

FILED

DATE: March 28, 2024

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WAKE COUNTY

SUPERIOR COURT JUDGES OFFICE

STATE OF NORTH CAROLINA BY: S. Smallwood

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23CV004711-910

COUNTY OF WAKE

GEORGE C. VENTERS and wife
NICKYE Y. VENTERS; GREG
LINCOLN PIERCE and wife AMY J.
PIERCE; JOHN SOLIC and wife
SAMANTHA SOLIC,

Plaintiffs,

v.

CITY OF RALEIGH, a body politic
and corporate; 908 WILLIAMSON,
LLC, a North Carolina limited
liability company; RDU
CONSULTING, PLLC, a North
Carolina limited liability company;
and CONCEPT 8, LLC, a North
Carolina limited liability company;

Defendants.

**ORDER GRANTING DEFENDANTS'
908 WILLIAMSON, LLC RDU
CONSULTING, LLC AND CONCEPT 8,
LLC'S MOTION TO DISMISS AND
DENYING THEIR MOTION TO
STRIKE**

This matter came on to be heard at the November 29, 2023 session of Wake County Civil Superior Court before the Honorable Patrick T. Nadolski, Superior Court Judge Presiding, upon a Motion to Dismiss pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure and a Motion to Strike pursuant to Rule 12(f) filed by the Defendants 908 Williamson, LLC, RDU Consulting, LLC, and Concept 8, LLC (collectively, the "908 Defendants"). Craig D. Justus appeared on behalf of the Plaintiffs, Robin L. Tatum appeared on behalf of the Defendant City of Raleigh (the "City"), and Jennifer G. Ashton appeared on behalf of the 908 Defendants. After reviewing the Complaint, the Motions filed by the 908 Defendants, and the memoranda of law submitted by the parties, as well as listening to the arguments of counsel, the Court finds that

the 908 Defendants' Motion to Dismiss should be granted for the reasons set forth below, and the 908 Defendants' Motion to Strike should be denied.

With respect to the 908 Defendants' Motion to Dismiss, the Court finds that Plaintiffs have failed to allege any substantive claim against the 908 Defendants upon which relief can be granted. Moreover, per Plaintiffs' allegations, this case centers on whether Defendant City properly adopted several City ordinances related to Missing Middle housing. Per Plaintiffs' allegations, the 908 Defendants had no role in the adoption of those ordinances. Therefore, the 908 Defendants are not the proper parties to defend those ordinances, nor will they ever be, as that defense rests solely with the City. For these reasons, the 908 Defendants are hereby dismissed from this case with prejudice.

The Court notes the 908 Defendants have requested attorneys' fees pursuant to N.C. Gen. Stat. §6-21.5 in this matter. The Court will hold consideration of the request for attorneys' fees open pending briefing by the parties. All briefs must be submitted to the Court on or before April 4, 2024.

WHEREFORE, it is ORDERED, ADJUDGED, and DECREED as follows:

1. The Defendants 908 Williamson, LLC, RDU Consulting, LLC, and Concept 8, LLC's Motion to Dismiss pursuant to Rule 12(b)(6) is GRANTED with prejudice for the reasons set forth herein;
2. The Defendants 908 Williamson, LLC, RDU Consulting, LLC, and Concept 8, LLC's Motion to Strike pursuant to Rule 12(f) is denied; and
3. The Court is holding open consideration of the 908 Defendants' Motion for Attorney's Fees pending briefing by the parties, with all briefs regarding attorneys' fees due on or before April 4, 2024.

The Court has reviewed Plaintiffs' Motion to Clarify the Court's Ruling.

This the 27th day of March, 2024

A handwritten signature in black ink, appearing to read "Patrick T. Nadolski", written in a cursive style.

The Honorable Patrick T. Nadolski,
Superior Court Judge Presiding