

by local officials or a subsequent town meeting.

Where a vote was on any other matter, again, the only method for legally contesting it is via suit in Superior Court. However, unlike the election of officials, most other town meeting votes – except where contracts have been signed or bonds have been issued or other third-party rights have vested – can be reversed by calling another town meeting on the same question. (By R.P.F.)

Two New Land Use Cases from the Maine Law Court

The Maine Supreme Court closed out 2016 with a pair of local land use decisions that should surprise no one.

In one case (*Fryeburg Trust v. Town of Fryeburg*, 2016 ME 174), the Law Court held that the zoning ordinance's definition of "secondary school" was sufficiently broad to include an outdoor classroom and administrative offices. Opponents tried to argue that all required courses must be taught in a classroom in order for it to qualify, and that offices are not classrooms at all, but the Court was unconvinced. These arguments, it said, would lead to an "absurd result" and required a "crabbed reading" of the ordinance. Its reading, by contrast, was based on the plain language of the ordinance and "common sense."

In the other (*Friends of the Motherhouse v. City of Portland*, 2016 ME 178), opponents challenged the rezoning of a vacant Roman Catholic convent to permit its redevelopment into 88 units of senior housing. They argued that the rezoning was inconsistent with the comprehensive plan, but again, the Court seemed in an unreceptive mood. Citing its earlier holding in *Rommel v. City of Portland*, 2014 ME 114, the Court noted that the law requiring consistency between a zoning ordinance and comp plan (see 30-A M.R.S.A. § 4352(2)) requires only "basic harmony" between the two, not perfect alignment. The Law Court also, as in *Rommel*, granted substantial deference to the city council's legislative judgment.

For the full text of these two decisions (as well as all other published opinions of the Law Court), go to: http://www.courts.maine.gov/opinions_orders/

[supreme/publishedopinions.shtml](#) (By R.P.F.)

Ridesharing Services – Municipal Preemption

We weren't aware of it until recently, but Maine law expressly preempts municipalities from regulating smart-phone-based ridesharing services such as Uber and Lyft.

Title 29-A M.R.S.A. § 1677, which is part of the Transportation Network Company Insurance Act (see 29-A M.R.S.A. §§ 1671-1677, eff. June 30, 2015), prohibits municipalities from enacting any ordinance, regulation or procedure governing the operation of "transportation network companies" (e.g., Uber and Lyft), their drivers or motor vehicles. Municipalities are also barred from imposing any tax or fee on, or requiring a license for, transportation network companies, drivers or vehicles.

In exchange for this protection against local regulation, ridesharing services are required to obtain an annual State permit and to maintain specified liability insurance coverages. Drivers also must meet a variety of qualifications relating to driving history, criminal background, use of drugs and alcohol, vehicle safety and emissions, and so on.

Uber and/or Lyft now operate in Maine's larger metropolitan areas, namely, Portland, Lewiston and Bangor, and in many tourist towns, including Ogunquit, the Kennebunks, Old Orchard Beach, Freeport and Bar Harbor. But expect these popular alternatives to traditional taxi service to continue expanding throughout the state.

Incidentally, municipalities continue to have authority to license and regulate taxicabs or vehicles for hire, and

many do. These ordinances may be enacted by the municipal officers (see 30-A M.R.S.A. § 3009(1)(F)). (By R.P.F.)

Maximum Interest Rate for 2017 Delinquent Taxes: 7%

The State Treasurer has established 7% as the maximum interest rate that municipalities may set for delinquent property taxes committed during calendar year 2017.

However, as anyone familiar with delinquent taxes knows, interest does not accrue on unpaid taxes unless a municipality, by vote of its legislative body, establishes the rate of interest and the date or dates after which interest will accrue. This must be done at the meeting at which the body votes to raise a tax or at any subsequent meeting prior to commitment of the tax (see 36 M.R.S.A. § 505(4)). This rate then applies to all delinquent taxes committed that year until they are paid in full.

For details on how to calculate interest on delinquent taxes, see MMA's *Municipal Liens Manual*, available free to members at www.memun.org. (By R.P.F.) ■

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The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

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