



PRESS RELEASE

NeighborsforNeighborhoods.org

Contact: Jay Hamilton

info@neighborsforneighborhoods.org

(240) 515-1816

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Arlington Homeowners Score Victory in Missing Middle Housing Litigation

Today, the Supreme Court of Virginia agreed to review a decision of the Virginia Court of Appeals in Arlington's Missing Middle Housing/Expanded Housing Option (EHO) litigation. This is a victory for the Arlington homeowners who prevailed at trial in 2024 in their suit against the Arlington County Board to have EHO declared illegal, but then saw that ruling reversed by the Court of Appeals in September 2025.

Both the County Board and developer Wilsons Ventures filed briefs asking the high court not to take this case.

At issue in this appeal is not whether the trial judge correctly ruled that EHO was illegal because, among other findings, the County failed to conduct the required studies of the impact of EHO. Instead, the appeal only addresses the claim of Wilsons Ventures that it should have been allowed to intervene in the case after the trial was over and after the judge ruled that EHO was void.

Winning in the Supreme Court likely would stop the County from issuing EHO permits.

The County has relied on the Court of Appeals September 2025 ruling to issue new EHO permits - 14 more since that ruling. If the homeowners win in the Supreme Court, the County likely would have to halt issuing new EHO permits and building permits for EHO projects already approved.

Winning in the Supreme Court would **not** end the litigation. The case would return to the Court of Appeals to consider the merits of the case: whether the trial judge was correct in his ruling that EHO was illegal.

"The Virginia Supreme Court got it right," says Dan Creedon of [Neighbors for Neighborhoods](#), the grassroots organization supporting the citizens' lawsuit. "It's not easy going against the Arlington County Board, which has spent \$1.5 million in taxpayer dollars to a private law firm to defend itself. A judge already found that the County broke state law by skipping required infrastructure studies. The homeowners won at trial and Neighbors for Neighborhoods will see them through to another victory."

Halting the issuance of EHO permits is important for many reasons. Chief among them is that the County did not sufficiently study the impact of EHO on Arlington's infrastructure, including its aging sanitary sewer system. This failure is one of the reasons that the trial judge ruled that EHO was illegal.

In addition, implementation of EHO has demonstrated that it is not affordable for moderate-income households, as the County Board said it would be.

Last week, Jay Hamilton presented the [Neighbors for Neighborhoods analysis of EHO](#) to the County Board. The report demonstrates that EHO is far out of reach for the teachers and public safety workers that the zoning change was meant to benefit, as EHO units have sold for between \$1.2 million and \$1.6 million.