



MORTGAGE FRAUD RED FLAGS - REAL ESTATE APPRAISAL PROFESSIONALS

Summary: Mortgage fraud is increasingly widespread and complex and its consequences can be devastating. It is a criminal offence, and in Alberta several individuals have been convicted of mortgage fraud by the RCMP and/or other police forces. Participation in mortgage fraud is contrary to the *Real Estate Act* Rules, and industry members who breach the Rules face strong sanctions, including suspension or cancellation of their authorization. All industry professionals must play an active role in preventing mortgage fraud by identifying suspicious deals, notifying the authorities, and assisting in investigation of parties involved. [See: *Real Estate Act* Rules, s.42(a)(b)(g), s.78(4), s.79]

There have been multiple news stories about high-profile mortgage fraud cases. The public has been made increasingly aware of it and, as a result, greater demands are being placed on Alberta real estate industry professionals when it comes to mortgage fraud awareness and prevention. Alberta real estate appraisers and candidates, too, should ensure they have armed themselves with the knowledge and experience necessary to avoid, even unknowingly, participation in mortgage fraud. This is a requirement of section 78(4) of the Rules:

78(4) An appraiser must not knowingly develop, use or permit others to use an appraisal report when the use of the appraisal may result in any person likely to be deceived.

According to the Canadian Association of Accredited Mortgage Professionals, mortgage fraud is defined as “the material misstatement, misrepresentation or omission relied upon by an underwriter or lender to fund, purchase or insure a mortgage loan.” There are two categories of mortgage fraud: fraud for housing and fraud for profit. Fraud for housing, for example, can occur if the borrowers, the intended residents of the subject property, represent that the deposit came from their own sources when in fact it is a loan that will have to be repaid to a relative. On the other hand, fraud for profit is typically perpetrated by organized crime or by individuals seeking to make money through property manipulations, seeking to acquire properties for rental purposes under the premise they are going to be residing in them or for illegal purposes, such as to facilitate grow-ops or money laundering.

This information bulletin highlights a number of mortgage fraud red flags that are specific to Alberta real estate appraisers and candidates.

What are red flags?

Red flags have been developed by organizations such as RECA through their experience of investigating mortgage fraud files. Red flags identify the more common issues found to be present as potential indicators of fraudulent real estate or mortgage brokerage transactions. Considered individually, these red flags might appear innocent enough. When two or three red flags appear in the same transaction, it can be an indication of the presence of mortgage fraud. If several red flags are present, an appraiser should exercise greater care. The transaction may require further scrutiny to determine whether it is a legitimate or fraudulent transaction.

As the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) and the Uniform Standards of Professional Appraisal Practice (USPAP) set processes to ensure objective and independent appraisals, various red flags overlap with CUSPAP and USPAP requirements. Real estate appraisal professionals who follow CUSPAP and USPAP requirements will identify many of the red flags as deviations from the appraisal standards.

For example, in a residential real estate transaction, a real estate appraiser may be asked to complete an appraisal immediately. On its own, this factor may not indicate a suspicious transaction. However, if a) the person requesting the appraisal brings his or her own comparables to the appraiser, b) the person requesting the appraisal says the subject property cannot be viewed but he/she will provide access to a similar property, and c) the person requesting the appraisal claims they own the property but the title is in another name, and so on, the transaction requires further scrutiny.

In a commercial transaction, it is not likely a red flag that the seller is a corporate entity. However, if a) there are no real estate or mortgage industry professionals involved in the transaction, b) the property has only short-term tenants, and c) the stated lease rate is 25 per cent more than the current market rate, and so on, the transaction requires further scrutiny.

Although the examples below are brief, the strategies available to fraudsters are numerous and varied. Appraisers should use this list of red flags to become more aware of the scope of the fraudulent activities they may encounter as they strive to fulfill their professional responsibilities.

Of course, in the course of providing real estate appraisal services, not all of the possible red flags will come to be known by the real estate appraisal professional. Information such as whether or not the borrowers intend to reside in a residence for which a high-ratio mortgage is being sought may not be shared with the real estate appraisal professional. However, if such information is shared or is obtained as a result of being hired for the appraisal assignment, the real estate appraisal professional must take it into consideration.

Appraisal Agreement Issues

1. The person requests that the appraiser complete appraisals in an unfamiliar market area or outside of the appraiser's stated expertise.
2. The person indicates the property value expected.
3. The person requesting the appraisal for financing purposes is someone other than a lender.
4. The person tries to influence the appraiser with the promise of additional work if the current appraisal value(s) meet their expectations.
5. The person requesting the appraisal has approached other appraisers and is not satisfied with their values.
6. The person requests that the appraiser keep everything confidential and not approach others involved in the transaction for information.
7. The person does not intend to move into the property when a high-ratio mortgage will likely be sought.
8. The person does not provide information requested (leases, expense information, financial statements, etc.) and indicates it is misplaced, lost or with

- someone who is away (accountant, lawyer, etc.) and therefore cannot be obtained.
9. The person is using a financial institution with offices in a different city.
 10. The person provides poorly executed documentation regarding listings, sales, leases, etc. (may be only partially completed).
 11. The person misrepresents the improvements or other documentation relating to the property, such as age, rental rates, expenses, etc.
 12. The person indicates they require the appraisal immediately.
 13. The person indicates that the interior cannot be inspected for various reasons (tenant/owner away, illness, etc.) but they can provide the information regarding the makeup and condition of the interior.
 14. The person will not show the subject unit(s) but rather another unit (usually one that is upgraded), and asks you to provide an appraisal on a number or all units.
 15. The person indicates the property (unit) is to be renovated, and the appraisal is to be completed as renovated, but is not specific about what renovations will be completed and may show another unit that is fully renovated and upgraded with no intention of upgrading the other units to the same extent and quality. (May only paint one room, etc.)
 16. The person provides sales information on other units in the same complex or other similar complexes that may or may not have closed.
 17. The person provides an information package including sizes, comparables, etc.
 18. The person has no formal office or home address and communication is by cell phone or e-mail and meetings are at restaurants, etc.

Other Issues

19. The person has purchased the property recently.
20. Purchase price is higher than list price.
21. The previous sale of the same property was substantially lower within a short time frame.
22. The property has changed ownership several times over a short period of time with price increases on each change.
23. The selling price appears high in comparison to the neighbourhood value range.
24. In reviewing listings, offers to purchase, etc., the parties are “undisclosed,” “Care of Listing Broker,” or “nominee.”
25. The property has illegal/non-conforming suites.
26. Both parties to the transaction are represented by the same lawyer.
27. The listing was cancelled from MLS prior to the sale (true sale price will be unknown).
28. All or many units of a building are sold at the same time with coinciding possession dates.
29. Listed property is owned by a corporation but has a mortgage in excess of 80% of the property's value.
30. Immediate possession dates.
31. Normally expected due diligence or conditions missing.
32. No counter offer. (In most transactions there is some negotiation.)

When you identify a suspicious transaction

If you have found information to be false or misleading, contact the lender and advise them of your findings. If the persons involved are industry members (real estate

associates/brokers, mortgage associates/brokers or appraisers), report the results of your review to RECA in writing.

Remember that section 79 of the *Real Estate Act* Rules requires an appraiser to refuse to provide further services to a person who:

- Instructs the appraiser to prepare an appraisal contingent on the result;
- Attempts to unduly influence the appraiser during the appraisal process to prepare an appraisal report to a predetermined outcome;
- Instructs an appraiser to prepare an appraisal for fraudulent or unlawful purposes.

If you suspect fraudulent and/or other illegal behaviour, contact the local police or RCMP.

The Appraisal Institute of Canada also has mortgage fraud information available for its members and the general public. Please visit its website at www.aicanada.ca.

Have you experienced other red flags? Please forward them to RECA so that we can share them with other industry members.