

ROBERT C. HAINS

v.

CITY OF PORTLAND et al.

Submitted on Briefs July 8, 2009

Decided August 11, 2009

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

MEMORANDUM OF DECISION

Robert C. Hains appeals from a judgment of the Superior Court (Cumberland County, *Delahanty, J.*) granting the City of Portland's motion to dismiss Hains's complaint for review of governmental action. The complaint, filed pursuant to M.R. Civ. P. 80B, challenged the City's February 2008 decision in which the City: (1) laid out and dedicated an extension of Kineo Street, a pre-existing City street; (2) authorized acceptance of this extended portion of Kineo Street as a City street once it was constructed to City standards; and (3) accepted a fee interest in a piece of land situated between the new Kineo Street extension and Dudley Street, a paper street on which Hains has filed an intent to reserve title pursuant to 33 M.R.S. § 469-A(2) (2008). Hains challenges the City's indication that it might use the land in the future for a pedestrian path. The Superior Court dismissed the complaint pursuant to M.R. Civ. P. 12(b)(6), finding that Hains had no justiciable interest in the City's decision.

Reviewing Hains's complaint in the light most favorable to him, accepting the material facts it alleges as true, there is no theory under which Hains would be entitled to relief. *See Bog Lake Co. v. Town of Northfield*, 2008 ME 37, ¶ 6,

942 A.2d 700, 703. Therefore, the Superior Court did not err in granting the City's motion to dismiss.

The entry is:

Judgment affirmed.

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