



NAHB Legal Action Fund

Guidelines – FEBRUARY 2022

Eligibility for Financial Assistance

1. Financial assistance to support litigation or to develop an amicus (friend-of-the-court) brief is available to NAHB members, state or local home builders associations, and NAHB for either:
 - a. matters of national significance; or
 - b. matters concerning important problems common to the shelter industry.
2. Other forms of assistance available through the Legal Action Fund include the provision of an amicus brief from NAHB; litigation strategy support; and the development of legal resources relevant to NAHB, its members, and state and local home builders associations.
3. “Nationally significant” matters generally involve issues that are national in scope and could result in judicial decisions that will likely impact the housing industry as a whole. These matters are often cases brought in federal courts or state supreme courts. The maximum amount of NAHB financial assistance for any single “nationally significant” application is \$50,000.
4. Matters “common to the shelter industry” involve legal issues frequently faced by builders and developers. These matters are often cases brought in state trial or appellate courts, and only serve as precedent for an individual state or jurisdiction. For example, challenges to impact fees fall under this category. The maximum amount of NAHB financial assistance for any single “common problem” application is \$25,000.
5. Individual members, state and local HBAs, and NAHB may apply to the Legal Action Fund. Individual members must provide NAHB with a letter from their state or local association acknowledging that the application has been filed.

Application Requirements

1. All applications must include a summary statement of the facts, legal issues, status of the case, and impacts on the industry. Also, all substantive court documents filed by all of the parties, court decisions or other relevant documents should also be included. Incomplete applications will not be considered by the Committee.
2. An application for financial assistance shall be made as early as possible in the litigation process. Consideration will also be given to cases that have yet to be filed. Applications related to completed litigation will not be considered by the Committee.

3. Any financial support contributed or pledged by a state or local association should be disclosed in the application. The application materials must also include an estimation of past, current and anticipated costs of the litigation.
4. Members and/or associations may reapply to the Legal Action Committee for additional or continued funding if (a) the applicant is invited to reapply to the Committee as part of a decision on a previous application; (b) there is a meaningful, significant or substantive change in the litigation; or (c) the litigation has continued at least 12 months from the date of the previous grant. Applications for funding to support an appeal of a final decision is permissible. Applications for funding in the same case will be treated as a new application for financial assistance and will be subject to all of the application requirements set forth in these guidelines.
5. Members and/or associations that reapply to the Legal Action Fund are eligible to receive all forms of assistance outlined in these Guidelines. As such, returning applicants are eligible to receive up to \$50,000 for “nationally significant” matters or up to \$25,000 for “common problem” matters.
6. Notices providing information on the opportunity to apply for Legal Action Fund assistance, including a deadline for application submittal, will be issued prior to each Legal Action Committee meeting. Applications for Legal Action Fund assistance should be submitted to the NAHB Office of Legal Affairs via email, mail, or fax by the noticed deadline prior to any scheduled meeting of the Committee in order to receive consideration. An application will not be considered “submitted” unless it is complete (i.e., in full compliance with the application requirements herein). The Committee may call a special meeting after receipt of a request for assistance between Committee meetings if the Committee finds there are extenuating circumstances. Any Committee recommendations for assistance between meetings must be approved by the Senior Officers.
7. Applications may be referred to another appropriate NAHB committee for comment. After receiving all application information, comments and recommendations, NAHB staff will submit all requests for assistance to the Legal Action Committee for consideration.
8. Applicants should, where feasible, attend the Legal Action Committee meeting in order to present the application and to answer questions from the Committee members on the facts and issues raised by the case or the application. If unable to attend, applicants may have a representative present their application. A representative may include an Executive Officer, State Representative, the applicant’s attorney, or other NAHB member. If phone or video conferencing is offered at the Committee meeting, applicants will be notified and invited to participate using that format. NAHB staff will present the applications of applicants who are unable to find a representative to appear at the Committee meeting.
9. For applications that require consideration between NAHB Board meetings, the Committee will convene a conference call, which may or may not include video conferencing capabilities. If a video conference call format is selected by the

Committee Chairman, applicants are urged to make every effort to participate using video capabilities.

Legal Action Committee Actions/Process

1. The Legal Action Committee may recommend to the Board of Directors that Legal Action Fund assistance be granted for cases meeting the guidelines above. The Committee may also recommend that applications for assistance be denied, or that consideration of applications may be deferred until a later time, including consideration at the next Committee meeting.
2. The Legal Action Committee may recommend to the Board of Directors that NAHB file litigation, intervene, or manage cases that are nationally significant or represent a common problem in the industry. The Legal Action Committee may also recommend to the Board the filing of amicus curiae briefs by NAHB in cases in federal and state appellate courts. Lastly, the Legal Action Committee may recommend to the Board that NAHB undertake legal research projects designed to support NAHB's overall litigation strategy with financial assistance from the Legal Action Fund.
3. If the Committee's recommendations are made between Board meetings, the NAHB Senior Officers will consider and act on the Committee's recommendations.
4. Applicants will be notified by email of the Board or Senior Officers' decision on their applications as soon as possible after the date the decision is made.

Grant Requirements

1. Grant recipients shall submit detailed legal bills summarizing work conducted on the litigation to NAHB staff for reimbursement. Bills for legal services incurred more than 60 days prior to the date of approval of the grant or not related to specific conditions of the grant shall not be paid.
2. Any recipient of a Legal Action Fund grant shall provide to NAHB Office of Legal Affairs, as requested, (a) copies of all relevant substantive pleadings, briefs, judgments and orders that ensue from the case and (b) an update regarding the case every six months or when significant events in the case occur.
3. Grant recipients understand and agree that NAHB may publish general, non-confidential information about a Legal Action Fund grant. Such publication will take place in NAHB communications (such as newsletters, blog posts, program advertisements, and social media) and may provide the name of the HBA and/or the state where the applicant resides.
4. For grants of the maximum category amount (\$50,000 for nationally significant matters and \$25,000 for common industry problems), grants shall be disbursed in three (3) installments not exceeding \$20,000 for nationally significant matters and \$15,000 for common industry problems, along with a status update. A minimum interval of 60 days between disbursement requests is required.

5. Approved grants are issued on the express understanding that the action for which funds are granted shall be carried to final judgment in the court having jurisdiction over the action. Should the case be settled or otherwise discontinued prior to such final judgment, the Legal Action Committee reserves the right to terminate payment of funds and request a refund for funds already advanced.
6. If an applicant receives any award of attorneys' fees in the subject litigation, funding shall be returned to NAHB on the following basis $[(\text{fee awarded} \div \text{fees billed}) \times \text{NAHB grant}] = \text{amount to be returned to NAHB}$ as soon as practicable by the litigant, unless the Committee grants a waiver of this requirement.
7. Granted funds are available to the applicant for the duration of the litigation. Grants that are not accessed for more than two (2) years will be returned to NAHB. It is incumbent upon the applicant to communicate with NAHB as to the status of the litigation to ensure that a grant is not prematurely rescinded.