



Mortgage Fraud

This publication is intended to provide general information only and is not a substitute for legal advice.

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MORTGAGE FRAUD HURTS BUYERS AND LENDERS

Have you ever been approached with an offer to make some quick money in real estate? Has anyone ever offered you money to use your name and credit information to apply for a mortgage?

If your answer to either question is yes, read on. Mortgage scam artists are looking to recruit buyers with good credit who are attracted to quick, high-return investment opportunities.

While the promise of big returns with little or no investment may sound attractive, participating in a scheme that requires you to provide false or misleading information to a mortgage lender is fraud. Fraud is an offence under the Criminal Code of Canada.

Protect yourself from being an unwilling participant in mortgage fraud! Do your homework. If you are going to invest in real estate, make sure you are using a licensed mortgage broker who is registered under the *Real Estate Act* in Alberta. Licensed mortgage brokers are required to conform to a code of conduct enforced by the Real Estate Council of Alberta (RECA).

RECA also administers an assurance fund set up to provide some financial protection for clients of licensed brokers. If you suffer financial losses because of fraud or a breach of trust on the part of a licensed broker, the assurance fund is there to protect you. Clients of unlicensed mortgage brokers are not eligible for this protection.

To learn if the person you are dealing with is a licensed broker, check with RECA before you make a deal. Call toll-free 1-888-425-2754 or check online at www.reca.ab.ca

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STRAW BUYERS – SELLING YOUR IDENTITY

Phony loan applicants are known in the mortgage industry as straw buyers.

A straw buyer is usually offered a payment – often several thousand dollars – for the use of their name and credit information. As a straw buyer, you may not even know that your name will be used on a mortgage application. Saying you did not know your personal information would be used to commit mortgage fraud is not a legitimate excuse under the law.

Another way straw buyers are used in mortgage fraud is to have someone sign documents that contain false information. For example, if you state that you will be residing in the property and you have no intention of doing so, you are committing fraud. If you sign a document that states you know the property is worth a specific amount, but you have never seen the property, you are committing fraud. If the lender asks if the down payment came from your own funds and you answer dishonestly, this would also be fraud.

After a straw buyer takes title to the property, the mastermind behind the scheme usually assumes the mortgage and the title to the property. However, a straw buyer may still be responsible for a mortgage even after someone else has assumed it because it was obtained fraudulently. It is a criminal offence to obtain credit under false pretences.

If payments are not made on the mortgage, the lender will foreclose on the property to recover any losses. You could be sued for the difference between the amount of money received from the sale of the property and the amount of money owing on the mortgage. You could also be responsible for legal fees related to the cost of the claim, any interest owing after mortgage payments stopped, any outstanding utility bills and taxes, insurance on the property and any damage to the property.

A straw buyer who takes title to a rental property will become the landlord under Alberta's *Residential Tenancies Act*. The straw buyer will have all the responsibilities of a landlord including the return of the security deposit when the tenant leaves.

FLIPPING PROPERTY – WHAT'S IT REALLY WORTH?

Another face of mortgage fraud is the dishonest seller who artificially inflates the value of a property.

Properties used in mortgage fraud often have little real value in the marketplace. The seller inflates the value of the property using a phony appraisal and arranges for buyers who can qualify for a large mortgage.

Once the mortgage is delivered, the home is sold or “flipped” and another buyer assumes the mortgage. When the property is flipped, the false appraisal remains with the property through multiple transactions making it difficult to determine the property's true worth.

The end buyer who is not part of the fraud is conned into thinking they are purchasing a sound investment property. When they go to sell, however, they find that the value of the property was inflated. This buyer is left to repay a high mortgage on a property whose market value is far less than the mortgage.

Before you buy, do your research. Check the listing history on the property. Has it been sold and resold a number of times?

Compare the general price range for the property with others listed in the same community. If you decide to make an offer to purchase, include the option to have an independent appraisal completed by a designated or accredited member of the Appraisal Institute of Canada.

GETTING THE LOWDOWN ON LOW DOWN PAYMENTS

You've seen them, advertisements boasting low down payment or \$1,000 down or even no down payment.

Buyers who can't qualify for a home loan from a traditional lender are offered the opportunity to purchase a property for a low down payment and low monthly payments.

Buyers responding to these ads are often not told the price of the property, which is usually inflated. Instead, the seller asks how much money the buyer has for a down payment. If their down payment is not large enough, the seller suggests arranging for a second mortgage from a private lender to make up any shortfall.

The private lender is usually someone connected to the seller and the second mortgage is usually at a very high interest rate.

The buyer may be told that they will be able to assume an existing mortgage or that the title of the property will be transferred later.

If the buyer is unable to make the payments, the property goes into foreclosure. The buyer is left homeless and still on the hook for the outstanding balance on a mortgage that is worth more than the market value of the house.

INVESTING YOUR TIME AND DOLLARS WISELY

Protect your real estate investment dollars by first doing a little homework.

- Consult public real estate websites to review property listings in the community where the property is located. Compare features, size and locations to establish if the asking price seems reasonable.

- Get independent representation for your purchase. If the seller objects, consider it a red flag.
- Check to make sure your representative is a licensed real estate agent. Contact your local real estate board or the Real Estate Council of Alberta.
- Using a licensed real estate agent does not cost anything from a purchaser's standpoint. Usually, all commissions are paid by the seller.
- Beware of a real estate agent or mortgage broker who has a financial interest in the transaction.
- Ask your independent representative to provide you with a comparative market analysis of the property.
- Ask for a copy of the land title or go to a registry agent office and ask for a historical title search.
- In the offer to purchase, include the option to have the property appraised by a designated or accredited member of the Appraisal Institute of Canada.
- Insist on a home inspection to guard against buying a house that has been cosmetically renovated or formerly used as a marijuana growing operation. Grow operators frequently use mortgage fraud to purchase their properties.
- Ask to see receipts for recent renovations.
- When you make a deposit, ensure your money is being held in trust.
- Try using the following resources:
 - To find a registry agent near you check the Service Alberta website www.servicealberta.ca>Registries>Registry Agents.
 - To find out if a mortgage broker or real estate agent is licensed in Alberta, contact the Real Estate Council of Alberta www.reca.ab.ca.

PAY ATTENTION TO THE MORTGAGE FRAUD RED FLAGS

- Someone offers you a fee to use your name and credit information to obtain a mortgage!
- You are encouraged to include false information on a loan application!
- You are asked to leave signature lines or other important areas on a loan application blank!
- The loan amount on the mortgage is significantly higher than the value of the property!
- The mortgage has been refinanced several times and in each instance, the amount of the mortgage has increased!
- The seller or investment adviser discourages you from seeing or inspecting the property you are offering to purchase!

Mortgage fraud is not a get rich quick scheme — it's illegal. Getting involved in a mortgage scam can damage your credit rating, your current and future employment prospects and your professional designation.

Did you know?

- Law enforcement officials and lenders believe that 10-15 per cent of all mortgage applications contain false information.
- Lenders can and do sue individuals who participate in mortgage fraud.

FOR MORE INFORMATION

For additional information call:

Consumer Contact Centre

Edmonton: (780) 427-4088

Toll-free in Alberta: 1-877-427-4088

www.servicealberta.ca

Produced in co-operation with the Real Estate Council of Alberta

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