



The Regenesis Report



National

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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Rental Restrictions

The trend of owners renting their homes/units brings with it a number of issues that often need to be addressed by the homeowners association (HOA). For example, many owners disfavor rentals within the HOA as there is a perception that renters will not take care of the property in the same way an owner would, because a tenant is not "invested". Other owners fear that if the HOA becomes more of a rental community, resale values will suffer and lenders will be hesitant to offer financing. Finally, owners who rent are, in some cases, not diligent in providing their tenants with copies of the HOA rules and regulations which can lead to tenant violations, as well as friction between tenants and resident owners.

In an effort to address these concerns, many HOA boards and managers are exploring the merits of adopting rental restrictions. At first pass, rental restrictions may seem like a simple matter of deciding the percentage or number of units/homes that can be rented. However, adopting rental restrictions brings with it many other issues and concerns that should be considered carefully.

Obtaining the Vote. The most difficult hurdle in implementing rental restrictions is obtaining the approval of a sufficient number of owners which often requires a super majority vote of 2/3rds or more. As an initial matter, obtaining 67% or more on any measure can be a difficult task, but especially on an issue as potentially contentious as rental restrictions. Before taking time and incurring attorney costs to draft rental restrictions, the board should survey the owners to see if there is support for this type of restriction.

Managing the Leases. Assuming that the owners are on board with the idea, the board needs to consider the significant time involved in administering and enforcing rental restrictions. For example, to function effectively, the board needs to be provided copies of all leases and lease renewals or amendments. The board then needs to organize the leases and keep track of which leases terminate when and which

tenants are coming and going. This may require keeping track of dozens of leases. Professional managers may be willing to assume the task but most will charge for it.

Enforcement. In smaller projects, it is relatively easy for the board to keep tabs on who is living in the various units or homes. In larger HOAs, the board has to rely on the willingness of landlord owners to follow the rental restrictions or other owners to alert the board to violations. This is a hit and miss proposition. Once a violation is documented, how does the board deal with it? If an owner has leased a unit/home in violation of the rental restriction, the board will have to deal with both the tenant and the owner to resolve the issue. The board needs to be careful not interfere with the tenant's legal rights under the lease while enforcing the rental restriction against the owner.

Prioritizing Leases. The board will need to determine a system for prioritizing the requests of owners who wish to lease their unit/home. Proposed rental restrictions will need to "grandfather" existing leases that are then counted towards the maximum number or percentage of rentals. In some cases, once the existing leases are counted, either the maximum will have already been reached, or there may only be space for a handful of additional rentals before reaching the limit. In the event that there are available leases, the board will need to determine how to allocate this availability among the owners. Going forward, the board will also need to devise an equitable means of prioritizing those owners who wish to rent their unit/home, but cannot do so because the maximum rental has been achieved.

Access to the Rental Rotation. A related issue that can be tricky is how a board handles existing leases that either expire or turn over. Should an owner lose the ability to re-rent because an existing lease expired or the existing tenant moved out? Or, should owners who have existing leases be given a certain window of time in which to re-rent their unit/home before they forfeit the right? Failure to set out a clear policy from the start can lead to serious complaints

of unfairness from owners who feel "locked out" by existing rentals that continuously re-rent without affording other owners the possibility of getting into the rental rotation.

Hardship Exceptions. A hardship clause allows the board to grant exceptions to the rental restrictions even if the maximum number of rentals is already reached. Typically, a board would grant a hardship exception in the event of an owner's death or extended illness, financial hardship, relocation for work or school, deployment to military service or other exceptional circumstances. Hardship exceptions are usually limited to six or twelve months in length and a board may require pre-approval of a tenant and perhaps professional management of the lease.

Financing Limits. A factor that a condominium association should keep in mind is FHA loan underwriting guidelines. FHA is a significant source for condo loans and it has a special set of underwriting rules which includes the percentage of non-owner occupied units. If a condominium exceeds these limits, the whole condo project will not qualify for FHA loans and greatly restrict the ability of owners to sell or refinance their units. FHA underwriting standards change from time to time so the board should obtain the current standards when considering rental restrictions.

This article raises just a few of the important elements that a board should consider before jumping into rental restrictions. Failure to think through all of the ramifications can lead to frustration among owners and major headaches for the board. With proper planning, well-drafted rental restrictions can be a useful tool to manage the number of tenants in an HOA while still maintaining an attractive and well-managed community. *By Chris Scott* 🌲

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Ask the HOA Expert

Q Our HOA has ongoing problems with cigarette smoke which permeates the hallways and stairwells every time a resident smoker comes and goes from their unit. The ventilation system recycles the smoke throughout the common areas. Besides the bad odor, I'm concerned about health hazards.

A Second hand smoke (also called ETS-Environmental Tobacco Smoke) is a serious health hazard and the board is obligated to deal with it if it is impacting residents and their guests. The numerous deaths related to second hand smoke are well documented.

This issue is much more than just a nuisance and the board needs to respond to complaints with real action. The easiest place to start is a ban on smoking in all common areas, including decks, patios, common hallways, stairwells, elevators, lobbies, building entries and meeting rooms. You might consider the pool area as well.

Some boards worry that bans on smoking will negatively impact property values. In reality, there is growing support for smoke free HOAs which would be highly prized by non-smokers who would pay a premium to live there. Something to think about.

There is no Constitutional right to smoke. Moreover, inflicting a health hazard on others is against the law. The board should take this issue seriously. For a sample No Smoking Policy, see the "Policy Samples" section at www.Regenesis.net.

Q Our HOA has extra parking spaces which are first come/first serve. There are several residents which park extra vehicles and boats there long term. This doesn't seem fair.

A If the HOA has extra parking spaces, it should not allow any one resident to commandeer them, especially for no cost. These are revenue generating assets which can be rented long term at market rate. In many urban settings, a

reserved parking spot is worth \$50 or more a month. The board should charge market rent on a yearly basis. This way, parking revenue benefits *all* HOA members by helping reduce HOA fees.

Q Our governing documents, like most, prohibit co-owners from serving on the board at the same time. Does this principle apply to committees?

A No. Committees can be composed of anyone that has an interest in serving, including renters. As long as the members are serving effectively, the board should encourage such participation. Since committee members are appointed rather than elected, the board can unappoint them if they aren't doing their job.

Q Our HOA board wisely ordered a reserve study this year. The study was completed and indicates that we are seriously underfunded. The study includes a funding recommendation that will substantially increase our fees. Is increasing reserve contributions a decision that the board alone can make? Do the general members have the right to voice their opinions, concerns, etc. prior to the board's decision. Should the reserve study be available to the membership to review?

A As long as the governing documents give the board authority to set the budget (usually the case), the board alone can make the decision. The board doesn't have to follow the reserve study provider's recommendation but departing from it will encourage greater challenge from members, particularly those that don't want to pay more. ("If the board can propose an increase lower than the professional, why not propose one even lower still?")

If the governing documents require the board to get member approval for increases over a certain amount, the board will have to bring the matter for a vote. In either case, it's wise for the board to hold a special meeting to discuss the reserve study and its

implications, particularly if there is a significant increase in fees indicated. Ask the reserve study provider to present the study and answer questions. This will add a much higher level of credibility to the process and take the spotlight off the board.

One mistake some boards make is deciding ahead of time that the members won't approve a large increase so a much smaller one is proposed. It is always preferable to present the higher recommendation and let the chips fall where they may. If the case for the professional's funding plan is made and a majority of the members still vote it down, future shortfalls can be blamed on the membership, not the board. If the board decides on its own to under fund, it has failed in its fiduciary duty to budget properly and should be held responsible for shortfalls.

For more, see Reserve Planning at www.Regensis.net

Q We have an owner who has not paid an assessment for several years. The property is being used as rental property.

A Your board needs to adopt a formal Collection Policy. There is one you can use as a model at www.Regensis.net in the Policy Samples section. That policy calls for filing a lien against the property and other aggressive measures which can include an assignment of rents provision. Have the proposed Collection Policy reviewed by a knowledgeable attorney to ensure it complies with the governing documents, federal and state statutes. Then, the proposed Collection Policy should be circulated for comment to the members before enactment. Once enacted, start enforcing the provisions on any owner who is delinquent. 🗑️

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Recruiting Directors

From time to time, it is necessary or desirable to recruit new directors. It may be due to a vacancy or an upcoming election. Often volunteers are reluctant to commit until they fully understand the scope of the job and time commitment. Here is a sample letter that outlines director duties:

To All Members of Nottacare Condominium,

At the Annual Meeting, two positions for director of the board will be voted on. Anyone that is a owner in good standing of Nottacare (current in HOA payments and no outstanding violations) is eligible to run in this election.

Overview of Director Duties. The board has the authority to direct Nottacare business including maintenance and financial oversight, rules enforcement and architectural design approval. The board has the authority to hire and oversee the professional management company.

The board meets four times a year for two hours to review Nottacare business and to make decisions and enact policy. Between those meetings, there may be an occasion special meeting to deal with an urgent matter that can't wait for a regularly scheduled board meeting. The president has the authority to act on behalf of the board between meetings as long as the matter is authorized by the governing documents or in line with the approved budget.

Serving on the board gives you direct impact and influence on how business is handled. While a management, financial or construction background is helpful, no special training is required other than the willingness and availability to serve. The office of director carries a term of three years each.

All Nottacare members have an obligation to serve in some capacity. We hope you will consider running for the board. If you are interested in running, you may be nominated by another owner or by yourself. If you are interested in being nominated,

please email that desire and your contact information to info@nottacare.org or mail to Nottacare Condominium, 123 Easy St, Anytown USA. Please contact me if you have any questions.

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Meeting Mechanics

Meetings are the mechanics for conducting homeowner association (HOA) business. They should be properly choreographed to ensure that real business gets accomplished. While HOA meetings are typically less formal than those of Congress (and thankfully shorter), using parliamentary procedure goes a long way to turning endless discussion into done deals. Here are a few mechanisms on how to run an effective board meeting:

Schedule & Publicize the Meetings. Board meetings should be scheduled and noticed well in advance to avoid conflicts. Rather than schedule them on the fly, set dates, times and locations *a year in advance*. Strive to hold meetings consistently (like the second Tuesday of January, April, July and October, 6:30-8:30 pm at the Clubhouse). Post the schedule on the HOA's website, newsletters and common area postings. Distribute it by e-mail and/or regular mail.

Distribute Agendas & Supporting Material in Advance. Directors should receive the agenda and related information at least one week in advance. Include the most recent financial report, manager's report (if applies), details of delinquencies (who, amounts owed, how long, action taken to date), minutes of last meeting, requests by owners (architectural modification, petitions) and committee reports. Directors should review the

information *before* the meeting and come prepared to discuss it.

Prohibit Use of Alcohol. Social events are great but HOA meetings are not social events and getting real business done requires clear headed focus. Save the wine tasting for after the meeting or for another time and place altogether.

Use a Location Conducive to Business. While meeting in someone's home may be cheap, it is generally not conducive to meetings or large enough for guests. Homes often have disruptions like phones, kids and pets. If your HOA doesn't have a meeting room or clubhouse, use a local church, library or community center which are often cheap or free. The facility should have a table large enough for the board and additional room and seating for a reasonable number of guests. The room should be well lit and temperature controlled for comfort.

Set a Time Limit. Most meetings should be limited to no more than two hours. Using a "timed" agenda actually puts time limits on each agenda item (like Review & Approve Minutes: 5 minutes, Landscape Contractor Review & Approval: 15 minutes, etc.).

Follow Parliamentary Procedure. Parliamentary procedure is designed so that business is handled systematically and to avoid rambling discussions. If a director wants to discuss something new, it should be proposed as a motion, seconded and voted "aye" by a majority of the directors. If the motion fails, move on. Parliamentary procedure allows discussion as long as it presents new information for consideration. If a discussion of a motion is clearly headed for pass or fail, the Chair can terminate the discussion by asking for a vote. At times it's like herding cats but in the long run, getting business done within a set time frame will reward accomplishment, not talk.

Start on Time. Waiting for chronically late directors shortens available meeting time and encourages tardiness. If the meeting is scheduled for 6:30, start at that time. Avoid the temptation to bring straggling directors

up on what they missed. This too encourages tardiness.

Start with an Member Forum. Let the members have their say, ask questions and criticize if they must. Limit the forum to 15 minutes or less. Ask how many want to speak, do the math and limit each to a set time limit. If only one wants to speak, five minutes is usually enough and move on to the agenda. This is not a time for members to ask for board action on any complex topics. If the topic requires research, board response should be delayed until adequate information is developed.

Follow the Agenda. The agenda is the meeting map. Stray too far from it and you may not find your way back. The Chair should monitor discussions carefully and rein it in when it drifts too far afield. Adding impromptu agenda items is rarely productive because they rob time from the set agenda and usually produce rambling and uninformed discussions. Save the impromptu for a future meeting.

Directors and members will appreciate the results of productive meetings. Meeting mechanics like these are designed to get business accomplished so volunteers can get back to their lives. Gear up!🚀

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What's What

Documents, Documents, Documents. When it comes to homeowner associations (HOA), it seems as if the governing documents should come with an instruction manual. Typically, HOA documents contain enough paper to kill a tree. So the question becomes, what is the difference between the documents?

The Declaration is the Big Dog of the governing documents, if you will. It is the document that establishes the legality of the HOA, contains the use

restrictions, the maintenance requirements and defines the common elements.

When it comes to the documents, the Declaration rules the roost. If any of the other documents conflict with the Declaration, the Declaration controls. If you want to make any changes to the Declaration, an amendment to the document must be made. Any amendment must be voted on by the membership. The percentage required to pass an amendment will be specified in the Declaration. Any such amendment must be recorded with the County Recorder and distributed to the membership.

The Bylaws set up the corporation and how it is to be run. It defines the board of directors, who is eligible, what the duties are, how directors are elected and what their powers are. The Bylaws can be altered in the same way as the Declaration. They should not conflict with the Declaration. These are typically recorded along with the Declaration.

The Rules and Regulations set up guidelines for owners to follow and reiterates the use restrictions set forth in the Declaration in simpler terms. The Declaration and Bylaws give the board the authority to adopt reasonable rules and regulations that are in keeping with the Declaration and Bylaws. In other words, the board cannot enact a rule or regulation that contradicts the Declaration and Bylaws. Rules and Regulations do not require a vote of the membership, are not recorded and, thus, much easier to change. Once enacted by the board, they must be distributed to the owners to be effective. To amend the rules and regulations, all that is required is a board vote and a distribution of the changes to the membership.

Declaration, Bylaws, Rules and Regulations are enforceable in the same manner. Enforcement includes fines, a lawsuit to require compliance, or in some cases, the HOA may correct a violation once notice is given and charge the owner for the cost to correct the violation.

So, now that you know what's what, what are you going to do about it? 🌱

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Monetizing the HOA

Money is the grease that makes a homeowner association's wheels turn. Having enough of it in all the right places ensures the common elements are maintained and member property values sustained. While HOAs have their own governmental system, they have the ability to draw the members into the budget process in a way big government can't. With a bit of planning, the budget can be a harmonizing exercise instead of a battleground of discontent.

Philosophically, it's important for the board to adopt a "we're one of you" attitude because, frankly, it's true. All HOA members, including directors, pay their share of the HOA freight. Even if the board has the power to unilaterally adopt the budget, approaching it as a consensus building exercise will work wonders in how the message is received.

Form a Budget Committee. It is often difficult to get members to volunteer for board positions but getting some to serve on a Budget Committee is not so tough. There are always a certain number of bean counters out there that would make time for a 4-6 week stint crunching numbers. Targeting CPA or bookkeeper members is logical but there are others that can provide valuable service, particularly if they are long time residents who know the HOA's history or have served on a past board.

Poll the Members. Asking the members for budget suggestions is largely symbolic, like raising the flag and see if anyone salutes. There may be a couple who do but most don't even notice. But the mere fact that all are asked goes a long way toward building

support. Those that respond may be thoughtful or total flakes but the board doesn't need to commit to including the suggestions, only to consider them. Gather this information the month prior to Budget Committee meetings so it can be included for consideration.

Budget Review Meeting. Once the Draft Budget has been compiled, a Budget Review Meeting should be scheduled. This could be part of a regular board meeting if the budget is simple or a part of a special meeting if the budget is complex or contentious. All members should be invited and encouraged to attend. A formal presentation should be made and presenters prepared to answer questions or justify line items.

Budget Approval. After the review is held, formal approval of the budget should take place. If this requires a quorum of members to vote, sending out formal announcements, ballots, etc. are in order. If the board has the authority to approve the budget, it's still a good idea to inform the members when and where that approval will take place. It should happen at least 30 days prior to the start of the new fiscal year. Assuming the budget has increased (and it usually should due to inflation alone), the board should give members at least 30 days notice of any homeowner fee change.

Circulate Approved Budget. Once the budget has been formally adopted, a copy of it along with detailed notes explaining each line item and a side by side comparison of the past and future budgets should be sent to each member. A cover letter should explain what the new homeowner fee will be if equal or include a matrix showing the different fee levels if prorated by percentage or fraction. This would be the perfect time to distribute payment envelopes and coupons if you use them.

The whole budget process generally takes 4 to 12 weeks from start to finish depending on complexity and the requirements for approval. There are few exercises that have a more profound effect on the HOA's destiny so don't downplay it. The budget is a chance for a new beginning,

improvement and team building. Don't miss the opportunity to engage the members. 🌱

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Finding Wisdom

We must learn to step back from any situation and look at it objectively. It is helpful to take the personalities out. Take out all of the emotions and egos and determine the right thing to do regardless of who is involved. Then put the personalities back in and proceed with what must be done. This is living by principle and wisdom. It will help you not compromise what is right and to live consistent with universal laws.

Be proactive. This does not mean to be more assertive. Proactiveness is not an attitude, but is instead a product of our thinking that comes from being connected to our own behavior; by seeing how we contribute to our own problems. It means to determine in advance your response to any situation that may come your way. Don't allow yourself to just react to the stimulus of your environment.

Of course, it's hard to do this when you are in the middle of an action. Your emotions are in the way and your perspective is gone. It's hard to stop and ask yourself, What am I doing? This is why you must think through the events in your life and think through to the conclusion of the approach you are using. If then, you don't like the results, change your approach, before you're caught behaving in way you'll wish you hadn't. A wise person will think about situations he might become involved in so that he might know in advance how he will respond.

Don't just get through a day. Absorb the day. Make it a part of your life. You can't afford to take an aimless approach to life. Take it seriously. If you don't, no one else will. Pick up on everything that is happening around you. By

asking yourself, What am I supposed to be doing? How am I going to do it? and When am I going to do something about it? you avoid a lot of mistakes. When you start thinking about your life, many problems disappear. When you live perceptively, when you get in touch with reality, and start doing what you know is right, many problems disappear.

In 1677, the Dutch philosopher Spinoza, suggested that wisdom is seeing things "sub specie eternitatis", that is, in view of eternity. A foundational principle of wisdom is to have a long term perspective; to see the big picture; to look beyond the immediate situation. Of course, an all encompassing, total perspective is possessed only by God. Although it can only be approached by humans, it is an ideal we should seek.

To gain perspective, it is helpful to study events and people throughout history. The past is the sum of all we are today. Understand it. Know why we are where we are today. Napoleon said, "May my son study history for it is the only true philosophy, the only true psychology." Take time each day with those who have left their lives for our example. In time, it will broaden your perspective and deepen your understanding. You will gain many lifetimes of experience in your own.

Walter Lippmann observed that "a boy can take you into the open at night and show you the stars; he might tell you no end of things about them, conceivably all that an astronomer could teach. But until and unless he feels the vast indifference of the universe to his own fate, and has placed himself in the perspective of cold and illimitable space, he has not looked maturely at the heavens. Until he has felt this, and unless he can endure this, he remains a child, and in his childishness, he will resent the heavens when they are not accommodating. He will demand sunshine when he wishes to play, and rain when the ground is dry, and he will look upon storms as anger directed at him, and the thunder as a personal threat." He may know knowledge but he doesn't have wisdom. Wisdom places us in our proper roles in relationship to everything else around

us and in so doing helps us to develop emotional maturity.

Wisdom requires humility. You must be teachable. If you are to put these things into practice, you must be willing to take a look at what you thought you knew about yourself and the ideas you hold. It requires an outward focus not a selfish one. Often people who know a lot can't get past that fact and as a result never gain insight into what they know. A wise man never stops asking questions. He realizes that what he knows is but a drop in a sea of knowledge.

As we examine the results of our behavior and learn from the experiences of others, and conform to the laws common to every living thing, we begin to create a yardstick to judge what we know and the knowledge we come into contact with. We can learn what is acceptable. You are the only one that can gain wisdom for yourself. No one can make you wise or make you not wise. It's up to you. Any time you see, hear, or experience a lesson for better living, it's up to you to do something about it. The job of living is to make this decision. Put what you have learned into practice or you will never be wise.

A philosopher, by definition, is a lover of wisdom. We should all be philosophers. You can talk beautiful ideas, but if you don't put them into action, it is as if you know nothing. Ask yourself, what did I learn today? How would I do it differently and how do I transfer this lesson to my own life? Then, apply it. You then begin to live intelligently. To live with understanding. To live with meaning. To live with wisdom.

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Ten Puns

1. It's hard to explain puns to

kleptomaniacs because they always take things literally.

2. I used to think the brain was the most important organ. Then I thought, look what's telling me that.

3. The midget fortune teller who kills his customers is a small medium at large.

4. A farmer in the field with his cows counted 199 of them, but when he rounded them up he had 200.

5. What is Bruce Lee's favorite drink? Wataaaaaah!

6. The dyslexic devil worshiper sold his soul to Santa.

7. You kill vegetarian vampires with a steak to the heart.

8. There was a prison break and I saw a midget climb up the fence. As he jumped down I thought "that's a little condescending".

9. If you want to catch a squirrel just climb a tree and act like a nut.

10. How do you make holy water? Boil the hell out of it. ☼

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