

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

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PORTLAND CELLULAR PARTNERSHIP )  
d/b/a VERIZON WIRELESS, )  
 )  
Plaintiff, )  
 )  
v. ) 2:14-cv-00274-JDL  
 )  
INHABITANTS OF THE TOWN OF )  
CAPE ELIZABETH, )  
 )  
Defendants )  
 )  
and )  
 )  
PRISCILLA ARMSTRONG, PAVEL )  
DARLING, and BRAD KAUFFMAN )  
 )  
Intervenors )  

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**FINAL ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

Following briefing on the two counts in the Complaint, and by Order dated September 30, 2015, the Court denied Verizon’s motion for summary judgment on Count I (ECF No. 29) and granted the Town’s cross-motion on Count I (ECF No. 31) and Intervenors’ cross-motion on Count I (ECF No. 35). On Count II, the Court denied Verizon’s motion for summary judgment (ECF No. 39) only as to an issue concerning concealment of Verizon’s antennas. Both the Town’s (ECF No. 42) and Intervenors’ (ECF No. 43) cross-motions for summary judgment as to Count II were denied.

As part of the Court’s order on these cross-motions for summary judgment, the Court remanded this matter to the Town for a determination as to whether Verizon’s antennas were

“concealed,” as the Town had not reached that issue during its first review of Verizon’s application. Per the Town’s ordinance, where antenna concealment is not complete, the Code Enforcement Officer (“CEO”) may refer the application to the Planning Board for site plan review. On remand, the CEO referred the application to the Planning Board.

By status report filed April 29, 2016 (ECF No. 64), the parties reported that the Cape Elizabeth Planning Board has reviewed Verizon’s proposed facility, including the proposed concealment elements of Verizon’s project, and has approved the proposed project subject to certain conditions. A copy of the Planning Board’s April 27, 2016 permitting decision has been provided to the Court. None of the parties seek further judicial review of the Planning Board’s April 27<sup>th</sup> decision. Accordingly, no further action by this Court is required. This Order disposes of all claims and constitutes a final judgment.

**SO ORDERED.**

Dated: May 10, 2016

/s/ Jon D. Levy  
**U.S. DISTRICT JUDGE**