



REAL PROPERTY

Understanding Legal Issues, Protection Measures, and the Role of Mediation

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Real property represents a significant investment for individuals and businesses which includes land and any structures permanently attached to it. However, navigating the complexities of real estate transactions and ownership can expose individuals to various legal issues and risks. Understanding these challenges and implementing protection measures is crucial for safeguarding real property interests. Moreover, mediation offers a constructive avenue for resolving disputes and conflicts that may arise in real estate transactions. This article explores the legal issues surrounding real property, provides guidance on protecting oneself, and discusses the benefits of mediation in resolving real estate disputes.

Real Estate ownership has always been the cornerstone of the American dream. For first-time homeowners, it is a sign of socioeconomic status. Although real estate ownership encompasses many benefits, transactions can give rise to several legal issues, including title defects, such as errors in public records, undisclosed liens, or boundary disputes, which can cloud the ownership of real property and lead to legal disputes.

Legal disputes with contracts may arise from breaches of purchase agreements, lease agreements, or contracts for deeds, including issues related to non-performance, misrepresentation, or failure to disclose material defects.



Compliance issues with zoning laws, building codes, and land use regulations are essential for property owners and developers to avoid legal penalties and ensure the lawful use and development of real property. Issues related to easements, rights-of-way, or encroachments onto neighboring properties can impact the use and enjoyment of real property and lead to boundary disputes. Real property may become subject to foreclosure or bankruptcy proceedings due to default on mortgage payments, resulting in legal challenges for property owners and lenders.



KNOW BEFORE INVESTING OR BUYING

Foreclosure Exploitation
Rental Fraud
Title Transfers
Flipping Scams
Equity Stripping
Phantom Assistance
Wire Fraud

Verify Ownership
Research Property & Seller
Beware of Unrealistic Deals
Document Everything
Avoid Upfront Fees
Question All Payments
In Person Transactions Only

Seek Legal Advice Throughout Your Journey

Real property investments are susceptible to scams that encompass a variety of fraudulent schemes targeting real estate transactions and property ownership. These scams exploit vulnerabilities in the real estate market and the trust of individuals involved in buying, selling, or renting properties that have totaled more than \$350 million, a 64% increase in 2022 alone according to the FBI[i].

Scammers target homeowners facing foreclosure by promising to help them avoid foreclosure and keep their homes. These scammers may charge upfront fees for their services but ultimately fail to provide any meaningful assistance, leaving homeowners in even worse financial situations. In rental scams, fraudsters pose as landlords or property managers advertising rental properties that they do not own or have no authority to rent. They collect deposits or rent payments from unsuspecting tenants before disappearing, leaving renters without a place to live and out of pocket.

Title fraud is a scam that occurs when a scammer fraudulently transfers ownership of a property into their name or takes out a mortgage against the property without the owner's knowledge. This type of fraud can be particularly devastating for property owners who may only discover the fraud when attempting to sell or refinance their property. Whereas flipping scams involve deceptive practices by real estate investors who purchase properties at below-market prices, often from distressed sellers, and then quickly resell them at inflated prices to unsuspecting buyers. These scams may involve misrepresenting the property's condition or market value to artificially inflate the selling price.



[i] [Don't Get Duped! 5 Common Real Estate Scams and How To Avoid Them \(realtor.com\)](https://www.realtor.com/news/articles/dont-get-duped-5-common-real-estate-scams-and-how-to-avoid-them/)



To protect against real property scams, individuals should exercise caution when entering into real estate transactions, conduct thorough research on properties and individuals involved, and seek advice from trusted professionals, such as real estate agents, attorneys, and financial advisors. Additionally, reporting any suspected scams to the appropriate authorities can help prevent others from falling victim to similar schemes^[ii].

To protect themselves from real property transactions and scams, individuals can take several precautions. Always perform due diligence, including title searches, surveys, and inspections, to identify any potential issues or defects affecting the property. Review purchase agreements, lease agreements, and other contracts related to real estate transactions carefully to ensure clarity, completeness, and compliance with legal requirements. Property owners should purchase title insurance to protect against title defects, liens, or other encumbrances that may arise after the property is purchased. As a best practice, seek guidance from real estate attorneys, title companies, or legal professionals experienced in real property transactions to navigate complex legal issues and mitigate risks.

It is critical to keep thorough records of all communications, transactions, and agreements related

related to real property transactions, including contracts, correspondence, and receipts. Protecting yourself from real property scams requires vigilance, due diligence, and awareness of common fraudulent tactics.

·**Verify Ownership and Legitimacy:** Before entering into any real estate transaction, verify the ownership of the property by conducting a title search or consulting with a reputable title company. Ensure that the person claiming to be the owner or seller has the legal right to sell the property.

·**Research the Property and Seller:** Thoroughly research the property and seller to verify their legitimacy. Check online listings, property records, and public databases to confirm details about the property and the seller's history. Beware of sellers who pressure you to make rushed decisions or provide incomplete or inconsistent information.



^[iii] [10 Real Estate Scams and Fake Home Buying Frauds to Watch Out For \(moneycrashers.com\)](https://moneycrashers.com/10-Real-Estate-Scams-and-Fake-Home-Buying-Frauds-to-Watch-Out-For/)

·**Be Cautious of Unrealistic Deals:** Exercise caution if a deal seems too good to be true. Unrealistically low prices or unusually high returns on investment may be red flags indicating a potential scam. Scrutinize all aspects of the transaction and seek advice from real estate professionals if necessary.

·**Review All Documentation Carefully:** Carefully review all contracts, agreements, and documentation related to the property transaction. Pay attention to terms, conditions, and any hidden fees or clauses that may be disadvantageous. Consider consulting with a real estate attorney to ensure that you fully understand the terms and implications of the transaction.

·**Avoid Upfront Fees or Unusual Payment Requests:** Be wary of sellers or intermediaries who request upfront fees or payments before completing due diligence or finalizing the transaction. Avoid making payments through unconventional methods such as wire transfers or cryptocurrency, which are more difficult to trace and recover in case of fraud.

·**Visit the Property in Person:** Whenever possible, visit the property in person to assess its condition, location, and surrounding neighborhood. Avoid making decisions based solely on online listings or

photographs, as they may be misleading or manipulated.

·**Trust Your Instincts and Seek Advice:** Trust your instincts if something feels off or too good to be true. If you have doubts or concerns about a property transaction, seek advice from trusted real estate professionals, attorneys, or financial advisors. They can provide guidance and help you navigate potential risks effectively.

·**Report Suspected Scams:** If you encounter suspicious or fraudulent activity related to a real estate transaction, report it to the appropriate authorities, such as local law enforcement, the Federal Trade Commission (FTC), or state real estate regulatory agencies. Reporting scams can help prevent others from falling victim to similar schemes.[iii]

By taking proactive measures, conducting thorough research, and seeking professional advice, you can minimize the risk of falling victim to real property scams and protect your interests in real estate transactions.

[\[iii\] How To Avoid These 7 Real Estate Scams | Rocket Mortgage](#)





The Role of Mediation in Resolving Real Estate Disputes

When disputes arise in real estate transactions, mediation offers a constructive and efficient process for resolving conflicts and reaching mutually acceptable solutions. In mediation a trained mediator facilitates communication and negotiation between parties, helping them identify interests, explore options, and develop solutions to resolve their disputes.

Mediation proceedings are confidential and conducted voluntarily, allowing parties to discuss sensitive issues openly and explore settlement options without fear of admissions being used against them in court. A Mediator focuses on preserving relationships and promoting understanding between parties, which can be especially important in real estate disputes where ongoing relationships between buyers, sellers, agents, and lenders may be at stake. That allows parties to tailor solutions to their unique needs and interests, rather than relying on rigid legal remedies imposed by a court. Most importantly, mediation can lead to quicker and more cost-effective resolution of real estate disputes compared to traditional litigation, saving time, money, and emotional energy for all parties involved.

Real property ownership and transactions present individuals with significant legal challenges and risks. By understanding the legal issues surrounding real

property, implementing protection measures, and utilizing mediation to resolve disputes, individuals can safeguard their real estate interests and achieve fair and equitable outcomes in real estate transactions. Mediation offers a constructive and collaborative process for addressing real estate disputes, promoting communication, and reaching mutually acceptable solutions that preserve relationships and protect the interests of all parties involved.



**For more information about Civil Mediation please visit
www.MyMediator.JeannieSantiago.com**

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