

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

T-MOBILE NORTHEAST LLC,

Plaintiff,

-against-

ORDER
09 CV 5670 (SJF) (ETB)

THE INCORPORATED VILLAGE OF EAST HILLS
and the ZONING BOARD OF APPEALS OF THE
INCORPORATED VILLAGE OF EAST HILLS,

Defendants.

X

FEUERSTEIN, J.

On December 29, 2009, plaintiff T-Mobile Northeast, LLC (“plaintiff”) filed a complaint against the Village of East Hills (the “Village”) and the Village Zoning Board of Appeals, (collectively the “defendants”) pursuant to the Telecommunications Act of 1996, specifically 42 U.S.C. § 332(c)(7)(B), and Article 78 of the New York Civil Procedure Law and Rules. Pursuant to a referral, Magistrate Judge E. Thomas Boyle issued a Report and Recommendation on March 2, 2011 (the “Report”) recommending that plaintiff’s motion be granted. No objections have been filed to the Report. For the reasons stated herein, the Report is accepted in its entirety.

I. Discussion

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct

proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), affd., 125 F. App'x. 374 (2d Cir. 2005); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

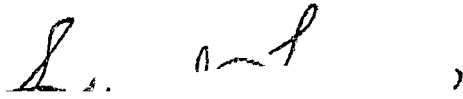
No objections have been filed to Magistrate Judge Boyle's Report to date. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts and adopts Magistrate Judge Boyle's Report as an Order of the Court.

II. Conclusion

For the foregoing reasons, the Report is accepted in its entirety as an order of the Court, and plaintiff's motion for summary judgment is granted. The Clerk of the Court is directed to

close the case.

SO ORDERED.



SANDRA J. FEUERSTEIN
United States District Judge

Dated: March 22 , 2011
Central Islip, New York