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Developer truly was a 'giant' in the building trade

In a touching tribute to the late Marco Muzzo in last Saturday's New in Homes section, writer Pat Brennan described an incident in which the developer was standing at the bottom of a deep excavation at the site of the former Greenwood Race Track, trying to figure out a way to get loaded dump trucks up a steep, dirt ramp that had become a river of mud.

The story of why Muzzo had to complete such extensive excavation on the site is a fascinating tale, and involves a dispute at Ontario's highest court between the former owner and a would-be buyer of the same property. It's also a story of how one developer stepped up to the plate and produced an attractive subdivision when another builder turned down the opportunity.

The 33.7-hectare site bounded by Lake Shore Blvd. E. and Queen St. E., between Coxwell and Woodbine had been a racetrack for 140 years before 1993. The south portion was once under water and had been extended by landfill. The site itself was contaminated by incinerator ash, heavy metals, hydrocarbons, and leaking underground storage tanks. In short, it was an environmental disaster.

In March 1994, a numbered Ontario corporation agreed to purchase the entire Greenwood Race Track site from the Ontario Jockey Club for \$35 million. The purchaser had the right to terminate the agreement before May 20, 2004 if, acting reasonably, it believed that the property was subject to soil conditions or environmental contamination which would materially increase the cost of converting the site to residential use.

The purchaser, whose principal was Herbert Green, retained two experts who reported that the site contained large quantities of peat and methane gas, and the servicing cost would be increased due mainly to a high underground water table.

On the day before the deadline, the numbered company exercised its right to terminate the agreement, and asked for the return of its \$10-million deposit.

Lawyers for the Jockey Club responded to the termination by saying that their client disagreed with the purchaser's experts, and it had no right to terminate the agreement.

In July 1994, the matter came before Justice Romain Pitt in Toronto. Without going to trial, the purchaser company asked the court to declare that the agreement had been properly terminated.

At the request of the purchaser, Construction Control Group had prepared a report which estimated that the cost of remedying the existing soil contamination would be \$8.3 million.

It identified four major problems with the soil:

- A high water table, which would require dewatering of the site.
- Existing topography that restricted surface draining of storm water.
- Existing height of Lake Shore Blvd. E., which determined the surface run-off patterns.
- Significant volumes of peat-pockets and associated methane gas.

Another company estimated the remediation cost of the problems at between \$6 and \$11 million. After reviewing the reports and the documentary evidence, Justice Pitt ruled that the purchaser acted reasonably in terminating the transaction.

The Ontario Jockey Club appealed the decision to the Court of Appeal, and in a 2-1 decision in January, 1995, the province's highest court agreed with the lower court that no trial was necessary and that the deal was dead.

In 1995, the site of the Greenwood Racetrack was sold to EMM Financial Group, a company owned by Marco Muzzo and his partner Fred DeGasperis, who were not involved in the litigation with the previous purchaser. They undertook an extensive remediation of the soil at a reported cost of \$22 million.

The cleanup involved the removal of about 7,000 cubic metres of soil contaminated with petroleum hydrocarbons, and large quantities of coal and clinker ash as well.

A total of 500,000 cu. m. of engineered clean fill was brought to the site to raise it to a new grade level. All of the new soil was tested and treated with X-ray fluorescent technology.

The resulting community built on clean soil by Muzzo and DeGasperis is one of Toronto's development success stories. It is one of the city's largest new neighbourhoods, with a successful mix of singles and semi-detached houses and low-rise apartments. The west half of the site is now Woodbine Park.

The five new street names are appropriate to the site. Northern Dancer Blvd. and Winners Circle refer to the previous use of the site for horse racing. Sarah Ashbridge Ave. honours one of the early settlers in the area, and Joseph Duggan Rd. pays tribute to an owner of the site back in the 1880s. Duggan was one of the founders of the Ontario Jockey Club. Boardwalk Dr. needs no explanation.

There are homebuilders and there are homebuilders. Muzzo was a giant in the industry and this city is in his debt for his immense contributions to it.