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## Property title fraud strikes a nerve

Recent case horrifies readers who wonder why it was so easy

Is the scam behind the fraudulent transfers of titles to five Richmond Hill homes part of a much larger operation involving properties all over the Greater Toronto area?

Why is it seemingly so easy to steal someone else's property title and bilk mortgage companies of hundreds of thousands of dollars?

What kind of appraisals have to be performed to prevent such frauds?

Where is the loophole in the land registration system to allow crooks to register bogus mortgages?

What can ordinary homeowners do to protect themselves from title fraud?

Would title insurance have helped?

These and dozens of other questions flooded into my e-mail and fax machine following my Feb. 9 column on Emanuele Tesoro, a fraud artist who forged and registered ownership to five properties on Stratheam Ave., Alessia Ct., Blackwalnut Cr., Heatherwood Cr., and Hoodview Ct. in Richmond Hill. After registering false deeds in his own name, Tesoro registered forged discharges of the existing mortgages and then bilked the Royal Bank and Bank of Nova Scotia of more than \$1.5 million by placing new "first" mortgages on the houses he didn't really own.

The column, entitled Stolen dreams, has produced more reaction than any other Title Page column. (The column is archived at [www.aaron.ca](http://www.aaron.ca) under Toronto Star columns.)

Among the more interesting e-mails was one from my colleague Wayne Lipton, a lawyer who is president of Stewart Title in Toronto. "We insured three of the fraudulent mortgages you referred to," he wrote. Stewart is awaiting a compensation decision by the Land Titles Assurance Fund before making a decision on its own coverage. By law, the fund assumes primary responsibility.

Stewart Title is no stranger to fraud claims. Last September, Stewart paid out \$851,000 in two fraud claims similar to the Tesoro scam. "Real estate fraud is a growth industry," he added.

Even my own bank manager was shocked at the extent of the Tesoro fraud. Peter Morgulis e-mailed me from the head office branch of the Toronto-Dominion Bank at King and Bay. "I am stunned at how easy it was for this fraud to be committed," he wrote.

It certainly is easy. Rick Holden wrote to ask me to clarify how the individual homeowners lost the title to their properties. He wondered if they signed any documents to allow Tesoro to change title. The answer is that the title documents were created with forged versions of the owners' signatures but without their knowledge or consent.

Pae Chien wrote to say, "I am horrified by this type of fraud and shocked with the light punishment Tesoro received why he only got 38 months for each fraud, and to be served concurrently. He should be put away for life so he could never enjoy this money."

"I am also perplexed as to where the real loophole is to allow these crooks to take advantage of the system," Chien added. "Is the Land Registry Office the one to blame for accepting false documents? What preventive steps can homeowners take to protect themselves?"

**Purchase title insurance when buying the home. If you already own the house, it's too late that's like getting fire insurance after the firefighters leave the property.**

Good questions. Forgery may not be the oldest profession, but it's right there near the top of the list. It's just gotten much more sophisticated in recent years.

On the plus side, the Newmarket land registry office is now fully computerized and no longer accepts documents with regular signatures. All registrations are electronic and a bogus document can instantly be traced to the computer of the person responsible.

Although it's impossible to prevent fraudulent dealing with property titles in the non-computerized registry offices, my personal recommendation to every homeowner is to purchase title insurance when buying the home. If you already own the house, it's too late to buy insurance after the fact that's like getting fire insurance after the firefighters leave the property.

Ultimately, the Land Titles Assurance Fund, using taxpayer dollars, should be responsible for paying the damages caused by people like Tesoro, although the owners of the five properties whose titles he forged have been waiting months for a decision on compensation from the fund.

Another reader was dismayed that I did not question what banks can do to prevent such fraud and what they are doing to fight it.

Joe Freitas is a local businessman who feels that the lending institutions should "properly screen" their customers, and if they cannot tell the difference between what is real and what is not, they, and not the public, should pay for the losses.

I received e-mails from a number of my legal colleagues. Harry Thorsteinson is a senior partner with a law firm in St. Catharines. He was puzzled by the impression drawn from my column that the true owners of the properties were victims. He thought the titles could easily be restored to the rightful owners subject to the original mortgages.

Unfortunately, that is not the case. The original mortgages are history, even though they were fraudulently discharged. The mortgagees have to seek compensation from either the Land Titles Assurance Fund or the title insurers.

The deeds have to be rolled back to the rightful owners by court order. Right now, there are about a dozen lawyers working on the fallout from the Tesoro fraud, but the titles are still in limbo. Putting Humpty Dumpty back together again is not nearly as simple as it would seem. It could be months, or even years, before everybody is made whole again.

Thorsteinson wanted to know if photo ID would have helped in this situation. I told him I didn't think so, since Tesoro actually used his own name and his real identity papers.

As if the Tesoro case is not bad enough, it seems there are quite a few similar situations out there. I agree with a number of readers who wrote to say there should be a province-wide police task force to root out the perpetrators of these frauds.

Ontario residents need to have confidence in the security of their property titles.

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*Bob Aaron is a Toronto real estate lawyer. [www.aaron.ca](http://www.aaron.ca) ©Aaron & Aaron. All Rights Reserved.*