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THREE-JUDGE PANEL OF THE COURT OF APPEALS RULES IN FAVOR OF DEVELOPER ON MISSING MIDDLE HOUSING:
HOMEOWNERS WILL CONTINUE THE FIGHT IN THE APPELLATE COURTS

On September 5, 2025, a three-judge panel of the Court of Appeals of Virginia ruled against Arlington homeowners and in support of developer Wilsons Ventures. The decision reverses, for now, the September 2024 trial court ruling that Missing Middle Housing is invalid.

This ruling is yet another flip-flop by the panel, which ruled for the developer on June 24th. Then the panel ruled for the homeowners after they sought rehearing of that decision and presented oral arguments on July 7.

None of these decisions by the three-judge panel gets at the merits of the case: the trial judge's ruling that the County Board's Missing Middle Housing ordinance violates Virginia law.

Wilsons Ventures claimed that the trial court erred in its decision not to allow it to intervene in the case.

The decision of the three-judge panel failed to address the significant legal issues that the homeowners raised, including the fact the developer only sought intervention after the 5-day trial was over and the court ruled that EHO was invalid.

In addition, the panel brushed aside the homeowners' argument that Wilsons Ventures was not a necessary party to the litigation. That argument was based in part on the fact that the Arlington County Board vigorously defended its Missing Middle ordinance, with nearly a dozen attorneys, including many from a private law firm and paying that firm more than $1.4 million from taxpayer funds to date.

Following the June 24th decision in favor of the developer, the Arlington County Board was quick to claim victory and state that it was preparing to issue Missing Middle permits again. Then the panel reversed itself.

Attorneys for the homeowners will seek review of this latest decision – either to the full Court of Appeals or to the Virginia Supreme Court.

As the appellate process continues, Neighbors for Neighborhoods calls on the Arlington County Board to vote to pause the issuance of all permits related to Missing Middle Housing. If permits are issued, and the homeowners prevail, developers will be stuck with partially built properties that violate the zoning ordinance.

Dan Creedon with Neighbors for Neighborhoods, LLC, which is raising funds for the litigation, remarked on the recent events in the Court of Appeals: "The 3-judge panel of the Court of Appeals has flip-flopped on whether or not Wilsons Ventures should have been allowed to intervene in the case after the trial was over. And these decisions have nothing to do with the trial judge's ruling that County's Missing Middle Housing ordinance was invalid."

He added: "There is a lot at stake in this case. Residents were told that Missing Middle housing was about affordability. But the proof is in the pudding. A limited number of Missing Middle projects have been allowed to proceed in Arlington, including a duplex with each unit for sale for $1,795,000. If the ruling of the three-judge panel stands and Missing Middle can go forward, developers win and homeowners lose."

Neighbors for Neighborhoods, LLC continues to raise money for the litigation:

- GoFundMe: https://www.gofundme.com/f/suit-re-end-of-singlefamily-zoning-in-arlington
- Check payable to Neighbors for Neighborhoods, LLC mailed to 1405 S. Fern St. Box 556, Arlington, Va. 22202
- Venmo: Search Neighbors for Neighborhoods

For More Information: arlfnfllc@gmail.com