

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 11-cv-03146-WYD-KLM

TIMOTHY VAN GORDEN and
KARIN VAN GORDEN,

Plaintiffs,

v.

THE CITY AND COUNTY OF DENVER and
JEANNE FAATZ,

Defendants.

**ORDER ADOPTING AND AFFIRMING
MAGISTRATE JUDGE'S RECOMMENDATION
AND FOR ADMINISTRATIVE CLOSURE**

THIS MATTER is before the Court in connection with the parties' Stipulated Motion to Temporarily Stay Proceedings, filed January 20, 2012 [ECF No. 7]. Therein, the parties request a complete stay of proceedings pending resolution of a re-zoning application, which Plaintiffs expect to file within the next thirty days and which will not be resolved for at least another three months.

This motion was referred to Magistrate Judge Mix for a recommendation by memorandum dated January 23, 2012. A Recommendation of United States Magistrate Judge was issued on January 25, 2012 [ECF No. 7], and is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b). Magistrate Judge Mix recommends therein this case be administratively closed pursuant to D.C.Colo.LCivR

41.2, subject to reopening for good cause.

Magistrate Judge Mix advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation. To date, no objections have been filed. Therefore, I am vested with discretion to review the Recommendation “under any standard [I] deem[] appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that “[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings”). Nonetheless, though not required to do so, I review the Recommendation to “satisfy [my]self that there is no clear error on the face of the record.”¹ See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I agree with Magistrate Judge Mix that the circumstances of this case make it more appropriate for administrative closure rather than a stay of proceedings.

Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge issued on January 25, 2012 [ECF No. 7], is **AFFIRMED and ADOPTED**. In accordance therewith, it is

FURTHER ORDERED that the Clerk of this Court shall administratively close this

¹ Note, this standard of review is something less than a “clearly erroneous or contrary to law” standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review, Fed. R. Civ. P. 72(b).

case, subject to reopening for good cause, pursuant to D.C.COLO.LCivR 41.2. It is

FURTHER ORDERED that the parties shall file a status report within thirty (30) days of resolution of Plaintiffs' re-zoning application. It is

FURTHER ORDERED that Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), filed December 29, 2011 [ECF No. 4] is **DENIED**

WITHOUT PREJUDICE.

Dated: February 16, 2012

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge