
From: Michael Leidig [REDACTED]
Sent: 13 October 2014 18:05
To: [REDACTED]
Subject: For the stories section
Attachments: A_British_family_with_a_disabled_child_face_losing_their_home_after_a_de...jpg; 156058_web.jpg

Battle to keep home in disabled access row

By Samantha Cox

A British family with a disabled child face losing their home after a decade fighting Austrian bureaucracy.

When Sue Bacher left her life as a secretary in Plymouth to move to Tyrol, Austria in 1985, she expected the idyllic Alpine area to offer her "a totally different way of life."

But for the last decade she has faced a battle with bureaucracy to secure her disabled son safe access to her home.

Bacher, now 58, moved to Tyrol with her Austrian husband after he inherited a Kiosk-Souvenir mountain hut (at 1800 metres) from his parents.

They took their newly born daughter Maria with them and bought a house in the small village of Vomp. Twins Simon and Viktoria were born in 1990; Viktoria was a healthy baby but Simon was born with severe Down's syndrome and has a muscular condition which has left him with severe physical difficulties. He is unable to speak, has a chronic lung disease and also suffers from an immune deficiency which means he is often seriously ill and needs constant supervision.

Since 2001 the Bachers have wrangled with the local council over a steep, rapidly deteriorating path which currently provides the only access to their house. Tyrol's icy winters make the path extremely dangerous for Simon: Mrs Bacher explained that, although he could be carried when smaller, the 20-year-old is "now 65 kilos and very stubborn" and "being mentally handicapped, he can't judge when it's icy."

In 2001 the family decided, she said, that "the ideal solution would be a roof covering" and after "all the residents who lived here agreed with it" the family gained planning permission to construct a plastic and wooden roof over the pathway to protect it from ice and snow. Before doing so they consulted a county solicitor who, anticipating possible objections from those who use the path, told them that "a Right of Way cannot stop necessary improvements for safety." Because the path was a safety requirement, the family were awarded 13,000 towards the 20,000 Euros the roof cost and had to pay the rest themselves.

However, on Christmas Eve that year – a month after the roof had been built – the family received a summons informing them that neighbour Mario Raas was suing them for obstructing his right of way.

Despite the family having been given planning permission, the case was taken to the local court and in April 2002 the judge ruled, Bacher said, that the roof violated Raas's unrestricted right of way by blocking "air space" and would have to be taken down.

The family went to the local media with their story and, on the day the roof was due to be taken down,

members of the "Selbstbestimmt Leben" – a disabled people's association - came to the house to protest. When the builder who had come to knock the roof down arrived, he realised what he was being asked to do and said he would not take it down.

But in a frightening twist, on Good Friday 2004, while the rest of the Bacher family were at a "Dolphin camp" in America, aimed at improving Simon's well-being and his ability to relate to others, 19-year-old Maria called them to say she "had woken to the sounds of men taking down the roof." The men then threw the remnants of the roof into the Bachers' garden.

To add further salt to the wound, the family were then asked to pay the 4,000 Euros it cost to take the roof down. Bacher said that Mr Raas then offered to sell them his property at an inflated price that the family are neither willing nor able to pay.

Shortly after the roof was demolished, a storm washed the existing steps away, making it even more dangerous. The Bachers were offered a grant of 5000 Euros to repair the path, if Mr Raas agreed - but he objected and the money was withdrawn. Since then the path has become almost unusable.

Mrs Bacher suspects that her neighbour's only motivation is money. She explained that Raas lives in Innsbruck, rarely visiting his garden-allotment property in Vomp, which he inherited from his grandmother. His land is in poor condition, she said, and has no access, making it difficult to sell.

"One of the hardest things to accept is why his garden house plot was upgraded to Building Land by the local Council, which was then used in Court as an argument against the footpath renovation. The plot is not suitable for building – it is barely a vegetable plot – but it meant he could demand a higher price from us and hold us over a barrel by blocking the footpath changes."

When contacted by the Austrian Times at the Hypo Tirol bank where he is a senior official Mr Raas refused to be interviewed, saying only that to do so would "lead nowhere" and that for him "the case is closed."

Although the family has received financial help from the council, fighting for their rights has cost them, according to Mrs Bacher, around 30,000 Euros – spent on building the roof, court fees, on the 4,000 Euros to take down the roof and the costs of "running around Austria looking for help."

Yet, despite the difficulties they face in staying where they are, they do not want to give in. They say they couldn't afford to move and besides, Bacher added, there are limited building plots in the mountainous region. Their house would also be difficult to sell, she explained. "Who would buy a house where the owner is not allowed to repair the access path?"

Most importantly, the move could have damaging effects on Simon, for whom "this house is the only thing that has given him security." Ironically, it is the remote nature of the house that also makes it perfect for Simon. Here, his mother said, he has freedom, a garden and is safely away from the street.

So far, Bacher and her family have reached far and wide for help, but the complexities of Austria's justice system make it difficult for broader forces to contest decisions made by local courts.

She said that the justice minister, for example, told her in July 2009 that "by Austrian law" he was "not allowed to scrutinise or comment on the ruling of our case." No matter whom she contacts, she said, "all it boils down to is that somebody has to buy Mario Raas's land from him."

Speaking to the Austrian Times, Herbert Forster of the Tyrolean federal state governor's office explained that, although there are laws in the US and UK that state the involvement of a handicapped person can overrule existing laws, there is no such law in Austria.

He also said that Austria's legal system means that the case is "not within their responsibility" and that "the court ruling has to be accepted." The governor's office, he added, "plan no further involvement in the case."

Dr Forster did not comment on Mrs Bacher's claim that the governor's office had abandoned the case after receiving a threatening letter from Mr Raas, whose Hypo Tirol bank wields considerable power in the area.

The Bachers have also tried to get help from famous local crystal company Swarovski, who own 2,000 square metres of land in front of the house and rent it to former and current employees. However, after waiting nearly two years for a response, Mrs Bacher found the only offer of help that they made inadequate.

The company has offered the family 5,000 Euros to construct a walkway from the road in front of their properties, through their land to the Bachers' house. However, this arrangement would require Mrs Bacher to leave Simon in the house while she drove the car back to the family garage then walked up the dangerous path herself. The offer is "unworkable", she said, not least because it is not possible to park by the Swarovski property. Besides, the proposal is only open while Simon remains alive and would eventually leave both her and her husband with their own difficulties climbing the steps.

Mrs Bacher explained that she is campaigning not for financial help but for more consideration of the emotional needs of Simon, herself and her husband. Mr Bacher is away at his business in the mountains six months of the year and Mrs Bacher has spent much of the last ten years caring for her three children. This gives her less time to socialise and means she does not feel a part of the community: "Austrians say foreigners must integrate into Austrian society, but when you have a sick child you can't actually integrate." She spends "an average of two months a year" at a clinic with Simon for his treatment, she explains, and with no family around to help it can be extremely stressful.

Paul Hecher, a senior executive at the Red Cross who has helped the Bachers with their case, suggested that the family's difficulties are indicative of a nationwide problem. "Certain inhibitions in dealing with people with special needs still prevail in Austria," he explained. "There is a lack of comprehension for the special concerns of families with physically or mentally challenged members." Mr Hecher added that although the case was not caused by xenophobia, that factor "might play a role as well."

Now faced with mounting debts, the Bacher family is unable to find the money to pay for the land that surrounds their walkway – as law dictates they must if they are to make it safer for Simon.

Despite the family's attachment to the house, Mrs Bacher sighed, "it's either pay up or go and if nothing changes, eventually we will have to leave."