

We Understand  
Community  
Associations.

## Lazega & Johanson

LLC is a law firm dedicated to representing community associations. We believe in building and maintaining long-lasting relationships with community associations and their managers by providing personal attention and superior services. We take pride in being a part of the team of experts you rely on to ensure the successful operation of your community.

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## A Green Resolution



### Accommodating Sustainable Living in Community Associations?

It is unlikely that anyone has missed the significant national and world movement to “Go Green.” As owners are catching on and incorporating sustainable living practices into their daily lives, they are approaching community boards of directors and architectural control committees with modification requests not typically seen in the past, such as for rain barrels, solar panels, wells or alternative lawns and gardens significantly different than the traditional grass and flowers.

Communities across the country are realizing that associations must be proactive, not reactive, about sustainability. They are also realizing that living sustainably is living smart and acting responsibly, because the benefits are much more than a sense of feeling good about one’s self. There are big economic incentives. Therefore, many associations are auditing current community practices and standards, considering eco-friendly practices that fit their specific community, incorporating those ideas into a “new” community standard, and saving money as a result.

But what about the community’s governing legal documents, which often do not contemplate, and even sometimes prohibit, solar panels, gardens, rain barrels and similar items? And, what about precedent? How can associations maintain some degree of control over aesthetics while still encouraging greener lifestyles? For many, amending the governing documents is out of the question. Too expensive and too controversial.

The answer?

*Green resolutions!*

Resolutions are tools for governing the operation of the community and the conduct of the association and its members. They are formal statements of the association’s policies. They should reference the source of the board’s authority to act on an issue from the governing documents, state the purpose of the resolution, and include sufficient details to enable those reading the resolution to understand its purpose and meaning.

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Our attorneys and staff have decades of experience and are proven leaders in their fields. Our attorneys are uniquely qualified and have been recognized on both a national and local level for their knowledge and commitment to their respective fields. We value the relationships we have with our clients. We are proud to be a part of the team of experts they rely on, and we work hard to maintain those relationships everyday.

Board resolutions are easier to adopt than declaration or bylaws amendments because they do not require a vote of the membership. Resolutions generally are binding on all members of the community, so long as the resolution does not contradict the language of the declaration, bylaws or articles of incorporation. In some communities, the resolution also must not impose a greater restriction on an owner's use or development of his property, but green resolutions typically do the opposite of that, providing greater flexibility to associations and owners.

### There are three common types of resolutions.

1. **Administrative Resolutions:** These address the internal operations of the community association.
2. **Policy Resolutions:** These affect owner rights and obligations.
3. **Special Resolutions:** These state the board's decision about an individual situation.

*All three types of resolutions should be considered in an effort to go green.*

### LEAD BY EXAMPLE - ADMINISTRATIVE RESOLUTIONS.

By adopting Administrative Resolutions governing its own conduct, the board can pave the way to a greener community. Examples of Administrative Resolutions a board might consider are:

- Resolve to replace energy wasting devices with energy saving and/or environmentally friendly options when

older items wear out. This could include replacing old appliances with Energy Star appliances in the clubhouse, regular light bulbs with CFL light bulbs on common areas, and cement or asphalt roads and parking surfaces with pervious surfaces to reduce storm water volume at common areas.

- **Resolve to Save Water.** Making a commitment to reduce water will put pressure on the community to explore options . . . and save money! This is a resolution that is easy to commit to, because there are so many ways to save water, including irrigating less, installing drought-tolerant native plants instead of large amounts of annuals, or installing irrigation wells, which have a larger upfront cost, but may pay for themselves in only a few years.
- **Resolve to Invest in Additional Green Amenities.** Boards may wish to consider a community food garden, or consider a community compost bin to reduce landfill waste. Community food gardens are becoming increasingly popular, particularly where boards are concerned about vegetable gardens extending to sunny front yards. Green amenities are a great way to foster community involvement in a sustainable way and distinguish the community.

### ACCOMMODATE ECO-FRIENDLY LIFESTYLES – POLICY RESOLUTIONS.

Tolerating green doesn't mean abandoning the community standards. To the contrary, resolutions clearly defining acceptable green





living practices can provide the authority necessary to gently shift the standards of the community towards accommodating greener lifestyles.

- **Resolve to be Green by Design.**

Updating community design standards is the most comprehensive way to update the standards of the community to allow for eco-friendly and energy-saving practices on individual lots. All aspects of green living can be considered and included.

- **Resolve to Permit Energy Saving Technology.**

As the cost of solar panels comes down, and the technology advances, interest in solar energy in communities increases. Solar panels now can be incorporated into the design of a home in minimally obtrusive ways that do not detract from the aesthetics of the home. This is a serious resolution for boards to consider, as some states, including Arizona, California, Colorado and Florida, have already adopted statutes that would prohibit community associations from banning solar panels and other energy-saving devices. If community legal documents prohibit such devices and such a statute is adopted, the community restriction may be rendered meaningless. Communities that adopt a resolution establishing solar panel standards may prevent situations where an owner installs solar panels as permitted by state statute, and the association has no say in the matter.

- **Resolve to Tolerate a Natural Look.**

No more fining for yards that may have a few weeds here or there if you know that the owners have cancelled their chemical treatments in favor of organic weed control measures. Accommodate owners

who want less grass and more indigenous, natural landscaping. Allow xeriscaping, or landscaping that reduces or eliminates the need for supplemental watering. Resolve to accept a more natural look, which is better for the environment and, for many, more aesthetically pleasing than the cookie cutter lawns of the past.



### **FOCUS ON A COMMON GOAL - SPECIAL RESOLUTIONS.**

Special Resolutions are resolutions to address one specific situation within a community. These resolutions can be used to require owners to take eco-friendly actions that can add up to huge savings for the community as a whole. Many community association legal documents allow the board of directors to require owners to make improvements to units, up to some annual cost cap, if the improvements will reduce common expenses.

If community legal documents prohibit such devices and such a statute is adopted, the community restriction may be rendered meaningless.

### **INNOVATORS.**

The firm prides itself on taking chances and being the first to try something new that changes industry practices and opportunities. Our goal is to meet the goals of our clients and do whatever it takes to make sure that those goals are not compromised or neglected due to financial or other restraints. We consistently make efforts to think outside the box to find ways to assist our clients in meeting their goals.



## Contact Us:

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Here are some common examples:

- **Resolve to change the world, one flush at a time.** Many households use more water flushing toilets than any other use. Requiring owners to take the small step of changing out their old toilets for low flush toilets can reduce water consumption by thousands of gallons a year. If water usage declines, so do costs! This is extremely valuable for communities that provide water as a common expense. Educating members about government rebate programs in your area can help rally for the cause. Other similar resolutions to consider are requiring owners to install low flow faucets or showerheads, or requiring periodic plumbing inspections for leaks in units.
- **Resolve to change your environment, literally.** Programmable thermostats save energy and money on utility bills by allowing owners to set temperatures to best accommodate the times the owners are in the units. For associations that provide electricity as a common expense, communities can quickly see the return on a programmable thermostat investment. When used properly, this device can significantly reduce energy usage. Programmable thermostats are also a plus for the environment because they are mercury free.



*Clearly, the world is changing, and the prevailing opinion is shifting towards greener living. As communities begin to incorporate sustainable practices, community standards will change, and owners will become more tolerant of things like energy saving devices, xeriscaping, and other eco-friendly practices. For communities whose documents prohibit some forms of energy saving devices or other sustainable practices, this gradual increase in tolerance will make it easier to amend away those restrictions in the future and replace them with updated provisions which will foster sustainability, ensure aesthetic harmony and increase property values. In the meantime, resolutions can provide the necessary guidelines for moving in that direction. If you would like to discuss specific resolutions that would benefit your community, please feel free to give us a call.*

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