

MORTGAGE FRAUD RED FLAGS - REAL ESTATE PROFESSIONALS

Purpose: To help real estate professionals evaluate whether mortgage fraud is taking place.

This bulletin applies to real estate brokerages, brokers, associate brokers and associates

Mortgage fraud is a criminal offence. Participation in mortgage fraud also violates the *Real Estate Act* Rules. Industry professionals who breach the Rules face strong sanctions, including suspension or cancellation of their authorization. Industry professionals must help prevent mortgage fraud by identifying suspicious deals and notifying authorities.

Red flags associated with the true identity of the parties to the trade:

- client won't provide photo ID, when asked
- transaction involves an associate's relative
- existence of other offers, subject to financing, that collapsed
- parties "undisclosed," "care of listing brokerage," or "nominee"
- land title records don't match seller information
- buyer is a numbered company seeking a high ratio mortgage
- corporate search shows the associate or the associate's spouse or family member as a director
- buyers or sellers are not personally or professionally related. For example, "R. Smith and Michael Jones"
- buyers' or sellers' names are only partially indicated; e.g. last name appears without a first name ("Smith"), or the first name is indicated by only an initial ("R. Smith")
- information about buyer's income doesn't match industry standards
- buyer purchases property far from place of employment for no reason
- buyer purchases investment property, yet does not own a principal residence
- buyer is purchasing many properties with high ratio mortgages, using different names or variations of their name
- parties have no formal office; communication is by cell phone, email and fax; meetings take place at public places
- the deposit cheque(s) is coming from someone other than the buyer
- deposit is provided in cash or by money order

- someone acting on a power of attorney represents the buyer or seller

Red flags associated with the property value:

- no CMA or appraisal available, or if available, does not seem applicable
- vendor take back and/or other forms of equity arrangements
- sweat equity arrangements as opposed to a reduced price
- vendor take back or sweat equity arrangements not referenced in the purchase contract
- chattels are used as deposit or as partial payment
- renovation value included in the sale price
- property has illegal/nonconforming suites
- property is a combination of residential and commercial components that are not reflected in the financing arrangements
- commercial property has residential type financing or loan-to-values ratios
- listed property is owned by a corporation but has mortgage in excess of 80% of property value
- purchase price is same as, or higher than list price
- property list price or purchase price of property is unusual for the neighbourhood
- appraisals were provided by the parties to the trade

Red flags indicating unusual transactions:

- vendor asks you to enter all transactions in MLS® without qualifiers
- quick succession of trades on one property
- seller in the "business" of selling real estate, and buys and sells many properties
- use of "Seller's Rights Reserved" on listings
- uncommon commission arrangements, unusual adjustment to commissions, low fees
- listing associate refers people to an unlicensed person for showings or information
- MLS® information is unusual or inconsistent with the transaction. For example, listing is removed from MLS® prior to sale, sale is not reported, listing reappears at higher price, listing associate on MLS® is different from the purchase contract, MLS® history doesn't support pricing, etc.
- seller's real estate representative is asked to produce a feature sheet on the property with an inflated price
- one lawyer represents both parties to the transaction
- condition allowing buyer to show unit to prospective tenants (most high ratio mortgages require owner occupancy)
- all or many units of building are sold at the same time with coinciding possession dates
- immediate possession dates

- firm transaction with none of the usual conditions; in particular, a transaction requiring high-ratio financing, yet is unconditional
- no counter offer
- contract indicates unusual statement; i.e. "this is a private sale"
- names appear to have been added to or deleted from the contract
- not all parties named on the contract have signed it
- purchase contract indicates both parties signed at the same time
- no buyer's or seller's associate information provided for delivery of documents
- schedules or addendums exist but are not indicated in the contract, or, schedules or addendums do not reference the originating contract
- deposits not held at brokerage; particularly applies when brokerage is not even provided with a photocopy of the deposit cheque

Red flags associated with industry professional behaviour:

- industry professional's lifestyle is not consistent with income received through the brokerage
- industry professional's section of the contract not filled out
- industry professional tends to use same lawyer on most transactions
- industry professional primarily does transactions with only certain other associates
- industry professional tends to always refer clients to the same mortgage broker
- someone other than the real estate associates witness the signatures
- industry professional buys and sells his/her own properties regularly
- industry professional lends down payment to client
- number of listings or sales an associate has posted on the MLS® system does not correspond to brokerage records (possible fraudulent broker load situations)
- industry professional regularly advertises properties as "low down," "assumable," "no down," "no qualifying," "quick possession," etc
- industry professional holds both real estate and mortgage associate licences

Red flags associated with brokerage operations:

- broker has no fraud prevention or detection policies
- brokerage has no policies or oversight for personal trades/deals in mortgages
- conveyancing staff not trained to recognize suspicious transactions
- brokerage does not require industry professional to pull and review property title with each new listing
- brokerage does not require industry professional to file original transaction documents
- brokerage does not check background of prospective industry professionals or employees

- brokerage does not disclose what information it has or has not verified
- brokerage does not comply with the requirements of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)
- broker does not review transactions
- broker does not review or approve advertisements prior to publication

When you identify a suspicious transaction

Contact the lender and tell them why you are suspicious. Report the results of your review to RECA in writing if the persons involved are other industry professionals (real estate associates/brokers, mortgage associates/brokers or appraisers).

Related information

Legislation

- *Real Estate Act* Rules – sections 41(a), s.42(a)(b)

Information bulletins

- Mortgage Fraud Red Flags
- Mortgage Fraud Red Flags – Mortgage Brokerage Professionals
- Mortgage Fraud Red Flags – Real Estate Appraisal Professionals