

**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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Reconciling Beauty

*with sustainable living in
Community Associations.*

Georgia House Bill 961 was named the Homeowners' Solar Bill of Rights.

If passed, the bill, at its core, would have prohibited community associations from creating or enforcing covenants, architectural guidelines or rules that infringe on no owner's right to install a solar energy device on his or her property.

The Homeowners' Solar Bill of Rights lost steam, and the Georgia House of Representatives failed to pass it in the 2012 legislative session. Keep your eyes and ears open, though, because it is likely that the bill will resurface in the next legislative session.

Issues like solar panels, rain barrels, community or individual gardens, wells and electric cars in community associations will continue to be at the forefront of industry discussions. In most states across the county, however, laws are not necessary to promote sustainable living initiatives in community associations.

Instead, boards of directors and architectural committees are realizing that associations must be proactive, not reactive, about sustainability. They are also realizing that there are big economic incentives to sustainable living. 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.

The question arising in these associations is not whether to acknowledge and accept these sustainable living improvements, but how to regulate them to maintain an appropriate degree of control over aesthetics, while still encouraging greener lifestyles. Almost a year ago, we wrote an article about resolutions encouraging sustainability that can be passed by boards of directors so owners without amending recorded covenants. Below is a short review about board resolutions and a more enhanced discussion about limited common element issues arising in condominium communities with respect to sustainable living standards.

BOARD 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.

Board resolutions are easier to adopt than declaration or bylaws amendments because they typically do not require a vote of the

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We are committed to your success.

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.



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. Examples of "green 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! Try 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 a great way to foster neighborhood involvement and distinguish the association.
- **Resolve to Accommodate Eco-Friendly Lifestyles.** Update the community design standards to allow for eco-friendly and energy-

Requiring owners to take the small step of installing low flush toilets can reduce water consumption by thousands of gallons a year

...lowering the water bills especially for communities that provide water as a common expense.

saving practices on individual lots. For instance, passing a resolution to revise the design standards gives the Board a voice and allows the community to self-regulate and create guidelines regarding the installation of solar panels and other similar green building improvements.

- **Resolve to change the world, one flush at a time.** Requiring owners to take the small step of installing low flush toilets can reduce water consumption by thousands of gallons a year – lowering the water bills especially for communities that provide water as a common expense. Similar resolutions to consider require owners to install low flow faucets or showerheads, or require periodic plumbing inspections for leaks in units.
- **Resolve to change your environment, literally.** Programmable thermostats are



mercury-free (better for the environment) and help 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.

LIMITED COMMON ELEMENT

ELECTRIC CARS

These days, many boards of directors ask if (and how) they can assign special parking spaces to electric car owners for overnight charging. There are logistical issues and legal issues to evaluate when resolving this question.

Logistics:

- Most electric cars can be plugged into any standard 120 volt/15 amp dedicated household outlet. If there is no dedicated circuit, the rating of the outlet circuit breaker could be exceeded and the electric car charge could cause the circuit to trip or open.
- Charging with a 120 volt outlet currently typically takes approximately 10 hours. However, the Association can have a 240 volt charging station installed instead, and charging will take less than half the time.
- Usually the charging outlet needs to be approximately 15 to 20 feet from the vehicle. Extension cords should not be used to charge an electric vehicle, so the distance is important.
- If an outlet does not exist, the board needs to decide whether to hire an electrician to create the appropriate outlet and use association funds to pay for it, or to charge the cost back only to the owners of electric cars who reside in the condominium. Whether the board uses association funds or charges the cost back to the electric car owners will depend on the provisions of the community declaration.

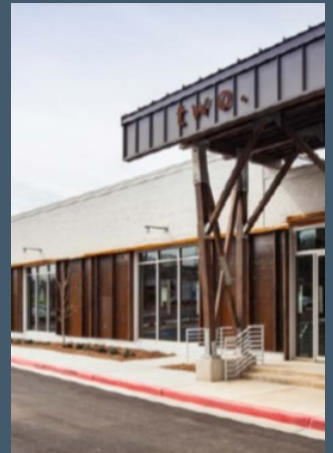
Legalities:

- If the association does not have assigned parking spaces as limited common elements, the association can designate certain spaces (closest to the outlets) for parking of electric cars only.

- If parking spaces are already assigned as limited common elements to condominium units, then the board needs to determine which spaces are closets to the outlets and negotiate with the owners of the units to which those spaces are assigned. Most of the time the board cannot force an owner to give up or swap a parking space that has already been assigned to his/her unit. However, the board can provide incentives to the owner to voluntarily agree to the change parking assignments. It is unlikely that the board can charge any such financial incentive back to the owners of the electric cars. Any giving up or swapping of parking spaces should be properly documented in an amendment to the declaration signed by the owners of the affected units and the board of directors.

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 energy saving devices. 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, board resolutions can provide the necessary guidelines for moving in that direction and condominium board members can research, evaluate and implement their opportunities to create a more eco-friendly environment. Please call us if we can assist you in any way.

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