DAVID GERK Speaking before the Arlington County Board (Oct. 18, 2025)

I wish it weren't so but Arlington has chosen to self-inflict zoning approval chaos on itself.

Recently, 38 previously voided EHO permits magically flipped from "voided" to "approved" and the County is apparently accepting new EHO applications. But the EHO zoning case – Nordgren v County Board – sits actively appealed to the Supreme Court of Virginia. The Appeals Court decision in September remanded to the trial court to take on arguments from a further Party. It did not order the County to issue or accept EHO permits again. Only you did.

It will take months probably more before a Supreme Court ruling and even longer until final disposition of this case. And if the final ruling changes, modifies or invalidates ***any*** part of EHO then the County and unsuspecting homebuyers and residents all take on years of costly further litigation and legal battles. **Chaos**

These recently approved permits lack logical approval dates and the public does not have "reasonable notice" of approval, creating issues as to when the time clock for filing a potential BZA appeal runs. **Chaos.**

Anyone that purchases an EHO property in the meantime will be without notice that at any moment the property can be in violation as a result of Court ruling. **Chaos**. Will Arlington force the property to become compliant, be torn down? **Chaos**. Or, perhaps you will just ignore it and bless violators of the law. **Chaos. All avoidable chaos**.

The small number of approved limbo EHO properties thus far have cost the County and others much in litigation and angst recently, why would the County encourage even greater chaos?

If the County continues the prudent pause of EHO approvals due to litigation, it eliminates its risk of the immense follow-on litigation costs. It eliminates unsuspecting homebuyers being duped. **It eliminates chaos**.

There is little to gain by rushing to resume an EHO process before a final court disposition. But, by blazing forward, the County invites multipliers of harm, liability, abuses of the process, and **chaos**.

Please reconsider the chaos that awaits and pause until the Courts finally rule.