

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1110

Filed 6 August 2024

Buncombe County, No. 18CVS3771

CITY OF ASHEVILLE, Plaintiff,

v.

MR ENTERTAINMENT, LLC d/b/a OFF THE WAGON DUELING PIANO BAR,
JESS T. MILLS, IV and BENJAMIN O. REESE, Defendants.

Appeal by defendants from judgment entered 3 August 2023 by Judge
Jacqueline D. Grant in Buncombe County Superior Court. Heard in the Court of
Appeals 11 June 2024.

*City Attorney's Office, by Sr. Assistant City Attorney Eric P. Edgerton, for the
petitioner-appellee.*

*Ferikes Bleynat & Cannon, PLLC, by Edward L. Bleynat, Jr., for the defendant-
appellants.*

PER CURIAM.

Appeal by Jess T. Mills (“Mills”), Benjamin O. Reese (“Reese”), and MR
Entertainment, LLC d/b/a Off the Wagon Dueling Piano Bar (“OTW”) (collectively
“Defendants”) from motion to strike and judgment on the pleadings in favor of the
City of Asheville (the “City”). We vacate and remand for entry of dismissal.

CITY OF ASHEVILLE V. MR. ENTERTAINMENT, LLC

Opinion of the Court

The factual background underlying this case is set out in this Court's published opinion in *MR Entm't v. The City of Asheville*, COA23-1109. The Board of Adjustment found the City had failed to re-inspect the site and to confirm the abatement after Defendants had notified the City of their abatement and cure within the requisite period. For the reasons stated in this Court's opinion in *MR Entm't v. The City of Asheville*, COA23-1109, the trial court erred in granting the City's motion for judgment on the pleadings. The City's action was rendered moot by Defendants' notice and abatement of the alleged violation. We vacate and remand for entry of dismissal. *It is so ordered.*

VACATED AND REMANDED.

Panel consisting of Judges TYSON, ZACHARY, and GRIFFIN.

Report per Rule 30(e).