate need read no further. It will only add one more task to your Never To Do List.) Why do some procrastinate and others not? Procrastinators view tasks as insurmountable, mountains to climb. Just the thought of the hike makes them pause, and pause, often lapsing into mental gridlock. Some of the reasons include:

~ **Complexity.** The mind boggling aspect of some tasks can keep some from starting because of uncertainty of *where* to start.

~ **Prioritization.** All things have importance but some are more important than others. Being able to choose requires the ability to forecast outcomes. This requires the ability to *shape* outcomes.

~ **Cornucopia of Options.** Life continually spews out opportunities. Picking and choosing is difficult.

~ **Nasty Business.** Some tasks are necessary but no fun. Avoidance is a natural response.

~ **Indecision.** Trying to forecast every outcome, over analysis leads to paralysis.

~ **Loner Mentality.** "I'll do it myself" is fine for small jobs but stalls the big ones. Few have the expertise to carry big projects start to finish.

~ **Fear of Failure and Success.** Ever climb the Ladder of Success only to find it was leaning against the wrong wall? Some are afraid of climbing ladders at all.

~ **Uninspiring.** Not every job is captivating. Do I *have* to?

~ **Perfectionism.** Perfectionists obsess over minutiae. A job is never quite finished.

~ **Distractions.** The cacophony of life makes it difficult to focus.

So there are many reasons for procrastination but it ultimately leads to stalemate and paralysis. Life has a way of leaving procrastinators in the dust. Life dictates "lead, follow or get out of the way". So, consider: "How do you eat an elephant? Answer: One bite at a time."

Those that get things done tend to approach big tasks in small bites. So, pick a task long delayed, any one that piques your interest, for starters. Initially, it's more important to get engaged in the process than worry about the quality of the task. Map out a timetable: Day One, Day Two or Week One, Week Two etc. Setting deadlines for each part of the task will help focus on the parts. Now procrastinate no more. 🐘

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Only 58 Cents

Jonathan was in the check out line at the market and was told he couldn't use his credit card because the computer was down. Since he was short 58 cents in cash, he sighed and asked the clerk to cancel the transaction.

The man standing next in line overheard the incident and silently handed the clerk a dollar bill saying he would pay the difference. Jonathan refused the kind offer but the man's persistence prevailed. Finally, he countered, "Okay, where do you live so I can repay you?" The man replied, "Not necessary. It's only 58 cents."

Yes, it was only 58 cents, not even enough to buy a few loaves of bread and a couple of small fish. Yet, to Jonathan, the offer contradicted his jaded view of life. It made him pause and consider the sizeable impact a small gesture can have. It made him smile. It caused a change in him for the better. Only 58 cents? I don't think so. 🐘