



November 8, 2005

Sharon Matthews  
Vice President, Insurance  
Canada Mortgage and Housing Corporation  
700 Montreal Road  
Ottawa, Ontario K1A 0P7

Dear Ms. Matthews:

**Re: CMHC Title Insurance Proposal**

Thank you for the opportunity to meet with you and other members of your team on October 24, to discuss your proposal to include title insurance coverage on CHMC insured mortgages. The frank discussions flushed out a number of concerns for the Canadian Bar Association. We remain convinced that a national program to provide title insurance on CMHC insured mortgages is simply not in the best interest of Canadian consumers.

By including title insurance as part of its mortgage insurance coverage — even if it were not “mandatory” — CMHC would give it a strong stamp of approval. While there may be instances where title insurance is indicated, it must be an informed decision between the purchaser and their legal advisor. It should not be used in every transaction. Title insurance favours papering over title problems rather than rectifying them prior to purchase. This has serious implications for the integrity of the public land registry systems.

The proposal fails to reflect the current situation in Canada — that, in many jurisdictions, title is guaranteed by government as part of the land titles system — or that title protection is afforded to consumers by Canada’s lawyers and Quebec’s notaries.

In our view, imposing title insurance to prevent against loss for mortgage fraud is unnecessary, as the incidence of mortgage fraud is relatively low across Canada. The best protections remain involvement by a legal advisor in the transaction from start to finish to conduct the full array of due diligence, and increased awareness of fraud prevention amongst lenders and brokers.

Your proposal will result in the proliferation of unnecessary and superfluous title insurance policies. Saying these are “free” simply disguises the cost in mortgage insurance premiums, for which the consumer ultimately pays.

Should CMHC decide to proceed with its proposal, we would appreciate a further opportunity to discuss its implementation and delivery.

As an industry leader and innovator, CMHC’s adoption of title insurance as proposed would endorse the practice and support a move away from lawyer or Quebec notary involvement in the real estate transaction. In our view, this would be to the detriment of CHMC’s stated purpose of protection of the public.

Yours very truly,

*(Original signed by Brian Tabor)*

Brian A. Tabor, Q.C.