

Solar Energy/Tax Exemption: Texas Appellate Court Addresses Applicability to Equipment Lessor



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The Court of Appeals of Texas (Dallas) addressed in an August 19th opinion an issue related to the Texas Tax Code's exemption for solar and wind-powered energy devices. See *Sunnova AP5 Conduit LLC v. Hunt County Appraisal District*, No. 05-18-00995.

The question considered was whether the exemption was applicable to lessors of such devices.

Sunnova AP5 Conduit LLC ("Sunnova") leased Texas residents a solar system ("System") designed to convert radiant energy from the sun into electricity. The company installed and constructed a system at a residence in Hunt County, Texas. The System was leased to the homeowners.

Section § 11.17 of the Texas Tax Code provides an exemption for solar and wind-powered energy devices. The exemption states as follows:

(a) A person is entitled to an exemption from taxation of the amount of appraised value of his property that arises from the installation or construction of a solar or windpowered energy device that is primarily for production and distribution of energy for on-site use.

Sunnova filed an exemption application which the Hunt County Appraisal District ("District") denied. Instead, the District's Appraisal Review Board determined that the System should be taxed at an appraised value of \$9,310.

The company then challenged the denial of the exemption in the lower court. Despite the fact that the parties agreed that the System fell within the exemption's definition of "solar energy device," the lower court granted summary judgment to the District.

Sunnova argued on appeal that as the owner and lessor of the solar device it was entitled to the exemption, stating the statute:

- (1) does not require the solar device to be used on the owner's real property, and
- (2) does not disqualify for-profit lessors from receiving the Exemption.

Sunnova argued it is a "person" and because it met the other statutory requirements qualified for the exemption.

The District contended that the exemption does not apply to the actual solar device or related equipment. Instead, it contended the exemption only applied to "the amount of appraised value of his property that arises from the installation or construction of" solar devices. As a result, the District concluded the

exemption only applied to the incremental property value arising from the installation or construction of the solar device (i.e., System).

The Texas Court of Appeals concluded the exemption belongs to the person whose property is enhanced by the value of the solar device. It stated in part:

. . . Here, no evidence demonstrates the amount of the appraised value of anyone's property arising from the installation or construction of the solar device. Instead, the appraised value of Sunnova's solar device is just that—the value of the device standing alone, rather than the increase in value of property on which the device was installed or constructed. Because the Exemption does not apply to the discrete value of the solar device without regard to the increase in value of the property on which the device is installed, we affirm the trial court's summary judgment in favor of HCAD.

A copy of the opinion can be downloaded [here](#).