

VIRGINIA:

IN THE CIRCUIT COURT FOR PRINCE WILLIAM COUNTY

OAK VALLEY HOMEOWNERS )  
ASSOCIATION, INC., *et al.*, )  
 )  
Plaintiffs, )  
 )  
v. ) Case No. CL24-375  
 )  
BOARD OF COUNTY SUPERVISORS )  
OF PRINCE WILLIAM COUNTY, *et al.*, )  
 )  
Defendants. )  
\_\_\_\_\_ )

**THE BOARD OF COUNTY SUPERVISORS’ MEMORANDUM IN SUPPORT FOR DEVELOPER-DEFENDANTS’ MOTION TO CLARIFY AND THE BOARD’S MOTION TO STAY JUDGMENT PENDING APPEAL AND TO SUSPEND THE AUGUST 7 ORDER**

The Board of County Supervisors of Prince William County, Virginia (the “Board”), by counsel, respectfully submits its Support (the “Board’s Support”) for Developer-Defendants’ Motion to Clarify/Modify Final Order Following Trial on Count I (the “Motion to Clarify”) and the Board’s Motion to Stay Judgment Pending Appeal and to Suspend the August 7 Order (the “Motion to Suspend”). In support whereof, the Board states as follows:

**I. The Board’s Support for Developer-Defendants’ Motion to Clarify**

1. On August 7, 2025, the Court entered its “Final Order Following Trial on Count I” (the “August 7 Order”).

2. On August 13, 2025, the Developer-Defendants filed the Motion to Clarify, seeking clarification and modification of the August 7 Order because, *inter alia*, it is not a final order under Rule 1:1(b) because it does not “dispose[] of the entire matter before the court, including all claim(s) and all cause(s) of action against all parties, give[] all the relief contemplated, and leave[]

nothing to be done by the court except the ministerial execution of the court’s judgment, order, or decree.” *See* Rule 1:1.

3. For example, the August 7 Order—through the Court’s Letter Opinion incorporated therein by reference—states outright that “the demurrer on Counts 2, 3, 4, 5, 6, and 7 remains pending in this Court.” **Letter Opinion at 3**. The August 7 Order cannot be final if responsive pleadings are pending in the trial court.

4. As the Developer-Defendants correctly state in the Motion to Clarify, the August 7 Order purports to grant Defendants’ Motion to Strike as to Plaintiffs Roger Yackel and John C. Hermansen, Trustee of the John C. Hermansen Revocable Trust, but fails to enter judgment or dismiss all claims as to them. *See Motion to Clarify at ¶ 4*. “In a civil case, an order which merely grants a motion to strike, without expressly entering summary judgment or partial summary judgment or dismissing the claim(s) or cause(s) of action at issue, is insufficient to dispose of the claim(s) or cause(s) of action at issue.” Rule 1:1(e).

5. In addition to these arguments, the Board adopts as its own all arguments and authorities raised by the Developer-Defendants in the Motion to Clarify and incorporates the same by reference.

6. For these reasons, in order to facilitate efficient transfer of jurisdiction of this case to the appellate court, and to allow any forthcoming appeals to proceed, the Board joins the Developer-Defendants in requesting clarification and modification of the August 7 Order in a manner that satisfies the requirements for a final order under Rule 1:1(b).

## II. Motion to Stay and Suspend

### A. Motion to Stay the Judgment Pending Appeal

1. In this case, the Defendants believe the August 7 Order requires clarification and modification in order to satisfy the requirements of a final order under Rule 1:1, as argued in the Motion to Clarify. If the Court accepts the arguments raised by Defendants and grants the Motion to Clarify, then the Board requests that any modified final order to issue as a result of such ruling include an order staying the judgment until Defendants have exhausted their options on appeal.
2. In the alternative, if the Court determines that the August 7 Order is a final order and denies the Motion to Clarify, then the Board requests that the Court stay execution of the August 7 Order until Defendants have exhausted their remedies on appeal.
3. Under Rules 1:1 and 1:1B(a)(3)(B) and this Court's inherent authority to administer its affairs, this Court may stay a final judgment pending appeal, suspending the effect of any final order in order to allow for defendants to perfect any appeal and supersedeas in the appellate court.
4. "The suspension is generally granted as a matter of course, but is not a matter of right, and is for a reasonable time specified in the order, and thereafter until such petition is acted on by the [appellate court] if such petition is actually filed within the specified time." *Sutherland v Swannanoa Corp.*, 189 Va. 149, 156 (1949) (internal quotation marks omitted).
5. The Board, in its capacity protecting the interest of Prince William County (the "County"), is exempt from appeal and suspension bonding requirements. See Code § 8.01-676.1(M).

6. Stay of judgment in this case until appeals are exhausted will allow Defendants to perfect the appeals and supersedeas in the Court of Appeals, where Defendants are entitled by statute to suspension of execution of the final order appealed from. See Code § 8.01-676.1(C).
7. Additionally, many collateral issues—both known and unknown—arising from the August 7 Order are best decided at the end of any pending appeals in these proceedings, to avoid conflicting rulings, inefficiencies, reassessments, citizen confusions, and the potential for unnecessary enforcement actions if Defendants are ultimately successful on appeal. The stay would simply preserve the status quo pending the likely appeal.

**B. Motion to Suspend 21-day Period Under Rule 1:1**

1. The Board also requests additional alternative relief *solely in the event this Court decides to deny the Motion to Clarify*.
2. As the Court may know, the Board is in recess, and not scheduled to meet again as a public body until September 9, 2025. The Board is unlike the other parties in this case, and can only take action or give direction to counsel when sitting as a public body.
3. The Board wishes to discuss its next steps in this case, if any—and to consult with counsel—at its September 9 meeting.
4. However, if the August 7 Order is deemed to be a final order by this Court, then the mandatory period for filing a notice of appeal would end on September 6, 2025, meaning the last day to file the notice of appeal will be September 8, 2025. This timing would not allow the Board to meet as a body prior to expiration of the mandatory period to file the notice.

5. Accordingly, in order to permit the Board to meet as a public body to discuss with counsel the actions, if any, it may wish to take on appeal, in the event the motion to clarify is denied, the Board respectfully requests that this Court enter an order temporarily suspending the August 7 Order.
6. “Under Rule 1:1, final judgments remain under the control of the trial court and may be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer.” *Bistro Manila, LLC v. Alvah I, LLC*, 83 Va. App. 300, 308 (2025) (cleaned up).
7. The Supreme Court of Virginia has stressed that “a judgment which has been properly vacated or suspended under Rule 1:1 does not become a final judgment thereafter without a subsequent order confirming it as originally entered or as modified.” *Super Fresh Mkts. of Va. v. Ruffin*, 263 Va. 555, 564 (2002).
8. Where a final judgment is “modified, vacated, or suspended by the trial court pursuant to Rule 1:1,” then “the time for filing [a notice of appeal in the Court of Appeals] is computed from the date of the final judgment entered following such modification, vacation, or suspension.” Rule 5A:3(a).
9. Thus, an order from this Court suspending the August 7 Order would permit the Board to deliberate its options on appeal in this case and to discuss those options with counsel. Providing the Board an opportunity to deliberate on critical public issues that require the Board to act affirmatively is good cause for entry of such a suspension order.
10. If this motion to suspend were to be granted, the Board, by counsel, as directed by Court, is willing to draft and file a proposed subsequent order after the September 9 meeting on a date of the Court’s choosing confirming the August 7 Order as originally entered or modified, if necessary.

### III. Conclusion and Prayer for Relief

WHEREFORE, for the reasons stated herein, and for any reasons to be stated by Defendants at any argument heard on the Motion to Clarify or the Motion to Stay and Suspend, the Board respectfully requests that this Court GRANT the Motion to Clarify and the Motion to Stay or Suspend, and enter an order:

1. GRANTING the Motion to Clarify and all relief requested therein by the Developer-Defendants;
2. Staying execution of any modified order to issue as a result of the Motion to Clarify or, in the alternative, staying execution of the August 7 Order until Defendants have exhausted all remedies on appeal; and
3. If the Motion to Clarify is denied and the August 7 Order is not modified, to enter an order suspending the August 7 Order under Rule 1:1.

Respectfully submitted,

**BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA**

By Counsel



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**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of August 2025, a true and correct copy of the foregoing document was served via First-Class Mail and e-mail by consent to the following:

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