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# Residential Real Estate Cases To Watch In 2026

By **Grace Dixon**

Law360 (January 7, 2026, 10:00 AM EST) -- Ongoing Realtor antitrust litigation, the U.S. Department of Housing and Urban Development's attacks on the Fair Housing Act and the latest front in the battle against New York rent regulations are among the residential real estate cases on litigators' minds as they enter 2026.

Practitioners told Law360 Real Estate Authority that although many of the cases are hyper-local, their outcomes may have national implications, including one antitrust suit brought by Compass against a regional multiple listing service and another lodged by a Miami homeowner against a citywide permitting practice. Others, like New Jersey's latest affordable-housing cycle and a New York landlord's challenge to one provision of tenant-friendly rent law changes, stand to color the state's approach to affordable and regulated housing for the foreseeable future.

Here, Law360 looks at the residential real estate cases to watch in the new year.

## Compass Lodges Latest MLS Antitrust Battle

Saul Ewing LLP partner Julie Workman told Law360 that she has her eye on an **antitrust suit** brought by Compass in Washington federal court. The residential real estate brokerage challenged Northwest Multiple Listing Service's policy, which requires MLS members to immediately post all listings to its service.

Compass argued in an April complaint that the NWMLS abused its market dominance in the Seattle area, cutting off the brokerage's access to the MLS until it complied with the policy. The brokerage also alleged that the NWMLS policy undercut its premarketing strategy.

"Compass is saying that they have their own strategy, which is driven towards enhancing sellers' choice," Workman said. "But NWMLS is saying, 'Well, we're trying to promote transparency and we're trying to be fair to all of the buyers out there.'"

The suit comes amid an onslaught of antitrust litigation against the National Association of Realtors and multiple listing services, including buyer commission litigation that ended in a **\$418 million settlement** in 2024.

"There are antitrust implications because Compass is basically saying ... what they're doing is anticompetitive and therefore it harms homeowners and it harms brokers," Workman said. "[Compass is] trying to give sellers a wide choice of brokers that they can use, [Compass is] trying to give the home-buying market more opportunity to see more homes."

The case is set to go to trial in June.

The case is *Compass Inc. et al. v. Northwest Multiple Listing Service*, case number 2:25-cv-00766, in the U.S. District Court for the Western District of Washington.

## New York Rent Regs Challenge Begins Anew

When the U.S. Supreme Court **denied certiorari** to the final two of five suits brought in the wake of the New York Legislature's passage of the Housing Stability and Tenant Protection Act of 2019, the path forward for landlords was murky.

According to Belkin Burden Goldman LLP partner Scott Loffredo, a roadmap emerged when several landlords of rent-stabilized units sued in November. The suit takes issue with a specific provision of the HSTPA revoking vacancy bonuses, under which rent-stabilized landlords could increase rent by set percentages as high as 20% when an apartment turned over between tenants.

"This is a very specific and more narrowly tailored [suit] saying that the specific provision that certain units cannot have the rent increased while vacant is effectively making it economically impossible for them to rent," Loffredo said. "Therefore they're not doing any renovations and they're leaving the apartments vacant."

One of the high court denials of certiorari was accompanied by a brief note from Justice Clarence Thomas **signaling his appetite** for a better-tailored challenge. The landlords' narrower approach this time around may be able to thread that needle, the Belkin Burden partner said.

"In the past, the challenges to the government's regulatory authority and the rent laws have been very broad. They sought to win the whole game with one punch," Loffredo said. "This particular lawsuit is very narrow, it's focusing on a specific issue, and that is: How much can a landlord increase the rent on a vacant apartment when it does repairs or improvements or gut renovations?"

The case is Small Property Owners of New York Inc. et al. v. The City of New York et al., case number 1:25-cv-09425, in the U.S. District Court for the Southern District of New York.

### **Homeowners Take Aim at Miami Permit Practices**

A suit recently filed in Florida state court targets Miami's practice of withholding permits requested by homeowners for smaller renovation projects unless they agree to dedicate a portion of their property to the city. According to the Institute for Justice, which sued on behalf of an affected Miami homeowner in December, the city is banking the land to eventually widen its roads.

Keith Poliakoff, co-founder of the Government Law Group, told Law360 that he has seen the city claw private property from homeowners who sought permits for air conditioner installations or front door swaps.

"I've seen it done with a million other minutia permits, [where] they will try to exact property at that time," Poliakoff said. "It either forces a homeowner to illegally do work without permits because they're afraid of the exaction, or ... it forces their hand to give up property that they paid for without compensation."

And the case has implications that span beyond Miami.

"If the court sides with the homeowner, it will [stop] not only the city of Miami, but other jurisdictions within the United States and the state of Florida from trying to do a land grab during the permitting processes," Poliakoff said. "This is probably one of the bigger cases for property rights for individuals."

The case is Charles M. Trausch v. City of Miami, case number 2025-007768, in the Florida Circuit Court of the Eleventh Judicial Circuit.

### **HUD Fair Housing Attacks Draw Ire**

Under the Trump administration, the U.S. Department of Housing and Urban Development has turned its focus to the Fair Housing Act, which bars discrimination in all housing transactions. Eric Dunn, director of litigation at the National Housing Law Project, said that the agency's actions have "undermined" and "contorted" the meaning of the FHA.

"They've cut funding for Fair Housing investigation programs, they cut funding for state and local agencies that enforce the Fair Housing Act, they changed all kinds of grants certifications so that you can't get funding unless you agree that you're going to basically not advocate for genuine fair housing," Dunn said.

The NHLP litigator said he has his eye on a whistleblower suit filed by attorneys who allege HUD

**deliberately undermined enforcement** of fair housing laws, targeting the agency's Office of Fair Housing out of open hostility toward the law. Two attorneys named in the suit were fired after going public with their whistleblowing accusations.

"One of the things HUD is supposed to do is investigate and adjudicate Fair Housing complaints through its own administrative process," Dunn said. "They've just been dismissing cases left and right that are legitimate cases because they don't agree with fair housing."

A representative for HUD declined to comment on the pending litigation, but refuted Dunn's characterization of its actions.

"It's patently false to suggest the department is looking to blunt enforcement of the Fair Housing Act," the representative said. "HUD will always use its authority to uphold the law, protect the vulnerable, and ensure meaningful access to housing."

The case is *Heenan et al. v. U.S. Department of Housing and Urban Development et al.*, case number 1:25-cv-03343, in the U.S. District Court for the District of Columbia.

### **New Jersey Enters Housing Cycle Final Stretch**

Day Pitney partner Craig Gianetti told Law360 that he has his eye on the ongoing fourth round of New Jersey's affordable housing cycle, under which towns have to draft and secure court approval of 10-year plans for affordable housing development.

The state has been grappling with its affordable housing framework since 1975, when the New Jersey Supreme Court ruled that all municipalities must provide their "fair share" of the region's affordable housing supply. State legislators passed a bill in March 2024 overhauling the state's affordable housing approach and implementing a structure that would see municipalities adopt their next plan by March 2026, a timeline experts had characterized as aggressive.

Municipalities have until the end of the year to settle disputes over their affordable housing plans. If disputes remain after Dec. 31, the law allows for expedited trial court proceedings to reach a resolution before the March deadline.

"There's going to be a lot of activity in the beginning of 2026," Gianetti said. "Two of the main issues that a lot of towns and developers and the Fair Share Housing Center are arguing over are vacant land adjustments, where towns can seek an adjustment to their obligation for lack of developable land, as well as what's called a durational adjustment, where towns can defer all or a portion of its obligation if there's inadequate sewer or water facilities available."

Giannetti said practitioners should keep an eye on the outcome of Colts Neck Township's affordable housing plan, which has claimed a durational adjustment releases it from its obligation to build 101 affordable units in the fourth round. A Day Pitney team is representing a developer that has launched a challenge to the Colts Neck plan.

The case is *In The Matter of the Application of the Township of Colts Neck*, case number MON-L-000422, in the Superior Court of New Jersey, Monmouth County.

--Editing by Haylee Pearl.