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Mountaintop case ends with \$1M verdict

By BRENT CURTIS
STAFF WRITER

A Rutland jury decided Friday that the \$25,000 a Vermont utility was willing to pay for a transmission tower easement next to a mountaintop home in Wells was 40 times too low.

At the end of a five-day trial in Rutland civil court, jurors awarded Olga Julinska and Sergei Kniazev \$1 million for impacts to their home at the top of Northeast Mountain where the Vermont Electric Power Corp., known as VELCO, built a communications tower that the couple said deprived them of their property rights and placed the health of their children at risk.

"VELCO has their home completely surrounded by easements."

Attorney Robert Woolmington

"It made our property worthless," Julinska said of the home she and Kniazev paid \$390,000 for in 2007. "It completely changes the character of the property. Before, it was a very private place ... now it's gone."

A radio tower of roughly the same height as the VELCO tower was on the property when the couple bought it.

But that structure wasn't as broad as the new tower and the previous own-

ers of the tower weren't granted access to their property 24 hours a day.

During the trial, Julinska testified that she and her family abandoned the home before construction on the new tower started in 2012 because of concerns about her children's safety during work on the narrow mountain top. The Russian immigrants and their four children now live in Boston.

The couple's attorney, Robert Woolmington, referred during opening arguments to an incident when a drill rig momentarily lost control climbing the steep slope as the impetus for the family's concerns.



ALBERT J. MARRO / STAFF FILE PHOTO

Olga Julinska and Sergei Kniazev, shown on their Wells property in August 2012, won a \$1 million verdict Friday in their case against the Vermont Electric Power Co.

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Verdict

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"Dangerous accidents with heavy equipment on their property was something they couldn't allow their kids to be near," Woolmington told the jury.

There concerns didn't end with construction.

Microwave transmissions from the new tower presented a health risk, the couple argued, while a Vermont Public Service Board decision allowed for future development at the site.

"VELCO has their home completely surrounded by easements," Woolmington said after the trial ended Friday.

But the utility contended that the tower wasn't much different than the radio tower that had stood there since the 1980s and an appraiser hired by the company testified that \$25,000 was fair compensation for an easement on the property and any impairments to the rest of the site.

Jurors decided differently, reaching a verdict in favor of the couple after only 2½ hours of deliberation.

"I think it indicates that a jury is quite capable of making a fair determination of an impact of a taking of property, and VELCO was not capable of doing it," Woolmington said after the verdict.

VELCO Vice President Kerrick Johnson said Friday evening that the company may appeal the decision.

"We're disappointed in the ruling and currently reviewing our options," he said.

Contrary to assertions that the utility acted with ill intent, Johnson said VELCO chose the Northeast Mountaintop as the site for its new tower because it was the least harmful option.

He said the utility was

forced to build a new tower, which provides communications between utility crews responding to power outages during disasters like Tropical Storm Irene, to comply with federal regulations.

"We had to build something and we thought selecting a site already developed with a tower on it was better than choosing an undeveloped site," Johnson said. "We also would have had to develop two sites and would have had poorer coverage than this site."

In addition, he said the cost to develop sites other than the one next to the family's home would have cost more than \$1 million.

"We need to maintain safety while being careful stewards of the ratepayers dollars," he said.

If the jury verdict stands, he said it would be ratepayers who foot the bill.

"The people who pay are really the customers," he said. "That's the reality."

But Julinska and Kniasev, artists who purchased the mountaintop home as much for its inspiring 360-degree view as for the privacy it afforded, said the jury verdict was a victory for themselves and every other Vermont resident bullied by an eminent-domain process that takes property for public good without always compensating property owners fairly.

"This shows that if you go and defend your rights people will hear you," Kniasev said.

While the family has been living in a Boston apartment for more than a year, Kniasev said he and his wife hope to return to Vermont to a new home and create art that the landscape inspired.

"This victory gives us a chance to come back," he said. "We still love the state and still love the people. What happened today proves that the people are on our side."