The Regenesis Report

National Edition Innovative Homeowner Association Management Strategies November 2010

Regenesis means making new beginnings using eternal principles in innovative ways.

Regenesis believes that the goal of every home-owner 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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Plantscaping

For many homeowner associations, landscaping is a major maintenance and expense item. This is especially true of older HOAs that were built when land was cheaper. That broad expanse of grass may be nice to look at, but it rarely gets much use and costs a bundle to maintain. If your HOA's landscaping is looking overgrown and tired, it's time to modernize. Here are some techniques for making it all that it can be:

Downsize Turf Area. HOAs that were built with large turf areas require intensive mowing, fertilizing, edging and watering. Turf is a landscaping black hole. Converting turf to hardscape or planting beds will have a huge impact on water and maintenance bills.

Simplify. When choosing plants and bushes, go for native species that are drought and pest resistant. Place them carefully according to sun, shade, space and pruning needs.

Turfscaping. Avoid planting grass in areas that are shady, too dry or wet, or too steep to be mowed. Use a ground cover and other plants better suited to these areas.

Mulches. Mulches around plants reduce weeds and conserve moisture. Gravel and bark mulches require little care beyond pulling or spraying the weeds that grow through.

Ferti-little. Plants kept at minimum fertilization levels need less pruning, mowing and water.

Tree Beds. Tree beds speed mowing and protect the trees from damage.

Edgify. Use edging between the lawn and gravel walks, drives and tree beds to reduce trimming.

Paths. Where foot traffic is heavy, pave areas with concrete or spread compacted crushed stone or gravel.

Fencing & Hedging. Hide unsightly views or gain privacy with a fences or low-maintenance hedges.

Tree Pruning. Selected pruning allows wind to pass through without causing damage. Prune lower limbs and thin branches to let more light reach the grass.

Quality Plants. A cheap plant is not necessarily an inexpensive one. Treating sickly plants takes time and money. Shop at reputable nurseries and garden centers and don't buy plants without inspecting them first.

Step-by-Step Improvement:

1. Use a Professional Landscape Architect. There is much to consider in plant selection and lay-out. Professionals know the flowers, plants, tree and bushes that work best in your location. If the objective is to lower maintenance and water costs, the landscape architect will design it that way.

2. Clean up & Removal. Remove debris, old flower beds and other unsightly material. Prune trees and overgrowth from shrubs and trees.

3. Install Paths & Walkways. Straight walks make mowing easier. Keep the grass border trimmed straight along the edges. Walkways that are flush with the ground with no edging material are easier to maintain than those with flower borders or other low edging plants.

4. Install Turf First. If you are using seed, the turf needs to get started first. If you are using sod, it can wait.

5. Install Plants. Slow-growing plants and those needed to establish foundation plantings go in first.

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6. Plant Trees. Trees, like lawns, are major landscape features and should be started early in landscape development. Plant trees to form a foreground and background.

Proper fertilizing, pruning, mulching, and caring for plants is very important from the beginning. Plantscaping involves a conscious plan to introduce draught tolerant native species, reduce turf areas and simplifying the design. Take advantage of reduced work, costs and increased beauty.

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Ask the HOA Expert

Q I have had a picket fence around my front yard for 10 years. Recently the new board decided that it does not fit in the approved theme of dog eared fencing. They have ordered me to remove it or change it to match the neighboring fences. My fence was built only after my architectural request was approved by the board in writing. Does the current board have the right to require us to change it because they don't like it?

A No, the board 10 years ago approved the installation and the current board cannot reverse that decision. But try to maintain the high road on the matter. Offer a compromise: The next time the fence needs to be replaced, agree that it will be done with a conforming design. Offer to sign a recordable document that discloses this requirement to future owners.

Q Please explain the difference between the three types of CPA services known as compilation, review and audit.

A An audit involves examination of financial statements, on a test basis, evidence supporting amounts and disclosures in financial statements. It also includes assessing the accounting principles used as well as evaluating the overall financial statement presentation. In conducting an audit, CPAs are required to obtain reasonable assurance about whether the financial statements are free of material errors or irregularities. An audit offers assurance that the statements present a homeowner association's financial position, results of operations and cash flows in conformity with Generally Accepted Accounting Principles (GAAP).

CPAs also offer two other types of services: review and compilation. In performing a review, the CPA applies analytical procedures to financial statements and makes certain inquiries of the bookkeeper. Review procedures are substantially less comprehensive than those performed in an audit. They allow CPAs to express *limited* assurance on conformity of the financial statements with generally accepted accounting principles.

In compilations, CPAs put financial information supplied by the clients into the form of financial statements, but do not express any assurance on the statements.

Q Do you have any information or data on what formats "progressive" HOAs are using at their board meetings? For example, do they permit some discussion from the audience rather than require any discussion to be among board members only?

In our HOA, only board members can engage in discussion at these meetings. The rest of us are limited to one timed statement each at the beginning of the meeting. This means we can not respond to anything board members may say in response to our comments even if their remarks indicate they have misunderstood our comments.

And this also means we can not comment on anything that a board member or another commentator may say during that meeting.

A The format you describe is the recommended way of holding board meetings. If non-directors are allowed to interject, the meetings would invariably be overly long or degrade into shouting matches. You do have the right to speak or ask questions during the board meeting if the Chair allows it.

Directors are elected to serve without interruption to accomplish business in an orderly way. If you disagree with how the board handles business, you should run for the board, get elected and start making a change. You also have the right to speak your mind at the annual homeowner meeting or call a special meeting if supported by an appropriate percentage of owners (as defined in the governing documents) requests one.

Q How frequently should dryer vents in common wall HOAs be cleaned and repaired?

A Dryer vents are the source of fires and water damage (leaks in the ceiling) so should be checked and cleaned at least once a year or when alerted by residents. Surveying the exterior vent openings determines the scope of work since it's easy to see evidence of lint buildup. Removing selected vent covers and using a shop vac with extended hose attachment to remove the lint usually does the trick although a snake with pipe brush attachment may be needed to remove heavy buildup. Be careful to use appropriate equipment based on whether you are cleaning solid metal or plastic pipe versus the more flimsy flexible plastic pipe. The wrong kind of snake will easily damage the flexible pipe.

Clean only those vent pipes that have an obvious need except in the cases

where there is documented interior water damage. In those cases, cleaning is necessary to remove water from the vent pipe. It may also be necessary to open the ceiling to correct the vent pipe orientation since water leaks from laundry vents are usually caused by a flexible pipe that has bellied out.

Vents with broken exterior flappers should be replaced to prevent bird nesting. This should be done as necessary when alerted by residents, management or maintenance.

Q We have had repeated noise problems from a neighboring resident. We have endured everything from the radio blaring first thing in the morning, to parties with his drinking buddies late at night, to being awakened in the middle of the night by his vacuuming and furniture assembly. Honestly, who needs to be hammering at 1:40 am? We have tried every nice way we can think of including notes and phone calls. What can we do?

A Disturbing the peace is against the law. You've done what any reasonable person could do. Remind your neighbor in writing one more time how many times you have requested his cooperation and inform him that the next time it happens, you will call the police. And DO it. If he insists on being inconsiderate, he should reap the consequences.

Q I asked permission from the board for a yard sale. The board responded that yard sales were not permitted due to "liability issues".Life is fraught with risk but yard sales don't generally come to mind as high risk activities. It sounds like the board has been terrorized by an attorney or insurance agent.

Usually, the issue in HOA garage/yard sales is the additional traffic and parking they generate. Some HOAs have almost no extra parking or narrow streets so sales create a real problem. In those situations, sales are not appropriate. If this isn't the case,the board is overreacting.

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HOA Rules Rule

According to the Community Associations Institute, some 50 million Americans live in homeowner association communities. HOAs are quasi-government entities that are responsible for maintaining services and shared amenities plus collecting the mandatory fees to pay for them. They also have the power to enforce architectural standards and rules, much as a government would. These rules are created to help preserve and protect the members' property values. But they can also create conflicts when buyers purchase homes without being aware of the rules.

Part of the challenge is that HOA rules can differ significantly from one HOA to another. They can also be more restrictive than rules imposed by local governments. In addition, because the policies can be changed at any time by an appropriate vote of the board or members, it's often difficult to be certain that the rules a buyer receives at closing are the definitive ones.

Here are some strategies for getting to the bottom of the HOA's rules:

1. Are all rules in writing? While HOAs generally have a set of written rules, some also have unwritten rules that offenders don't discover until they break them. Although the courts usually won't enforce unwritten rules, taking a dispute to that level is costly and aggravating. Buyers should ask if there are any unwritten rules. If the answer is "no", get it in writing.

2. Are the rules specific? A vague rule that's open to interpretation is an invitation to disputes. One particular area of rules where this is common is architectural design control. For example, the HOA rules may state that "the board must approve owner remodeling and landscaping projects" but not have any specific criteria for what is acceptable. As worded, this board could reject virtually any request for approval for any reason. If architectural design control is important, the HOA should have a specific policy so those that want to make changes have clear guidance.Another area where vagueness abounds is in **parking** rules that state something like "no commercial or recreational vehicles may be parked within the homeowner association". These kinds of vehicles come in many sizes and types so the parking rules should be very specific about which constitutes "commercial or recreational vehicles". This often means large commercial trucks and vans, RVs and boats but it could mean much more. Get the board to approve in writing whatever commercial or recreational vehicles your client has before closing to avoid this potential problem.

Pets are another volatile area of HOA rules. Some HOAs restrict the number, weight, size, type and breed. More HOAs are prohibiting aggressive dogs like Pitbulls, Rottweilers and Dobermans. It pays to ask.

3. Are all rules consistently enforced? If a rule is important, it should apply to everyone, including the board members and their friends. A buyer can inquire with several neighbors about how aggressively rules are enforced and if particular rules are

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stressed more than others.

4. Do some rules seem unnecessary or arbitrary? If there is a city ordinance to control wandering pets, for example, the HOA doesn't need the same rule. If an HOA has enacted many rules, this could indicate a legalistic and confrontational board which should be avoided unless the buyer is of the same mind.

5. Are penalties for infractions reasonable? If a rule is necessary, it needs to have a reasonable penalty for breaking it. Some boards think the way to control folks is to invoke huge fines for violations. When challenged, courts routinely throw out such fines as "unreasonable". A review of the rules will reveal whether penalties are unreasonable. The only thing worse than an unreasonable penalty is no penalty at all. If a rule has no penalty for violating it, it is no more than a suggestion.

6. What is the appeals process for rule violations? An important part of HOA rules is the ability to appeal. If none is provided, you're left with possibly having to hire a lawyer to defend your interests. Look for language in the rules that allows an appeal to the board.

At the end of the day, HOA rules can have a big impact on an buyer's future enjoyment of the property. A buyer should always make their offer to purchase subject to review of key documents and the HOA rules.

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Understanding Board & Manager Authority

To achieve effective communications between homeowners and their homeowner association, it is important to understand the authority that belongs to the property management company, the board members individually and the board as a whole.

For example, the management company may be able to solve a problem quickly while at other times, management may not have the authority without board approval. When that occurs, frustration and conflict may ensue. Can this situation be avoided?

The Management Company and the Board. The management company serves as the agent of the HOA's board of directors. In other words, the management company has limited authority. When that authority is exceeded, the board must provide the additional authority. Similarly, an individual board member (including the President) does not have the authority to override board policy or governing document authority.

Homeowners' Concerns. It is not uncommon for an owner to ask the property manager to take certain action to assist that homeowner. However, that manager may not have been granted authority to make decisions on behalf of the board. It's helpful to understand why some owners might prefer for the management company to assume the authority and bypass the board's decision making process:

Mistrust: If a board communicates poorly or has issued unpopular edicts, homeowners will be leery and suspicious of a board's ability to make the correct decision on their behalf.

Past Failures: If there is a history of problematic board decisions, such as failure to allocate reserve money for maintenance, then resistance and distrust are assured.

Buyer's Remorse: Some owners buy into a covenant-restricted HOAs without realizing the requirement to abide by the governing documents and rules.

Speed of Decisions: People expect timely results and don't want to wait.

How the board can facilitate communication:

- Adopt policies to handle routine items that the management company can follow without having to go to the board every time a routine approval is needed.
- Hold consistent board meetings. If the meeting schedule is known in advance and when the board makes decisions, the wait becomes more palatable.
- Have a reply sent immediately to the owner after the decision is reached and state the reason for the decision if their request is denied.
- Give members an opportunity to address the board when requested.
- Provide a newsletter and website that keeps members informed of board policies and procedures.

From an owner's standpoint, it is a good idea to get involved in the governance of the HOA. Attending board meetings, serving on committees and running for the board are excellent ways to learn how an HOA works.

Some homeowners view the conformity required in homeowners association as a sacrifice of rights. However, most people enjoy the stability, structure and self-governance that are part of every

homeowner association. They appreciate the rules that protect and maintain the quality and value of their investment. The key to success is a board of directors that works to promote harmony among the owners and does what it can to make swift and fair decisions.

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How to Achieve a Meeting 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 so 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 or available to attend. It's like pulling teeth to get them to respond at all. Yet, annual meetings are required at every HOA so those in charge of organizing them must do their best to compile the necessary quorum.

Here are the basic things that can be done by making a to do list and becoming pro-active:

1. If the governing documents require the notice to be mailed out at least 21 days but no more than 30 days prior to the date of the meeting, send out Notice of Meeting 30 days in advance.

2. From this point on, always ask every homeowner that calls the office "Have you turned in your proxy yet?" If they have not, offer to fax or email them a new one so they can send it right back. If they are on a cell phone offer to email a copy of the proxy form to their home or office, whichever is more convenient.

3. Fifteen days prior - send an email to all owners with a copy of the notice and proxy form attached, encouraging owners to print the proxy, sign and fax back ASAP. Make them as comfortable replying as possible. To alleviate any fears that they are "giving away their vote", provide an option to check that states that the proxy is to be used for quorum purposes only.

4. During the last two weeks prior to the meeting, don't pass up a face-to-face opportunity to collect a proxy. If your property has a facility that owners frequent throughout the day, you should too.

5. Six working days prior - Begin making phone calls to all homeowners that have not yet returned a proxy. This is where the rubber meets the road! If you can catch them at the office, you can suggest sending them a proxy form via email and having them fax it right back. This is good for two reasons: First, about one-in-five that say that they will actually do. Secondly, it gives you license to call back those that do

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not fax back within 24 hours. Continue to make phone calls as needed for the next few days.

6. Five working days prior - put out additional signage in prominent location reminding owners to turn in proxies. A sandwich board located at curbside in front of the clubhouse works well.

7. As a last resort, enlist the help of several members that are not running for election who can go door-to-door. Even better, create an elections committee charged with the responsibility of doing everything on this list!

Now for the fun stuff:

- Door prizes in the form of fast food restaurant or coffee shop gift cards work well. A $10 value will do. Some of these sources may even donate some cards to promote their business.

- Logo-wear with the community logo for coffee mugs, tee shirts, grocery bags and baseball caps work well. This can provide for the awarding of prizes to 10-15 of those in attendance for only $100-150.

Provide food and non-alcoholic drinks. It's easier to achieve a quorum when there will be tasty morsels waiting.

Invite an interesting or controversial person to speak at the meeting. Possibilities range from local, state or federal government officials and elected representatives to attorneys, general contractors and engineers who can focus on a maintenance or construction issues.

Make the event a celebration of the HOA's "birthday", with the annual meeting a brief but necessary digression.

La crème de la crème: Winners need not be present to win. The prizes can be used as an incentive to return their proxy toward making quorum. In this case, you can offer an entry for the drawing to the first "so many" owners to return a valid proxy. The number of owners would be based on whatever represents quorum. For example if 25% of 400 units was needed - the first one hundred to return a valid proxy would be eligible for the drawings. If you use this option, make sure that you present it as a marketing campaign. Include the details about the prizes) in the meeting notice, newsletter, emails and signage.

Achieving quorum can be fun – try it!

By Neil E. Thomas CMCA, PCAM

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6 Roof Coatings

In maintaining roofs, cold-applied coatings are fundamental. It is important to have a sound understanding of coating appropriateness, available coating materials and installation procedures.

Coating Appropriateness.

- The most basic reason is to extend or maximize roof service life by reflecting harmful ultraviolet (UV) radiation away from the roof membrane.
- Coatings can be used effectively in conjunction with roof repairs to restore a moderately aged roof to a maintainable watertight condition.
- If a roof had been coated during installation, recoating normally is performed when the existing coating deteriorates and no longer protects the underlying membrane.
- Reflective or light-colored coatings can minimize solar gain and, as a result, reduce a building's cooling loads.
- Specify coatings to upgrade a building's appearance where a particular roof is visible from adjacent buildings.
- Certain UL-classified coatings can increase a roof's fire resistance. This type of application typically is specified in conjunction with roof system construction.

At least three situations exist in which coating is not usually considered a good investment.

- Applying a coating never makes a bad roof good and should not be viewed as a substitute for replacement. Although coatings can restore the waterproofing of a highly deteriorated roof in the short term, its costs can represent 10-15% of the cost of a new 20-year old roof system. Generally, if the design life of the coating is greater than the estimated remaining serviceable life of the coated roof membrane, managers should not consider coatings to be an economical roof management tool.

- Ponded water usually reduces a coating's service life. If standing water remains 48 hours after a rain shower, problems such as material degradation, loss of adhesion and flaking can result.

- Coatings are susceptible to problems in environments with excessive dust, debris, steam, liquid discharge or other contaminants. One key to coatings application is proper preparation of the substrate to be coated. If contaminants can't be completely removed, poor adhesion, flaking or other deficiencies are likely to develop in the first few years of coating's life.

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Types of Roof Coatings.

Bituminous Coatings. Most are emulsions, aluminum, emulsion-aluminum, asphalt cutbacks, resaturants and modified asphalt coatings. Bituminous coatings generally are compatible with asphalt or coal-tar built-up roofs or with modified bitumen membranes. Some manufacturers, however, market these coatings for metal-roof restoration.

Emulsion Coatings consist of asphalt dispersed in a colloidal clay-water blend and are dark gray, brown or black. Emulsions generally function as protective or maintenance coatings for asphalt built-up or modified bitumen roofs, and they generally increase the roof's fire resistance.

Aluminum Coatings are a mixture of oxidized asphalt, solvents and aluminum paste, and they are available with or without reinforcing fibers. Aluminum coatings reflect UV radiation, reducing rooftop temperatures, premature aging and building cooling loads. The quality of these products is measured by the aluminum content. Premium products contain 60% or more aluminum per pound of paste; many commodity products contain 45% or less within the same quantity of paste. The higher the aluminum content, the longer the coating will last.

Emulsion-aluminum Coatings are hybrid products providing with the fire resistance and filling/sealing properties of an emulsion coating. For restoration, they reduce the costs associated with practice of applying an emulsion coating, followed by a reflective surfacing coat.

Asphalt Cutbacks can be made with or without reinforcing fibers. They consist of asphalt and petroleum solvents. Cutbacks are primarily maintenance and restoration products, designed to penetrate, resaturate and restore weathered or aged asphalt built-up roof systems.

Resaturants are made with either an asphalt or coal-tar base and available fibered or nonfibered. They are a combination of bitumen, asphalt or coal-tar and compatible solvents. These coatings also function as maintenance and restoration materials to penetrate, rejuvenate and weatherproof existing built-up roofs.

Modified asphalt coatings are made with asphalt, synthetic rubber polymers and solvents and might contain reinforcing fibers. These products serve many of the same functions as non-modified coatings, but their advantages include increased elasticity, cold-weather flexibility and workability. Increased cost is the primary disadvantage of many modified asphalt coatings.

Elastomeric coatings. As with bituminous coatings, elastomeric coatings encompass a variety of products. They are formulated from latex/acrylic, Hypalon, neoprene, silicone and urethane. Many hybrid products exist and new formulations are introduced frequently. Many elastomeric coatings are compatible with most common roof membranes, but they are more widely used with metal and sprayed-in-place polyurethane foam roofing systems.

Latex/Acrylic Coatings are water-based products and enjoy the largest share of the elastomeric market. These coatings comply with increasingly stringent solvent emission regulations and represent a lower cost alternative to other polymers.

Hypalon Coatings generally are used to restore surfaces of single-ply membranes. They offer good waterproofing properties and excellent resistance to chemicals, ultraviolet radiation and fire.

Neoprene Coatings are composed of synthetic rubber polymers, are black and offer excellent elongation and recovery properties. Neoprene coatings are used as a base coat beneath Hypalon coatings in some multi-coat applications.

Silicone and Urethane coatings are more expensive than other elastomeric coatings, but they offer additional benefits, including enhanced resistance to chemical fallout, ponding water, heat, ultraviolet radiation and roof traffic.

Selection and Specification. Selecting and specifying products requires the expertise of a qualified roofing maintenance contractor. Also, manufacturers' representatives should provide a tour of nearby successful applications. They also should provide recommendations for specific preparation and application procedures, qualified applicators, etc.

Once a coating is selected, quality control to ensure proper surface preparation, application procedures and coverage rates is essential.

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Blessed Are the Peacemakers

Homeowner associations can be hotbeds of discontent, turmoil and conflict at times. Out in the big world, combatants can often successfully just avoid each other rather than deal with the problems. But within the HOA, avoidance is much more difficult and being in conflict with a neighbor can make living there very stressful. Unresolved conflicts in HOAs often prompt one or both to move to avoid further unpleasantry.

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

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

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

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

2. Reconciliation. Making amends is not only the right thing to do, it relieves us of anxiety and hostility. "Therefore, if you are offering your gift at the altar and there remember that your brother has something against you, leave your gift there in front of the altar. First go and be reconciled to your brother; then come and offer your gift. Matthew 5:23-24

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

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

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

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After an extremely hard landing, "Welcome to The Mother City. Please remain in your seats with your seat belts fastened while the captain taxis what's left of our airplane to the gate."

Another flight attendant's comment on a less than perfect landing: "We ask you to please remain seated as Captain Kangaroo bounces us to the terminal."

Part of a flight attendant's arrival announcement: "We'd like to thank you for flying with us today. And, the next time you get the insane urge to go blasting through the skies in a pressurized metal tube, we hope you'll think of Kulula Airways."