

CITY OF PRESQUE ISLE

v.

WALTER GOGAN

Submitted on Briefs June 4, 2009

Decided June 11, 2009

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

MEMORANDUM OF DECISION

Walter Gogan appeals from a judgment of the District Court (Presque Isle, *O'Mara, J.*) ordering him to demolish a vacant building within thirty days of the date of the order; pay a civil penalty of \$100 for every day that he is not in compliance with the demolition order; and pay the City of Presque Isle's attorney fees and costs. Contrary to Gogan's contentions, the court did not commit clear error in finding that the building was structurally unsafe and posed a risk to the public. *See City of Bangor v. Diva's, Inc.*, 2003 ME 51, ¶ 7, 830 A.2d 898, 901 (stating that when a defendant challenges the court's findings in a case brought by a municipality pursuant to M.R. Civ. P. 80K, we must review the record in the light most favorable to the judgment to determine if the findings are supported by competent evidence). Furthermore, the court did not abuse its discretion in ordering Gogan to demolish the building within thirty days. *See Bangor Historic Track, Inc. v. Dep't of Agric., Food & Rural Res.*, 2003 ME 140, ¶ 11, 837 A.2d 129, 133 (noting that a court's grant of injunctive relief is reviewed for abuse of discretion). The court also did not abuse its discretion in ordering a civil penalty of \$100 per day and in ordering Gogan to pay the City's attorney fees and costs. *See* M.R. Civ. P. 80K(a); 4 M.R.S. § 152(6-A) (2008) (giving the District Court jurisdiction to grant equitable relief and impose penalties in cases involving violations of local environmental and land use ordinances); *see also* 30-A M.R.S. § 4452(3)(B), (D) (2008) (setting the minimum and maximum penalties for land

use violations and mandating the court to award reasonable attorney fees and costs to the prevailing party, absent special circumstances); *see also Town of Levant v. Seymour*, 2004 ME 115, ¶ 29, 855 A.2d 1159, 1167 (stating that we review civil penalties and attorney fees in Rule 80K cases for abuse of discretion).

The entry is:

Judgment affirmed.

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