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point of view  
**Fraud** [frɔ:d]  
to deceive; del  
cheating intel

# Preventing fraud in real estate transactions

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Unfortunately, we live in a society where fraud is on the rise and new schemes to defraud unsuspecting victims seem to be regular features on the nightly newscast, alongside the weather report.

Real property is not immune to fraud. In fact, there has been so much fraud in real estate that banks are taking additional precautions with mortgages, the law society has implemented rules and best practices for lawyers and real estate agents have to comply with identification verification processes

required by their governing body.

Fortunately, for homeowners who have title insurance, the title insurer will cover cases of fraud. However, for the title insurers who have to cover the costs to restore the proper title and the banks who have unenforceable mortgages, fraud is costly to correct after the fact. This is why the governing bodies of the professionals involved in real estate transactions—bankers, lawyers and real estate agents—have established guidelines for these professionals. Their goal is to

prevent fraud in real estate.

Banks have taken several steps to ensure that they are not caught up in a fraudulent transaction that will result in an unenforceable transaction. Banks rarely accept Powers of Attorney to sign mortgage documents. If the clients are out of town, the banks much prefer to have the documents sent to the place where the clients are and have their proof of identification and the mortgage documents witnessed and notarized by a notary at that location. Therefore, if you will be traveling or working for extended periods of time out of the country, you should be aware that additional planning with your mortgage specialist may be necessary. In these cases, start as early as possible so that the banks and lawyers can coordinate

to get the documents signed and approved.

Real estate agents must follow the guidelines of and submit reports to FINTRAC (Financial Transactions and Reports Analysis Centre of Canada). Real estate agents must obtain the identification of their clients. They must keep a record of the client's name, client's address, nature of the client's principal business or occupation, and the individual's date of birth. To obtain this information, the real estate agent must also record the type of documents used to verify the identity, (e.g., driver's licence), its reference number and its place of issue. Real estate agents also must report to FINTRAC suspicious transactions and transactions that involve a large cash transaction of over

\$10,000.

Lawyers have many guidelines and rules to follow. Lawyers must obtain clear (front and back) copies of two pieces of identification. One piece of identification must have a photo (driver's licence or passport). Often, lawyers must forward these photocopies to the lenders who also verify the identity of the clients. Lawyers also have an obligation to inform the lenders of any changes to the purchase price or deposit amount. Recently, our office has started asking for contact information of individuals who prepared the certified cheque or bank draft for clients' closing costs, in the wake of receiving fraudulent certified cheques and bank drafts. Finally, lawyers look at a number of aspects of the transaction and the his-

tory of different transactions on the property in assessing whether the transaction raises concerns.

These are just some of the measures that bankers, lawyers and real estate agents are taking to prevent real estate fraud. As a party to the transaction, you also have an obligation to report anything suspicious with the transaction. Ask questions and be present at negotiations and home inspections. Fraud is only prevented if all parties, including clients and professionals, recognise and act on suspicious circumstances.

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