

# Vancouver Sun

## Politicians dithered before Eron collapse: Documents filed for proposed lawsuit show government knew in 1990 that changes to act were needed to protect consumers.

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The British Columbia government recognized in 1990 -- after the collapse of Newport Realty Inc. in Victoria -- that the Mortgage Brokers Act needed to be beefed up to protect consumers.

But the government was still sitting on proposed amendments to the act in October 1997 when investors were hit with a much larger calamity -- the collapse of Eron Mortgage Corp.

The story of government deferral and delay is told in documents filed by Eron investors in support of a proposed class-action lawsuit against the B.C. government and the registrar of mortgage brokers, Robert Hobart.

About 3,200 people, mostly B.C. residents, loaned \$222 million to projects sponsored by Eron. They were given little or no details of their investments.

In many cases, Eron president Brian Slobogian and vice-president Frank Biller had personal interests in the projects, creating serious conflicts of interest. In some instances, they diverted funds to other projects, or used funds for personal purposes.

Unknown to investors, many projects were not economic. It later became evident that Eron was running a kind of ponzi scheme, paying earlier investors with money raised from later investors.

Hobart did not intervene until Oct. 3, 1997 when he suspended Eron's licence and forced the company into receivership. Investors are expected to recover, on average, about 18 cents on the dollar.

One of those investors, North Vancouver realtor Mary Frances Cooper, has filed a lawsuit under the Class Proceedings Act. Her lawyer, David Church, is attempting to get the lawsuit certified as a class action.

Documents that Church has so far obtained from the B.C. government show that politicians and bureaucrats were piqued by the collapse of Newport Realty, which went bankrupt in 1987.

About 300 investors lost \$3.5 million and Newport's principal, Kenneth Lawson, was convicted of fraud and sentenced to three years in jail.

The case highlighted the fact small investors were becoming increasingly involved in more complex mortgage investments, and needed more protection from unscrupulous operators.

According to documents filed in the Cooper case, then-finance minister Mel Couvelier released a discussion paper on proposed amendments to the Mortgage Brokers Act on Jan. 22, 1990.

"The proposed changes would provide increased protection for investors in mortgage funds," he said in a release.

Syndicated mortgages that didn't meet specific criteria would be treated as securities and could be sold only in compliance with registration and prospectus requirements of the Securities Act.

The registrar of mortgage brokers would also be given greater enforcement powers, including the ability to impose fines and stop unlicensed activity by mortgage brokers.

Ministry staff assigned the proposed amendments top priority for the spring 1990 legislative session, but drafting was not completed in time and the matter was deferred to spring 1991.

The next year, the proposed amendments were once again accorded top priority: "A recent case [Newport] has shown that mortgage investors require additional protection and that regulators do not have adequate powers to deal with unsound mortgage brokers," a ministry briefing note said.

However, the amendments were once again deferred to 1992, then to and 1993.

In a July, 1994 briefing note, finance ministry staff noted that the Mortgage Brokers Act was passed in 1971 and hadn't undergone significant revision since then.

"As a result, the current mortgage brokers act and regulations are out of date and deficient in numerous areas, such as the lack of full disclosure to potential mortgage investors."

Referring to the Newport fiasco, the briefing note stated: "The public could reasonably expect government to have a duty to rectify these problems at the earliest opportunity."

It further noted: "While there may be no immediate repercussions from postponing legislative reform, difficulties will almost certainly occur in future."

It continued: ``The government has known for some time that the existing legislation is flawed and it would seem that delaying any action to deal with these matters could lead to accusations of procrastination, charges of negligence or demands for compensation."

Despite these warnings, nothing was done. Ministry staff became increasingly concerned about the lack of investor protection.

On March 24, 1997, Jill Sinkwich, a policy adviser in the finance ministry, wrote a letter to her counterpart of the B.C. Securities Commission noting that the proposed amendments had not been approved for the 1997 legislative session.

She said that, as an alternative, her branch supported the idea of amending a provision of the Securities Act that exempted mortgage brokers from registration and prospectus requirements.

Once again, nothing was done.

On Oct. 3, 1997 -- the day Eron's licence was suspended -- Carol Anne Rolf of the finance ministry's policy section said she had just learned the Financial Institutions Commission would be taking regulatory action against Eron.

She noted that ``investors, particularly the unsophisticated and elderly, are increasingly attracted to mortgages because they look safe and have higher interest rates than deposits/GICs etc.

``These recent events suggests there may be even more problems in future and the absence of investor protection provisions will be increasingly difficult to justify. Most other jurisdictions have provisions for investors."

By then, however, it was too late for Eron investors.