

Legal Advocacy Wins and Engagement 2025-2026

Leading in the Courts: Advancing Property Rights and Housing Opportunity

NAR's legal advocacy program delivers high impact wins and strategic influence in the federal courts by using targeted amicus briefs to shape precedent in cases affecting property owners and REALTORS®. This work strengthens property rights, protects industry practices, and supports housing supply and affordability.

Wins

Darby v. United States - In June 2025, the U.S. Court of Appeals for the Federal Circuit delivered a major appellate victory for property rights by denying the federal government's petition for rehearing, reaffirming that property owners may pursue Fifth Amendment takings claims arising from the CDC's COVID-19 eviction moratorium. This decision preserves property owners' ability to seek just compensation for being required to house tenants during the pandemic without the ability to evict. NAR played a key role in the case by filing an amicus brief arguing that the eviction moratorium constituted a per se taking with significant economic consequences for property owners.

Designworks Homes v. Columbia House of Brokers (8th Cir.; cert. denied 2025) - Courts confirmed that including floorplans in real estate listings qualifies as fair use under copyright law. The ruling safeguards a fundamental marketing tool widely relied upon across the real estate industry. NAR played a significant role by supporting multi-year litigation efforts and submitting three amicus briefs.

Legal Advocacy Engagement

Through targeted litigation and coalition leadership, NAR is working to defend constitutional protections against uncompensated takings, challenge excessive land-use conditions and regulatory burdens, and oppose policies that restrict housing inventory or increase costs. These efforts include seven pending amicus cases that collectively aim to shape national precedent on property rights, housing costs, and market stability.

At the U.S. Supreme Court, *Pung v. Isabella County* could establish how equity is calculated in tax foreclosure cases nationwide. NAR's influence is already evident, as its amicus brief was cited during oral arguments. NAR has also urged Supreme Court review in a California land-use case involving the Benedetti brothers, where local officials conditioned a routine property division permit on a permanent requirement to engage in commercial farming. NAR argues this represents an unconstitutional overreach that forces property owners to give up unrelated rights and warns that, if left unaddressed, the decision could have nationwide consequences by weakening protections against excessive land-use conditions.

At the federal level, *American Gas Association v. DOE* challenges appliance efficiency regulations that could raise housing costs and limit consumer choice, with significant implications for affordability and regulatory burden. NAR is also engaged in major property rights cases, including challenges to New York City's artist housing fee and the Supreme Court's consideration of *Sheetz II*, both of which address limits on government-imposed fees and conditions that can increase development costs.

In parallel, NAR continues to oppose rent control measures and related policies that it views as harmful to housing supply and market stability. This includes litigation surrounding New York's rent stabilization framework, eviction restrictions at issue in *Harris v. Los Angeles*, and opposition to a Massachusetts statewide rent control ballot measure. Collectively, these efforts are focused on preventing policies that constrain housing availability, discourage investment, and distort market dynamics.

