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Barrister & Solicitor, Notary Public, Registered Trade Mark Agent, Paralegal

Real Estate Fraud

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What is Real Estate Fraud

Real estate fraud is a term that broadly describes a range of fraudulent activities that effect title to real estate and/or involve an improper mortgage. There are two major types of real estate fraud which are relevant to consumers: Title Fraud and Mortgage Fraud.

Title Fraud

- In title fraud, the fraudster often assumes the identity of the legitimate property owner by using forged documents (*Identity Theft*) and then either sells or mortgages the property and converts the sale or mortgage proceeds to the fraudster's own use.
- In other cases of title fraud, the fraudster uses a Power of Attorney to either sell or mortgage the property, again converting the sale or mortgage proceeds to the fraudsters own use. The Power of Attorney is either a forgery naming the fraudster as the Attorney of the property owner, or is a legitimate Power of Attorney granted by the property owner to the fraudster and thereafter abused by the fraudster.
- If the fraudster is also a tenant renting the property, their actual possession of the property would enhance their ability to commit title fraud in either of the above noted ways.

Mortgage Fraud

- In mortgage fraud the fraudster artificially inflates the value of the property in order to obtain a mortgage that exceeds the legitimate value of the property.
- Artificial inflation of value can be effected in a number of ways, such as: multiple sales of the property at increasing prices (property flips registered by the fraudster to create an impression of the property escalating in value) or presentation to a lender of a forged or fake appraisal.
- Legitimate homeowners also need to be aware that when dealing with their mortgage lender that knowingly over stating the value of their home to obtain a mortgage in excess of the real value of the home is mortgage fraud.



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Facts about Real Estate Fraud

It is hard to say exactly how often real estate fraud happens in Ontario. It is very likely that many instances of real estate fraud go unreported by the victims when the fraudsters are family members or trusted acquaintances.

To get some perspective on the size of the problem, there are approximately 2.2 million land registrations in Ontario every year and over the past ten years, there have been an average of 10 fraud-related claims a year reported to the Ontario Government's Land Titles Assurance Fund. Title Plus, a Title Insurance company in Canada, indicates that only 3% of its claims are fraud related.

While the above numbers suggest that real estate fraud is a not a large problem, the damages are. Title Plus indicates that 32% of its total claims costs arise out of the 3% of the fraud related claims. Keep in mind that not all claims are successful.

Identity Theft

To you, your identity is who "YOU" are. You are a father or mother, son or daughter, student, employee, professional, home owner, a customer or any number of things that define your life and make you distinctive from anyone else. To many institutions with which you deal, you are an account number and password. To an identity thief, you are a name that when combined with the right personal information, can be exploited for the identity thief's own benefit.

In most cases identity theft occurs as a result of the insecure handling of personal identity information by either the targeted victim or by some entity which the victim has provided information to for legitimate purposes.

In more complex cases, it may involve the identity thief actively seeking out personal information on their victim via public databases of information and combining that with private information obtained in a manner set out above.

Once your identity has been compromised by an identity thief, they may be able to open credit accounts in your name, re-direct your mail, and, in what is usually the worse case scenario, commit real estate fraud by selling or mortgaging your home.

A Story of Real Estate Fraud

When Brian opened the envelope from the ABC Bank he didn't understand the significance of it. Puzzled by the statement inside for a \$100,000.00 line of credit in his wife's and his names, Brian put the statement aside with plans of calling Sue, the account representative named on the statement, to let her know that the Bank had obviously made an error and sent him someone else's statement.

The following morning, when Brian called Sue, he was shocked to hear that there was no mistake and that she had copies of his and his wife's driver's licences and passports and financial statements from his business. Finally, they agreed to meet in person that afternoon at Sue's office.

Arriving at the Bank, Brian was taken to Sue's office. On entering the office and being introduced, Sue's face turned white as she stammered "you're not Brian!". As Sue showed Brian photocopies of identification that she had on record, he felt sick. He stared dumb-founded at the driver's licences and passports that had other people's faces on them but all his and his wife's information.

A Story of Real Estate Fraud Continued

The police investigation that followed found that a recently hired employee of Brian's had accessed a small lock box that Brian kept in his office with copies of his and Jillian's identification in it. The employee had then sold the information, including the financial statements of the business, to fraudsters who counterfeited the identification, assumed Brian and Jillian's identities and mortgaged their house.

Fortunately for Brian, the Bank had mistakenly sent the statement to his house, not a mailing address the fraudsters had provided and the scheme was uncovered relatively early. Brian's lawyer worked with the ABC Bank to insure that the fraudulent mortgage was eventually removed from the title to his property and advised Brian about things he and Jillian could do to try and reclaim their identities and protect themselves from ever being victims of identity theft and real estate fraud again.

Three years later, Brian, if asked, will confess to sweating just a little every time he finds an envelope in the mail from a strange bank until he opens it and confirms that it is just ad mail of some sort.

Real Estate Fraud is Real!

The foregoing story is based on an actual case of identity theft and real estate fraud committed against a client of Owen Thompson, Barrister & Solicitor.

The financial and emotional consequences of having your identity stolen and being a victim of real estate fraud are serious and lasting. You can take steps to protect yourself from real estate fraud.

How to Protect Yourself from Real Estate Fraud!

- Protect your personal information. Do not disclose information to anyone unless you know who they are and what they will use the information for.
- Do not leave mail in your mailbox. If regular bank or creditor statements do not arrive, investigate what has happened to them. Make sure your mail has not been stolen or redirected!
- Use strong passwords on all password protected electronic accounts. Strong passwords combine capital and lower case letters with numbers, are changed regularly and do not use easily guessed words.
- Don't carry all your identification with you. Store it in a secure safe or lock box.
- Do not throw documents containing personal information such as bank or account statements in the garbage: shred them!
- Check your credit report annually for unusual activity or inquiries that you do not recognize.
- Be cautious in granting a power of attorney to anyone and consider appropriate limitations on what any power of attorney can be used for.
- Deal only with reputable professional advisors.
- Have your property title searched if you suspect any improper dealings may have occurred with it.
- Obtain title insurance on your property that insures you against real estate fraud.

If you suspect you have been a victim of real estate fraud, contact your lawyer immediately and seek advice!