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Mortgage fraud is sweeping across Canada

The criminals are sophisticated, and often victims don't know they've been scammed until it's too late

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After Larry Simoes' mother could no longer afford the mortgage payments on her house, they put the home up for sale. Three months later, Larry received notice that the property in Mississauga, Ont., had already been sold without their knowledge. "I thought it was a joke," he says. "Then we had the deed faxed over to us and realized the house had been sold from under us." The deed carried the forged signatures of both Simoes' parents and said the home was sold for \$400,000. "We hadn't done anything wrong. We figured the mortgage company would cover the error. Then our lawyer made some calls and told us we were screwed." Three years and \$11,000 in legal fees later, the ordeal was finally resolved, but the fraudster is still at large. This is not an isolated incident. Last April, two brothers in Calgary discovered the title to a property they co-owned had been transferred while they were on vacation. Then there's Jennifer Fiddian-Green: "I received a call from a mortgage collector saying I was three months behind on my payments for a home in Brantford, Ontario," she says. "I thought it was a wrong number." Later that night, Fiddian-Green discovered that two other properties had been mortgaged in her name, meaning she was on the hook for \$400,000. "I was very angry. How could this happen?"

All of them were victims of mortgage fraud -- a largely unknown, but fast-growing crime wave that can take many forms, and now amounts to \$1.5 billion a year, according to an estimate by the Quebec Association of Real Estate Agents and Brokers. The Real Estate Council of Alberta measured fraud over a recent 12 month period and discovered 2,700 occurrences in Alberta alone. Sometimes it's a case of stolen identity (a mortgage is taken out in your name), in other instances a home is stolen from under the owner when fraudsters forge phony documents, pay the land transfer tax to secure the title to a house and either sell it or re-mortgage it. In the West, the scam most often involves "straw" buyers who agree to take out mortgages in their own name in return for a quick payoff. "The buyer usually knows something is illegal but is led to believe it's just a legal loophole," says Const. Terry Schmidt of the RCMP's Commercial Crime Section in northern Alberta. "So he signs mortgage papers, collects a small cheque, and walks away believing his part in the deal is over, except he's the one the banks will come after once the mortgage is defaulted on."

While some straw buyers are naïve, others are in on the scheme and help the promoter buy and sell the same property several times to inflate its value. Edmonton police recently charged six people with a mortgage fraud scheme involving 250 homes and 24 condos worth about \$30 million. "These guys were purchasing such large chunks of the city that they artificially skewed the price of property in Edmonton," says Det. Mike Shorter. It's a scam that's causing major headaches for insurance companies. "In 2004, mortgage fraud accounted for 36 per cent of the claims we paid, whereas in 2000, it would have been closer to 15 per cent," says Susan Leslie, vice-president of claims and underwriting for First Canadian Title. "It's our largest claims category." Steven Offer,

vice-president of business development at Chicago Title Insurance Company Canada, concurs. "The instances of property fraud continue to grow. We are increasingly receiving claims that are mortgage-fraud related." A hot real estate market provides fertile ground and the depersonalized process of buying a house has made such schemes even easier to pull off. In a recent report to its members, the Law Society of Upper Canada faulted the easier access ascribed by the electronic land registry system, the increased competitiveness of money lenders, and the amplified pressure placed by clients on lawyers to close deals without due diligence.

The Society is currently investigating fraud allegations against 72 lawyers with an average of 75 property complaints against each one.

Unfortunately, vigilance alone won't fix the problem. The criminals are sophisticated, and often the victims aren't even aware they've been scammed until the perpetrators are long gone and nearly impossible to track. "These people manufacture false passports, certified cheques, bank stamps," says Jack Zwicker, a lawyer in Markham, Ont. "I had a homebuyer come to my office to close a deal. Everything looked real but it was all phony. We discovered the fraud after the bank manager sent a welcome letter to the homeowner, and the guy living in the house in good faith flipped out."

The homeowner had good reason to worry since the real fraudsters generally get away scot-free. In Edmonton, Det. Shorter was relieved to finally lay some charges in the \$30 million fraud case. "These were the first criminal charges we've laid in relation to mortgage fraud," says Det. Shorter. Prior to this case, Edmonton police stopped investigating mortgage fraud out of frustration. "Lenders won't co-operate. Witnesses won't speak. The banks don't want to talk about it and the Crown isn't interested in prosecuting because the cases are too complex." Most incidents of mortgage fraud reach civil courts, and almost always, the innocent victim -- or the naïve straw buyer -- is left to fend off the ravenous banks. "The banks go straight to the collateral," says Simoes. "We discovered the fraud within two weeks and presented the police with the fraudster's cellphone number, but instead of going after him, the police interrogated my brother and then the mortgage company sued us. The banks walk away singing Dixie while the homeowner gets screwed."

One protection against fraud is title insurance, which can be purchased for about \$250. The one-time fee grants full coverage so long as you own your house. Even so, don't expect title insurance to solve all your problems. Simoes had title insurance and was still shackled with an \$11,000 legal bill. "We were screwed from the beginning," says Simoes. "We contacted our mortgage company and they basically told us to f--- off. We contacted the government and were told to hire a lawyer. Then we were served with papers from both mortgage companies. My mother was sued, I was sued, and the real Dante Lettieri -- the guy whose identity was stolen by the fraudster -- was sued. All the innocent parties."

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