



Bob Aaron bob@aaron.ca

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Disputed land sliver cost couple \$42,000

The most expensive piece of residential land in Toronto is not the nine-acre parcel owned by Conrad Black on Park Lane Circle, said to be worth more than \$10 million, or a paltry \$26 a square foot (for the land only).

Realtors familiar with vacant lots in Black's Bridle Path neighbourhood estimate that a two-acre (0.8-hectare) lot might go for about \$3.5 million still only \$40 a square foot.

Even Central Toronto homes, which are torn down to rebuild modern row mansions, don't sell for anything close to the \$2,100 a square foot, which clients of mine paid last year for a tiny sliver of backyard.

I think that 20-square-foot strip, which cost my clients \$42,000, must rank as Toronto's most expensive piece of vacant land.

The couple, who I will call Barbara and Roland, owned a modest semi-detached home in an older area not far from central Toronto where properties typically sell in the low- to mid-\$300,000 range.

Judging from the survey of the house, it seems that the building was constructed so that the middle of the dividing wall between the two attached houses was misaligned with the fence and the deeded boundary line between the properties.

The discrepancy starts at 4 1/2 inches at the back of the houses, and by the time the fence gets to the rear property line, 30 feet later, it is almost a whole foot off the deed line. This is a slender strip of land, less than a foot wide at its widest point, that tapers down to a few inches at the houses.

This situation, which has existed since at least the 1950s, gave Barbara and Roland 20 square feet of backyard more than the land included in their deed.

My clients had always enjoyed a cordial relationship with the neighbours who owned the other half of the building. Back in 2002, the neighbours decided to extend their house into the backyard. During construction, they removed some of the boundary fence and started digging foundations in Barbara and Roland's backyard.

When confronted, the neighbour explained that the fence was "in the wrong place" and he was "taking back what's mine." That was when Barbara and Roland came to me, and I carefully explained that since they and the prior owners of their house had enjoyed open and exclusive use of the strip between the existing fence and the true property line for at least 50 continuous years, they had acquired squatter's rights to the land.

I wrote a letter to the neighbours demanding that they stop trespassing on my clients' land. It had no effect.

After the old fence was partially removed for the construction, my clients erected a new one using the old fence posts.

The neighbours were furious, and immediately demolished the new fence.

The police came and went, and eventually my clients hired a litigation lawyer in January 2003. Over the next 12 months, they spent \$25,000 on lawyers and surveyors.

Early last year, the parties got to a pre-trial where the judge pushed both sides into a settlement. The neighbours agreed to transfer the disputed land without compensation to Barbara and Roland, who would rebuild the fence at their own expense.

The next eight months cost my clients another \$17,000 in legal and surveying fees to get the slender strip deeded over to them. Last summer, to get away from the neighbours, they sold the house, realizing about \$325,000 minus the \$42,000 they spent on the court case.

The 20 square feet of land they regained cost them \$42,000 or \$2,100 a foot. Roland came away "very disappointed in the legal system"

The judge, he said, seemed to be more interested in putting a settlement together than in what actually happened in the back yard 20 years ago.

"It was expensive and emotionally draining," he added. "The thing that kept us going was our firm belief that our neighbours shouldn't be able to arbitrarily take property from us that had been with our house since long before we bought it."

His final words of advice are wise and worth repeating: "If you firmly believe in the justice of your position and don't lose too much sleep over wasting enormous amounts of money and spending a huge amount of time worrying over a confrontation, then go for it. Otherwise, get what settlement you can and get out."

Bob Aaron is a Toronto real estate lawyer. He can be reached by e-mail at bob@aaron.ca, phone 416-364-9366 or fax 416-364-3818. Visit <http://www.aaron.ca>