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A lot of trouble for a dream home

After 10 years, man wins right to build on ravine
Conservationists rallied to try to block development

PAUL MOLONEY
CITY HALL BUREAU

When investment adviser Derek Russell learned a large, wooded ravine lot in Rosedale had been listed for \$300,000, he acted quickly.

The owner, a North Carolina doctor, needed to raise some cash in a hurry and Russell was in a position to oblige.

"I got it for \$50,000," he said yesterday. "I made the only offer that was all cash, to settle within three days. There was an urgency behind it, because he needed the dough."

What Russell couldn't have known is that it would take almost 10 years and \$600,000 in legal fees and studies to win the right to build a 4,000-square-foot house on the 0.5-hectare site.

Last week, in a move that has already sparked controversy, municipal politicians on the executive committee of the Toronto and Region Conservation Authority awarded Russell a permit to re-grade the property in order to build a house.

Getting a building permit should now be straightforward, but Russell remains wary.

"Everybody tells me there's no more hurdles, but I've had so many thrown up over the last 10 years, you keep looking over your shoulder," he said. "But if all goes well, I would hope to start building next summer."

Russell's plans had been sidelined by the city's strong desire to protect natural ravine areas — considered one of Toronto's most distinctive features — from development.

Shortly after Russell bought the land, city council slapped a freeze on the site, zoned residential, and followed up by passing the Ravine Impact Boundary Bylaw around 1997, effectively banning any construction on Russell's lot.

The case wound its way through two hearings of the Ontario Municipal Board, on to the Divisional Court and the Ontario Court of Appeal, which ruled in Russell's favour. Next stop was the Supreme Court of Canada, which declined to hear the case, meaning the appeal court ruling stood.

"My argument was I shouldn't be subject to the new bylaw because it was brought in after I applied for



DAVID COOPER/TORONTO STAR
When investment adviser Derek Russell bought a wooded ravine lot for \$50,000 in Rosedale, he didn't think he'd have to spend another \$600,000 in legal fees just to win the right to build there.

the building permit. I should only have to conform to what the rules were at the time I applied."

The courts agreed with him, but he needed the conservation authority's blessing. Without a permit from that agency, he was stymied.

In approving the application, the panel that heard the case was swayed by the fact the house would only occupy about 7.75 per cent of the lot, said Toronto Councillor Maria Augimeri, a panel member.

The conservation authority's staff had recommended refusal of the application, noting the house would be entirely below the top of the bank of the Park Dr. ravine, partially on the valley wall and partially on the sloping valley floor, all highly sensitive ecological areas.

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this is a very small home.

It's not like they're looking to build a big mansion.'

Councillor Irene Jones

"It has a detrimental impact due to the cumulative loss of natural cover within the City of Toronto and creates a precedent for future consideration of similar proposals," the staff report concluded.

Augimeri said the panel insisted on conditions, registered on title, that no swimming pool or other buildings could be added later, and that a vegetation management plan be implemented to the satisfaction of the conservation authority.

"I can tell you without breaking confidences that the executive committee grappled with the issue very, very seriously," Augimeri said.

"We were in camera (behind closed doors) for a long time. We sought solicitor input for quite some time before we came out with a decision."

Councillor Irene Jones, another panel member, said other homes in the area encroach on to the ravine.

"Some of them have more impact on the ravine," Jones said. "When you compare this home to all the other surrounding homes, this is a very small home. It's not like they're looking to build a big mansion."

The decision should prompt the conservation authority to review its mandate, said J. Patrick Howe, president of the North Rosedale Ratepayers Association.

"The issue is what the TRCA is all about and where its roles are in terms of protecting the ravines," Howe said.

"Is their role to be protecting ravine and green space? Or is their role to decide what part of that ravine

and green space we don't need any more?"

Councillor Joe Pantalone, the city's tree advocate, called the panel's decision "wrong-headed."

"You should not allow any development which is detrimental to ravines, given their ecological role," Pantalone said.

"We need ravines for recreation, wildlife habitat, and to act as the lungs of the city," he said.

"Whenever a government agency like the TRCA has the authority to say no, when there's clearly a negative impact, then they should say no."

Russell, a vice-president at RBC Investments, has earned a tidy return on the lot, which may be worth a couple of million dollars today.

But he said he would have stayed clear of the deal had he known where it would lead.

"I would never have gone into it if I'd known. It has been 10 years out of my life. I never would have dreamed it."

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