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Boston town clerk, supervisor's brother fined \$35,000 for lacking building permit

- By Barbara O'Brien May 9, 2017



Boston's town clerk handed in a letter of resignation and keys to the office Monday. (Derek Gee/Buffalo News)

By BN

The Boston Town Board has fined the town clerk and the town supervisor's brother \$35,147 for making structural improvements to their house without the proper permits.

It's the latest in a dispute that started more than a year ago when the Town Board appointed clerks to work in the office of Town Clerk Jennifer Mule whom Mule refused to recognize as her deputies, and the town settled a complaint the clerk filed with the state Division of Human Rights alleging she had been subjected to harassment.

Mule and Gary Ballowe bought the property at 7305 Omphalius Road in 2012, and they said they asked the Code Enforcement Officer William Ferguson if they needed building permits for improvements they planned. He sent a letter saying no permits were required.

But the Town Board held a hearing April 25, and determined in 5-0 vote during a special meeting Tuesday morning that permits were required, and that the town code had been violated. The board said that Ferguson testified that the owners "misrepresented" the nature of improvements.

"One or both of owner misrepresented the nature of scope of improvements," Supervisor Martin Ballowe said, speaking of his brother and Mule. "They knew they had to apply for permits before."

He said the fine represents what the town spent on the matter, including attorney fees. Mule and Ballowe also face fines of \$250 a day, starting Tuesday, until architectural plans are filed and approved by the town, a building permit is obtained, the house is inspected by the town engineer and code enforcement officer and a certificate of occupancy is obtained, the supervisor said.

Martin Ballowe said the decision "was very hard for me, but it's the law."

Mule's attorney, Jacob A. Piorkowski, would not comment on the fine because he had not seen the paperwork on the town's action.

Martin Ballowe said the town discovered that there was no building permit for the work after the assessment had been reduced by \$91,000 for three years because of the poor condition of the property when Mule and Ballowe bought it.

The work done on the property included filling the driveway with soil and placing a basement wall where the opening to a garage had been. A picture of the house before the work filed in court papers shows a run-down structure with a yard overgrown with weeds and brush, while the photo after the work shows a neat house and yard with new exterior and roof.

The town is not disputing that the property was improved.

"Anytime someone improves a house in Boston it's nice. It's not about if the house was improved or made nicer," Martin Ballowe said. "The point was you didn't follow the town law and do everything right."

Mule and Gary Ballowe took the town to State Supreme Court late last year, seeking to put off the Town Board hearing, transfer it to another venue and to have the court rule that the work did not require permits. They contended the town action was in retaliation after Mule filed a complaint with the Division of Human Rights against the town and Councilman Jay Boardway. After an engineering inspection was done by an outside firm, Justice Joseph Glownia ruled the hearing could take place.