

MEMORANDUM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 9/11/09

**T-MOBILE NORTHEAST LLC and
T-MOBILE LICENSE LLC,**

Plaintiffs,

-vs-

**TOWN OF LAGRANGE,
TOWN OF LAGRANGE ZONING BOARD OF
APPEALS,
TOWN OF LAGRANGE PLANNING BOARD, and
TOWN OF LAGRANGE PLANNING, ZONING AND
BUILDING DEPARTMENT,**

Defendants.

**{PROPOSED} ORDER
ENTERING A PERMANENT
MANDATORY INJUNCTION**

08 Civ. 2201 (CM)(GAY)

Plaintiffs T-Mobile Northeast LLC and T-Mobile License, LLC (collectively, "T-Mobile") and Defendants Town of LaGrange, Town of LaGrange Zoning Board of Appeals, Town of LaGrange Planning Board, and Town of LaGrange Planning, Zoning and Building Department (collectively, the "Town") each moved for partial summary judgment on certain of the asserted claims. In its Decision and Order dated August 31, 2009, the Court granted T-Mobile's motion in all respects except insofar as summary judgment was sought on T-Mobile's Ninth Cause of Action, and denied the Town's motion in all respects except insofar as the Town's sought dismissal of T-Mobile's Ninth Cause of Action and directed the Town and any and all agencies, boards and authorities acting on its behalf to issue all necessary orders such that T-Mobile's equipment can be in service within 90 days.

NOW, based on the reasons and authorities set forth in the Court's Decision and Order dated August 31, 2009, it is hereby **ORDERED**:

1. That at the next regularly scheduled meeting of the Town of LaGrange Planning Board, to be held September 15, 2009, the Planning Board shall issue a resolution approving T-Mobile's proposed project development plan and special use permit application; and

2. Within seven (7) days of receipt of a completed building permit application, construction drawings detailing the antenna co-location and ground equipment installation as previously presented to the Planning and Zoning Boards of the Town, structural report previously presented to the Planning and Zoning Boards of the Town, insurance certificates required under New York State Building Code, and the prescribed Town building permit fee, the Town of LaGrange, and any and all agencies, boards and authorities acting on its behalf, shall issue a building permit to T-Mobile so that T-Mobile may install its wireless service facility at the so-called "ATC Site" located at 20 Vervalen Drive in the Town of LaGrange.

3. Within seven (7) days of receipt of notice from T-Mobile that construction of the wireless service facility is complete, the Town of LaGrange, and any and all agencies, boards and authorities acting on its behalf, shall conduct an inspection of the wireless service facility to verify compliance with the aforesaid plans and specifications and, within two business days thereafter, shall issue to T-Mobile notice of any deficiencies or, alternatively, issue a certificate of completion.

4. If the Town of LaGrange, and any and all agencies, boards and authorities acting on its behalf, shall issue a notice of deficiencies, within seven (7) days of receipt of notice from T-Mobile that the alleged deficiencies have been corrected, the Town of LaGrange, and any and all agencies, boards and authorities acting on its behalf, shall conduct a further inspection of the wireless service facility and, within two business days thereafter, issue a certificate of completion.

IT IS SO ORDERED.

DATED: 11 September, 2009
New York, New York



Hon. Colleen McMahon
United States District Judge