

Vaughan Family Driven from Home Ups Lawsuit to \$2M

By Adam Martin-Robbins | *Vaughan Citizen* | Nov 6, 2013

It was just more than a year ago that Sydney Walters and his family fled their sweltering, mould-infested home and took up residence in a local hotel.

Now, Mr. Walters, Olivia Gutierrez Agnes and their teenaged son are living in a cramped, one-bedroom basement apartment — struggling to pay their bills — as they wait for their legal battle to wend through the courts.

"This thing has set us back more than 25 years," Mr. Walters said. "When I came from Jamaica and when Olive came from the Philippines, we were in much better shape than what we are now. We knew nothing about debt."

New development

The most recent development in their fight with the city and a local home-builder came in the spring when Mr. Walters and his family initiated a new lawsuit, upping their claim for alleged damage to their home and alleged personal injuries to \$2,000,000 from \$500,000 in an earlier lawsuit.

The latest lawsuit is directed, once again, at the city and Villa Royale Homes, but it also names Taron Warranty Corporation — the private, non-profit corporation charged with enforcing Ontario's New Homes Warranties Act.

As with the first lawsuit, this one touched off a domino effect. The city is suing the builder and Taron, Villa Royale is suing the city and Taron is suing the city and the builder.

And each party says the other should pay, if a judge rules in Mr. Walters' favour.

None of the allegations have been proven in court.

The saga began in 2004, when Mr. Walters and Ms Gutierrez Agnes bought a semi-detached home on Hollywood Hill Circle for just more than \$300,000.

They lived there with their son as well as Ms Gutierrez's sister and brother-in-law.

Mr. Walters admits they were naïve in assuming there was no need to hire a home inspector to check out a two-year-old home to ensure it met the building code.

For the next six years, they were unable to figure out why it was baking hot in the summer and freezing in the winter.

As homeowners dealing with utility bills for the first time, Mr. Walters said they had no clue their astronomical heating costs weren't normal.

But, as other problems surfaced, they began to suspect the house had serious defects.

In the winter, he said, their house was the only one in the neighbourhood with no snow on the roof.

When he cranked up the furnace, the heat escaped through the top of the house, melting snow and causing leaks.

During summer, even with air conditioning on high, the house was unbearably hot, while standing moisture allowed mould to grow rapidly, Mr. Walters said.

He believed simply spending time in the house was a health hazard.

Mould specialists and his family doctor told him staying in the home was unsafe.

He said he enlisted several contractors over the years to determine the root of the problems, but none thought to look in the attic until March 2011, when a contractor discovered it lacked insulation.

None of the parties involved disputes the attic is bare, but nobody can agree on who is at fault.

In April 2011, the city ordered Mr. Walters to install insulation to bring the house up to code and representatives from the builders inspected the attic and found no insulation there.

Through a Freedom of Information Act search, Mr. Walters unearthed a document showing the city inspector who pronounced the house fit for sale in 2002 noted insulation in the first and second floors, but said nothing about the attic.

Frustrated, Mr. Walters launched a \$500,000 lawsuit against Villa Royale Homes and the city in January 2012.

That sparked a chain reaction. The city sued Villa Royale, Villa Royale sued the city and a subcontractor, which in turn sued another subcontractor.

All of the parties involved have disputed the claims made in that lawsuit in statements of defence filed with the courts.

The city later put forward an offer to settle the claim against it for \$30,000, but Mr. Walters and Ms Gutierrez Agnes didn't accept.

continued on page 37

Instead, in March, they initiated the latest lawsuit seeking costs for alleged damages to their house, loss of income as well as alleged impacts to their health and well-being, including depression, eye pain and visual deterioration, chronic congestion and cough, lung damage, skin rashes, allergies and asthma, among other things.

"We'll hold them accountable and we'll make sure justice is served," Mr. Walters said.

Representatives for the city refused to comment on the latest lawsuit.

But the city has disputed the most recent claims and filed a cross-claim against Tarion and Villa Royale for not insulating the attic.

"Any failure to properly place insulation is wholly the fault of the co-defendant Villa Royale," the city's statement of claim reads.

Villa Royale representatives also declined to comment on the matter, but the company has disputed the claims and filed a cross-claim against the city.

Tarion representatives declined to comment as well. It has disputed the claims and filed a cross-claim against the city and Villa Royale.

Tarion has also initiated a third-party claim against two Villa Royale representatives.

Wendy Greenspoon-Soer, a lawyer representing Mr. Walters in the lawsuit, expects it will be a long time before the case gets to court, if a settlement isn't reached beforehand. But she's confident they can win.

"Amongst the parties that have been sued, there's a clear case for liability," she said.

With their legal bills mounting, Mr. Walters hopes the matter will be resolved sooner rather than later.

"We don't know if we're going to be able to own a house after all these lawsuits are over because our legal costs may be what the house is worth," he said. "We need help. We are so far in the hole with everything. There are sometimes I say to myself, 'Why are we going to work'? Because we go to work and we're still in debt."

—With Files from Morgan Campbell, TorStar News Network