

# BOWLEY KERR COLLINS

BARRISTERS, SOLICITORS, PATENT AND TRADEMARK AGENTS

## NEWSLETTER

Number 26

<http://www.lawteam.ca>

May 2005

**Real estate fraud— what you can do about it:** Real estate fraud runs perhaps as high as one and a half billion dollars per year in Canada and generally follows one of two patterns— the multiple flip or identity theft. It is the latter which is more likely to impact you, and it works like this:

A rogue fraudulently gets access to the land registry system and puts title to your home in his name. Then he discharges your mortgage on title, but of course doesn't tell you or your mortgage company. You keep up the payments and the bank is none the wiser. Now that title appears to be clear, the rogue puts a fat mortgage in place and pockets the proceeds. He makes the payments so that no one gets excited, then registers a phony discharge and does it all over again. After he does this two or three more times, he sticks all the cash in his pocket and catches a flight out of town. The payments stop on all the mortgages except the one you are kindly servicing. Two or three months later you come home from work to see a mortgage sale sign on your lawn. Sound impossible? It isn't.

Faithless is he that says farewell when the road darkens.

J. R. Tolkien

There are two things you can do to protect yourself. First, when you purchase or refinance, use a law firm which has a reputation for being thorough and fussy. Second, get title insurance. Better still, do both.

Careful law firms take the time to ask questions and look for things that don't seem right. In our office, for instance, everything grinds to a halt if we encounter a new refinance within a year of purchase or the last finance. We're not saying you're a crook, we're just going to slow things down and check it out. We scrutinize identity and ask the tough questions. We also prefer to deal with lenders with whom we have relationships and who are more likely to detect a funny smell about a transaction. So far (knock on wood) rogues have not found us attractive, and that's just fine with us.

Buying title insurance at the time of the transaction is very

economical. If you do become a victim, the insurer will fix the problem. We are also able to place title insurance in many cases where it was not obtained on closing.

Progress might have been all right once,  
but it's gone on too long. **Ogden Nash**

**Ready for ten digits?** In mid 2006 the 613 and 819 exchanges will go to ten digit dialing. You can use it immediately. It is wise to get ready by using all ten digits now on business cards, alarm monitors, and the like.

**Dangerous deer— keeping perspective—** In law as in life, perspective is everything. Consider deer and sharks. Deer are cute, sharks are dangerous, right? Actually, in the US (where they have sharks and keep such statistics) more than twenty-two individuals die in collisions with deer for every person killed by a shark. In fact, for every person eaten by a shark, well over a thousand die when upholstered furniture catches fire. Just when you thought it was safe to sit on the couch.....

**The insurance ombudsman** is a free service to help resolve disputes if you aren't satisfied with your insurance company's proposed settlement. Check it out online at <http://www.gio-scad.org/>.

**Better late than never** On July 30, 2005 Ontario will implement the Consumer Protection Act, 2002 so as to bring us into line with the national Internet Sales Contract Harmonization Template. The legislation will apply in cyberspace if either the consumer or the supplier is in Ontario and the transaction is for \$50.00 or more. Consumers cannot waive rights provided under the Act and ambiguities will be resolved in favour of the consumer. The consumer must be given an express opportunity to accept or decline the transaction as well as to correct any errors in the internet contract. The supplier will be required to provide a fair, accurate and detailed disclosure and provide a written copy of the internet agreement to the consumer within 15 days. If the supplier fails to follow these terms, the consumer has a variety of cancellation rights. If you are doing business on the internet, you need to discuss your website with your

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lawyer.

To see the text of the legislation visit the Ontario e-laws site at [http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/02c30\\_e.htm](http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/02c30_e.htm).

**Chrissy Gagnon, Time Matters AIC**— After gaining experience, lots of study and one very tough exam (the passing grade is 90%), Chrissy has become one of only six Time Matters Authorized Independent Consultants in all of Canada. BKC is a leader in the use of this complex and powerful practice management tool, and we are very proud

to have Chrissy as part of our team.

**The New BKC Website** should go live any day now, perhaps as you read this. Most work so far has been to get the right look and feel. While it retains most of the content of the old site, much new content remains to be added. When it is mature, “The Library” will be a rich source of useful information in all our areas of speciality. As well, clients will have secure interactive portals to exchange data with us and corporate in-house counsel will be provided similar portals and specific content.

## *e-counsel*

### Legal and strategic advice for e-business

**Phishing and pharming?** No, these aren't typos. Phishing and pharming are identity-theft techniques used by criminals to obtain your personal information and then impersonate you to take your money or obtain goods on your credit. Although they may obtain your data by technical means such as keylogger spyware, most of the time they succeed simply by tricking you.

Most are just very sophisticated upgrades of the phoney bank inspector scam or the Nigerian “help me get my fortune out of the country” trick. For example, you will get a friendly e-mail purportedly from your bank asking you to log in to their fraud-detection department, and they will give you a special log-in ID and password. You go there and the site has the look and feel of your bank and a welcome message telling you how much they appreciate your assistance in the fight against crooked bank officials. They will ask you to verify all of your account information and passwords and wait for a confirming e-mail. Some very bright people have been sucked in. Don't believe it? Check out actual cases on the website listed at the end of this article.

How can you protect yourself? A few simple precautions can go a long way:

1. Keep your computer free of spyware— keep your security downloads up to date, use an anti-virus, run a spyware cleaner, stay out of dark corners like porno sites, clean out your cookies regularly, make sure your e-mail provider has a good spam filter.
2. Immediately delete any doubtful e-mail without opening it.
3. Don't be gullible— anything that sounds too good to be true, is too good to be true. Don't even go there, the crook is much smarter than you. Don't play with him.
4. Even where something looks legit, if the initiative comes from the other side, be vigilant. Odd spelling or grammar, slightly-off logos, linking or framing that seems untidy and URL's that change oddly are all signs that you aren't where you think you are.
5. Watch for anything which tries to get your heart going faster than your head— appeals to greed, urgency or sympathy, “Let this be our little secret” stuff, even error messages can get you off balance.
6. If you have any doubt, contact the institution by telephone (using a number from the phone book or that you already have, not one the site supplies) to verify.
7. Regularly review all your accounts to ensure you have not been scammed. Better to lose a little than a lot.
8. Visit <http://www.antiphishing.org/> to learn more and to see examples of some very sophisticated scams.