

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

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BAY COMMUNICATIONS III LLC,	)	
Plaintiff,	)	
	)	Civil Action
v.	)	Docket No. 2:20-cv-00100-LEW
	)	
CITY OF ROCKLAND and CITY OF	)	
ROCKLAND PLANNING BOARD,	)	
Defendants.	)	

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**DECLARATION OF VINCENT GRANESE IN SUPPORT  
OF PLAINTIFF’S MOTION FOR CONTEMPT**

I, Vincent Granese, declare the following to be true and correct:

1. I am a consultant with Transcend Wireless LLC and in this capacity have been assisting Bay Communications III LLC (“Bay”) in its efforts to construct and operate a wireless telecommunications tower, related appurtenances and access and utility routes (the “Facility”) at 182 Camden Street, Rockland, Maine (the “Site”).

2. The Site was chosen by Bay after substantial analysis, consideration and review of wireless coverage needs in the area and of the availability of appropriate sites.

3. In my capacity as a consultant, I have repeatedly interacted on Bay’s behalf with the City of Rockland (the “City”) and its Planning Board (the “Board”).

4. On or about September 9, 2019, Bay applied to the Board for site plan review and a special use class approval to construct a 120’ monopole tower, together with antennas and equipment cabinets required for the Facility, at the Site (the “Application”).

5. Public meetings were held by the Board on November 5, 2019, January 7, 2020, and February 18, 2020, at which Bay introduced evidence, including radio frequency coverage maps and testimony, demonstrating that there is a significant gap in wireless personal

communications services in the City that could be addressed through the proposed Facility, and that the height sought by Bay was necessary to address this service gap.

6. During the February 18, 2020 meeting, the Board voted to deny the Application.

7. Bay thereafter appealed that denial to this Court in accordance with the provisions of 42 U.S.C. § 332(c)(7)(b).

8. In the course of that appeal, Bay was approached through counsel for the City and Board as to the potential to settle the parties' disputes. Bay then entered into good faith negotiations with the City to resolve this litigation.

9. I am informed and believe that the City sought two separate opinions from outside counsel as to the likelihood that Bay would prevail with its appeal in connection with its settlement negotiations.

10. Ultimately, the parties, through counsel, negotiated an Agreement for Judgment that required the City and the Board to grant all necessary zoning relief, site plan review approvals, and permits with respect to Bay's proposed Facility.

11. On or about November 9, 2020, the City of Rockland City Council unanimously approved the settlement reflected in the Agreement for Judgment, which was thereafter executed by counsel for the parties, filed with (Docket No. 20) and endorsed by this Court (Docket No. 21).

12. On or about November 12, 2020, this Court entered Judgment in favor of Bay consistent with the terms of the parties' Agreement for Judgment (Docket No. 22).

13. In relevant part, the Judgment unambiguously commands:

the Board and the City . . . **to grant all necessary special exceptions, special use classes, site plan review approvals, variances, waivers, permits and any and all other required approvals (collectively, the "Zoning Relief") necessary pursuant to the Zoning and Planning and Site Plan Ordinances of the City of Rockland, Maine for Bay to construct and operate the Facility on the Site** in accordance with the Site Plan package dated 6/21/19, last revision 1/6/20, entitled "ME0041B

Rockland 120-Foot Tower, 182 Camden Street, Rockland ME 04841 Knox County" prepared for Bay Communications by Wood Environmental & Infrastructure Solutions, Inc., 511 Congress St., Suite 200, Portland ME 04101, Project No: 3618198681, Sheets Number: T-101, C-101, C-102, C-103, C-104, D-101, D-102, and G-101 (together, the "Site Plan").

Docket No. 22 (emphases added).

14. On or about December 1, 2020, the Board met to consider proposed findings with respect to the issuance of the zoning relief and site plan review approval clearly promised to Bay in the Agreement for Judgment and required by the express terms of this Court's November 12 Judgment.

15. The Board refused to grant the required relief and continued the matter to a later date.

16. On or about January 4, 2021, the City's Code Enforcement Office acknowledged receipt of Bay's application for a building permit with respect to the Facility, but indicated that no action on the building permit application would occur until the Board had granted the necessary zoning and site plan approvals.

17. The next day, January 5, 2021, the Board again met to consider the issuance of the zoning relief and site plan review approval required of it under this Court's Judgment. Despite the unambiguous language of the Judgment, the Board refused to authorize the required zoning relief and approvals.

18. Instead, the Board voted to send a memorandum to the City Council asking that the Board be allowed to consult with another attorney that would represent the Board and its interests.

19. As of the date of this Declaration, the City and the Board has neither granted the zoning relief or site plan review approvals required under this Court's Judgment nor issued a building permit for the construction of the Facility.

20. As of December 31, 2020, Bay had incurred attorneys' fees and expenses totaling \$77,038.35 in connection with the filing of its appeal to this Court, the negotiation of the Agreement for Judgment, and the entry and enforcement of the Judgment.

21. In the event that the Court chooses to award Bay all or part of those costs as a sanction against the Board and City for their contempt, Bay is prepared to submit a supplemental declaration detailing its fees and expenses and the additional costs incurred with respect to its motion for contempt.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct. Signed and dated this 13th day of January 2021 in Lake Park, Florida.

/s/ Vincent Granese  
Vincent Granese