

STATE OF MAINE
CUMBERLAND, ss

BUSINESS AND CONSUMER COURT
BCD-CV-14-35

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HUGHES BROS., INC.,

Plaintiff

v.

**ORDER ON MOTION FOR ADDITIONAL
FINDINGS AND TO ALTER AND AMEND
JUDGMENT**

TOWN OF EDDINGTON,

Defendant

Before the Court is Plaintiff's Motion for Additional Findings and to Alter and Amend Judgment. The Court has reviewed the parties' filings on the motion, has again reviewed the Stipulated Record and Timeline, and issues this order denying the motion.

At the outset the Court would note that the parties agreed that there would no traditional trial in this case. No live witnesses testified, and the record consisted of a seven-page timeline, and numerous exhibits. Among the exhibits are many documents setting out minutes and partial transcripts of Planning Board, Board of Selectmen and Town meetings. (See Stipulated Timeline, paragraphs 36-38). These exhibits are replete with specific statements about Plaintiff's application and how the quarry could affect air quality, traffic, water quality, noise, and property values. The statements are made not only by citizens, but also by Town officials.

The Plaintiff has a heavy burden under Maine law. Plaintiff must establish "the complete absence of any state of facts that would support the need for the moratorium." *Minster v. Town of Gray*, 584 A.2d 646, 649 (Me. 1985). Given this high standard, the Court does not believe its function is to make the case for the Plaintiff by finding "additional facts" in the record which might support Plaintiff's position that nothing justifies this moratorium. On the contrary, it is the Plaintiff's burden under Maine law to prove, essentially, that the Town has acted arbitrarily and without *any* justification. Plaintiff has failed to do this, and to overcome the presumption of validity of the moratorium.

The Court upon further review of the record concludes that the Town determined after a lengthy process and public vote that a moratorium (and extension) were necessary to give the Town a reasonable and limited time to study and work on its mineral

extraction ordinance. The concerns about the quarry from significant numbers of residents, along with the pointed questions and concerns of Town officials expressed at the numerous meetings, satisfy the object, means and manner requirements of Maine law. And as stated in the previous order, the Town cannot use the moratorium as a way to indefinitely avoid dealing with the issues presented by Plaintiff's application, and it has an obligation to provide the Plaintiff with fair treatment going forward.

The entry will be: Plaintiff's Motion for Additional Findings and to Alter and Amend Judgment is DENIED.

2/9/15

DATE

Michael J.

SUPERIOR COURT JUSTICE
BUSINESS AND CONSUMER COURT

Entered on the Docket: 2-9-15
Copies sent via Mail Electronically