

Solar Energy: California-Appellate Court Addresses Contractor Licensing Issue



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

03/27/2018

Co-Author: Jalen Toms

A California Court of Appeals addressed whether a company that sells solar energy to homeowners is required to have a contractor's license when it "arranges for" a licensed contractor to install the solar energy system and retains ownership of the system. See *Reed v. Sunrun, Inc.* 2018 WL 654849 (2018).

To answer this question the court considered whether the defendant, Sunrun Inc., ("Sunrun") fit within the definition of a "contractor" under California's Business and Professions Code section 7031.

Sunrun, Inc. is described as a company that sells solar energy to homeowners. It retains ownership of the solar energy system and remains responsible for maintaining and insuring the system.

The customer agrees to buy solar energy from Sunrun for a period of twenty years at an agreed-upon price, along with the option to buy the solar energy system at various intervals over the twenty-year "initial" term.

Section 7031 provides that an unlicensed contractor cannot sue to "collect ... compensation for the performance of any act or contract where a license is required," and any person who hires an unlicensed contractor can sue to "recover all compensation paid ... for the performance of any act or contract."

A contractor is defined by Section 7026 as:

1. Any person who
 - Undertakes to or
 - Offers to undertake to, or
 - Purports to have the capacity to undertake to, or
 - Submits a bid to, or
 - Does himself or herself or by or through other
2. Construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building:

The term "contractor" generally only applies to those persons or entities that:

- Actually perform construction services,
- Supervise the performances of construction services, or
- Agree by contract to be "solely responsible" for construction services.

In contrast, a license is not required if a person merely coordinates construction services performed by others.

The court determined initially that Sunrun does not actually perform any construction of the solar energy system. Instead, Sunrun hires independent companies – and licensed contractors – to install and construct the systems.

The court then found that Sunrun does not oversee or supervise any of the construction services. The company only approves the actual installation to ensure it matches the initial design. This process takes only fifteen seconds to two minutes.

Finally, the court found that Sunrun does not agree to be “solely responsible” for the installation. Sunrun’s contract with customers provides that it agrees to “arrange for the design, permitting, construction, installation and testing of the” solar energy system.

Plaintiff responded that Sunrun fits within the definition of a contractor because it:

1. Undertook to improve a building when it signed a contract agreeing to “arrange for the design, permitting, construction, installation and testing” of his solar energy system, and
2. By or through others constructed the solar energy system.

The court rejected such claims because Sunrun’s contract with customers did not make it “solely responsible for construction and Sunrun did not sufficiently supervise the construction.”

The court affirmed the trial court’s grant of summary judgment in favor of Sunrun holding a contractor’s license was not required.

[A copy of the decision can be downloaded below.](#)