

August 17 2025

Despite Larger Ban on Expanded Housing Options (EHO) Program, Ten Projects Moving Forward, Others May be Added (or Change Conditions of their Permit)

The Big Picture – Main Lawsuit (and One Offshoot) Pending Appeal

Arlington passed a Missing Middle or Enhanced Housing Options (EHO) zoning ordinance (allowing up to six plexes in low density neighborhoods) that took effect July 1, 2023. [While the county's EHO website](#) says “the future of EHO has yet to be decided,” and new applications remain halted, ten of the initially-approved EHO permits have been allowed to move forward, with others in the wings. The County needs to get out front and start explaining a very complex legal and administrative foundation for these cases that have emerged despite the overall ban on new EHO applications.

1. [Nordgren et. al vs. County Board of Arlington County: The “main lawsuit.”](#) In April 2023, eight plaintiffs challenged the EHO zoning on 8 grounds, and in September 2024 Arlington Circuit Court Judge David Schell found in their favor on four. Significantly, he found that the county had not adequately assessed impacts of the higher density on neighbors/infrastructure. As a result, the county voided 44 approved EHO permits and allowed one to stay in effect. The county also voided all permit applications it was processing at the time. Judge Schell in October then granted a “stay of execution” for the 44 newly-voided permits if the holders met four conditions, to include annotating the deed to reflect possible jeopardy for owners as legal challenges played out.ⁱ The County voted in November 2024 to appeal Schell’s ruling and did so in January 2025. The Appeals Court has agreed to hear that case, although timing is uncertain. Judge Schell’s decision prevents the County from accepting new EHO applications or processing the applications it also voided.
2. **Wilsons Ventures, LLC (2 permits pending)**
Wilsons Ventures, LLC – which had received two EHO permits asked to join the county in opposing the Nordgren case as an “indispensable party.” After Schell denied that request, Wilson appealed and on June 24, 2025 a [three-judge panel of the Virginia Court of Appeals overturned Schell’s ruling](#) leaving open a window to reinstating EHO in

Arlington. On July 8, in response to a petition for rehearing by the Nordgren plaintiffs, the 3-judge panel [withdrew its June 24 decision](#). Wilson's two permits are still void, and he has other legal remedies in play, as noted below.

Ten EHO “Approved”

Meanwhile, ten EHO projects -- all from among the original 45 approved before September 2024 -- have been allowed to proceed, pursuant to multiple legal and administrative decisions by various individuals and groups. ASF has grouped them into three categories based on their legal foundations: The Early Bird; the Stay of Execution; and the Vested Interests. Nine of the 10 newly-approved EHO permits are listed (and mapped) on the [County EHO dashboard](#), while one needs correction from “void” to “approved.” We present these groups in order of their legal approvals – and note that resumption of the overall EHO program still rests on the outcome of Nordgren et al. To help residents understand how EHO buildings are being built and lived in, we append a chart with details on each “revived” EHO case at the end of this document.

“Early Bird Gets the Worm” Group (1 EHO permit)

The county on September 12, 2023 granted an EHO permit for 644 S. Illinois St. The County says the EHO permit and a Certificate of Occupancy were both issued for a “completed” duplex prior to Judge Schell's September 2024 ruling, so this permit was never voided. It allowed for a single family to be internally converted to a duplex. However the [property record](#) shows anomalies regarding the addresses and type of residential structure; these may still need adjusting to reflect a stacked duplex EHO with two separate property codes.

“Stay of Execution” Group (4 EHO permits)

2129 N. Troy St; 3411 7th St. S.; 5041 25th St. S.; and 1021 N. Stafford St. were all granted a stay of execution from the EHO ban of October (as amended November 13, 2024). These owners met the conditions laid out by Judge Schell and had the County reinstate their EHO permits between December 2024 and February 2025. Three of these structures have already been completed, for example the duplex at N. Troy St. is on the rental market and the duplexes at 25th St. S. are occupied. Several of these owners are also pursuing new legal cases, some of which have been decided as discussed below, that will allow them – if successful -- to remove the conditions currently on their deeds.

Vested Interests Group (5 permits “approved by Circuit Court but county has not restored the EHO permit for one)

This group currently contains two developers with 5 permits between them for 3014 7th St. N.; 629 N. Monroe St.; 4611 N. Carlin Springs Rd.; 2612 S. Fern St.; and 3802 N. 14th St. In May and June 2025, two substitute Circuit Court Judges ([Hupp for Classic Cottages](#) and [Padrick for Sunnyside Development](#)) ruled that these two developers had “vested rights” under two provisions of State Lawⁱⁱ as EHO permit holders at the time of Schell's decision.

Classic Cottages revived their four EHO permits in May; Sunnyside Development (which is pursuing the project on 14th St. N.) is moving forward although the County EHO dashboard shows their permit is void. These properties do not now need to annotate their deeds or otherwise obey Judge Schell's conditions of November 13, 2024.

Vested Interests Catches On: No doubt encouraged by the other cases, on May 16 and August 7, 2025 Wilsons Ventures, LLC submitted two vested interests cases to the Circuit Court, one each for the two properties it was seeking to develop as part of its “indispensable party” challenge to the Nordgren lawsuit (see above). If the judges find in favor of Wilson Ventures, one property would be eligible for a new EHO permit, and the other would be allowed to remove the conditions the owner had to meet under Judge Schell's stay of execution. ASF also understands that owner Barry Seymour, who already has one EHO permit approved under the stay of execution (N. Troy St.), is also seeking a vested interest ruling from the Circuit Court for that property and one other that ASF has not been able to identify from among the previously-approved EHO permits.

Corporate vs. Property Owner – County Dashboard Must Include Both: This case revealed another anomaly in the dashboard, as ASF realized that the owner of 5041 25th St., (ZEHO 023-00022), already received an EHO permit as part of Judge Schell's stay of execution, but the EHO awardee was listed by the county as “Emcee Design Build LLC,” and not “Wilsons Ventures, LLC.” The County needs to list retroactively not only the name of the applicant for the EHO permits (i.e. the legal entity developing the property such as “Emcee Design Build LLC”) but the name of the corporate entity who will pursue legal cases (“Wilson Ventures, LLC” as one example) so that cases can be tracked through the courts, which are laying out the legal basis for these new EHO permits piecemeal.

Summary

Nordgren et al. remains pending at the Virginia Court of Appeals, so the County cannot accept any new EHO applications and the majority of the 45 original EHO permits remain void, with many developers having switched to construct single-family detached homes. However, several parties in the three groups above have pursued separate – and sometimes parallel or overlapping -- legal actions which resulted in their permits being awarded by Arlington. ASF has asked the county to improve its dashboard to reflect these legal foundations of the 10 “approved” projects and to clarify the status of the 14th St. N. sixplex and the S. Illinois St. property records. We have additional concerns that we hope the county will also address:

- The [county webpage](#) on EHO trial and appeals process shows only parts of the main trial transcripts. It should link to court documents/decisions;
- The County website says EHO status has yet to be determined, even while buildings are being erected and several are occupied as EHO units;

- The [County FAQ on EHO](#) is out of date in noting that “As of Sept. 27, 2024, two EHO projects were under construction, and one certificate of occupancy for an internal conversion has been issued;
- The EHO dashboard “list” cannot be sorted by civic association, such sorting only shows with the “map” function;
- The Nordgren plaintiffs and neighbors of the affected properties appear not to have been notified of the rulings in the Classic Cottages or the Sunnyside Development cases, possibly precluding a legal challenge within required timeframes; notices for lawsuits filed since June 2025 also are not being given to neighbors or the Nordgren plaintiffs;
- How can the circuit court make rulings on vested rights when another judge had ruled the program “void ab initio” and the case was still under appeal?

Notwithstanding revivals of some of the original 45 EHO permits, the key to stopping the program as it was adopted by the County – without planning for key impacts that affect Arlington’s Comprehensive Plan -- is winning the appeal of the main legal case. And while ASF is not a party to any of these legal cases, we believe it is important for the County to analyze these impacts of new density it approves under land use and zoning rules, which is the crux of the Nordgren case. If you are able to support this effort, please visit the Neighbors for Neighborhoods [GoFundMe site](#).

EHO Cases Approved or Seeking Separate Rulings for New Approval: The chart below provides ASF’s understanding of the full expanse of cases that have been or could be approved by decisions outside the “main case” of Nordgren as of mid-August 2025.

EHO permit #	Address	Civic Assn	Arl Co. EHO Issued	Court Decision and Date	Immediate and Corporate Owner	# of Units	Construction Status a/o Aug 2025	Lot as of July/Aug 2025
ZEHO-023-00011	1021 N. Stafford St.	Ballston-Va Sq	12-23-24	Stayed	N. Stafford of Arlington, LLC, Deyi Awadallah	6	Old home still on site	

ZEHO 023- 00053	2129 N. Troy St.	North Highland	12-23- 24	Stayed, plus seeking vested interest claim via CL2500265 4-00	Barry Seymour, Gordon Gulfview, LLC	2	Has COO; on rental market	
00050	7411 7 th St. S.	Alcova Heights	12-23- 24	Stayed	RAM Construct ion & Prop Mgt	4	EHO converted illegal triplex into 4 plex, will remain rental	
VOIDED ZEHO -023- 00010	3802 N. 14 th St.	Ballston- Va Sq	n/a	Vested Interest approved 6-14-25	Sunnysid e Develop ment LLC	6	EHO dashboard says permit is “void” but bldg. is fully framed	
ZEHO -023- 00026	2612 S. Fern St.	Aurora Highland s	5-30- 25	Vested Interest, approved 5-1-25	Midtown Partners, Classic Cottages	6	Old house razed July 2023; building permits and LDA permit posted as of Aug 2025	
ZEHO -023- 00036	4611 N. Carlin Springs Rd.	Bluemon t	5-30- 25	Vested Interests approved 5-1-25	Midtown Partners, Classic Cottages	6	Old home still on site	

ZEHO -023- 00041	629 N. Monroe St.	Ashton Heights	5-30- 25	Vested Interest approved 5-1-25	Midtown Partners, Classic Cottages	3	Old house razed 2024; new lots @ 629, 633, 637 N. Monroe recorded, permits in train	
ZEHO -023- 00058	3014 7 th St. N.	Lyon Park	5-30- 25	Vested Interest approved 5-1-25	Midtown Partners, Classic Cottages	3	Prior home razed/subdi vision pending; permitting in process	
ZEHO -023- 00022	5041 25 th St. S.	Claremo nt	2-4-25	Stayed, but owner also seeking vested interest decision via 25003584- 00	Emcee Design Build LLC, Wilsons Ventures, LLC	2	New addresses 5041 and 5043 25 th St. S., deed annotated; both duplexes occupied	
ZEHO -023- 00031	644 S. Illinois St.	Forest Glen		Zoning Ordinance of July 2023; occupancy permit issued before EHO was voided in Sept. 2024	Chris John Stauber	2	Property records do not comport with EHO status, but property seems to be rented out as stacked duplex	
Permit void	1225 N. Quincy St.	Ballston- Va Sq		Seeking vested interest decision via CL2500220 0-00	Mark Cerny, Wilsons Ventures, LLC	3	Property is currently cleared of prior home, vacant, no constructio n work	

ⁱ This was further amended November 13, 2025 but still required the deed to show potential serious consequences for owners of any built EHO as the legal challenges continued to play out.

ⁱⁱ Virginia [15.2.2307](#) and Virginia [15.2-2311\(c\)](#)