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Appeals court rules against Liberty Lake homeowner in 19-year shoreline fight

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Lawsuit pending

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Appellate judges have handed a defeat to a Spokane Valley lawyer who has fought with Spokane County and state regulators for 19 years over the expansion of his boat dock and building on his Liberty Lake shoreline property.

The Division III Court of Appeals on Friday upheld Superior Court Judge Kathleen O'Connor's dismissal of a lawsuit filed by Lloyd and Linda Herman against Spokane County and the state of Washington over efforts to enforce shoreline ordinances.

"The superior court dismissed (the Hermans') suit based on a failure to file within the statute of limitations," Judge Dennis Sweeney wrote, saying the appeals court agreed.

The decision, backed by Judges Teresa Kulik and Stephen Brown, also rejected a request by attorneys for the county and the state to impose sanctions against the Hermans for filing what they called a frivolous lawsuit.

Lloyd Herman said he has tried to comply, starting with a 1996 judge's order to stabilize the 60-foot, clifflike slope below the home he purchased from his father in 1970 at 24603 E. Tum Tum Drive.

Herman said he has another lawsuit pending against Spokane County and the Washington State Department of Ecology over how they have handled the case.

“It’s been overzealous government regulation by mean-spirited people,” Herman said. “Major corporations pour chemicals in the river, and they fine them \$10,000. Me, a teeny landowner, gets fined \$30,000 to keep my house from sliding off in the lake.”

Appellate judges earlier upheld a \$30,000 state fine against Herman for failing to comply with a 2004 order to undo several construction projects that county and state regulators said violated Spokane County’s shoreline regulations.

Jani Gilbert, spokeswoman for the Department of Ecology, said any development within 200 feet of the high-water mark requires a shoreline permit. The permits are designed to protect lake and stream water quality.

Violations on Herman’s property first came to the department’s attention during the 1990s, when Herman was fined \$1,000 and ordered to take corrective action. Since then, Herman has further developed the property without permits, according to court documents. He enclosed a deck, adding a peaked roof to resemble the historic Liberty Lake Pavilion; built a serpentine flight of concrete steps from his home to the lake; and added retaining walls to the hillside above the lake, the documents said.

Gilbert said Herman needs to reduce the height of the building by 5 feet and also reduce the size of the concrete deck on which the building was constructed.

“If he did this kind of building, it’s sort of precedent-setting,” Gilbert said. “Everybody else would then want to do it and if they did we wouldn’t have a natural shoreline.”

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