

THE VANCOUVER SUN

Safeguards can't protect homebuyers from fraud

Vancouver Sun

Friday, August 20, 1999

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Section: News

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Column: News in Context

Source: Vancouver Sun

A troubling case in which a Deep Cove couple built their dream home on property sold to them by someone impersonating the owner has raised questions about what kind of protections home-buyers have against such trickery.

The B.C. Land Titles Act requires a lawyer or notary public to witness the signing of the land transfer documents, and to ensure the person signing the document is really who he or she claims to be.

But Richard Wenner, a Vancouver real estate lawyer and chairman of the Canadian Bar Association's B.C. real property committee, said most lawyers can do little more than ask their client for photo identification -- such as a driver's licence -- for verification and then match the person's signature with that on the identification.

But Wenner concedes a convincing fake identification can make that safeguard ineffective.

"It certainly doesn't prevent a determined fraud," Wenner said. "If you have a clever fraud artist, it's very difficult to avoid."

Just this past April, a man was sentenced to three and a half years in jail for a fraud bearing similarities to the Deep Cove case. And he may very well not have been caught if he had chosen a more convincing disguise.

Over several years, Brian Naumenko posed as more than half a dozen people he was not.

He was a master of forgery, producing fake birth certificates and drivers' licences from everywhere from Ontario to Connecticut. And he was able to convince brokers to pay him tens of thousands of dollars for mortgages against property he didn't really hold. But he had less success disguising himself in person. There he could do no better than wearing glasses and a poorly fitting fake beard.

One teller even asked him outright once: "Is that beard for real?"

The genius of Naumenko's fraud was that he found a way of avoiding the sticky problem of having a lawyer vouch for his fake identity: He impersonated the lawyer as well.

A copy of the judgment in the case reveals the steps Naumenko took.

First he would find a property that had no mortgage against it. He would then impersonate the owners to issue a mortgage to another fake identity -- as well as faking the lawyers who vouched for both. He registered the mortgages at the land titles office, then sold the mortgage at a discount rate to a mortgage broker.

Naumenko ran the scam on three Lower Mainland properties -- raking in more than \$100,000.

The efficiency of his fraud was detailed by Justice John Rowan in a 29-page judgment.

In one case, using the alias Bruce Gordon, he sold a false \$125,000 mortgage to Alpine Credits Ltd. for \$76,500 -- receiving the cheque on Oct. 27, 1995.

At about 11:30 a.m. on Oct. 30, Naumenko went to the Bank of Nova Scotia in Surrey, where he exchanged the cheque for a bank draft payable to Bruce Gordon.

Later that same day, he went to the Citizens Trust Offices on West Hastings in downtown Vancouver, where he exchanged the bank draft for 140 one-ounce gold Maple Leaf Coins.

The clerk later reported that he found it odd that the man walked out of the bank offices with about \$76,000 in gold coins jingling in his pocket.

Naumenko then walked two blocks down West Hastings and sold 10 of the gold coins to a precious-metal dealer.

Naumenko's luck eventually ran out, however, when a customer service manager at the Laurentian Bank in Surrey became suspicious of her new customer -- especially his strange-looking beard.

The bank made inquiries and found the home address Naumenko (as "Bruce Gordon") had given was a strip mall and that his telephone number was an answering service.

On Dec. 5, 1995, Naumenko made a mail deposit of a \$69,000 cheque in his Laurentian account and on Dec. 19 called a teller to ask if the cheque had cleared. When he arrived the next morning at about 10:30, the bank had notified police.

He was chased from the bank by an RCMP officer and in the struggle, the fake beard fell off and Naumenko was finally unmasked.

A search of Naumenko's car and home found the accused was a meticulous note taker -- having kept a detailed file on each one of his frauds as well as copies of letters and fake identity documents. He even kept a "to do" list that detailed step-by-step the mechanics of his operation.

Further investigations found other slip-ups in Naumenko's scams -- in particular a lack of creativity when it came to forged documents.

Police found two fake Connecticut birth certificates in Naumenko's possession for Jack McNeice and Bruce Gordon.

The two led remarkably similar lives.

Both had the same mother, yet were born within six months of each other in 1961 in Hartford City hospital. They both weighed the same amount at birth and had fathers who worked at the Hartford Steel Works. Both births were attended by a Dr. Larry Clarke of 1655 Quarry Rd. -- who noted on the certificate that, in both cases, the pregnancy lasted 41 weeks.

Frauds like that in Deep Cove and the Naumenko case are rare, lawyers say.

"There are thousands and thousands of these transfers that happen every day and this problem rarely arises," said Vancouver real estate lawyer Franco Trasolini.

The reason such crimes of impersonation are not more frequent, lawyers and police say, is that while it may seem an easy fraud to pull off, it is a big risk to try to sell a property you don't own.

"It's quite brazen to do this because there are so many steps along the way where this could be tripped up," said RCMP Constable Chuck Kolot, an officer with North Vancouver's economic crimes unit who is investigating the case in Deep Cove.

As the Naumenko case illustrated, defrauding a lawyer is only the first step. To pull it off, the criminal must also establish a bank account under a false name to transfer the funds to and must then withdraw them without arousing suspicion.

Kolot said the RCMP have an idea who may have been responsible for the Deep Cove fraud and hope bank surveillance cameras will be a key part of the case.

Meanwhile, the Deep Cove couple, Mark and Marzena Biskupski, are looking for a place to live. They can't move into their new home and have to vacate their old home by the end of the month.

Whether the Biskupsksis have any recourse is still unclear. They may be able to sue the law firm that represented the impostor, Ladner Downs. The Law Society of B.C. provides insurance to law firms to cover cases of negligence or omission.

Ladner Downs has so far refused to cooperate with the RCMP investigation -- saying it is bound by solicitor-client privilege. A search warrant presented to the firm by police is being challenged in court.

Gordon Alteman, a spokesman with First Canadian Title insurance, said the couple would have been fully insured if they had purchased title insurance on their home -- which covers instances of impersonation and fraud.

In 1997, the Law Society of Upper Canada, which regulates lawyers in Ontario, passed a rule in its code of conduct requiring real estate lawyers to inform their clients about ``the options available to protect the client's interests and minimize the client's risks in a real estate transaction'' -- including title insurance. The Law Society of B.C. does not have any similar rules but says it is reviewing its codes of conduct involving real estate transactions.