Solar Panels/Subdivision Covenant: Missouri Appellate Court Addresses Enforcement Issue



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The Missouri Court of Appeals (Southern District) ("Appellate Court") addressed in a May 13th Opinion an issue arising out of a homeowner installing solar panels in a subdivision. *See Eikmeier v. Granite Springs Home Owners Association, Inc.*, 2025 WL 1379010.

The question addressed was whether a subdivision covenant prevented such installation.

The Granite Springs Subdivision included in its Master Declaration of Covenants ("CCR") a section that stated:

…No television, radio, citizens band, short wave or other antenna, nor any satellite dish greater than 18" in diameter, *solar panel, clothesline or pole, or other unsightly projection shall be attached to the exterior of any residence or erected on any Lot* [(emphasis added)].

Colleen Eikmeier and William S. Love ("Plaintiffs") purchased a lot in the subdivision in 2022. The CCR was in effect when the Plaintiffs purchased their lot and began constructing the home. The parties agree that the previously referenced section of the CCR prohibits the installation of solar panels on the Plaintiffs' lot or home.

Plaintiffs argued that the enactment of Section 442.404.3 ("Statute") allowed the Plaintiffs to install solar panels on their home despite the existing of the solar-ban covenant. The Statute was signed by the Governor in August 2022, and the Missouri legislature stated that the new law would become effective on January 1, 2023.

The Statute generally provided that no deed restrictions, covenants, or similar binding agreements running with the land shall limit or prohibit, or have the effect of limiting or prohibiting, the installation of solar panels or solar collectors on the rooftop of any property or structure.

Plaintiffs sued the Granite Springs Home Owners Association ("Defendant") arguing that the solar-ban covenant violated the referenced Statute. The Circuit Court entered judgment in favor of the Defendant declaring that:

- The solar-ban covenant is "not ambiguous" and created "a clear prohibition of solar panels" within Subdivision.
- The Statute is purely procedural and thereby may not be applied retroactively.
- The Circuit Court held the Statute was substantive, which meant that Plaintiffs had failed to overcome the presumption that a substantive statutory provision operates only prospectively.

- There was neither express language nor any necessary and unavoidable implication that the legislature intended the Statute to apply either retroactively or retrospectively.

The Appellate Court upheld the Circuit Court's decision.

The argument that the law should apply backward from its effective date because of the four-month delay between passage of the Statute and its effective date was rejected. The Plaintiffs had also pointed to the Missouri legislature's support for solar energy, noting a 1979 statute declaring that the right to utilize solar energy is a property right.

The Appellate Court concluded that the Circuit Court did not err that in finding that a general support for solar energy and speculation about why the Statute was scheduled to become effective on January 1, 2023, is inadequate to demonstrate that the legislature intended by necessary and unavoidable implication to overcome the presumption of prospective application of the Statute.

The judgment of the Circuit Court was affirmed.

A copy of the Opinion can be downloaded here.