

3. DON'T GO TO JAIL....DON'T BE A PARTY TO MORTGAGE FRAUD -- PICK AN ETHICAL APPRAISER. (15 Minutes)

- Q1. I understand that mortgage fraud is quite common.
- A1. Well let me ask you this before we get around to that question. Do you know the difference between "jail" and "prison"?
- Q2. (Hesitation or "No".)
- A2. Jail is a minor inconvenience.... prison is a change of address.
- Q3. Getting back to my original question, is it really that common?
- A3. On July 20, 2005, Allen Greenspan, the head of the Federal Reserve, indicated that there is a significance of fraud in the housing market in this country.
- Q4. But is that really a serious problem and is it a serious crime?
- A4. Yes it is a serious problem and it is a serious crime. Prior to the terrorist attacks of September 11, 2001, it is my understanding that the FBI and other federal agencies were investigating mortgage fraud. However, when the terrorist attacks occurred, these investigations were put on hold. They are now receiving additional amounts of attention. Some people think that mortgage fraud does not apply to them. However, it can involve the lending institution, the appraiser, the buyer, the seller, and the real estate agent, or Realtor. I was fortunate in recently attending a class on December 2, 2005 at the Flint Area Association of Realtors in Flint, Michigan. There was a speaker from the Michigan Association of Realtors and they gave a short class about mortgage fraud. Let me give an overview of some of the materials and topics that were covered.
- Q5. There are many types of mortgage fraud, but I understand the common element is that banks and mortgage companies are being misled or deceived as to a price being paid for a home which they are mortgaging.
- A5. That is exactly correct. An example would be that a bank is believing that it is loaning \$100,000 on a home being purchased with a sale price of \$110,000. However the actual facts may be that the house was purchased for \$90,000 and the buyers and/or sellers were actually keeping the difference of \$10,000 which is the amount exceeding the real purchase price.
- Q6. Is this a serious crime?
- A6. This is mortgage fraud, which is a felony in most states and is a felony under federal law. These crimes are not only subject to monetary fines but there can be imprisonment. And believe me, when the federal government gets on your case, you will wish that you had never even thought about doing something illegal, let alone being a willing participant or even a side party who did not intentionally do anything wrong. But a person can be involved in the matter by associating with the wrong people.
- Q7. I've heard that court rulings have recently held that a person can be a party to mortgage fraud if the mortgage broker or lender is involved in an illegal

- transaction and the borrower/buyer was not even an active participant. Is this true?
- A7. Obviously this is tricky legal ground and subject to a judge and/or lawyer's opinion. But you don't want to go there, folks. You don't even want to be in the same county as some of those shady characters.
- Q8. What are some common situations involving mortgage fraud?
- A8. One of the predominant methods is called "property flipping." Many of you have seen the late-night TV shows advocating how individuals can buy a property for \$50,000 one day and sell it for \$75,000 the next day. This is called property flipping. It is not necessarily done ethically or legally. The person buying does not automatically get a great deal from someone who is basically stupid in selling their house for a low figure, and then the buyer turns around and sells it to someone at a higher figure. Very often there are inflated appraisals, tampered loan documents, and bribe and kick-backs to participants in this transaction.
- Q9. I've heard that another common element or a common scam is what is called a "silent second mortgage." What is it?
- A9. This happens when a person buying the house does not have a down payment, so he secretly and silently borrows money from the seller. This arrangement is never disclosed or recorded in any of the county records. The bank is misled, thinking that the buyer has come up with their own down payment, which obviously gives the impression that they are sincere and have a vested interest in going through with the transaction. The worst case scenario would be the mortgage being issued, monies transferred, the buyer does not pay the mortgage, and the bank gets the house back.
- Q10. I've heard of another category involving mortgage fraud involving "stolen identity."
- A10. We hear about it on credit cards, but it can also happen in mortgage transactions.
- Q11. Could another ingredient be involving inflated appraisals?
- A11. You've hit it right on the head. This happens when the appraiser develops a scam or scheme with the borrower to inflate the value and the bank relies upon that appraisal to issue and make payment for a mortgage. You should be aware that there are many appraisers who are in prison now because of this situation. Recently, in the winter of 2005, there was a breaking news story about mortgage companies in the Detroit area where this happened. The allegations were that the appraisers and the mortgage company acted together to inflate the values to process these deals.
- Q12. What are some ways to avoid being involved in mortgage fraud?
- A12. A smart home buyer should be doing their homework to check for values. They should have an idea of what other houses are selling for in the neighborhood. They can check with the local tax assessors to see the assessments on the

property, and also ask to see how realistic the assessments are to the real market.

A12. If an individual is offered some unusual incentives that they are going to be getting some kind of a monetary reward for doing this transaction or that they are going to make an unusually large profit for buying this house, a person should be very, very cautious.

A12. Because of the flipping activity, an individual should do some checking of the title history to see if the property has sold numerous times within a short period. This could indicate that sales prices have been inflated. Part of the appraisal process requires for ethical appraisers to check title histories within three years prior to the date of the appraisal of the subject property and also the comparables. The appraiser is obligated to note the date, the sales prices, and the source from which he got this information. The source could be the local city or township records, or they could be available on line or by visiting the Assessor's office, or checking the assessor card, or checking with the local multiple listing service, or checking with the local Register of Deeds.

Q13. How about signing blank documents?

A13. This is very big item to prevent mortgage fraud is to never sign blank documents which are not filled out in terms of the terms, the mortgage, and the dollar amounts of the mortgage.

Q14. It seems that a large component of avoiding mortgage fraud is dealing with ethical and competent appraisers. So how does one pick ethical and competent appraisers?

A14. Let me give you 13 questions or areas to ask the appraiser, as taken from my Appraisal chapter of my new book.

1. Is he or she licensed? Will they provide a copy of the license?
2. How long have they been licensed? There are different types of licensing in an area. Some licenses are for regular residential appraisers, some are for commercial appraisers, and some are for trainees. What type of a license do they hold?
3. How long have they been a resident of the area where the property is located? How long have they been appraising properties in that area?
4. Does he or she have similar job experience or licenses? Do they have training as a home inspector or do they have a builder's license. Do they have a real estate license?
5. Do they carry insurance? Not only is this important for malpractice insurance, but it is also important in regards to health and accident, or workers comp insurance. If they get injured on your property, you don't want to be in a position where you might be held liable for paying those medical bills.

6. What type of residential appraisals do they do? Do they do:
 - (1) Sales, which could be for-sale-by-owners, or sales after the purchase agreement, such as for a mortgage?
 - (2) Do they do proposed construction from plans and specs (from blueprints and specifications sheets)?
 - (3) Divorce appraisals?
 - (4) Estates?
 - (5) Relocation appraisals?
 - (6) Foreclosure appraisals?
 - (7) Tax appraisals, such as for government taking by eminent domain?
 - (8) Insurance appraisals?
7. Do they have any additional training leading to present or past professional degrees or designations?
 - (1) What are these designations?
 - (2) Describe the training involved.
8. Do they have any court testimony experience or deposition experience? It would not be real clever to get a cheap divorce or estate appraisal and later have the appraiser testify and give a less than believable explanation on the witness stand. Cheap is not always the best.
9. Can he or she give references such as names of past customers and their names or phone numbers?
10. Personal endorsements and references are best. Ask bankers, attorneys, Realtors, and other friends who had appraisals done. Their recommendations can be like gold.
11. Telephone book classified advertising can be extremely helpful to get credentials and experience, but much of this information can be inflated.
12. Look over directories from state or national appraiser organizations as that can be a good guide. Ask appraisers if they have ever been listed in any of these directories or are they presently listed.
13. Many states in rural areas have closed land fills. Ask that appraiser if he is familiar with the listing that is done by the Environment

Protection Agency of those landfills and the various degrees of hazard they present to the area. Has he or she studied these or do they have a register of those closed landfills?

Q15. It sounds like you could almost be guilty by association, even though you don't do anything that you consider to be wrong.

A15. The bottom line is... don't get hooked up with questionable bankers, questionable appraisers, questionable title companies, as the federal government may not directly charge you with being involved in a criminal act, but their investigation and the time spent with you could make you a nervous wreck or ruin your life or reputation. Avoid these people like the plague.