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BUSINESS

Title fraud is on the rise — here are four ways to stop criminals from selling your house out from under you

Cases of scammers posing as homeowners to steal and sell homes have been making headlines. Experts say title insurance and a few key measures can protect you.

By **Clarrie Feinstein** Business Reporter
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Imagine you left Canada to work abroad for a year and discovered your property had been sold out from under you without your knowledge.

Fraudsters used fake identification to impersonate you, and hired a realtor who listed the house. The house was sold and new homeowners took possession.

It doesn't seem like a plausible scenario, but in January high profile cases came to light exposing this kind of illegal activity. It's called title fraud. Real estate experts say in the past it has often involved fraudulent mortgages, but the rise in criminals posing as owners is a troubling phenomenon.

Recents stories in the news are the most dramatic manifestation of title fraud — when the house is actually sold, says John Zinati, a real estate lawyer in Toronto. "What's more common is pretending they're the owner and taking out another mortgage on the house."

The fraudsters go to the bank impersonating the homeowner wanting to borrow money against the house. They get approved, register the mortgage and then take the money, he says.

"The owner isn't displaced but when they go to sell the home or check the title for refinancing purposes, they see a mortgage has been put on the property," he adds.

Fraud in real estate is a big problem and insurance companies will say it's where they get hit hardest. One insurance company, Zinati says, stopped insuring private mortgages due to the fraud, adding "it's a common and known issue."

Typically scammers want a property that has no mortgage or any debt associated with it. It will be a quicker transaction as the scammer doesn't need to go to a bank or lender to pay them out, says Ron Alphonso, president of Mortgage Broker Store.

“These are sophisticated criminal organizations looking for an easy route,” he says.

They target hundreds of homes each worth at least $1 million and try to steal the homeowners identity by producing fake identification.

But homeowners can take some comfort in knowing there are tips to ensure you stay protected from title fraud, experts say.

GET TITLE INSURANCE

First, make sure you have title insurance — an insurance policy that protects residential or commercial property owners and their lenders against losses related to the property’s title or ownership.

“The best protection will come from ensuring that you have a title insurance policy on your property,” says Zinati. “This policy will cover you for any actual losses and, most importantly, typically contain a defence of title provision requiring the insurance company to defend, or restore your title.”

It’s simple to check if you have title insurance; call your real estate lawyer and ask. They’ll have a record of whether you purchased one at the time of closing. If not, you can still purchase the insurance after you bought the home.

“This policy will typically involve a reasonable one-time premium and cover the home for up to double its value until the property is sold, whether by the existing owner or even its estate,” he says.

But even with title insurance there are substantial legal repercussions if you’re the victim of title fraud, says Alphonso. “You’re looking at least $30,000 in legal fees, and years of battling it out,” he adds.

After title fraud has been committed the buyer and lender will want their money back or continue to pursue the transaction, causing a legal headache. That’s why there are other helpful tips to ensure it’s difficult for fraudsters to make the illegal transaction in the first place.

‘DEBT’ ON THE HOUSE

Scammers want to make the transaction as simple as possible, so homes with a mortgage and other forms of debt aren’t attractive options, said James Cook, partner at Toronto law firm Gardiner Roberts LLP.

“Many people think it’s a good thing to have a mortgage-free property but that’s another target, because scammers want a quick and easy property to sell or remortgage,” he said.

Having a line of credit, even if it’s paid off, is good to leave on title.

“Even if you don’t need the money banks will happily give people a secure line of credit to put on a property,” Cook said. The scammer can’t see how much is owed on the credit, but just seeing there is debt on the property will be a deterrent.

CHECK YOUR TENANTS

Houses with tenants or rented out for Airbnb’s are also targets for scammers, says Cook.

“If the house is tenanted that means the owners are away, or don’t live in the property itself,” he says. “Often, you need access to the property to commit the fraudulent activity, because you have people coming to see the property in person such as appraisers or real estate agents.”

Screening tenants diligently is vital, Cook says. A comprehensive background check should be conducted. It’s also important to not be an absentee landlord — constantly check in on the property. And, having a solid relationship with tenants fosters more open dialogue with them to disclose any suspicious activity.

PROTECT YOUR IDENTITY

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Shred all personal financial documents such as credit card statements and property tax document — don't throw any away in the trash, experts say.

"People look through your garbage to find this information," says Zinati.

Guard personal information and passwords and constantly review bank statements, utility bills, and credit card statements.

"Be alert for suspicious mail, emails or texts which might suggest that somebody has, or is trying, to fake your identity," he says.

Before the pandemic a client used to physically see a lawyer to close their deal, but once COVID-19 hit the transactions were done virtually. While there isn't data to prove that the virtual nature of the transactions have caused a spike in title fraud, it wouldn't be a surprising contributing factor, experts say.

"Have virtual signings increased fraud? Maybe, it's impossible to say. But it means lawyers must triple check identification if we're doing the deal virtually," Zinati says.

Asking for a copy of their tax return and property tax notice to show the homeowner lives in the property are just some ways to verify their identity further, he says.

"Everyone needs to do a bit more due diligence which was lost in the pandemic," says Alphonso. "If there's such thing as a perfect crime, these

scammers are pretty close to it when committing title fraud. Even with title insurance, you can have a legal battle on your hands. Be on high alert, be diligent."

Correction — Jan. 30, 2023: *A previous version of this article misstated the first name of James Cook, partner at Toronto law firm Gardiner Roberts LLP.*

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