

IN THE SUPREME COURT OF NORTH CAROLINA

No. 390PA10

(FILED 10 NOVEMBER 2011)

AMWARD HOMES, INC.; ANGE CONSTRUCTION COMPANY; BLUEPOINT HOMES, INC.; HOMESCAPE BUILDING COMPANY; IMPACT DESIGN-BUILD, INC.; JOHN LEGGETT AND COMPANY; POYTHRESS CONSTRUCTION COMPANY, INC.; POYTHRESS HOMES, INC.; WARDSON CONSTRUCTION, INC.; WHG, INC. d/b/a TIMBERLINE BUILDERS; and ZEIGLER & COMPANY

v.

TOWN OF CARY, a body politic and corporate

TRADITION AT STONEWATER I, LP

v.

TOWN OF CARY, a body politic and corporate

On discretionary review pursuant to N.C.G.S. § 7A-31 from the decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 698 S.E.2d 404 (2010), affirming orders entered on 5 March 2009, 1 April 2009, and 2 April 2009, all by Judge Carl R. Fox in Superior Court, Wake County. Heard in the Supreme Court 17 October 2011.

K&L Gates LLP, by William J. Brian, Jr. and Keith P. Anthony, for plaintiff-appellees.

Womble Carlyle Sandridge & Rice, LLP, by Michael T. Henry, Burley B. Mitchell, Jr., and John C. Cooke; and Brough Law Firm, by Michael B. Brough, for defendant-appellant.

Kimberly S. Hibbard, General Counsel, and Gregory F. Schwitzgebel III, Senior Assistant General Counsel, for North Carolina League of Municipalities, amicus curiae.

AMWARD HOMES, INC. V. TOWN OF CARY

Opinion of the Court

J. Michael Carpenter, General Counsel, North Carolina Home Builders Association, for Raleigh-Wake County Home Builders Association and North Carolina Home Builders Association, amici curiae.

PER CURIAM.

Justice JACKSON took no part in the consideration or decision of this case. The remaining members of the Court are equally divided, with three members voting to affirm and three members voting to reverse the decision of the Court of Appeals. Accordingly, the decision of the Court of Appeals is left undisturbed and stands without precedential value. *See, e.g., Hall v. Toreros II, Inc.*, 363 N.C. 114, 678 S.E.2d 656 (2009).

AFFIRMED.