

## Earth Day: Communities “Go Green” *March 2011 Newsletter*

Earth Day is April 22 and serves as a good touchstone for Board’s to reflect on the growing trend and reality that “going green” is not a concept, it’s reality. The unquestioned trend in legislation pertaining to common interest developments (CIDs) is to promote, and at times obligate, communities to “go green.”

The common phrase, “the best defense is a good offense” rings true with Boards and their approaches to the upcoming “going green” legislative trends. The most important thing for Boards and managers to keep in mind is that an owner’s or the community’s desire to “go green” (i.e. embrace energy conservation measures) does not necessarily have to conflict with the community’s current aesthetic qualities. As such, Boards and managers should consider the following strategies to establish long-term community success with respect to energy conservation issues:

1. Adopt rules and regulations – Many existing statutes, such as the Solar Rights Act (*Civil Code* §§714.1 to 714.5), permit a Board to adopt “reasonable” rules that regulate (but do not prohibit) installation of solar energy systems or low-water usage plants (*Civil Code* §1353.8). On this basis, Boards are encouraged to adopt policies so their community is prepared to quickly and efficiently review requests and best ensure they uphold the aesthetic qualities of the community while permitting an owner to exercise their legal rights. Specifically, Boards should work with a landscape expert to develop a list of approved low water-usage plants otherwise consistent with the community’s aesthetic. Forward planning will best ensure the board is able to quickly and effectively review applications that contain requests for installation of energy efficient improvements and provide owners with the necessary guidance to go-green.
2. Amend the CC&Rs – The wording of many existing CC&Rs arguably permit installations of energy efficient improvements that boards may wish to prohibit or restrict (e.g. installation of artificial turf). Amending CC&Rs to address such technological advances can assist boards in addressing these issues head-on.
3. Common Area Maintenance – Boards should review their association’s landscape, electricity, water and utility costs and meet with energy conservation consultants in order to determine what measures, if any, can be implemented to lower costs and increase environmental efficiency. Many communities are benefiting from installation of solar systems, energy efficient appliances, and other “green” alternatives. Unless the review is performed and discussion is had, communities will continue with business as usual when there are other – sometimes less expensive – options available. Through budgeting and adequate reserves, communities can take advantage of energy conservation as a means by which to embrace the growing trend of “going green.”

Given the growing legislative trends in support of energy conservation laws, those communities that start addressing – and implementing – policies now will be best poised to handle these issues in the future and ensure their community does not turn brown for the sake of going green. The strategies in this article will hopefully provide a place to start this important discussion, but judging by recent legislative history, it is by no means the end.