

The PILOT Law and should solar developers be given property tax exemptions?

New York State Real Property Tax Law (RPTL) Sec. 487 provides a 15-year real property tax exemption for properties that install renewable energy systems. This means that developers and landowners who install large-scale, commercial solar facilities, will not have to pay any tax for the added value of these energy generation systems. While a local government that does not opt-out of this provision has the option to negotiate a Payment In Lieu of Taxes (PILOT) agreement, PILOT payments are typically much lower than what would be collected by the Town under full value assessment. So, even if the Town of Rush successfully negotiates a PILOT agreement, it is most likely that it will still lose tax revenue. Why should the Town do this? Also, if the Town fails to notify the developer within a specified time that it wants a PILOT agreement, then the project will be completely exempt from the additional tax or PILOT payment and only the developer and landowner will benefit.

These large-scale solar installations are "for-profit" businesses, the benefits of which do not inure to the Town as a whole. Electricity generated at these facilities is not consumed on-site as it would be for a homeowner or small business that installs solar panels for their use but instead sold to the utility companies. Since these facilities tend to operate themselves, they do not create local jobs. They detract from the attractiveness of the land and may devalue property values of surrounding properties. The issue here is that such businesses that locate here and do not provide a benefit to our Town should not receive property tax exemptions.

Alternatively, towns in NYS may choose to Opt-Out of the RPTL §487 exemption, thereby putting all of these developers (Invenergy and others) on notice that there will be NO reduction or exemption from real property tax in the Town of Rush. There also will be no negotiation on this issue. The Rush-Henrietta School District has already opted out. Many other taxing jurisdictions are considering the same if they have not already done so.

The downside of opting out of the RPTL §487 exemption is that local homeowners and small businesses that wish to install a renewable energy system on their property would also lose the §487 15-year exemption. However, determining what the value of such the improvement might be is a subjective calculation and in a recent discussion with Dan Stanford, the Assessor for the Town of Rush, he indicated that it is arguable whether the "improvement" creates added value to the property. After all, if you need to replace your boiler or other heating units, even if it increases energy efficiency, your property tax is not affected.

The Steering Committee of Residents United, therefore, urges the Town of Rush to go on record by stating that the Town will not consider PILOT agreements for solar energy installations and the Town should formally Opt-Out of the RPTL §487 immediately.