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NEWS

Homebuyers are collateral damage in Indigenous land rights battle in Caledonia

While those who bought into McKenzie Meadows will get their deposit back, the skyrocketing market has priced some of them out of a new home

By Kate McCullough Hamilton Spectator

Two weeks after their second child was born, Eric Anderson and his wife found out the home they had purchased — the family's first — would never be built.

The home, a three-bedroom McKenzie Meadows townhouse purchased in 2019 for \$367,000 — the cheapest available — fit both their budget and growing family.

"That house was everything we needed," he said. "And now we can't afford what we need."

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The family lost their Stoney Creek apartment at the beginning of June, and have been living with family in Hamilton ever since. With his wife on maternity leave, Anderson said the family has put its plans to buy on hold.

“We don’t even stand a chance to get a mortgage anywhere near what we would need it to be,” he said.

Foxgate Developments announced last week the build – which for the last 11 months has been a front line in the assertion of Indigenous land rights – had been cancelled amid an ongoing occupation by Six Nations land defenders.

Pre-construction buyers’ deposits of between \$20,000 and \$50,000, protected by warranty firm Tarion, are currently being returned.

The McKenzie Meadows housing development – which was rebranded as the McKenzie after it was purchased by Foxgate, a joint venture between Losani Homes and Ballantry Homes, in 2015 – was expected to have more than 200 homes priced in the \$300,000 to \$600,000 range.

Buyers say the value of their homes have skyrocketed since.

According to the Realtors’ Association of Hamilton-Burlington (RAHB), which includes Caledonia, the average sale price of a townhouse increased by more than 17 per cent between September 2019 and 2020. For single-family homes that number was slightly higher at about 20 per cent.

The decision comes weeks before the one-year anniversary of the occupation by Haudenosaunee land defenders, who claim the land is unceded Haudenosaunee territory and renamed in 1492 Land Back Lane.

Six Nations elected council signed an agreement in 2019 to support the developer. Last October, the council said in a statement they thought the McKenzie Meadows accommodation agreement was in the community’s best interest, but said they “have learned from it.”

For decades, Six Nations has been “seeking compensation as well as an accounting of what happened to their property, money and other assets” within the Haldimand Tract, an area of more than 950,000 acres that runs 10 kilometres along both sides of the Grand River from its source north of Fergus to Lake Erie, according to the province’s website.

In 2009, litigation launched 14 years prior was reactivated. The claims remain unresolved.

The Haudenosaunee Confederacy Chiefs Council, the First Nation’s hereditary leadership, has declared a moratorium on development.

Anderson said his initial reaction to the news was “disbelief.”

“It’s hard to realize that the entire structure that’s put into place to protect law-abiding citizens was completely ignored,” he said.

Other homebuyers weren’t surprised at all.

"I kind of had an idea it was coming and it did come," said Melissa Wheeler, adding that she had heard rumblings on social media. "The only relief is that I don't have to make that choice anymore. Do I get my money back or do I sit on it? You know, that was stressful."

Wheeler said her agent "ballparked" the current value of the McKenzie Meadows home at \$950,000 — up from \$549,999 she initially paid.

Earlier this week, Wheeler joined a class-action lawsuit against the OPP and the province filed by Caledonia law firm Arrell Law LLP on behalf of Caledonia business owners and residents in November, claiming that a failure to clear months-long roadblocks and resolve the land dispute negatively impacted their businesses and property values.

The class-action suit now has about 450 members, including 125 homebuyers.

"A few of them realized some time ago that their homes weren't going to get built," lawyer Peter Murray said. "But there's been a real large number that have contacted us since last week when Foxgate made it official that the project was cancelled."

He said homebuyers estimate combined losses at a conservative \$40 million, but they are still working on determining an amount.

Murray sees a parallel between the current dispute and one that occurred about 15 years ago at the former Douglas Creek Estates lands on Argyle, now known as Kanonhstaton, which resulted in a \$20-million settlement for Caledonia residents and businesses to compensate for their losses.

With about a month until their Hamilton home closed, Desirae Sousa and her husband, who have family in Caledonia, put a deposit down on a corner townhouse at McKenzie Meadows in 2019.

The couple, parents to toddler twins, planned to rent for a year until the house was built. In March 2020, they were advised the build would be delayed due to COVID. Then, in July, the land defenders stopped work at the site.

"I knew in that moment that those homes were never going to be built," she said. "Because I was familiar with what happened in Douglas Creek Estates."

Sousa, who is Indigenous, said they were assured that "everything had been done correctly."

"I understand why Six Nations are fighting for their land," she said.

She said government inaction has not only caused pain for the buyers, but also for land defenders "who were away from their families for nearly a year and putting themselves at risk of jail time."

"Whether it be Six Nations or be the homebuyers, someone's going to lose and it's going to hurt," she said. "And it just happened to hurt us."

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