

# Long-Term Impact of Solar Panels on Property

## In the Dirt: A Real Estate Legal Update

By Elizabeth Lum on January 19, 2023

Solar panels are increasing in popularity for both residential and commercial properties. Some property owners may consider installing solar panels to meet their own energy needs; others may consider installing them to generate income or to provide energy for public use. Given the high-value status of property assets, the long-term impact of solar panels is an important consideration.

For property owners considering solar installation, the following topics may be helpful to review:

### How can solar easements and other restrictions impact property use?

- Homeowners may wish to secure their rights to receive direct sunlight to their solar system and may request a solar easement from their neighbors. Property owners should carefully consider granting such an easement. Once a solar easement is executed and recorded, it is an encumbrance to the property. If the home is sold, the new purchasers are also bound by the easement.
- In some states, involuntary easements may be granted by public agencies. Property owners should check their local statutes or consult an attorney to determine whether an involuntary easement could impact them.
- Some states may allow parties restricted by solar easements to petition for termination if the property in question is no longer used for solar energy.
- Solar developers may restrict a landowner's surface rights through a solar lease agreement. For example, the owner may be barred from using their leased land for agriculture while the solar panels are in place, and use of the surrounding property may be restricted.

### Can solar panels impact another party's oil and gas rights?

- Before engaging in any agreement related to solar panels, property owners should consider the status of the property's surface and mineral rights. The party who owns the surface rights may have the power to install solar panels. If the estate's mineral rights have been severed from the surface rights, access to, or use of the mineral rights may be impaired.
- The mineral rights are typically dominant, meaning that the owner of the mineral rights may use the surface of the land as much as necessary to extract

“minerals” such as oil and gas, which may interfere with the operation of the solar panels.

- Solar panel installation may impermissibly interfere with another party's mineral rights, so owners and developers alike should be aware of the status of these property rights and negotiate with both rights-holding parties if necessary.

#### What long-term environmental impacts should be considered?

- Some sources show evidence that solar panels likely do not negatively impact soil quality. According to the Department of Energy, land can be reverted back to agricultural use after solar panel removal. Ground installation of solar panels may interfere with drainage or lead to increased erosion. Fortunately, developers have found methods to moderate these effects.
- Owners leasing agricultural property to a solar developer should require the developer to return the property to its original condition at the termination of the lease, and should consider requiring the developer to may obtain a decommission bond to cover the cost of removal and clean-up.
- Some solar panels may be considered hazardous waste which are subject to stringent regulations for disposal and transport per the Environmental Protection Agency.

#### Would the installation of solar panels impact lenders' rights?

- If the property is subject to a mortgage or deed of trust, property owners are advised to confirm with their lenders that proposed solar collection system will not violate the terms of their loan agreement.

Those interested in using solar energy should obtain legal advice to address any concerns related to solar panels and their long-term impacts.

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

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