

GREGORY B. MOORE

v.

TOWN OF BAR HARBOR et al.

Submitted on Briefs December 12, 2008

Decided January 6, 2009

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

MEMORANDUM OF DECISION

Gregory B. Moore appeals from a judgment entered in the Superior Court (Hancock, *Cuddy, J.*) denying his Rule 80B appeal of the Bar Harbor Board of Appeals's dismissal of his complaint against the Town of Bar Harbor's Code Enforcement Officer.

Contrary to Moore's arguments, the CEO was not required to investigate Moore's allegations, and the CEO therefore did not misinterpret the Town's land use ordinance. *See Salisbury v. Town of Bar Harbor*, 2002 ME 13, ¶ 11, 788 A.2d 598, 601 (holding that municipalities have prosecutorial discretion when deciding "whether *or not* to undertake an enforcement action") (emphasis in original); *see also* 30-A M.R.S. § 4452(1)(B) (2007) (stating that a CEO "may" issue a summons to an alleged violator). Because the CEO's determination to undertake an investigation is discretionary, it is not an appealable decision. *See Salisbury*, 2002 ME 13, ¶ 13, 788 A.2d at 602; Bar Harbor, Me., Code § 125-103(A) (Nov. 7, 2006). Therefore, the Board of Appeals did not misinterpret the ordinance in concluding that it did not have authority to review the CEO's refusal to investigate Moore's allegations.

The entry is:

Judgment affirmed.

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