

BUILDERS RESOURCE DEVELOPMENT CORPORATION

v.

CITY OF LEWISTON

Submitted on Briefs May 2, 2007

Decided May 24, 2007

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, and MEAD, JJ.

MEMORANDUM OF DECISION

Builders Resource Development Corporation (BRDC) appeals from a judgment of the Superior Court (Androscoggin County, *Delahanty, J.*) affirming orders by the Lewiston City Council condemning properties BRDC owns in Lewiston. *See* 17 M.R.S. § 2851 (2006). Contrary to BRDC's arguments, the City Council's orders were supported by substantial evidence in the record, *see Forbes v. Town of Southwest Harbor*, 2001 ME 9, ¶ 6, 763 A.2d 1183, 1186; the City Council's orders did not constitute violations of BRDC's rights to equal protection and due process, *see Quiland, Inc. v. Wells Sanitary Dist.*, 2006 ME 113, ¶¶ 15-16, 905 A.2d 806, 810; *Kittery Retail Ventures, LLC v. Town of Kittery*, 2004 ME 65, ¶ 32, 856 A.2d 1183, 1193; *State v. Dhuy*, 2003 ME 75, ¶¶ 16-17, 825 A.2d 336, 343; and the City Council's statutory exercise of its powers of condemnation did

not constitute an unjust taking, *see Kirkpatrick v. City of Bangor*, 1999 ME 73, ¶ 11, 728 A.2d 1268, 1271; *Seven Islands Land Co. v. Me. Land Use Regulation Comm'n*, 450 A.2d 475, 482 (Me. 1982).

The court did not abuse its discretion in denying BRDC's motions for trial of the facts without a hearing because BRDC failed to make prima facie showings in its offers of proof that a hearing and trial were necessary. *See* M.R. Civ. P. 80B(d); *Baker's Table, Inc. v. City of Portland*, 2000 ME 7, ¶ 9, 743 A.2d 237, 240-41; *Boisvert v. King*, 618 A.2d 211, 214 n.6 (Me. 1992); *cf. Trimble v. Comm'r, Dep't of Human Servs.*, 635 A.2d 937, 938 (Me. 1993) (reviewing the denial of a Rule 80C(e) motion for abuse of discretion).

The entry is:

Judgment affirmed.

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