

KRISTEN K. WILSON, ESQ.
Attorney for Defendants
*City of Rye and the City Council of the
City of Rye*
235 Main Street, Suite 330
White Plains, New York 10601
Tel. 914-844-1909
kwilson@blanchardwilson.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CROWN CASTLE NG EAST LLC,

Plaintiff,

-against-

THE CITY OF RYE and the CITY COUNCIL OF THE
CITY OF RYE,

Defendants.

17 CV 3535 VLB-PED

**NOTICE OF MOTION TO
DISMISS**

PLEASE TAKE NOTICE that upon the accompanying Declaration of Kristen K. Wilson, Esq., dated May 26, 2016, the accompanying Memorandum of Law in support of this motion and the pleadings herein, defendants the City of Rye and the City Council of the City of Rye (collectively referred to herein as the “City”) by and through their attorneys, Blanchard & Wilson, LLP, will move this Court, before Honorable Vincent L. Briccetti, United States District Judge for the Southern District of New York, at the Courthouse thereof, 300 Quarropas Street, White Plains, New York for an Order pursuant to Federal Civil Procedure Rules 12(b)(1), 12(b)(6), and 12(b)(7) dismissing the Complaint, dated May 11, 2017 with prejudice on the grounds: (i) that this Court does not have subject matter jurisdiction pursuant to FED. R. CIV. P. 12(b)(1) as Plaintiff’s causes of action all sound in state law contract; (ii) that the Plaintiff fails to state a claim upon which relief can be granted pursuant to FED. R. CIV. P. 12(b)(6) as all causes of action are state law causes of

action and, in the alternative, are not ripe; and iii) FED. R. CIV. P. 12(b)(7) for failure to name a necessary and indispensable party, Verizon Wireless, together with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that the City is willing to agree to the terms of the current temporary restraining order (“TRO”) pending this Court’s decision on this Motion or Plaintiff’s discontinuance of this action and filing a new action in the Supreme Court of the State of New York, Westchester County.

PLEASE TAKE FURTHER NOTICE, that in accordance with this Court’s Individual Practices, revised 9-18-13, Defendants will wait for the Court’s Order asking Plaintiff if they will be filing an amended complaint or if Plaintiff will be opposing the Motion.

PLEASE TAKE FURTHER NOTICE, that, subject to the Court’s permission and pursuant to the City’s letter motion for an enlargement of time filed on May 26, 2017, the City reserves its right to oppose Crown’s preliminary injunction motion subsequent to this Court’s decision on this Motion.

Dated: White Plains, New York
May 26, 2016

BLANCHARD & WILSON, LLP

/s/

By: Kristen K. Wilson

*Attorneys for Defendants the City of Rye and
the City Council of the City of Rye*

235 Main Street, Suite 330

White Plains, New York 10601

(914) 844-1909

kwilson@blanchardwilson.com