

Safe as houses? Not necessarily

Last month the Rev. Mike Hall came home from a work trip to find that his front door key would not open the door and somebody else was in his property. His furniture had been taken out, building works were going on and he was told to leave. Enquiries revealed that somebody had bought his house in his absence and it had been registered at the Land Registry.

A similar case happened in 2019 when Angela Ellis Jones returned from a 3 week trip to find her letterbox taped up and a metal post box fixed to her front door. Two months later she heard from the Land Registry that registration had been completed and her property now belonged to another person.

How can this possibly happen? The short answer is identity fraud.

When properties are sold normally the seller will instruct a solicitor to act for him or her in the sale and a buyer will likewise instruct his or her own solicitor. The seller's solicitor and the buyer's solicitor will each check the identity of their respective clients by verifying copies of their identity documentation and checking that details do not give rise to suspicion e.g. the person is much older or younger than the passport or other document might suggest or the photograph does not look like the person. If a solicitor does not check properly then there could be a right of action against that solicitor, for example a seller's solicitor could be in breach of trust by paying purchase money to the fraudster and not the true property owner, or in breach of warranty of authority i.e. by warranting to act for the true property owner and not doing so.

Solicitors nowadays are very well aware of "red flags" which will alert them to possible fraud and will ask their selling clients to provide evidence of their identity, how long they have owned the property, and how they can prove their connection with the property if they live elsewhere.

In addition, the Land Registry has made some protective measures available to make it more difficult for fraudsters.

- Owners can request a property alert. This means that the Land Registry will alert the owner to certain kinds of activity regarding the property normally by email, giving the owner the opportunity to intervene.
- Owners can apply for a restriction on the property meaning that no transaction can take place without a conveyancer certifying that the true owner has authorised it. There are different forms of restriction for people who are living in the property, living away and owners who are companies.
- The Land Registry also recommends registering property which is still unregistered

The key to defeating fraudsters is vigilance by all of those concerned in a transaction, including Estate Agents, Solicitors, Land Registry and individual owners and buyers. If anything does not seem to "sit right" when you are buying or selling discuss with your solicitor before the transaction proceeds. If your property is particularly at risk e.g. you have owned it for a long time and have not registered it or you live away or it is mortgage free then seriously consider using some of the protective measures the Land Registry offers.

For more information please see government and Land Registry published information:

HM Land Registry Property Alert

Protect your land and property from fraud.gov.uk

Or feel free to contact us:

Alison Fielden & Co The Gatehouse Dollar Street Cirencester GL7 2AN
email alison@alisonfielden.co.uk
or telephone 01285 653261 and ask for Alison Fielden Phil Stephens or Dee Chatfield