

## Dream home a nightmare

The Bryden family of Rideau Lakes Township had high hopes when they set out to build their dream home in 2002. But after a bitter legal battle, they now face losing the home and their current residence, Andrew Thomson reports.

**Andrew Thomson**

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After years of planning and dreaming, Lori and Rick Bryden hoped by now they'd be living in their dream home on old family property outside Westport, in Rideau Lakes Township.

That hasn't happened -- their unfinished house has sat vacant since 2002. Now they and their teenaged daughter face the prospect of huge financial losses and removal from their current house in the middle of winter.

Lori, an educator who ran in Leeds-Grenville for the Liberals in October's provincial election, hasn't stopped writing to Premier Dalton McGuinty and cabinet ministers at Queen's Park, desperate for a last-minute reprieve after years of disputes with the builder, the municipality and their warranty provider.

"We have no options left for us," she said. "We are absolutely stuck in this awful situation."

The Brydens want to know how a house once approved by township building officials is now considered unsafe, despite no change in construction for five years.

The most recent twist was when the Brydens, both 44, received a sheriff's notice in November to vacate their current house on the same property so the former contractor can auction it, and the unfinished home, to recoup part of his damage awards in a judgment from a February lawsuit regarding a longstanding payment dispute.

Bob Pollard, a Westport builder, won \$78,000 in damages. The auction is Jan. 29.

"We are essentially being evicted from the house we live in," said Rick, a school bus driver, who calls their situation a cautionary tale for new home buyers.



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From left, Rick Bryden, Mara Bryden and Lori Bryden face being homeless after a legal dispute over the construction of their dream home, which has been condemned.

The story began in 1986, when the young couple bought the land on North Shore Road from Lori's mother. The 10-acre property has been in Lori's family for generations and already had a 1960s-era house.

The Brydens spent more years designing their dream home, which needed a number of special provisions.

Mara spent a good deal of her first year in hospital and, to this day, fights severe asthma. Lori's rheumatoid arthritis flared up at the same time, leaving her physically disabled and unable to work for four years.

The property's original homestead would be moved, splitting the land into two lots. The new house would be an open-concept, barrier-free space in case Lori's physical condition worsened again.

In 2002, they hired Mr. Pollard, an experienced local contractor and family acquaintance, along with an architect. The Brydens lined up their mortgage, got approval from the township and nearby conservation authority, and had the land surveyed.

They moved into a travel trailer in July 2002, while Lori's mother stayed in Rick's workshop. The older house had been moved but needed a new foundation and hydro connection.

Construction began, with township officials visiting to ensure the Ontario building code was being followed.

But work stopped in December 2002 after a payment dispute between Mr. Pollard and the Brydens' bank.

Meanwhile, the Brydens hired an engineer to inspect the house. Three structural, geotechnical, and building code engineers followed.

The reports discuss building code, measurement and structural issues that need attention, especially in the basement. Rick highlighted some of their findings during an hour-long tour of the unfinished two-storey house, which remains open to the elements at several points and is surrounded by discarded wood, styrofoam, and cinder blocks.

Mr. Pollard eventually sued the Brydens to recover payment from 2002, arguing during a two-week trial that any required repairs could be made during the final framing process, and that other structural changes had been requested by the Brydens.

In February, a Brockville Superior Court judge agreed with the plaintiff, after testimony from engineers and workers. The Brydens owe \$78,000 as a result, plus the trial's legal bills.

Lori and Rick said 20 per cent of their wages have been garnisheed as part of the payment process. Mr. Pollard has now put a lien on the two houses as well, saying he has no choice but to auction them.

He offered a settlement before the trial but it was refused, Mr. Pollard said in a telephone interview. Any questions about his company's work were addressed during the trial, he said.

The Brydens want nothing more than to see work resume on the new house, which is without plumbing, heating, insulation, or drywall. A contractor has estimated that the house needs about \$250,000 in major work, which the judge ruled rests with the family.

The Brydens spend hundreds of dollars each month heating the basement to prevent frost and cracks. They've also continued mortgage and property tax payments for five years. But a warranty with Tarion, the private corporation that insures new home buyers in Ontario, begins only when, or if, they move in.

The Brydens do not qualify for Tarion compensation because they owe the contractor money and the house remains open and incomplete, said spokesman Rob Mitchell.

"The (warranty program) was never designed to intervene in situations where people find themselves in financial arrears."

A lack of written contract is an "exceptionally unusual circumstance," Mr. Mitchell added yesterday.

Meanwhile, Rideau Lakes Township has posted orders to stop work and prevent occupation, demanding repairs to several defects before further construction occurs. The Brydens say they received the list of needed repairs in December after requesting it for months.

The Brydens' biggest source of frustration is why construction was approved in 2002, only to have the township condemn the house as unsafe under different building officials, based on the engineering reports.

"Somebody is responsible for these mistakes," Rick said. "We don't feel it should be us."

A lawsuit against the township would likely cost the Brydens another \$100,000, he added.

Ron Holman, mayor of Rideau Lakes Township, said he sympathized with the Brydens' predicament and that his office's efforts had been "open and transparent."

But he added: "There's no way I could justify that the taxpayers of Rideau Lakes should be responsible for any portion" of potential compensation.

The mayor said the civil court ruling against the Brydens assigned no responsibility to Rideau Lakes. Building code issues have been satisfied, he said and township officials posted the unsafe building order after an indication the house was about to be occupied.

The township was waiting for a response from the Brydens after sending them a list of needed repairs last month, said Mr. Holman.

Officials received the contractor's estimate but have not heard back from the Brydens about scheduling a private meeting to discuss legal issues, he said.

The Brydens deny any unwillingness to meet township officials. That includes several appeals to Mr. Holman and other councillors about the Ontario Building Code.

"We have fallen through each and every crack," said Rick. "All we ever wanted was a house that would suit our lives."

The situation has left one observer wondering how a house could be approved and eventually condemned at virtually the same stage of construction.

"It definitely is one of the craziest stories we've ever heard," said Karen Somerville, president of Canadians for Properly Built Homes, an Ottawa-based organization calling for stronger provincial action to protect new homeowners.

She has written to Municipal Affairs Minister Jim Watson and Government and Consumer Services Minister Ted McMeekin and has asked the Township of Rideau Lakes to clarify why the house was approved in 2002 but later deemed unsafe.

So far, the government response hasn't satisfied the Brydens, who say their file has been shuffled between ministries.

The Brydens have been advised to move away and forget about the land. But they've vowed to continue their fight for the horseshoe-shaped property that abuts a quiet pond: the "centre of the universe," according to Rick.

Lori has been approached to run for the Liberals in Leeds-Grenville during the next federal election. But she has more important things to take care of in the meantime.

"I probably need a house to live in first," she said.