

BORIS F. GRIB

v.

TOWN OF RICHMOND et al.

Submitted on Briefs September 27, 2023

Decided October 10, 2023

Panel: STANFILL, C.J., and MEAD, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Boris F. Grib appeals from a judgment of the Superior Court (Sagadahoc County, *Billings, J.*) dismissing his complaint seeking judicial review of the Town of Richmond’s decision to abandon a town way and denying Grib’s motion to alter or amend that judgment. Contrary to Grib’s contentions, the court did not err in dismissing his complaint and denying his motion to alter or amend the judgment of dismissal.¹ *See* M.R. Civ. P. 59(e). The appeal to the Superior Court was not ripe for judicial review and was properly dismissed because Grib did not appeal to, and obtain a final decision from, the County Commissioners, who were authorized to review the decision to abandon the town way.² *See* 23 M.R.S.

¹ The Select Board’s vote is not appealable pursuant to 5 M.R.S. § 11001 (2023) because the Town is not an “agency” to which the Administrative Procedure Act applies, *see* 5 M.R.S. § 8002(2) (2023). Nor, in the presence of a statute explicitly providing an adequate process for an appeal, do we consider whether a common law remedy would—in the absence of that statute—be “otherwise available by law.” *Lyons v. Bd. of Dirs. of Sch. Admin. Dist. No. 43*, 503 A.2d 233, 236 (Me. 1986) (quotation marks omitted); *see Fisher v. Dame*, 433 A.2d 366, 374 (Me. 1981).

² Grib instead, allegedly upon receiving misinformation from the Town, appealed to the Town’s Board of Appeals, which lacked the authority to review the decision. *See* 23 M.R.S. § 3028-A(7) (2023); 30-A M.R.S. § 2691(4) (2023). Given the procedural posture of this case, we do not opine on whether the Town gave notice that was adequate to trigger the commencement of the appeal period,

§ 3028-A(7) (2023); 30-A M.R.S. § 2691(4) (2023); M.R. Civ. P. 80B(a); *Bryant v. Town of Camden*, 2016 ME 27, ¶ 12, 132 A.3d 1183. The Superior Court may consider an appeal if the County Commissioners reach a final decision and the matter becomes ripe for judicial review.³ *See Bryant*, 2016 ME 27, ¶ 20, 132 A.3d 1183; M.R. Civ. P. 80B(a).

The entry is:

Judgment affirmed.

Boris F. Grib, appellant pro se

Benjamin T. McCall, Esq., Jensen Baird, Portland, for appellee Town of Richmond

Theodore A. Small, Esq., Skelton, Taintor & Abbott, Lewiston, for appellee Jon Bourque

Sagadahoc County Superior Court docket number AP-2022-03
FOR CLERK REFERENCE ONLY

see Town of Freeport v. Greenlaw, 602 A.3d 1156, 1159-60 (Me. 1992), or any issues of estoppel or due process that may arise from the Town's delivery of incorrect information.

³ We note that, if Grib does appeal to the County Commissioners, he must submit the Town's ordinance to them to demonstrate that the Town's Board of Appeals is not "authorized to hear the appeal," and the County Commissioners are therefore the proper appellate decisionmakers. 23 M.R.S. § 3029(7)(B) (2023); *see Summit Realty, Inc. v. Gipe*, 315 A.2d 428, 429-30 (Me. 1974) ("[T]he existence of municipal ordinances must be proved and . . . they are not subject to judicial notice.").