

California

Solar Rights Act

It is the policy of the State of California to promote and encourage the use of solar energy systems and to remove regulatory obstacles to their use. The California Solar Rights Act (Section 714 of the Civil Code) was enacted in 1978 to ensure that any covenant, restriction, or condition contained in any deed or other contractual restriction, which affects the sale or value of real property, does not limit the installation or use of a solar energy system.



California residential and commercial developers of new construction typically incorporate Covenants, Conditions and Restrictions (CC&Rs) into property purchase and sale agreements. CC&Rs are written to ensure a consistent physical appearance within property areas during the time when new housing or commercial units are constructed and sold. After all the new units are sold, homeowner associations (HOA) or business property owner associations (BPA) take on the task of enforcing CC&Rs to control architectural modifications to the properties. The California Solar Rights Act is intended to remove obstacles to solar installations on properties regulated by CC&Rs and to encourage system installations that "achieve maximum efficiency at an affordable cost."

The law does not apply to "reasonable restrictions" imposed on solar energy systems. Reasonable restrictions are defined as those that do not increase the cost of the system by more than 20%, or decrease its efficiency by more than 20%. According to the law, solar systems also should meet applicable standards and requirements imposed by state and local permitting authorities. For example, solar systems should be certified by the Solar Rating & Certification Corporation (SRCC) - a nonprofit third party supported by the US Department of Energy - or other nationally recognized certification agency.

The California Solar Rights Act states that the application and review process for solar installations must be treated in the same manner as any other application for architectural property modification, and must be processed in the same amount of time. Any entity, other than a public entity,

that willfully violates this requirement will be liable to the applicant for actual damages and will pay a civil penalty to the applicant not to exceed \$1,000. In the event that legal action is required to enforce compliance, the prevailing party will be awarded reasonable attorney's fees. Thus, it is in the interest of the HOA or BPA to carefully review and expedite any property owner's solar installation request since failure to do so could result in penalties charged against the association.

Section 714.1 of the Civil Code addresses the installation of solar systems in common areas and on roofs owned by the association, and states that the association may place indemnification requirements on the solar system installer.

Section 1354 of the California Civil Code, Alternative Dispute Resolution, outlines the formal process that can be used by property owners and development associations to resolve challenges to overly restrictive CC&Rs or unreasonable property modifications. Ideally, any differences between the association and property owner over a solar installation can be resolved through good faith negotiation and compromise by keeping within the spirit of the California Solar Rights Act.

