

Homeowner's Association Treatment and Enforcement of Solar Panels

In the Dirt: A Real Estate Legal Update

By Elizabeth Lum on February 21, 2023

Solar panels may be a source of controversy in residential neighborhoods. On one side of the debate are homeowners wishing to invest in renewable energy and take advantage of any available federal tax credits. On the other side are homeowners who purchased their homes in reliance upon the protection that a homeowner's association ("HOA") would offer by maintaining preferred aesthetics, abating nuisances, and preserving property value. As a result, HOAs need to know whether they are permitted to regulate the use of solar panels by their residents.

Most states limit the ways in which HOAs can regulate solar panels. For example, it is common for states to prevent HOAs from implementing regulations which prohibit the installation of solar panels or reduce the effectivity of solar panels. Some states may limit an HOA's ability to restrict the placement of home solar systems, which may hinder an HOA's ability to enforce aesthetic regulations or regulate whether solar panels may be visible from the front of the home or common areas. Regardless, state laws generally allow HOAs to impose reasonable restrictions.

Laws regarding HOA solar regulation differ by state. Illinois law, for example, prohibits HOAs from banning solar panels on specific parts of the home or enforcing restrictions that would reduce installations' output by more than 10%. In contrast, a new Missouri law allows HOAs the discretion to adopt reasonable rules and regulations regarding the placement of solar panels as long as those rules do not adversely affect the functioning, use, cost, or efficiency of the solar collection system. Neither of these laws apply to condominiums or other communities with a shared roof.

Despite state law, HOAs may adopt and enforce reasonable rules and regulations restricting solar panel installation. HOAs may regulate the installation and use of solar panels like any other improvement or addition to property, provided that such regulations are not in conflict with state laws. HOAs should be willing to grant exceptions to homeowners when the rules and regulations would be unduly burdensome for the homeowner or would greatly reduce the efficacy of the solar collection system. HOA's should consult an attorney prior to adopting any restrictive covenants or rules regulating

installation and operation of solar panels.

Homeowners interested in installing solar panels should confirm whether their home is subject to any relevant restrictive covenants, rules, or regulations adopted by their HOA.

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

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