

Information Bulletin

Bulletin Number: MB 04-005

Topic: MISLEADING INFORMATION

Issue Date: OCTOBER 2004

Increasingly this office is being made aware of occasions where mortgage brokers are failing to verify client information that is being passed on to lenders. As a result, instances where lenders are receiving misleading or false information is becoming more frequent. Occurrences of this nature can tarnish the reputation and professional image mortgage brokers have within the lending community and amongst the general public. As a result of our investigations into these incidents disciplinary action has been taken against mortgage brokers in a number of occasions. In addition, charges of forgery, uttering a forged document, and obtaining credit by false pretenses have been laid. We are not suggesting that most mortgage brokers are conducting their business in this manner, but rather we wish to ensure that the few who act improperly are identified and dealt with promptly and appropriately.

Mortgage brokers need to recognize that lenders rely on the information they receive regarding potential borrowers. Mortgage brokers cannot say that it is not their responsibility to verify the information being given to them during the application process. Lenders indicate they assume that mortgage brokers have verified the information before forwarding it on. This office takes the position that a mortgage broker has a duty to ensure the information being sent to a lender has been verified.

Although no one is suggesting that mortgage brokers need to conduct in-depth investigations of every transaction that they process, reasonable due diligence must be undertaken to ensure that the information being passed on to lenders is accurate. Applications containing errors or omissions need additional verification and under no circumstances should brokers be referring applications that have been shown by another mortgage broker or lender to contain false or inaccurate information. If mortgage brokers do not verify the information they are forwarding to lenders, then mortgage brokers should advise the lenders in writing that none of the information has been verified.

Your cooperation and diligence will result in the mortgage broker industry continuing to maintain a professional and respected image in the community.

Please consult the attached letter for further background information on this Bulletin:



Please Note:
 As of **April 2005** the *Financial Institutions Commission of BC* address changed to:
 1200 – 13450 – 102 Avenue Surrey BC V3T 5X3
 Phone: 604-953-5300
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November 2004

OPEN LETTER FROM THE REGISTRAR OF MORTGAGE BROKERS

Over the last several months, considerable media coverage has been given to the increasing problem of marijuana grow operations ("grow-ops") in the Province and, in particular, the Lower Mainland. Grow-ops have become a major source of concern for many communities resulting in public meetings aimed at trying to address problems associated with their presence. Grow-ops negatively affect neighbourhoods directly through the criminal element that they bring, and the potential for increased violence within the area, and indirectly as a result of their impact on property values.

Properties purchased for the purpose of using them as grow-ops often have inflated property values as a result of purchasers' willingness to pay a premium over and above the market value of the property to ensure a quick possession date. This in turn inflates the value of surrounding properties, and creates false market values. Subsequently when the grow-op is abandoned and it becomes known that the property was used as a grow-op it is often difficult to re-sell the property to a legitimate purchaser, resulting in a significant reduction in both the value of the property and the value of property in the neighbourhood.

Increasingly, we are finding that many of the houses being identified as grow-ops are high-end properties in up-scale neighbourhoods. Mortgages are being obtained on these properties using fictitious purchasers and/or false employment and down payment information in the application. The proliferation of these types of transactions is becoming an increasing concern, particularly in view of the potential for adverse effects on the mortgage broker industry and those financial institutions that are funding the mortgages on these properties.

During our investigation of these cases, we are finding that in a significant number of transactions, little, if any, due diligence has been carried out to ensure the accuracy of the information provided on the mortgage application. Lenders appear to be relying heavily on the information being sent to them by either the applicant, or the mortgage broker referring the mortgage.

**Financial
Institutions
Commission**

- Superintendent of Financial Institutions
- Superintendent of Pensions
- Superintendent of Real Estate
- Registrar of Mortgage Brokers
- Credit Union Deposit Insurance Corporation of British Columbia

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Mortgage brokers on the other hand are saying that it is not their responsibility to verify the information being passed on to them by applicants, and that it is up to the lenders to ensure the information is accurate. This office takes the position that mortgage brokers **do have** a responsibility to ensure the accuracy of information provided by the applicant. If mortgage brokers do not verify any of the information they are forwarding to lenders, then mortgage brokers should advise the lenders **in writing** that none of the information has been verified.

While no one is suggesting that mortgage brokers need to conduct in-depth investigations of every transaction that they process, some due diligence must be undertaken to ensure that the information being passed on to lenders has been verified. Applications containing errors or omissions need additional verification and under no circumstances should brokers be referring to a lender, applications that have been shown by another lender as containing false or inaccurate information.

It is essential that mortgage brokers are aware of the issues and concerns regarding the financing of properties, which may ultimately be used for illegal purposes. The early detection and reporting of fraudulent mortgage applications is an essential tool in combating the problem of grow-ops and the further funding of illegal activities. I would encourage all of you to take the time to ensure that you are aware of the red flags associated with the detection of fraudulent mortgage transactions and money laundering, and to report suspected cases to the authorities as soon as possible.

In view of the concerns this issue is causing not only in the mortgage broker industry but amongst lenders and the general public, I believe it is necessary to confirm this office's position on the subject of misleading information. As such, I am withdrawing Bulletin MB 96-001 and issuing a new Bulletin MB 04-005 that I am confident will provide clearer direction to mortgage brokers regarding their responsibilities in the verification process.

Please do not hesitate to call Jay Mitchell, Deputy Registrar of Mortgage Brokers at 604 660-0108 or Ken Fraser, Executive Director of Investigations at 604 660-2508 should you have any questions or concerns regarding this matter.

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At the office of the Registrar of Mortgage Brokers, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the Mortgage Brokers Act, Business Practices and Consumer Protection Act and Regulations. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.