

“I'm not some scammer trying to rip off little ol' ladies, I'm a nice person trying to help people. Nope, not me - must be the other guy you're talking about.”

That's what I hear every single day, talking to real estate real estate professionals while trying to help them understand real estate and mortgage fraud. I understand the reason for their statements; I am also a real estate professional with more than 30 years of experience. For years agents were taught many “creative financing” tricks that would help a buyer qualify for a loan, after all, they were “trained” by experienced loan originators who thought they knew it all.

Now years later, I find that many of the common “creative financing” clauses used in purchase and sale agreements.... are illegal. I have gone through my own epiphany moments, usually while sitting in a court room, listening to an attorney admonish a real estate agent who is squirming on the stand. In these moments I have learned that many real estate transactions, written by nice agents and mortgage brokers, are illegal.

Why are common business practices wrong? Our ignorance of the laws. Laws regarding real estate and mortgage fraud are scattered across numerous state and federal laws and administrative codes. There is no single document a professional can turn to for guidance. As a result, professionals of any state have a hard time locating or learning our laws and are often provided only partial information in many real estate seminars.

Examples:

United States Code of Federal Regulations; Title 12, Bank and Banking: Part 365; Real Estate Lending Standards -

This code lists the down payment requirements for real estate loans and explains that a “real estate” loan must be secured by “real estate” not real estate and a new Mustang convertible (personal property).

State law requires the appraiser to perform to AUniform Standards of Professional Practice@ (USPAP).

By reference, USPAP becomes the law of the land for all professionals that order, create or rely on an appraisal. Within USPAP, and included in the fine print of every appraisal, there is the following statement:

“I [the appraiser] did not base the appraisal report on a **requested minimum valuation**, a specific valuation, or the need to approve a specific mortgage loan”

Federal Trade Commission Act:

Practices may be found to be deceptive - if the following three factors are present:

1. There is a representation, omission, act or practice that is likely to mislead
2. The act or practice would be deceptive from the prospective of a reasonable consumer
3. The representation, omission, act, or practice is material [alters the outcome]

RCW 19.144.080

Unlawful actions - Fraud, misrepresentation, deceptive practices.

It is unlawful for any person in connection with making, brokering, or obtaining a residential mortgage loan to directly or indirectly:

1. Employ any scheme, or materially mislead any borrower....lender, or any person, or engage in any unfair or deceptive practice toward any person in the lending process
2. Knowingly make any misstatement, misrepresentation, or omission during the mortgage lending process knowing that it may be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;

All of the above laws apply to **all** real estate agents, mortgage brokers, mortgage lenders, escrow agents and appraisers.

My guess is that many agents have never read the Federal Trade Commission Act, nor have bankers read the appraisal laws, both falsely believing that law "X" doesn't apply to them. Their ignorance of the law is understandable.... but not an excuse to ignore or dodge their responsibility to the consumers of this state.

It's unfortunate that laws impacting the real estate industry are scattered making them difficult to find, convey and understand. Attempts (in other states) to bring the laws into a single simply stated law have been met with distrust by Senators. Why? One can only guess at their personal involvements.

According to the FBI and my own trial work, 80% of all real estate and mortgage fraud involves a real estate insider. Some insiders create the problem, others enable it. I have spent years trying to assist in rectifying this dilemma, by providing education concerning real estate and mortgage fraud. I'm trying to help you avoid a major problem in your life. Since most people want to believe that it's "the other guy" that commits fraud, I try to put a local name and face to fraud. This is an attempt to help people understand it's not some nasty crook "over there," but often a nice well intentioned local real estate professional that, through ignorance, does something that's illegal. As a result the information I provide scares people. Scared people go out of their way attempting to minimize me or the class information. Attorney's call and threaten

me with lawsuits because I have mentioned the name of their client, a mortgage broker, loan originator, appraiser or, agent, who is now a **convicted felon**. Seems they hate the fact that public information is made more....well... public. I find it interesting that some people are threatened by information and transparency.

The term “we’ve always done it that way”... is understandable, but does not make the action legal. Ignorance of the law, while convenient, is not a viable defense. You, the real estate and banking professionals, must seek out great education and elevate your industry to a higher standard or face a wave of foreclosures, declining real estate values and a state government that is short of tax dollars.

Your choice: Ignorance and the pain, or knowledge and education that brings success and respect.

My suggestion, take a good class on the law or preventing real estate fraud, even if you don't think you need it, because the problem isn't “somewhere else.”