

The House Snatchers, Chatelaine Magazine 2007
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When the trouble began, it didn't look like trouble at all. Susan Lawrence was sitting in her banker's branch office on what she thought was a routine mission: get a mortgage for the lovely seven-acre lakeside property she hoped to buy near her mother's home, two hours outside Toronto. An animated 55-year-old video distributor with thick auburn hair, Susan planned to sell her house in Toronto's west end to raise most of the money, and she needed to borrow about \$100,000 from the bank to make up the difference.

"There's something wrong," said Mary, a short banker with cropped dark hair who stared at her computer screen while delivering the news. "It says here you don't own your house. It's already been sold to someone else."

Susan sat up straight in her chair. "You're crazy," she said. She'd lived in the house for 30 years, renovated it with her late husband Bruce, and paid off most of the mortgage. She had definitely not sold it. "Don't worry," Mary said. "It's just a clerical error. You have a common name. We'll fix it."

Susan was annoyed but not worried as she walked out of the branch. The stupid bank, she thought. How could it make a mistake like that? By the weekend she was laughing at the foul-up. "Guess what?" Susan announced to the girls at the curling club. "I don't own my house!"

A couple of days later, Susan was in her basement office, a 70s special decorated with posters from her favourite movies, like *Gone with the Wind*. She was checking DVD prices on the computer when the phone rang. It was Mary. "Are you sitting down?" she asked Susan. "You've been the victim of mortgage fraud. Somebody has stolen your house." Susan didn't have a clue what Mary was talking about. "How do you know?" she asked. "How can you tell? What can I do?"

Mary told her it was all spelled out in documents that a mortgage lender called Maple Trust had provided. Her house had, in fact, been sold. She advised Susan to call the security expert at Maple Trust. He would explain everything.

"I felt sick," recalls Susan. "I felt like someone had kicked me in the stomach." It was late afternoon when she poured herself a snifter of Grand Marnier and called the police. Though she'd given up waiting for them by midnight, she couldn't sleep. How was it possible that someone had done this without her knowing? No answers emerged as she paced the house nervously. Then she picked up an envelope she hadn't noticed before. It was addressed to Thomas Wright at 19 Langside Avenue, which was her address. She opened it to find a letter from Maple Trust confirming that Thomas Wright had been given a \$291,000 loan to buy 19 Langside. "That's when it hit me. Somebody had really stolen my house."

The next morning was rainy and miserable. Elizabeth poured herself a cup of coffee and sat in the kitchen she and her late husband Bruce had renovated to overlook a deep garden. She wanted answers: how could this happen? How could she get her house back? After trying the police again, she called Maple Trust to tell the lender that it had a mortgage she never authorized. She was quickly transferred to the company's security specialist. "Don't worry," he reassured Susan. "It will be okay in the end." Susan hung up the phone, only slightly relieved. She wanted to know when it would be fixed and no one could say. Little did she realize it would take over a year – plus hundreds of hours of her own detective work and thousands of dollars in legal fees – to get her house back.

In this booming housing market, mortgage fraud has become a thriving business, exposing the Canadian insurance industry to an estimated \$300 million in losses in 2001 alone, nearly four times the dollar figure of 2000. And there are currently over 100 lawyers under investigation in Ontario for their role in these transactions. One Ontario judge even called it an epidemic, although that might be something of an exaggeration since the provincial government reports that only 10 of the 600,000 property transfers that take place a year are fakes designed to extract money from innocent homeowners. Still, for those who find their homes stolen through fraud, it's a disaster. And for the fraudsters, it's a juicy opportunity with little downside. On a typical transaction, they can pick up \$300,000, and even if the police track them down, they face only a few months in jail. The money is rarely recovered.

According to a Law Society of Upper Canada report from 2005, a few key weaknesses in the system are to blame. For one thing, banks and other lenders are so eager to hand out cash to buy houses that they don't ask enough questions of the borrower—even first-time homeowners they've never met before. Impostors simply create fake ID and fake documents and dupe lenders into handing over large sums of money for a loan. And the real homeowner has no way of knowing what's happened because lenders don't visit the houses on which the loans are based. Instead, they rely on a computer model estimating the value. And, finally, in Ontario, at least, the Law Society says that a state-of-the-art electronic land registry (which manages all real-estate-related documents such as ownership deeds and mortgages) has opened up new opportunities for con artists. Known as Teranet, the virtual land registry was the first in the world to go completely online, allowing people to transfer ownership of property via computer instead of trudging into a registry office. The result is that a homeowner can lose title to her home without even knowing it. Teranet spokesperson Bonnie Foster says that the electronic system is designed to make land registry more convenient for everyone, and argues that it's up to the lenders and lawyers to make sure that buyers and sellers are who they say they are. If that doesn't happen, she says, "It's not the system at fault, it's the individuals."

The morning after Susan discovered that her house had been sold without her authorization, she was angry and frustrated. She started making calls to find out who had done it, and how. She called the provincial land registry, and the Teranet official checked the online record of her home. Yes, the ownership had been transferred, she was told, to a Thomas Wright—the man whose letter she had opened in the middle of the night.

Her next step was to take a long look at the documents Maple Trust had faxed her after she alerted them to the fraud. There she found the lawyer who acted for the woman posing as Susan Lawrence: his name was David Molson. She called him and left a message on his voicemail. “Hi. My name is Susan Lawrence. I understand you acted on my behalf in the sale of my property. Here’s my number. Call me.” She never heard from him.

Over the next few days, as she poured over the sale and mortgage documents, Susan figured out the main storyline of the scheme. Someone posing as her had sold her house to a man who said he was Thomas Wright. The fake Susan and the fake Thomas both went to lawyers with their fake ID to complete the deal. The lawyers logged onto Teranet, the online land registry, and transferred the property to Wright. But Susan was still puzzled: “Why would the lender give a mortgage to a person who didn’t exist?”

She knew she needed help, so she Googled “mortgage fraud” and found a column written by Toronto Star real estate columnist Bob Aaron. When she contacted Aaron he suggested she seek legal advice from a lawyer named Morris Cooper. Susan made an appointment, put on a suit and drove to Cooper’s office in Yorkville, an upscale Toronto neighbourhood.

As soon as she arrived Susan noticed a large button propped up on the reception desk. “Trust me, I’m a lawyer,” it read. Cooper himself wore a diamond stud earring in one ear, and his office was decorated with miniature Harley Davidson motorcycles. “This guy is cool,” she thought, as she sat down to tell her story. She explained that she hoped a couple of sharply worded legal letters would tidy up the whole mess.

“Do you see ‘Welcome to Disneyland’ at my door?” Cooper asked her. Susan was in big trouble, he said. It was going to take a couple of years and a lot of money to get her house back – maxing out at \$32,000 if the case went to the Appeal Court. Susan was blown away. She hired him on the spot.

It was a few weeks later on a mild evening in March, and Susan was settling into bed after a night of curling when she heard banging on the door. It was nearly 10:30 p.m. She wasn’t expecting anyone so late at night. When the noise continued, she looked out the bedroom door onto the landing. A wickedly bright flashlight shone into her front hall, right up the narrow staircase. Her heart racing, Susan went to the closet where she’d kept a baseball bat since Bruce died 10 years earlier, and dialled 911. “I think someone’s trying to break into my house,” she told the dispatcher, who advised her to stay in the bedroom. For the next few minutes, Susan paced the floor, a phone in one hand, the baseball bat in the other.

When the dispatcher told her the police had arrived, Susan unlocked the front door. There was a man holding an envelope—and a uniformed police officer standing behind him. “Are you Susan Lawrence?” the man asked. Then he stuck an envelope into her hands. It was a formal claim filed in the Ontario Superior Court of Justice: “A legal proceeding has been commenced against you,” it read. Maple Trust, the mortgage lender, was legally

entitled to walk into Susan's house and take possession of it because payments on the \$291,000 mortgage had not been paid.

It seemed outrageous: Susan hadn't authorized the transfer or borrowed the money. But under Ontario law she was on the hook for the sum because the person who did take out the loan didn't bother to make the monthly payments when he vanished. Now Susan was really scared. That night, she faxed the notice to her lawyer. "Can they kick me out of my house?" she asked when Cooper called back. "We'll make sure they don't," he said.

A few days later, a reporter from The Toronto Star, alerted to the story by the media-savvy Cooper, called Susan. The reporter had just contacted Maple Trust's new owner, The Bank of Nova Scotia, to find out why it was hounding a widow who had lost her home through fraud. Susan didn't have to worry, the reporter assured her. Wary of bad publicity, the bank had promised him it wouldn't evict her.

Though saved from eviction, Susan was still responsible for the mortgage. A provision in provincial law would allow her to turn to a fund of last resort designed for victims of mortgage fraud, but Susan couldn't tap into this money until she'd first sought compensation from the "wrongdoer." The law didn't spell out who that might be—the fraudster? The lawyers? The lender?—so there was no way of knowing how far she would have to go to get her house back.

Susan was used to hunting down lost videos from the days when she'd owned a video store, but she had never gone looking for house thieves. Still, she felt she had a new cause, and her mission was straightforward. "They stole my house and I wanted it back," she recalls.

First, she needed to find the person who did it: Thomas Wright. How did he get that mortgage? Did he act alone, or was he part of a criminal syndicate? The week before she was scheduled to appear in court to regain title to her house, the answer came in a batch of documents Cooper faxed to her. Sitting in her pajamas, coffee in hand, Susan carefully examined the papers. Everything was there, from the name of Wright's lawyer to photocopies of his driver's license. From Cooper, she learned that Wright's representative, Marva Jemmott, had already been suspended by the Law Society of Upper Canada. Jemmott hadn't even noticed that Thomas Wright spelled his own first name incorrectly—writing Tomas in careful schoolboy script when he signed the mortgage agreement.

Looking up Wright's address on his driver's license, Susan and an old friend, Sandra Richardson, drove out to the home address he had listed on the outskirts of Aurora, a city about 40 minutes north of Toronto. The house was a dilapidated shack. "If anyone resides here," Sandra observed, "they are of a spiritual nature." Then they went to the place Wright listed as his workplace—a car wash where he claimed to earn \$78,000 a year as a "detailing manager." It turned out to be a video store. "That's when I realized that everything was fake—everything," Susan says.

Back home in her basement office, Susan was puzzled: how could a guy who couldn't even spell his first name, a guy who didn't even exist, persuade Maple Trust to hand over the cash? She returned to the wad of documents. From what she could glean, after getting the lawyers to complete the forms transferring the property, Thomas Wright had approached Maple Trust. He said he wanted a \$291,000 mortgage on a house sold for \$318,000. He was asking to borrow more than 90 per cent of the value, and the lender had never met him before, but that didn't seem to be a problem. The company called the number listed as the car wash, and someone there confirmed that Thomas Wright made \$78,000 washing cars. It was all there in black and white. Still, Susan thought, how could anyone believe a person makes \$78,000 washing cars? Wouldn't the light go off?

The documents showed that Maple Trust handed the money to Wright's lawyer, who was supposed to give it to the fake Susan Lawrence's lawyer to complete the financing. But then the fake buyer and the fake seller, along with the real money, disappeared. The lender didn't send an appraiser to check out the property. It didn't even send a written notice to Susan until long after the deal was done. There was no way she could have known what had happened.

The Superior Court was almost empty last June when Susan and Morris Cooper appeared before Justice Edward Belobaba. Cooper made two requests on Susan's behalf: to regain title to her house and to dismiss the \$291,000 mortgage. Belobaba told Cooper that he sympathized with his client. Yes, he would restore her title, but discharging the mortgage was another matter. The reason: the higher Appeal Court had ruled in November 2005 that even a fraudulent mortgage was valid and enforceable. Belobaba would have to follow that ruling unless Cooper could convince him otherwise.

"Don't get your hopes up," Cooper told Susan over tuna tartar and white wine at the lawyers' dining room in Osgoode Hall, a landmark building in downtown Toronto. What were her options if the judge ruled that the mortgage was still valid? she asked. Cooper said she could apply to the fund of last resort. The other option was to appeal. It would be a highly unusual move: Susan would be saying, in effect, that the Appeal Court had made a mistake the previous November.

On June 27, the phone rang again at Susan's house. It was Cooper. The judge, not surprisingly, had ruled that the fraudulent mortgage was valid. In his written judgment, Belobaba also urged the provincial fund to act quickly to give Susan the money "she clearly requires and deserves."

Susan spent the weekend thinking about her next move. She didn't like the idea of tapping into a taxpayer-paid fund to pay off money stolen by fraud. Why should the average person pay for crooks to get away with this? She'd rather her tax dollars pay for cancer victims than fraud victims. She knew what she had to do: she asked Cooper to appeal.

In late November 2006, Cooper made his argument in a packed courtroom to a panel of Appeal Court judges. By January, the court hadn't issued a ruling, but Susan was nonetheless celebrating a major victory—this one in the Ontario provincial legislature. While Cooper was preparing the legal case, Susan had appeared at press conferences and in committee rooms to push for changes to the law governing the way the real estate system works in the province. When Bill 152, a new piece of legislation to protect consumers against a wide range of fraud, including real estate, was approved in December (check date with de zara), Susan finally cried tears of joy and relief.

The bill ensures that anyone who loses a home through fraud in the future will not be held responsible for the fraudulent mortgage. Instead, the lender or its insurer will have to swallow the loss. This change won't help Susan, since her home was stolen before the legislation passed, but she and other mortgage fraud victims will no longer have to jump through bureaucratic hoops to persuade the last resort fund to pay up. Instead of waiting three years—as was the case in the past—now Susan and other victims will only have to wait three months for money to cover fraudulent mortgages.

Although it still wasn't clear at the beginning of this year who will pay the mortgage on her home—the taxpayers or the lender's insurance—Susan's detective work is finished. It's been a long year, she says, but a good one: "I used to be a nervous public speaker," shy and reluctant to challenge people. Now she can give TV reporters a juicy quote and argue with seasoned politicians. She's even cut her auburn hair into a fashionable bob. And these days Susan is still living in her longtime home, no longer yearning to move to the country. "Toronto's not such a bad place after all," she says. And even better, she learned something about herself: "I'm a lot stronger than I thought I was."