

# DEFENDING PROPERTY RIGHTS AND HOUSING OPPORTUNITY

## NAR'S 2026 LEGAL ADVOCACY ROUNDUP

### 2026 AT A GLANCE

- » Access to the courts when challenging government action
- » Just compensation in eminent-domain and tax-foreclosure proceedings
- » Land-use exactions and development conditions
- » Rent regulation and housing availability
- » Federal rules that can impose significant costs on existing properties
- » Associational standing for membership organizations

Private property rights are a cornerstone of the American Dream, serving as the foundation for homeownership, wealth creation, economic opportunity, and thriving communities. For more than a century, the National Association of REALTORS® has championed policies that protect those rights and strengthen the ability of individuals and families to own, use, improve, and transfer property. That commitment extends beyond legislative and regulatory advocacy to the courts, where consequential legal disputes often determine how laws are interpreted, how regulations are applied, and how fundamental property rights are protected.

NAR's legal advocacy plays a critical role in advancing and defending the interests of property owners, consumers, and real estate professionals. Through strategic litigation, targeted amicus participation, and broad coalition engagement, NAR helps shape the legal and policy landscape on issues central to property ownership, housing affordability, and the long-term strength of the real estate industry. These efforts allow NAR to bring a practical real estate perspective to precedent-setting cases involving land use, housing regulation, eminent domain, tax foreclosure, federal regulation, and access to the courts.

Throughout 2026, NAR participated in cases with implications far beyond the parties involved, addressing issues that affect housing supply, property investment, homeownership, and the rights of property owners across the country. While the cases vary in subject matter, they share a common purpose: protecting private property rights, preserving sound real estate practices, and promoting a legal environment that supports housing opportunity, economic growth, and a healthy, accessible real estate market.



## ENSURING MEANINGFUL ACCESS TO THE COURTS

Before courts can decide whether a property owner's constitutional rights were violated, they often must answer a more basic question: is the owner entitled to be in court at all? That question is central to two U.S. Supreme Court petitions NAR supported in 2026.

In [\*\*Garnell Walls v. Prince George's County, Maryland\*\*](#), a property owner sought to develop land he had held for a future homesite. After spending approximately \$40,000 pursuing necessary approvals, he was unable to obtain authorization for the well and septic systems. Lower courts concluded that his constitutional claims were not yet ready for judicial review because he had not pursued additional administrative and legislative remedies. NAR joined an amicus brief urging Supreme Court review and arguing that property owners should not be forced through endless or futile government procedures before receiving a judicial determination of their constitutional rights. The petition remains pending.

A similar issue is before the Supreme Court in [\*\*Tedford's Tenancy, LLC v. New York\*\*](#), involving a Manhattan apartment building regulated under New York's rent stabilization laws. The property owners argue that the regulatory regime

has made continued operation economically unsustainable, but lower courts concluded that additional administrative procedures were required before the constitutional claims could be heard in court. NAR's amicus brief emphasizes that property owners should not be required to endure ongoing economic harm while navigating prolonged administrative processes to obtain a final government decision and access judicial review. NAR has urged the Supreme Court to provide clearer guidance on when government action is sufficiently final for a property owner to bring constitutional claims in court.

Access to justice is also at issue in [\*\*Citizens Action Coalition of Indiana v. Duke Energy Indiana\*\*](#).

The Indiana Supreme Court is considering the question of whether to recognize associational standing, a legal doctrine that allows membership organizations, in certain circumstances, to bring legal claims on behalf of their members. NAR joined the Indiana Association of REALTORS® and other organizations in supporting continued recognition of this principle, which can allow similarly situated members to address shared legal interests without requiring each individual to pursue separate litigation.

## PROTECTING THE PROMISE OF JUST COMPENSATION

The Fifth Amendment to the U.S. Constitution guarantees that private property shall not be taken for public use without just compensation. Yet disputes over what compensation is owed, and whether property owners can fully recover it, continue to arise in courts across the country.

In [\*\*Hoffmann v. WBI Energy Transmission\*\*](#), a natural-gas pipeline company exercised federally delegated eminent-domain authority to acquire easements across private property. The property owners rejected the company's initial valuation and ultimately obtained substantially greater compensation through litigation, along with reimbursement of attorney fees available under state law. A federal appellate court later held that those state law protections did not apply, creating tension with decisions from other federal courts that have recognized broader state law compensation protections in similar cases.

NAR, REALTORS® Land Institute, and the American Farm Bureau Federation supported the property owners before the U.S. Supreme Court, arguing that federally delegated eminent domain authority should not strip property owners of state law protections that provide more robust compensation rights than federal law alone. The coalition emphasized that when private companies are authorized to exercise the extraordinary power of eminent domain, property owners should receive the full benefit of state laws designed to ensure they are made whole, including the recovery of costs incurred to obtain fair compensation. The Supreme Court agreed to hear the case in June, with oral argument scheduled for November 2026.

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Property equity was also at the center of [Pung v. Isabella County](#), one of the most significant property rights cases before the U.S. Supreme Court during the 2025-2026 Term and a direct follow up to *Tyler v. Hennepin County*. NAR, joined by the American Property Owners Alliance, Michigan REALTORS®, and Wisconsin REALTORS®, filed an amicus brief supporting a Michigan family whose home was foreclosed over a disputed tax bill of approximately \$2,242. The family argued that the low auction sale price deprived them of the full value of their home equity.

In its 2026 decision, the Supreme Court addressed how equity should be measured following a tax foreclosure, holding that a fairly conducted tax sale may serve as the benchmark for determining fair market value. The Court returned the case to the lower courts for further proceedings, leaving open important questions about the fairness of tax foreclosure proceedings and achieving fair market value.

Together, *Hoffmann and Pung* demonstrate why constitutional compensation protections matter in practice. Property rights are not fully protected if government can take property or diminish its value without providing owners a meaningful opportunity to recover the compensation they are owed.

## DRAWING CONSTITUTIONAL BOUNDARIES AROUND LAND-USE AUTHORITY

State and local governments have broad authority to regulate land use. At the same time, the Constitution limits the conditions government may impose in exchange for permission to develop or use property. NAR continued its involvement in several important land-use cases throughout 2026.

In [Sheetz v. County of El Dorado](#) (Sheetz II), property owner George Sheetz challenged a \$23,420 traffic-impact fee imposed as a condition of obtaining a permit to build a modest home on his property. In 2024, the U.S. Supreme Court in Sheetz I unanimously held that development fees imposed through legislation are not automatically exempt from constitutional scrutiny. After California courts again upheld the fee, Sheetz sought a second Supreme Court review. NAR supported the petition, arguing that governments should demonstrate an appropriate relationship and proportionality between development impacts and fees imposed on individual owners. The Supreme Court declined further review in June, leaving the California decision in place.

NAR raised a related concern in [Benedetti v. County of Marin](#). Two brothers who inherited agricultural property sought permission to divide the land and construct another single-family home. Marin County conditioned approval on maintaining

commercial agricultural use on the property. NAR and the REALTORS® Land Institute supported the property owner's petition for Supreme Court review, arguing that government should not use the permitting process to impose permanent obligations without the constitutionally required connection to the impacts of the proposed development. The Court declined review in June.

The same principle is being tested in Manhattan in [Coalition for Fairness in SoHo & NoHo v. City of New York](#). Property owners are challenging a city fee associated with removing longstanding artist-occupancy restrictions from certain properties. Under the city's framework, some owners seeking to convert, sell, or redevelop affected property can face payments exceeding \$100 per square foot to an arts fund. NAR and the New York State Association of REALTORS® joined other organizations in supporting Supreme Court review, arguing that monetary conditions attached to land-use approvals deserve meaningful constitutional scrutiny. The petition remains pending.

These cases demonstrate the continuing importance of defining the boundary between legitimate land-use regulation and unconstitutional conditions imposed on individual property owners.

# HOUSING REGULATION, AFFORDABILITY AND PROPERTY RIGHTS

Some of NAR's most visible 2026 legal advocacy has involved rent regulation, where questions of housing affordability intersect directly with property rights, housing investment, and housing availability.

In Massachusetts, NAR combined legal advocacy with a broad coalition and grassroots campaign to oppose a statewide rent control ballot initiative that would have created one of the most restrictive rent control regimes in the country. The proposal would have repealed Massachusetts' longstanding prohibition on rent control and replaced it with a sweeping statewide system of rent regulation.

In [Cella v. Campbell and Galvin](#), NAR filed an amicus brief supporting the legal challenge by addressing concerns about the proposal's legal structure as well as the broader effects rent regulation can have on investment, property maintenance, and housing supply.

In June, the Massachusetts Supreme Judicial Court unanimously ruled that the initiative could not appear on the November ballot. The decision marked a significant legal victory that complemented a broader advocacy effort led by REALTORS® and coalition partners across the state. Together, the legal challenge and coordinated grassroots campaign successfully prevented the measure from reaching voters, demonstrating how NAR's legal, policy, and advocacy efforts can work in concert to protect property rights and support housing policies that promote long-term housing availability and affordability.

NAR is also participating in [Small Property Owners of New York, Inc. v. City of New York](#), a challenge to New York's Rent Stabilization Law focused on vacancy leases, which govern the rent that may be charged when a rent stabilized apartment becomes vacant and is offered to a new tenant. The housing providers argue that the law requires some vacant units to be rented at rates tied to rents set years or even decades earlier, without regard to current market conditions or the cost of legally required

repairs, making it economically infeasible to bring units to the market. NAR joined the New York State Association of REALTORS® and a coalition of industry partners in an amicus brief supporting the challenge, arguing policies that discourage reinvestment and leave otherwise usable housing vacant ultimately harm both property owners and renters by reducing housing supply. The litigation remains pending.

A third rent-regulation dispute is unfolding in the District of Columbia. In [Douglass v. District of Columbia Board of Elections](#), property owners are challenging the advancement of a ballot initiative, which would impose a rent freeze followed by additional restrictions on rent increases. NAR joined Housing DC's Future, a coalition that includes the District of Columbia Association of REALTORS® and Greater Capital Area Association of REALTORS® in an amicus brief explaining the potential consequences on the housing market. The coalition argues that sound housing policy must account for the costs of operating and maintaining rental housing as well as the need for continued investment in housing supply.

Taken together, these cases reflect a consistent principle in NAR's legal advocacy: efforts to address affordability should also consider their impact on housing availability, property maintenance, investment, and the rights of owners who provide rental housing. Policies that discourage investment or make it difficult to maintain and improve rental properties can ultimately reduce housing supply, limit housing choice, and make it harder for renters to access safe, quality housing. NAR's advocacy seeks to promote housing solutions that support both residents and housing providers by expanding housing opportunity, encouraging long-term investment, and fostering an attainable and sustainable housing market.



## BRINGING THE REAL ESTATE PERSPECTIVE TO FEDERAL REGULATION

Not every significant property-rights case involves traditional land-use or housing regulation. Technical federal rules can also carry major consequences for homeowners and existing buildings.

In [American Gas Association v. Department of Energy](#), NAR and the National Association of Home Builders supported a challenge to federal energy-efficiency standards affecting gas furnaces and commercial water heaters. The challengers contend that the rules effectively require a shift from conventional non-condensing equipment to condensing technology. Many existing homes and buildings, particularly older properties, townhouses, rowhouses, and multifamily buildings, were not designed for these systems, therefore, compliance could require costly retrofits to venting, drainage, and other building components.

NAR's amicus brief focused on the practical consequences for property owners, consumers, and real estate professionals, including higher replacement costs, housing affordability concerns, reduced consumer choice, and potential transaction-related liability risks. In June, the U.S. Supreme Court granted the petition, vacated the lower court's decision upholding the rule, and remanded the case for further review after the federal government acknowledged legal flaws in the prior ruling. The decision marked an important victory and comes as the Department of Energy evaluates whether to revise the standards in a way that better preserves consumer choice.

The case illustrates an important function of legal advocacy: helping courts understand how regulatory decisions, even those adopted with important policy objectives in mind, can have significant unintended consequences for property owners and housing markets.

## A SUSTAINED COMMITMENT TO PRIVATE PROPERTY RIGHTS

NAR's 2026 legal advocacy extends across a wide range of issues, but the cases are connected by enduring principles. Property owners should have meaningful access to courts when government action threatens their rights. Owners should receive fair compensation when property is taken. Development requirements should bear an appropriate relationship to the impacts they are intended to address. Housing policies should recognize both affordability objectives and the practical economics of maintaining and supplying homes. And courts considering regulations affecting real estate should understand their consequences for property owners and housing markets.

Across these matters, NAR has worked with state and local REALTOR® associations, housing organizations, property-owner groups, builders, agricultural organizations, and other partners. Through those collaborations, NAR can bring a national real estate perspective to legal disputes whose consequences may extend far beyond the parties named in a case.

The outcomes also demonstrate that legal advocacy is a long-term endeavor. Some cases produced significant developments in 2026. Others remain before courts, and in several instances the Supreme Court declined to take additional action. Effective legal advocacy requires engagement across all of those circumstances - not only when the result is immediate or favorable.

For NAR, that work is part of a broader commitment to protecting private property rights, supporting housing opportunity, and ensuring that the legal framework governing real estate remains fair, workable, and grounded in constitutional principles.

