

## **Woman a victim of mortgage fraud; House bought from her after signature forged A serious problem in GTA, says title insurance official**

The Toronto Star  
Thursday, April 13, 2006  
Page: R4  
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Source: Toronto Star

Earlier this year, Susan Lawrence discovered that the 100-year-old Victorian home she had been living in for 30 years had been stolen by identity thieves.

The North York widow had been blissfully unaware the thieves had used her forged signature to purchase the house from her and discharge a mortgage she had put on the property.

They had then put a new mortgage on the property for almost \$300,000, pocketed the money, defaulted on the mortgage, faded out of sight, and left her facing eviction.

Lawrence soon learned she had become a victim of **mortgage fraud** - one of the growing number of people in the Greater Toronto Area who are being victimized by real estate savvy swindlers.

"I just could not believe it, and anybody I talked to couldn't believe it either," Lawrence said in an interview. "They all asked, 'How could anybody sell your house from right under you?'"

To make matters worse, Lawrence had contracted to sell the home, which she no longer owned, to a young couple.

Lawrence discovered something was wrong when she went to her bank to discuss her mortgage in view of the pending sale and was told the bank could find no record of it.

"The clerk told me not to worry because it must be a mistake," Lawrence says. "A week later the bank called to say I was a victim of fraud."

Susan Leslie, a senior official of **First Canadian Title**, a title insurance firm, says **mortgage fraud** has become a serious problem in the Greater Toronto Area and throughout Canada, and that it is on the rise.

"Quite frankly, these fraudsters are one step ahead of us," Leslie said. "As housing prices rise, this becomes a very lucrative crime."

The Law Society of Upper Canada says in a report that **mortgage fraud** has also proliferated because people can borrow large amounts of money without having to meet anyone in person - and vast amounts of information about properties and homeowners are now available through Ontario's electronic land registry system.

The Law Society also noted that increased competition within the mortgage industry leads to pressure to close a deal without taking all of the steps necessary to determine if it's legitimate.

Lawrence says that when she got in touch with Toronto lawyer Morris Cooper, she expected to hear that the law would help her out of her predicament because she was the innocent victim of a callous crime.

Instead, she learned a recent decision of the Ontario Court of Appeal protects the lenders in **mortgage fraud** situations.

The court had ruled that as long as the transaction was properly registered on the province's Land Title system, the mortgage was valid in the eyes of the law - even if it later turned out to be tainted by fraud of which the lender was unaware.

On March 23, the other shoe dropped.

Around 10 30 p.m., while she was preparing to go to bed, she says she was terrified by what she thought was a prowler shining a flashlight through her hallway window.

The prowler turned out to be a process server delivering a statement of claim for the Maple Trust company, which was the holder of the fraudulent mortgage.

Through this legal document the company was seeking possession of her home - even though it was aware that she had never signed the mortgage - and claiming the right to evict her on 35 days' notice.

"I didn't want to leave my home after I was served with that statement of claim," Lawrence says. "I was worried about what might happen while I was away."

Lawrence suspects that she became a target for the thieves in the late summer of 2005 when she put a "for sale" sign up on her property, as her father was ill and she wanted to leave Toronto.

She believes the fraudsters gathered all the information they needed to effect the fraudulent purchase by consulting an MLS listing for the property.

Toronto lawyer Robert Aaron, who has written numerous columns on **mortgage fraud** for the Star, says it is "extremely simple" for anyone familiar with Ontario's real estate system to pull off a **mortgage fraud**.

"People can make themselves look like the real owner or can make a legitimate purchase with phony ID and phony employment letters," Aaron said.

Lawrence is aware that she can seek compensation for the fraudulent loss of her home from the Ontario government-run Land Titles Assurance fund.

But Cooper has cautioned her that the process normally takes up to two years as all other options for recourse have to be exhausted - and that she might have to dig into her own pocket for up to \$35,000 in legal costs.

Fortunately for Lawrence, Scotiabank, which acquired Maple Trust earlier this month, has taken the initiative to withdraw the possession lawsuit commenced by Maple.

"We know how unsettling this is for Ms Lawrence .... She is the innocent victim of a crime," Scotiabank spokesperson Frank Switzer said in an interview. "We want to work with her to resolve this situation at no cost to her."

Lawrence applauds Scotiabank for "taking the high road and acting ethically" even though Ontario law would appear to allow the bank to hold tough, evict her, and entangle her in the courts.

"It is nice to see this high level of integrity at one of Canada's foremost banking institutions," she said.

But Lawrence says the Ontario government should change the law as quickly as possible to protect innocent victims of **mortgage fraud**, as it could take years for the appeal court to change its position. "It is unfair to leave the destiny of the victims up to the good will of the lenders," Lawrence adds. "If the courts won't protect us, the government has a duty to step in."

Cooper says unless and until the Court of Appeal decision is reversed - "a decision which most lawyers agree was wrongly decided" - "the government will have to immediately amend the Land Titles Act so that fraudulent mortgages are treated as invalid and lenders, not the taxpayer, will have to pay the consequences."

Lawrence says she reported the crime to the fraud unit at 31 Division in North York but does not have the impression that a vigorous investigation is being conducted. Detective Constable Neil Peterson, of 31 Division in North York, said in a telephone message left with the Star, that he has been instructed not to discuss "the ongoing investigation" of Lawrence's complaint.

"There is an investigation. It is an open file with us," Peterson said.

"Unfortunately it is not the only one I have to deal with in this office ....."

That has Cooper wondering, "If you hold up a bank for \$5,000 the entire police force is all over it. Why put a mask on and rob a bank when you can steal \$300,000 and nobody comes looking?"

Lawyer Aaron says he suspects that the police in Toronto are handicapped because, "this type of crime is so huge that it has overwhelmed the police forces who have to deal with it."

Meanwhile, Lawrence says she wishes she had known that title insurance is now available at reasonable prices - even for people who have owned their homes for many years.

"If this can happen to me, it can happen to anybody," Lawrence said.

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\* Colin McConnell toronto star A victim of **mortgage fraud**, Susan Lawrence of North York wishes she had known that title insurance is now available at reasonable prices even for people who have owned their homes for years.

Idnumber: 200604130006

Edition: Met

Length: 1228 words