

CITY OF AUBURN

v.

MICHAEL A. FARRELL

Submitted on Briefs December 20, 2006
Decided January 16, 2007

Panel: SAUFLEY, C.J., and DANA, ALEXANDER, CALKINS, and LEVY, JJ.

MEMORANDUM OF DECISION

The City of Auburn appeals from a judgment entered in the District Court (Lewiston, *Beliveau, J.*) dismissing its land use citation and complaint for want of prosecution, *see* M.R. Civ. P. 41(b)(1), and from the court's denial of its motion to alter findings of fact and to reconsider or amend the order of dismissal, *see* M.R. Civ. P. 52(b), 59(e). Contrary to the City's arguments, the District Court did not abuse its discretion by dismissing the action for want of prosecution when it determined that the court's stay of pre-trial deadlines and the parties' lapsed negotiations did not constitute good cause to retain the action on the docket after a long dormant period. *See* M.R. Civ. P. 41(b)(1); *West Point-Pepperell, Inc. v.*

State Tax Assessor, 1997 ME 58, ¶¶ 7, 10, 12, 691 A.2d 1211, 1213, 1214; *Jacobsen v. Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.*, 544 A.2d 748, 749 (Me. 1988). Furthermore, the District Court's findings of fact were not clearly erroneous, and it did not abuse its discretion by denying the City's motion for reconsideration because it properly considered all the material factors relevant to its decision, including the agreed-upon stay of pre-trial deadlines. *See Bernier v. Merrill Air Eng'rs*, 2001 ME 17, ¶ 7, 770 A.2d 97, 101; *Madore v. Me. Land Use Regulation Comm'n*, 1998 ME 178, ¶ 15, 715 A.2d 157, 161-62.

The entry is:

Judgment affirmed.

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