

**UNITED STATES DISTRICT COURT
District of Maine**

FRANKLIN MEMORIAL HOSPITAL,)

Plaintiff)

v.)

Civil No. 07-125-B-S

BRENDA M. HARVEY, Commissioner)
of the Maine Department of Health)
and Human Services,)

Defendant)

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on September 24, 2008, her Recommended Decision (Docket No. 39). Plaintiff filed its Objection to the Recommended Decision (Docket No. 40) on October 14, 2008. Defendant filed its Response to Plaintiff's Objection to the Recommended Decision (Docket No. 42) on October 31, 2008.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.
2. It is hereby **ORDERED** that Plaintiff's Motion for Summary Judgment on Count I (Docket No. 24) is **DENIED**.

3. It is hereby **ORDERED** that Defendant's Motion for Summary Judgment (Docket No. 20) on Count I is **GRANTED IN PART**, and judgment is hereby **GRANTED** for the Defendant on the federal takings claim and **DISMISSED**, without prejudice, on the state law takings claim also contained in that count.

/s/George Z. Singal
Chief U.S. District Judge

Dated: November 14, 2008