APRIL 29, 2024: FOR IMMEDIATE RELEASE

ARLINGTON COUNTY BOARD SUBPOENAS RESIDENTS TO FIND OUT WHO SUPPORTS THE LAWSUIT AGAINST IT IN THE MISSING MIDDLE HOUSING/EXPANDED HOUSING OPTIONS (EHO) ZONING CASE AND WHO HAS SAID WHAT IN OPPOSITION TO EHO ZONING

The Neighbors for Neighborhoods Litigation Fund, LLC receives contributions for the lawsuit filed by ten Arlington residents against the County Board regarding its EHO zoning. More than 750 contributions have been received via GoFundMe, Venmo, and by check.

Last week, the private law firm representing the County Board in the EHO zoning litigation issued a subpoena to find out who these people are.

The subpoena was issued to Dan Creedon, a long-time Arlington resident who helped found Neighbors for Neighborhoods (NfN). He is not a party to the lawsuit. The subpoena seeks:

- Communications with any person seeking support for the litigation;
- Communications with any organization regarding support of the litigation; and
- Any social media posts, or any public statements, regarding the litigation.

This request gives new meaning to the name that many residents have used, mostly in jest, to describe its local government: The People's Republic of Arlington.

The identities of those supporting the litigation have nothing to do with the fact that the Board violated state law when it failed to conduct studies of the impact of increased density, as alleged in the plaintiffs' complaint.

The United States Supreme Court has jealously protected the right to associate and financially support causes that challenge those in power.

Drawing on those bedrock values, after a City Council in Florida sought the names of those supporting litigation against it over an alleged improper zoning decision, a Court of Appeals in Florida in Mathews v. City of Maitland (2006) ruled:

"The compelled disclosure of the names of citizens exercising their right to participate in the democratic process would create a chilling effect on their rights to organize and associate." The Court added that "disclosure of contributors' identity would subject them to possible intimidation or coercion" and that disclosure "would likely affect the . . . ability to raise funds."

The County's efforts to name names goes even further, commanding that the plaintiffs in the lawsuit produce:

- The names of anyone with whom they spoke about EHO zoning, including the dates and substance of the conversations;
- All social media/online forums that they read or commented on about EHO zoning;
- All efforts they made to advocate against EHO zoning; and
- All documents reviewed in buying their Arlington homes.

The County Board has a disturbing pattern of trying to chill opposition, going so far as to sue residents two years ago after they challenged a decision about County bus parking. https://www.arlnow.com/2024/01/24/county-drops-lawsuit-against-civic-association-residents-over-attempt-to-block-bus-parking/ The County finally dropped its suit three months ago.

And while the County saw fit to use the courts against its own residents, in a September 19 hearing the County Attorney argued that it was "a subversion of the democratic process" for the Arlington Circuit Court to review the County Board's actions in adopting EHO zoning. https://www.arlnow.com/press-releases/judge-sets-trial-date-in-missing-middle-housing-case/

Judge David Schell disagreed, ruling that the plaintiffs "have a fundamental right" to challenge "a rezoning of their property that they allege was done incorrectly or in violation of the Code of Virginia." He has repeatedly denied the County's motions to dismiss or delay the trial.

Dan Creedon, whose documents the County seeks, says: "NfN will vigorously defend the First Amendment rights of Arlington residents to associate and challenge the Board's decisions and we call on the Arlington County Board to cease its efforts to chill these rights. NfN continues to accept donations in support of the litigation."

GoFundMe: https://www.gofundme.com/f/suit-re-end-of-singlefamily-zoning-in-arlington
Venmo: Search Neighbors for Neighborhoods

Check: payable to NfN Litigation Fund LLC – mail to: 1405 S. Fern St., Box 556, Arlington, Va.22202

The case is scheduled for trial to begin on July 8 in Arlington Circuit Court.

Media Contact: arlnfnllc@gmail.com