
PUBLIC UTILITIES - MASSACHUSETTS

Tracer Lane II Realty, LLC v. City of Waltham

Supreme Judicial Court of Massachusetts, Suffolk - June 2, 2022 - 489 Mass. 775 - 187 N.E.3d 1007

Developer of proposed large-scale solar energy system brought action against city seeking declaration that city could not prohibit developer from building a road on its property in residential zone to access system, which was to be located in commercial zone of neighboring town.

The Land Court Department granted summary judgment for developer. City appealed.

In a case of first impression, the Supreme Judicial Court held that:

- Statutory protections afforded to solar energy systems against local zoning regulations applied to access road, and
- City's arguably allowing solar energy systems in industrial zones did not preclude developer from laying road.

Proposed road on developer's property in city's residential zone, to be used to access a planned large-scale solar energy system that was to be located in commercial zone of neighboring town, was part of the solar energy system, and thus the road had statutory protections afforded to such systems against local zoning regulation except when necessary to protect the public health, safety, or welfare, where the road would facilitate the primary system's construction, maintenance, and connection to electrical grid.

Statutory protections for solar energy systems against local zoning regulation except when necessary to protect the public health, safety, or welfare allowed developer to lay a road on its property in city's residential zone to access its planned large-scale solar energy system in commercial zone in neighboring town, even if city's zoning code allowed solar energy systems in industrial zones, where industrial zones encompassed only one to two percent of city's total land area, and code's ban on systems in all but one to two percent of city restricted rather than promoted the legislative goal of promoting solar energy.

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