



# The Regenesis Report



Seattle 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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## Fresh Coat of Paint

South of the city Medellin Colombia, there is a mountain top village named Santa Barbara. The residents are as desperately poor as many in Santa Barbara California are obscenely rich. The buildings in Santa Barbara are ramshackle and poorly constructed as one would expect in a poverty stricken country. However, the local government recently decided to underwrite a very interesting urban renewal project: It would provide the paint if the residents would apply it. There were a couple of conditions: The palette of available colors to choose from was, in a word, colorful. And no two adjacent buildings could be the same color.



The idea was that a fresh coat of paint, when widely applied, could foster a more unified community. It could also encourage clean up and repair, which was sorely needed. The results were impressive. While the program was voluntary, residents one by one joined in the fresh paint project. As the beautiful results became apparent, more joined in. The Easter Egg look was unique and a source of pride. The cost was modest (much of the paint was donated) and the results profound on many levels.

Homeowner Associations (HOA) periodically need to refresh paint for both practical and aesthetic reasons. Paint typically lasts six to ten years depending on location and weather (rainy, snowy, dry, ocean, mountain, desert, tree coverage, etc.). Each repaint offers the board an opportunity to boost HOA community pride. New paint has that effect. But, repainting also offers an opportunity to engage the members in an important decision and to be participants instead of

bystanders. Here's the process for effective results:

**Use Color Consultants.** Paint suppliers typically offer the services of a professional color consultant for free. The consultants are well versed in the company's product lines and trained in what colors are currently popular and, thus, attractive to both residents and potential purchasers. This benefit cannot be understated. An HOA board can easily get stuck in old colors, sometimes for decades. They figure, we received no complaints about the current color scheme so repeat repeat repeat. But purchasers and their Realtors have a different eye. Tastes change and so should an HOA. The consultant can offer several contemporary field and trim color combinations. Those, say, three combinations can be applied to the end of one building for all owners to see and weigh in on. Once the votes are tallied, the majority wins! You can't please everyone so don't try. The fact that the board includes the owners in such an emotional decision goes far.

**Paint Contractor Requirements.** All contractors who bid the job should be licensed by the state, bonded, insured and required to show evidence of that when they bid. States vary on the requirements so you need to check with the appropriate state office. In Oregon, for example, it is the Construction Contractors Board.

**Product Application Specifications.** The paint supplier will supply exacting prep and application specifications which should be used to solicit up to three Requests for Proposals (RFPs). That way, all contractors are bidding the same scope of work (VERY IMPORTANT). There is a saying in the contracting business: "Profit is in the change orders". This means, if the scope of work is not precise enough or there are no specifications at all, the contractor can demand extra money after starting when you want them to do the job right.

**Paint & Caulk Specifications.** Paint quality ranges from painter grade (cheap) to best grade (expensive). HOAs should always

specify only the best grade of products for durability and fade resistance with *exact* brand, quality, type and color paint products to be used (like Sherwin-Williams EVERLAST Exterior Satin “Foggy Gray”). The best paint is not that much more expensive than the cheapest but the quality is vastly superior. The same concept applies to caulking. Insist on the best money will buy. Tremco Vulkem brand caulking is more expensive than painter grade caulking but it will last as long as high grade paint. Painter grade caulking will fail within a year. If the paint contractor is not given the *exact* product description in the contract, he will typically opt for the cheapest grade to increase the profit margin. One way to ensure that the HOA gets the best product is to pay for the paint directly and have it delivered to the site and pay the contractor for labor only.

### Progress Inspection Requirements.

Paint suppliers usually offer a progress inspection service to ensure that the contractor is following specifications and not voiding the warranty. If this is not done, the manufacturer can deny warranty claims because the product was not applied according to specifications. Often, the inspection service is free or cheap. In either case, do it. It’s cheap insurance.

**Employment Contract.** The typical paint contractor will provide a one or two page document with names and addresses (his and the HOA’s), cost, progress payments (X% payment when prep is complete, X% when primer applied, X% when paint/caulk is applied, X% when job is completed, inspected and approved by the HOA) and a job description (like paint 50 units). That doesn’t cut it by a long shot. Use an attorney trained in construction contract law for this purpose. That contract should include Addendums like Paint & Caulk Specification, Progress Inspection Requirements, Product Application Specifications and other things the attorney recommends (**VERY IMPORTANT**).

A fresh coat of paint. It sounds simple but has complex implications. Don’t let

this opportunity to engage and improve slip by. Do it right and enjoy colorful and lasting results.🏡

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### Ask the HOA Expert

**Q** We recently got a professional reserve study done. Our budget committee took the information and plugged it into a spreadsheet that will allow us to postpone the need for professional study revisions. The substitute study changes some of the assumptions, like reducing the recommended reserve contribution and the inflation rate. By doing this, we can lower our annual contributions significantly.

Our reserve study provider has recommended annual updates. What are the pros and cons of updating the reserve study? How would we update our substitute study and how long could we use it and still be confident that it was fairly accurate?

**A** Artificially manipulating the reserve study numbers to reduce contributions for current members is a violation of the fiduciary duty the board has to all members, current and future. When it comes to paying for major repairs and replacements (the main purpose of a reserve study), there is no free lunch.

Shorting reserves today will require making up the shortfall later by special assessment. Special assessments are unfair to many because they are being required to pay for something that should have been paid for by owners that benefitted who sold and are long gone.

The other mistake frequently made with reserves is failing to fund each component fully. An example of full funding is a \$10,000 component with a 10 year useful life should have \$1000 per year reserved to be fully funded. Reserving less than \$1000 a year will create a shortfall which must be made up later. But since reserves often include money for long life components like roofing, there is an illusion that there is more money than needed to pay for things in the short term. Boards that fall into the trap convince themselves that reducing reserves by a third, or a half, or two thirds is just as good as full funding. Huh? New math?

In fairness to all members, current and future, and to eliminate special assessments which are unfair to those that have to pay them, full funding of reserves is the reasonable approach.

Annual updates are critical to keeping a reserve study accurate. The cost of an annual no site inspection update is usually nominal. A site inspection update is highly recommended at least every three years to verify the condition and remaining useful lives of the components.

You should stay out of manipulating the reserve study yourselves. It is a self-serving exercise that is bound to result in a significant short fall. You paid for an objective and professional reserve study and you should follow the recommendations.

**Q** We have a president who solicits co-owner involvement when the board is discussing business at a board meeting. Should co-owners be allowed to participate in board discussion as if they were a board member? Should a board meeting be conducted like a town hall meeting where everyone can

speak? It is my contention that a board meeting is for the board to conduct its business without co-owner input.

**A** Your interpretation is correct. Board meetings are designed for the directors to discuss and make decisions about HOA business. There are occasions when co-owner input is appropriate but not as a general rule. A member forum should be held prior to the start of the board meeting to allow input and questions. But once the board meeting is called to order, guests are there to listen, not participate. There are a number of articles about meetings and how to run them that can be found at [www.Regensis.net](http://www.Regensis.net) in the Article Archive section.

**Q** I need information on HOA policies and procedures with regards to fining. Can you help me?

**A** Generally, the board has the authority to enact reasonable rules and enforcement procedures. They should include:

1. Clearly define the issue (parking, pets, failure to pay HOA fees, etc.)
2. Consequences for failing to obey like fines or curtailing use of amenities. Fines need to be reasonable.
3. Appeal process

Any rule or resolution that is contemplated by the board should be reviewed by an attorney that specializes in HOA law in your state for compliance with your governing documents, state and federal law. There are a number of sample rules at [www.Regensis.net](http://www.Regensis.net) in the Policies section.

**Q** Our board likes to do a lot of business by email so now revising minutes is being done by email. By the time the minutes get back to me (board secretary) they have been rewritten by various board members to change wording or to add items not discussed. The president is the worst offender. My understanding is that minutes are taken and prepared by the secretary.

Then, corrections and additions are to happen at the next board meeting. Is this correct?

**A** Minutes should be revised only at a board meeting, not by way of an email circuit. Of course, as secretary, you need to make sure you are taking complete and accurate minutes. There are some things that belong and others that don't. Minutes should record board actions, not discussions. There are many meeting minutes articles at [www.Regensis.net](http://www.Regensis.net) in the Article Archive in the Meeting and Ask the HOA Expert sections.

**Q** Our board has taken to publishing names of delinquent members in the HOA newsletter and board meeting minutes. Is this advisable?

**A** There are many reasons why members don't pay their fees and the solution varies: Millie is on disability, Joe's Social Security is inadequate, Mary just lost her job, Bill declared bankruptcy, Gertrude has been trying to sell her condo for two years and Arnold is withholding payment until repairs get done on his unit.

What happens if the collection information the board posts is not correct? This kind of misinformation libels someone who may sue for defamation of character.

Your board is ill advised to pursue this collection tactic. It's unnecessary and mean spirited. With a properly designed and enforced Collection Policy, there are effective ways for the HOA to get the job done without public humiliation. There is a sample Collection Policy at [www.Regensis.net](http://www.Regensis.net) in the Policy Samples section. 🗳️

## Interests in Conflict

The headlines read, "Politician Denies Conflict of Interest Allegations". What exactly is "conflict of interest" and how can you avoid one? A conflict of interest is "a situation in which a person such as a public official, employee or board member has a personal interest sufficient to influence the objective exercise of official duties." There are three key elements in this definition:

**Personal Interest.** Often this means a financial interest, but it could mean providing a special advantage to a spouse or child. Taken alone, there is nothing wrong with pursuing personal interests like changing jobs for more pay or helping your daughter improve her golf game. The problem comes when this personal interest comes into conflict with the second feature of the definition:

**Official Duty.** By stepping up to a directorship, you acquire obligations to the homeowner association (HOA) and the other owners. These obligations are supposed to trump personal interests.

**Influences Objectivity.** Conflicts of interest interfere with objective judgment. A major reason people value professionals is that they expect them to be objective. Personal interest that interferes with that objectivity is a matter of legitimate concern. So it is also extremely important to avoid "apparent" and "potential" as well as "actual" conflicts of interests. An "apparent" conflict of interest is one which objectivity *is likely* to be compromised. A "potential" conflict of interest *may* develop into an actual conflict of interest.

With this in mind, consider five types of conflicts of interest identified by political scientists Ken Kernaghan and John Langford (using homeowner association examples):

**Self-Dealing.** As Board President, you arrange to have your unit painted first even though others need it more. Or, you hire your son to do the HOA landscaping work.

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**Accepting Benefits.** You accept an all expense paid trip to Cancun from the HOA's painting contractor. Money kick backs qualify as well.

**Influence Peddling.** A board member asks for money in exchange for using influence to get a particular vendor's contract approved.

**Using HOA Association Property for Personal Use.** Usually called "stealing"...taking office supplies and postage or using equipment for a personal project.

**Using Confidential Information.** A board member discovers a structural dry rot problem that will cost many thousands of dollars per owner to repair. Instead of disclosing the problem, the director quietly resigns and puts his unit up for sale.

How do you determine if you are in a conflict of interest situation? The proof is whether the situation is likely to interfere with your independent judgment as a director. Try the "Trust Test". Ask "Would the owners trust my judgment if they knew I was in this situation?" Trust is at the ethical heart of this issue. Conflicts of interest involve the abuse of trust.

The Trust Test suggests a way of dealing with a conflict of interest called "disclosure". If we disclose what might influence our judgment, others are informed and can be on guard. But disclosure is not enough. Board members are expected to *avoid* conflicts of interests. So in the case of potential self-dealing, the smart director abstains from participating in the discussion or voting.

Since conflict of interest can cloud objectivity, it's often easier to see it in others rather than in one's self. As a precaution, it's wise to speak to a friend or colleague when in doubt.

"Situational ethics" arise when loyalty is split or there are moral concerns that muddle the decision. "Whistle blowing" is an example of when a director must choose between loyalty to

a director (and personal friend) who is embezzling.

Conflicts of interest can rear their ugly head at any time. Be vigilant and prepared to respond quickly and appropriately.

By Dr. Michael McDonald

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## The Silver Lining

There has been a nasty rumor hanging around for years that homeowner associations are inherently flawed. The premise is that both volunteer and hired management are incompetent, invasive and tyrannical. Picture the board trooping through the property with clipboard, CC&Rs and citations ready to smite any residents that step out of line. Not a pretty picture for those that want "care free" living.

There are valid complaints about how some HOAs are being run and, in some cases, the board or manager may be autocratic. But never confuse the power and purpose of an HOA board with a corporate board like Google. In Google's case, the board is composed of highly paid professionals. They consciously make decisions based on if profits will exceed the cost of defense litigation. They don't live next to the people impacted by their decisions. They do not have to pay out of their own pockets for bad decisions they make. And while they may lose their jobs for bad decisions, they stand to profit enormously from good ones. None of this is true with HOA boards.

Typically, 100% of HOA boards are unpaid volunteers that are largely unschooled, unprepared and inexperienced in governance and property management. Unfortunately,

this can often be said of professional HOA managers who all too often have no professional training or license to engage in highly complex people and real estate management.

Homeowner association management is by far the most complex of all forms of property management because the line between board member and general member is not rigid or definable by contract. There is an annoying "humanity" factor in homeowner associations that keeps getting in the way. General members are neighbors and not clients. So, not only do homeowner association volunteer board members need to be consummate business people, they need to be as compassionate as Mother Theresa. They are expected to intuitively know when business is off and humanity is on. It is a tightrope that even the most experienced managers fall from.

Inexperience produces lack of planning. Lack of planning results in crisis management. Crisis management understandably makes homeowners nervous and irritable. A case in point: Failure to have and follow a long range Reserve Study will produce deteriorating assets and unwelcome special assessments.

Ever hear an HOA board grumble about the lack of volunteers? Many HOA members fall into the description of "never served on the board, never will and mad as hell because of what the board is doing or not doing". Members that choose passivity position themselves to be reactionary. What else can they do since they're not involved? ALL owners owe their HOA some degree of volunteerism. Stand up and be counted! If after serving, you still feel a gross injustice is being perpetrated, you're probably right. Work to throw the bums out.

All's not lost. While it's sometimes easy to assume a defensive posture in HOAs, defense rarely produces a successful outcome. Members versus board confrontation usually ends in a power struggle that one side wins but both sides lose. And at the end of the day, both sides are neighbors and being in

conflict with a neighbor strikes way too close to home.

While the homeowner association system has its pitfalls, it also has tremendous advantages: Economies of scale that allow wholesale buying of products and services and access to amenities that few homeowners could afford on their own. Many haven't quite yet grasped the possibilities. This is the "silver lining" that is waiting to be discovered. It's there and it's real. 🏠

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## Gigabit Internet

In today's connected world, internet isn't optional. Whether for work, school or play, people need a reliable connection to do the things they love. As technology evolves, there are higher demands that make fiber gigabit internet the new standard for homes rather than a luxury.

Gigabit internet is equal to 1,000 Megabits per second. And fiber optics makes data upload and download speeds synchronous so users can upload large video files to Facebook as fast as they can stream movies from Netflix.

Consider an article in REALTOR Magazine concluded that fiber-optic internet can add the same value to a home as a fireplace. Computer World shared a University of Colorado and Carnegie Mellon University study that found homes with gigabit internet connections had sale prices 7% higher than homes in the same area with internet speeds of 25 Mbps or lower.

But not all internet is created equal. And unfortunately some providers are all too happy to trade on the reputation of high-speed broadband without delivering top-tier service and technology.

What's in it for Homeowner Associations (HOAs)? Common wall

condominiums and townhomes with access to fiber optic internet can provide this service to all members at wholesale pricing. What should HOAs look for in a gigabit internet provider?

**Flexibility.** Find a provider confident enough to keep your business with their service rather than a binding contract.

**Transparency.** Avoid service with hidden charges, overage fees and equipment rental costs.

**Latency.** Latency is the time it takes for data to travel from a source to a destination (like Netflix to your computer). Fiber ensures the fastest data send and receive.

**Reliability.** What good is ultra-fast internet if it's not working? Make sure your provider delivers maximum uptime with things like redundant network systems to avoid outages. Additionally, ask if your provider offers symmetrical speed (same speed whether uploading or downloading data) which is only possible with fiber internet connections.

**Security.** Protecting your personal information becomes all the more important when your internet connection serves as a lifeline. Make sure the company you choose ensures your data is secure on their network. Upgrading a home's internet doesn't just benefit the owner today. It's a solid investment to boost the value of the home, building and HOA.

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## Peacemaker Blessing

Homeowner associations can be hotbeds of discontent, turmoil and conflict at times. Out in the big world, combatants can often successfully just avoid each other rather than deal with the problems. But within

the HOA, avoidance is much more difficult and being in conflict with a neighbor can make living there very stressful. Unresolved conflicts in HOAs often prompt one or both to move to avoid further unpleasantness.

The Bible teaches that conflict comes from the desires that battle in the human heart: "What causes fights and quarrels among you? Don't they come from your desires that battle within you? You want something but don't get it. You kill and covet, but you cannot have what you want. You quarrel and fight. You do not have, because you do not ask God. When you ask, you do not receive, because you ask with wrong motives, that you may spend what you get on your pleasures." James 4:1-3

Conflict caused by concealing the truth, bending others to your will, or seeking revenge is clearly counter productive. But conflict can also be fueled by good intentions in a desire to be understood, loved, respected, or vindicated.

Conflict can arouse different kinds of responses. One response is to run, hide or deny the problem exists. Another response is to attack either verbally, physically or legally. Neither of these responses diminishes the conflict and usually has quite the opposite effect. The only real long term solutions to conflict are peacemaking responses like:

**1. Overlook the Conflict.** Just because we get slapped doesn't mean we have to get even. An eye for an eye and a tooth for a tooth leaves only the blind and toothless. "A man's wisdom gives him patience; it is to his glory to overlook an offense." Proverbs 19:11 "Bear with each other and forgive whatever grievances you may have against one another." Colossians 3:13

**2. Reconciliation.** Making amends is not only the right thing to do, it relieves us of anxiety and hostility. "Therefore, if you are offering your gift at the altar and there remember that your brother has something against you, leave your gift there in front of the altar. First go and be reconciled to your brother; then

come and offer your gift. Matthew 5:23-24

**3. Mediation.** Pride is a high mountain to climb. Sometimes, a little help from a friend is needed to build a bridge of reconciliation. "If your brother sins against you, go and show him his fault, just between the two of you. If he listens to you, you have won your brother over. But if he will not listen, take one or two others along, so that every matter may be established by the testimony of two or three witnesses." Matthew 18:15-17

**4. Accountability.** Rather than stand idly by while a neighbor engages in self destructive or harmful behavior, intercede in a caring way. "Brothers, if someone is caught in a sin, you who are spiritual should restore him gently." Galatians 6: 1

Peacemakers do not avoid conflict but confront it directly with the goal of reconciliation. Reconciliation is not always easy to achieve because the human heart can be hard. But blessed are the peacemakers who point the way. ☸

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### Heaven & Angels Sing

At the Christmas Eve church service, I sat with my two boisterous grandchildren, ages three and five. Their parents sat in front of the church to present a nativity reading titled "Silent Night." They had warned the children to behave. I had warned the children to behave. With scrubbed angelic faces and Christmas wonder in their eyes, they looked like model children posing for a magazine holiday spread. I indulged myself in a few moments of pride.

Alec pinched Aubrey. I was grateful that the organ thundered into the first hymn just then, drowning out her yelp. I grabbed her hand before she could

return the pinch. During the Lord's Prayer, Aubrey shredded the program I had given her to color on. The crayons had already rolled under the pew. I watched bits of paper fall on the carpet like snow. I would help her pick it up later, but for now the naughtiness I was allowing kept her occupied and her brother quietly admiring.

We were enjoying an uneasy truce when their parents stood to deliver the reading.

"Mommy!" Alec yelled.

Mom frowned, and he sat back in his seat.

My son said to the congregation. "Silence. Think for a moment what that word means to you."

My daughter-in-law signed his words. (Earlier that year, she began to use her new signing skills for the benefit of the few hearing-impaired members of our church.)

Alec said a naughty word, thankfully too low for many to hear. I scowled at him, shaking my finger and my head. Aubrey grinned. Then she proclaimed, every syllable enunciated perfectly, in a clear voice that carried to far corners of the sanctuary, "Alec is a potty mouth!"

Everyone stared. I was too stunned to speak. My son and his wife looked at each other. But instead of anger, I saw surprise.

My son set aside his script and told another story. He told about their daughter being born profoundly deaf. He talked about four years of hearing aids and speech therapy with no guarantee she would ever learn to speak plainly. He talked about the rugged faith that kept the family praying she would have a normal life.

He said Aubrey's outburst was an answer to prayer: the first perfectly enunciated sentence she had ever spoken.

From the back of the room, a lone voice sang the last line of a beloved Christmas Carol: Hark! The herald angels sing, Glory to the newborn king.

While the congregation sang four verses of the unscheduled hymn, my two little angels wiggled in their parents' arms, adding laughter and giggles to the joyful Christmas noise.

*By Carol Stigger* ☸

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### Hit & Run

A successful lawyer parked his brand new BMW in front of his office, ready to show it off to his colleagues. As he got out, a truck passed too close and completely tore the door off of the driver's side. A nearby police officer responded to the lawyer's screaming.

Before the officer had a chance to ask any questions, the lawyer started crying hysterically about his new car which was now completely ruined and would never be the same, no matter what the body shop did to it.

When the lawyer finally wound down from his rant, the officer shook his head in disgust. "I can't believe how materialistic you are," he said. "You are so focused on your possessions that you don't notice anything else."

"How can you say such a thing?" asked the lawyer.

The cop replied, "Don't you know that your left arm is missing from the elbow down? It must have been torn off when the truck hit you."

"Ahhh!" screamed the lawyer. "Where's my Rolex!" ☸

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