

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-10-464
NM - CUM - 11/17/2010

MARIANNE MCGETTIGAN,
et al.,

Plaintiffs

v.

ORDER ON PLAINTIFFS' MOTION
FOR TEMPORARY RETRAINING
ORDER AND PRELIMINARY
INJUNCTION

TOWN OF FREEPORT,

Defendant

The plaintiffs filed a motion for a temporary restraining order and preliminary injunction on 10/1/10. They asked the court to restrain the Town of Freeport from transferring its dispatch services to the Town of Brunswick until the underlying complaint is resolved.

The plaintiffs have failed to make the necessary showing to obtain the relief they seek. The affidavit of Marianne McGettigan does not in any way demonstrate that the plaintiffs will suffer irreparable injury if the injunction is not granted. Bangor Historic Track, Inc. v. Dep't of Agric., 2003 ME 140, ¶ 9, 837 A.2d 129, 132; Ingraham v. Univ. of Maine at Orono, 441 A.2d 691, 693 (Me. 1982). "[P]roof of irreparable injury is a prerequisite to the granting of injunctive relief." Bar Harbor Banking & Trust Co. v. Alexander, 411 A.2d 74, 79 (Me. 1980).

Even assuming for the purposes of argument that the defendant acted in a manner inconsistent with the Town Charter and that establishes irreparable harm, the affidavits of Dale Olmstead, Jr. and Gerald Schofield demonstrate that the transfer took

place on 10/7/10,¹ that the new system is an improvement, and that the harm to the defendant and to the public if the injunction were granted would exceed any harm to the plaintiffs. Bangor Historic Track, ¶ 9, 837 A.2d at 132; Ingraham, 441 A.2d at 693.

The entry is

The Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction is Denied.

Dated: November 17, 2010



Nancy Mills
Justice, Superior Court

STATE OF MAINE
Cumberland, ss, Clerk's Office

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¹ The amended complaint, the McGettigan affidavit, and the plaintiff's memorandum detail the history of the transfer, which was approved by the Town Council on 4/6/10. See Am. Compl. ¶¶ 14, 23, 40-44, 48, 54-63; McGettigan Aff. ¶¶ 6, 9-11, 13-17; Pls.' Mem. at 2-6. In his affidavit, Dale Olmstead states that "[s]ince April of 2010, it has been public knowledge that the Town of Freeport hoped to transfer its dispatch services to the Town of Brunswick effective October 1, 2010, if not sooner." Olmstead Aff. ¶ 4. The plaintiffs first requested injunctive relief on 10/1/10.

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