

FATAWA MORTGAGE 2013-2015

From: Dr. Muzammil

Sent: Wednesday, March 16, 2011

Question: Purchasing a home

Dear Dr. Monzer,

Assalam 'Alaykum wa Rahmatullah

I hope you and family are doing well. Would appreciate receiving your response to the following question.

With best wishes and salams,

Muzammil

From: Dima

Assalam Alaykum Dr. Siddiqi,

My husband and I are looking to purchase a home in Fountain Valley. After living here for 3 years and moving 4 times (due to flooding or landlords selling the property), we have decided that we would like to buy a house. My question is regarding the loan process. We have already been approved through the Islamic loan company Whittier bank. Their fees and payment are somewhat higher than a conventional interest loan, about \$500 more a month. This is fine, for paying extra knowing that this is Shari'ah compliant is a better option. However, my question to you is regarding a home we have viewed that is owned by Wells Fargo Bank. The agent for this home suggested that we apply for a loan through Wells Fargo Bank because they believe the rates are better there and we could save money. So, if we are buying a bank owned home, where we are paying them for their home, would it be ok in this case to use a conventional interest loan? I completely understand the concept of Islamic loans and how interest loans mean you are paying the bank money for money they have lent you. But in this case, since they own the home, would it be different? I am paying them, just as I would pay back the Islamic company who would own the house, a profit for lending us the money. I know this can be quite technical, but I wanted to check because this could save us at least \$500 a month.

Thank you very much for your advice.

Assalam Alaykum,

Dima

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Dr. Siddiqi and Sr. Mrs. Dima

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

First when you take finance from any company you should be sure that the contract you are signing is in fact Shari'ah compliant. Two criteria helps in this regard: 1) if the contract (not only the advertisement of the company) says buy and sell to you at a marked up price or it says "loan and interest." If the letter it is then Riba based even if the company gives another verbal or propaganda explanation. 2) who is their Shari'ah scholar who chartered and /or reviewed their contract. If you trust that name go by what you trust.

Second, in this specific case I see no reason why you should pay higher for any company than what you get from a conventional bank. Why should a company that says it offers Islamic

finance charge more than others and they all go back to get finance from Fannie Mai and Freddie Mac? I wouldn't accept that our Shari'ah requires us to pay additional \$500 a month as a price of our religion! Why should we accept this kind of exploitation? The fatwa of the Second International Conference on Fiqh that was held in Detroit implies that if Islamic finance is offered at same cost not at a higher cost. This is another issue in addition to the criteria of the Islamic contract. But if the contract you are offered failed the above mentioned criteria then you can apply the mentioned Fatwa.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Esam, OnIslam.net

Sent: Wednesday, March 20, 2013 12

Question: breaking a conventional mortgage

Salam Ustazna,

Could you kindly reply to this sister?

As Salamu Alaykum

Can you please advise me of an Islamic option available in Canada ?

Can you please advise me what to do when we bought our house we looked at it has an investment . We entered into a mortgage . And now my husband wants to break the mortgage contract . And will not sign the renewal paper .

I will be forced to pay off this debt on my own. I know my husband is acting on what he believes is right. However this is causing extreme stress in our marriage . And I want to provide our kids with a safe place to live . With access to good schools. And for them not to be exposed to the drug's use that are in a lot of the area's where we would be able to rent a house. Our mortgage is much lower than rental units available.

Please help us find a solution that satisfy both our needs

Thank you

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Sr.

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Since you have already bought the house and live under the mortgage, I believe it is wrong now to break it if the rental areas do not provide adequately acceptable schooling, security, services and other amenities. Your case seems to be covered by the Fatwa that it is permissible to have a conventional mortgage when Islamic finance is not available. If your husband insist on that, he may have good reason or he may not have adequate information about the importance of relaxation of prohibition in case when its objective is not been fulfilled and there are issues of real importance to a Muslim family.

I suggest that under your explanation you should go ahead and continue living in the house that provides you with safely and good schooling, if your husband is not yet convinced please have him write me and I will see his point of view and how the Shari'ah goes about it.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: On Islam Fatwa Desk:
Sent: Dec. 30, 2012

Question: Buying a House

Can you, please, advise if it is halal to buy a home with a mortgage? It seems that a lot of "Islamic mortgages" are the same but with higher interest rates. And the only difference is calling it investment. But I do not understand the difference but the economic disadvantage.

My Answer:

Dear Sr. Zahida,

The difference is big and important, but not all those who claim Islamic or with no Riba are honest to the word.

We need to understand that Shari`ah does not prohibit finance for profit, it prohibits any increase to a debt. The debt in fact does not produce any increment and does not give birth to a baby debt.

Finance by means of lease and sale on credit (installments) at higher price is permissible in Islam.

Some companies claim they give Islamic but you look at the contract and find it pure loan and interest. Not sale and profit and not lease with purchase.

Finally, Islamic companies which give higher prices are also cheaters; the Islamic finance should not cost more than the market.

Allah Almighty knows best.

From: Esam, OnIslam.net
Sent: Tuesday, March 19, 2013

Question: Renting my house which is bought on mortgage

Salam Ustazna,

Could you kindly reply to the following question from Luqman – Ireland

As-Salamu `Alaykum. May almighty Allah reward your great efforts in the deen. I'm in a dilemma which is bothering me a lot; my family (wife & kids) relocated to the UK few years ago and I am in the process of joining them too. I can't sell my house due to the recession (negative equity on my house), also if I let it out the amount, I'll be receiving in rent will not be up to my mortgage repayment (less than half).

I am now left with the following options;

1. Rent the house out and be paying interest-only hoping the situation in the country changes in the future to be able to sell.
2. Give the key back to the bank when I am finally leaving and declare bankruptcy as I'll not be in a position to make any additional payment from the country am moving to.
3. Just default on the mortgage by handing over the key and document to the bank and walk away.

The house in question is a family home which we bought based on us being here for the long-term but events changed when my wife was becoming unhappy and business collapsing.

Please, I need your advice on the above points or any other way as am desperate to re-join my family has the toll of travelling & her alone with the kids is telling.

Also what is the ruling regarding paying-interest only on my mortgage in my present circumstances in order for me to meet up my financial commitments to my family which am currently struggling with till I relocate to join them. Was-Salam `Alaykum

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu `ala Sayyidina Muhammad, wa `ala Aalihi wa Sahbihi Ajma'in

Dear Br. Luqman

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I don't see much difference between the three solution and I hate to look into the declaration of bankruptcy because it may hurt you more in the future. Walking out or continue paying interest only (if the bank accepts) would be lesser of an evil under the circumstances. besides, since you are paying interest anyway on it there is no remaining difference between paying interest only or paying installments which include partial principal payment. I suggest to make the choice between these two alternatives according to your market expectation.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: houssam

Sent: Friday, April 19, 2013

Question: Mortgage in the West

Al Salam w Alaykum Dr. Monzer ,

My name is Houssam El Haj , I am from Calgary Alberta Canada . My problem is the problem of thousands of Muslims in the west which the Owning a house so you can raise a family with a stability in a secure and clean neighborhood .

I have went through the fatwas you gave on onislam.net and forgive my extra caution regarding this matter , as you know it is not an easy sin ,in fact no sin is easy but this one is one of the seventh greatest ones . How come your point of view differs from some other sheikhs . For example , in Calgary we have few sheikhs , One of them told me it is definitely not permissible , the other one said " well , it is case by case fatwa " . The sheikhs overseas , take Egyptian sheikhs or Saudi sheikhs for example they say it is not permissible and that's it . Now , the definition of necessity is the issue which there is a debate about . How do we define necessity ?? is it death or life threatening condition or it is just the fact that if there is a harm to the Muslim financially and spiritually . Can you please refer me to the scholar's opinion which you based your fatwa on

I apologize again and thank you for taking the time to read and reply to my email .

Regards ,

Houssam

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu `ala Sayyidina Muhammad, wa `ala Aalihi wa Sahbihi Ajma'in

Dear Br. HUSSAM

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I don't accept to discuss this matter more than you have done. This is the issue and you have to weigh views and opinions and make your own judgment for yourself.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Adam

Sent: Sunday, May 19, 2013

Question: Advice on Home Financing

Assalam Alaykum Sheikh Monzer,

Thank you for the response. It was extremely helpful. May Allah reward you. I'd appreciate if you could elaborate on a few parts of your response InShaAllah:

- Regarding "the Muslim family needs a house to live in", I'm currently married awaiting my wedding InShaAllah, following this my wife and I will be starting our family InShaAllah, does this suffice a need, a bit more detail would be appreciated.

Each person determines hi/her own needs. No one may determine to others because people vary in valuating different elements. Think of it with your wife and see if you really need to live in owned house.

- Islamic financing, such as Guidance Financial is available in my area, do you have any recommendations as to what Islamic financing I should use InShaAllah?

Guidance financial contract is Shari'ah compliant. I studied it and it is approved by respectable scholars. I personally use it.

- Refinancing could be difficult for me at the current time, as the settlement fees are high and I may not be able to pay it in the short term, would it be acceptable if I delayed refinancing to Islamic Financing?

Now that you are under an interest contract try to pay it as fast as you can and do not do such a thing again, make with it Istighfar and goods actions in the community and in charity.

- My assumption is that, even if refinancing to Islamic financing will make things more difficult on me financially, I'm still obligated to do this regardless, could you please verify this for me?

If you bear that, this is a personal decision but Shari'ah does not require you to put an extra burden for the move now or if the Islamic is substantially more expensive than conventional.

We must not be a prey to a financial shark even if he presents a Shari'ah compliant contract.

Jazaka Allah Khairan Sheikh Monzer, your help has been very valuable to me and my family.

-Adam

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Adam

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Please see my answers below your questions:

Wa Allah u A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Attique

Sent: Wednesday, June 26, 2013

Question: Clarification on buying a house on conventional mortgage

As-Salamu 'Alaykum wa Rahmatullah wa Barakatuh. Thank you for taking the time to explain, may Allah reward you for this and guide us all Insha'Allah. I have attached the full documents for you to review after taking permission from the brother who runs this program because I needed to sign a NDA for these.

Please, look into these may be this will help in coming to a better conclusion InShaAllah.

Also then please advise in my situation that now I have the mortgage and I will not say I did not know it is wrong but did not know and realize the depth of the sin.

I am married and have 4 children 3 sons and one daughter. I moved to Canada 3 years ago and we rented a house and then later moved into the basement of the same house and finally my business partner opted to get the mortgage on his name as I still do not qualify because Canadian Status.

I do not have any assets or neither to I intend in making any money from this property.

To be honest the only thing it has provided is a sense of security not having the inconvenience to move schools and houses all the time.

Could we have carried on renting from home to home I think yes it would have been difficult but not impossible.

In Canada no other method is available currently unlike the UK where I moved from so any advice would be appreciated.

Once again I appreciate your help in this matter

May Allah help you and reward you for all your ongoing efforts, amen. Jazakallah

My Answer:

Dear Br. Attique,

I don't know this company at all or where it is. Also I do not give Fatwa on the basis of info in a website. If you need my answer you have to give me full description in the email itself.

But from the words that you mentioned "taking the house in trust and you keep same payment and charge of \$2000 I feel something may be fishy similar to the structure which is known to me in the US and Canada which is not permissible, it is Haram and based on a legal trick by taking the interest loan and the property into a trust and the trust rents the house to you. This is incorrect from Shari'ah point of view because the trust represents you and you are, according to Shari'ah, still paying interest on the loan. this trick is a pure bluff and they grab your 2000 dollar for it. The loan is still the same according to Shari'ah and you are paying it and its interest even with this legal trick.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Hassan

Sent: Sunday, June 30, 2013

Question: Home Financing

Assalam Alaykum Dr. Monzer Kahf,

I pray that this reaches you while you are in the best of health and spirit.
My name is Hassan. I reside in Ohio. I am in the process of purchasing a house in my area and I was exploring Islamic financing options. A friend of mine is willing to provide the financing and we both are willing to construct the transaction in an Islamic fashion (بيع بالأجل). I was searching through the Internet for sample contracts and clear steps to do this but I could not find any. Would you be gracious and kind enough to provide us with any guidance/resources on this process?

I would appreciate your response.

Best Regards

Hassan

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Hassan

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

You can find this info on two website: Bank of Pakistan Murabahah finance contract. the contract is designed for goods not housing but you can take the sample and restructure it to suit your case.

On my website www.kahf.net you also find sample Islamic finance contracts, here there are only the required clauses in Shari'ah, just a skeleton, and you have to complete it from real estate sale contracts in the state of Ohio.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Hassaan

Sent: Thursday, July 25, 2013

Question: about Assiniboine credit union

AoA,

I have a few questions about the Islamic mortgage product that Assiniboine credit union in Manitoba offers.

When it comes to registering title I am finding trouble understanding how this is different from conventional mortgage. For example in conventional mortgage the title is registered 100% in buyer's name and they are responsible for all maintenance and other obligations related to the property. The bank has a lien on the property.

How is title registry for Islamic mortgage product different from the above scenario as it appears the title is being registered in just the buyer's name in this case as well and the bank or partner has a lien again?

I will really appreciate if you could clarify the title registry case for me. In addition I was hoping I could get a sample contract for declining partnership so I can show this to a credit union in Calgary where I currently reside. I have been able to get hold of a few lenders/underwriters who are willing to sign off on such a contract. However they require my lawyer to prepare and provide this contract with purchase offer.

Therefore I have two options. Either I can approach a lawyer here to work out a similar contract

or I can get a sample copy of the one Manitoba credit union uses.

Please kindly help me out.

Allah Hafiz

Hassaan

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Hassan

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Explanation is as follows: title registry issue is made in the name of customer in order to simplify matters. The concept of declining partnership is based on the Credit union buying a part and the customer a smaller part. The customer pledges to buy through future purchase contract pieces of the interest of the CU. The CU assigns the Customer as its agent for carrying the title of its share in the property. The benefit is dual: 1) to avoid cost and fees of registering the title twice, 2) to avoid CU owning real estate which is not permitted by law to do that.. Customer carries title on 2 grounds: 1) he owns part, 2) he is agent of CU to hold title of the other part. Rent of part owned by CU in fact consists of two parts: 1) cash monthly payment and 2) expenses of providing insurance service plus cash paid on behalf of CU to taxes. This is why customer is responsible for insurance and taxes.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Zeeshan

Sent: Friday, August 16, 2013

Question: about the options of buying a house

Assalam O Alaykum,

I am sure that lots of people have asked this question or something similar and you have answered it too,

but my situation is slightly different and I just need to make sure about it. I live in Calgary Alberta, Canada, you already mentioned that Ijarah is fraud (I gut feeling was against it too) and you mentioned that Ansar Housing is Halal for Canada, my problem is that Ansar only offers 225,000 and with that for Calgary, they charge \$1450 for rent on that amount (it reduces as I buy back the shares). Problem is that the area I am looking to buy a house, because of the school, I need more than what Ansar can offer. And what about the current place where I am living now, I live in an apartment, when we moved to this building seven years ago, it was Ok, now the owners have changed, laws have changed and we are smelling marijuana very day as tenants in our building are smoking marijuana. I got evicted few of them but now they are claiming that its medical marijuana and nobody can do anything about it. And because of the drug problem, the building now has security issue too, living conditions are deteriorating on daily bases, majority of the apartment buildings are now in similar situation. We have wife & kids and I don't want to raise them in these conditions. Renting a house is not an option either as the rent is hundreds more than what Ansar is charging (average rent is close to 2000/month on a house)

What can I do, in this condition, is it Ok to get into mortgage with a Niyat to pay off as soon as possible? meaning no extravagant spending, no unnecessary shopping, priority is to pay it off firstPlease help, Jazaka Allah Khair

Zeeshan

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Zeeshan

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I think if the condition of available Islamic finance are not suitable to your situation then for you this option is not available and the general Fatwa of having conventional mortgage for the house to live in becomes in place for you. The Fatwa is always personal and circumstantial. Are you by any means near Assiniboine Credit Union? If you are, they offer Islamic finance contracts and you should encourage the local credit union in your area to do the same. If this route is difficult you may go to the Fatwa for the house to live in with the conditions that you mentioned and the intention to do away with it ASAP.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Samy

Sent: Tuesday, September 03, 2013

Question: buying house using mortgage in Canada

Dear Dr. Monzer, as-Salamu Alaykum wa Rahmatu Allah wabarakatu.

I hope this e-mail finds you in the best of health and Iman.

Below is a financial question about buying house using mortgage.

I am working now and my employer is offering me a house to live in. My contract is finishing within two years InShaAllah. However, I have 5 children and my oldest son is growing up and soon he will need to get married, the same for the rest of my 5 children InShaAllah. I have almost 30000 Canadian dollars which I can use to buy a house through mortgage either for me in case something happened with my work or for my oldest son InShaAllah. Is this halal taking into consideration that I am living in Canada and you may know that buying 4 houses for 4 sons one after the other InShaAllah may be extremely difficult. Jazaka Allah Khayran.

Imam Samy, Ottawa Main Mosque

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Samy

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Please tell this brother that while it is very good to think about getting a house for each of his children he should not carry that in his mind as he really must do that. They will grow up and get houses for themselves on their own. For now he should worry about himself, family,

parents and education of good upbringing of his children. The amount he has now is definitely subject to Zakah if the Hawl condition is fulfilled. He can start a process of buying a house for his family through Islamic finance by the Islamic Housing Coop, Assiniboine Credit union or similar. If he does not qualify for any of them he may, for the house he intends to live in (not for a house he wants to prepare for his son and meanwhile rent it) or for his son's residence (if his independence from the family is imminent) on conventional mortgage in accordance with the famous Fatwa in this regard.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Sarmad

Sent: Saturday, September 14, 2013

Question: Buying House through Ansar Cooperative Housing

اسلام عليكم ورحمة الله وبركاته

Dear Brother,

I have purchased house through Ansar Cooperative Housing Corporation (Canada based company); Ansar has confirmed that their housing scheme is fully Shari'ah compliant and RIBA is not part of their business in any form as it is based on share purchase basis.

However, one local Sheikh in the city of Calgary-Canada has said that there is no doubt that their transactions are interest free but their scheme is not fully Shari'ah compliant & is doubtful due to following reasons:

1) Ansar do not share the housing unit insurance & property tax as these are being fully paid by the home buyer.

2) Ansar has clause in the contract to share the fix percentage of profit & loss (for example 90% by home buyer & 10% by Ansar if the home owner's share percentage is more than 51%). Sheikh has said that it is ok to fix the percentage of profit in the contract but Shari'ah does not allow to fix the percentage of loss at the time of signing the contract- it should be kept open & is to be based on the percentage of ownership of unit at the time of selling of housing unit.

Please clarify from Shari'ah point of view that the above two clauses make the whole Riba free housing scheme doubtful and is not fully Shari'ah compliant?? Kindly visit Ansar Housing cooperative Corporation' website (Canada based NOT UK based) for more information on their Shari'ah compliant housing scheme. Jazakallah Khairan, may Allah bless you, Ameen.

Shall appreciate an early reply. Wassalam,

Sarmad

My Answer

There may be a problem with these two points.

Please send me the exact wording of these two clauses as they are in the contract so that I can make appropriate opinion.

Monzer

From: Sarmad

Assalam Alaykum,

Thanks for quick reply; following is the exact wording which is part of contract and is displayed

on Ansar's website:

* Instead of keeping your savings in a bank, you can buy Housing Co-operative's shares while you wait for your turn to occupy your house.

* Your shares in the Housing Co-operative will work as an investment and, you will earn quarterly dividend until you occupy your house.

* You choose the location of your house/ apartment. You must have shares equivalent to at least 20% of the first \$100,000 cost of the desired house; 25% of the difference between \$100,000 and the actual cost of the house up to \$200,000; 30% of the difference between \$200,000 and the actual cost of the house up to \$300,000; and 100% of the difference between \$300,000 and the actual cost of the desired house. These shares must be invested with the Co-operative for at least six months. The maximum contribution by the Co-operative will not be more than \$225,000.

* You pay fair and mutually agreed occupancy charges (rent) proportionate to the Housing Co-operative's ownership in the house.

* Monthly occupancy charges will be reduced from the following month in the proportion of additional shares you buy any time during the year.

* As a result of completion of 100% ownership or sale/transfer of the housing unit, any gain or loss realized, will be divided as follows:

1. 90% to the member and 10% to the Co-operative, if at that time, the member had accumulated shares equivalent to more than 50% of the cost of the housing unit;
2. 80% to the member and 20% to the Co-operative, if the member had accumulated 50% shares or less of the cost of the housing unit.

* This gain or loss will be shared after making an adjustment for authorized improvements, expansions and certain legal expenses incurred by the member.

* To complete the ownership of the occupied housing unit, the member will have to accumulate shares equivalent to the cost of the housing unit plus one (1) Class "G" Preferred Share.

* The cost of the above Class "G" Preferred Share will be determined by the Board as 10% or 20% of the difference between the present fair market value of the said housing unit minus the actual cost, the cost of authorized major improvements and expansions, and certain legal expenses.

Wassalam,

Sarmad

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Sarmad

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

1. The principle is: owner is to pay insurance and taxes. But if these can be known in advance or can be redefined as a service (this is easy for insurance) a service or a known amount can be considered part of the rent. The final outcome is: Ansar is not incorrect in charging these to customer as part of the rent and it is sufficient that a contract defines obligation of customer by saying you pay this much and you buy insurance and pay taxes. This means they are part of the rent.

2. The issue of sharing the loss. You are correct; the contract is wrong. Whenever there is

sharing profit can be shared per contract while loss should be shared by capital contribution. Alternatively both profit and loss should be charged to customer on the basis of the promise except in rare non-sale cases. the argument is as follow: you promise the company to buy the property at a given price (normally the cost price) on installments and you pay rent on whatever that you do not own at any point of time. The company at all times does not want to sell and you cannot force the company to sell at a lower than the price you promised it. If, on your side alone, decide to sell you are then required to compensate the company for any damage, this means you carry all the loss. If you decide to sell and there is profit, the company has already promised you to sell at cost, just before you sell you notify the company that you are going to exercise your right to pay off the home amount instead of the remaining installments, then you pay the company and collect all the amount of profit. this is the principle applied in all Islamic real estate finance: the customer takes all the profit and is liable of all the loss in case of his deciding to sell.

In the case of forced sale (e.g. municipality takes over the property for a street) at an amount different than the agreed price both profit and loss are distributed in proportion to ownership at that moment.

3. More important, I believe, is the G preferred share, it should be cancelled. This is an additional charge that has no justification whatsoever. It contradicts the promise to sell. Besides it is not determined at the time of contract. this is pure Zulm and I mentioned it to the company. Some may claim it is permissible, I believe it is a charge of being religious and forced to accept their conditions. All other Islamic finance companies do not have it. besides, from micro point of view if you add such a condition you must then define it as a part of the price of sale and it must be determined at time of contract because the promise to sell has to be at a well-defined amount.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: badi

Sent: Wednesday, September 18, 2013

Question: Re mortgage

Assalam Alaykum Br. Monzer

I live in Toronto, Canada and I have a question re conventional mortgage available from an ordinary bank.

I have looked into the issue of Islamic mortgage through agencies like ISNA' s cooperative housing society. I do not qualify for an Islamic mortgage because I do not have sufficient down payment. The problem is that ISNA wants 20% for the first \$100K, 40% of the next \$100K, and 70% of remainder of a house's value as a down payment. In an area like Toronto, with the average price of a house being \$400K-\$500K, this means I need to come up with a payment of \$200K - \$270K, which is quite simply out of reach for a person like me. I have worked since I was 17, but I have saved nowhere near this amount because I have aging parents, a wife and children, and until very recently I was also supporting my adult sister while she went through a divorce. I have also recently started a second job.

Given my situation, is it allowed for me to take a conventional mortgage? The reason I want a mortgage is to provide a bigger home for my expanding family (we currently live in an

apartment), build some equity, and use some of the equity to pay for going back to school. I want to please Allah swt but I also want to take advantage of any relaxation of rules available in my case. Jazakallah Khair,

Badi

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Badi

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

If you don't qualify for the conditions of the Islamic finance companies which are available near you, your case because a case of a person for whom no Islamic finance is available and if you need housing for all or any of the reasons you mentioned, I believe then you may resort to the Fatwa on the issue which states that if Islamic finance is not available and you need to buy a house you may take with conventional mortgage.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Mohammad.

Sent: Tuesday, October 22, 2013

Question: Islamic house finance is more expensive

Assalam Alaykum Dr. Kahf,

Writing to you today as referred by SH. Kutty and would appreciate your insight. Per my note below, I'm considering purchasing a house on a mortgage and wanted to understand if would be ok to put some savings towards investments vs. all of it going towards the down payment on a house.

Please advise. Jazaka Allah Khair

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Akhtar

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

The principle is that you do not revert to interest mortgage if Islamic finance is available in the area, it seems from your examples that you may fulfill the condition of the Islamic housing Coop, if Islamic finance is available and affordable resorting to others is not justified.

The same rule implies that when you have to accept a Haram practice you accept the minimum of it, the minimum means that you put as much as you can toward the down payment to reduce the amount of evil.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Alaykum Salam wa Rahmatu Allah Dr. Kahf and Barak Allah fee for your response. Its much appreciated.

As far as the recommendation on Islamic financing, are you referring to Ansar Housing Coop? If so, I did consider that option and it's much more expensive than what I can afford. I had discussed this option with Sh. Kutty as well who was in agreement that its much more expensive.

I'm in a situation where we are living with our parents, we have 3 children and a 4th one is expected in a couple of months. Additionally there are also privacy concerns in my current living situation. Therefore the need is urgent. I have held off purchasing a home for a long time just because of the interest factor in a mortgage until I spoke to Sh. Kutty on the mortgage option which he approved given my situation. Please advise if you are referring to or are aware of options other than Ansar H. Coop.

Jazaka Allah Khair and I eagerly await your response.

My Answer:

Yes I refer to Ansar and may be another MSA finance which adopts the same business model. It is unfortunate that it could not fit you, don't you have in Canada any sister company of Guidance Financial? Which is much closer to main stream in its business model yet it is within the Shari'ah limit.

Monzer

From: Samy, Ottawa

Sent: Monday, November 18, 2013

Question: Taking mortgage from the bank

Dear Dr. Monzer, as-Salamu Alaykum wa Rahmatu Allah wabarakatu.

I hope this e-mail finds you in the best of health and Iman.

Below is a financial question about buying house using mortgage

I am asking about the ruling on taking mortgage from the bank to buy a house here in Ottawa, Canada.

Indeed, my family and I came to Canada in 2009 because of the study, and since last year my wife and I thinking to buy a house, but the problem is we don't have cash to buy the house unless by financier to buy the property. Then, we start looking for the best solution in this regard and we found that the best solution is the mortgage from the bank. Here we face a problem because we don't need to do anything contrary to the rules of Islamic religious.

In fact, buying a home has become the necessities of life and my wife and I don't have house even in our home Saudi Arabia and we are living in my father's home. Also, we would like to tell you that we have sponsorship from Saudi government and our monthly income around 6000 \$ and we pay 2250 \$ every month for rent. Moreover, we are planning to keep the house for our kids to continue their studying in Ottawa in the future and we can pay a down payment to buy the property.

Finally, this is our status and we need to know what is the ruling on taking mortgage from the bank in our case. Please, give us the answer as soon as possible.

Jazakumullahu Khairan,

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Samy

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

It is in application of the general rule: while a house is a necessity for families in the West, it is important to try our best to make the finance in accordance with Shari'ah but whenever this is not available financing the purchase of a house through conventional banks becomes permissible under the principles of general needs that are treated similar to necessities.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Abdellatif

Sent: Friday, November 29, 2013

Question: Islamic Financing for a larger home

Salamo Alaykum Br. Monzer,

I am a Muslim living in Toronto Canada. I have purchased a house a while ago with some Shari'ah compliant financing house (UM Financial) and paid it off, al Hamdu Lillah.

Since my family has grown bigger, I was looking to upgrade my house once I have accumulated enough money to pay the difference.

Recently, a new home builder has started a promotion selling his inventory houses at 0% for 3 years and requires a down payment of 10%.

given that the financing is not costing me anyway, I thought about paying the minimum down payment required and keep my current house as an investment property for 3 years.

I was looking for Halal ways for getting the down payment and I contacted investors group.

Their proposed Murabahah model is as follow:

1- I will sell them a share of my house for x\$ based on the current market value of the house. Their share will be guaranteed by a mortgage registered against the house at the land registry in Ontario.

2- They will transfer the money to me so that I can make the 10% down payment.

3- I will agree to buy back their share over x number of years at a certain profit amount.

Would this qualify as a true Murabahah model? is it Halal?

if you need any clarifications on this you can always contact me at (647) 684 1780.

Jazaka Allah

Abdellatif **My Answer:**

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Abdellatif

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

The proposed transaction is called 'Al 'inah . it is pure Riba and the Prophet, pbuh, prevented it on this ground as a buy and buy-back to hide Riba.

Alternatively, they can still help you in this case and make profit. they pay the amount to the builder and buy this 10% of the new house, then sell the same to you for profit and on installment, to guarantee these installment they can register a mortgage on your present or new house anything you two may agree on.

You may record the above in an agreement between you two so that when they pay to the

builder he need not know that they buy the 10% of the house. For him he would think it is you who is buying the full house with 10% down payment. the agreement between you allows you to put this 10% of the house in your name.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Asif

Sent: Monday, December 09, 2013

Question: foreclosure from banks

Assalimualikum,

Is it possible you can help me with a question?

Can I buy a foreclosed home through the bank and take a fixed 5 year mortgage from the bank and pay it off? The bank is the seller of the home. I will pay a fixed monthly amount to the bank and in 5 years I will pay off the entire loan. During these 5 years the monthly payments will be separated between principal and interest.

Since I am buying from the bank can the interest portion of the loan be called the profit rate?

Thanks, Salams

Asif

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Asif

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Foreclosed houses are not owned by banks, they are sold by banks because they have liens on them and debtors defaulted. They sell them on their owners to collect the loans and expenses.

Buying them is permissible as long as there is sufficient disclosure according to law. When you buy a house like this you buy for cash and the bank gives you a new loan for interest. It cannot be called profit or sale on credit because the fact is: it is not. If there is no Islamic finance available to you and you resort to interest loan for buying a residence one has to minimize the evil as much as possible buy paying it the fastest possible.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Anas

Sent: Monday, December 09, 2013

Question: Investment in real estate with others who borrow on interest

As Salam Alaykum

Dear Sir as a trusted person Islamic economics I would like your opinion on another matter.

Since your last correspondence I have abandoned futures trading altogether. I really feel right now that it was very un-Islamic and very close to gambling rather than true trading

Since then I have search for good solid trading opportunities that do not violate Islamic law.

I am about to get involved with a company with other physicians that will buy property for rent. I will buy a percentage with my cash and will not be responsible for any loan payments or any loan interest. And accordingly I will get percentage of the rent in accordance with my share in the property. My share is fully paid upfront in cash.

The other partners will do traditional financing by putting down 20% and loaning the other 80%. They will be fully responsible for all the loan and accompanying interest.

There is one element that is bothering me and I would like some guidance about. As a shareholder in the company and a founder of it, I am guaranteeing the company and in return the company is guaranteeing the loan against the property.

And I will have to sign a statement of guarantee to the bank to that extent.

Investing without partners is extremely difficult because of the amount of money involved.

Investing with partners will carry this collective liability to the bank even if I am not responsible for paying the bank anything interest or principal in accordance with the LLC law that we are forming.

In worst case scenario if the partners default, the LLC will guarantee the loan against the property in which case the property is sold and the bank is paid off. I will still get my percentage of the property but if the value that the other partners have does not fully pay off the loan, then I could start losing some money in that case.

This scenario could happen if severe depreciation occurs to the property to the point that the value of their shares does not cover the outstanding "principle only" on the loan.

Either way I will not pay any interest even if this severe depreciation happens. So my question is can I do such investment and be in compliance with Islamic law? Jazaka Allah Khair.

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Anas

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

This kind of investment is permissible as long as you can keep a firewall between interest and your share in matters of revenues and expenses. Apparently you are also aware of the risk you are exposed to in case of default of your partners. It is good to try to get the contract with your partners clear to protect your property and charge them with all the outcome of any default.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Hassan

Sent: Friday, March 21, 2014

Question: House financing

Assalam Alaykum Br.,

I am looking to buy home in AZ, but with very limited Islamic financing options, it is confusing for Muslims to decide if the financing options are halal or not...

I read your comments about ijaraloans.com, seems it is not halal but [ijaraloans](http://ijaraloans.com) circulated the fatwa from one of the NY based scholar that [ijaraloans](http://ijaraloans.com) is ok.

Other option I have it is only Devon Bank.

Please let me know your thoughts.

Regards

Hassan

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Hassan

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Whoever said that Ijarah loan makes it Shari'ah compliant is not given the full picture. The full scenario is: you take a convention loan, transfer it to a Trust, the trust makes an Ijarah with you while it pays interest to the bank. the Shari'ah point of view is: the trust is in fact you and no change is done from the first situation (you took an interest loan and you pay interest). This round does not change reality because Shari'ah does not recognize the trust as separate from you, it is you agent. When a Shari'ah scholar is asked is the Ijarah permissible or is creating a trust permissible his answer will be yes. But give him the full picture his answer differs if he know how Shari'ah looks at such trusts and if he doesn't know how Shari'ah looks at trust he may be fooled by the idea that a trust has an independent entity in Western laws.

There are several finance companies/bans who provide Islamic finance in America.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Assalam Alaykum Br.,

I am looking to buy home in AZ, but with very limited Islamic financing options, it is confusing for Muslims to decide if the financing options are halal or not...

I read your comments about ijaraloans.com, seems it is not halal but [ijaraloans](http://ijaraloans.com) circulated the fatwa from one of the NY based scholar that [ijaraloans](http://ijaraloans.com) is ok.

Other option I have it is only Devon Bank.

Please let me know your thoughts.

Regards

Hassan

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Hassan

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Whoever said that Ijarah loan makes it Shari'ah compliant is not given the full picture. The full scenario is: you take a convention loan, transfer it to a Trust, the trust makes an Ijarah with you while it pays interest to the bank. the Shari'ah point of view is: the trust is in fact you and no change is done from the first situation (you took an interest loan and you pay interest). This round does not change reality because Shari'ah does not recognize the trust as separate from you, it is you agent. When a Shari'ah scholar is asked is the Ijarah permissible or is creating a trust permissible his answer will be yes. But give him the full picture his answer differs if he

know how Shari'ah looks at such trusts and if he doesn't know how Shari'ah looks at trust he may be fooled by the idea that a trust has an independent entity in Western laws. There are several finance companies/bans who provide Islamic finance in America.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Thank you Br. Monzer,
Devon bank is also claiming Islamic financing
Please let me know if they are halal.

Regards

Hassan

My Answer:

Yes, and its contract is good

From: Edgard

Sent: Tuesday, March 25, 2014

Question: Real estate investments

Assalam Alaykum dr Kahf

InShaAllah you are well and may Allah swt reward you for your beneficial contributions towards understanding Islamic finance. I have a couple of questions and I appreciate your guidance:

1- I understand from reading your previous fatwas that you seem ok with using American Islamic finance companies to purchase homes in the US. There are many of them, and there are mainstream banks like Devon Bank offering Shari'ah compliant packages. Each claim to be fully Shari'ah compliant but a layman like me may not have a full grasp on the minor details that may make one better than the other. I'm wondering if you have personal recommendations for a couple of those organizations whom you think are closest to Shari'ah compliance, or hints on what to look for.

2- would it be ok to get loans from such Shari'ah compliant banks to invest in real estate rentals?

Jazakum Allah Khair

Edgard

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Edgards

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

For the first question, it is not appropriate that I recommend any company. I can give an opinion on a contract if you give me its details. But I can guide you with a quick advice in this regard. You must look at two points: 1) you should look at what the contract itself (not their propaganda brochure) says, if it says loan and interest, it is a loan for interest even if they may tell many other things in their advertisement. And 2) who is their Shari'ah advisor(s), if you trust the views of that Shari'ah advisor, that is the second help. Some of companies who claim offering Islamic finance have very dubious Shari'ah advisement and their contracts say loan

and interest yet they claim Shari'ah compliance and carry even names indicating that!
For the second question, if you assure yourself that it is Shari'ah compliant you can use it for business for sure, because this is what it is for. It is not out of necessity that you violate a principle. Islamic finance is intended to promote business and richness.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Wa Alaykum Assalam wa Rahmatullah wa Barakatuh

Jazakum Allah Khair Dr Kahf. I understand the sensitivity of recommending companies but the tip you have me about contracts is great. InShaAllah I will ask to read the contract documents first.

Regarding scholars my challenge is that I'm not familiar with the credibility of the scholars they have on their boards. If you have a particular scholar whom you think is credible enough I appreciate learning about him otherwise I understand.

Ps I'm not sure if your familiar with Ameen Housing of Santa Clara. I met with them this past weekend to learn about their business with the hopes to eventually look into starting a clone Muslim REIT company in the Dallas area where I recently moved. My understanding is that they seem to be most compliant with Shari'ah since they are based on cash and on real rent and Musharakah.

Salam

Edgard

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Edgard

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I cannot really nominate persons but if you ask me a specific question whether to accept the advice of X or Y I may be able to give you my opinion and why...

For the Amin Coop, I know it well. When it was founded I helped in putting the first design on the example we made in Indianapolis and in Toronto. Their contract is good but it is too conservative and hardly marketable. When guidance financial came in the market, it learned the lesson of an earlier company which used the concept of full Musharakah (which failed and closed). This contract makes the interest-based finance more advantageous. You need a contract based on Islamic tenets and yet give similar advantages to the customer which makes him accept this contract. In my opinion, it should either be sale on installments or co-ownership with a commitment to buy the co-owner share of the property. For an Islamic REIT sale on installments may be better.

If you go ahead with an Islamic REIT, it will be my pleasure to cooperate with you.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: shahzad

Sent: Tuesday, April 22, 2014

Question: Further fatwa on final agreement

Dr. Kahf,

There have been a few changes to the final agreement. Please see the enclosed.

This was primarily due to a few conditions that TD did not require and the related Montreal deal.

Also, it is important to note that TD will be advancing \$2.8 million towards the Olive Grove school to pay out and cancel with Alterna Savings.

However, we will be registering \$4.4 million onto the property in case MAC, and in particular the OGS, requires further financing in the future.

MAC just wanted to ensure that registering the larger amount of \$4.4 million is Shari'ah-compliant as long as we do an amending agreement at the time of any further advances that also follow the same format of declining balance.

Salaam,

Shahzad

My Answer:

Can you please send me the following:

1. a clear bullet points of the dynamics of the transaction exactly
2. explanation of the variation in the amounts of monthly paid principal in Schedule A, C4. I expect it to be ever increasing but why it fluctuate?

Dear Dr. Kahf

Here are the dynamics of the transaction as requested.

(1) TD pays \$2.8 million into our trust account as counsel to MAC.

(2) We use the entire \$2.8 million to pay off Alterna Savings and cancel that deal.

(3) MAC starts making monthly payments to TD. Note: I asked TD yesterday why the amounts fluctuate and they advised it was because of the difference in days of each month.

(4) We register a mortgage of \$4.4 million on the Olive Grove School property.

(5) At some future date, MAC may ask TD for further funding up to a maximum of \$4.4 million. Upon each advance, we would sign an amending agreement with new figures in Schedule "A."

(6) If MAC does not get any future advances, then the deal will carry on as normal and MAC would pay out the remaining balance upon maturity in 2019.

(7) If MAC does get future advances, then the amount will be paid as per the amending agreement.

(8) The advantage of registering \$4.4 million is it allows MAC to draw upon further financing if necessary without incurring more legal fees and time on another registration.

Salaam,

Shahzad

My answer:

Dear Br. Shahzad

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I did not notice any change in the agreement from the previous one other than this 4.4 matter. It seems permissible. You need to remove the highlighted phrase which becomes now inaccurate.

Any future use of finance for the difference between the mortgage amount and the actual

contribution paid by TD must be executed through a similar purchase finance and must be for actual purchase of equipment or properties by MAC.

Best Regards,
Wassalam
Prof. Dr. Monzer Kahf

Dr. Kahf,
Further to your recommendations below, please issue your fatwa for the enclosed final agreement with TD Bank.

Thank you for your gracious assistance in this matter so far.

MAC's intention is to use this model to purchase a property in Montreal, Quebec, Canada.

They intend to use your services at that time and do wish to pay your fee of \$1,000 for that deal.

Salaam,
Shahzadi

From: Monzer

Dear Br. Shahzad

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

1. Please receive my Fatwa on this contract. I put it at the end of the contract and here is its text:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Muslim Association of Canada

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Under the circumstance of refinancing a real estate purchase contract which has a balloon payment after a number of years, with another finance provider, I see the text in this contract acceptable as Shari'ah compliant. Wa Allah A'lam, Wa Alhamdu Lillahi Rabb al Alamin.

Prof. Dr. Monzer Kahf

2. Also thank MAC for offering payment and inform them that I will be glad to review the contract they intend to have in Montreal for purchasing a school or any property for their use. Also tell them that I still do not accept any payment from Muslim organizations. I accept payment only from banks and similar companies which make profit in finance.

Best Regards,
Wassalam
Prof. Dr. Monzer Kahf

From: shahzad

Dr. Monzer,

Please see the below in answer to your question about the initial buy and sell.

Salaam,
Shahzad

From: Monzer

Sorry, article 5 better be as follows:

1. Prior to TD providing the TD Contribution to the purchase of the property for MAC, the following conditions must be met by MAC:

Dear Br. Shahzad

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Please tell MAC that I understand the need for refinance in Canada and it is better to be done through annulment of previous sale finance in regard to the remaining amount and making it in a form of a new purchase. This avoids the format of bay' al 'al 'inah

Can we make it the following way:

Whereas MAC is not able to pay the remaining balloon payment of \$----- to the previous finance provider, we are annulling the purchase in regard to -----% of the property and the TDBank is stepping in to pay this amount directly to \$----- (name of former finance provider) and effect a refinance sale to MAC for the amount of \$----- which includes the amount paid to ----- (former provider) plus a charge of \$-----

Calculated at a rate of -----% per annum paid as given in schedule A. or any words similar to those above in order to avoid the look of sale and buy as mentioned in article 3.

Best Regards,

Wassalam

Prof. Dr. Monzer Kahf

From: Muemenah

Sent: Sunday, May 25, 2014

Question: Islamic mortgage in America

السلام عليكم دكتور،

في ميشيجان لشراء بيت والدفعة "university bank" نقترض من البنك الاسلامي الشهرية تتألف من حق انتفاع ثابت بمثابة أجار شهري و جزأ من قيمه البيت حتى الانتهاء من تسديد قيمه البيت كاملا.

هل هذا جائز شرعا؟

شكرًا جزيلًا

مؤمنه

My Answer:

الأخت المكرمة مؤمنة

السلام عليكم و رحمة الله و بركاته

هذا العقد فكرته صحيحة وهو من حيث المبدأ صحيح. قد تكون هناك حاجة لدراسة بعض التفاصيل فيه للتأكد من صحته.

سلمي لي على الدكتور (وقد غاب عن ذهني اسمه) وسائر الجبالين عنكم

مع أسمى التقدير وأعز التحية

أ. د. منذر قحف

From: Amr

Sent: Tuesday, June 10, 2014

Question: Mortgage for home purchase in Vienna

Assalam Alaykum dear brother Monzer

I am sure you get this question often. I live in Vienna, Austria. We do not have any Islamic financial institutions or Shari'ah compliant banking services here.

I read some of your Fatawa where you mentioned that based on the second international conference on Fiqh in Detroit of 1999 it would be permissible to buy a house through mortgage if no Shari'ah compliant alternative is available.

Does this apply to Muslims who live in Europe as well? Or only to Muslims living in North

America?

I would like to avoid the haram as much as possible and want to be sure of any exceptions that might apply to my situation. Jazaka Allah Khair for your help,

Salam,

Amr

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Amr

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

This Fatwa applies to Muslims in Europe and Australia. We should notice that family needs in Europe to own a house is much less than in America. In Europe there are not much differences in security, quality of community and schools between rental areas and areas of owner/resident. In America the difference is tremendous. Determination of needs make an important difference between them.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Angela

Sent: Monday, August 11, 2014

Question: regarding mortgages

Assalam Alaykum Dr. Kahf,

I would like to ask you regarding the Islamic declining partnership agreement mortgage option offered by Assiniboine Credit Union in Manitoba, Canada. I noticed that you endorsed this program and therefore I thought you would have the expertise to answer my query. When I look at this type of program for house buying it looks very similar to a conventional mortgage. I am wondering if you could briefly explain the differences between this type of program and a conventional Canadian mortgage offering. Or if you could direct me to resources through which I might understand this type of financing I would be very grateful. JazakAllah Khair for your time regarding this matter.

Assalam Alaykum, Angela

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Sr. Angela

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

The first thing one should realize is that Shari'ah prohibits Riba which is increment in debts. It does not prohibit finance and earning through finance. accordingly Islamic finance provides opportunity of earning through sale on credit, leasing and creating new projects together.

Another consideration is important and also recognized in Shari'ah: the risk involved in financing. Finance provider has the full right to obtain sufficient securities and to exercise them when needed.

Accordingly this program of Assiniboine is structured to buy property together and having a commitment from the Customer to buy the share of the Credit Union on installments, meanwhile paying rent on the part that the customer does not own. Obviously it has a charge on the property and the numbers are similar. The contract is based on buying and selling on installment which provides a profit to the finance provider.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Deena

Sent: Monday, September 22, 2014

Question: buying a home halal way

Assalam Alaykum ,

I am emailing you to get your advice regarding buying a home in Canada. My husband and I really want to purchase a home in Toronto and want to make sure we do it the halal way. I know halal methods like a cooperative (I think this is the ISNA model) are good but they require a lot more money upfront. I wanted to know if you know anything about Ijarah loans Canada (the are originally based in usa)

I was hoping you might be familiar with their financing model. Is it Shari'ah compliant model? From what I understand from Ijarah is that there will be a loan taken from a bank. We will have to witness the transaction, but there will be an interest amount stated as a percentage (as required by Canadian law). After that contract with the bank is signed, Ijarah lawyers take the contract and restructure it to make it a rent-to-own agreement, which now makes the contract Shari'ah compliant. Ijarah claims to have many scholars that have given Fatwas to say this is a halal financing model, but I am unfamiliar with any of these scholars.

I would be very grateful if you could shed some light on this, because we have no experience with Islamic finance and I am not sure if this a sound Islamic business transaction.

Thank you very much, may Allah shower you with his blessing during this Holy month of Ramadan.

Deena

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Sr. Deena

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I am sorry to begin from the worst; Ijarah loan. it is a fraud in the full sense. See my Fatwa on this model and the cheating in it. while there are many Fatawa that Ijarah with a promise to buy is permissible (this is what they abuse) the start with a bank loan and claimed transfer to Ijarah is a fraud because in fact it does not transfer. Details: the loan with the bank is interest based. They create a trust in your name and for you and transfer the loan to the trust, they create a permissible Ijarah to own between you and the trust, you pay to the trust and the trust pays interest to the bank. the trick they deceived people with is: the trust has a different entity from you. But according to Shari'ah the trust act on your behalf, it represents you. So you are the one who pays interest to the bank and this going around does not change anything. And they take

your money for tricking you that the trust pays the interest not you. According to Shari'ah (in fact also according to laws in US and Canada)the trust represents you. For instance if the trust defaults you will be sued. But the Shari'ah is clearer in thin it rules that the trusts acts on your behalf as you agent (Wakil).

There are some other companies which offer Islamic finance, check with them, there is the Assiniboine Credit Union in Alberta. If you failed in finding Islamic finance and you need to buy a house, you may go for conventions according to the known Fatwa on this matter. DO NOT FALL IN THE TRAP OF IJARALOAN!

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Shahid

Sent: Monday, October 13, 2014

Question: Mortgage information

AOA sir I want some information regarding Islamic mortgage which Assiniboine bank offer in Canada plz let me know if it's really halal because they said you guys have said and approved that this is Halal way of Mortgage .plz let me know Tanks

My Answer:

Yes, I believe it is within the limit of Shari'ah and I approved it.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Sakr

Sent: Thursday, October 16, 2014

Question: Mortgage for Muslims in North America

My name is Sakr. I got your contact info from Sheikh Basam Edmonton Canada.

I do have a question regarding to bank transactions and I have learnt that you are knowledgeable in the area.

My question is basically is borrowing from banks is allowed or not to buy home.

My situation as following. I have exiting mortgage on my home right now and I am considering buying bigger home. My exiting home I will rent it and I will move to the next home. I am more inclined to believe that mortgage is accepted from Islamic point of view for number of reasons:

1. I do live in western country and we are minority so I believe that Islamic rules are different for this case since I do not have many options.
2. The value of money is not fixed value but it is changeable. For example, if a friend from Egypt borrow from me \$1000 two years ago where the \$1000 was equal to 5000 Egyptian pound and he decided to return my money to me back this year. So if he return \$1000 that is mean he will return 8000 Egyptian pounds. If he did return me 5000 Egyptian pound, that is means that he is retuning \$600 not \$1000.
3. In Canada interest in Mortgage is similar to inflection rate (i.e low rate 2.5 to 3%). So if we

considered the dollar value at time of borrowing to its value at time of return it is almost the same.

4. The main reason for prohibiting interest is not to pressure people in need and taking advantage of them while the relationship with banks is totally different. Bank is looking at your history your job and evaluating your file and not taking advantage of your situations. It is win win situation.

5. In the case of I cannot return the loan bank it taking over the home. So if you can advise me on that that will be great. Thank you very much and Jazaka Allah Khairan
Sakr

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Sakr

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

If you are asking me. Interest is Haram in Canada and Egypt and other places today as it was in the past throughout the history of Islam. A fatwa is not a place to argue the points you mentioned. Please educate yourself more about the definition of Riba, read for instance the verse 2:279 and try to get from it this definition and read several articles on my website www.kahf.net, especially the objectives of Shari'ah of the prohibition of Riba.

My Fatwa is: When Islamic finance is available it is prohibited to take mortgage on interest anywhere in the world. But when Islamic finance is not available and Muslim families need housing for a multiplicity of reasons, they can take it only for a house to live in not for investment from conventional banks. This is also the opinion of the Second international Shari'ah conference held in Detroit in the Fall of 1999 and the opinion of The European Fatwa Council.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Yahya

Sent: Thursday, November 20, 2014

Question: Buying a house in Canada

As-Salamu `Alaykum. How can I buy a house in an Islamic way so I do not have to borrow from a bank and pay mortgage interest. We are a one year old immigrant and we will be moving to Oshawa city from London early next year and I want to buy a house there. so can you refer me to any organization or association that give you Islamic loan to buy a house dealing according to Shari'ah compliance. Please, advise

Dr. Yahya

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Yahya

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I suppose you are talking about Canada, there is the Islamic housing cooperative and there are a few other companies. I do not recommend companies but I can check the contract they offer you from Shari'ah point of view, of course free.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Shaheen

Sent: Saturday, January 17, 2015

Question: Urgent: Need for conventional Mortgage loan

Dear brother,

Assalam Alaykum... This is Shaheen from Australia (a migrant from Bangladesh)

I need your suggestion on some financial matter (mortgage) involving Riba.

Last year (Mar 2014) I signed a contract to purchase an off-the-plan vacant land of \$310,000 and provided \$15,500 advance. The land was registered in Dec 2014, I got the notice from the vendor to make the settlement (pay the rest amount) within 19 Jan 2015. If I am failed to settle within this date, I will face penalty of 11.38% per year on rest of the amount (\$294500).

Now last 3-4 months, I was actually in process of getting Islamic finance from MCCA Australia (Amlak, land construction package). I received the final unconditional loan approval for both land and construction finance (total loan amount \$540,000).

In the meantime, I also signed a contract for construction work, and advanced \$10,000 to the builder.

However, just few days back my lender, MCCA came back, and informed me their funder is not willing to proceed as they discovered some restrictions on my land, which initially their valuer ignored/didn't notice. The restriction they are referring to was present from the beginning in the actual plan and my construction plan is also prepared according to that restrictions.

Now present situation is like that MCCA is not willing to provide loan for both land and construction; however they can try to settle the land only from a separate internal fund (they call it MCCA income fund, which also got a higher rental rate 7.5% instead of conventional 5%)

Now, my situation is even at higher rate (7.5% instead of 5%), if I go for the land settlement, I may lose the construction advance of \$10,000 because MCCA income fund does not allow construction at the moment and there is no projection when I will be able to sell/and make profit of the land itself. Besides, if I am not able to settle the land within 19 Jan I will be charged with 11.38% interest from the land vendor.

Based on this scenario, can you please suggest whether it's ok to go for traditional interest based mortgage for both land and construction now and refinance it later to Islamic finance once something halal is available?

Please note, we don't own any other home/land in Australia.

Would appreciate if you please reply me on urgent basis. Jazaka Allah Khair

Regards,

Shaheen

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Shaheen

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

If this is for construction of your residence I think that under the circumstance which you explained in the question and with the condition you mentioned, it is permissible now to go for conventional finance.

If it is for investment construction, I suggest to seek Islamic finance since it is available in Australia as you mentioned even if there is some delay in the process.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Mohammed

Sent: Saturday, April 11, 2015

Location: United States

Question: Mortgage for Muslims in North America

Dear Professor Monzer

I do have a question regarding to bank transactions and I have learnt that you are knowledgeable in the area.

Basically I do have existing home and I would like to build bigger home which means that I need to get interim loan from the bank to build the home then I can sell my home and move to the new home. So I am wondering is that transaction is acceptable or allowed.

Regards

Mohammed

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Mohammed

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Try with some Islamic finance companies if they have this kind of financing. Or if they can give you Islamic finance on your present home which you may use for construction.

If you do not find and the bigger/newer home is necessary for you and your family you may find analogy in the Fatwa that permit interest for buying a home to live in.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Rehan

Sent: Wednesday, May 13, 2015

Location: UK

Question: Buying house in UK

Aslaam o Alaykum

I hope this email finds you in the best of health and Iman.

I have a question regarding house finance in the west. I am living in the UK for last 5 years and renting.

Now I want to buy a house in a decent area (in terms of schooling, crime and family brought up including masjid nearby). The prices in the south of UK (near London) are quite high which are also impacting on renting market. I am already spending 30-40% of salary in monthly rent.

Only available Islamic bank offers Home Purchase Plan under very strict laws that needs 10% to 20% deposit. I have saved deposit amount, but the amount they are offering is not that can buy a house in the area where I want. and monthly repayment are more than other banks.

It is important to mention that I am not looking for some luxury for living. I am living in 1 and half bedroom flat with 2 kids and wife. Now kids are getting bigger and needs their own space.

On the other hand, conventional banks are offering more amount and less monthly repayments. My intention is to pay off the amount as soon as possible even if I manage to get it from Islamic bank.

I am confused that it is my necessity to buy something decent for my family or it is a luxury.

Please guide me in this regard.

Jazaka Allah

Rehan

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Rehan

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I think that according to the explanation you mentioned in the question, buying a residence for you and your family is a high convenience and the known Fatwa of permissibility to buy on conventional mortgage applies to your case even though there is an Islamic bank that offers Islamic finance for housing because the latter does not apply to your case for amount and other conditions.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Rehan

Aslaam o Alaykum

Jazaka Allah for replying me.

Can you please send me fatwa detail that you are referring that allows to buy from conventional banking?

Regards

Rehan

My Answer:

You find it on the website of the European center for research and Fatwa and on the second international conference on Fiqh held in Detroit fall 1999.

From: Wael

Sent: Tuesday, June 30, 2015

Location: Toronto, Canada

Question: Is Ijarah Canada Co. Shari`ah Compliant?

As-Salamu Alaykum wa Rahmatu Allah wa Barakatuh

How are you doing dearest Monzer? And, how is your dear family?

I am Wael, Al-Hamdu Lillah, I'm working now as the Imam of Masjid Toronto, Canada.

Dearest Dr. I got a question from someone in the masjid about Ijarah Canada Co. (<http://www.ijaracanada.com/>) Is purchasing houses or other contracts of this Co. Shari`ah compliant?

JAK

Salams

Imam Dr. Wael

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Wael

Ramadan Mubarak to you and your family and Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I hope you and your family are fine and enjoying Canada life including snow skiing and snowman, etc.?

This Ijarah loan is pure fraud. Here is what I wrote to a person who asked me about it:

I have already reviewed the document of Ijarah Canada. In my opinion these documentations and the creation of trust does not change anything at all. According to Shari'ah the trust represents you and it is still you who pay the interest to the bank not another entity (though it is a legal entity called trust). This company that offers this arrangement is merely taking Haram money by cheating people claiming that this makes it Shari'ah compliant. It is Haram to pay for this arrangement because it does not change anything from Shari'ah point of view and Haram to tell people that it does change because this is cheating and Haram to take money for this cheating.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Janeef

Sent: Monday, July 06, 2015

Question: ISNA Housing

Assalam Alaykum Dr,

I am interested to know if buying house through ISNA housing is halal? I saw your answers regarding 'Ijarah loans', so I would like to know if I could go with this option.

Thanks

Peace,

Janeef

My Answer:

Please send me the details of their contract. Meanwhile, if it is similar to the Islamic housing coop contract, it is Ok. But to be sure please send me its details.

From: Hamid

Sent: Tuesday, July 14, 2015

Location: California, US

Question: Islamic Bank

Asalamualaikum Dr. Kahf,

I am trying to find an Islamic bank in California to buy a house.

Do you happen to know any Islamic bank that their financing matches the Shari'ah?

J.A.K.

Hamid,

My Answer:

Dear Br. Hamid,

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

To the best of my knowledge there are no Islamic banks in the USA. There is guidance Financial which gives Islamic housing finance and its contracts is Shari'ah compliant, there is also Devon Bank in Chicago and University Bank in Michigan all three of them have Shari'ah compliant contracts and they are licensed to work in California

Best Regards,

Wassalam

Prof. Dr. Monzer Kahf

From: Wael

Sent: Thursday, July 30, 2015

Location: Toronto, Canada

Question: Is Ijarah Canada Co. Shari`ah Compliant?

As-Salamu Alaykum wa Rahmatu Allah wa Barakatuh

How are you doing dearest Monzer? And, how is your dear family?

I am Wael. Al-Hamdulillah, I'm working now as the Imam of Masjid Toronto, Canada.

Dearest Dr. I got a question from someone in the masjid about Ijarah Canada Co. (<http://www.ijaracanada.com/>) Is purchasing houses or other contracts of this Co. Shari`ah compliant?

JAK

Salams

Imam Dr. Wael

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Wael

Ramadan Mubarak to you and your family and Assalam Alaykum wa Rahmatu Allah wa Barakatuh. I hope you and your family are fine and enjoying Canada life including snow skiing and snowman, etc...?

This Ijarah loan is pure fraud. Here is what I wrote to a person who asked me about it:

I have already reviewed the document of Ijarah Canada. In my opinion these documentations and the creation of trust does not change anything at all. According to Shari'ah the trust represents you and it is still you who pay the interest to the bank not another entity (though it is a legal entity called trust). This company that offers this arrangement is merely taking Haram money by cheating people claiming that this makes it Shari'ah compliant. It is Haram to pay for this arrangement because it does not change anything from Shari'ah point of view and Haram to tell people that it does change because this is cheating and Haram to take money for this cheating.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Wael

Sent: Thursday, July 30, 2015

Location: Toronto, Canada

Question: Is Ijarah Canada Co. Shari`ah Compliant?

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Wael

Assalam Alaykum wa Rahmatu Allah wa Barakatuh and Eid Mubarak

Ijarah Canada is the same. It is from Shari'ah point of view a fraud and bluffing.

Are the Islamic Housing Cooperative and the ISNA finance company (a private company that took this name)?

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

My Answer:

As-Salamu Alaykum wa Rahmatu Allah wa Barakatuh

Jazakum Allah Khayran Dr. Monzer for your constant help and support... My salams and regards to your dear family.

As a follow-up to the above question about Ijarah Canada Co., is there any other Islamic finance companies that finance buying homes in Canada through Shari'ah-complaint contracts? If not, can Muslim families in Canada finance purchasing family homes through interest-based mortgage?

Salams

Imam Dr. Wael

From: Ali

Sent: Wednesday, August 26, 2015

Question: Mortgage dilemma

Assalam Alaykum Brother Monzer

My question relates to whether I have to make back payments due to the following situation.

Me and my brother bought a house in 2007 with a standard interest based mortgage. I tried hard to convince him to take an Islamic mortgage but he was completely against it saying it charged allot more and the relationship between me and my brother and parents would have gone really bad or even ended.

We decided to rent out the house while we all lived in another house my brother and parents purchased in 2000. The intention was that one of the brothers would move out to the other house in the future.

My brother done all the paperwork and legal aspects along with the type of mortgage etc. I had no knowledge about buying houses, mortgages, interest rates or anything of that sort and had always let my dad and brother do everything.

When my brother sorted all this out he knew 2 things which he did not tell me till very recently.

1 When we bought the house my brother got a 'residential mortgage' which you do if you are going to live in the property. But he should have got a landlord mortgage by telling the mortgage provider, as we were going to rent out the property. He didn't do so knowing very well they would charge an extra 1% interest which works out to be about an extra œ107 (\$168)

per month. He only told this to me 2 weeks ago and I was so annoyed. I would have made sure we done this the legal way as we had signed a contract with the mortgage provider.

2 Since we have rented out the house in 2007, we are supposed to pay 20% tax on the rental income after various deductions to the government. My brother knew about this but did not tell me. I found this out in 2013 through research. I could not pay this tax to the government because my brother and parents would not let me as it would expose my brother and the tax would be backdated from when we bought the house. Therefore, I have calculated my share of the tax and paid it to charity. This amount works out as €107 per month for the both of us.

My question is - Do I have to backdate the payments for points 1 and 2 from when we bought the house considering that I was unaware/was not told about this until very recently? My share of the money owed in point 1, and the tax in point 2 would amount to €10700 in total (\$16800). If I have to pay this money, then I would have to do it little by little as I am too ill to work for last 4 years and then donate it to charity as my brother and parents would break all ties with me if I expose my brother's fraudulent activities by paying the bank and the government.

I heard that if I did not know that I was doing something haram (not knowing about the extra interest and rental tax), that I would only need to do it once I found out (I have paid my share of rental tax for 2013 and 2014 to an established international charity).

Please advise me as I do not want to deny anyone or any business/government their rights for the sake of money, as I am aware of the consequences of not repaying someone else's money on the Day of Judgment.

I have finally made my brother and parents agree to sell the house and the house we live in and give me my share so I can buy a house with an Islamic mortgage and my brother can do things the way he wants. My parents and brother are happy to do this. My parents have even opted to live with me.

Wassalam

Ali

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Ali

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

As a matter of principle interest must be zero and there must be no taxes whatsoever. This is of course an ideal situation that may never exist on the ground.

I mean by saying it is that you should neither feel guilty for paying less interest that would otherwise be nor for paying less taxes had you brother did not make those mistakes.

You did not hide any info from either the bank or the government and you did not know anything about that until recently. This means you are not guilty of anything and you need not pay to the bank or the government or a charity to compensate for that anything.

Of course giving to charity is encouraged at all time and you do not need such a reason to give to charity.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Amr

Sent: Wednesday, August 26, 2015

Location: Vienna, Austria

Question: Leasing and Mortgage

Assalam Alaykum dear Brother Kahf,

I live in Europe, in Vienna (Austria).

Unfortunately; we do not have any Islamic Finance institutions here yet so I would like to ask you about 2 issues:

1) Leasing a Car

The following offer highlights the common type of Leasing in Austria, is this permissible?

Down payment: 11,425

Running time: 36 months

Monthly payment: 207

Left over value: 22,113

Legal fee: 219

Processing fee: 230

Yearly interest rate: 5,04\$ Variable 3,99% (I am not sure what this exactly means in relation to leasing contracts)

Total amount: 40,950

At the end of the lease period I can either buy the car by paying the remainder, or re-lease the car.

If this is not permissible, what options are open to me? I do not want to take a loan. But I have been reading that leasing is permissible. But much of the material I read deals with North America, and I have not found guidance that deals with Europe in particular.

2) Buying a house with Mortgage

I currently rent an apartment for myself and my wife and kids. Our family is growing Alhamdulillah and we are thinking about a bigger home.

According to our calculations, for the same amount of renting we could buy a home. But the only way we could afford it would be to take a mortgage.

What conditions would make a mortgage permissible? (I have not yet researched the mortgage options so I am not aware of the contractual details). If you need details, then apologies and please ignore this question until I can provide you with details.

Thank you very much,

Jazaka Allah Khair,

Amr

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Amr

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I cannot give you an opinion about car leasing on the basis of the info given. I need the exact proposed text of the contract. I know in the past that I came across cases especially in UK where the text of the contract had substantial prohibited causes. I need the exact text in Arabic or English.

My general view is that leasing is permissible even with the total of payments is larger than the

amount of the cash price

For house mortgage: I know that the environment in Europe is quite different from America. In America there are security, schooling and decency issues in addition to the financial element when we compare renting with buying. To my knowledge Europe in general does not have these additional issues.

The General Fatwa however applies to Europe and America alike and it is a matter that each person assesses on his own: family reasonable comfort, schooling, security and safety, financial, decent environment suitable to raise children, etc. you assess them and if you think there is a difference you appreciate, you may go ahead and apply this Fatwa of buying on conventional mortgage.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Nadia

Sent: Thursday, October 29, 2015

Location: Singapore

Question: Home mortgage financing in Singapore

Respected Dr Monzer Kahf,

Assalamualaikum and may this email find you in good health InShaAllah.

I am writing this email to seek your expertise on behalf of a friend who is inquiring about the case of home financing in Singapore. Due to the highly regulated residential property market in Singapore, implementing Murabahah for mortgage financing there might not be straightforward.

As a background, Singapore's residential property market is highly regulated by the government. Two common government bodies are involved in the purchase of a house are:

1. Central Provident Board (CPF)

The CPF is a mandatory savings scheme for Singaporeans where they save 20% of their income monthly for retirement, medical purposes and most importantly for the purchase of a house. The monthly installments for the house financing are paid from the CPF accounts.

2. Housing Development Board (HDB)

90% of Singaporeans live in public houses developed by the HDB though private property developers do exist, so most financing cases are for HDB houses. In a normal situation without any financing, Singaporeans pay monthly installments from their CPF accounts to HDB, with no cash involved. It is done via automatic reduction from CPF accounts monthly. In this aspect, I find that it may be hard for banks to penetrate the property market in financing homeowners, as it is highly regulated by the government.

I seek for your expertise in addressing the following questions below please: -

a) What is the appropriate Islamic Finance contract that can be applied to the above situation.

b) If Murabahah was a source of financing, how does the mechanism work?

Thank you in advance for your assistance Dr Kahf. Your answers would be of great help in helping Islamic Finance be an alternative for Muslims in Singapore.

Best Regards,

Nadia

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Sr. Nadia

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

As described in your question the sale of houses from the HDB to most Singaporean, Muslims and others, is done on simple sale on installments and it carries no Shari'ah problem even if the price is calculated by using an internal rate of interest especially that it is the law.

For the remaining population and for foreigners the sale will be from the private developers. This can take Murabahah or Ijarah Wa Iqtina? (Ijarah ending with ownership). The same may apply in a few cases with the HDB if it accepts to sell to Singaporean who do not qualify through the CPF for buying houses. I see no reason what the HDB should refuse the Islamic intervention in financing this category of people if it accepts conventional banks intervention especially that Singapore has Islamic banking law, recognizes the Islamic finance contracts and has several Islamic banks on shore and off shore.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Surjadi

Sent: Friday, November 20, 2015

Location: Indonesia

Question: Mortgage and Riba

Assalamualaikum wrb.

Dear Brother

My name is Surya from Indonesia

I read your question and answer about mortgage and Riba here's the link <http://monzer.kahf.com/Fatawa/2000-2002/FATAWA_MORTGAGE.pdf> there is question that similar with mine but I just want to make sure that what I am doing is halal and away from Riba.

I am middle man / broker defaulted mortgage or Non-performing loan or Owner that cannot pay their mortgage and the bank going to foreclosure,

what I do is Buy the non performing notes from banks and lender before foreclosure... let's say:

1. Original loan \$ 100000 and Unpaid Balance is \$80000 the bank sells me the note for less than property worth let's say 50% of unpaid balance

and then I resell The note for higher price is that haram...?

Both buying notes (debt) at any price other than face value is Riba and selling it at any price other than face value is also Riba. this is a most straightforward Riba. No differences among all scholars.

2. I purchase the note from bank and the homeowner is willing to surrender the key and the house to me. After that I resell the house for cash.

no mortgage or financing is that haram?

Buying the notes from the Bank is Riba.

3 I purchase the note but the owner still wanting to stay at the house so I suggest them to get refinance for the lower price. What I did here is

suggesting him to get refinance and that's forbidden right?

Suggesting is not Riba but buying the notes from the bank for less than face value is Riba and getting the notes paid at more than purchase price upon refinance is also Riba.

4 the homeowner doing short sale meaning... owners resell the house for discount and expecting the lien holder (me) forgive whatever the balance is that forbiddance?

Buying the notes from the bank is Riba and whatever you collect above purchase price is also Riba. the Action itself is Haram regardless of whether you make money or not.

Sorry if I ask you lots of question. I just watch Omar Suleiman about Riba <<https://www.youtube.com/watch?v=7qNTxz7tvlw>> and I don't want to have anything to do with Riba in anyway...

please help me understand

Jazakumullah Khairan

Wasalamualaikum wrb

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Surjadi

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Let me please make an in the Qur'an in very clear terms. it is considered one of the gravest sins being the only sin that provokes a war from God and His messenger? as the Qur'an says. Further, its definition is also mentioned in the Qur'an. Please read carefully verses 2:275-279 and reach the conclusion that anything above the principal in a debt or loan is what is Riba as the Qur'an said? but if you repent [from Riba] you get your principal back.?

Now please see below:

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf
