

The Hammonton Gazette

"The Paper of Record"

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DiDonato's cited by Mullica Twp.

by Gina Rullo

GAZETTE STAFF WRITER

Part one of an occasional series.

HAMMONTON—A "Notice and Order of Penalty (Work Without Permit)" was issued to "DiDonato's Bowling" according to a document obtained from Mullica Twp. on September 24 through an Open Public Records Act (OPRA) request made by *The Gazette*. The date of the notice is September 17, 2020.

According to public documents, prior reports, public statements and social media, Stephen DiDonato is an owner of the business named in these various sources as DiDonato's Bowling Center or DiDonato Family Fun Center and the Alley Bar & Grille, and is the "president" of the business according to Hammonton1st.com and other sources. The business is located on the White Horse Pike (Route 30) in Hammonton.

Stephen DiDonato is the mayor of Hammonton.

The document reads "TAKE NOTICE that you have been found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder in that work was performed without obtaining the required construction permits, in violation of N.J.A.C. 5:23-2.14(a).

"You are hereby ordered to terminate the said violations on or before 10/01/20. No Certificate of Occupancy or Approval will be issued unless the said violations are corrected. You are hereby ordered to pay a penalty of \$1,000.00 for each violation for a total penalty of \$500.00 Each Day that any

of the said violations remain outstanding after 10/01/20 shall result in an additional penalty of \$500 per Day. If you wish to contest the validity of the above action, you may request a hearing before the Construction Board of Appeals of the County of ATLANTIC within 15 days of the receipt of these Orders. The Application to the Construction Board of Appeals may be used for this purpose.

"Your application for appeal must be in writing, setting forth your address and name, the address of the building or site in question, the permit number, the specific sections of the Regulations in question, and the extent and nature of your reliance on the Regulations and, if necessary, a brief statement setting forth your position and the nature of the relief sought by you. You may also append any documents that you consider useful.

"The fee of an appeal is \$100.00 to be forwarded with your application to the Construction Board of Appeals office at BOX 713 NEW RD. & DOLPHIN AVE NORTHFIELD NJ 08225."

The notice is signed by Mullica Twp. Construction Official John Holroyd and is dated September 22, 2020.

Mullica Twp. issues permits and inspects the construction work for DiDonato due to his status as the mayor of Hammonton according to a Mullica Twp. official.

According to a social media post by DiDonato's, a video of an outdoor area included the language "Embrace the Outdoors. July 22, 2020."

On September 9, *The Gazette* made an OPRA request to Mullica Twp. for "copies of all building permits, variances, waivers or planning/zoning board approvals" for DiDonato Family Fun Center.

On September 10, Mullica Twp. sent *The Gazette* "Application for Zoning Permit" from the town of Hammonton. The application is signed by Hammonton's Zoning Officer Mark Rogers and is dated by Rogers for August 26, 2020. The application is for a "pavillion [sic] dining."

According to a notation on the application, \$25 was paid on August 26.

The Gazette obtained the following other permits and documents regarding the pavilion project at DiDonato's from Mullica Twp.:

Mullica Twp. sent the electrical subcode permit. The date received was September 2, 2020. The date issued was September 9, 2020. The cost was \$65.

Further, Mullica Twp. also sent the building subcode permit. The date received was September 2, 2020. The date issued was September 9, 2020. The cost was \$875. The contractor listed is KMD Construction LLC. According to public documents, Stephen DiDonato is a managing member of KMD Construction LLC.

Also on September 10, Mullica Twp. sent the newspaper the Construction Permit dated September 9 for a "PAVILLION [sic] FOR OUTSIDE DINING." The estimated cost of work was \$28,000. Mullica Twp. collected

\$993 in permit fees and state training fees.

On September 12, *The Gazette* made an OPRA request to Mullica Twp. for "all rendering and plans provided to the township with regards to 1151 S. White Horse Pike, Hammonton from April 1-September 12, 2020" and for "all violations associated with that property from April 1-September 12, 2020."

On September 16, Mullica Twp. sent drawings marked "Pavilion As Built Drawing" with the professional name of Benedetto Associates on the drawings which were dated August 27, 2020.

On September 16, Mullica Twp. wrote in an email to *The Gazette*: "We currently have no violations."

On September 24, *The Gazette* made an OPRA request to Mullica Twp. for other OPRA requests regarding construction work at DiDonato's made between July 1, 2020 and September 15, 2020.

According to a document received by *The Gazette* on September 24 from Mullica Twp., on August 25, Hammonton resident William J. Cappuccio (Republican candidate for town council) made an OPRA request seeking "building or construction applications from 6-30-2020 thur [sic] 8-15-2020 for addition at DiDonato [sic] bowling center/Alley bar and grill 1151 s. white horse pike Hammonton N.j. 08037 copies of permits and approvals." The applicant later expanded the date of inquiry to "4-30-2020."

The application to the town of Hammonton was dated August 26 by Rogers.

Multiple calls and emails to Holroyd have gone unanswered as of press time.



Mayor Stephen DiDonato

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DiDonato's 2015 Pinelands letter

by Gina Rullo

GAZETTE STAFF WRITER

Part two of an occasional series.

HAMMONTON—Through a series of Open Public Records Act (OPRA) requests, *The Gazette* has learned that DiDonato's Bowling Center built its train ride with an "Inconsistent CERTIFICATE OF FILING" from the New Jersey Pinelands Commission.

The "Inconsistent Certificate of Filing" is from November 2015, according to documents received by *The Gazette* from the Pinelands and from the town of Hammonton through OPRA requests. There are two letters, one from November 30, 2015 and one from December 15, 2015. The December Pinelands letter included a "Corrected Copy of an Inconsistent Certificate of Filing that was previously issued on November 30, 2015. The enclosed document has been corrected to reflect the most recent revision date for the concerned development plans."

According to documents received through an OPRA request to the Pinelands Commission, the December 15, 2015 letter contains the "Corrected Copy of an Inconsistent Certificate."

In letters from the Pinelands Commission to "Stephen M. DiDonato, DiDonato's Bowling Center, 1151 S. White Horse Pike, Hammonton, NJ 08037" from November 30, 2015 and December 15, 2015, it is stated that "No approval shall take effect and no development may occur until the Commission issues a letter indicating that the approval may take effect.

"Upon receipt of any local agency approval, please submit a copy to the Commission's office with the additional items listed on the enclosed Local Agency Approval Submission Checklist."

On December 21, 2015, DiDonato's submitted an application for zoning permit to the town of Hammonton for a "kids train ride," according to documents received by *The Gazette* from the town of Hammonton through an OPRA request. *The Gazette* received the documents from the town on September 30, 2020.

The application was signed by then-zoning officer Frank Domenico Jr. and dated January 4, 2016.

Construction permits were issued in January 2016 by Mullica Twp, according to documents obtained from the town of Hammonton through an OPRA request. KMD Construction LLC was listed as the contractor. According to public documents, Stephen DiDonato is a managing member of KMD Construction LLC.

Stephen DiDonato is the mayor of the

Train ride built in 2016 with Pinelands Certificate of Inconsistent Filing

town of Hammonton. As stated in a prior report, Mullica Twp. issues permits and inspects the construction work for DiDonato due to his status as the mayor of Hammonton according to a Mullica Twp. official.

The construction permit from Mullica Twp. from January 20, 2016 stated that the estimated cost of work was \$28,000 and the description of work is listed as "train shed." Building and electric permits were issued by Mullica Twp.

On September 7, 2016, Mullica Twp. issued another construction permit to DiDonato's Bowling and listed the contractor as "owner." The description of work was "electrical update train shed" and the estimated cost of work was \$6,300.

The December 15, 2015 letter from the Pinelands to DiDonato's stated "The Certificate of Filing is not an approval. It is the document necessary to allow any local or county agency to review and act on your proposed development application. All local and county permits and approvals granted for the proposed development are subject to review by the Pinelands Commission."

On the page marked "Inconsistencies," the following was written:

"This application as currently proposed is inconsistent with the following standard(s) of Hammonton's certified land use ordinances and the Pinelands Comprehensive Management Plan (CMP):

"1. Stormwater –Soil permeability rate in the proposed stormwater infiltration area (N.J.A.C. 7:50-6.84 (a) 6iv(2))

"The Hammonton land use ordinance and the CMP require that an area proposed for stormwater infiltration be sited in suitable soils verified by field testing to have permeability rates of between 1 and 20 inches per hour. The information submitted for this application indicates that the soils in the area proposed for stormwater infiltration has a permeability rate of 23 inches per hour.

"This issue is potentially resolvable by relocating the proposed railroad bed outside of the area proposed for stormwater infiltration, which is identified on the above referenced plan as elevation 63 feet and below, or constructing bio-retention swales to infiltrate stormwater runoff from the proposed railroad bed prior to it entering the infiltration area. This issue is also resolvable by proposing soil replacement in the stormwater infiltration area with a minimum 2 foot layer of a soil with an appropriate permeability rate.

"Commission receipt of any county

or municipal approval or permit for the development as currently proposed will likely result in the scheduling of a Commission staff public hearing to review the issues raised by the above-referenced inconsistency(ies)."

The Gazette spoke with the town of Hammonton on October 14, 2020 asking for any follow-up documentation indicating that the inconsistencies were resolved. According to a town official, the town had no documentation from the Pinelands or any other entity indicating the issue had been resolved.

The "Inconsistent CERTIFICATE OF FILING" states:

"BACKGROUND

"Existing development:

"• 1,650 square foot commercial building (real estate office) serviced by an onsite septic system

"Relevant Information:

"• The concerned recreational railroad was constructed on Block 4203, Lots 5-9 prior to the completion of an application with the Commission in violation of the application requirements of the Town of Hammonton land use ordinance and the Pinelands Comprehensive Management Plan (CMP). This application is to resolve the violation.

"• Based upon Commission staff field observations, it is unclear whether the above referenced site plan accurately depicts the location of the railroad station building.

"CONDITIONS

"1. Item(s) on the attached Inconsistencies document must be resolved prior to Commission issuance of a letter indicating that any county or municipal permit or approval can take effect.

"NEXT STEPS

"This Certificate of Filing is not an approval.

"• Submit a copy of this Certificate of Filing to all county and municipal agencies that are required to review and act on your application (municipal planning board, building department, county health department, etc.).

"• Send a copy of all approvals/permits that are issued by the county or municipality to the Pinelands Commission for review. Please use the attached Local Agency Approval Submission Checklist to make sure you are submitting all required documentation related to the approval/permit.

"• No local approval/permit takes effect and no development can occur until the Pinelands Commission has reviewed the approval. When we complete our review, we will issue you a letter stating that the approval/permit can take effect."

The Gazette made an OPRA request to the Pinelands on September 29 and

on October 1, 2020 in a phone call with the Pinelands.

The response to that request came on October 5, 2020 from Pinelands Commission Records Custodian Keith Carter who stated in a letter sent via email: "Based on our telephone conversation on October 1, 2020, you indicated that you would like copies of the two Certificates of Filing issued by the Commission for the recreational railroad. We have identified the two documents that are responsive to your request (attached)."

According to an October 7, 2020 phone call between *The Gazette* and N.J. Pinelands Commission Communications Officer Paul Leakan, the letter and Certificate of Inconsistent Filing remains.

"The Commission does not have enforcement authority. We cannot issue fines," Leakan said.

On October 14, 2020, *The Gazette* spoke with Leakan again.

"We are always hopeful to resolve all violations. We have a good track record with working to resolve violations and working with municipalities. We are always interested in working to resolve all violations ... Our interest is ensuring that the Pinelands is protected," Leakan said.

Leakan wrote to *The Gazette* on October 16, 2020.

"[The Pinelands Commission] is following-up based on the information we've received about the permit. We will get the permit and follow-up on our process," Leakan wrote in an email to *The Gazette* on October 16, 2020.

On October 19, 2020, *The Gazette* followed up with the Pinelands Commission to see if there was "an approval granted by the Pinelands? Was an approved Certificate of Filing issued?" On October 22, Carter responded.

"We have double checked our files and have given you the responsive material," Carter wrote.

The Gazette also wrote to Leakan on October 19.

Leakan responded on October 22.

"We issued a Certificate of Filing that noted an inconsistency with our stormwater management standard. The Certificate of Filing is not an approval. Rather, it verifies that a complete application for development has been filed with the Commission. It also enables applicants to seek municipal or county approval for their proposed development.

"We have received a permit for the development, and we will review it within 15 days of our receipt," Leakan wrote.

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DiDonato's cell texts *The Gazette*

by Gina Rullo
GAZETTE STAFF WRITER

Part of an occasional series.

HAMMONTON—On October 28, 2020 at 5:08 p.m., a text message from the number belonging to Mayor Stephen DiDonato was received by *Gazette* Publisher Gabriel Donio and *Gazette* Editor-in-Chief Gina Rullo on their individual cell phones.

The Gazette watched the October 28, 2020 mayor's message and confirmed that the cell phone number belonging to the text messages as they appeared on Donio's and Rullo's phones was the mayor's number. DiDonato is a member of Hammonton First and was first elected as mayor of Hammonton in 2009.

The first set of text messages were as follows:

October 28, 2020, 5:08 p.m.

A PDF file of documents, including: July 10, 2017 construction permit from Mullica Twp. for sewer connection; a sewer connection application from the town of Hammonton for Block 4203 Lot 5; July 18, 2017 Mullica Twp. Certificate of Approval for DiDonato's Bowling; December 21, 2015 Application for Zoning Permit from the town of Hammonton for "kids train ride" for DiDonato's Bowling Center; November 1, 2016 Mullica Twp. Certificate of Approval for DiDonato's Bowling; December 15, 2015 letter from the Pinelands Commission for Application #2003-0127.002, Block 4203, Lots 6-9; December 15, 2015 Inconsistent Certificate of Filing for Application #2003-0127.002; September 5, 2017 Pinelands Commission Notification of Review of Local Agency Approval(s) Determination: Consistent - Approvals May Take Affect for Application #2003-0127.003.

5:08 p.m.

Look at last page from Pinelands

5:09 p.m.

Thank you very much for free advertising of our business in a pandemic

5:09 p.m.

Maybe you guys should be good reporters instead of tabloid reporter's

Steve DiDonato



Look at last page from Pinelands

Thank you very much for free advertising of our business in a pandemic

Maybe you guys should be good reporters instead of tabloid reporter's

SD

But that would not sell papers

SD

Your both a joke

Courtesy Photo
Screenshot of text messages from the phone number belonging to DiDonato.

5:10 p.m.

But that would not sell papers

5:11 p.m.

Your [sic] both a joke

8:56 p.m.

The most powerful couple in Hammonton is looking for the list shrimp

8:56 p.m.

Lost

8:56 p.m.

Congratulations

Donio and Rullo have been married since 2005.

9:14 p.m.

Looks like you both deliberately omitted from their article exculpatory information without which I was defamed in the eyes of the public. I think I need an attorney

Donio and Rullo did not respond to DiDonato.

On October 28, *The Gazette* printed an article about a 2015 Pinelands Inconsistent Certificate of Filing for DiDonato's, specifically application #2003-0127.002.

On October 29, at approximately 8:42 a.m., *The Gazette* emailed N.J. Pinelands Commission Communications Officer Paul Leakan and N.J. Pinelands Commission Records Custodian Keith Carter.

The email to each stated: "Mr. DiDonato from DiDonato's Bowling sent me a set of files including a piece of Pinelands correspondence from 2017. I believe his implication was that the attached document was the approval for the seasonal train ride.

"My questions for the Pinelands

"1. Did the attached document which has application #2003-0127.003 resolve #2003-0127.002 (seasonal train ride)?

"1a. If it did, why wasn't it sent when I asked to see if it was approved? I even double checked my request with a second request on October 19, 2020.

"2. I would like to make an OPRA request for all documentation regarding #2003-0127.003."

The Pinelands approval for application #2003-0127.003 as sent to *The Gazette* by the number associated with DiDonato was sent to Leakan and

Carter.

Leakan responded at 12:07 p.m. on October 29.

Leakan wrote: "The correspondence you sent is for Application Number 2003-0127.003, and that was for an addition to the bowling alley building.

"However, Application Number 2003-0127.002 is for the seasonal train ride.

"Although the applications are on the same parcel, they are not related."

The cell phone number associated with DiDonato texted Donio and Rullo again on October 29.

October 29, 2020, 1:28 p.m.
I wonder if the Gazette paid for a fire inspection at the new office?

1:28 p.m.

Answer

Noticed three times and did not pay still

1:31 p.m.

Oh maybe the town should shut down the office or fine the gazette or take out ad

Donio and Rullo did not respond to DiDonato.

The Gazette called Hammonton Town Clerk Frank Zuber at 1:51 p.m. on October 29 and asked for a copy of the "fire inspection notice."

At 2:25 p.m. on October 29, *The Gazette* emailed Zuber and stated "Mayor Stephen DiDonato texted and said The Gazette hasn't paid for a fire inspection. I checked our files. We have not received a

bill or notice from the town as far as I can tell.

"Can you resend to me please so that we can remit payment to the town?"

Zuber replied at 2:28 p.m. on October 29 via email.

"I will check with Mike Ruberton and get it to you," Zuber wrote in his email.

At approximately 3:10 p.m. on October 29, the tax assessor called to discuss the property at 14 Tilton Street asking if the property had central air.

The Gazette told the assessor that no changes were made to the HVAC system other than maintenance and new filters. *The Gazette* is a tenant at 14 Tilton Street and has been since October 2017.

At 4 p.m. on October 29, an undated form was sent to *The Gazette* from the town. No fee amount is listed on the form. The form was completed and submitted to town employee Michael Ruberton and Zuber at 9:06 a.m. on October 30. Ruberton emailed *The Gazette* twice on October 30.

His first email stated, "Good Afternoon Gina,

"We received your registration paperwork for your business. You are scheduled for a December inspection. Attached is a general list of items we check during our annual inspection. Some may not pertain to your use type ..."

His second email stated: "I will call in early December to schedule the inspection."

As of press time, *The Gazette* is awaiting further communication from Ruberton on the matter.

Steve DiDonato

I wonder if the Gazette paid for a fire inspection at the new office?

Answer

Noticed three times and did not pay still

SD

Oh maybe the town should shut down the office or fine the gazette or take out ad

SD

Courtesy Photo
Screenshot of text messages from the phone number belonging to DiDonato.

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State: Registration renewal for builder

by Gina Rullo
GAZETTE STAFF WRITER

Part of an occasional series.

HAMMONTON—According to documents received through a series of Open Public Records Act (OPRA) requests, the State of New Jersey New Home Builder Registration for KMD Construction LLC expired on June 30, 2019.

According to a December 24 email from the state, the registration is being renewed.

"KMD Builders did submit the renewal application approximately two weeks ago. It is in line for processing, but the approximate processing time for such applications is currently running at 30 business days from the date of receipt of the application. In the event the processing staff does review the renewal application in the normal course and concludes it is complete and approved for renewal, it will not be renewed until the compliance action is complete and deemed closed," New Jersey Department of Community Affairs (DCA) Director of Communications Tammori C. Petty wrote in an email to *The Gazette* on December 24.

Petty also wrote that KMD cannot receive any services from the construction office until the registration is renewed.

"The construction office will not provide any services until it is provided the new registration card. Without the registration being renewed and active, the builder cannot apply for building permits or receive new home warranties for any homes it has built. Without the new home warranty, the municipality cannot issue any type of Certificate of Occupancy for the home," Petty wrote in an email on December 24.

On December 31, New Jersey Department of Community Affairs Spokesperson Lisa M. Ryan sent the following email to *The Gazette*, "The Office of Regulatory Affairs in DCA's Division of Codes and Standards had phone conversations with Mullica Township construction officials on 11/16, 11/17, 11/20, 11/25, 12/17, and 12/22 during which it was communicated that no Uniform Construction Code inspections shall be conducted and no certificates shall be issued for any permits relating to KMD Construction. These phone conversations were memorialized in the attached email sent to the Mullica Township construction official."

Ryan sent a December 29 email from N.J. State Department of Community Affairs Office of Regulatory Affairs Investigator - Fire Subcode Official Justin M. Henry to Mullica Twp. Construction Official John Holroyd.

The email from Henry to Holroyd read as follows: "I wanted to memorialize the previous phone conversations we've had on 11/16, 11/17, 11/20, 11/25, 12/17,

State: KMD's registration expired on June 30, 2019

and 12/22.

"As previously instructed, no UCC inspections shall be conducted and no certificates shall be issued for any permits relating to KMD Construction. If the builder furnishes a valid registration, they must update all permits to reflect the correct information prior to carrying out any further enforcement of the Code.

"Please let me know if there are any questions."

According to the state and a December 30 internet search on [newjersey.mylicense.com/verification/Search.aspx?facility=Y](https://www.state.nj.us/dca/divisions/codes/publications/pdf_nhw/brlist.pdf), KMD Construction LLC's, home improvement contractor license has been expired since March 31, 2015.

According to documents from the state received through an OPRA request, Stephen DiDonato is one of the owners of KMD Construction LLC.

Stephen DiDonato is the mayor of the town of Hammonton. As stated in a prior report, Mullica Twp. issues permits and inspects the construction work for DiDonato due to his status as the mayor of Hammonton according to a Mullica Twp. official.

Through a series of OPRA requests, *The Gazette* has received permits issued to KMD Construction since the date of expiration of the license as identified by the state.

The Gazette contacted the New Jersey Department of Community Affairs in November.

Petty emailed *The Gazette* on November 18, 2020.

Petty's email reads as follows: "It appears the builder used his/her expired builder number on the permit. DCA will be following up with the builder and the local construction official."

In a November 5, 2020 email, James Costello from the New Jersey Department of Community Affairs Bureau of Homeowner Protections wrote: "I am in receipt of your OPRA request No. C165586 wherein you requested: "1) New home builder registration information on KMD Construction, LLC.

"The above-mentioned builder registration was originally issued to Stephen M. DiDonato on June 16, 1997 and was most recently renewed in compliance with the Regulations Governing New Home Warranties and Builders' Registrations (N.J.A.C. 5:25-1.1 et seq.) on July 7, 2017. The registration expired on June 30, 2019 and has yet to be renewed."

A November 18 review of registered builders on https://www.state.nj.us/dca/divisions/codes/publications/pdf_nhw/brlist.pdf did not show KMD Construction.

According to the 2017 State of New Jersey New Home Builder Registration - Renewal Application for KMD Construction, the registration number associated with KMD Construction LLC is

27074. The 2017 renewal application was signed by Stephen DiDonato on May 24, 2017.

A November 19, 2020 email from New Jersey Division of Consumer Affairs Public Information Officer Gema de las Heras stated: "KMD Construction LLC, Stephen DiDonato, and Debra DiDonato are not presently registered as home improvement contractors with the Division of Consumer Affairs. The Division located a prior home improvement contractor registration issued to KMD Construction, LLC, but that registration expired on March 31, 2015."

As of November 18 and December 30, a search on <https://newjersey.mylicense.com/verification/Search.aspx?facility=N>, showed that License No. 13VH06864600, belonging to KMD Construction LLC with the owners' names showing as "Stephen M. DiDonato" and "Debra A. DiDonota" [sic] was expired as of March 31, 2015. The "Status Change Reason" was listed as "Failure to Renew."

On November 5, 2020 *The Gazette* made an OPRA request to Mullica Twp. for "all construction permits made out to KMD Construction / Stephen DiDonato/Debra DiDonato from July 1, 2019 through November 5, 2020."

On November 12, 2020, Mullica Twp. sent a list of permits issued to KMD Construction LLC. The permits were as follows according to the document from Mullica Twp. All addresses are in Hammonton unless otherwise noted.

- A permit was issued on 9/03/19 for 45 Dogwood Lane for single family dwelling for subcode BLDG.

- A permit was issued on 10/8/19 for 520 Walnut Street for single family dwelling for subcode BLDG.

- A permit was issued on 2/19/20 for 9 Samantha Drive for single family dwelling for subcode BLDG.

- A permit was issued on 7/14/20 for 5 Samatha [sic] Drive for single family dwelling for subcode BLDG.

- A permit was issued on 7/14/20 for 340 Central Avenue for single family dwelling rancher for subcode BLDG. According to Petty's December 24 email, "The property located on Central Ave has had all of its final inspections, but no Certificate of Occupancy has been issued and cannot be issued until KMD's new home builder registration is renewed and a new home warranty for the home is presented to the municipality."

- A permit was issued on 9/9/20 for 50 Dogwood Lane for single family dwelling for subcode BLDG.

- A permit was issued on 9/9/20 for 52 Dogwood Lane for single family dwelling for subcode

BLDG.

- A permit was issued on 4/7/20 for 122 Jackson Road (Medford Twp.) for repair basement wall and replace furnaces, HWH and A/C Units for subcode bldg. (There is an overlap of officials between the town and Medford.)

Mullica Twp. also sent the permit forms for 50 and 52 Dogwood, 340 Central, 5 and 9 Samantha Drive.

According to Mullica Twp., the permits for 45 Dogwood Lane and 520 Walnut Street were turned over to the town of Hammonton. The wording in the email was "Be advised the un-highlighted permits have been returned to Hammonton." Hammonton sent the permits to *The Gazette* for 520 Walnut Street and 45 Dogwood Lane on November 19, 2020 following an OPRA request.

On November 13, 2020 *The Gazette* sent an OPRA request to Medford Twp. for the permits for 122 Jackson Rd. Medford responded on November 17, 2020.

On each Building Subcode Technical Specification form, KMD Construction's number is listed as 027074 for the seven aforementioned properties. In an email from November 19, 2020, Costello wrote "Builder Registration numbers are 5 digits long..." Also on November 19, 2020 Costello was asked via email by *The Gazette* "Is 27074 still expired or did they renew?" Costello replied via email on November 19, 2020: "I can confirm that the builder associated with that registration number is expired."

The expiration dates for the registration or license were as follows according to documents sent by Mullica Twp. and Medford Twp.:

- For 520 Walnut Street, the expiration date was listed as "7/31/20."

- For 45 Dogwood Lane, the expiration date was listed as "7/31/20."

- For 9 Samantha Drive, the expiration date was listed as "7/20."

- For 5 Samantha Drive, the expiration date was listed as "7/21/20."

- For 50 Dogwood Lane, the expiration date was listed as "7/2021."

- For 52 Dogwood Lane, the expiration date was listed as "7/2021."

- For 340 Central Avenue, the expiration date was listed as "7/21."

- For 122 Jackson Road, Medford Twp., the expiration date was listed as "7/2020."

KMD's number for new home building is 27074, according to documents from the state and according to the state, it expired on June 30, 2019.

According to a December 2, 2019 social media post by KMD Construction, 122 Jackson Road in Medford was described as "so close" to New Construction home ... All work completed by KMD

Construction, LLC." A November 17, 2019 post said "New: Roof | Windows | Heater | Air conditioning | Hot water heater | Flooring Throughout..." Each post included multiple images. The permit was issued on 4/7/2020 according to documents sent to *The Gazette* by Medford Twp.

The Gazette contacted the New Jersey Department of Community Affairs.

Department of Community Affairs Director of Communications Tammori C. Petty emailed *The Gazette* on November 18, 2020.

Petty's email reads as follows: "It appears the builder used his/her expired builder number on the permit. DCA will be following up with the builder and the local construction official.

"Any notices of violation for providing an expired builder registration on the permit would be issued by the local construction official. This could possibly result in a revocation of permit and/or non-issuance of Certificate of Occupancy if the warranty is not provided."

On November 13, 2020, *The Gazette* made an OPRA request to Mullica Twp. "for a copy of the new home builder's registration that Mullica Twp. has on file for KMD Construction as well as the home remodeling license."

On November 17, 2020, Mullica Twp. emailed and wrote: "We have no documents pertaining to your request."

On November 17, 2020, *The Gazette* sent a follow-up question to Mullica Twp. asking "How is the municipality issuing permits if they don't have a copy of the license or registration? Or is that not the practice to keep a copy?"

On November 18, 2020, Mullica Twp. emailed and wrote: "it is not the practice."

On November 10, 2020 *The Gazette* received an email from de la Heras regarding New Jersey home improvement licenses.

According to a November 10, 2020 email from de las Heras, "Under the Contractors' Registration Act, home improvement contractors must register with the New Jersey Division of Consumer Affairs (the "Division") if they remodel residential or non-commercial property or convert existing commercial structures into residential or non-commercial property. The Division does not register businesses or contractors that build or remodel commercial property."

According to a November 20, 2020 email from de las Heras, "The Division of Consumer Affairs enforces the terms of the Contractors' Registration Act and/or the Consumer Fraud Act. The Division does not issue construction permits. As a general matter, municipal personnel are responsible for reviewing, approving, and issuing construction permits."

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Bldr. registration renewed by state

by Gina Rullo

GAZETTE STAFF WRITER

Part of an occasional series.

HAMMONTON—On January 11, *The Gazette* received an email from New Jersey Department of Community Affairs Director of Communications Tammori C. Petty stating that KMD Construction's new home builder's registration was renewed.

Petty's email read as follows: "KMD Construction, LLC submitted a new home builder's registration application to the Bureau and the new home builder's registration for KMD Construction LLC was renewed on January 5, 2021. The builder was issued a warning letter on November 18, 2020 for being an unregistered new home builder (failing to renew the new home builder's registration) and assessed a penalty. On December 24, 2020, the Department of Community Affairs, Bureau of Homeowner Protection and KMD Construction LLC entered into a Settlement Agreement. The builder complied with the terms of the agreement, thereby resolving his compliance issues with this Bureau and restoring the builder's eligibility for registering as a new home builder.

"All new home builder's registration approvals are good for two years. The builder's registration for KMD Construction LLC expires on 1/31/2023 and may be renewed on or before the renewal date of 1/31/2023."

As previously reported, according to documents received through a series of Open Public Records Act (OPRA) requests to the state, the State of New Jersey New Home Builder Registration for KMD Construction LLC expired on June 30, 2019.

According to prior reports and public documents KMD Construction LLC is owed in part by Stephen DiDonato. DiDonato is the mayor of the town of Hammonton.

The Gazette filed an Open Public Records Act (OPRA) request for the Settlement Agreement with KMD Construction.

On January 15, New Jersey Department of Community Affairs Bureau of Homeowner Protection Bureau Chief James F. Fahy emailed the document to *The Gazette*.

The document stated:

"SETTLEMENT AGREEMENT

"December 4, 2020

"Compliance No. 0018-20

"NJ Department of Community Affairs

"Division of Codes and Standards

"Bureau of Homeowner Protection

"New Home Warranty Program

"Post Office Box 805

"Trenton, New Jersey 08625-0805

State: \$2,500 penalty paid

"AND

"KMD Construction LLC

"1155 South White Horse Pike

"Hammonton, New Jersey 08037

"This Settlement Agreement is entered into by and between the Bureau of Homeowner Protection, New Home Warranty Program (hereinafter "Bureau") and KMD Construction, LLC (hereinafter "Builder").

"Whereas, Builder asserts that on June 3, 2019 Builder mailed its Renewal Application to the Bureau to renew Builder's Registration; and

"Whereas, the Bureau has denied receiving Builder's Renewal Application; and

"Whereas, on or before November 18, 2020, inquiry was made to the Bureau regarding the status of Builder's Registration; and

"Whereas, on November 18, 2020 the Bureau made preliminary findings that the Builder failed to renew its Registration and proposed a \$5,000.00 penalty; and

"Whereas, Builder cannot renew its Registration until after this compliance matter, identified as Compliance file No. 0018-20 is resolved; and

"Whereas, Builder needs to resolve this issue regarding its Registration as quickly as possible in order to register as a new home builder and continue engaging in the business of constructing new homes for sale in the State of New Jersey; and

"Whereas, the Parties desire to amicably resolve the matters pertaining to Compliance file No. 0018-20 in accordance with the terms and conditions contained in this Settlement Agreement.

"NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into the body of this Settlement Agreement, the Parties, intending to be bound, hereby agree as follows:

"1. The Builder hereby agrees not to further violate the Regulations Governing new Home Warranties and Builders' Registration ("Regulations"), N.J.A.C. 5:25-2.1(a), which requires individuals and business entities engaged in the business of constructing new homes to be registered with the Department of Community Affairs. If a builder fails to register, he or she shall be subject to a penalty, pursuant to N.J.A.C. 5:25-2.6(a) and (b).

"2. Any builder who fails to register as herein required, who fails to file an amended application as specified in N.J.A.C. 5:25-2.5(b) 4, or who fails to maintain a current builder registration

as required by N.J.A.C. 5:25-2.1(a), shall be subject to a penalty not to exceed \$2,000 for each offense, to be levied by the Division and collected in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

"3. KMD Construction, LLC inadvertently failed to maintain a current new home builder's registration while engaging in the construction of new homes, thereby violating the Regulations. Therefore, the Builder is subject to penalties.

"4. The Builder hereby agrees to pay the Bureau a penalty in the amount of \$2,500.00. This represents a reduced penalty from \$10,000.00 for violations of the New Home Warranties and Builders' Registration Regulations, in conjunction with the following properties only:

"a. January 31, 2020 - 45 Dogwood Lane, Hammonton, N.J.

"b. February 7, 2020 - 592 Walnut Street, Hammonton, N.J.

"c. March 27, 2020 - 30 Dogwood Lane, Hammonton, N.J.

"d. March 27, 2020 - 520 Walnut Street, Hammonton, N.J.

"e. August 31, 2020 - 9 Samantha Drive, Hammonton, N.J.

"5. If for any reason the Builder or any officer, director or principal of the builder fails to comply with the terms of this Settlement Agreement, the full penalty of \$10,000 will be assessed and the Bureau shall invoke a suspension, revocation, or denial action against any of the principals, directors, or partners of the Builder's entity who are registered new home builders in the State of New Jersey or who apply to become new home builders in New Jersey.

"6. Full payment of \$2,500.00 shall be made by December 17, 2020, by bank check or money order only, made payable to "State of New Jersey - NHWP" (New Home Warranty Program).

"7. The Builder by entering into this Settlement Agreement waives its right to any hearing in this matter and all rights to appeal any and all matters directly or indirectly related to this matter;

"8. Each Party represents and warrants that this Settlement Agreement is fair and valid and that it executes this Settlement Agreement with full knowledge of its provisions and under no compulsion or duress;

"9. The Parties represent and warrant that the persons executing this Settlement Agreement are authorized to do so;

"10. This agreement does not affect any potential claims in law or equity against the Builder. By entering into

this agreement, the Department of Community Affairs does not sanction the conduct of the Builder;

"11. This Settlement Agreement shall be binding in all respects upon and inure to the benefit of the Parties, as well as their respective successors and assigns.

"12. This Settlement Agreement shall be governed by, and interpreted, and construed in accordance with the statutes and regulations of the State of New Jersey. Obligations imposed by this agreement shall constitute continuing regulatory obligations pursuant to the Rules Governing New Home Warranties' and Builders' Registration Act. N.J.A.C. 5:25-1.2 et seq.;

"13. This Settlement Agreement shall not be modified or amended, except by a writing signed by all Parties;

"14. If any provision of this Settlement Agreement is declared by any Court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts shall not be affected. The illegal or invalid portion shall be deemed stricken from this agreement;

"15. This Settlement Agreement becomes null and void after 15 days from the date of this offer, if the Builder fails to accept and execute the Agreement.

"16. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Facsimile or electronically transmitted signatures are effective as original.

"[SIGNATURES AND NOTARY ON NEXT PAGE]

"DEPARTMENT OF COMMUNITY AFFAIRS

"BUREAU OF HOMEOWNER PROTECTION

"NEW HOME WARRANTY PROGRAM

"Sherita A. Whetstone, Compliance Officer

"BHP/NHWP

"12-24-2020

"Date

"Stephen DiDonato

"KMD Construction, LLC

"12/10/2020

"Date

"SWORN AND SUBSCRIBED TO BEFORE ME

"THIS 10th DAY OF December 2020

"SUSAN HOFFMAN

"NOTARY PUBLIC OF NEW JERSEY

"MY COMMISSION EXPIRES MAY 21, 2023."

According to a January 19 email from Whetstone, "Upon execution of the agreement the builder submitted full payment of the penalty (\$2,500) by way of a bank check from Ocean First Bank."