

MAINE STATE LEGISLATURE

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Tort Claims: LURC
Tort Claims: Regulatory Boards
~~14 M.R.S.A. § 8103-1~~ 14 M.R.S.A. § 8103-1
" " 8111

July 21, 1977

Land Use Regulation Commission

Sarah Redfield, Assistant

Attorney General

Liability of the Commission and the Commissioners

This is in response to your oral request for an opinion as to the potential liability of the Land Use Regulation Commission (LURC) and of its individual Commissioners in regard to its decisions pursuant to Title 12 M.R.S.A. § 685-A. The Commission as a governmental entity and the Commissioners, as employees thereof, are immune from claims seeking the recovery of damages.

The Tort Claims Act provides in pertinent part that:

" . . . a governmental entity shall not be liable for any claim which results from:

"A. The undertaking or failure to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, regulation, resolution or resolve;

"B. The undertaking, or failure to undertake, any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial;

"C. The performance or failure to exercise or perform a discretionary function or duty, whether or not the discretion be abused; and whether or not the statute, charter, ordinance, order, resolution, regulation or resolve under which the discretionary function or duty is performed is valid or invalid;

" * * * " 14 M.R.S.A. §§8103.1. P.L. 1977, C. 2;
see also 14 M.R.S.A. § 8102.2 defining governmental entity.

Personal immunity from civil liability is provided for employees of governmental entities under the same conditions, 14 M.R.S.A. § 8111.

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