



OPACITY

Why Criminals Love Canadian Real Estate
(And How to Fix It)

SUMMARY REPORT

Acknowledgements

Transparency International Canada, Publish What You Pay Canada, and Canadians for Tax Fairness are grateful to Open Society Foundations and Hewlett Foundation for supporting the research and writing of this report. The ideas, opinions, and comments within this publication are entirely the responsibility of its authors and do not necessarily represent or reflect the Open Society Foundations or Hewlett Foundation. We would also like to extend our gratitude to Jessica Frank, Belinda Li, and Stephen Punwasi for their guidance and technical support.

We are particularly grateful for the support and guidance offered by the members of TI Canada's Beneficial Ownership Working Group:

Jon Allen	Kevin Comeau
Peter Dent	Don Jack
Paul Lalonde	Denis Meunier
Alesia Nahirny	Susan Reisler

Author: Adam Ross, White Label Insights

Design: Deana Oulianova, DIMA Design Studio

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of March 2019. Nevertheless, TI Canada cannot accept responsibility for the consequences of its use for other purposes or in other contexts than those intended. Policy recommendations reflect TI Canada's opinion. They should not be taken to represent the views of the individual members of the Beneficial Ownership Working Group or other stakeholders, unless otherwise stated.

© 2019 Transparency International Canada. All rights reserved.

Reproduction in whole or in parts is permitted, provided that full credit is given to Transparency International Canada and provided that any such reproduction, in whole or in parts, is not sold or incorporated in works that are sold. Written permission must be sought from Transparency International Canada if any such reproduction would adapt or modify the original content.

About Transparency International and Transparency International Canada



Transparency International (TI) is the world's leading non-governmental anti-corruption organization. With more than 100 chapters worldwide and an international secretariat in Berlin, TI has helped put corruption on the agendas of governments and businesses around the world. Through advocacy, research and capacity building work, TI strives toward a world that is free of corruption.



Transparency International Canada (TI Canada) is the Canadian chapter of Transparency International. Since its foundation in 1996, TI Canada has been at the forefront of the national anti-corruption agenda. In addition to advocating legal and policy reform on issues such as whistleblower protection, public procurement and corporate disclosure, we design practical tools for Canadian businesses and institutions looking to manage corruption risks, and serve as an anti-corruption resource for organizations across Canada.

About Canadians for Tax Fairness



Canadians for Tax Fairness is a non profit organization whose aim is to raise public awareness of crucial issues of tax justice and to change the way Canadians talk about tax. We advocate for fair and progressive government policies aimed at building a strong and sustainable economy, reducing inequalities and funding quality public services. Canadians for Tax Fairness believes in the development and implementation of a tax system, based on ability to pay, to fund the comprehensive, high-quality network of public services, and programs required to meet our social, economic and environmental needs in the 21st century.

About Publish What You Pay Canada



Publish What You Pay Canada is part of the global Publish What You Pay movement of civil society organisations working to make oil, gas and mineral governance open, accountable, sustainable, equitable and responsive to all people. As a movement, we envision a world where all people benefit from their natural resources, today and tomorrow. Launched in 2008, PWYP-Canada today numbers 15 members and realises its work through advocacy, research and public outreach to promote and achieve enhanced disclosure of information about extractive industry operations, with an emphasis on revenues and contracts.

Executive Summary

Criminals need homes too. It might not come as a surprise to hear that local crooks buy their houses with the proceeds of crime. But property is also an appealing asset class for individuals looking to launder and invest large sums of dirty cash, and there are few countries quite as welcoming as Canada.

As an investment, real estate is relatively stable and offers significant returns – characteristics that are universally attractive. However, the Canadian real estate market has other conditions that particularly appeal to money launderers: weak regulation, lax enforcement, and the ability to hide in plain sight through anonymous ownership structures.

Opaque ownership has been cited as the most important single factor facilitating money laundering in real estate.¹ Canada's property registers allow beneficial owners to remain anonymous by using companies, trusts, or nominees (straw men) to hold title to property. Using one or more of those three structures, individuals can hide their ownership from law enforcement, tax authorities, and private sector entities with anti-money laundering (AML) obligations.²

Money launderers use that anonymity to take advantage of significant gaps in Canadian AML regulations in the real estate sector. Reporting entities such as real estate agents, brokers and developers are not required to conduct beneficial ownership or source-of-funds checks on buyers, and transactions can be structured through lawyers who are exempt from AML legislation. Where they do have obligations, real estate industry players have a dismal record of compliance – something Canada's regulatory agencies have done little to remedy.

To make matters worse, our enforcement record advertises that laundering dirty money is a low-risk endeavour in Canada. Money laundering cases rarely go to trial, and often collapse when they do. This appears to have contributed to a rise in professional money laundering operations across the country.

Domestic criminals have known for decades that Canada is 'la la land' for financial crime,³ but word has spread internationally too. As the case studies in this report show, Canadian real estate has attracted the attention and money of corrupt government officials and organized crime syndicates from across the globe.

Opaque Ownership in the Greater Toronto Area

To determine the prevalence of opaque ownership in Canada's largest housing market, we analyzed more than 1.4 million residential property transactions in the Greater Toronto Area (GTA) dating back to 2008. Because there is no data on nominee owners and trusts, our analysis focused on properties owned through corporate entities.

Key Findings

- **Corporate entities have acquired \$28.4 billion in GTA housing since 2008.** The vast majority of those companies are privately owned, with no information on their beneficial owners.
- **\$9.8 billion in GTA housing was acquired by companies through cash purchases during that period,** much of it bypassing statutory AML checks on source of funds and beneficial owners.⁴
- **From 2008 to 2018 more than \$25 billion in residential mortgages⁵ in the GTA were provided by unregulated lenders⁶ with no AML reporting obligations.** Nearly 50% of those unregulated mortgages were issued to corporate buyers, despite corporate purchases accounting for less than 4% of total transactions.
- **Opaque ownership is most prevalent in the luxury segment of the market,** with more than half of homes above \$7 million owned through companies.

Between 2008 and 2018, \$28.4 billion in residential property across the GTA was acquired through companies. Approximately 22,920⁷ entities bought 51,498 properties, accounting for nearly 4% of total residential transactions during that period. The vast majority of those companies are privately owned entities with no available information on their beneficial owners.⁸

Corporate ownership becomes much more common with high-value real estate. In this respect, buyers of luxury real estate in the GTA behave much like their counterparts in other cities like London, New York and Vancouver. As **Figure 1** shows, the more expensive a property, the more likely it is owned through a company.⁹ Only 3.5% of residential properties bought for under \$1 million have corporate owners. Yet if a home was purchased for \$7-10 million, there is a 54% chance it is owned through a company.

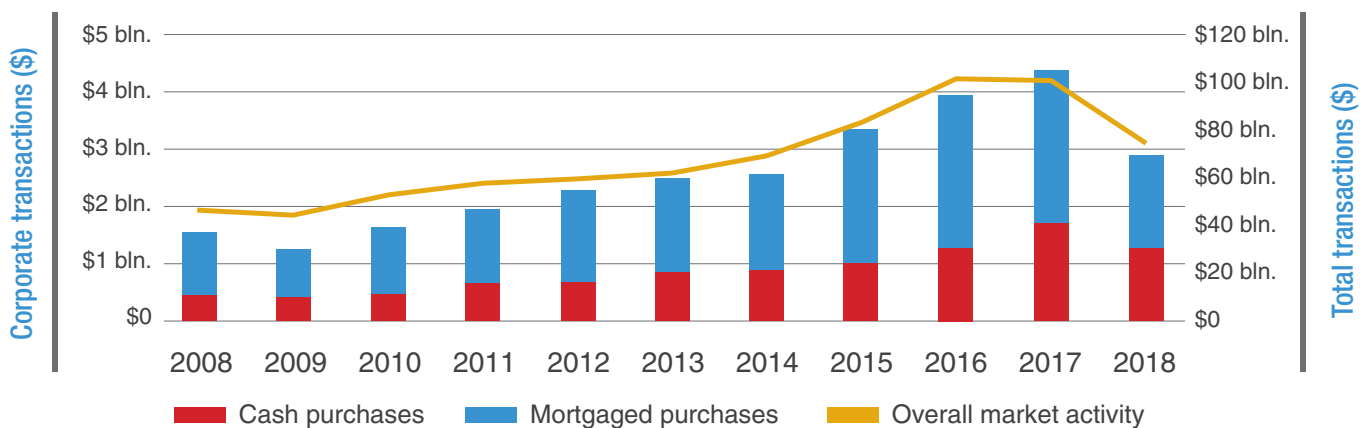
Figure 1: Corporate Ownership by Property Value



Cash Purchases

The data shows that companies are far less likely than individuals to take out mortgages. Of the 51,498 properties acquired through corporate entities between 2008 and 2018, 35% percent were cash purchases (i.e. had no mortgages). That compares to 11% of properties bought by individuals. Cash purchases by companies have been rising steadily over the past decade and accounted for nearly half of corporate purchases in 2018 (see **Figure 2**).

Figure 2: Corporate Purchases: Cash v Mortgaged



Buying property without a mortgage enables a buyer to avoid the scrutiny of financial institutions with statutory AML obligations. Funds may transit through one or more regulated entities, but they are unlikely to identify suspicious activity from such limited information.

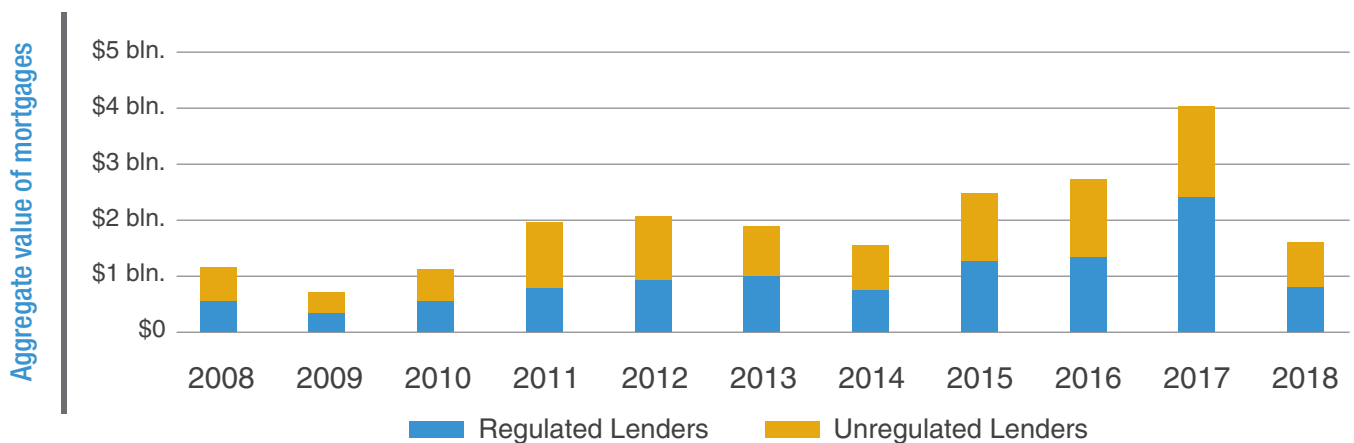
This is precisely the type of activity that the US Treasury Department recently tried to curb through Geographic Targeting Orders (GTO, see page 46), which require the beneficial owners of companies paying cash for residential property in some US cities to identify themselves to the government. That information is not shared with the public, and GTOs did not impact the limited liability or legal tax advantages of holding property through a company. Nevertheless, within months of the regulation taking effect in 2016, cash purchases by companies dropped by 70-95%.¹⁰ The dramatic impact of GTOs suggests that many buyers who make cash purchases through companies do so in order to conceal their identities from law enforcement and tax authorities.

Unregulated Lending

When corporate entities do take out mortgages, they often borrow from unregulated private lenders. Unregulated lending accounts for 49% of all mortgages taken out by companies across the GTA in the last 10 years, compared to 3% of borrowing by individual buying a home. As a reminder, private lenders are not covered under Canada’s AML regime and do not need to conduct beneficial ownership or source-of-funds checks on customers.

Corporate buyers have taken out \$10.4 billion in mortgages from unregulated lenders since 2008. Those lenders have provided a further \$14.7 billion in mortgages to individuals purchasing homes in the GTA. In all, \$25 billion in lending has bypassed the AML controls (and mortgage stress tests) of regulated financial institutions.

Figure 3: Borrowing by Corporate Buyers



Corporate buyers that take out mortgages tend to be much more leveraged than their individual counterparts. The average loan-to-value (LTV) ratio for individuals has remained around 75% over the past 10 years. Meanwhile, the average mortgage taken out by a corporate buyer has ranged from 90% to 150% of purchase price. These high LTV ratios could reflect readvanceable mortgages¹¹ used to finance development projects - which can appear on title in full as being much larger than the purchase price – but could also include borrowing with the intention of washing dirty money through repayment.¹²





Policy Solutions

The good news is that opaque ownership and the other conditions that make our real estate markets vulnerable to money laundering can be addressed with relatively straightforward policy reforms. For starters, Canada's federal, provincial and territorial governments should:

- Require beneficial owners of real estate to identify themselves to land title authorities, and make that information available to the public in an open data format. Disclosure of beneficial ownership should be a prerequisite for any property transfer.
- Require all companies and trusts registered or transacting in Canada to identify their beneficial owners, and publish that information in a central publicly available registry.
- Amend the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* and its regulations to include other real estate-related businesses such as unregulated mortgage lenders, mortgage brokers, land registries, title and mortgage insurers, 'for sale by owner' companies, promoters and redevelopers.
- Require all Designated Non-Financial Businesses and Professions (DNFBPs) to collect and verify beneficial owners, and conduct due diligence on Politically Exposed Persons (PEPs) and Heads of International Organizations (HIOs).
- Develop made-in-Canada versions of Geographic Targeting Orders and Unexplained Wealth Orders to provide authorities with new tools to gather intelligence and seize unlawfully acquired real estate.

References

- 1 Terrorism, Transnational Crime and Corruption Center at the Schar School of Policy and Government of George Mason University, "[Money laundering in real estate](#)" [conference report](#), March 25, 2018, (p.1).
- 2 Transparency International, "[Doors Wide Open: Corruption and Real Estate in Four Key Markets](#)," March 2017.
- 3 TI Canada, "[No Reason to Hide: Unmasking the Anonymous Owners of Canadian Companies and Trusts](#)," December 2016, (p. 22).
- 4 \$20.2 billion is the sum of private mortgages and cash purchases by corporate entities. Private lenders have no obligations to conduct AML due diligence or report suspicious activity to FINTRAC, though a small number may do so voluntarily. In the case of non-mortgaged purchases, funds are likely to transit through the accounts of one or more regulated financial institutions, triggering obligations for reporting suspicious transactions, international wire transfers and cash transactions over \$10,000. However, beneficial ownership checks will generally only be carried out when a new customer is onboarded or if the customer is deemed to be high risk.
- 5 Know-your-customer checks (including beneficial ownership identification) would be conducted by financial service providers when an account was opened, but those checks do not need to be done by agents, brokers, lawyers or other DNFBPs involved in the real estate transaction.
- 6 The data analyzed for this study includes all mortgages registered within 30 days of a transaction. It does not include refinancing, home equity loans, construction loans or other charges registered on title. The amounts registered on title may in some cases include unspent lines of credit or readvanceable mortgages issued to developers where some of the funds will be released once certain milestones are met. The aggregate nature of the data underpinning this research prevents us from isolating those mortgages.
- 7 We define unregulated lenders as any mortgage provider that is not covered by the PCMLTFA. Regulated lenders include banks, credit unions, life insurance companies and trust companies.
- 8 This includes 10,781 named corporations and an estimate of 12,140 numbered companies. The true figure for numbered companies may be lower, however, as 12,140 reflects the number of transactions and not the number of title-holding entities. Some entities may hold multiple titles, which would reduce the overall number.
- 9 Few of the 10,781 named corporate entities that acquired GTA residential property in the last decade are publicly traded. While some of the privately owned entities may have disclosed beneficial ownership information to their financial institutions in the course of acquiring property, but that information is not public.
- 10 The dataset we analyzed only included residential properties with transaction values of \$10 million or less. This was done in an effort to eliminate from the dataset large apartment blocks and major residential developments owned by property management companies or developers.
- 11 Nicholas Nehamas and Rene Rodriguez, "[How dirty is Miami real estate? Secret home deals dried up when feds started watching](#)," *Miami Herald*, July 20, 2018.
- 12 In the context of development projects, readvanceable mortgages typically involve loaned funds that are released in tranches when certain milestones are reached. The full amount of the mortgage may be registered on title around the time of purchase, though much of the loan is held back. This can distort the LTV ratio when the undeveloped property was purchased at a fraction of the cost of the overall project.





Follow us on Twitter @TI_Canada



/company/transparency-intl-canada



/TransparencyInternationalCanada

transparencycanada.ca



Follow us on Twitter @CdnTaxFairness

taxfairness.ca



Follow us on Twitter @PWYPCanada

pwyp.ca