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A Huge Win for Arlington Residents:
Judge Denies County's Motions to Dismiss MMH/EHO Litigation: Case Going to Trial on Six of Seven Counts in the Complaint

Today, a judge appointed by the Virginia Supreme Court ruled in favor of the ten plaintiffs who are suing the Arlington County Board over its Missing Middle Housing/Expanded Housing Options (EHO) zoning amendments. Retired Fairfax Circuit Court Judge David Schell denied the County's motions to dismiss the lawsuit and the case will proceed to trial on six of the seven counts alleged. The only count that will not go to trial relates to whether the County shared documents in accordance with the Virginia Freedom of Information Act.

The judge was not persuaded by the Arlington County Attorney's claim at the September 19th hearing that the lawsuit is "improper" and "really a subversion of the democratic process." In fact, Judge Schell stated that it was "readily apparent" that the plaintiffs have standing to sue as owners of properties that have been rezoned from single-family to multi-family. He added that the plaintiffs don't need to wait for multi-family buildings to be built in their neighborhoods to sue and that the lawsuit is a "quintessential" use of declaratory judgment (declaring that EHO zoning is void) as a remedy.

Neighbors for Neighborhoods Litigation Fund, LLC has provided financial support for the litigation. One of its members, Dan Creedon, commented today: "Residents are seeking to hold the Arlington County Board accountable for failing to follow the law in its elimination of single-family zoning in Arlington. The judge's ruling recognizes that the plaintiffs – all Arlington homeowners – get the opportunity to make their case at trial. This is the democratic process at work."

The next hearing in the case will be November 16, when the judge will set a trial date.

More information about the litigation is available at:
https://gofund.me/d7aa0257

Inquiries: arlnfnllc@gmail.com