



Title Fraud ~ The Problem

By Brian Madigan

It would seem to me that there should be a relatively simple answer to this problem.

By the way, this was the week where some of the brightest minds in the world (astro-physicists, nuclear physicists and astronomers) spent one full week trying to figure out whether or not Pluto is a planet. So, they decided that it was a "dwarf planet" (obviously failing to recognize that that may not be politically correct). What does that mean? I knew that it was small when I first heard about it.

Maybe these great minds should spend a little time trying to figure out how to prevent title fraud! Perhaps if their homes were are stolen when they were away at the conference, then they might.

Title fraud is perpetrated upon a victim, usually the homeowner. The thief needs to impersonate the owner in some way. So, really this is just another version of *identity theft*, except that it involves real estate.

In order to be successful, the thief needs to either:

- 1) mortgage the property, or
- 2) convey the property.

There are obvious schemes that are used in particular instances. Go to a bank, convince them that they own the property, exchange the mortgage on the property for a loan, then, of course, disappear. That's mortgage fraud. It's fairly easy not to have any sympathy for the bank.

With a simple conveyance of the property, victim sympathy rises. The thief rents the property from the true owner, then sells the property to a new innocent homeowner, takes the proceeds from the sale and disappears. This time, the true owner and the new homeowner are both innocent victims. And, probably again, there's another bank.

The government is presently focussing on the issue of “who should bear the loss”. Which of our three innocent victims:

- 1) the true owner,
- 2) the new homeowner, or
- 3) the bank

should be responsible and lose out in the game of musical chairs?

Sidney Troister, a lawyer specializing in real estate and mortgage fraud, says that one of the problems is that the buyer can never really be sure that their vendor is the real owner. He goes on to point out that Ontario’s land titles system is a good system “except in the event of fraud where it breaks down, and leaves innocent owners and innocent buyers and lenders helpless and without speedy and fair relief”. Until this type of fraud can be prevented, the innocent victims need a better system of compensation. Troister goes on to add “innocent people....get hurt because the Province does not protect innocent people registering documents in the system”.

In a recent report, the Law Society of Upper Canada indicated that title fraud is facilitated because the buyer and the seller never actually meet in person. And, without the appropriate “due diligence” fraud is simply perpetuated.

Do we really have to wait for all those physicists to return before we can solve this problem? Any ideas? Next week, we’ll publish a proposed solution to this whole mess.

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