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August 16, 2003

Deed forgery far too easy

I seem to have touched a nerve with many readers two weeks ago when I wrote the story of an innocent Toronto couple who are facing eviction from their luxury condominium.

Back in 2000, a fraud artist transferred ownership of their condo to himself and later disappeared with the proceeds of a new mortgage he placed on it ("Mortgage fraud victims can also lose homes," Aug. 2, 2003, at <http://www.aaron.ca/columns/2003-08-02.htm>).

Since the column appeared, I have been inundated with faxes and e-mail from irate readers who wanted to know how they could protect themselves, how such a thing could happen in Ontario and what the government was doing about it.

Lincoln Leung-Hang Shin and his wife, Ling Kam-Moi Shin, own a luxury condominium on Bayview Ave. near Finch Ave., and have been living there since 1995. Three years ago, title to the property was transferred by a forged deed in favour of Ru Rong Jiang. The Shins had never heard of Jiang, and never transferred ownership to him or anyone else.

One year after the title was fraudulently transferred to him, Jiang mortgaged the property to the Toronto Dominion Bank to secure a \$200,000 line of credit, and withdrew all the money. Although the bank did a credit and identity check on Jiang, no one ever knocked on the door to verify that the occupants knew about the mortgage deal. When Jiang defaulted on the loan, TD Bank obtained a court order allowing them to evict the innocent Shins.

For the moment, TD is not pursuing its rights pending an application to the Land Titles Assurance Fund for taxpayer money to pay out its mortgage.

Elizabeth McGroarty was typical of many readers when she wrote, "Why is it so easy to transfer a deed?"

The answer is simple. For the last 200 years, the Ontario land registry system has been open to the public. All ownership and mortgage information is a matter of public record. The title to any property can be searched in person for an \$8 fee, and a copy of an existing deed can be obtained just for photocopy charges. It's painfully easy for anyone familiar with the system to prepare a genuine-looking deed.

The province is gradually switching to a more traceable electronic land registration, but that will not deter the determined crook.

Daniel Weisz, a senior vice-president at Mintz & Partners, chartered accountants, wanted to know, "Are there any steps that an owner can take to prevent title from being transferred without the owner's consent?"

Unfortunately, the answer to this question is also simple: virtually nothing can be done by the owner to protect him or herself. Several readers asked about registering a dummy second mortgage on title in favour of a relative or a corporation they own to discourage fraud artists.

I suggested to them that this wouldn't work because anyone crooked enough to register a forged deed could simply register a forged mortgage discharge to create what looks like a mortgage-free title.

Frequent visits to the registry office to check ownership would be expensive and time-consuming.

Title insurance is not an answer for people who already own their homes, but I strongly recommend it for anyone who is about to buy a home. For an inexpensive, one-time fee, you buy a lifetime of peace of mind. In fact, anyone who buys a property in Ontario today without buying a title insurance policy is taking a needless risk.

Title insurance will not prevent title fraud, but it will ensure that if you are an innocent victim of a fraud, you will not have to wait and worry. It will make the resolution process smoother and faster than waiting for the Ontario government to dole out public funds to rectify the fraud.

Brad Miller e-mailed to say, "I was disturbed by your recent article...Something needs to be done to protect homeowners from this type of fraud." He wanted to know what he could do or who he could contact to voice his concerns, "and help change this unjust process."

I certainly can't speak for the Ontario government, but it does have a Land Titles Assurance Fund in place to provide compensation to people who have lost money or property as a result of a mistake or fraud in the land registry system. The problem is that the fund moves with glacial slowness in resolving claims, and doesn't cover all the actual costs and damages involved.

On this point, I heard from Larry Simoes, whose mother, Isabel, endured a similar nightmare (see Title Page, Apr. 13, 2002, at <http://aaron.ca/columns/2002-04-13.htm>). Title to the Simoes house was transferred by someone signing Isabel's signature and that of her deceased husband, Laurenio.

She filed her \$34,000 claim to the compensation fund in April, 2002. A prehearing was held in October and the actual hearing was in January, 2003.

The deputy director of titles told the Simoes family they would hear back in two weeks. Eight months later they are still waiting.

"I feel very sorry for the Shins," Larry Simoes told me in an e-mail. "They will be lucky to resolve this within the year."

"I very much agree with the recommendations that you outlined," Simoes wrote, "however I cannot see our government doing anything. The deputy director told me that they have to protect the interests of the taxpayer. I am sure they do not want to see us overly compensated, so that we victims do not rip off the government."

"The whole system needs an overhaul," he added. "Regrettably it does not have a high enough profile to be an issue in the upcoming election."

For people like the Shin and Simoes families, and future victims yet to be targeted, that's a shame.

For the record, the cabinet member in charge of the compensation fund is Tim Hudak, minister of consumer and business services. E-mail tim.hudak@cbs.gov.on.ca, phone 416-326-8500, fax 416-326-8520.