

Environment & Energy

# North Carolina Court Limits Homeowner Groups' Solar Restrictions

By Zach Bright

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- State Supreme Court clarifies 2007 solar access statute
  - HOA bylaws can't implicitly restrict rooftop solar
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Homeowner associations in North Carolina can't restrict rooftop solar unless their bylaws explicitly lay out legal prohibitions, the state's Supreme Court justices said in a majority opinion overturning a lower court decision.

The court ruled that HOAs can't deny resident applications to install rooftop solar unless they expressly prohibit panels for being visible from the ground. The decision widens solar power access and weakens HOA regulatory abilities by clarifying a 2007 solar access statute, which includes that visibility exception.

The state Supreme Court ruling in *Belmont Ass'n v. Farwig* reverses and remands the case to the trial court to determine the Belmont Association's responsibility for unlawfully denying Thomas and Rana Farwig and Nancy Mainard's rooftop solar use and beginning foreclosure.

In January 2020, Superior Court Wake County Judge Graham Shirley ruled in favor of Belmont. The case progressed to the North Carolina Court of Appeals, where Judge Fred Gore upheld the lower court's ruling in February 2021.

## 'Frees Up Millions'

"The ruling frees up millions of North Carolina homes located in HOA communities to go solar—putting the state even closer to its goal of reducing statewide greenhouse gas emissions and the widespread adoption of on-site solar energy generation," Blue Raven Solar—the solar installer who installed the Farwigs' system—wrote in a news release.

The opinion is the latest update in a case that goes back to 2018, when the Farwigs first installed solar panels on their home's roof in Raleigh.

The Belmont Association said the Farwigs violated the community's architectural rules, citing "aesthetic" problems, and requested their panels to be relocated out of sight. The Farwigs said those rules didn't directly set limits to rooftop solar.

A back-and-forth between the parties continued until Belmont began foreclosure on the Farwigs' home and the case moved to court, documents show.

In Friday's opinion, Justice Robin Hudson wrote the majority opinion. Justice Michael Morgan dissented, as did Justice Philip Berger Jr., whose dissent was joined by Chief Justice Paul Newby.

Jordan Price Wall Gray Jones & Carlton, PLLC represented the Belmont Association. Thurman, Wilson, Boutwell & Galvin, P.A. represented Farwig.

The case is *Belmont Ass'n v. Farwig*, North Carolina Supreme Court, No. 214A21, 6/17/22.

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