



# The Regenesis Report



Portland Edition

Innovative Homeowner Association Management Strategies

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



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## Successful HOA Meetings

Why do HOA meetings fail? It may be a either lack of time or too much, a badly designed agenda or lack of one or an unsatisfactory venue. However, if the chairman is doing the job properly, it's possible to overcome these and other difficulties.

Proper chairing means ensuring that the meeting achieves its aims. All discussion should be steered to these ends. While simple in theory, in practice it is a very demanding task. The skills required include:

**Impartiality.** A chairman is like a judge that should ensure that all participants have an opportunity to express their point of view. To do this, the chairman should remain neutral to allow dissenting opinions to be aired. The chairman is entitled to vote his own opinion when the time comes but needs to make sure all sides of the issue get voiced or, at least, have an opportunity to be heard. Constructive disagreement is healthy for the best outcome.

**Assertiveness.** The chair needs to control strong personalities from dominating the proceedings. The more contentious the issue, the more likely this will be an issue. There is no need to be rude. Phrases like "We should hear from Ms. Smith on this" or "Can we have some comments from the manager on this?" should be sufficient to get others into the conversation. Once this segue is provided, the chair needs to ensure that there are no interruptions while the next speaker has their say.

**Staying on course.** Meetings can start well but become embroiled in a particular agenda item which can monopolize the entire meeting. A chairman should consider the importance of each agenda item and allot appropriate time to each. Some items take seconds and others minutes. If an issue outgrows its importance, the chairman must take control by assigning the issue to a committee for review and recommendation at the next meeting or tabling discussion to a special meeting. Or, if the topic's discussion has been beaten to death (arguments begin to repeat), the chair should call for a vote and move on.

**Summarizing.** Summarizing can be used to

end a topic, to end a discussion and to ensure that everyone has a clear overview of what took place or what action is now required. It is an invaluable skill for a chairman. Summarizing requires active listening. You have to state concisely what was said in an impartial way and end with a clear statement about what is expected to happen next. It takes practice to summarize well, but it is a skill well worth developing.

**Written Agenda.** Many people feel that being a chairman means opening the meeting and stopping out of control disagreements. There is much more to it than that. Prior to the meeting, a chairman should compose an agenda that can be accomplished in the time allowed (usually no more than two hours), ensure that all interested parties have been notified, assess the level of interest and allot time to each item.

During the meeting, the chairman must focus on the decisions required at the meeting, ensure that all participants are accorded adequate time, decide when to end debate on each topic, use appropriate questions to clarify the issue or redirect discussion, listen carefully to all contributions and clearly summarize proceedings with an emphasis on decisions taken and future plans.

These are all key ingredients for a fruitful meeting. A tactful yet assertive chairman will help make all this happen. ☀

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## Ask the HOA Expert

**Q** Our condominium has two storage rooms which are auctioned off to the highest bidders at the annual meeting each year. No rental agreement has been required of the winning bidders.

**A** Yes, it's a good idea to have a written year to year rental agreement for the storage rooms. Conditions should include:

1. No storage of flammable or toxic chemicals
2. Renter responsible for insuring personal property
3. Payment. Recommend one annual payment due in advance to simplify bookkeeping.
4. No using HOA electricity (if applicable)
5. Hold HOA harmless for all uses of the storage room.

**Q** One of our directors has designed two websites for our homeowner association. One she proposes to be "official" with governing docs, agendas, minutes, etc. and one will be of community interest with garage sales, for rents, local merchants and restaurants, etc. Some of us would prefer to contract with a professional to design and maintain our HOA website with content approved by the board. We are concerned about security and privacy.

**A** There is a section of [www.Regenesis.net](http://www.Regenesis.net) dedicated to HOA Websites. Go there and review Recommended Content & Layout. There is also a list of HOA Website Services with nominal costs and template formats that can be updated by the HOA without the need for a paid programmer. The HOA's website should focus on HOA business and steer clear of local merchants, for sales, for rents, garage sales, etc. Such take an enormous amount of time to keep current and accurate. The board has plenty to do just to provide appropriate HOA information to owners and buyers.

**Q** We are trying to determine how to handle an insurance claim caused by an overflowing toilet flood. Is this a case of negligence and, if so, should the unit owner of the toilet in question pay for the damage?

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**A** "Negligence" in insurance terms means the occupant somehow caused the problem, like leaving the bathtub running, as opposed to a spontaneous pipe break. If there is negligence, the unit insurance may pay for damage to the common area or other affected units.

However, normally each unit owner is responsible to repair his own unit's damage. The HOA's insurance is broad and will often pay for this kind of claim, however the board should set limits on which claims the HOA will pay because if the HOA files too many claims, it may get its insurance cancelled or premium increased substantially.

All HOAs should enact a **Maintenance & Insurance Areas of Responsibility Policy** that defines common elements and who, HOA or owner, is responsible for maintenance, repair and insurance. This policy will guide the board in handling repairs and claims. The HOA's insurance agent should be provided a copy of the Policy so there

is no misunderstanding.

**Q** I have repeatedly called my HOA for necessary repairs to my condo (fence was falling down, my roof in desperate need of repair, my skylights are leaking etc.) with little or no action. My calls to the HOA are not returned and when I attend board meetings in person, they promise to do the work but then nothing happens.

**A** I suggest you write a detailed letter to the board making demand for repairs and citing the previous requests (what, when, etc.). Put a deadline of 10 days to effect repairs. If they are not done by that time (or in progress), have the work done and submit the paid receipt for reimbursement.

You have the right to reasonable and prompt repairs, especially when there is potential damage to your property. Hopefully, the demand letter will prompt action. There seems to be an unprofessional attitude at work on your board. I suggest you run for election the next round, get elected and start making a change.

**Q** What are the do's and don'ts of owner work parties to help perform some of the projects around the property (painting, weeding, fence repairs, etc.)? Is it a problem or a liability to have work parties? We have several homeowners that would like to help with exterior upkeep but don't know if there are problems if someone should get hurt in regards to insurance and liability. Any advice or info would be greatly appreciated.

**A** Work parties are fine although should be totally optional so the few that volunteer don't start resenting those that don't. (It happens). Limit the tasks to those that require no particular expertise and don't involve climbing, roofs, heavy lifting and other higher risk activity. Touch up painting, changing light bulbs, re-nailing siding and fences and planting flowers are all great low impact activities that will get folks involved that want to and save the HOA money



# Does it feel like something is missing? Maybe it is.

The unthinkable happens fast. Thieves prey on vulnerabilities. Someone in your organization or community trustingly releases financial information without verifying the recipient. By the time anyone knows money is missing, it is too late.



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at the same time.

**Q** We have a homeowner that has built a batting cage 10' wide x 30' long x 12' high and built of 6" x 6" posts with green netting draped over it. It is not permitted per our governing documents which state "All lots in the development (other than the common area) shall only be used for residential purposes, and no structures shall be erected on any one lot other than one single family residence, a detached garage, a storage building and a swimming pool." What is your advice on this issue?

**A** You are correct in your interpretation of your governing documents. Batting cages are not only unsuitable to a residential environment, there is a noise factor that will definitely impact the neighbors. This is a no brainer. It should be removed and pronto. 🗑️

## Things HOA Boards Should Do

**1. Incorporate the HOA.** Having the HOA incorporated provides substantial legal protections for the board and general members. If yours is not incorporated, run, don't walk, to the nearest corporate attorney to make it so.

**2. Use Parliamentary Procedure.** Meetings can become chaotic without some form of meeting protocol. A simplified version of Roberts Rules of Order is commonly used to run efficient meetings.

**3. It's Not About Power.** Power is not acquired by vote or appointment, but by the ability to communicate, negotiate and empathize. Leave the agenda, hidden or otherwise, at home and serve on the board keeping the HOA's best interests in mind.

**4. Operate like a Business.** The homeowner association should be run like a successful corporation. Hire competent people to perform the tasks that need to be done. The board is not expected to do the work itself for several reasons:

- Directors are rarely trained in property management, accounting and

maintenance.

- Directors are unpaid volunteers

### 5. Maintain the Proper Types and Amounts of Insurance including:

- Directors and Officers Insurance. Protects the board against lawsuits.
- General Liability Insurance. Covers negligence claims.
- Fire & Hazard Insurance. Insures property damage.
- Workers Compensation Insurance. If you have employees.
- Fidelity Insurance. Insures against embezzlement.

**6. Maintain a Safe Location for Records.** If you are professionally managed, keep the records in your manager's office. If you are self managed, records should be kept with the secretary or president.

**7. Understand Your Fiduciary Duties.** The board has the duty to act in the best interests of the HOA, current and future owners and the duty to seek expert advice when making decisions that exceed its expertise.

**8. Consult with Experts.** All boards should have an attorney, CPA, insurance agent and reserve study provider to provide advice.

**9. Stay on Top of Maintenance and Repairs.** Preventive (proactive) maintenance reduces costs and extends the useful lives of common elements.

**10. Keep Meetings Open to Members.** Every member is a stakeholder in the HOA and is entitled to attend board and special meetings.

**11. Hold an Annual Meeting.** It is required by the governing documents and necessary to hold elections and vote on issues requiring member vote.

**12. Communicate Regularly.** Keep the members informed through newsletters, the HOA website, emails, postings, letters and in person.

**13. Collect Delinquent Fees.** Every HOA should have a collection policy to follow when a member fails to pay.

Some essentials to collect include:

- Process for filing liens
- Right to foreclosure if allowed by state statute
- Right to be reimbursed for legal fees
- Late fees and interest on past due amounts

**14. Amend Documents with Legal Counsel.** Amending governing documents is complicated and there is much to consider. It's advisable to consult with a knowledgeable attorney to ensure all is done properly.

**15. Be Uniform and Consistent with Rule Enforcement.** Include written notification to the offender and the right to appeal.

*By Vial Fotheringham LLP 🗑️*

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## Fiduciary Sensitivity

A "fiduciary" is someone that has been entrusted to act on behalf of another. It is an ancient and noble calling to serve another's interest for no compensation. The principle of fiduciary is central to the role of directors that serve on a homeowner association board. The community members elect individuals they deem trustworthy to care for the HOA assets and that which is near and dear to all...their homes. Being a fiduciary should never be taken lightly. In the pecking order of board responsibilities, it's at the top.

There are those that sidestep their fiduciary duty in route to the board. This becomes glaringly apparent when someone gets elected and comes packing a personal agenda (hidden or otherwise). Playing out this agenda is totally contrary to the fiduciary principle. It's a wolf in sheep's clothing. There's a fox in the henhouse. Do what you would do with any varmint. Run them off.

Another anti-fiduciary slant is the "I



was elected to make decisions" mentality. While maybe well meaning, this attitude presupposes that the community is just fine with whatever this person decides. By extension, this person believes that soliciting community input on important issues is a waste of time. Wrong, wrong, (repeat) wrong. Polling members on significant policy or rule changes is the height of fiduciary sensitivity. If you have the community's general agreement on a rule, there will be less need for enforcement and fewer confrontations after it's adopted. Soliciting input also uncloaks board meetings by casting hot topics directly in front of the electorate. This promotes trust. And trust overcomes the board's need to explain each and every action.

A fiduciary is a servant by definition. This means keeping others' interests above one's own. This means keeping the Big Picture clearly in focus rather than squinting at the small print. By filtering decisions through a fiduciary screen, the board will remain sensitive to its highest calling. Fiduciary sensitivity makes sense. 🗳️

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### Dealing with Dryrot

Dryrot is always a concern in extreme weather locations that swing from hot and dry to cold and wet. Weather like this stresses building materials and creates ideal conditions for dryrot to develop. Learning to take steps to prevent it, and to catch it early when it does develop, can save big bucks.

Dryrot is a generic term for a variety of wood fungi which cause mildew, mold, staining and decaying in wood. In order for dryrot to develop, it requires a certain combination of moisture and heat and air. If the conditions are right, it can occur before you can visually detect it, sometimes within months. Infected wood loses its structural integrity. Damaged wood must be

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totally replaced or the fungi, which are living organisms, will continue to spread and cause more damage. Dryrot can also attract pests such as termites, which will only compound the problem. Repairing dryrot cannot be postponed, because the damage and costs will only increase dramatically.

Dryrot can be found many places but the most common areas are the bathroom walls/floors, around windows and sliding glass doors, decks, around roof gutters, improperly designed or installed roofs and in wet crawlspaces.

- Inspect the attic for roof leaks and moisture from improperly vented dryers or exhaust fans.
- Check interior walls around windows for mildew.
- Ask residents if any detect a persistent mildew/mold odor. Besides the damage dryrot does to wood, it can lead to concentrated mold that is a severe health problem, especially for those that suffer from asthma or other lung ailments.
- Check crawlspaces for ground water or wetness. Probe floor joists, posts and flooring with a small screwdriver.
- Probe decks and deck rails wood in suspect areas
- Check the sprinkler heads to make sure there is no direct spray hitting the buildings.
- Check for dirt to wood contact on fences, siding and deck posts
- Look for evidence of termites and carpenter ants, both moisture loving pests.

Dryrot doesn't happen by accident. It's the result of material, installation or design problems that need to be corrected along with the removal of the dryrot itself. Left to do its dirty work, dryrot can create enormous damage in a short period of time. So when it comes to dryrot, deal with it. 🗳️

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### Bad Dogs

If a dog barks in the forest and there is no one there to hear him, is he still a bad dog?

I love dogs – well behaved dogs that is. Dogs that are allowed to become a nuisance should trot their owners to obedience school, because it is usually the owner that is the problem.

Still, some breeds are uninsurable by some insurance companies. Why? Because the actuarial tables show that they are high risk breeds for hurting other pets or people and the insurance companies don't want to take the risk. These breeds include: Pit Bull, Rottweiler, Akita, Bernese Mountain Dog, Canary Dog, Chow Chow, Doberman, Husky, Karelian Bear, Rhodesian Ridgeback and Russo-European Laika.

There are surely some dogs in these categories that don't get a fair shake. Still, do you want to be the person paying a high price when someone else's problem pet injures a neighbor or small child? The internet is filled with stories about "surprising" dog maulings of family members, close friends or dog owners by dogs whose families or owners claimed never showed any propensity for danger. Even more reason why people need to be wary of dogs that are bred for or genetically predisposed to attack.

The owners of these pets should take extra precautions to protect others, to make sure their pets are properly trained and restrained. But do they? Not always. They should take full responsibility for all costs, losses and damages when their pets attack people, pets or damage property. But do they? Not always. And if they do not or cannot get insurance for injuries caused by their pets, how could they compensate anyone for a tragic loss of any kind?

So someone has to be the "bad guy" when a dog exhibits threatening behavior or is left to run loose in the common area. An HOA board needs to

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take steps to minimize the risks when there is a dog (or any other pet or hazard for that matter) that is threatening. 🚩

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## HOA Newsletters

Communication is essential for the well being and harmony of your community. Do you have a regular newsletter? Is it informative and timely? Do the owners read it? Is it worth reading? Answers to these questions vary, but more often than not, most newsletters are "throwaways". It doesn't need to be that way. With a bit of imagination, they could be both informative and fun to read.

First, what kinds of "boilerplate" information ought to be included?

1. Names and offices of board members
2. Management contact information
3. Most recent Income & Expense Statement
4. Committee Reports: architectural, budget, landscape, etc.
5. Special Upcoming Projects, like painting, roofing and paving are particularly important.
6. Rules being regularly violated (like barking and unleashed dogs) without being preachy
7. Event Calendar: social, meetings, maintenance

Another extremely important ingredient in a readable newsletter is the layout and design. There are many software programs available with standardized templates included. Microsoft Publisher is inexpensive and user friendly. There are others more or less complicated depending on your computer skills. Here are some of the basics to keep in mind:

### Design & Layout

1. The design should be attractive, inviting and distinctive. The "look" of the newsletter attracts the reader.

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2. Each issue should look the same. Choose a format and stick with it.
3. For maximum readability, use headlines and sub-headings. It's easier to read.
4. The newsletter title page should explain what the newsletter is about and who publishes it.
5. Make the title distinctive.
6. Use only standard typefaces like Times Roman, Arial and Helvetica.
7. Italics can slow the reader down up to 30%. Use them sparingly.
8. Body text should be 10 or 11pt. Main headlines should be 18pt - 24pt and sub-headings should be 14pt.
9. Use bold type and/or italics to highlight people's names and to point out important details.
10. Avoid using ALL CAPS.
11. Don't put boxes around illustrations as they make the pages look cluttered.

An editor's challenge is to include copy and an attractive format that encourages residents to want to read the newsletter. Put your imagination to work and make your news fit to print. 🚩

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## Forum for Them

There is a thin line between opening board meetings to guests and having those guests commandeer the show. While most guests should be welcome to sit in and listen, some feel it's their duty to pipe up and give their sage advice or criticism. They even raise their hand when the president asks for a vote. While maybe well intended (and maybe not), guests need to remain just that when attending a board meeting. This means only speaking when requested to speak.

One mechanism for letting guest members have their say is an Open Forum which is held just prior to the formal meeting. But Open Forums

need their ground rules. Some guests use them to soapbox, harangue and harass. The Open Forum is designed to allow members to express opinions, ask questions and petition the board in a civilized and orderly fashion. It's up to the president to lay down the rules in advance and cut folks short that violate the privilege.

A fifteen minute Open Forum is usually adequate to accommodate the few guests that attend. The president should ask up front who would like to speak in the Open Forum. Not all do, so establishing the number is important. If three say "I do" than that means each is allotted five minutes. If there are four, that means about four minutes. Announce the time limit and have a board member keep time. The message conveyed to the guest speakers should be "Be brief and to the point. We want to hear what you have to say but have important board business we also need to attend to."

The Open Forum is not designed to examine or debate complex issues or have the board actually vote on a guest's petition. If the guest is bringing a matter of complexity to the board, it should be put on a future meeting agenda and dealt with properly. By so doing, the guest can have enough time to address the topic in the detail it merits and can expect a board verdict at the conclusion. Members need to understand this important difference. The board cannot or should not be making shoot-from-the-lip decisions on any subject that cannot be thoughtfully considered. An owner showing up at the Open Forum with an Architectural Change Request he wants approved so his contractor can start tomorrow is a prime example of something the board should not act on. Complex issues take time to study and consider.

An important component of allowing members to attend board meetings is having enough room to actually have them attend. Holding meetings in someone's kitchen does not lend itself to guests. Hold them in a location that allows a reasonable number of guests and provide seating. *Do not* let the

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guests sit around the board table since this blurs the board and guest functions. The board members should face each other, not the guests. This configuration is important to maintain the board nature of the meeting. A board facing the guests invites continuing interaction and makes it difficult to focus on the agenda.

The Open Forum is a privilege, not a bully pulpit. While a guest should be able to speak freely, it should be done with civility. If not, the guest should be asked to leave the meeting. Letting HOA members have their say is an extremely important facet of living in a homeowner association. Even if they rarely show up, always keep the door open and be prepared to listen. 🗨️

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### Building Bridges

Once upon a time two brothers who lived on adjoining farms fell into conflict. It was the first serious rift in 40 years of farming side by side, sharing machinery, trading labor and goods as needed without a hitch.

Then the long collaboration fell apart. It began with a small misunderstanding and it grew into a major difference, and finally it exploded into an exchange of bitter words followed by weeks of silence.

One morning there was a knock on John's door. He opened it to find a man with a carpenter's toolbox. "I'm looking for a few days work," he said. "Perhaps you would have a few small jobs here and there I could help with? Could I help you?"

"Yes," said the older brother. "I do have a job for you. Look across the creek at that farm. My neighbor is my younger brother. Last week there was a meadow between us and he took his

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bulldozer to the river levee and now there is a creek between us. He may have done this to spite me, but I'll do him one better. See that pile of lumber by the barn? I want you to build me an eight foot fence so I won't need to see his face anymore."

The carpenter said, "I think I understand the situation. Show me the nails and the post-hole digger and I'll be able to do a job that pleases you." The older brother had to go to town, so he helped the carpenter get the materials ready and then he was off for the day. The carpenter worked all that day measuring, sawing and nailing.

About sunset when the farmer returned, the carpenter had just finished his job. The farmer's eyes opened wide and his jaw dropped. There was no fence there at all. It was a bridge -- a bridge stretching from one side of the creek to the other! A fine piece of work handrails and all -- and the neighbor, his younger brother, was coming across, his hand outstretched. "You are quite a fellow to build this bridge after all I've said and done."

The two brothers stood at each end of the bridge and then they met in the middle, taking each other's hand. They turned to see the carpenter hoist his toolbox on his shoulder. "No, wait! Stay a few days. I've a lot of other projects for you," said the older brother.

"I'd love to stay on," the carpenter said, "but, I have many more bridges to build." 🗨️

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### Punographics

- Geology rocks but Geography is where it's at!
- When chemists die, they barium.

- Jokes about German sausage are the wurst.
- What did the grape say when it got crushed? Nothing, it just let out a little wine.
- To the guy who invented zero, thanks for nothing.
- Did you hear about the restaurant on the moon? I heard the food was good but it had no atmosphere.
- I know a guy who's addicted to brake fluid. He says he can stop any time.
- I don't trust stairs because they're always up to something.
- So what if I don't know what apocalypse means? It's not the end of the world!
- How does Moses make his tea? Hebrews it.
- I stayed up all night to see where the sun went. Then it dawned on me.
- I was wondering why the ball was getting bigger. Then it hit me.
- She said she recognized me from the Vegan Club, but I'd never met herbivore.
- I'm reading a book about anti-gravity. I just can't put it down.
- I did a theatrical performance about puns. It was a play on words.
- The doctor wrote that I had Type-A blood, but it was a Type-O.
- I didn't like my beard at first. Then it grew on me.
- Never trust an atom, they make up everything! 🗨️

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I have to say over the years that I was in the HOA your insightful, thoughtful and precise information got used more than you will ever know. I got the other members of the board to sign up and use your information as a way to run our group.

*Stacey Frank*

The Regenesis Report is a must read cover to cover every month.

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*Jan Simon - Washington*

I love, love, love The Regenesis Report! It seems like you're peering into our HOA every time you write it!

# The Regenesis Report

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