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Interesting history of Romney cottage compound

Whether or not Mitt Romney becomes the 45th president of the United States after the November election, chances are that he and his siblings will still spend part of their summers at the family cottage they still own inside a tiny, gated community called Beach O' Pines near Grand Bend, Ont.

The white-clad cottage was purchased in 1950 for \$31,900 by Romney's father George, formerly governor of Michigan. It has been regularly used by the Romney family as a summer compound ever since.

But the same year George Romney bought his summer home on the shores of Lake Huron, the cottagers in the gated community were embroiled in one of the most important real estate and civil rights cases in Canadian history.

It all began in April, 1948, when Bernard Wolf, a successful London, Ont., store owner, signed an agreement to buy a \$6,800 cottage in the exclusive Beach O' Pines subdivision from Annie Maude Noble.

When Wolf's lawyer, Ted Richmond, searched the title to the property, he discovered a registered restriction or "covenant" in a 1933 deed. It provided that the land could never be sold, used, occupied or rented "by any person of the Jewish, Hebrew, Semitic, Negro or coloured race or blood."

The document's stated intention was to restrict the use, ownership and enjoyment of the whole recreational development "to persons of the white or Caucasian race" not otherwise excluded by the prohibition.

Since Wolf was Jewish, Richmond asked the lawyer for the owner to obtain a release of the restrictions and a court order declaring the restrictive covenant void.

With the approval of the vendor and her lawyer, Richmond brought what he thought would be a friendly court application to declare the restriction invalid. Three years earlier, in a similar case involving land on O'Connor Dr. in Toronto, the court ruled a restrictive covenant was invalid and "obnoxious" on public policy grounds.

But the same result was denied Richmond and his client in 1948. At the hearing in Toronto, the court upheld the validity of the covenant. The lawyers for Wolf and Noble immediately filed an appeal to the Ontario Court of Appeal. John R. Cartwright represented the vendor, and Bora Laskin worked in the background assisting Wolf. Both men went on to become Chief Justices of Canada.

In 1949, barely disguising the anti-Semitism which was so prevalent at the time, five justices of the Ontario Court of Appeal delivered what must rank as one of its all-time worst decisions.

It agreed with the trial decision, and noted that the restriction was just to assure that the residents were "of a class who will get along together." It was merely an "innocent and modest" attempt to establish a place suitable for a pleasant summer residence.

Public reaction was swift. The Toronto Daily Star demanded legislation to end restrictive covenants and urged an appeal to the Supreme Court of Canada.

In November, 1950, the Supreme Court reversed the decisions of the two lower courts and declared the covenant invalid because it was too uncertain to be enforced, and was an illegal restraint on an owner's right to sell.

While the parties were waiting for the Supreme Court to hand down its decision, the Ontario government bowed to public pressure as a result of the litigation. It passed a law voiding restrictive covenants entered into after March 24, 1950, but it did not cancel out the old ones.

Today, we take for granted in Ontario that anyone can purchase land without discrimination by reason of race, creed, colour, nationality, ancestry or place of origin.

To a large measure, that right came about because of the efforts of the distinguished legal team of Ted Richmond, Bora Laskin, John R. Cartwright, John J. Robinette and others.

There is no evidence George Romney was involved in the case, or deliberately purchased his cottage knowing of the restriction, but in legal circles the Beach o' Pines community will always be famous for the historic Supreme Court decision.

[See the other columns on this web site detailing the background of this landmark court case.

<http://aaron.ca/columns/2001-03-03.htm> and <http://aaron.ca/columns/2003-11-29.htm>]

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