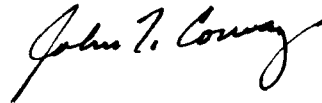


MEMORANDUM

TO: Columbia City Council

FROM: Water and Light Advisory Board



DATE: January 13, 2015

SUBJECT: Council Request for Solar Rights Ordinance

At the January 7th 2015 Water & Light Advisory Board meeting a motion was made and approved to “forward the Solar Rights Draft Ordinance to City Council”. Below is the draft of this ordinance.

Solar Rights Draft Ordinance

1. *This section shall be known and may be cited as the "Homeowners' Solar Rights Act".*
2. *As used in this section, the following terms shall mean:*
 - a. *"Solar collector":*
 - i. *An assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct and indirect solar energy, specially designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid, or liquid or to use that energy directly; or*
 - ii. *A mechanism that absorbs solar energy and converts it into electricity; or*
 - iii. *A mechanism or process used for gathering solar energy through wind or thermal gradients; or*
 - iv. *A component used to transfer thermal energy to a gas, solid, or liquid, or to convert it into electricity;*
 - b. *"Solar energy", radiant energy received from the sun at wave lengths suitable for heat transfer, photosynthetic use, or photovoltaic use;*
 - c. *"Solar energy system":*
 - i. *A complete assembly, structure, or design of solar collector, or a solar storage mechanism, which uses solar energy for generating electricity or for heating or cooling gases, solids, liquids, or other materials; and*

- ii. *The design, materials, or elements of a system and its maintenance, operation, and labor components, and the necessary components, if any, of supplemental conventional energy systems designed or constructed to interface with a solar energy system;*
 - d. *"Solar storage mechanism", equipment or elements (such as piping and transfer mechanisms, containers, heat exchangers, or controls thereof, and gases, solids, liquids, or combinations thereof) that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.*
- 3. *Notwithstanding any provision of this section or other provision of law, the adoption of a bylaw or exercise of any power by the governing entity of a homeowners' association, common interest community association, or condominium unit owners' association which prohibits or has the effect of prohibiting the installation of a solar energy system is expressly prohibited.*
- 4. *No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting a solar energy system from being installed on a building erected on a lot or parcel covered by the deed restrictions, covenants, or binding agreements, if the building is subject to a homeowners' association, common interest community association, or condominium unit owners' association. A property owner may not be denied permission to install a solar energy system by any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property. However, for purposes of this section, the entity may determine the specific location where a solar energy system may be installed on the roof within an orientation to the south or within forty-five degrees east or west of due south provided that the determination does not impair the effective operation of the solar energy system. Each homeowner's association, common interest community association, or condominium unit owners' association shall adopt an energy policy statement regarding the location, design, and architectural requirements of solar energy systems within one hundred twenty days after an association receives a request for a policy statement or an application from an association member. An association shall disclose, upon request, its energy policy statement and shall include the statement in its homeowners' common interest community, or condominium unit owners' association declaration.*
- 5. *A solar energy system shall meet applicable standards and requirements imposed by state and local permitting authorities.*
- 6. *Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed by the appropriate approving entity of the association within ninety days after the submission of the application. However, if an application is submitted before an energy policy statement is adopted by an association, the ninety-day period shall not begin to run until the date that the policy is adopted.*
- 7. *Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant for actual damages occasioned thereby and for any other consequential*

damages. Any entity that complies with the requirements of this section shall not be liable to any other resident or third party for such compliance.

- 8. In any litigation arising under this section, the prevailing party shall be entitled to costs and reasonable attorney's fees.*