

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

DIVISION OF OCCUPATIONAL  
LICENSURE - BOARD OF  
BUILDING REGULATIONS AND  
STANDARDS

Docket No. BOCC 4-2023

**Robert Piccirilli**

Complainant

v.

**James Perry**

Respondent

**FINAL DECISION AND ORDER**

**BUILDING OFFICIAL CERTIFICATION COMMITTEE**

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PROCEEDING PURSUANT TO

M.G.L. C. 143, § 3

780 CMR 110.R7

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**I. STATUTORY AND REGULATORY FRAMEWORK**

This matter was before the Building Official Certification Committee ("Committee") after receipt of a complaint filed by Robert Piccirilli alleging James Perry was unauthorized to approve or sign off on certain building inspections for the Town of Halifax, Massachusetts. After hearing on October 3, 2023, it is the finding of this committee as well as a fact admitted at hearing by Perry that he exercised the power of, but was not authorized to act as, a duly appointed building commissioner for the town. Further, it is the opinion of this Committee that Perry failed to complete the required Continuing Education requirements despite a substantial grace period which was adopted by the Board of Building Regulations and Standards due to the constraints of attaining adequate continuing education during the COVID pandemic.

The following persons gave testimony at the hearing:

Robert Piccirilli, Respondent

James Perry, Complainant

Attorney Robert Gildea, counsel for Perry

## II. EXHIBITS

Exhibit 1 – Packet of information submitted by Perry and counsel outlining their position and collateral litigation involving Perry, Piccirilli and the Town of Halifax, MA.

Exhibit 2 – Information submitted by Piccirilli outlining his accusations, including non-certified minutes of Town of Halifax public meetings that resulted in the hiring of Perry.

The Committee additionally takes administrative notice of all prior submissions in this matter, including the complaint (undated by the Complainant but received on December 12, 2022) and notices of hearings.

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The statutory requirements to become an inspector of buildings/building commissioner and local inspectors of buildings are set forth in M.G.L. c. 143, §3.
2. In addition to outlining certain qualifications to be held by inspectors of buildings/building commissioners and local inspectors of buildings, M.G.L. c. 143, §3 states:

*"[e]very inspector of buildings, building commissioner or local inspector shall be certified by the board of building regulations and standards in accordance with regulations promulgated by said board."*

3. In accordance with the requirements of M.G.L. c. 143, §3, the Board of Building Regulations and Standards has adopted 780 CMR 110.R7: *Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors.*
4. Pursuant to 780 CMR 110.R7.1.3 to 1.7, the Board of Building Regulations and Standards created the Committee and granted it several powers and duties including "[h]earing complaints and appeals pertaining to inspector certification."
5. Under 780 CMR 110.R.1.7.4, Perry was acknowledged a conditional local inspector by the Committee on September 7, 2021, (actual date of appointment was July 23, 2021), after receiving a New Employee Report from the Town of Halifax, Massachusetts.



6. At hearing on October 3, 2023, Perry was questioned and admitted he was never certified as a building commissioner as and therefore could not legitimately perform all the duties he was hired by the Town of Halifax, MA to perform. As the Chief building official, Perry was required to sign off on a multitude of documents including but not certificates of occupancy. Perry admittedly signed such documents without the required certification. No other town official had the authority to approve these records. It is noteworthy that the Committee concluded there were considerable missteps by the town in their posting and hiring of Perry who admitted to the interview panel he had not completed his certification(s), having completed only two of the three requirements.
7. By knowingly signing and approving documents he was not qualified to sign as above, Perry violated 780 CMR 111.1 which requires that certificates of occupancy be approved/ issued by the building commissioner. At no time did Perry qualify as anything but a local inspector.
8. The Committee finds that Perry had adequate and sufficient notice of the hearing. Perry's (who appeared for the hearing at the prior month, at which time the Committee had to reschedule due to a lack of quorum) counsel, Attorney Robert Gildea insisted that he did not have sufficient notice of the hearing thus the hearing violated Perry's due process rights and repeatedly demanded a continuation. The Committee noted that Mr. Perry was aware of the hearing and even appeared in the prior month. However, weighing Perry's due process rights, the Committee subsequently allowed Attorney Gildea to submit a Post Hearing Memorandum that was to be limited to information he was unable to present at the hearing within 10 days Attorney Gildea's memorandum failed to provide an offer of proof of any additional evidence or argument not previously presented, thus any objection of insufficient time to prepare is frivolous. The Committee notes that the facts upon which this decision is based are undisputed.
9. Failure to complete continuing education requirements is a violation of 780 CMR 110.R.7.3. It is undisputed that Perry did not perform the required continuing education for a local inspector required in the specified time allowed. Perry was required to complete at LEAST one hour of educational credit for each month of his employment until such time as he completed the examinations and became certified as a building commissioner. Perry was required to complete 45 units of continuing education by December 31, 2023, and Perry submitted proof of completion of only 9 units.

#### IV. DISCUSSION

The facts in this matter were complicated by the missteps in Perry's hiring by the Town of Halifax, Massachusetts. The complaint was filed by the former Building Official who Perry was hired to replace and there are several Civil cases brought by the Complainant against the Town which elicited the personal nature of this dispute. Despite this, there are facts and testimony given by Perry himself in which he admittedly breached the regulations governing his profession.

**V. DECISION**


By a majority vote, the Committee finds that Perry was unauthorized to act in the capacity which he was hired for and he was aware he was unqualified yet acted in contravention of the Committee's regulations. In addition, Perry failed to complete the required continuing education units. As a result, the Committee orders that Perry's certification as a local inspector be subject to a one year stayed suspension. During this period, Perry may continue to act within the scope of his certification, however, if he violates the provisions of the laws and regulations governing building officials during this period, the stay of the suspension may be lifted and Perry may be subject to additional discipline as allowed by law.

In addition, Perry must complete an additional 12 units of continuing education (thus requiring him to complete more than 45 units) during the stayed suspension period specifically and only on the topic of code enforcement.

**VI. RIGHT OF APPEAL**

Per 780 CMR R7.4.1.6, a decision made after a hearing shall be considered final when it is issued by the BBRS. Any party aggrieved by a final decision of the BBRS may appeal to the Superior Court within 30 days of receipt thereof pursuant to M.G.L. c.30A, §14.

Date: 01/12/2024

By:   
Associate Deputy Commissioner  
Division of Occupational Licensure  
Office of Public Safety and Inspection

Sent via Certified Mail and Regular Mail