



The Regenesis Report



\$3.00

Innovative Community Association Management Strategies

June 2003

What is Regenesis?

Regenesis means 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.

The Regenesis Report provides resources and management tools for just that purpose and is free to all subscribers of **Regenesis.net**.

The goal is to provide the meaningful content to the reader. Your comments and questions are very important in shaping that outcome. Please let me know your thoughts.

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Insuring Success

The last several years have been brutal to the insurance industry and policy holders. Things like terrorist attacks, huge court awards, shrinking reserves and a stock market in the toilet have conspired to hammer profits. The industry has reacted by ratcheting up premiums, discontinuing or limiting certain coverages, adding exclusions (like mold) and terminating higher risk clients.

Homeowner associations have seen first hand the effects of these insurance industry "corrections". Some have seen premiums double or triple and others get pink slips even though they have never made a claim. Fortunately, the HOA insurance market hasn't dried up altogether. As long time players are benched, others are coming up to bat, even in this roller coaster market.

One underlying principle to keep in mind is that insurance in any form presents some form of risk for the insured. The gamble is that bad things won't happen but insurance companies know that somewhere, sometime, they will. And when insurance pays off, the costs impact the premium rate structure. So, during tight insurance markets, the Board will need to consider increasing the HOA's risk to reduce premium cost. Here are some strategies to help see you through:

Shop Around Not all insurance carriers have experienced the same loss history and have lower premiums. Check with national companies that have a special line of HOA coverages like State Farm, Allstate, Farmers and CAU-Community Association Underwriters for options. Call each company's administrative office and ask for the name of the agent that writes the greatest amount of HOA insurance. It's very important to only deal with an agent that is knowledgeable about how homeowners associations work. There are also a variety of independent insurance agents who can shop a wide market of companies to build a policy for you as well. But again, it's

important that the agent understand what HOAs are about. The wisdom of this will become crystal clear as soon as you need to file a claim.

Review Coverages All HOAs should have Fire & Hazard, Directors & Officers Liability, Employee Dishonesty and General Liability coverages. Some other desirable coverages include Earthquake (mandatory in some regions) and Building Ordinance or Law. The latter covers increased reconstruction costs due to building code or zoning restrictions. Earthquake insurance typically has a sizeable deduction, like 10% of the coverage amount. The Board should discuss with the agent the pros and cons of eliminating certain coverages. Or, reducing a particular coverage may reduce premium. Review options with your agent.

Increasing Deductibles Increasing the deductible always reduces premium. It also means the HOA self insures for that amount. Offset raising your deductible with an insurance reserve.

Control Claims It is *extremely* important for the Board to control the kind and frequency of insurance claims. To aide that process, an **Insurance Areas of Responsibility Policy** should be adopted that carefully defines what qualifies for an HOA insurance claim, and just as importantly, what does not. HOA members are charged with insuring certain things. In condos, it often is described as "from the decorated surface of the unit in". That means unit interior damage should be paid for by the member's insurance, even if the source of the damage came from outside, like a roof leak or an errant sprinkler head (as long as the HOA wasn't negligent in repairing these items).

Directing claims to members' insurance will reduce claims on the HOA insurance. The HOA insurance should typically be used for larger claims like wind, rain and fire damage that impact many units or other common area structures. (For an Areas of Responsibility Checklist, see **Regenesis.net** Planning Tools).

Reserve for Self Insurance Whether your deductible is \$1000, \$2500, \$5000 or higher, that is the amount that the HOA is self insured for. It is reasonable to plan for one claim a year by funding an Insurance Deductible Reserve within your reserve account in the amount of your deductible. If you file no claims during the year the reserve can be rolled over to the next year's reserves. If your HOA hasn't filed a claim in years, you might set up a three year reserve, funding one third of the deductible each year. If no claims are filed, it's money in the bank.

Even though HOAs have been rocked by the insurance storm in recent years, using these strategies will help insure success at the most reasonable cost available. Since these costs are likely to climb even higher, be prepared by taking action early.

For more on Insurance, see **Regenesi.net** Insurance Issues. 🗺️

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Ask the HOA Expert

Q Our developer still controls the HOA and wrote provisions in the governing documents which allow him to not pay monthly fees on undeveloped lots until houses are built, sold and closed. Because of this, the clubhouse and pool does not have adequate money to operate. The developer is loaning us money to make

up the shortfall without our approval. It seems like the developer should contribute money or pay dues on the undeveloped lots to help cover these expenses...at least until there are enough homes to cover the costs. What do you think?

A Running a clubhouse and pool operation is predicated on a certain number of owners contributing to the operation. If there aren't yet enough paying members to pay for it, it should remain closed. But for sales purposes, the developer wants the clubhouse and pool to be operational. If the operation benefits the developer too, (and it does) he should pay his share of the costs.

The developer doesn't have the right to loan money to the HOA without member approval. If he set up the documents in such a way to allow him to skate on paying his share, he should not now try to foist operation costs to a minority of owners. Either the facilities should remain closed or the developer should pay his share of the expenses during the sales phase.

Q We are an age restricted retirement homeowner association. A prospective buyer inquired about handicap access. All of our facilities are handicap ready except for our swimming pool. Is there any requirement that we have our pool accessible to the handicapped?

A Homeowner associations are not required to provide handicap access, just to make "reasonable accommodations" for those residents that require such. That means if a resident requires a ramp to a unit entry, the Board should approve the installation with the resident paying for it. The Board can, however, require reasonable aesthetic considerations be included with such installations. Reassigning parking places (if owned by the HOA), is another reasonable accommodation.

Modifying a pool wouldn't be cheap and it's unlikely that the resident would want to pay for it. But there is nothing

wrong with an owner developing the costs and specifications to do it and then gathering signatures from owners who are in favor of spending the money. If the required majority endorse the idea, why not do it?

Q Our HOA is trying to get on track after years of self management and neglect. Lots of people were well intended but hadn't a clue of what being a board member really meant. Any advice on getting pointed in the right direction?

A One of the first things to get done is a reserve study so that the scope and cost of your current and future repairs can be fully understood. (See **Regenesi.net** Reserve Planning for more on this subject.) Consider hiring a homeowner association management company to handle your business. There is simply too much going for unpaid and untrained volunteers, even if they have the best of intentions. And no one should have to enforce rules on or collect money from their neighbors. (See **Regenesi.net** Manager Issues for things to consider when hiring a professional manager).

Above all, be patient but persistent. Change comes slowly to some. Years of management by neglect is a hard mindset to change. Encourage more flexible minds to run for the Board.

Q We have a homeowner that has boxes and papers stacked against her patio door and windows. They are very unsightly from the outside and mildewed which is a health concern for the neighbors. It also poses a possible fire hazard. Can the Board require a homeowner to clean up the inside of their unit?

A The Board indeed can require clean up of a unit or home that is a health, fire or safety hazard. Ask the adjacent neighbors to first broach the subject with the offender. If this doesn't prompt action, ask them to write the Board a letter describing the problem and what they tried to do about it.

With those letters, the Board can turn up the heat by giving the offender a ten day deadline to clean up. After ten days, say "other legal remedies will be explored if necessary". This usually will do the trick. If not, call the Fire and Health Departments and ask them to do an inspection. If all else fails, get the HOA lawyer involved. One way or another, the easy or the hard way, the job will get done. 🐾

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Pool Rule Fools

Did you ever read the standard set of state mandated pool rules? They are meant to address health and safety considerations and are often directed at children (or childish adults). For the most part the rules are, "Duh, who doesn't know that?" But there is something about playing in water that brings out silly, loud and obnoxious behavior in some.

Homeowners associations have additional challenges when it comes to the pool. Consider these all too common occurrences: One of the big bugaboos is certain "guests" that use the pool. As it turns out, these folks may not be guests at all, just gate crashers. Then there are the former residents that feel right at home coming back to take advantage of the amenities. Then there are the grandkids who cavort from dawn's early light to the setting of the sun...but where are their grandparents? How about those midnight swims "a la natural"? And don't forget Rover...he's a water spaniel!

Trying to control some kinds of pool behavior can be downright maddening. But fortunately, as a private community, the HOA can set additional rules that fit with the lifestyle of the residents and to protect the viability of

The Regenesis Report

the facility and privacy of the members. Since this isn't a public facility, and the HOA does have legal liability for what goes on there, it's entirely appropriate to make rules when necessary. These rules can carry penalties imposed by the HOA. One of the most effective penalties is restricting access to the pool backed up by monetary fines if the restriction is violated. Holding residents directly responsible for the actions of their guests is essential to minimize policing.

Not all bad pool behavior can be controlled by rules or penalties. Don't overlook the use of police if dealing with trespassers or drunk and disorderly behavior. Professional law enforcement does have its place.

With pool season coming on, consider adopting a special set of rules if necessary. Rather than have them carry an authoritarian tone, preface them with a statement like, "This pool is here for the enjoyment of all residents. The following activities disrupt that common enjoyment. This is *your* pool. Please do your part to keep the peace." When it comes to rules at the pool, let the *pool* rule. 🐾

Homeowner Association Management Agreement

Hundreds of hours in development, the Regenesis HOA Management Agreement identifies the most common tasks and defines the scope of duties. By clearly defining the tasks, the HOA understands what it's getting, the manager can put reasonable limits on the base service and create profit centers for extras. If you manage homeowner associations, you need this customizable document. A true bargain at \$199. For details, see:

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MANAGER ISSUES

Policizing Reserves

Planning for future repairs and replacements is one of the most critical and beneficial things a homeowner association should do. A Reserve Study

is a long range planning tool that identifies common element building and grounds components that have useful lives of 3-30 years, the current cost of repair or replacement of each and a Funding Plan to accumulate the money to accomplish the work.

A Reserve Study is an indispensable planning process. But the Study itself doesn't commit the Board or Members to follow it. A formal policy should be adopted that *commits* the HOA and Board to the reserve planning process and holds future Boards to the standards. For that, a **Reserve Study and Funding Policy** is called for. Without it, a future Board could decide to set the plan aside or worse, spend reserve funds on something they were never intended for.

A Reserve Study and Funding Policy obligates the homeowner association to follow the recommendations of the study. For many associations that have been handling costs by special assessment, this is a radical paradigm shift. So, formalizing the commitment to change will help ensure that some Board in the future won't drop the ball or shift back to old and bad habits.

Below is a policy which can be adapted to your HOA's use. Whether you already follow a good Reserve Study or are thinking about getting one, consider enacting one to formalize the commitment.

Nottacare Condominium Sample Policy Resolution # _____ Reserve Study & Funding

WHEREAS, Section ___ of the Association Bylaws grants the general power to conduct the business and affairs of the Association to the Board of Directors, whose members shall be members of the Association; and

WHEREAS, the Board of Directors has the responsibility to plan for the proper maintenance, repair and replacement of the Association common elements; and

WHEREAS, the members have the responsibility to fund the proper care of common elements; and,

WHEREAS, proper care of the

common elements directly impacts the value of members' homes,

NOW, THEREFORE, BE IT RESOLVED THAT in order to properly maintain the common area, protect market value of members' homes and livability in the community, the Board of Directors establishes a policy as follows:

Reserve Study Defined. The Board shall have a Reserve Study performed that includes this criteria:

- Identifies all components that are the homeowner association's responsibility to repair or replace that have a useful life of 3 to 30 years.
- Assigns a reasonable cost of repair or replacement to each component based on current costs for the area.
- Assigns a reasonable useful life to each component based on local conditions.
- Lays out a 30 Year Repair & Replacement Schedule which identifies the years when each component work will be performed including the inflation adjusted cost.
- Establishes a 30 Year Funding Plan which takes into
- consideration the costs of repairs and replacements, contributions from members, impact of inflation, revenue generated from invested reserve funds and taxes owing on interest earned. The Funding Plan shall include monthly contributions from members adequate to meet projected costs without the need for special assessments.
- The Funding Plan shall include a "Percent Funded" factor (percent of actual reserve funds on hand versus the ideal of 100%). If Percent Funded balance is below 100%, the Funding Plan shall provide for a plan to systematically increase contributions to attain the 100% level without special assessments, if possible.

Permitted Uses of Reserve Funds. Reserve funds are to be used only for the repair and replacement of the specific components identified in the Reserve Study.

Annual Review. The Board shall review and revise the Reserve Study annually to reflect changes in costs, inflation and interest yield on invested funds. Component information shall be amended to reflect new information received, component additions or deletions. With this revised information, a new 30 Year Reserve Study projection shall be generated and used in conjunction with the Annual Budget process.

Borrowing Reserve Funds. Under special circumstances, like an unanticipated Operating Budget shortfall or an emergency, and if allowed by state statute, the Board may borrow from reserve funds. In such cases, the Board shall adhere to a strict repayment plan that will replace borrowed reserve funds within 12 months.

Investing Reserve Funds. In order to reduce the amount of member contributions, the Board shall invest reserve funds to generate interest revenue that will be added to the reserve account. Unless otherwise approved by the membership, all investments will be FDIC (Federal Deposit Insurance Corporation) insured or guaranteed by the United States Government. Investments should take into consideration the repair and replacement schedule so that there is no loss of interest for early withdrawal. The Board shall review the reserve fund investment plan at least annually to ensure that the funds are receiving competitive yields and make prudent adjustments as needed. The Board may hire an investment counselor to assist in formulating an investment plan.

Performing the Reserve Study & Annual Review. To ensure objectivity and competence, the Board shall hire only a third party Reserve Study professional with experience, references and credentials to do the Reserve Study.

Dated: _____, 200__

Signed: _____
President - Board of Directors

Attested by: _____
Secretary

AFI Reserves by AFI Professional

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FEATURES INCLUDE:

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- ~ Dues Summary
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- ~ Component Inventory
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Satellite Dish 101

As many homeowner association boards will tell you, satellite dishes continue to be a hot issue. In 1996, the Federal communications commission (FCC) adopted detailed regulations which dictated what a board can and cannot do in restricting satellite dishes and other multi-point distribution systems. While many HOAs have adopted rules and regulations which incorporate the FCC regulations, the question still arises as to how the board can enforce those restrictions when an owner installs a device violating those rules.

The current FCC guidelines prohibit HOAs from unreasonably restricting television antenna and satellite dishes that are one meter or less in diameter. This rule applies only to those areas where a unit owner has a direct or indirect ownership interest and exclusive use or control. In the case of condominiums, this rule would essentially apply to the limited common elements, such as balconies, decks or patios. An HOA may prohibit or restrict the devices on the common areas such as the roof, exterior portions of the building, or on the common grounds.

Under the guidelines, a satellite dish restriction is valid unless it:

1. Impairs the reception of an acceptable quality signal,
2. Unreasonably prevents or delays installation, maintenance or use, or
3. Unreasonably increases the cost of installing, maintaining or use.

Let's assume that a board has adopted a rule which prohibits the installation of satellite dishes on the common area roof and an owner has one installed there anyway. The HOA should have a schedule of fines which includes satellite dish placement. An initial fine of, say \$25, plus \$5/day is usually an adequate incentive for most to comply.

What about the HOA simply having the offending dish removed? The FCC regulations are very stringent on this matter so it's advisable, if the owner refuses to remove the dish, to file suit to have it removed by court order. This prevents the owner from claiming that the HOA remove their personal property without authorization. Further, the Board has a judge's decision that it acted in a reasonable way. And, the HOA is entitled to recover its legal fees in the event it is forced to file a lawsuit.

Even though the FCC procedure complicates the issue, be assured that the HOA can still have substantial control over dish placement. Since this is an important curb appeal issue that impacts market value, the board should establish a clear placement and fine policy to avoid the many likely challenges in the future. 🗳️

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Eating an Elephant

Procrastinating is long cultivated habit which takes time and desire to change. Some have accepted it as unchangeable while others yearn for change. (Those that have accepted their fate need read no further. It will only add one more task to your Never To Do List.) Why do some procrastinate and others not? Procrastinators view tasks as insurmountable, mountains to climb. Just the thought of the hike makes them pause, and pause, often lapsing into mental gridlock. Some of the reasons include:

🌀 **Complexity.** The mind boggling aspect of some tasks can keep some from starting because of uncertainty of *where* to start.

🌀 **Prioritization.** All things have importance but some are more important than others. Being able to choose requires the ability to forecast outcomes. This requires the ability to *shape* outcomes.

🌀 **Cornucopia of Options.** Life continually spews out opportunities. Picking and choosing is difficult.

🌀 **Nasty Business.** Some tasks are necessary but no fun. Avoidance is a natural response.

🌀 **Indecision.** Trying to forecast every outcome, over analysis leads to paralysis.

🌀 **Loner Mentality.** "I'll do it myself" is fine for small jobs but stalls the big ones. Few have the expertise to carry big projects start to finish.

🌀 **Fear of Failure and Success.** Ever climb the Ladder of Success only to find it was leaning against the wrong wall? Some are afraid of climbing ladders at all.

🌀 **Uninspiring.** Not every job is captivating. Do I *have* to?

🌀 **Perfectionism.** Perfectionists obsess over minutiae. A job is never quite finished.

🌀 **Distractions.** The cacophony of life makes it difficult to focus.

So there are many reasons for procrastination but it ultimately leads to stalemate and paralysis. Life has a way of leaving procrastinators in the dust. Life dictates "lead, follow or get out of the way". So, consider: "How do you eat an elephant? Answer: One bite at a time."

Those that get things done tend to approach big tasks in small bites. So, pick a task long delayed, any one that piques your interest, for starters. Initially, it's more important to get engaged in the process than worry about the quality of the task. Map out a timetable: Day One, Day Two or Week One, Week Two etc. Setting deadlines for each part of the task will help focus on the parts. Now...begin, and procrastinate no more. You can do it! 🗳️

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A Bitter Pill

In every community, there are people that suffer from bitterness. Bitterness is the belief that a wrong has been done and that hatred of the wrong doer will punish that person. But bitterness is like drinking poison and waiting for someone else to die. Day after day, the offended dwells on the hurt and relives the pain over and over again.

In the movie **Ground Hog Day**, Bill Murray was forced to relive the same day over thirty times, in spite of his many attempts to change the outcome, including suicide. But bitter people replay the hurt and don't want the outcome to change. They feel justified in their outrage. Someone is to blame and must be hated for it. It's an attempt to control something that is beyond

control...the past. Since it's rooted in the past, the present or future can do nothing to change it. So, bitterness is enslaved to futility.

Our creator has every reason to be bitter. He gave us life, a veritable paradise in which to live and provided for all our needs. But we turn our backs on him, insult and mock him. We make believe we created ourselves or happened by chance. We revel in our own foolish thinking.

Yet, rather than be bitter, God has chosen to forget and forgive. Forgetting doesn't erase the harm done. The harm is done. But his choosing not to remember the damage done erases the bitterness and allows forgiveness to take its place. But he took forgiveness one step further. He died to show his love for us. It was a bitter pill, not born of bitterness but of willingness to take us back.

If the Creator of the Universe can be free of bitterness, we should strive to do no less. Bitterness only crowds out the great things he has in store for each of us. Lay bitterness aside and be amazed at what takes its place. ♣

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Just Desserts

A little guy is sitting at the bar staring at his drink when a big burly biker dude steps up next to him, grabs his drink and gulps it down in one swig. The little guy starts crying.

"Come on man, I was just giving you a hard time," says the biker. "I'll buy you another drink. I can't stand to see a grown man cry."

"This is the worst day of my life," sobs the little guy. "I can't do anything right. I overslept and was late to an important meeting, so my boss fired me. When I went out to the parking lot, I found my car was stolen and I have no insurance. I grabbed a cab home but, after the cab left, I discovered I had forgotten my wallet in it. Then my wife told me she was leaving me. So I came here to put an end to it all, and you show up and drink the poison." ♣

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Heart Mechanic

A mechanic was removing a cylinder head from the motor of a motorcycle when he spotted a well known heart surgeon in his shop waiting for the service manager.

The mechanic shouts across the garage, "Hey Doc, can I ask you a question?"

The surgeon, a bit surprised, walks over to the mechanic and says, "How can I help you?"

The mechanic wipes his hands on a rag and asks, "Doc, look at this engine. I open it up, take valves out, fix 'em, put 'em back in and when I finish, it works just like new. So how come I get such a small salary and you get the really

big bucks, when you and I are doing basically the same work?"

The surgeon paused, smiled and responded, "Try doing it with the engine running!" ♣

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Rules of Life

1. Never give yourself a haircut after three alcoholic beverages.
2. Always have WD-40 and duct tape on hand. If it doesn't move and it should, use WD-40. If it moves and shouldn't, use the tape.
3. The four most essential words for a healthy relationship are "I apologize" and "You're right."
4. Everyone seems normal until you get to know them.
5. When you make a mistake, make amends immediately. It's easier to eat crow while it's still warm.
6. If someone says that you are too good for them...believe them.
7. Learn to pick your battles. Ask yourself, Will this matter a year from now? A month? A week? A day?
8. If you woke up today, congratulations! You have one more chance to do it right!
9. Being miserable because of a bad relationship just might mean that the other person was right about you.
10. Work is good, but it's not that important. ♣