

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

HISTORIC ALEXANDRIA FOUNDATION, *et al.*)
)
 Petitioners,)
)
 v.)
)
 CITY OF ALEXANDRIA, *et al.*)
)
 Respondents.)
 _____)

Case No. CL19002249

CLERK OF COURTS
 CITY OF ALEXANDRIA
 2019 JUL 16 PM 12:08
 COURT REPORTER

DEMURRER OF VOWELL, LLC

Respondent, Vowell, LLC (“Vowell”), by counsel, pursuant to Rule 3:8 of the Rules of the Supreme Court of Virginia and Virginia Code § 8.01-273, states as follows for its Demurrer to the Petition filed by Historic Alexandria Foundation, Yvonne Weight Callahan, and Gail C. Rothrock (collectively, “Petitioners”).

1. The Petition fails to state a claim upon which relief may be granted for the following reasons:
 - a. Petitioners fail to allege sufficient facts to demonstrate that they have standing to challenge the legislative decision made by the City Council of Alexandria (the “City Council”), because they do not allege immediate, pecuniary, and substantial interests in the subject of this case. Petitioners only allege some perceived public injury, wrongs that are common with other persons similarly situated, or, at the most, generalized, conclusory allegations of harm that the Virginia Supreme Court has rejected as being sufficient to confer standing in a challenge to a governing body’s legislative land use decision; and

b. The Petition alleges that the City Council's decision was arbitrary and capricious. However, the City Council's decision was a legislative action, review of which is subject to the "fairly debatable" standard. The Petition does not allege sufficient facts on its face to overcome the fairly debatable standard, and the legislative record, which is incorporated into the Petition through cited exhibits pursuant to Virginia Supreme Court Rule 1:4(i), demonstrates that the City Council's legislative actions were, at a minimum, fairly debatable.

2. Vowell adopts and incorporates the grounds of demurrer asserted by Respondents the City of Alexandria, the Alexandria City Council, and the Alexandria Board of Architectural Review.

3. At the appropriate time, Vowell intends to file a brief in support of its demurrer.

WHEREFORE, Respondent, Vowell, LLC, by counsel, respectfully requests that this Court dismiss the Petition, with prejudice, and award it such other and further relief as this Court deems just and proper.

Respectfully submitted,

VOWELL, LLC
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2019, a true copy of the foregoing Demurrer was mailed, first class, postage prepaid, and sent by email to:

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