



# COMMERCIAL REAL ESTATE INSIGHT & NEWS

The Bowditch & Dewey Real Estate Blog

## Shining a Light on Rooftop Solar for Massachusetts Condo Owners

BY BOWDITCH & DEWEY • MAY 16, 2024

After the Trustees of his condominium refused his request for an Architectural Variance to install rooftop solar photovoltaic (SPV) panels on his unit, the owner brought suit in the Land Court seeking a determination that the Master Deed and the Declaration of Trust “which restricts the installation of objects in common areas without the Trustees’ approval constitutes such a ban or unreasonable restriction on solar energy and must therefore be void as applied to the installation of solar energy systems.”

The Land Court ruled that the provisions of the Master Deed and Trust do not violate G.L.c. 184, §23C, but allowed the plaintiff fourteen days to file an amended complaint “should he wish to challenge the reasonableness of the decision made by the Trustees.” *Hunter v. Killeen, et al.* (Lawyers Weekly No. 14-028-24) (13 pages) (Foster, J.) (Hampden Land Court) (Docket No. 23 MISC 000539)

Drawing attention to the pending House Bill 3685 (HB 3685), *An Act Ensuring Solar Energy Access*, on April 25, 2024, the plaintiff filed his amended complaint with exhibits describing the rooftop SPV installation policy that he had proposed to the condominium Trustees. The proposal included requirements for SPV panel ownership, professional structural analysis of the unit roof, and insurance.

If passed, the pending HB3685 would replace the current G.L.c. 184, §23C with a new section to clarify that no “homeowners’ association, condominium association, property owners association, community association, housing cooperative or any other nongovernmental entity with covenants, bylaws and administrative provisions with which a homeowner is required to comply . . . shall forbid or unreasonably restrict the installation or use of a solar energy system.” HB 3685 would also define what constitutes an “unreasonable restriction” on installation and use of solar energy.