

North Carolina Supreme Court Holds that HOAs Cannot Prohibit Rooftop Solar Unless Expressly Stated

A Raleigh HOA's denial of rooftop solar was unlawful where its prohibition of solar was not first expressly stated in the HOA's CC&Rs.

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Ben Peterson, CEO

Supreme Court ruled on Friday that a Raleigh HOA's discretionary decision to deny rooftop solar was unlawful where it was not expressly stated in the HOA's declaration recorded against the property. See *Belmont Assoc. v. Farwig et al.*, 2022-[NCSC-62 \(No. 214A21\)](#) (N.C. June 17, 2022). Though the state does have a solar access law, this decision provides the long-needed clarity that HOAs must give its members and prospective buyers advance notice about whether the HOA allows rooftop solar before denying an application for rooftop solar. Since its passage in 2007, the solar access law has been interpreted and

applied unevenly by HOAs resulting in thousands of North Carolinians being unjustly denied rooftop solar.

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 cannot be happier with the Court's decision. As the solar contractor that installed the solar system at issue, we are vindicated in our support of our customers and in our fight to make rooftop solar available and affordable to everyone.

"North Carolina's homeowners deserve every right to go solar and reduce their utility bills through energy independence," Ben Peterson, CEO said. "We are excited about the state's future with solar energy and the freedom that this decision brings."

The HOA had argued that the discretionary denial by its architectural review committee of our customer's rooftop solar, citing aesthetic problems, was permitted under the state's solar access law even though our customer and other members of this HOA had no notice of prohibitions or

restrictions on rooftop solar.

The ruling on Friday by the North Carolina Supreme Court holds that the state's solar access law guarantees the use and enjoyment of rooftop solar except for narrow statutorily-prescribed areas, e.g., roof slopes facing a common area, that are set forth in writing and recorded against the property. The Court also recognized that an HOA requirement that solar to be installed on north-facing roof slopes rather than south-facing slopes amounts to a prohibition of solar rather than just a restriction on panel placement because of the material impact solar panel orientation has on energy production and cost of solar. This is one of the most important factors for homeowners when deciding whether solar is right for them.

Joining Blue Raven Solar in its own amicus filing with the North Carolina Supreme Court in support of our customer's position was the PowerStore, Inc., Firefly Solar-Storage, LLC, and Sigora Solar, LLC. Also joining this solar access position in separate amicus filings were the North Carolina Department of Justice and the North Carolina Sustainable Energy Association.

The case will now be remanded to the trial court for a determination of attorneys' fees and other liability awarded against the HOA for unlawfully denying the Farwigs' use and enjoyment of rooftop solar and commencing unjustified foreclosure proceedings.

Blue Raven Solar wishes to thank all those who have supported this effort to achieve clarity on North Carolina's solar access law. In particular, we thank Attorney James Galvin of Thurman, Wilson, Boutwell, & Galvin, P.A., for his professionalism and skilled advocacy in representing the Farwigs. Finally, we thank Mr. Farwig and his family for their trust placed in Blue Raven Solar and for their unwavering support of, participation in, and sacrifice for solar access.

About Blue Raven Solar

Blue Raven Solar was founded in 2014 and has expanded to a national top selling solar brand. We have been a leader of residential solar in North Carolina since 2016. The company's mission is "to make homeowners' lives better by reducing their energy bills, increasing reliance on clean and abundant renewable energy and providing a world-class customer experience through a reliable sales process and a speedy, high-quality installation." Blue Raven Solar believes all homeowners should have equal opportunity to invest in simple, reliable, affordable, high-quality solar power. Visit Blue Raven Solar at www.blueravensolar.com and follow us on [Instagram](#), [Facebook](#), [LinkedIn](#), and [Twitter](#).

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