

On March 6, 2024, Bar Harbor’s Town Council issued a statement proclaiming that it would “honor [2024] reservations made before the town voted,” on the Ordinance. There is no evidence that Town Council ever passed a policy to that effect or issued any instructions, even if it could, to that effect. Sidman argues that the statement reflected an apparent decision where the Town Council ordered the Harbormaster not to report violations to the CEO for enforcement action when the reservations were made between March 17, the effective date of the ordinance, and November 8, the date that the Town voted.

The statement only applied to the 2024 cruise ship season, which is now over. The Town did promulgate rules and took measures to enforce the ordinance. It is currently litigating one of its enforcement efforts with the primary owner of a disembarkation point. Sidman concedes that any decision by the court in this matter would have no direct effect on any future cruise ship seasons.

In the only remaining Count, Sidman seeks a declaratory judgment that the statement constituted a “decision” and “order” by the Town Council and that the order was unlawful. The Town provides several reasons why the court should enter judgment for the Town. One of those reasons is that because the court’s order would not impact any future cruise ship disembarkations, the case is now moot.

Mootness is determined by examining the record to ascertain “whether there remain sufficient practical effects flowing from the resolution of [the] litigation to justify the application of limited judicial resources.” *Ten Voters of City of Biddeford v. City of Biddeford*, 2003 ME 59, ¶ 5, 822 A.2d 1196 (quoting *Lewiston Daily Sun v. Sch. Admin. Dist. No. 43*, 1999 ME 143, ¶ 14, 738 A.2d 1239). The plaintiff’s “personal interest that existed at the commencement of litigation

must continue throughout its existence.” *Id.* (quoting *Halfway House, Inc. v. City of Portland*, 670 A.2d 1377, 1379 (Me.1996)).

There are three narrow exceptions that may justify addressing a case on the merits that is otherwise moot:

First, . . .whether sufficient collateral consequences will result from determination of the questions presented so as to justify relief. Second, while technically moot in the immediate context, questions of great public interest may nevertheless be addressed for the future guidance of the bar and the public. Third, issues which may be repeatedly presented to the trial court, yet escape review at the appellate level because of their fleeting or determinate nature may appropriately be decided.

Id. ¶ 8 (quoting *Lewis v. State*, 2000 ME 44, ¶ 4, 747 A.2d 1191).

While appreciating the fact that the embarkations that were the initial subject of the case are no longer at issue for the court’s determination, Sidman insists that the second and third exceptions apply. The court disagrees. While the cruise ship disembarkations have generated great public interest, the odd circumstances of this case are whether a specific press release could be considered an unlawful act. It only addressed a narrow window of disembarkations which will not happen again. No further guidance for the Town or the bar is needed. The Town is enforcing the ordinance. The issue is not likely to come up again.

Therefore, the court’s decision will have no impact on the issue presented, namely, the disembarkation of the 2024 cruise ship passengers who made reservations between March and November of 2022. The requested relief is moot. The court need not address any of the other issues raised.

The entry is:

Town of Bar Harbor’s Cross Motion for Summary Judgment is GRANTED.

Plaintiff Charles Sidman’s Motion for Summary Judgment is DENIED.

The Clerk is requested to enter this Order on the docket by incorporating it by reference.

M.R. Civ. P. 79(a).

DATED: 1/23/25



Thomas R. McKeon
Justice, Business & Consumer Court

Entered on the docket: 01/23/2025