

The *new* Homeowners' Solar Rights Act

Special Alert: August 18, 2010

On June 24, the General Assembly sent House Bill 5429, the Homeowners' Solar Rights Act (the "Act"), to the Governor for signature. That Act was signed into law on August 17, 2010. The General Assembly's intent in passing the Act is clearly written into the Act; the Act seeks to prevent condominium and common interest community associations from prohibiting the installation of solar energy systems. However, the Act does not apply to any building that is over thirty feet in height.

Cannot Do

- Prohibit directly or indirectly the installation of a solar energy system.
- Cannot use the Board's powers regarding the approval of any alterations to the property to deny permission to install a solar energy system.

Must Do

- Adopt an energy policy statement within 120 days of receiving a request for one or an application to install a solar energy system.
- Process an application, if one is required, within 90 days. However, if no energy policy statement has been adopted, the 90 days will not begin to run until the policy is adopted.
- Disclose the energy policy statement when requested.
- Record the energy policy statement with the association's declaration.

Policy Statement

- The energy policy statement must include the location, design and architectural guidelines for solar energy systems.
- The Board cannot require that the solar energy system installed on the roof to face further than 45° east or west of due south and cannot impair the effective operation of the solar energy system.

Oversight

- The solar energy systems are required to meet all applicable standards and requirements imposed by state law and local governments.

Violations

- For any willful violation, the homeowner is entitled to actual and consequential damages.
- Association is not supposed to be liable to any other homeowners or third parties for complying with the Act.
- Prevailing party receives its attorney's fees and costs.

Unanswered Questions

- Who is responsible for changes in the Association's insurance for any loss caused by a solar energy system?
- How does the Association determine priority on the placement of a solar energy system?
- Does the blanket statement that the Association shall not be liable to any third party for complying with the Act mean that the Association cannot be liable for any acts or omissions related to the solar energy system?

For more information about the new Homeowners' Solar Rights Act, please contact:

LARA A. ANDERSON

305 W. Briarcliff Road, Bolingbrook, Illinois 60440

630.759.0800

landerson@tresslerllp.com

www.tresslerllp.com

ADVERTISING MATERIAL ONLY

Tressler LLP has prepared this special bulletin for its many friends, clients and colleagues. It is a purely public resource of general information. Although it is not intended to be a source of either solicitation or legal advice, it must be regarded as an advertising or promotional communication in the terms of the lawyers' professional responsibility law. Accordingly, it is necessary that certain information be supplied to and noted by the reader. Particularly, this bulletin should not be considered as an offer to represent in any legal matter, nor should it be the basis for legal hiring decisions. Thus, the reader should not consider this information to be an invitation for an attorney-client relationship, should not rely on information provided herein, and should always seek advice of competent counsel.