

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

FILED

SUPERIOR COURT DIVISION

COUNTY OF CHATHAM

DATE: September 18, 2026

26CV000456-180

TIME: 8:06:58 AM

ECO TIP WEST LLC,

CHATHAM COUNTY

CLERK OF SUPERIOR COURT

Plaintiff,

BY: C. McLeod

**ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT
(N.C.R. Civ. P. 56)**

v.

CHATHAM COUNTY, NORTH CAROLINA,

Defendant.

THIS MATTER came on for hearing before the Honorable John M. Morris on August 31, 2026, in Chatham County Civil Superior Court upon Plaintiff, Eco TIP West LLC's motion for summary judgment pursuant to Rule 56 of the North Carolina Rules of Civil Procedure. At the August 31, 2026 hearing, Robin Tatum and Mitch Armbruster appeared on behalf of Plaintiff and James H. ("Trey") Ferguson appeared on behalf of Defendant Chatham County. The parties have consented to the entry of this order out of session and out of County.

I. Summary of the Case

This case relates to Chatham County's decision to adopt a twelve (12) month moratorium on data centers on February 11, 2026 (the "Moratorium"). Plaintiff owns property in Chatham County located near the intersection of Pea Ridge Road and Old US 1 in the area known as Triangle Innovation Point (or "TIP") West where it planned to develop a data center (the "Data Center Project") prior to the enactment of the Moratorium.

Plaintiff filed this lawsuit challenging the validity of the Moratorium based upon, *inter alia*, violations of N.C. Gen. Stat. Chapter 160D, governing "Local Planning and Development Regulation" and the North Carolina Constitution. Plaintiff also claims that, even assuming *arguendo* the Moratorium was lawful, the Data Center Project could nonetheless proceed with

development because: a) the Data Center Project was exempt from the Moratorium pursuant to N.C. Gen. Stat. § 160D-107(c); b) Plaintiff had statutory vested rights in the Data Center Project pursuant to N.C. Gen. Stat. § 160D-108; c) Plaintiff was entitled to permit choice rights under N.C. Gen. Stat. § 160D-108(b) and §143-755; and, d) the County was otherwise estopped from applying the Moratorium to the Data Center Project. Plaintiff also requested that it be awarded attorney's fees and costs pursuant to N.C. Gen. Stat. § 6-21.7, "Attorneys' fees; cities or counties acting outside the scope of their authority."

II. Decision of the Court

Summary judgment shall be granted when "the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to judgment as a matter of law." N.C. R. Civ. P. 56(c).

After careful consideration of the file, counsels' legal briefs, Plaintiff's motion for summary judgment, and the exhibits and arguments of counsel during the August 31 hearing, the Court finds that there is no genuine issue as to any material fact and that Plaintiff is entitled to a judgment in its favor as a matter of law.

THEREFORE, for the reasons set forth above, Plaintiff's motion for summary judgment is GRANTED as to the issues of liability and attorney's fees. Plaintiff shall file an affidavit of attorney's fees, including an itemization of all fees and costs incurred, within fourteen (14) days of the entry of this order.

IT IS FURTHER ORDERED that the determination and award of Plaintiff's damages is reserved for further proceedings. The parties shall confer and submit a proposed scheduling order

for the resolution of Plaintiff's damages claims within twenty-one (21) days of the entry of this order.

This the 17th day of September 2026.

9/17/2026 4:55:47 PM



The Honorable John M. Morris
Superior Court Judge Presiding