

# Residency by-law facing court challenge

*By Lynda Powless  
Editor*

*TORONTO-A local Mohawk language teacher and his wife are launching a Charter of Rights court battle today demanding the Six Nations Residency Bylaw, that ordered them to leave the community, be declared invalid.*

Frank Miller and his wife Vicky, of Sour Springs Road, were ordered June 8 to leave Six Nations by July 8. The local bylaw stipulates only band members can reside at Six Nations. Vicky Miller is not a band member.

The Millers filed a federal court application asking that the Six Nations Band Council's Residency bylaw be declared invalid.

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# "Bylaw is discriminatory"

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The challenge could end up costing Six Nations more than \$40,000 in legal fees to fight it. Six Nations Band Council Chief Wellington Staats was not available for comment. Staats, ironically, was attending the 19th annual Assembly of First Nations convention in Toronto and listed on the agenda is Bill C-31. The bill that gave status rights back to aboriginal women who lost it when they married non-natives.

The application says the bylaw is discriminatory and "flies in the face of the principle of equality before the law guaranteed by the Charter of Rights and principles of fundamental justice."

They are claiming the by-law is a "denial of natural justice" and that it affects the "property rights and

interferes with personal and family relationships." And it asserts the people affected were not given an opportunity to be heard.

The Millers claim the bylaw does not give persons affected by it an opportunity to be heard or to "affect the outcome of the complaint process."

The application charges the bylaw is contrary to public policy "where it threatens to break up marriages and families."

The application claims the enforcement of the bylaw has been "uneven and discriminatory."

Owen Young, the Millers' lawyer said his clients have not launched an aboriginal rights claim over the issue of "who gets to determine who is an Indian. But that does not mean it won't be launched."

As part of the challenge, the Millers are seeking an injunction

to prevent enforcement of the eviction order until the court case is decided.

The Millers aren't the first to challenge the bylaw.

Dave and Pamela Henderson lost their challenge the bylaw two years ago and have since sold their home and moved.

Young said the bylaw is "black and white. It doesn't address difficult cases, on a case by case basis or consider acceptions even if the community is rigorous in scrutinizing the people concerned."

The Millers came to the attention of the band membership committee when an Akwesasne woman wrote a letter of complaint to the committee.

Council, initially gave the Millers 48 hours to leave the community and relented two weeks ago and gave them 30 days.