

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL TRIAL DIVISION

SUMMIT PARK EAST ASSOCIATES	:	September Term 2004
And HOTWIRE COMMUNICATIONS	:	
LTD.,	:	
	:	
Plaintiffs,	:	No. 0139
	:	
v.	:	
URBAN CABLE WORKS OF	:	COMMERCE PROGRAM
PHILADELPHIA,	:	
	:	
Defendant.	:	Control Number 112615

ORDER

AND NOW, this 8TH day of December 2004, upon consideration of plaintiffs Summit Park East Associates and Hotwire Communication, LTD's Petition for Reconsideration and its Petition for Certification of that Order for Immediate Appeal, with supporting memorandum, all matters of record and in accord with the Opinion filed of record, it is **ORDERED** that plaintiffs' Petition for Reconsideration is **Denied**.

It is further **ORDERED** that plaintiffs' Petition for Certification of the Order for Immediate Appeal is also **DENIED**.

BY THE COURT,

ALBERT W. SHEPPARD, JR., J.

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OPINION

Albert W. Sheppard, Jr., J. December 8, 2004

Presently before the court is plaintiffs’ Summit Park East Associates and Hotwire Communications, Ltd. (“plaintiffs”) Petition for Reconsideration of this court’s October 20, 2004 Order. Plaintiffs have also petitioned for Certification of the Order for Immediate Appeal. For the reasons discussed, both Petitions are Denied.

On September 2, 2004, plaintiffs sued Urban Cable Works of Philadelphia, (“Urban”) seeking declaratory and injunctive relief claiming that Urban is not entitled to demand access to the Summit Park apartment complex because it has failed to comply with the provisions of the Tenant’s Right to Cable Television Act, Article V-B 68 P.S. § 250.501-B *et. seq.* (“ the Act”) (i.e., failure to identify the tenant who requested Urban’s service). Plaintiffs further contended that Urban’s demand was not properly provided the landlord (plaintiff).

Plaintiffs filed a concomitant motion seeking to stay an arbitration proceeding pending before the American Arbitration Association. On October 20, 2004, this court denied plaintiffs motion to stay the arbitration proceeding. It is this order which plaintiffs now ask this court to reconsider. For those reasons discussed in the October 20, 2004 Order and Opinion, this court denies plaintiffs' Motion for Reconsideration.

Contrary to plaintiffs' assertion, this court's Opinion did address whether Urban is entitled to demand arbitration in the first place. As discussed in the October 20, 2004 Opinion, under the Act, a landlord must allow the cable company of their tenant's choice to install its equipment on the landlord's property. 68 P.S. § 250.501. The Act delineates the process which must be followed to effectuate the tenant's request which includes a notification period, a negotiation period and arbitration if necessary. The Act specifically limits the arbitration to the issues of just compensation for loss of value of the property resulting from installation of the cable television system and reasonableness of the terms proposal involving the work to be performed. See Weinberg v. Comcast Cablevision of Philadelphia, 759 A.2d 395, 402 (Pa. Super. 2000). Whether a cable operator may have access, including whether a cable company may demand access in the first place, is within the jurisdiction of this court. (See Summit Park East Associates and Hotwire Communications, Ltd. v. Urban Cable Works of Philadelphia, September 2004 No. 00139, p. 4 (October 20, 2004) (Sheppard, J.).

As concluded in the October 20, 2004 submissions, allowing the arbitration and this proceeding to proceed simultaneously will only serve to expedite the process and effectuate the legislative process of the Act. Id. p. 5. Further, it is submitted that to

certify the Order for immediate appeal would not be appropriate under these circumstance and at this time.

CONCLUSION

For these reasons, plaintiffs' Petition for Reconsideration of this court's Order dated October 20, 2004 is denied. It is further ordered that plaintiffs' Petition for Certification is also denied.

An Order consistent with this Opinion will be entered of record.

BY THE COURT,

ALBERT W. SHEPPARD, JR. J.