Beware of scammers spruiking property

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Recently, I have been doing a lot of work involving property scams. A current case is a good example of how they operate.

At the time that she got involved my client was a 58-year-old nurse. On the recommendation of a friend, who was paid a finder's fee, my client contacted a property investment company. She was eventually persuaded to buy a house and land package on the outskirts of Townsville.

The finance was arranged by a mortgage broker who travelled from the Gold Coast to Perth. The application lodged by the broker overstated my client's income and understated her expenses, which allowed her to get a loan that she could never afford to repay. The property has proven to be a terrible investment and my client now risks losing her family home.

A few lessons can be drawn from this. The first is to be very wary of this style of business and to be particularly wary when people come from interstate to meet with you. Many of these businesses are acting as fronts for property developers looking to offload properties on gullible investors.

These developers pay substantial commissions which incentivise salespeople and their associated mortgage brokers to say and do whatever it takes to get a sale. Some of these businesses masquerade as financial planning firms so as to attract clients but the only advice that they actually provide is to make a property investment.

The second is to be especially wary about investing interstate. These scams usually involve property in a semi-rural area in Queensland or Tasmania. If you want to buy a property there are plenty for sale in WA in areas that you could actually visit.

The third is to be sceptical about projections about price increases and rental returns. These are almost always nonsense. Rental returns are a key issue. If projections about them are wrong you may not be able to pay interest on the loan.

Last you must make sure that the information in your loan application is correct. Lending criteria are put in place for a reason. Do not sign forms without reading them. You, not your mortgage broker, will have to repay the loan out of your income and whatever rent you receive.

Fortunately victims of these scams have options open to them to get compensation. Depending on the circumstances, they may be able to make a complaint to the Australian Financial Complaints Authority against the property investment company, the mortgage broker and the lender. Until June 30, complaints can be made about loans that were made from January 1, 2008. After 30 June, there is a six-year limit from when the investor realised that they had suffered a loss to make a complaint.

These scams raise an important issue about the regulation of property investment in Australia.

Financial advice such as advice about shares is heavily regulated. Financial advisers have to pass a competency examination and be properly trained and supervised. Financial advice can't be provided without holding a licence which includes holding professional indemnity insurance.

Incompetent or unscrupulous advisers face the very real risk that they will be banned by the Australian Securities and Investments Commission.

In contrast advice about property investments is unregulated. People providing advice about property investments do not need to be licensed, don't have to hold any qualifications or have professional indemnity insurance and are not under obligation to act in the best interests of their clients.

There is no government authority like ASIC that regulates their activities. Very big commissions are received by advisers from property developers which causes poor advice to be provided.

Given the size of the property advisory industry and the poor outcomes being achieved for clients, advice about property investment needs to be regulated in the same way and to the same standard as financial advice.

David Huggins is a lawyer who specialises in financial disputes