



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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Dear HOA Expert

Until recently, I was the president of my homeowner association. We have many units, a pool, tennis and rec center and acres of grounds to maintain. To manage this property properly, it takes 20 hours of my time every week.

We fixed everything and groomed the landscape to near perfection. Almost every person moving in stated that the appearance of the common areas and landscape was a large factor in why they bought a home.

Of course, along with the improvements came an increase in HOA fees. Every penny of it was justified. The board worked very hard to educate the members that it takes money to maintain the property values. Regardless, the increase wasn't well received. A neighbor complained that she was appalled by the increase and that so few volunteered to do the work. I pointed out that she hadn't helped in over 3 years and neither had many others.

Bottom line, I no longer pull weeds. I no longer pick up trash. I no longer do flowers. I got tired of being almost the only one who did. I got tired of having people who have never lifted a finger tell me how I need to be doing a better job, second guessing board decisions and wanting control without accountability. I got tired of serving on a board which apparently required me to make myself available 24/7. I got tired of saving money for folks that never lifted a finger.

I gave all that up and told those people they were free to carry on. The last function of our board was to hire property management. I gave the new board a checklist which included starting the budget process in August. They still don't have a budget and what they're working on bears little resemblance to the way we've historically spent the money. The monthly two hour meetings have turned into weekly meetings with few results. It's painful to watch.

The property manager was told she would be working with people with personal

agendas. She said she could handle it. She lied. The board is supposedly not happy with the job she is doing, but is not offering to exercise the 30 day termination clause. I think it's because they know deep down in their hearts that they could do far worse and spend more money in the process. Besides, it gives them someone to blame.

I moved into an HOA on purpose. I had no idea what was involved, but decided to get involved to find out. I was elected to the first board. Our developer suggested a management company back then and we didn't take his advice. That was stupid. I don't think we would be in the mess we are now had we had property management all along. It was extremely short sighted. I believe that self managed HOA problems are completely avoidable.
Frustrated in Fresno

Dear Frustrated,
I couldn't have said it better. There are many practical reasons that HOAs should use professional HOA management. HOA management is something few board members are trained in and none is paid to do it. No volunteer should have to collect money or enforce rules on neighbors. It's a no win situation.

While volunteerism is a noble under taking, it can attract mother hen types and control freaks and not necessarily those with the HOA's best interests in mind. The board is elected to manage significant assets. It is not elected to do the work itself to save everyone else money. Volunteers may work cheap but be squandering the HOA's precious resources out of ignorance. The board should hire competent help at a reasonable price and let them do what they are good at.
The HOA Expert 🌟

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Ask the HOA Expert

Q I suspect our President of embezzlement. He is also acting as the secretary and treasurer and claims he has over half the owners' proxies so no one can stop him. Help!

A You have legitimate concerns and have the right to reasonable answers to those concerns. Make a written request for access to financial information (checking accounts, financial reports, etc.). If you are ignored or don't receive reasonable answers, you have the right to call a special owners meeting usually with a small percentage of owners requesting it to discuss the concerns. Also, convince the other owners to vote for you in the next election and ask them to give you their proxy if they aren't attending the annual meeting. Ask other concerned owners to run as well. Only if you displace this individual will you have chance for change.

Q Can an HOA offer its members the option to pay higher fees in lieu of participating in maintenance activities? We have always tried to keep our fees low by sharing many of those tasks. And is there a way to ensure that prospective buyers understand that our HOA involves a commitment to make regular contributions of time and effort?

A An underlying principle of owning property in an HOA is that the members get discounts through group buying power. But there is no obligation that any member has to do the work themselves. So, members cannot be surcharged for lack of participation. While it's nice that there are those that want to cut costs by doing the work, getting sustained cooperation and consistent results from all members is next to impossible. Encourage volunteers by asking each member to complete a small but meaningful task rather than volunteering for long term commitment. By year end, many small projects can be completed and, when combined, represent an impressive accomplishment. Recognize those that participate in the newsletter and board

and annual meetings. Give awards and certificates. This will encourage others to step forward.

Q Our Annual Meeting agenda is coordinated with the membership and suggested topics are placed on the agenda. However, at the Annual Meeting, members are allowed to make motions from the floor, get a second and vote. There is no thought given to the impact on the budget, management and execution. Is this approach correct?

A While the Annual Meeting is the proper place to hold discussions, making and passing motions on the fly is inappropriate since absent owners are not able to weigh in and vote. Certain kinds of member motions may take a super majority or unanimous vote to pass which is rarely present at an Annual Meeting. All issues requiring a member vote must be noticed to the *entire* membership in advance of the meeting. The practice you describe should be stopped immediately.

want it since it is a lot of work if done properly. Can the president force me to take the job?

A It sounds like your HOA is overdue for professional management which can provide this service and many others. Barring that, the board could appoint or hire anyone to do the secretary's job. The board can't force anyone to do anything.

Q I've just completed my first year managing the largest condo association in the area. The property spent much of the last ten years under-maintained and what work was done was substandard at best.

Until recently, the majority of board members represented investors and many board decisions were made in the best interest of those investors rather than the HOA. For example, insurance claims were paid through the HOA's policy that should not have been.

Those investor board members have since been replaced by owner occupant directors but the investors are posturing to retake the board. They have been engaged in door to door campaigns and other aggressive tactics. Many of the current board members are so frustrated with the barrage of communication and additional work this group is causing that they are ready to throw in the towel.

I'm at a loss as to what I can or should do in this situation. My gut reaction is to suggest that all directors be required to sign a conflict of interest agreement. This would help rein in some of the self-serving behavior. Thoughts?

A Investor owners have the right to serve on the board if they can get elected. The current board members need to understand if they don't encourage conscientious and non-conflicted candidates and general members to vote for them, candidates with not-so-hidden agendas will get elected and do things that will negatively impact the value of the units.

Signing a conflict of interest statement may be appropriate since it can be used

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Q Our board has been missing a secretary for months. I serve on the Architectural Control Committee and the board wants me to take the secretary's job. I don't

to intercede when self serving board actions are being contemplated. You, as manager, need to be candid about what the board should and shouldn't be doing and the consequences. For example, filing inappropriate insurance claims against the HOA's policy could result in higher premiums or loss of the insurance altogether. If a board member proposes something at a board meeting that conflicts with the governing documents, good business practice or common sense, say so in no uncertain terms. If the board votes in favor of it anyway, insist that the minutes reflect that the manager advised otherwise. This tactic may cause the board to recant its foolish ways.

The manager walks a fine line with changing boards. If the hidden agenda folks guys take over again, you will have a choice to make: quit or try to make it work.🏠

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Newsletter Basics
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Smoking & HOAs

Are residents complaining about drifting cigarette or marijuana smoke? Are you worried about fire hazards? Tired of picking up cigarette litter? Wanting to maintain the highest possible property values? You are not alone. To minimize the risks associated with smoking and increase property values, homeowner associations across the U.S. are adopting no smoking policies. In a survey of Oregon Community Associations Institute members, 74% said no smoking policies are "desirable for HOAs."

Below are steps to guide the process. Additional tools can be found at www.cdc.gov/pcd/issues/2015/14_0479.htm including sample legal language, materials on financial benefits, legal questions and a more detailed version of these steps.

Step 1 – Constructing a no smoking rule. Familiarize yourself with, and talk to your attorney about, the different methods of adopting a no smoking rule for your HOA. These include (a) Amendment to Declaration, (b) Amendment to Bylaws, and (c) Board Resolution. Reaffirm the HOA's general rule against nuisances.

Where do you want to prohibit smoking? Indoor common areas (lobby, hallways, community rooms); inside the units; outdoor general common areas (trails, playground, parking lots); outdoor exclusive use common areas (balconies, porches, patios); within a certain distance from the buildings (such as 25 feet), or everywhere on the property, inside and outside. If you designate an outdoor smoking area, make sure it is far enough away so the smoke doesn't drift back into the buildings.

When will the rule go into effect? Allow time to gather owner input and educate residents. A summer date may increase compliance because it gives smokers a chance to get used to smoking outside.

How will the rule be enforced? Spell out the steps to enforce the rule and the penalties for infractions. Reference homeowner association rules to see how other violations are handled.

Step 2 – Get owner input. Conduct a resident survey to give people the opportunity to voice their opinions, include them in the process, and to act as a preliminary "vote." A survey might uncover areas needing special attention and may decrease opposition.

Step 3 – Educate owners. A super-majority of owners may be needed to approve the rule change so take time to educate them on the benefits of a no smoking rule and to share the survey results. Use newsletter articles, notices on the website, signs in a lobby, etc.

Step 4 – Voting. To promote voting, use multiple communication channels including letters to owners, newsletter articles, web notices, signs throughout the community, and knocking on doors to collect proxies. Since it may be difficult to obtain the required number

of votes in a fixed time period (due to owner absence, etc), consider leaving the voting open until a quorum is reached.

Step 5 – Implementation. Mail each resident a copy of the rule change or bylaw amendment as soon as it has passed. Make them aware they could be held financially responsible for violations on the premises and that the rule applies to everyone, including guests and tenants. Post no smoking signs at entrances, hallways and other conspicuous areas. If you find someone smoking in an area where it is prohibited, post a no smoking sign there too. Remove ashtrays, clean up cigarette butts and repair cigarette damage in common areas so that it does not look like a smoking area.

Step 6 – Enforcement. Respond promptly to complaints of smoking. Ask those who complain to document when and from where the smoke originated. Consistently follow-up and enforce in a timely fashion. Taking the same steps in the same time period for every complaint and rule violation sends a clear message to *everyone* that smoking is not allowed.

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Specifications
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Second hand smoke is a proven killer and far surpasses the definition of "nuisance". The wise board heeds the message to protect the health and property of *all* HOA members.🏠

Neighbor Knowledge

One of any homeowner association's challenges is helping neighbors "make nice". The board is frequently called on to mediate disputes and fine neighbors for doing bad things. Actually, it's not the board's job and in most cases, these "opportunities" should be bounced back to the complainer to handle.

What exactly is a “good” neighbor? To be one, you don’t need to be friends or hang out together. Being a good neighbor is an attitude. A good neighbor attitude allows you to live as privately or as sociably as you wish. Here’s how to cultivate and nurture it:

Meet Them. While marching up to their door with hand extended is great, the chance encounter works well too. Introduce yourself at the mailbox, while walking the dog or when you take out the trash. Learn their names and offer a cordial “Hello” or “Good Morning” when you see them.

Keep Them Informed. Contact them before undertaking something that might affect them, such as hosting a big party, building a fence or cutting down a tree.

Be Aware of Differences. Age, faith, ethnic background and marital status can drastically affect lifestyles. Be aware of the differences between you but home in on what you have in common.

Point of View. From your neighbor’s viewpoint, how does your compost pile, swingset or junk car look? Would *you* like that view? (If you do, refer to your *neighbor’s* viewpoint).

Be Appreciative. If a neighbor does something you like, tell them! They’ll be pleased that you noticed the new awning, patio furniture, plants, etc.

Assume the Best. Most people don’t intentionally create problems. Assume the neighbor doesn’t know about the annoyance when you speak to them. Your delivery will be dramatically kinder. And assume they will be cooperative.

Be Candid. If your neighbors do something that bothers you, let them know as soon as possible.

Be Calm. When discussing a point of contention, speak calmly, listen carefully and thank them for telling you how they feel. You don’t have to agree or justify your behavior. If you don’t react defensively, anger usually

subsides, lines of communication remain open and resolution is possible.

Take Your Time. If caught in angry confrontation, take a break to reflect and finish the discussion when cooler heads prevail. Don’t leave it hanging. Time and lack of resolution will intensify hostilities.

Best Advice of All. Treat others as you would like to be treated. This attitude will pave the way for good neighborliness. Love your neighbor as yourself. 🌱

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Resource Links
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Write Right Rules

Homeowner associations (HOAs) are the fastest growing form of home ownership in America. In metropolitan markets, they can account for over 2/3rds of all new home construction. As more buyers choose this form of housing, condos and planned communities are becoming a dominant force to be reckoned with. Why? HOAs are quasi-governments that collect mandatory fees to pay for services and enforce architectural standards and rules in the same way that any government can. Like other forms of government, if you choose to live there, opting out of fees, rules and controls is not an option. When you buy into an HOA, you automatically agree to be subject to its requirements.

Since homeowner associations in their current form have only been around since the 1960s, they continue to evolve as lifestyles change and their strengths and weaknesses are better understood. The concept of “carefree living” promoted by early developers was largely hype intended to help close sales. As time and experience bore out, HOAs require *a lot* of care and attention for them to work right. Due to the dynamics of neighbors ruling over neighbors and members being owners, not renters, the challenges are more complex than other forms of

property management. In commercial and rental property, for example, a lease or rental agreement can be terminated for non-compliance. Not so in an HOA. Private property rights have a profound impact on how homeowner associations must be run.

Homeowner associations have the unique ability to customize how their business is done. This allows one HOA to do business very differently than virtually every other HOA if the board and members choose to. While most don’t, there are often policies, procedures, rules and regulations that vary somewhat from one HOA to another. These differences can range from minor nuances in parking and pet regulations to major policies on architectural design restrictions. And like other forms of government, what was the policy two years ago may not be the policy today if the board or members vote to change it. Buyer beware.

Regardless of the tone and texture of rules and policies, there are some fundamental principles which all HOAs should follow when enacting and enforcing them. Some of these principles are common sense and others deal with the unique “neighbor” aspect of HOAs:

1. All rules need to be written. In days before the written word, laws were passed on by oral tradition. Since clans were closely knit, this system worked pretty well. But with modern fractured families living global lives, writing has a distinct advantage for keeping newcomers informed. Funny thing is, many HOAs have unwritten rules that offenders don’t discover until they break them. Judges, however, don’t like the idea of unwritten rules and often smite HOAs that have them. So all rules should be written.

2. All rules should be available for inspection. When paper was king, written material was controlled by the board and the management company. Getting it was often cumbersome if the “holder of the paper” was unavailable. With the advent of email and the internet, humankind has been set free of the paper prison. HOAs can now make rules, policies and information

available 24/7 by way of an HOA website and email. Newsletters can be emailed in PDF (Portable Document Format) with links to the website. Prospective buyers can also access this information to ensure there is nothing that would create a problem after closing the sale (like, the buyer has an RV and RV parking is not allowed.).

3. All rules should be consistently enforced. If a rule is important, it should apply to everyone, including the board and friends of the board.

4. All rules should be necessary. In a world gone mad with regulation, having a whole new set to adhere to at home is an unnecessary aggravation. If there is a city ordinance to control wandering or defecating pets, the HOA doesn't need the same rule. Only add the rules the HOA really needs.

5. Never try to out rule scofflaws. Scofflaws love it when the board enacts rules to control them. They thrive on confrontation and rules are the line in the sand over which they *must* step. Fortunately, scofflaws are rare. If confronted by one, the board should address their special needs.

6. Rules can be broken. Since all humans are unique, one size does not fit all. The board may have its rules challenged in a way that is headed to a judge's ruling that the board may not like. Since the board is elected to govern, the board has the power to compromise. If faced with the prospect of an expensive court battle or compromise, it is often in the best interest of the HOA to opt for the latter. Courtrooms are nasty places that often only inflame disputes.

7. Run new rules up the flagpole. HOA boards can get myopic about the need for rules. Problems that loom large to a board may be of little importance to the majority of members.

The board can make much ado about nothing. Or worse, the board can fan the flames of rebellion by enacting an unpopular rule. (Is that tar I smell?). There is no rule that is so urgent that couldn't wait for a 30 day member review and comment. Proposed rules circulated to the members generally

gain buy-in and compliance, rather than defiance.

8. Provide for a right of appeal. It's very American to have an excuse. And extenuating circumstances may actually be legitimate. Appeals are not only fair, but expected. The board should never engage in a game of "Gotcha". Look for ways to catch someone doing good.

Bottom line...at the end of the day...win, lose or draw...HOA rule breakers and enforcers are still neighbors. If the rules don't recognize this unique dynamic, a battleground will be groomed for future skirmishes between warring neighbors. Rather than plan for battle, groom the rules to help neighbors be better neighbors. 🚧

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Regular & Adequate

Overseeing a homeowner association's finances to ensure proper maintenance of the common elements is a fundamental responsibility of the board. Following a properly prepared reserve study is a big piece of that puzzle. But how does the board know how much money to set aside in reserves each year? A reserve study identifies all the building and ground components that are the HOA's responsibility to maintain, measures each of them, assesses their condition, projects a useful life and repair or replacement costs. When this information is projected out over 30 years with an inflation factor, it provides the board with a road map to follow for the funding and a schedule for reserve events.

Different boards have used various reserve funding methods including regular and adequate assessments (usually monthly, quarterly or annually), less than adequate assessments, special assessments, borrowing money or a combination of these options. All funding methods are

not all created equal. Funding reserves by regular and adequate contributions is the only fair way to fund reserves.

Special assessments penalize those that have to pay them since former owners were able to use and enjoy the amenities without adequately contributing to costs. Bank loans carry high interest and fees and the HOA must act like a bank *for years* to collect payments from owners to repay the loan. Collecting regular and adequate assessments, each owner contributes his fair share based on the length of time of ownership. And with regular and adequate contributions, the HOA will always have the money it needs without borrowing or special assessments.

Special assessments affect current owners regardless of the time in ownership. Moreover, if owner approval is necessary to pass a special assessment, a majority may vote "no" (and often do) for self-serving or legitimate inability to pay reasons. If this happens, the board's hands will be tied and necessary, possibly urgent, repairs may go undone for lack of funds. Deferred maintenance always leads to increased costs. For reasons of fairness and collection difficulties, special assessments should be avoided at all costs. Regular and adequate contributions are the solution.

When new board members inherit inadequate reserves and deferred maintenance, a professional reserve study is a great way to assess the overall situation in detail. A reserve study provides an objective evaluation by a trained professional of the common elements. With this ammunition, the board can educate the membership of the need to fulfill:

1. Legal requirements of the governing documents.
2. The board's fiduciary duty to current and future owners.
3. The current requirements of mortgage underwriters like Fannie Mae, FHA and Freddie Mac.
4. State statutes.
5. Common sense.

In summary, the goal of adequately funded reserves is to provide for the

planned repair and replacement of common elements at recommended interval, to distribute the costs equitably among all owners, to eliminate the need for special assessments and to preserve and protect the value and livability of HOA and member property. It is a noble but doable charge. Go and do likewise. 🌱

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Weather or Whether?

In the Fall, the Indians asked the Chief if the coming winter was going to be cold or not. Really having no clue but wanting to show leadership, the Chief advised that the winter would be cold and that they should collect much wood to be prepared.

Just to be extra sure, he called the National Weather Service and asked, "Is this winter going to be cold?" The man responded, "This winter is indeed going to be very cold." So the Chief went back to encourage his people to collect every scrap of wood they could find.

Two weeks later, he called the National Weather Service again. "Are you *sure* that this winter is going to be very cold?"

"Absolutely" the man replied. "The Indians are collecting wood like crazy!"

Just like the Broom Brigade in the Sorcerer's Apprentice, we sometimes mindlessly follow bad counsel and never question the source. Make sure you're not getting your advice from the "whether" man. He goes whither the wind blows. 🌱

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Chainsaws & Bowling Balls

Juggling is a fascinating act to watch. Three, four, five balls and more hurling upwards and cascading downward in an endless loop. The performer seamlessly switches from juggling upfront behind the back, then under the leg. It's entrancing and relaxing. What execution! How fun!

Enter Slash, the Fear Factor Juggler. One by one he fires up three chainsaws and nonchalantly begins flipping them into the air one after another. Every toss is fraught with potential disaster. Just as he seems to get his rhythm, he introduces one bowling ball and then another into the mix. Before long there is a cacophony of sight and sound with the juggler contorting in bizarre ways to avoid calamity. What a rush!

Life can be like that sometimes. While intuitively we know that living under stress is unhealthy, it is so pervasive that it seems to be the norm. When that stress is self induced, it's even more deadly because, like adrenalin, the frenzy craves more frenzy. It's as addicting as heroin. Addicts to frenzy collapse into bed late only to be jolted awake by the alarm clock to begin the frenetic dance again.

But, it's not supposed to be that way. God invented time so everything wouldn't happen at once. Time allows pacing and scheduling. It allows prioritizing by importance instead of urgency. And most humans have been granted a fair amount of time to allocate these priorities so all will get done.

We have the luxury of turning down the noise, putting down the toys and turning down "The Boys" when they want to party. The mere fact that these things are within our power is telling. While we all can't be rich, beautiful and powerful, we can be the masters of our personal serenity.

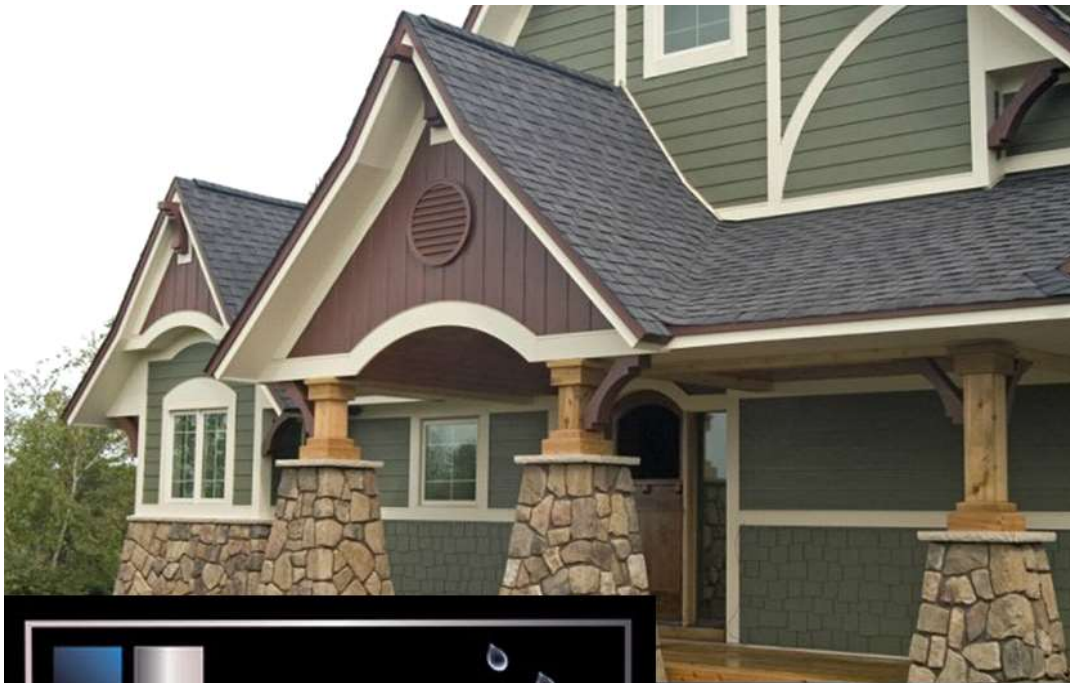
So, lay down the chainsaws in your life. Put the bowling balls back in the rack. We live in a world offering incredible opportunity. Step away from the madness slowly, turn and break for that spatial serenity. The choice really is yours. 🌱

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Newsletter Basics
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Snappy Comebacks

- ☺ Does your stream of consciousness have any fish in it?
- ☺ Ah! I see the memo fairy has visited us again.
- ☺ I'm really easy to get along with once you learn to worship me.
- ☺ I'll try being nicer if you'll try being smarter.
- ☺ I'm out of my mind, but feel free to leave a message.
- ☺ I don't work here. I'm a consultant.
- ☺ It sounds like English, but I can't understand a word you're saying.
- ☺ You are validating my inherent mistrust of strangers.
- ☺ I have plenty of talent and vision. I just don't give a damn.
- ☺ I'm already visualizing the duct tape over your mouth.
- ☺ Thank you. We're all refreshed and challenged by your unique point of view.
- ☺ The fact that no one understands you doesn't mean you're an artist.
- ☺ Any connection between your reality and mine is purely coincidental.
- ☺ What am I? Flypaper for freaks!? 🌱

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