

KERRY EMANUEL et al.

v.

TOWN OF BRISTOL et al.

Argued April 11, 2018
Decided April 26, 2018

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Kerry and Susan Emanuel, Nora and Peter Waystack, Marylyn and William Hanlon, and the Hanlon Family Partnership appeal from a judgment of the Superior Court (Lincoln County, *Billings, J.*) dismissing their amended complaint for appellate review of the decision of the Town of Bristol's code enforcement officer not to take enforcement action against Wotton's Lobster Wharf, LLC. *See* M.R. Civ. P. 80B. The decision not to undertake an enforcement action constitutes a discretionary decision and is within the exclusive realm of the executive functions of the municipality, even when the decision is based on a challenged interpretation of law. *See* 30-A M.R.S. § 4452(1)(B) (2017); *Herrle v. Town of Waterboro*, 2001 ME 1, ¶¶ 8-11, 763 A.2d 1159. Accordingly, contrary to the contentions of the appellants, the court did not err in dismissing the complaint as nonjusticiable. *See* 30-A M.R.S. §§ 2691(4), 4452(1)(B), (4) (2017); Bristol, Me., Shoreland Zoning Ordinance § 16(H)(1)(a) (Mar. 21, 2017); *Friends of Lincoln Lakes v. Town of Lincoln*, 2010 ME 78, ¶ 10, 2 A.3d 284.

The entry is:

Judgment affirmed.

Scott D. Anderson, Esq. (orally), Verrill Dana, LLP, Portland, for appellants
Kerry Emanuel et al.

David M. Kallin, Esq. (orally), Drummond Woodsum, Portland, for appellee
Town of Bristol

John A. Cunningham, Esq. (orally), Eaton Peabody, Brunswick, for appellee
Wotton's Lobster Wharf, LLC

Lincoln County Superior Court docket number AP-2017-02
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