

TIPS FOR CALIFORNIA SENIORS TO AVOID “TARGETED” REAL ESTATE FRAUDS, INCLUDING THOSE INVOLVING HOME LOANS, RENTALS, TIMESHARES, PROPERTY RECORDINGS, AND INVESTMENTS SECURED BY REAL PROPERTY



By Wayne Bell, Real Estate Commissioner -
California Bureau of Real Estate

Those who commit fraud often target and exploit senior citizens. The Federal Bureau of Investigation, in a publication entitled “Common Fraud Schemes – Fraud Target: Senior Citizens”, offers the following reasons, among others, that such targeting occurs:

- Senior citizens are most likely to have a “nest egg,” to own their home, and/or to have excellent credit—all of which make them attractive to con artists.
- People who grew up in the 1930s, 1940s, and 1950s were generally raised to be polite and trusting. Con artists exploit these traits, knowing that it is difficult or impossible for these individuals to say “no” or just hang up the telephone.
- Older Americans are less likely to report a fraud because they don’t know who to report it to, are too ashamed at having been scammed, or don’t know they have been scammed. Elderly victims may not report crimes, for example, because they are concerned that relatives may think the victims no longer have the mental capacity to take care of their own financial affairs.”

The list of tips provided below has been written and is intended to give you (a California senior citizen) some essential advice to help protect yourself against such targeted frauds in the area of real estate, including those relative to home loans, rentals, timeshares, the recording of false or fictitious deeds or other documents in connection with your property, and investments/loans purportedly secured by real property.

But first, what follows is some basic information with regard to the California Bureau of Real Estate (“CaIBRE”). CaIBRE safeguards and promotes the public interests in real estate matters through education, licensure, and enforcement. It is a California State agency within the California Department of Consumer Affairs. We have a Consumer Recovery Account for those who have been victimized by the intentional fraud of California real estate licensees, and it can pay actual and direct losses up to \$50,000 per transaction with a total payout of \$250,000 per licensee.

However, the reason the tips below are presented is to keep you from becoming a victim in the first place.

Our website is www.bre.ca.gov, and we have many consumer alerts and warnings on real estate and related fraud (some of which focus on the types of frauds discussed below) available for free download from our website. Our toll-free number is 1-877-373-4542.

FRAUD AVOIDANCE TIPS

1. Be Vigilant, Diligent and Suspicious, and Proceed Very Cautiously, When Contacted by Strangers.

Unfortunately, real estate fraud schemes are everywhere. You need to play defense, listen to your inner “uh-oh” voice, and really protect yourself.

You should be skeptical of *unsolicited* offers of help, or an unwillingness of a person who has contacted you to meet in person (if you so request) or to put things in writing.

Also, if you are unable to follow the sound advice that you have most certainly given over the years -- namely, “don’t talk with strangers”, remember that you do not need to be nice to strangers who contact you, and you can just hang up the phone or just say no to them.

Furthermore, remember that if a person offers to provide real estate services on your behalf, that person’s license identification number must be on the solicitation materials, including on any advertisements for those services and on the business card he or she gives to you.

Those who commit fraud are really good at what they do, and fraud is their job. Many are involved with sophisticated rings using fake websites and important sounding names. Others are just rogue criminals involved in their newest scam. They all continue to adapt and modify their schemes as soon as their last ones became ineffective.

Before moving on to the next fraud avoidance tips, I want to give you a sense of the fraud that we at CalBRE are currently seeing.

Current Types of Real Estate Fraud

The types of real estate related fraud are many and varied (and seemingly endless and in some ways only limited by the creativity of the schemers), but the categories of what we now see include:

a. Foreclosure Rescue Schemes.

For years after the beginning of the mortgage and housing meltdown in late 2007, the fraudsters keyed in on what can be described as Foreclosure Rescue Schemes. That included fraud in the areas of loan modifications, forensic audits,

mass joinder lawsuits, short sales, and it encompassed bankruptcy fraud, and variations of the same.

This was the fraud of the moment from late 2007 through 2013. It was easy and quick money for the criminals, who asked for the payment of money up front to save people's homes (and thereafter did little or nothing) – and there were innumerable potential victims.

With an improving economy, including rising home prices, and because of consumer education and laws prohibiting the collection of advance fees for loan modification services, the firestorm of this type of fraud has greatly diminished.

However, it still exists in some areas of California where homeowners are (a) in foreclosure or (b) in danger of (or on the road to) foreclosure, and where they are (c) underwater (or equity deficient) with their mortgages and are unable to refinance their current mortgages.

Fortunately, as the economy improves, the number of people finding themselves in this situation is getting smaller. Moreover, loan modification services are available for free through the "Making Home Affordable" program of the U.S. Departments of the Treasury and Housing and Urban Development. If you are facing foreclosure or need a loan modification, you should contact the program at <http://www.makinghomeaffordable.gov/pages/default.aspx>, or by calling 888-995-HOPE (4673).

While foreclosure rescue fraud appears to be diminishing, real estate fraud has not.

It continues to be front and center in much of CalBRE's caseload, and it includes complaints regarding and cases on:

b. Unlicensed Prepaid Rental Listing Services Fraud.

In order to lawfully offer lists of rental properties for a fee to prospective tenants, the offeror of the lists needs a real estate broker license, or a specialized Prepaid Rental Listing Services license and must post a bond with CalBRE. Mostly, our cases in this area involve unlicensed persons selling worthless, stale, or hijacked lists to people who are in need of rental place in parts of the State where the rental market is very tight.

c. Timeshare Resale and Rental Schemes.

This sort of fraud is perpetrated against owners of timeshares. The scammers will often-times get lists of timeshare owners and misrepresent to the owners that a buyer or renter is interested in the timeshare unit, and all the owner has to do is pay or wire an amount of money for handling, legal processing, or some other

supposed service. But the reality is that there is no real buyer or potential renter, and the monies sent to the scammers are gone forever.

d. Online Rental Fraud.

This is the variety of fraud where a [typically] vacant, for-sale home is fraudulently advertised online for rent at an attractive or below market price. The potential victim calls the number on the ad and is instructed to drive past the property to see if they like it and are interested. But there is almost always an excuse as to why the property cannot be shown, such as the owner is out of town. The scammer then requests a wire deposit, the money is sent, and never to be seen again. In cases such as this, it is important for consumers to do their homework. No money should be sent in situations like this unless you have personally verified that you are dealing with a person authorized to rent the home, and you should never rent a property without first touring it.

e. Unlicensed Property Managers.

Generally, any person who manages real property in California (whether a residential apartment complex, a shopping center, an office building, an industrial park, or any other type of real property) and does any one or more of those acts, functions and/or activities identified in section 10131 of the California Business and Professions Code (e.g., leasing, renting, solicitation of listings, offers places for rent, collects payments, negotiates regarding leases, and so forth), on behalf of another, such as an owner or other third party, for compensation, or with the expectation of compensation, must have a California real estate broker license. Alternatively, a property manager can be a real estate salesperson operating under the supervision of his or her responsible broker.

We have received complaints and opened cases where unlicensed persons are performing property management work. The unlicensed persons might be fraudsters, brokers who have lost their license rights, or salespersons purporting to operate independently of their responsible brokers.

All of such unlicensed persons are violating California law, and they raise serious concerns relative to competency and the proper handling and application of tenant and client monies.

f. Real Property Recordation Fraud (Often Targeting Seniors).

Quite simply, this fraud includes schemes (i) to steal (transfer) title to real property for resale or to borrow money by the scammer or (ii) to fraudulently place liens against the property. The victims of fraud involving the recording of forged and/or fraudulent documents are often senior citizen homeowners, who have substantial equity in their property or who own their homes free and clear of any mortgage loan. In such cases, the fraudsters can create a fake promissory note showing that the senior owner owes the scammer money, and then forge

and record a Deed of Trust securing the promissory note. The senior may never know about the recorded deed during his or her lifetime. Obviously, a number of fraudulent deeds could be created and recorded where a property has significant equity.

You should consider the possibility of property recordation fraud if you receive notification or become aware of:

- i. A recorded document on your property where you never signed the document and your signature was forged;
- ii. A recorded document on your property where ownership in your property, or a portion thereof, was transferred or sold to another party without your knowledge;
- iii. A loan was taken out on your property without your knowledge; and/or
- iv. Changes or alterations were made to a recorded document after you signed it.

Also, if you:

- i. Stop receiving your property tax bill or notices;
- ii. Receive a Notice of Default or Notice of Trustee's Sale when you own your home outright (free and clear of a mortgage loan), or when you have a mortgage and you are not delinquent on your loan payments;
- iii. Receive loan documents in the mail for a loan that was obtained without your knowledge; and/or
- iv. Receive real estate documents in the mail for a transaction on your property that was conducted without your knowledge.

g. Real Property Investment Schemes.

Because of the current low interest rates paid on bank accounts and money market investments, some seniors fall victim to real property investment or loan schemes promising higher rates of return. These may include the lending of money to or investing with "hard money" brokers and/or home or resort developers, with the promise of attractive or guaranteed interest rates on those lent or invested monies and usually with the promise that the money advanced will be secured by real property. Over the years, we have had a number of cases where these investments were just scams, the principal investment was never repaid, and the security interests were either non-existent or duplicative of multiple security interests in the same property(ies). Guarantees are a red flag that is indicative of fraud.

h. Reverse Mortgage Scams.

In its discussion of common fraud schemes, the Federal Bureau of Investigation urges seniors to be vigilant when seeking reverse mortgage products. They report that "[r]everse mortgage scams are engineered by unscrupulous

professionals in a multitude of real estate, financial services, and related companies to steal the equity from the property of unsuspecting senior citizens or to use these seniors to unwittingly aid the fraudsters in stealing equity from a ... property. *** Seniors are frequently targeted through local churches and investment seminars, as well as television, radio, billboard, and mailer advertisements.”

In some reverse mortgage fraud schemes, the con artist will endeavor to convince seniors to take money out of a home’s equity via a reverse mortgage and then allow the con artist (purportedly a financial advisor) to purchase an annuity or annuities for the homeowner.

The reality with regard to reverse mortgages is that they may be an excellent option for a homeowner. On the other hand, they may be the wrong choice.

CalBRE has created a booklet entitled “Reverse Mortgages – is One Right for You?” It discusses a number of relevant issues, including potential advantages and drawbacks of a reverse mortgage, and questions you should ask and things you should do before choosing a reverse mortgage. The booklet is available for free through CalBRE’s website at www.bre.ca.gov.

As is the case with most of the fraud schemes mentioned above, many of those committing the fraud are unlicensed, dishonest, illegitimate folks operating in the shadows. They are unscrupulous scammers with criminal backgrounds who prey on those in financial distress or who lack financial acumen, get money in advance with bold promises, and then take the money and run.

We now return to the list of tips for seniors to avoid such real estate related frauds.

2. Use Only CalBRE Licensees When Engaging the Services of People or Companies Offering Rental, Home Loan, Foreclosure Rescue, or Other Real Estate Services on Your Behalf.

When engaging the services of people and companies offering assistance in the areas of mortgages, foreclosure rescue, and real estate, you should only use legitimate and reputable real estate agents licensed by CalBRE (and/or licensees of the California Department of Business Oversight for some home loans).

Check them out on the CalBRE website, at www.bre.ca.gov. Make certain that they are licensed by the State of California. If they are licensed, see if they have been disciplined. If they are lawyers, and doing some work under an exemption to the real estate law, check them out on the State Bar’s website, at www.calbar.ca.gov. Again, look at their disciplinary record, if one exists.

Also, check them out through the Better Business Bureau.

And check them out through a Google, “Yelp”, or a related search on the Internet. You may be amazed at what you can and will find out doing such a search. Often consumers who have been scammed will post their experiences, insights, and warnings long before any criminal, civil or administrative action has been brought against the scammers.

Further, you should ask the person offering the real estate services to you for references (whom you should then contact and question), and for their relevant experience.

With regard to online rental scams, and those who commit fraud by selling valueless lists of supposedly available rentals, please review the following CalBRE publications:

http://www.bre.ca.gov/files/pdf/ca/2013/ConsumerAlert_WarningRegardingOnlineRentalSchemes.pdf

http://www.bre.ca.gov/files/pdf/ca/2012/ConsumerAlert_PRLS.pdf

- 3. Never Pay in Cash, or Wire Cash to Anyone, in Connection with Real Estate Transactions; Also, Be Certain to Protect Your Personal Information, Such as Social Security Number, So Scammers Cannot Steal Your Identity.**

Many victims of real estate fraud have reported that they either paid fraudsters in cash, or wired cash to the schemers. With extremely limited exceptions, cash payments, and money that has been wired, cannot be recovered.

Also, and importantly, pure cash payments usually provide prosecutors with little or nothing in the way of proof of payment.

If you pay a real estate licensee any money, use a check or credit card, and get a receipt.

With regard to personal information, please know that identity theft is rampant. Be very careful with regard to releasing any personal information. Such information should be provided only when it is absolutely necessary.

- 4. Never Pay Anyone for Home Loan or Foreclosure Relief Services in Advance of Their Successfully Completing the Work you Wanted Them to Do for You.**
- 5. Never Sign an Agreement for a Real Estate Transaction (including a Rental) or a Home Loan that You Cannot Afford.**
- 6. Never Sign a Real Estate (Including Rental) or Home Loan Agreement that You Do Not Understand or Have Not Read, or Which Contains Blank Spaces.**

Those who commit fraud will often try to get you to act quickly so that you do not have the time to think about what you are doing.

They will tell you that “you must act now”. Do *not* be fooled into rushing into a scam. Slow down!

Always give yourself some time, ask questions and do your homework (especially about their license status, their experience, and their references), and keep yourself from becoming a victim.

Get everything in writing, do not leave blank spaces in documents that you sign, and always make or obtain copies of the agreement(s) or any other documents you have signed.

7. **Anyone (including Scammers without an Appropriate or Legitimate California License) Can Advertise on Television or Radio, in Newspapers, Magazines or on the Internet.**

With very rare exception, the claims of people and companies who advertise are not verified for truthfulness, honesty or compliance with the law, and there is no screening done of those who are doing the advertising.

Therefore, an ad on the television or radio, or in a newspaper, magazine or on the Internet, does not mean that what is advertised is lawful or truthful.

Scammers have the money to put together convincing and professional-looking advertisements (some of which even look like actual “news” broadcasts) and marketing materials, all of which are intended to get you to give them your hard-earned money and/or property.

8. **Just Because Someone Looks Professional, Sounds Like an Expert, and/or Gives You Confidence in their Real Estate Knowledge, Does Not Mean that You Can or Should Trust Them.**

Scammers are experts in fraud and in gaining your confidence, lulling you into believing them and the false hope and schemes that they sell to convince you to part with your money and/or property.

Many of those who commit fraud are good looking and/or quite charming. Their business is luring people into their schemes.

Quite simply, to protect yourself, you must always verify, verify, and then verify again before you extend your trust to someone who asks you for money or property in connection with real estate transactions.

9. **Never Transfer or Sign Your Home Over to any Third Party or Anyone Else who Claims that such a Transfer can or will Help You Repair Your Credit or Keep You in Your Home. Also, Never Sign a “Power of Attorney” Giving Rights to Your Property or Money to Any Individual – or Any Company -- You Do Not Personally Know and Trust.**

Scammers will often recommend that you transfer your property deed or title to them, give them a “power of attorney”, and/or encourage you to make your home loan payments directly to them.

These are sure “red flags” of a fraud.

10. **Monitor and Periodically Check the Title to Your Real Estate Holdings, Just Like You Check Your Credit Reports; and Act Immediately if You Detect Fraud.**

Monitoring your property title and periodically checking will give you notice if any rogue or unknown deeds or other documents have been recorded against your real property.

If you have been a victim of fraudulent deed or other recordation activity, you must take immediate action, including reporting the activity to government and enforcement authorities.

If you have a title insurance policy on your property (this is a policy that may have been obtained when you first purchased the property), contact the title company that issued the policy to inquire if you have insurance against forged deeds or fictitious documents recorded after you purchased your property. Some policies do offer homeowners protections against forgery after the homeowner has taken title to the property. More importantly, if you become aware of a forged deed in the chain of title to your home, and have a title policy with forgery protection, the title company may be able to help you get the fraudulent deed removed from the record via civil litigation and/or to cover certain costs up to the policy’s coverage limits.

Also, you should seek and/or commence legal action to unwind false and/or fraudulent documents and to “clear” and “quiet” your property’s title.

Sometimes a City Attorney or District Attorney may be able to obtain a recordable court order quieting the title in connection with the criminal prosecution of the fraudsters for forgery, grand theft, and/or other criminal counts.

The important thing is for you to act immediately to protect your ownership rights.

For a more complete discussion of the issues surrounding property recordation fraud, please see the following CalBRE publication:
http://www.dre.ca.gov/files/pdf/ca/2012/ConsumerAlert_ForgedFraudulentDeeds.pdf

11. **If Something Sounds Too Good to be True, it Probably Is!**

This is a time-tested piece of advice that should be well remembered.

Conclusion.

As discussed above, fraud by predators and scammers against seniors in the area of real estate requires that you be vigilant and skeptical, proceed cautiously and do your homework.

There are legitimate, reputable, licensed and competent professionals in the real estate and mortgage fields. If you need or want their assistance, you need to do some homework.

While the foregoing tips are offered to keep you from becoming a fraud victim, the reality is that anyone can be victimized.

If you have become the victim of real estate fraud, or suspect that you have, please contact the California Bureau of Real Estate immediately at www.bre.ca.gov, or at our toll free number (1-877-373-4542).

And be certain to review the materials on CalBRE's Consumer Recovery Account. If you are the victim of intentional fraud perpetrated by a California real estate licensee in connection with that licensee's performance of licensed services, and meet the requirements for payment, you will be paid an amount for your actual and direct (out of pocket) loss in a transaction, up to a statutory maximum of \$50,000 per transaction.

For additional information on common scams against seniors, the Federal Bureau of Investigation has put together an excellent publication which can be accessed without cost at the following website:
<http://www.fbi.gov/scams-safety/fraud/seniors>