

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EAST END ERUV ASSOCIATION, INC.,
DEBORAH POLLACK and SIMCHA POLLACK,

Plaintiffs,

-against-

THE TOWN OF SOUTHAMPTON and THE
TOWN OF SOUTHAMPTON ZONING BOARD
OF APPEALS,

Defendants.

Index No. 2:13-cv-4810 (AKT)

STIPULATION OF DISMISSAL

Plaintiffs East End Eruv Association, Inc., Deborah Pollack, and Simcha Pollack, and defendants the Town of Southampton and the Town of Southampton Zoning Board of Appeals (each a "Party" and together, the "Parties"), having agreed to a settlement of the above-captioned action, jointly stipulate and agree that, pursuant to Rule 41 of the Federal Rules of Civil Procedure, the action is hereby dismissed with prejudice with respect to all claims, with each party to bear its own attorneys' fees, costs and expenses. The Parties further stipulate and agree that the Court shall retain jurisdiction with respect to any and all issues or disputes that may arise in connection with the Parties' settlement.

Dated: September 10, 2015

WEIL, GOTSHAL & MANGES, LLP

/s/ Yehudah L. Buchweitz

Robert G. Sugarman
Yehudah L. Buchweitz
Weil, Gotshal & Manges, LLP
767 Fifth Avenue

JASPAN SCHLESINGER LLP

/s/ Maureen T. Liccione

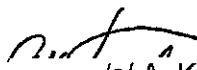
Maureen T. Liccione
300 Garden City Plaza
Garden City, New York 11530
New York, NY 10019

New York, NY 10153
Tel: (212) 310-8000

Tel: (516) 746-8000

SO ORDERED.

Dated: September 11, 2015


_____/s/ A. Kathleen Tomlinson
THE HONORABLE A. KATHLEEN TOMLINSON
UNITED STATES MAGISTRATE JUDGE

SETTLEMENT AGREEMENT

1. This Settlement Agreement (this "Agreement") is entered into this 8th day of ~~August~~ ^{September}, 2015, between the East End Eruv Association ("EEEE"), Deborah Pollack, Simcha Pollack, Verizon New York, Inc. ("Verizon"), and the Long Island Lighting Company d/b/a LIPA ("LIPA"), (collectively, "Plaintiffs") and the Town of Southampton Zoning Board of Appeals, and the Town of Southampton ("Southampton"), (collectively, "Defendants"), in connection with the Actions (as defined below) and the subject matter thereof.

2. This settlement pertains to all claims asserted in the action captioned *East End Eruv Association, Inc. v. The Town of Southampton and The Town of Southampton Zoning Board of Appeals*, et al., Index No. 2014-21124 (N.Y. Sup. Ct.) (the "EEEE State Action"), the action captioned *East End Eruv Association, Inc. v. The Town of Southampton and the Southampton Zoning Board of Appeals*, et al., No. 13-cv-04810 (E.D.N.Y.) (the "EEEE Federal Action") and, as it pertains to Southampton, the action captioned *Verizon New York, Inc., et al. v. Village of Westhampton Beach*, et al., No. 11-cv-0252 (E.D.N.Y.) (the "Verizon Action," and together with the EEEA State Action and the EEEA Federal Action, the "Actions").

3. Defendants agree not to contest, appeal, or otherwise challenge the June 30, 2015 ruling of the New York State Supreme Court, Suffolk County, that, *inter alia*, the lechis at issue are not signs under the Southampton Town Code Sign Ordinance (Town Code §§ 300-200, *et seq.*).

4. Defendants recognize the decision by the United States Court of Appeals for the Second Circuit in its summary order dated January 6, 2015, revised as an opinion dated February 11, 2015, that, *inter alia*, the erection of the eruv is not an unconstitutional

establishment of religion under the First Amendment. *Jewish People for the Betterment of Westhampton Beach v. Vill. of Westhampton Beach*, 778 F.3d 390, 395 (2d Cir. 2015).

5. Defendants agree not to contest or otherwise challenge Verizon and LIPA's authority to enter into contracts with EEEA permitting the attachment of lechis to utility poles. Defendants likewise agree not to contest or otherwise challenge the June 16, 2014 ruling of the United States District Court for the Eastern District of New York, including without limitation, that the Transportation Corporations Law and the LIPA Act provide sufficient authority for Verizon and LIPA to enter into private contracts for the use of their utility poles, unrelated to the provision of electric or telephone services.

6. Given the precedent established by the judicial orders in ¶¶ 3, 4 and 5 above, Defendants will not object to the attachment, existence, restoration, maintenance and repair of lechis resembling those presented to the ZBA including in the hearings held on April 4, 2013 and June 6, 2013, which EEEA may affix to utility poles pursuant to licenses from Verizon or LIPA.

7. Defendants agree not to adopt any ordinance or resolution prohibiting the attachment, existence, restoration, maintenance, repair or placement of lechis pursuant to EEEA's licenses with Verizon or LIPA, or Plaintiffs' successor entities or replacement entities and managers.

8. No part of this Agreement prohibits the removal or replacement by either a utility company or any municipal authority, in the lawful exercise of its authority, of the utility poles referenced herein or otherwise, including with a subsurface placement of said poles.

9. All parties agree the EEEA maintenance of any lechis shall be without any public funding from Southampton or the assistance of any of its employees, except

that any such placement shall be entitled to the same protection as any other lawful pole attachment by Southampton law enforcement.

10. EEEA agrees to, within seven (7) days after the execution of this Agreement, dismiss all claims in the EEEA Federal Action.

11. Verizon and LIPA agree to, within seven (7) days after the execution of this Agreement, effectuate and/or apply for, dismissal of Southampton from the Verizon Action.

12. Nothing herein shall be construed to conflict with any pole attachment agreements between EEEA, on the one hand, and Verizon and/or LIPA, on the other hand, the terms of which are in no respect amended, modified, or otherwise affected by this Agreement, and which terms are intended to control in the event of any conflict between those agreements and the terms of this Agreement.

13. The United States District Court for the Eastern District of New York shall retain jurisdiction to enforce the terms of this Agreement. In the event that the Court finds that a party has breached the Agreement, the Court will have the power to enforce the Agreement at equity, including through the issuance of injunctive relief. The Parties further agree that they will promptly seek an order of the Court acknowledging its retention of jurisdiction. The Parties agree that any proceeding to enforce the provisions herein will be expedited, and in the case of any proceeding for preliminary injunctive relief (but not relief in the form of a temporary restraining order), allow for reasonably limited discovery and a hearing. The parties preserve any remedy in any proceeding to enforce the provisions herein. The parties agree that a violation of this Agreement and/or the covenants therein will cause substantial and irreparable harm to the Plaintiffs. Therefore, if any of the Parties and/or their agents, servants, representatives, officers, employees, attorneys, successors, related entities, or assigns breaches

the Agreement, the injured party may seek immediate injunctive relief, without bond, in the United States District Court for the Eastern District of New York. That immediate injunctive relief, if sought by Plaintiffs, may take the form of an immediate temporary restraining order (including, without limitation, on an *ex parte* basis) pending a hearing on preliminary injunctive relief, upon a mere showing that the action taken, or to be taken, by Defendants will prevent an eruv from being in place in Southampton on any Sabbath or Yom Kippur.

14. This agreement may be executed in counterpart originals with the same force and effect as if fully and simultaneously executed as a single document. Facsimile or e-mailed signatures shall have the same force and effect as original signatures.

15. Plaintiffs agree not to seek any damages or attorneys' fees against any of the Defendants, their official agents or employees, arising out of the Actions.

Dated: Southampton, New York
~~September~~ August 8, 2015

TOWN OF SOUTHAMPTON

By: _____
Anna Throne-Holst
Supervisor
Town of Southampton
116 Hampton Road
Southampton, New York 11968

EAST END ERUV ASSOCIATION

By: _____
Authorized Signatory

DEBORAH POLLACK

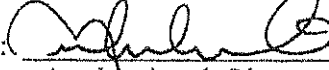
/s/ Deborah Pollack _____

SIMCHA POLLACK

/s/ Simcha Pollack

VERIZON NEW YORK, INC

By:



Authorized Signatory
MARLINE GRANT

LONG ISLAND LIGHTING COMPANY

d/b/a LIPA

By:

Authorized Signatory

SIMCHA POLLACK

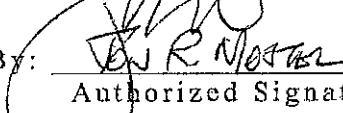
/s/ Simcha Pollack

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/s/ Deborah Pollack

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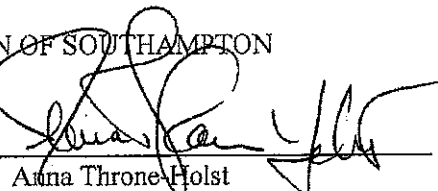
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