

## PREVENTING TITLE AND MORTGAGE FRAUD



By Ellad Gersh

### HOW CONDO OWNERS CAN PROTECT THEMSELVES AND THEIR BIGGEST INVESTMENT

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The purchase of a condominium is often the first foray into home ownership for many Canadians. Gaining a toehold in Canada's hottest housing markets is no easy feat; it is the product of good investment decisions, scrimping and saving, and often requires financial assistance from family.

As real estate values have skyrocketed in the past five years, especially in Canada's major cities, so too have cases of mortgage fraud. In fact,

mortgage fraud has recently gained national media exposure from a series of news reports by the CBC. Picture this scenario: you have just returned to your Toronto condo after a lengthy sabbatical only to discover that your key doesn't fit in your front door. You are then met by complete strangers, who believe themselves to be the rightful owner of your condo and have the legal documentation to prove it.


### Two types of real estate fraud that are on the rise in the past 12 months:

Fraudsters impersonate individual homeowners and use stolen IDs to sell or mortgage properties. The mortgage or sale happens quickly and the fraudulent proceeds are dissipated outside the jurisdiction almost immediately. The CBC recently reported that a handful of organized crime syndicates are behind these real-estate frauds, in which 30+ homes in the GTA have either been sold or mortgaged without the owners' knowledge.

Fraudsters dupe unsuspecting homeowners into registering one or more mortgages on their properties at "cut rates." The victims of these frauds are normally part of a vulnerable group of homeowners who cannot qualify for a loan from a Schedule I bank. The unsuspecting homeowners end up with one or more mortgages registered on title to their properties on terms they never agreed to while failing to receive some or all of the mortgage proceeds advanced by the lender.

### So, how do condo owners protect themselves and their biggest investment from being victims of title fraud or mortgage fraud? Here are some practical tips:


**1. Title insurance:** title insurance is an insurance policy covering the condition of title or ownership of real property and protects homeowners (and lenders) against losses related to the property's title or ownership, including certain types of mortgage fraud involving identity fraud or



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impersonation. For a one-time, up-front premium, typically in the range of \$200 to \$500, title insurance provides homeowners and lenders with some peace of mind against title defects outlined in the policy including fraud and forgery. Your title insurance policy will protect you as long as you own your property and will cover losses up to the maximum coverage set out in the policy. It may also cover most legal expenses related to restoring your property's title.

Lawyers strongly recommend to their clients to purchase title insurance when purchasing or financing their home. Title insurance policies can also be purchased by existing homeowners who did not purchase title insurance on their original acquisition. This is particularly advisable where the subject property is mortgage free.

There are four title insurance companies in Canada: Stewart Title, First Canadian Title, Chicago Title Canada, and TitlePLUS, operated by the Law Society of Ontario (LSO).

**2. Property searches:** if you have any concerns or suspicions that something improper may be occurring to your condo or home, for a nominal fee you can pull a parcel register of your condo PIN [property identifier number] through your province's land registry office, providing you with a snapshot of ownership and all charges registered on title to the property. The parcel register can be accessed by your local real estate lawyer through Teranet or on your own online through OnLand Help Centre.

**3. Notify others of any extended absences:** if you're going out of the country, for an extended period or even for vacation (and your condo will be vacant), you should notify people whom you trust. They can check up on your condo while you are away and notify the property manager or police if they notice any suspicious activity while you are absent. Fraudsters who steal property titles generally do not list a property on the MLS service, but your neighbours or family members may notice suspicious activity around your condo while you are away. You can also set up a "Google Alert" through your Gmail address. If your condo is listed on MLS, you will get an alert within an hour.

**4. Protect your IDs and your signatures:** the rules of professional conduct require lawyers to verify the identity of clients in certain circumstances. However, lawyers may also be the victims or the vehicle of mortgage schemes involving stolen identification especially when the lawyer does not actually meet with the client in person. In order to minimize the risk involved in mortgage fraud and impersonation, never give out your government issued photo ID.

Be very careful whom you share your SIN (social insurance number) with. Fraudsters will often only use your SIN, obtained under false pretences or through identity fraud, to open new bank accounts in your name without your knowledge. They can then use the bank account to deposit and disburse fraudulently obtained funds including mortgage advances.

Lastly, do not sign any documents without fully understanding them or having a lawyer explain those documents to you. Fraudsters often prey on unsophisticated peoples or those with language barriers to perpetrate mortgage fraud. Title insurers may not provide coverage where the homeowner signed the documentation used to register a mortgage, even if the homeowner did not understand or appreciate the legal significance of those documents.

**5. Check your credit report:** reviewing your credit report can help you find out if someone has opened unauthorized financial accounts in your name. There are two credit reporting agencies in Canada: Equifax Canada and TransUnion Canada.

**6. Guard your privacy through these precautions:** do not give out personal information on the phone, through email or text to people you suspect may be posing to conduct research, surveys, contests, and so on while harvesting your personal information. Unless you have initiated the transaction, do not give out any personal information. Make sure you know and trust your real estate brokers, real estate agents, lawyers, and bank employees. Google everyone: do they have a LinkedIn profile? Who else are they connected to? A Facebook profile? Are the photos the same? Check out Google Reviews, too. Invest in a cross-cut paper shredder. Shred receipts, bank statements, bills from utilities, copies of credit applications, insurance forms, physician statements, and unsolicited credit offers you get in the mail.

Fraudsters still "dumpster dive" and rummage through blue recycling bins because enough people remain lackadaisical about safeguarding their personal information. Lastly, minimize the identification cards you carry with you. Lost or stolen ID cards are useful to fraudsters to perpetrate identity theft.

**7. Pay attention to your billing cycles:** follow up with creditors if your bills don't arrive on time. Stolen bills are another source used by fraudsters to steal your identity.

*Ellad Gersh, a partner at [Robins Appleby LLP](#), focuses on commercial real estate property disputes among landlords, owners, and tenants. He is representing one condo owner who is the victim of a mortgage fraud scheme.*

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