



# 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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## Politics of Trees

One of the most controversial issues that face a homeowners association is tree removal. While there are many practical reasons to remove trees, some residents take a deeply personal interest in their fate. It is the Practical versus the Emotional. Let's explore the dynamics of this phenomena.

In a new development, the builder often selects trees for visual appeal, rapid growth and ease of maintenance. The trees are young and occupy a relatively small area. Over time, these trees do what trees do, get bigger and denser. With size comes maintenance problems like:

1. Tree debris that clogs the gutters
2. Branches that damage roof and siding
3. Branches that obscure security lighting or vision, a safety issue
4. Overcrowding that promotes plant and tree diseases
5. Roots in the sewer lines that causes backups and flooding
6. Shading that promotes moss and algae growth
7. Tree roots that lift sidewalks or crack asphalt
8. Trees that block views

The cost of tree "damage control" can easily get to a point where removal may need to be considered. From a strictly dollars and cents point of view, the cost to remove a tree versus ongoing maintenance costs is a no brainer. In most cases, several hundred dollars in removal cost will often save thousands of dollars in maintenance or damage. However, the politics of removal should not be ignored.

Emotions run high about tree removal and opinions often run 180 degrees apart. A resident that complains of debris in the gutters and lobbies for removal is often countered by another that loves looking at the lush foliage. And let's face it, trees don't happen overnight. There are those that feel that killing such an enduring life form is morally wrong and that people should adapt to the changing tree environment.

An issue like this is best handled by an informed process. First, hire an Certified Arborist to inspect and make written recommendations about the trees in question. This step is invaluable since the

board now has "expert" input into the process that often offers alternatives to removal. Second, flag trees with bright surveyor tape for easy identification.

Next, send a written notice to all owners which includes the location of the trees and the reasons for removal. It's important to include all owners because tree removal is a philosophical issue that impacts more than those in the immediate vicinity of the removals. The notice should allow at least a 30 day review period during which the board accepts written comments before making a final decision. If there are numerous trees involved, it is prudent to hold a special owner meeting to discuss the issue. Let concerned owners vent. Remember, this is a hot topic.

Once the board has gathered opinions, decision time is at hand. Before moving ahead, keep in mind that many cities require removal permits. Tree companies don't always comply with the law, so check with your local jurisdiction before proceeding. Also, a lone dissident owner or even a renter may file a complaint to road block the removal process. This won't necessarily kill the process but will involve another level of review that will delay it. Finally, make sure all pruning alternatives have been considered. For example, removals to achieve better views can often be cured by "window" pruning that can often satisfy view blockage complaints.

The politics of tree removals give the board an opportunity to show true leadership and sensitivity. Trees are one of the community's most valuable assets. A good board politician will earn a vote of confidence if this issue is handled carefully. 🌳

## Share the Love

The Regenesis Report is available by email in PDF format, in color and all hyperlinks are live! To receive the newsletter by email, send a request to [info@regenesis.net](mailto:info@regenesis.net)

## Ask the HOA Expert

**Q** Our board has been badly managed for years. The building was built over 25 years ago and previous boards did not believe in reserving for major repairs. As a result, we are now faced with huge costs for roofing, decks, fences, on and on. I'd like to survey the owners and ask them to prioritize what needs to be done.

**A** Asking for owner input to prioritize maintenance is asking for trouble. Most will ask that something that affects them personally be fixed first. That's human nature. Instead, the board should develop a plan, share the plan with the members and ask for comment. That way, the board leads with input from the members.

**Q** Our owners approved by 75% a rental restriction amendment to the governing documents. The vote was contested in court and the judge determined that this amendment needed 100% approval. Should the board appeal?

**A** Rental restrictions are often considered a fundamental property right by the court. Once the matter is put before a judge, anything can happen and, in this case, did. Whether the HOA should appeal is a matter of cost and likelihood of prevailing. A fair amount of money and emotion has probably already been expended. The board should not spend any more of the HOA's money unless the 75% majority is supportive of spending more in the way of a special assessment.

**Q** I have owned a rental condo for years. The board recently adopted a policy that rental owners must submit copies of rental agreements to the board, pay a \$200 administrative fee and that the rental agreement must be for a duration of 12 months or more.

Can the HOA require a copy of a private rental contract? Can the HOA dictate the terms of the rental agreement

on a property they do not own? Can the HOA charge a fee to landlords only?

**A** It is reasonable for a landlord to provide the board a copy of the Rental Agreement for emergency contact information purposes. It is also reasonable for the board to require that all renters are subject to the same rules and regulations as owners. So, the Rental Agreement should include a copy of the HOA Rules and Regulations and make violation of them subject to fine and/or eviction.

However, the board has no authority to single out landlord owners for special fees unless those fees are based on actual costs incurred by the HOA. Sometimes a Move In/Move Out fee is charged because the entry code and additional janitorial is required to clean up after a move. However, owners move as well as renters. If there is cost incurred by the HOA, it should be charged to all. Landlords should not be singled out for special charges.

The board cannot require a specific rental term other than, say, all rental terms must be "long term" versus "short term" such as those that take place at resort locations.

**Q** A board member sent an email to the board stating, "I submit my resignation to the board." The management company advises that it is not an official resignation until the board accepts it. Is that the case?

**A** Directors are elected by the members and do not need the board's approval to resign. If a director quits, all she needs to do is communicate that to the board and it's done. It's now up to the board to appoint a replacement unless the annual meeting is happening very soon, in which case, a replacement can be elected.

**Q** Please elaborate on the role of the manager at a board or annual meeting?

**A** The role of the manager at a board meeting is to keep the board apprised of HOA business. A manager's report should include maintenance accomplished or recommended, contractor issues, rules violations and actions, collection report and actions taken and rule/policy recommendations.

The manager should request authority or guidance on issues that fall outside of the Management Agreement. The manager should not take meeting minutes since it distracts from the manager's advisory role. Taking minutes is the Secretary's job.

The Annual Meeting is a whole different story. The manager should arrange and process the Meeting Notice and proxies, arrange the venue and check-in procedure. The manager should respond to questions from the board and members.

**Q** Our HOA consists of townhomes built 25 years ago. The majority of the residents are seniors. Bylaws require the HOA to pay for all exterior maintenance and repairs. The members resist monthly fees greater than the immediate expenses because "I don't want to leave any money on the table when I sell." So, we currently have a

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low reserve fund and are now facing large roof and painting expenses. The board plans to special assess to pay for the work. Can a unit owner “opt out” of the special assessment by declaring he will replace his own roof and paint when he decides it is needed?

**A** If the HOA is responsible for maintaining the roof and paint, no owner has the right to “opt out” nor does the board have the authority to give up the HOA’s responsibility to do the work. The board should press on and do what the governing documents said it should.

However, your HOA desperately needs a reserve study so that the board can properly plan for repairs and collect money for reserves without resorting to special assessments. Special assessments are the result of poor or no planning and unfair to those that have to pay them. For more on this topic, see Reserve Planning at [www.Regensis.net](http://www.Regensis.net). 

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## Board’s Right Hand

Many homeowner associations employ a professional manager to direct HOA operations. It’s essential that you find a qualified manager with whom you can work productively. A professional HOA manager will help the board preserve assets, maintain property values, establish continuity, and provide assistance with operational and financial matters.

**Right Hand of the Board.** The board sets policy and establishes a direction for the HOA and the manager sees that the policies are implemented. Just a few

of the ways professional managers assist boards include:

- Managing human resources: compliance with Equal Employment Opportunity Commission (EEOC) guidelines, payroll, reviews, and hiring.
- Coordinating and supervising maintenance activities like landscaping, repairs, snow removal, trash pickup.
- Alerting the board when legal assistance is needed.
- Advising the board of regulatory issues and compliance requirements like fair housing procedures and debt collection practices.
- Coordinating member/board communication: preparing a newsletter, posting notice of meetings, arranging social interactions.
- Managing office operations: accounts payable and receivable, bookkeeping, filing.
- Managing HOA finances including budgeting, collecting assessments, directing the reserve plan and pursuing delinquencies.
- Working with accountants and auditors to maintain the HOA’s financial viability.
- Working with insurance companies to file or settle claims.
- Working with state and regulatory agencies as an advocate for the HOA.
- Preparing proposals and screening contractors.

The homeowner association’s size, amenities, facilities and budget determine the type of management it needs. Whether you select an on-site manager or a management company, it’s essential that you select a qualified management professional with credentials that indicate their level of professionalism such as:

**Certified Manager of Community Associations® (CMCA®).** These managers have demonstrated fundamental knowledge in managing homeowners associations by passing the CMCA examination. They comply with the National Board of Certification for Community Association Managers’ Standards of Professional Conduct.

**Association Management Specialist® (AMS®).** These managers have earned the CMCA certification, passed an additional education course, and managed the finances, administration, and facilities of a homeowner association for at least two years. They adhere to professional ethical standards.

**Professional Community Association Manager® (PCAM®).** These managers have met advanced educational requirements in law, communications, operations, and asset protection and have at least five years’ experience managing HOAs. They have also earned the CMCA certification and AMS designation and adhere to professional ethical standards.

**Large-Scale Manager® (LSM®).** These managers hold the PCAM designation and have at least ten years’ experience in managing homeowners associations. They have met advanced educational requirements and adhere to professional ethical standards.

**Accredited Association Management Company® (AAMC®).** To earn this accreditation, a management company must adhere to CAI’s Professional Manager Code of Ethics, have managed HOAs for at least three years, have a PCAM as the company’s senior manager and show that at least 50% of the managers hold a PCAM, AMS, LSM or CMCA designation.

**Certified Property Manager (CPM).** These managers have been certified by the Institute of Real Estate Management (IREM) in property management. The CPM credential does not require homeowner association management training.

**Other Management Professionals.** Some states like Oregon and Washington, offer state specific training for HOA managers. Oregon Washington Community Association Managers OWCAM offers the **Community Association Management Professional CAMP** designation which requires continuing education in HOA state statutes and best practices. For more, see [www.OWCAM.org](http://www.OWCAM.org)

**Where to Find Qualified Managers.** CAI's Credentialed Professionals Directory. Managers who have earned CAI credentials above are listed online at [www.caionline.org](http://www.caionline.org)

**CAI Chapter Directories.** Many CAI chapters maintain directories of qualified managers. A complete list of chapters is available at [www.caionline.org](http://www.caionline.org) Links are included for chapters that have websites.🌲

## Art of Quorum

It's five minute until the Annual Meeting starts. The governing documents require the presence in person or by proxy of at least 25% of the eligible voters to establish a legal quorum. With only 21% of the members represented, the meeting has to be canceled and rescheduled.

This is an all too frequent scenario for HOA annual meetings. Many members simply aren't interested. It's like pulling teeth to get them to respond at all. Yet, annual meetings are required so those in charge of organizing them must do what's necessary to achieve a quorum.

Here's a number of tips on the art of quorum:

**Provide as much notice as possible.** If the governing documents require the notice to be mailed out, say, at least 21 days but no more than 30 days prior to the date of the meeting, mail the notice 30 days in advance.

**Ask Again.** Two weeks before the meeting, send out an email to all owners who have not responded with a copy of the notice and proxy form attached asking each to print the proxy, sign and return it TODAY!

**Ask a Third Time.** One week prior to the meeting send another email to those that have not yet responded.

**Collect Proxies in Person.** Three days prior to the meeting if you still don't have the number of proxies required to achieve a quorum, take a supply of proxies and knock on the door of every address that has not responded. Go at dinnertime when most are likely to be there.

And to encourage meeting attendance, sweeten the pot:

**Offer Door Prizes.** \$5-10 gift cards work well. Some businesses donate gift cards to promote their business. Award community logo goods like coffee mugs, tee shirts, grocery bags and hats.

**Provide Food and Refreshments.** Hold the food until the meeting is finished to move the business along more quickly.

**Invite a Speaker.** Local politicians and law enforcement officials are often available to speak. Consider inviting general contractors, architects and engineers if there are construction issues that need to be addressed.

Make your annual meeting an event not to be missed, not a drudgery to be avoided. Sell the sizzle instead of the steak. Use creativity to achieve the art of quorum.🌲

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## Active Listening Skills

Active listening is a way of responding that focuses attention on the speaker and helps improve mutual understanding. When people talk with one another, they don't always listen attentively. When people are engaged in a conflict, they are often busy formulating a response to what is being said. They assume that they know what is going to be said, so rather than paying attention, they focus on how they will respond to win their point.

An important awareness for people involved in conflict is an appreciation that problem-solving can't begin until all parties feel that they have been heard and understood. What has happened? How have they been affected? What do they need? In order to answer these questions it is necessary to put aside one's own concerns, concentrate attention on the person speaking, and really be interested in listening to what he or she has to say. If both parties can do this, the chances of

being able to develop a solution to a mutual problem becomes much greater.

The next time someone comes to you with a concern, begin your part of the conversation by asking that person some introductory questions to help them tell their story. For example:

- Tell me what happened from your perspective?
- How have you been affected?
- How do you see this situation?

While the other person is talking use these good listening behaviors:

- Face the speaker directly
- Do not interrupt
- Pay attention to the speaker's non verbal communication
- Pay attention to your own non verbal communication

When the other person has finished, summarize in your own words what you have heard the other party say. For example:

- I hear you saying (fill in the blank) Is that right?
- So far I have heard you say this...Is that right? Have I missed anything?

If you haven't gotten it quite right the speaker will give you immediate feedback. Get more information about the other person's perspective by drawing them out with clarifying questions. Avoid rhetorical questions that indicate you have already reached a conclusion. Also be cautious of the word "why". It most often sounds accusatory or judgmental. Try the following examples instead:

- Could you tell me more about (fill in the blank)?
- What bothers you most about this situation?
- What led you to that conclusion?

Validate the other person's point of view. You can show that you understand a person's point of view without agreeing with them. Try to name the party's feelings without judgment and rephrase in neutral terms. For example:

- I hear that you are frustrated (aggravated, disturbed, annoyed,

bothered, irritated, etc.) with (name). Is that right?

- I am interested in hearing more about this situation from your perspective.

Active listening has several benefits. It forces people to listen attentively to others. It avoids misunderstandings, as people have to confirm that they really understand what another person has said. It tends to open people up, to get them to say more.

Active listening is a skill, and like all skills, takes practice to develop. The next time you are involved in a conflict, try active listening and see if it doesn't help. 🗨️

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## The A Team

The board of a homeowners association is charged with making informed decisions. To make informed decisions requires consulting with knowledgeable professionals when the topic exceeds the board's experience. Four professional relationships that every HOA board should have include an attorney, CPA, insurance agent and Professional Reserve Analyst.

**The Attorney.** When establishing an attorney relationship, only work with an attorney with expertise in HOA law. Typically, there are very few. Look for those that work with HOA boards. Ask local HOA management companies for references. Do not use an HOA member attorney since there is an unavoidable conflict of interest. Designate one person to interact with its attorney, usually the board president. This not only controls fees, but eliminates confusion and miscommunication. Remember that the HOA's attorney is legal counsel to the

*homeowner association* and does not represent the board, individual board members or individual general members. What they do:

- Review governing documents, proposed rules or amendments and service provider contracts.
- Provide legal opinions on HOA matters submitted by the board.
- Answer questions concerning legal concepts and governing documents.
- Collect delinquent assessments with demand letters, filing liens, processing foreclosures and litigating.
- Enforce deed restrictions with demand letters, filing lawsuits and litigating.
- Provide legal defense by representing the HOA in court proceedings.

**The Certified Public Accountant (CPA).** While the board treasurer, staff member or professional management may take care of bookkeeping, a CPA is needed for higher level accounting services such as:

- Audits, Reviews & Compilations
- Transition from Developer Audits
- Budget Reviews
- Expert Testimony
- Tax Return Preparation
- Develop accounting policies and procedures.
- Design and implement systems for fraud control.
- Formulate investment policies.
- Evaluate and recommend accounting software.
- Prepare financial statements.

**The Insurance Agent.** Insurance agents have a broad range of specialties and areas of expertise. Seek only agents that specialize in HOAs to perform these tasks:

- Review the governing documents and recommend the appropriate coverage requirements.
- Verify the property insurance values for replacement costs.
- Ensure that board members, committee members and managers are covered by fidelity insurance.
- Obtain premium quotations and help the board select the best program.
- Explain to the board the coverage being offered as well as the exclusions and limitations.
- Educate members about the HOA's policy and what owner policies need to cover.
- Provide certificates of insurance to lenders.
- Assist the board in drafting a claims deductibles resolution.
- Customize a risk management program.
- Help the board establish insurance requirements for service providers.
- Review the HOA's claims annually and recommend how claims can be reduced.

**The Professional Reserve Analyst (PRA)** provides an indispensable planning tool known as the Reserve Study, a 30 year plan for scheduling and funding major renovations. The PRA holds the highest credential in the reserve planning industry provided by the Association of Professional Reserve Analysts. For a directory of PRAs, go to [www.apra-usa.com](http://www.apra-usa.com) The PRA advises the board on:

- Funding plans to avoid special assessments.
- Renovation schedule that coordinates related events for efficiency and cost reduction.
- Accurate cost information when annual updates are performed.
- Building product and design improvements for better performance and lower cost.

- Reserve fund investment strategies to reduce owner contributions.

Having an A Team is an essential for every HOA. 🌟

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### Wisdom Lost in Knowledge

If you travel northwest from Athens, on the road to Corinth, you will come to the ruins of the once great city of Delphi. Delphi is the place once thought by the Greeks to be the center of the world. Here, in the 6th century B.C., the Oracle in the Temple of Apollo was at its busiest as it was called upon to dispense wisdom and to give answers to some of the pressing questions of the day. But, the Oracle of the classical world was silent before the age old questions like Who am I? Why am I here? What should I be doing? and Where am I going?

From the beginning of time man has been trying to make sense of himself and his world. He has been seeking understanding. But as time marches on, man isn't getting the understanding he seeks, he isn't happier, and he hasn't been able to conquer his own nature.

What's wrong? With all the great minds and thinking that have gone before us, with all the lessons of history left for us to examine, it is difficult to imagine why we aren't further along than we are. Why are we asking the same questions in our search for meaning, the Greeks were asking 2600 years ago. Do we not yet have enough information available to us?

We now live in a world where we are inundated with more information, on a daily basis, than we can possibly process. It is an over-communicated environment. There are so many unwanted messages bombarding us, that often the ones we want get lost in the noise. The average person can now communicate faster, with more people—without thinking—than ever before. Information has become

disposable. It doesn't matter whether you are connected to the Internet or not. We get hit with it at every turn. At work. At home as we try to relax. And at all points in between.

So what about it? What are we doing with this information? Is all this information really doing us any good? Are we living happier lives? Are we experiencing fewer problems? Are our decisions better? Are we any wiser? History tells us that we haven't learned much in spite of all we know. The situation changes, but the problems remain the same. Clearly, we need to do something better with all of this information.

T.S. Eliot posed the question: "Where is the wisdom we have lost in knowledge? Where is the knowledge we have lost in information?" In a day and age where the number one shows are sitcoms and we commonly find best sellers written by those on the fringe of society, we are clearly in need of better thinking. We need wisdom.

By Michael McKinney 🌟

### The Twenty & the One

A well-worn one dollar bill and a similarly distressed twenty dollar bill arrived at a Federal Reserve Bank to be retired. As they moved along the conveyor belt to be burned, they struck up a conversation. The twenty dollar bill reminisced about its travels all over the country.

"I've had a pretty good life," the twenty proclaimed. "I've been to Las Vegas and Atlantic City, the finest restaurants in New York, performances on Broadway and even a cruise to the Caribbean."

"Wow!" said the one dollar bill. "You've really had an exciting life!"

"So tell me," says the twenty, "where have you been throughout your lifetime?"

The one dollar bill replies, "Oh, I've been to the Methodist Church, the Baptist Church and the Lutheran Church."

The twenty dollar bill replies, "What's a church?" 🌟

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