

# HOA Regulation of Solar Panels – Common Limitations and Provisions

## In the Dirt: A Real Estate Legal Update

By Lisa Johnson on January 9, 2023

Homeowner associations (HOAs) across the country should be aware of the bounds of their authority for regulating installation of solar panel systems on members' homes. Mastering this delicate balance will help HOAs maintain both aesthetics and property value while, to some degree, honoring the individualized wishes of their residents.

**HOAs should consider at least two categories of limitations which protect homeowner rights to use solar power: 1. Solar Access Laws and 2. Solar Easements.**

### Solar Access Laws

Solar access laws are generally found in state statutes and ensure that HOAs cannot strictly prohibit solar panel systems in their subdivision. On the other hand, they often permit HOAs to impose "reasonable restrictions" on the system. Permitted HOA limitations might include:

- Aesthetic provisions such as those ensuring that all wires are out of sight or setting preferences in the design and placement of the solar panels
- Process provisions requiring homeowners to provide proposals, submit plans from qualified contractors, or obtain approval before installation of the system.

These laws generally require that the HOA restrictions do not limit the effectiveness of the systems. Some state laws require HOAs to adopt an "energy policy statement" outlining their policy and rights of member homeowners to install solar panel systems in written or recorded form.

### Solar Easements

Solar easements are not laws regulated by a governmental body; instead, they are contractual and are voluntary agreements entered into between property owners and the HOA for the purpose of privately regulating solar panels. Solar easements allow the residents and the HOA to reach an agreement regarding control on a more individualized basis. Homeowners will often negotiate to

ensure their solar panels retain unobstructed access to sunlight and are otherwise able to be effective. Even when negotiating a solar easement, it is important to remember that state, federal, and local laws will still apply.

**HOAs seeking to regulate solar panel systems may consider some commonly-used provisions and covenants.** Many of these provisions will become part of the recorded documents of the subdivision and run with the land, transferring from property owner to property owner upon sale. HOA provisions will also be subject to any applicable solar access laws. Some common provisions to consider include:

- Requiring homeowners to obtain approval from or notify their HOA prior to installation.
- Restricting solar panels from being visible from the front of the property or common areas.
- Requiring that roof-mounted systems be contained within specified, physical bounds of the roof or prohibiting panels on secondary buildings such as garages or sheds.
- Providing setback requirements, preventing installation of solar panels from being within a certain distance from the right of way.
- Restricting height, construction materials, or colors.
- Requiring compliance with certain requirements related to architectural or landscaping style.
- Ensuring that solar panel systems remain in working order.

HOAs should obtain legal advice if they are in doubt about what laws apply to them or what provisions they may legally adopt to regulate solar panels.

*\*This blog was written with assistance from law clerk Adrianna Northrop.*

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