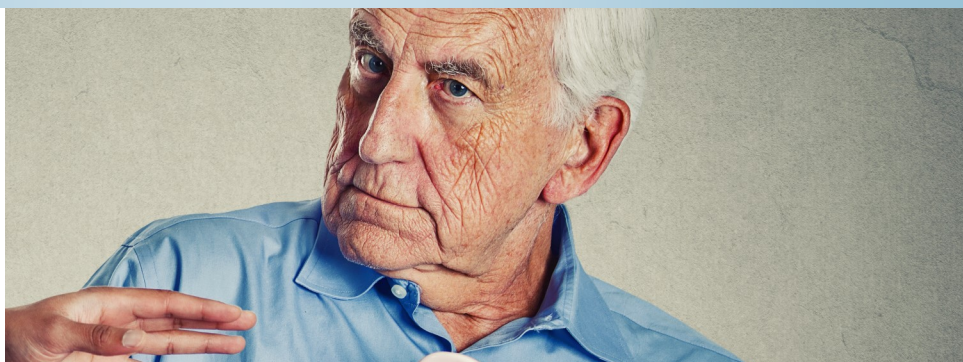


ACE

Advocacy Centre
for the Elderly



SCAM ALERT

Fall 2023

OLDER ADULT HOMEOWNERS BEWARE

by: Karen Steward, Sarah Tella & Kimber-lee Wargalla

Since January 2022, the Advocacy Centre for the Elderly (“ACE”) has regularly received calls from older adults who are shocked to discover that a mortgage or a lien (called a “notice of security interest” or “NOSI”)¹ has been registered against title to their home without their knowledge or consent.

This type of scheme was recently the subject of a CBC Marketplace story, which is enclosed for further information.

¹Notices of security interest are liens against equipment that are registered to the title of your home. When it comes time to sell or refinance your home, these notices of security interest usually need to be paid out.

The Scheme

Many of the calls we receive follow the same pattern:

- ⇒ The older adults are highly vulnerable individuals, typically with limited means and education, and sometimes with marginal mental capacity.
- ⇒ The older adults are duped into signing a flurry of unfair door-to-door home service contracts for products and services that they do not need and cannot afford. In most cases the products and services are grossly overpriced and provide little to no value. In some cases they are completely bogus and fraudulent.

- ⇒ Financing for these door-to-door contracts is obtained and secured by NOSIs, “micro-mortgages” (typically less than \$40,000) and/or lodgements of title registered against title without the homeowner’s knowledge or consent.
- ⇒ The older adults are then approached by a “groomer”, who makes repeated visits and falsely promises to get them out of these unfair contracts, free of charge. The older adults are often falsely promised “rebates” if they sign documents presented to them, which can pay for “free” renovations. The older adults are not given time to read the documents and copies of the documents are generally not left with them.
- ⇒ The older adults later discover that a private mortgage has been placed on their home with unfair terms including high interest rates (up to 25%); high brokerage, referral and lenders’ fees, and pre-payment of interest for the full one-year term (making the mortgage difficult to discover until it becomes due).
- ⇒ The mortgages are unaffordable given the small fixed pension income of the older adults. As a result, the older-adult homeowners often default on the mortgage payments and are served with legal proceedings to sell or foreclose on their home.

- ⇒ The majority of the callers are low-income and cannot afford to retain lawyers in the private bar. As far as ACE is aware, there is currently no accessible remedy other than civil litigation.

Similarly, ACE has received many calls from older adults who discovered they have liens on their homes in extremely large amounts, \$40,000 to \$60,000 each, for products and services they deny agreeing to.

Steps to take if you believe you have been a victim of this scheme

If you believe you have been the victim of a mortgage or home service scheme, **seek legal advice right away.**

Aside from contacting us at ACE, you can contact the following organizations for referrals or legal assistance:

- ◇ Law Society Referral Service at www.findlegalhelp.ca or 1-855-947-5255 to speak to a lawyer or paralegal at no cost for up to 30 minutes.
- ◇ Pro Bono Ontario for 30 minutes of free legal advice: 1-855-255-7256 (toll free).
- ◇ JusticeNet www.justicenet.ca, which offers sliding scale legal fees to people who do not qualify for legal aid services.

If you have title insurance on your home, you should contact your title insurer immediately to see if this type of matter is covered under your policy. If you are not certain if you purchased title insurance when you purchased your home, we strongly recommend that you contact title insurance companies and ask if you have a title insurance policy on your property with each company. There are five title insurance companies in Canada: Stewart Title, First Canadian Title, Chicago Title, Travelers Canada and TitlePLUS.

If you are concerned that a crime has been committed, you can contact your local police department. You may also consider reporting the matter to the Canadian Anti-Fraud Centre at 1-888-495-8501 or www.antifraudcentre-centreantifraude.ca/report-signalez-eng.htm.

You may also wish to contact TransUnion (1-800-663-9980) and Equifax (1-800-871-3250) to have a fraud alert placed on your credit report, and to request copies of your credit report to see if there is any unusual activity.

If you provided a void cheque to an individual or business that you believe has engaged in unfair practices, consider changing your bank account.

If you have been repeatedly targeted by businesses calling you at home, consider changing your phone number and registering the number on the national Do Not Call List: <https://lnn-te-dncl.gc.ca/en>.

Complaints to the Ministry of Public and Business Service Delivery

In Ontario, door-to-door sales of goods and services worth more than \$50 are generally regulated by the *Consumer Protection Act, 2002*.

Under the *Consumer Protection Act, 2002*, you must be given a written contract. As well, if a business has represented their goods or services in a false, misleading or deceptive way, you can withdraw from the contract by giving notice to the business within one year to get a full refund.

If a business refuses to give you a refund, you can file a complaint with the Ministry of Public and Business Service Delivery or take legal action. There is a complaint form on the Ministry website at www.ontario.ca/page/consumer-protection-ontario or call 1-800-889-9768.

Complaints to the Financial Services Regulatory Authority of Ontario ("FSRA")

All individuals and businesses in Ontario who carry out regulated mortgage brokering activities are required to be licensed with the FSRA unless otherwise exempted by the relevant legislation.

If you have a complaint about a mortgage agent, broker, brokerage and/or administrator, or if you are concerned that an individual or business carried out regulated mortgage brokering activities without a license, you can make a complaint to FSRA:

www.fsrao.ca/submit-complaint-fsra or call 1-800-668-0128.

Complaints to the Law Society of Ontario

If you discover that there was a lawyer who purported to represent you in placing any encumbrance on your property and you believe they failed to provide you with appropriate legal advice, you may wish to consider bringing a complaint to the Law Society of Ontario. Information about making a complaint is linked here:

<https://lso.ca/protecting-the-public/complaints/how-to-make-a-complaint>

If you would prefer to fill out a complaint form on paper versus online, you can

contact the Law Society at lawsociety@lso.ca or 1-800-668-7380 and ask them to mail you a complaints package.

Bringing a Claim in Court

In Ontario, there is a general two **year limitation period** to commence civil actions ("suing someone"), which begins when you knew or ought to have known you had a claim. If you are considering bringing a civil action, we recommend seeking legal advice right away.



How to Protect Myself from Door-to-Door Schemes

To protect yourself further from scams, you can take the following measures:

- ◇ Do not allow unsolicited door-to-door salespeople into your home. If you require home equipment or services, do research on reputable companies and

- contact them directly. Make sure that the company you choose has a working phone number and/or email address, and check to see if the address provided is a real location, and not a mailbox in a UPS Store, for example.
- ◇ Search the company's name with the Better Business Bureau (<https://www.bbb.org/>) and the government's Consumer Beware List:
 - ◇ <https://www.consumerbewarelist.mgs.gov.on.ca/en/CBL/search>.
 - ◇ Be aware that local utility companies, government agencies and regulatory organizations do not send salespeople door-to-door.
 - ◇ Do not sign any contracts on the spot. Take the time to review contracts carefully and make sure you fully understand all the terms you are agreeing to.
 - ◇ Know that you have the right to cancel a contract without any reason within a 10-day cooling off period, beginning the day you receive a written copy of the agreement.
 - ◇ Do not sign any documents with any potential lender unless you have received independent legal advice from a lawyer of your own choosing (not a lawyer referred to you by the lender).
 - ◇ Request copies of your TransUnion and Equifax credit reports to see if there are any irregularities.
 - ◇ Regularly check your bank statements to make sure there are no unauthorized withdrawals.
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FOR MORE READING:

CBC Marketplace: 'Elaborate scam' leaves seniors with high-interest mortgages they didn't want or understand www.cbc.ca/news/business/seniors-mortgages-marketplace-1.6795104

Pro Bono Ontario: You Found a Lien on Your Home. Now What? www.probonoontario.org/2022/03/29/you-found-a-lien-on-your-home-now-what/

FSRA: Watch Out For Mortgage Fraud: www.fsrao.ca/consumers/how-fsra-protects-consumers/mortgage-brokering/watch-out-mortgage-fraud

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