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## Property; Solar Easements by Agreements

Don H. Gallian

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29. Id. §3 (adding to NRS Ch. 100).
30. Compare id. with 15 U.S.C. §1667a (1976) (federal law regulating consumer leases).
31. Ch. 597 §3 ¶1(a) (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667a (1976).
32. Ch. 597 §3 ¶1(b)-1(e),1(i) (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667a(2)-(5), (9) (1976).
33. Ch. 597 §3 ¶1(l) (adding to NRS Ch. 100).
34. Id. §3 ¶1(j) (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667a(10) (1976).
35. Ch. 597 §3 ¶2 (adding to NRS Ch. 100).
36. Id. §3 ¶1(f), (g) (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667a(6), (7) (1976).
37. Ch. 597 §3 ¶3 (adding to NRS Ch. 100).
38. Id. §4 ¶1 (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1640(a) (1976).
39. Ch. 597 §4 ¶2 (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1640(b) (1976).
40. Ch. 597 §4 ¶3 (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1640(c) (1976).
41. Ch. 597 §4 ¶5 (adding to NRS Ch. 100).
42. Id. §5 ¶1 (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667b(a) (1976).
43. Ch. 597 §5 ¶2 (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667b(a) (1976).
44. Id.
45. Ch. 597 §6 (adding to NRS Ch. 100). Compare id. with 15 U.S.C. §1667b(c) (1976).
46. Ch. 597 §12 ¶2.

### PROPERTY; SOLAR EASEMENTS BY AGREEMENTS

Adds to NRS Chapter 111

SB 289 (Committee on Judiciary); STATS 1979, Ch 314

(Effective May 10, 1979)

Chapter 314 provides for the creation of solar easements by grant. The grant must be signed by the grantor and then properly recorded in the county where the

land is situated.<sup>1</sup> The grant must contain: (a) a description of the land over which the easement is created and of the land to be benefited by the easement; (b) the location, size and period of operation of the equipment to be used in collecting the solar energy; and (c) a description of the open area to be preserved, either by dimension or bearings from the collecting equipment or by a statement that no obstruction, which would cast a shadow on the collecting equipment during its periods of operation, is allowed on the burdened land.<sup>2</sup>

The easement is appurtenant to the benefited land<sup>3</sup> and the benefit and the burden of the easement passes with the land upon any transfer, whether or not voluntarily made.<sup>4</sup>

The grant is vested in the grantee when it is recorded<sup>5</sup> and may, like other easements,<sup>6</sup> be extinguished by the owner of the benefited land recording a release, or by the passage of time, if the easement was granted for a limited period of time.<sup>7</sup> Additionally, a court may order the easement to be extinguished to modified based upon principles of equity, changes in conditions or abandonment of the easement by the benefited landowner.<sup>8</sup>

Even though easements for light and air cannot be created by implication in Nevada, regardless of the length of continuous enjoyment,<sup>9</sup> they could always be created by grant.<sup>10</sup> Presumably, solar easements are similar enough to easements for light and air that they too could be created by an express grant. The legislature by codifying this right seems to be creating several questions in the area of solar easements: Can solar easements be created only by grants? Does a solar easement have to be recorded in order to be valid even between the grantor and the grantee? Does requiring a description of the equipment to be used in the grant mean that a mistake in that description with new equipment extinguish the easement? Does stating that a court may extinguish the easement based upon changes in conditions mean that the legislature is attempting to make it easier for the courts to modify easements or are they merely attempting to codify the common law? Chapter 314 seems to raise more questions in the area of solar easements than it answers.

Don H. Gallian

## FOOTNOTES

1. 1979 Nev. Stats. ch. 314 (hereinafter "Ch. 314") §2 ¶ 3 (Adding to NRS Ch. 111).
2. Id. §2 ¶ 4 (adding to NRS Ch. 111).
3. Id. §3 ¶ 2 (adding to NRS Ch. 111).
4. Id.
5. Id. §3 ¶1 (adding to NRS Ch. 111).
6. See R. POWELL & R. ROHAN, POWELL ON REAL PROPERTY ¶ 421 (abr. ed.1968).
7. Ch. 314 §4 (adding to NRS Ch. 111).
8. Id.
9. Boyd v. McDonald, 81 Nev. 641, 651, 408 P.2d 717, 722 (1965).
10. Annot., 142 A.L.R. 467, 48 (1943).

## SEE GENERALLY:

- 1) W. THOMAS, A. MILLER & R. ROBINS, OVERCOMING LEGAL UNCERTAINTIES ABOUT USE OF SOLAR ENERGY SYSTEMS (1978).
- 2) S. KRAEMER, SOLAR LAW (1978).

## PROPERTY; DISCLAIMERS OF INTERESTS

Adds to NRS Title 10

SB 105 (Committee on Judiciary); STATS 1979, Ch 157

Chapter 157 specifies the procedures for disclaimers of property interests and waivers of the right to disclaim. Previously, a person receiving property through a will could accept or refuse the property.<sup>1</sup> However, if he received property by operation of law and not through a will, the property would immediately vest in him.<sup>2</sup> Immediate vesting of the property, which did not give the party receiving the property the opportunity to refuse it, could create problems because the property may be burdened with property taxes<sup>3</sup> or high federal estate taxes.<sup>4</sup>

"Beneficiaries" are defined in this chapter as persons who are entitled to property by: (a) intestate succession; (b) will; (c) succession to a disclaimed interest; (d) an election to take against a will; (e) the exercise or nonexercise of a power of appointment; or (f) inter vivos gift, whether outright or in trust.<sup>5</sup> Chapter 157 provides that beneficiaries who are at least eighteen years of age and competent may either accept the property interest<sup>6</sup>, disclaim the property by filing a written