



*guiding you through life's **most crucial** legal decisions*

Summer 2021

(507) 288-5567

Solar and Wind Leases Making the Rounds



With renewable energy coming into greater focus for power companies, local, state, and federal governments, many farmers and other landowners are being presented with potential solar or wind leases. These leases can provide a nice opportunity to diversify some land and potentially qualify the farmer for some tax credits.

However, they tend to be very long-term (usually 30 – 40 years) and are not guaranteed, so there are a number of factors every landowner should consider.

Standard Form Leases

The process typically starts by the landowner being contacted by a land agent. The land agent is often a contractor for the solar or wind company whose job is to find and sign up landowners and a certain number of acres for a potential project. The land agent will typically present the landowner with a standard form lease. These leases vary from company to company but generally are fairly similar. The important thing for landowners to realize is that they can and should have the lease reviewed by their attorney. It is not uncommon to negotiate some aspects of these leases to be fair to both the landowner and the power company.

Terms to Consider

Some of the important terms to consider include the following:

- How long is the development term? This is the period in which the company does their due diligence. During this time, the land can still be farmed while the company determines whether this is a viable project. This would be from 3 up to 7 years.
- Is there a signing bonus? Most companies offer a signing bonus or first year payment as part of the development term rent.
- How are they handling crop damage? We want to be sure there are specific provisions that compensate the farmer for damaged crop related to the activities of the company – whether directly or indirectly.
- Is the lease area sufficiently defined? In some cases, the company might only want a solar garden of less than 10 acres. In that case, we wouldn't necessarily want an entire 160-acre field subject to the lease.
- Have they included restoration or just removal? The lease should require the company not only to remove materials at the end of the lease, but also to restore the land. Some leases do not include sufficient language regarding restoration.

This is just a partial list of what every landowner should consider when entering into a solar or wind lease. Most solar and wind companies will cover the cost of you to review with your attorney, so it always makes sense to take advantage of the opportunity to consult with an experienced attorney.

What should you do with property outside of Minnesota?



It is not at all uncommon to own property somewhere else. It could be a Florida condo, Iowa farmland, or a Wisconsin cabin. If you have property outside of Minnesota, it is extraordinarily important that you coordinate that asset with your estate plan.

Assets that do not automatically transfer become part of your estate. Your estate will have to be administered according to the law of where the real estate is located. In most states, nothing can happen to the real estate until an executor, also called a personal representative, has authority from the court.

Keep in mind, a will does not avoid probate, it tells us what to do in probate. While the will says who you want to serve as executor, that person does not have authority until the court appoints them. That is done through a probate proceeding.

All that means that if you fail to plan for how your asset outside of Minnesota will transfer, your loved ones may have to deal with a court proceeding in another state after your death. These assets can even complicate the administration of your Minnesota assets. In some cases, a need to file a probate in another state may cause a court administration in Minnesota - in addition to the other state - when you would not otherwise have needed one.

When you meet with an attorney, let them know right away about anything you own that's not located in the State of Minnesota. That asset may change what documents are prepared so that your estate plan can address it too. You may also need to contact an attorney in that state to determine how you can avoid a probate there. In any case, not addressing that asset can lead to extraordinary complications for your loved ones to deal with. Whether it a Wisconsin cabin, Iowa farmland, a Florida condo or anything else not in Minnesota, be sure to address it in your estate plan.

Staff Corner: Meet Shannon!

Shannon Decker joined the law firm in 2020. She is the friendly person at the reception area assisting with appointment coordination, document preparation, and overall office administration.

Shannon graduated from Lewiston-Altura High School and has 20 years of legal experience working with estate planning, probate, and real estate.

Shannon enjoys spending time with her husband and 2 sons. Her family activities revolve around being outdoors. Her family raises beef cattle and grows corn, hay, and soybeans.

Shannon and her husband support their two sons who are involved in their local County 4-H and FFA.



Welcome, Shannon!



10 Reasons to Hire an Attorney to Assist with the Medical Assistance Application Process

An elder law attorney can not only help guide you through the Medical Assistance planning process, but they can also help ease your anxiety throughout the application process. The Medical Assistance application may appear simple on its face but depending on your assets and income it can be a rather challenging and time-consuming task. The social worker at the nursing home or assisted living facility or a county worker may advise you on what documents you need to complete but they cannot give you legal advice.

Hiring an attorney to assist you with the Medical Assistance application process can help protect and preserve your assets for the next generation. An attorney can assist in you in the following areas:

1. Advising you about the Medical Assistance laws.
2. Assisting you in protecting assets.
3. Guidance in creating a spenddown.
4. Ensuring you can keep the income/assets you are entitled to.
5. Ensuring you are not leaving other benefits on the table that may be available to you.
6. Explaining the estate recovery laws and how your assets/estate might be affected when you die.
7. Gathering information for the Medical Assistance application.
8. Preparing the application and all necessary forms for you
9. Reviewing all notices from the county and responding to them in a timely fashion; and
10. Assisting with post-eligibility planning.

Super Lawyers®
RISING STARS 2021

Attorney Jason Wagner has been recognized as a 2021 Minnesota Rising Star selected by Super Lawyers. This is the second year in a row that Attorney Wagner has received this honor.



Wagner Oehler, Ltd. has been nominated to the Post Bulletin's Best of the Best list in the Best Law Firm category. Attorney Jason Wagner has also been nominated in the Best Attorney category.

IT'S A BOY!

Attorney Alec Osland welcomed his first child, Oliver Scott Osland on April 12, 2021.
Congratulations Alec and Allison!

Office Hours and Locations

Rochester: 1801 Greenview Drive SW, Ste. 102
Monday – Thursday 8:30 – 4:30
Friday 8:30 – 3:30

St. Charles: 819 Whitewater Ave
Tuesday 12:30 – 4:30
Thursday 9:00 – 12:00
By appointment

Red Wing: 419 Bush Street
Tuesday 9:00-5:00
By appointment

To schedule an appointment in any of our offices, call (507) 288-5567. You can also book appointments online at www.wagnerlegalmn.com/book-online for appointments in Rochester.



Summer Seminar Schedule

Smart Estate Planning

- **September 21 at 6:00 p.m.**
Red Wing Community ED

Please register through Red Wing Community Ed at (651) 385-4565/www.rwps.org



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