

FATAWA MORTGAGE 2016

From: Edgard

Sent: Saturday, February 13, 2016

Question: on Real Estate Builder Financing Model

InShaAllah you are well. I was given your contact a while back by a good friend of mine Dr. Kamal.

A friend of mine in the Dallas area has a custom-home building company and has been focusing for the past 3-4 years on building for Muslim clients. Since most Islamic/mortgage banks do not provide construction loans, he has been pairing investors from the community with prospective clients. For a typical \$300K home, he usually finds 4-5 investors to offer the financing for a 6-8 months duration. At the end, they do a closing whereby a bank like Guidance or Lariba would pay off the loans and mortgage the house for the client. This brother has been giving investors a fixed amount of revenue for their money that is pro-rated to the duration the money is used for. As an example, if I invest \$10K in January, and when they close in July the money is used only for 2-3 months, he'd have the client pass-through a 2-3% profit to me. It is roughly about 12% per year if the money is utilized for the whole duration.

Questions:

1- Does the fact that the percentage is fixed mean that this is Riba?

2- If it is, do you have suggestions/papers on models that can be used to reward investors?

The clients can easily go to a mainstream bank and get a construction loan but they want to try to keep things as Shari'ah compliant as possible.

3- Do you provide consulting services to help structure such relationships? If so can you please provide me with some details? I'm interested in being an investor and the brother said he's consulted local Imams but I don't know to what extent they're expert on Islamic financing.

Thanks,

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

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I understand this difficulty. It is really an issue to accommodate the requirement of our faith while we are surrounded by a system that does not give them adequate and equal treatment. This kind of investment although it has a good objective, the rout it took is Riba based. It seems to me nothing more than a loan on interest. The matter is Shari'ah does not prohibit financing but it tightly links it to real goods and services. This is why our Fuqaha mentioned centuries back that: A part of the price belongs to time although they strongly and strictly believe in the prohibition of Riba. This is to me is a time value of goods (and services) not a time value of money or debt.

Do we have a way to make it in accordance with the tenets and precepts of Shari'ah? Yes if we can use a variant of sale contract that suits construction of manufacturing, it is described in

classical Fiqh as Istisna' Sale. This requires a direct association with the construction whereby the house will be contracted for building with the builder for a price and then contracted for sale by the financier with the buyer for a higher price, to be payable at time of completion. In this latter contract the increment of price over the first purchase can be made a factor of time depending on phases of use of money for construction. In other words, the final numbers may not be different from what they have done in the process of this bridge financing but the contractual relationship is different and tying it to a house (object being constructed/manufactured) is necessary which implies a different risk profile from that of a loan for interest.

I remember knowing an Edgard somewhere in America who is a lawyer, are you? If you are a lawyer, I can send ideas and dynamics of these contracts and may be some samples from other constituencies for you for to review/reconstruct and we can then proceed from there. It may require creation of a legal entity that takes smaller investment amounts and sign purchase and sale contracts for larger amounts with the builder and the customer because we are talking about an object that stands as a final unit not a financing process.

Please give my Salam to Kamal, isn't he the Kamal who worked for ISNA in Indianapolis for sometimes many years ago?

In brief and in specific: Fixation of return does not make Riba. What makes it is the nature of relation whether lending or buying/selling and meanwhile bearing risk of the property.

I do consulting and make income of it, presently I am overseas.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Edgard

Wa Alaykum Assalam Dr. Kahf wa Rahmatullah wa Barakatuh

Jazakum Allah Khair. I will relay this information to the builder. The brother is trying his best to stay compliant to Shari'ah and I think we can benefit from consulting with you to ensure his contracts and processes are inline. You mentioned you're overseas, when is the soonest you are available to do consulting? And I'm guessing this may not need to be in person and can be done remotely, right? And if you have a schedule of fees and minimum time you use for consulting let me know so I can relay to him.

I'm not a lawyer but would appreciate seeing the sample of docs you said you can send.

Br. Kamal is the same one that worked at ISNA a while back he speaks highly of you

MaShaAllah.

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. Edgar

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The idea of Istisna is purchase the building while under construction for the purpose of selling it

a customer. It is extremely difficult and may involve non-precedent legal dispute if it is not done properly by a lawyer. Please do not charge me with the burden of removing other names from the document I have for no effective use!

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Mansoor

Sent: Friday, March 04, 2016

Question: Mortgages - loan or tawkeel?

Dear Dr. Kahf,

Assalamu 'Alaykum.

May I thank you for your service to Islamic financial issues and helping the Muslim community in this regard. I would appreciate if you could have a look at the following article: <http://shaykhatabekshukurov.com/2016/01/31/mortgages-an-open-letter-to-sheikh-taqi-uthmani/>

The author argues that mortgages are not a loan or debt because one is not actually given access to the money and one is not allowed to use it for whatever one likes. The author suggests that mortgages actually involve tawkeel where the mortgagee is acting as a wakil for the bank.

I would appreciate your thoughts.

Best wishes,

Mansoor

My Answer:

Dear Br. Mansoor

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Thank you for your kind email and for the trust.

First, I do not answer on basis of any internet matters because this is subject to change by will of operator.

Second, on the issue itself, it is nonsense to overlook the legal reality of the documents and claim that it is agency. So what? Agency does not generate the amount of interest or return that is in mortgage. An agent may deserve the price of the man-hours he spent not interest on the money.

Further if this writer know what is the mortgage he will realize that it is a loan on interest with full sense and documentation (Shari'ah wise) and a Wakalah (agency) asking the bank to pay the loan amount directly to the seller. This Wakalah is only for handing the check to the seller. In fact, there is multiple Wakalah: Wakalah to the bank to give the check to the escrow company and a Wakalah to the escrow to divide the total pay (from bank loan and from buyer) to dserving persons according to contract (the real estate broker, the seller, the due tax, the Home Warranty company and there may be others). And the escrow company charges fees for this Wakalah too. Does this change the nature of the loan and all its documentation and legal effects in Shari'ah and in law?

Best Regards,

Wassalam
Prof. Dr. Monzer Kahf

From: Dr. Muhammed
Sent: Thursday, March 17, 2016
Subject: Zero Mortgage...

Dear Prof. Kahf

Many thanks for your time and courtesy.

Please find attached the documents my cousin Rashid sent me for your specialist opinion and fatwa please.

I remain sincerely yours,

Muhammad

From: Nehal

To: Dr. Muhammed

As Salam O Alaykum Wa Rahmatullah Wa Barakatuh, Faraz,

I am leaving in 15 minutes to meet with (Zero mortgage) and to get the copy of his contact InShaAllah. I will flip that doc to you (to run through your reliable scholars) soon as I get. I hope you will get back to me with either Yes or No in less than 24hrs. No pressure..)

Jazaka Allah Khairan,

Nehal

As Salam O Alaykum Wa Rahmatullah Wa Barakatuh,

Brother,

Jazaka Allah Khairan on offering this great opportunity to our Muslim community. It's been years now that I am looking for a 100% interest free Shari'ah compliance home buying option. I have been in discussion with some other organization like ISNA, Al Ansar, Ijarah and UM financials offering something similar. The main reason I did not proceed with any of them are;

1. Not very satisfied with their source of money (don't want to be in situation where someone borrows money from the bank and offer me as HALAL loan with his mark-up).
2. Putting my money (down payment, equity, savings and years of hope) at risk of not having any Canadian Legal protection by having the property in the name of that organization and living as a "tenant" only.

May I ask you to educate me on?

1. Your module and how it is different from Ijarah etc.
2. How do you get your \$ resources to finance the houses.
3. How do you protect your and my investment and if I join you?

Finally, how much would it cost me to buy a property of around \$650,000, if I pay ~30 – 40% down payment?

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. Prof. Muhammed

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It seems that the contract that you sent in the other email is for another company.

Both descriptions, if they are correctly reflected in the actual contracts one will have to sign, are in my opinion OK in their substance from Shari'ah point of view and they seem not to pose any higher risk than normal conventional mortgage financing contracts.

In the document signed by the Shari'ah board members, page, 2 first para about using this arrangement for replacement it says this is no Inah. In fact it is Inah as declared by the OIC Fiqh Academy. This violation would not apply when the house is purchased but when they are going to arrange for the payment of the balloon payment at the end of 60 month. This practice exists in Canada, not in the US, because in Canada finance providers do not give for long term, 15-40 years.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Omar

Sent: Thursday, March 24, 2016

Subject: سؤال بخصوص مؤسسات التمويل العقاري الإسلامية

فضيلة الأستاذ الدكتور منذر قحف حفظه الله تعالى - السلام عليكم ورحمة الله

أسأل الله أن تكونوا بصحة وعافية بإذن الله

وددت الإستفسار من فضيلتكم في مسألة المؤسسات الإسلامية للتمويل العقاري الموجودة في السوق العقاري الأمريكي، فأنا أنوي شراء منزل للسكن بإذن الله وأبحث عن إحدى تلك المؤسسات تكون أقرب في شروط عقدها للتشريعة وأبعدها عن شبهة العقود الربوية أو الفاسدة. فهل لفضيلتكم تقييم لها أو تزكية لأحدها أو بعض منها؟ أرجو التكرم بالإفادة جزاكم الله خيرا ونفع بكم وبعلمكم

والسلام عليكم ورحمة الله

أخوكم عمر

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. Omar .

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

There are several companies that give Islamic finance. I do not give names but I can give you criteria as follows:

1. A company that give you an interest-based contract while it tell that "between us this is Islamic and based on Ijarah" is fake. It is interest-based.
2. You should have trust in its Shari'ah advisers, ask who they are...

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Abuelezz

Sent: Thursday, April 07, 2016

Subject: Zero Mortgage

Dear Dr. Monzer Assalam Alaykum,

I am Abulezz from Islamonline old team used to contact you when I was working in Egypt for financial fatwa. I am working now as in Ontario, Canada.

Could you please provide us with your opinion and fatwa regarding this new company called Zero Mortgage? Below is their link in which they explain their way of the mortgage in addition to the fatwa of their Shari`ah board who are unknown to us here in Canada.

<http://www.zeromortgage.ca/about/endorsements/>

[http://www.zeromortgage.ca/files/8814/4950/6055/Zero Securitization Disclosure Fatwa.pdf](http://www.zeromortgage.ca/files/8814/4950/6055/Zero_Securitization_Disclosure_Fatwa.pdf)

[http://www.zeromortgage.ca/files/8714/4950/6057/Zero Mortgage Insurance Fatwa.pdf](http://www.zeromortgage.ca/files/8714/4950/6057/Zero_Mortgage_Insurance_Fatwa.pdf)

[http://www.zeromortgage.ca/files/1214/4950/6056/Zero Mortgage Product Fatwa.pdf](http://www.zeromortgage.ca/files/1214/4950/6056/Zero_Mortgage_Product_Fatwa.pdf)

I will really appreciate your help and providing us with your opinion because I receive questions from the community and I want to give them the accurate and Shari`ah based-opinion and you are always our reference and Shaykhuna wa Ustazuna.

Jazakumu Allah Khayran

Abulezz

My Answer:

Dear Br. Abulezz

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

You are welcome to Toronto and North America.

You may know that I do not give Fatwa on any link on internet. I tried to look at it but it did not open. Please describe to me the contract and its process and I will be glad to give you my opinion InShaAllah.

Best Regards,

Wassalam

Prof. Dr. Monzer Kahf

From: Abulezz

Sent: Saturday, April 09, 2016

Subject: Zero Mortgage

Please Dr. Monzer find attached the three documents this company provided on their website to explain the permissibility of their transaction. I quoted one of these documents in the previous email.

Jazakumu Allah Khayran.

Wa Alaykum Assalam dear Dr. Monzer,

I am so sorry for that. The only thing I have now explaining this Zero Mortgage Company is below I hope it will be enough. If not I can try to get more information InShaAllah. Also I have Your generosity is always continuous. Jazakumullah khayran . Abulezz

Declining Balance Co-Ownership Home Acquisition Program

Product Fatwa (1 of 3)

We, the Shari`ah Ethics Board of Zero have examined the documents of the Declining Balance Co-Ownership Home Acquisition Programs including documents to be signed by funding partners whom Zero has contracts with, all of which are required for each program. We have reviewed these documents and the purpose for which they have been designed, namely:

1. To assist Muslims and others residing in the Canada to acquire their homes in compliance with Shari'ah,
2. To enjoy the tax benefits and fair treatment accorded by the federal government to home owners,
3. And for the investors to securitize their ownership investment in homes.

The basic concept behind these contracts and documents is that the property is purchased in joint ownership between Zero and the person who requires finance (the Consumer). The Consumer makes monthly payments which are comprised of Profit Payments and Acquisition Payments. Profit Payments represent the Consumer payments for the enjoyment and use of the whole property, while Acquisition Payments represent the Consumer's payments for his acquiring the Co-Owner's interest in the property. It has been ascertained by the Shari'ah Ethics Board that the documents comply with the Shariah requirement for a valid "Diminishing Musharakah" arrangement, some of the reasons are:

1. Both parties benefit and bear the risks of their respective shares in the property throughout the contractual arrangement.
2. Zero and the consumer both are legal partners on these properties where legal contracts are signed and these contracts are then used to place a security on these properties. The Musharakah contracts are connected directly to the property.
3. Zero Diminishing Balance Co-Ownership Home Acquisition Contracts are the first contracts signed by the client.
4. The funding partner of Zero has a contract agreeing to this process and to Shari'ah principles such as not financially benefitting from late payments, taking advantage of those in distress, etc. Zero though its legal security on the property will ensure that Shari'ah principles are applied if the property goes into default.

The documents signed for "Replacement" are meant for a situation where a person has already acquired a property and wishes to enter into a Shari'ah compliant arrangement. In this case, he will sell a share of his property to the Co-Owner, and then both parties will have the same arrangement of "Diminishing Musharakah" as detailed above.

Since the units of property will be purchased by the consumer under this arrangement at cost, and without increase, there is no element of 'inah in this arrangement. After reviewing the mechanism as well as the agreements and documents, and after suggesting amendments that have been incorporated, the Shari'ah Ethics Board is of the view that given the circumstances prevailing in Canada, this arrangement conforms to the rules and principles of Shari'ah; and therefore, Muslims may avail themselves of this opportunity to acquire homes and properties by means of this method.

And only Allah knows best

Dr. Aznan Hasan

Mufti Dr. Muhammad Zubair Usmani

Sheikh Nizam Yaqubi

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. Muhammad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It seems that if the above description is reflected in the contract, it is in my opinion OK in its substance from Shari'ah point of view and it seems not to pose any higher risk than normal conventional mortgage financing contracts.

In the document signed by the Shari'ah board members, page, 2 first para about using this arrangement for replacement it says this is not Inah. In fact it is Inah as declared by the OIC Fiqh Academy. This violation would apply not when the house is purchased but when they are going to arrange for the payment of the balloon payment at the end of 60 month. This practice exists in Canada, not in the US, because in Canada finance providers do not give for long term, 15-40 years.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: مجد

Sent: Saturday, April 16, 2016

Subject: Mortgage finance in Canada

أرجو أن تكونوا والعائلة الكريمة في أتم الصحة والعافية. أشكر لكم معروفكم بإعطائي بريدكم الإلكتروني. لقد وجدت عملا والحمد لله في إحدى المناطق النائية في كندا وأريد أن أحضر الأهل للسكن معي. في هذه المنطقة لا توجد بيوت جيدة للأجار وقد وجدت بيتا جيدا جدا للبيع وسعره مرتفع نوعا ما ولا أستطيع أن أدفع كامل ثمنه نقدا بل أحتاج على الأقل سنتين لأجمع ثمنه. الخيار الموجود أمامي أن أشتريه عن طريق البنك وفي هذه الحالة سيفرض علي فائدة ربوية سنوية. هل هناك مخرج شرعي لي في فعل ذلك من غير حرام أو شبهة؟ الخيار الآخر الموجود أمامي أن أستأجر بيتا متواضعا لحين أجمع ثمن البيت ولا أضمن حينئذ أن أجد بيتا بهذه المواصفات وهذا لن يسعد الأهل أبدا. أفيدوني جزاكم الله خيرا.

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. Muhammad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

First, this name is also the name of a close friend of mine who was a professor of Economics in the school of business in Halab. He was with me in Damascus University between 1958 and 1962. Are you any of his relatives? If you are please tell me his news and where about and give him lots of warm Salam from me.

Now, your question: you should try the Islamic organizations and companies in Canada there are several especially that your finance is for a relatively short term. There is the Islamic Housing Cooperative and there is the MSA housing Company and there are several others. I am definite you should be able to find one of these to finance you for 2-3 years. In fact I do not see a pressing necessity in your case and therefore would not suggest to you the application of the Fatwa that permits using interest-based mortgage in case of not finding suitable Islamic finance to buy a house. You may rent while searching for a house and you may negotiate with the seller

of this same house, to buy it from him at a higher price (e.g., including the amount of interest he wants in the price itself) and payment over 2 years, many sellers accept that

للاخ الشيخ مجد جزاه الله خيرا،
لا أرى في هذه الحالة ضرورة تقتضي اللجوء إلى فتوى الرخصة بالتمويل الربوي وأنصح بالبحث عن تمويل إسلامي فهناك
عدة مؤسسات في كندا لهذا الأمر وبخاصة أن الحاجة هي لسنتين فقط.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Wael

Sent: Friday, April 15, 2016

Subject: Ijarah Loan in Canada

As-Salamu Alaykum wa rahmatu Allah wa Barakatuh

Dearest Dr. Monzer, please help replying the below question:

Salams

Wael

----- Forwarded message -----

From: inshaf

Date: Thu, Apr 14, 2016

Subject:

Assalamualaikum Sheikh,

Is there's any halal way of purchasing a property as the primary residence for someone who does not have a huge saving?

I looked up online and Found an option namely Ijarah - lease to own. However looking at their methodology I do not see anything different to conventional mortgage except for the terminology.

Below is how they explain their system.

"Ijarah is a Sharia Structuring Company that provides our Sharia Compliant process to traditional licensed lenders, brokers, and consumers. Ijarah means rent to own.

The Ijarah system works very simple: First, Ijarah Canada creates a trust, and the trust becomes the owner of the property. Subsequently, there will be a lease-to-own agreement between you and the trust. Each month you will make a rent payment to the trust. Part of the rent goes to ownership until the customer owns it for 100%.

In a conventional mortgage, you are paying for the usage of money. Suppose you want to buy a property, you go to the bank and borrow some money. With that money you buy the property. Each month you pay the bank for the usage of the money that they gave you (rent on money). Payment for the usage of money (interest) is essentially Riba. But in Ijarah, suppose you want to buy a property, you contact Ijarah and fill-out the application. We will create a trust and the trust will purchase the property (with funds from the investor). Each month you will pay rent to the trust. A portion of that rent will go towards your ownership until you have 100% equity. Rent on money is Riba (haram) but rent on property is rent, which is halal."

Jazakallah hairan for your time.

Your opinion on this matter is highly appreciated.

Inshaf

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

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

If this company "Ijarah Canada" changed its model to become as described below it is permissible. The fundamental difference is: if they have investor to pay for buying the property that is put in the name of the trust and you then rent/buy from the trust, this is permissible, the trust here is owned by the investor. But if you take a loan from a bank to buy in the name of the trust and rent/buy from the trust, this is not permissible and they take money for only bluffing you. The trust here is same as you are its founder and owner according to Shari'ah.

On the other hand, Shari'ah prohibits Riba which is a price of time in a debt (loan or money 'although a loan may be in kind and still Riba applies to it'). It does not prohibit rent or profit or profitable finance. This means it changes the nature of finance itself by making it offering goods, properties and assets instead of simply money or credit. The difference is very huge and appears essentially on the macro level for the whole economy. It may look kind of similar on micro individual level.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Fazly

Sent: Wednesday, June 08, 2016

Subject: Ijarah-based **Home Finance offer by Abu Dhabi Islamic Bank**

Assalam Alaykum,

Dear Dr. Monzer,

I'm a Sri Lankan national working in Dubai as a Financial Controller. I have an MBA in Finance and also I'm a Chartered Management Accountant. Although in my job I'm compel to deal with conventional banks and interest (which causes immense stress), throughout my life I have tried to keep away from interest in my personal life. Till date I'm very proud to have refused an attractive job offer from a conventional bank at the start of my career after my graduation.

I'm writing to you since I need to make a decision on purchasing a home for me in Dubai with the support of Abu Dhabi Islamic bank financing. I have appended the mail below detailing the offer from the bank. It works in such a way that, I need to contribute 25% of the value of the property after which the bank will finance the remaining. Over 25 year (or lesser) period I can repay the finance. Repayment is structured in a way where in a portion of the instalment goes towards the equity of the property where as the remaining is taken as a "rent" by the bank.

I'm left to wonder what is the difference between this finance and a conventional one where in if you apply the reducing balance concept the only difference seem to be calling the "interest" in another name "rent". Some of my friends asked me to read a book called "Heavens Bankers" (which I have not done) and also showed me some Fatwas from a scholar named

Sheikh Imran Hossein who is clearly denouncing this kind of financing as “ Riba from back door”.

I’m not an expert on Islamic finance or in any area of Fiqh for that matter. All I’m worried is that when I meet Allah SWT, I should not be stand accused of the sin of dealing in Riba.

May I kindly request you to guide me in this matter unequivocally so that I can confidently make up my mind to go ahead with this finance? If possible could you also kindly address the issues raised by the critics who call this type of arrangements to be no different to conventional finance?

Alhamdulillah Allah has bestowed his immense bounty on me. Even though I live for rent in Dubai I do have a property of my own in Malaysia which I purchased from 100% equity. Even if there is a slightest of doubt I do not want to get involved in this transaction. However It will certainly beneficial financially if I could go ahead and make this purchase in a 100% halal way.

May Allah SWT bless you and your family in this world and in the hereafter for helping people like us. Best Regards,

Fazly

Sent: Wednesday, May 4, 2016

Subject: ADIB Home Finance

Dear MR. Fazly,

I am pleased to inform you that your home finance application has been approved with following conditions. Many congratulations and I am really looking forward to assist you with the purchase of your new house.

Property Purchase Price : AED 1,000,000/-

Finance Amount : AED 750,000/- [Without Takaful]

Finance Tenor : 25 Years [300 Months]

ETV : 75% of the purchase price or valuation price whichever is lower

Profit Rate : 3.75% [2.625% Margin + 3 Months EIBOR Minimum of 3.75%]

Processing fees : 0 % of the finance amount.

Conditions to be met before Final Offer Letter issuance:

- 1- Last six months original EIB bank statement require until end of April before the final approval.
- 2- Original STL required as per ADIB format.
- 3- Original salary certificate required before final approval.
- 4- Group Takaful [Insurance] should be from Abu Dhabi National Takaful (ADNT).
- 5- Down Payment Proof and receipts of 25% manager cheque require at the time of disbursal.
- 6- Current account has to be open in ADIB before final approval.

If you have any question or need any further clarification please feel free to contact me any time.

Thanks & Regards,

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. Fazly

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

According to your description and the below email, it seems that the transaction is Shari'ah-compliant perfectly. Of course there may be some controversial details in the contract (don't they say devil is in the details?) that need to be studied on their own merits and weights. Of course you should be careful that the transaction should not be implemented through Tawarruq, it is Haram although several Islamic banks, including ADIB, do it.

Critiques of this transaction fail to address important issues including the following:

1. Allah forbade Riba (increment is a debt or loan) but did not forbid financing for profit especially as in sale of credit at higher than cash price and in leasing. Renting is Halal unquestionably.
2. Islamic banks are financial intermediaries, they are required by Shari'ah to protect the interests of depositors and shareholders, this is why they take securities, mortgages, liens and add conditions like insurance, etc. this makes it look like what conventional banks do... but this must not deter us because IBs do the same functions of conventional bank but in the Islamic way, after all they also start, in their transaction, with cash and end with cash. This is the nature of their job and the essence of their existence. Most critique do not realize that and want IBs to functions like bread or cloth traders.. in other words, do not realize how important this (FI) new economic function is and do not realize its fundamental characteristics.
3. Besides IBs provide financial intermediation, in contrast to real estate traders and other businesses. Financial intermediation means they deal with money all the time, they give money at the beginning and expect to get amounts of money at the end of the day. This does not make their activities Riba as long as they have real assets being the subject of their transactions as in this case, buying a house together and rent/sell you their share overtime.
4. Rent is pre-fixed, and it always should, because the Prophet, pbuh, taught us specifically that. Pre-fixing of return in finance is not a problem although it looks similar to Riba from the point of fixation.
5. What is Haram is increment is a debt not rent of a house, a real asset that produces usufruct.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Fazly

Dear Dr. Monzer,

Jazaka Allahu Khairan for your time and detailed response.

I'm also concerned how come certain Sharia scholars are approving products such as "Tawarruq" that are clearly haram as you mentioned. Even in the scheme proposed to me, it seems I cannot rely on the bank 100% as you said there could be possible deviations in the finer details.

Kindly bear with me if I have more queries from you. Best Regards,

Fazly

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. Fazly

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Of course there are several reasons, some of them may be innocent and many are not...

But most likely when the contract is based on lease ending with ownership, the likelihood of containing any wrong is small.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Taheseen

Sent: Thursday, June 02, 2016

Subject: Is 'Fulfilled By Amazon' business model Shari'ah compliant? Also Ijaraloan of Canada

Assalamu Alaykum brother Monzer,

I am a sister looking to start selling on Amazon using the 'Fulfilled by amazon' option, wherein after having seen the sample of a product I can order the supplier to ship the rest of the product (say a 1000 quantity) to an Amazon warehouse. On receiving a customer order, I can then direct Amazon to package and ship the product direct from the warehouse to the customer.

Is it Ok to sell a merchandise that I have seen only a sample of, but not checked the rest of the inventory and not possessed in my own house/office but in a third party warehouse ?

I have the option of getting it shipped to my house and then sending to Amazon warehouse, it's just that arranging the supplier to directly ship to Amazon warehouse is cheaper and easier for me. Kindly advise. Regards,

Wassalam.

Sister Taheseen

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. Taheseen

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Sale/purchase on sample or full description is permissible. Shipping to Amazon warehouse can of course be done only after you make arrangement with Amazon to receive the quantity and take delivery of it. This means that Amazon takes delivery on your behalf as if it is your appointed agent.

Then when you sell, you are selling merchandise that you own and have in the possession of your agent. Of course you deserve the sale price including the added profit when your agent (Amazon) makes delivery to your customer by mailing the sold item to him/her. All part of this transaction are Shari'ah compliant provided the item itself is permissible and purchase/sale contracts fulfill their normal known conditions.

Wa Allahu A'lam

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

From: Taheseen

Asslaamu Alaykum wa Rahmatullah wa Barakatuh,

May Allah reward you immensely for the service that you are offering to Muslims by guiding them in their financial matters.

Kindly allow me to ask another question:

I have alhamdulillah made an agreement to purchase my first house in Canada and have a mortgage approval from a regular bank. However I would like to go by Shari'ah based financing. Can you kindly have a look at <https://ijaracdc.com/how-it-works/> and let me know if this is really Shari'ah compliant.

Also, the email from their office let me know though that they are not the lenders. In their words, " IjaraCanada.com is not a lender, we are Sharia Structuring company which provides our Sharia Compliant process to traditional licensed lenders, brokers and consumers."

May Allah reward you for your guidance.

Regards, Wassalam.

Taheseen

My Answer:

I don't answer on the basis of websites. Please explain to me what the process is and I will do my best to answer.

Further, if what they do is transferring you conventional mortgage into a trust and Ijarah. I have been given details of this process and studied it. this is used to be called Ijarah loan at one time and they changed their name several time. This a company that takes your money for doing nothing (set a trust, transfer the loan to it, make an Ijarah contract between you and the trust so you pay the trust and the trust pays the bank). this structure is pure bluffing, because from Shari'ah point of view the trust represents you and nothing has changed except that they charged you some \$2000-4000.

From: Imam, Mosque

Sent: Saturday, June 25, 2016

Subject: Mortgage Guidance Required

Dear Prof. Monzer,

As-Salamu `Alaykum.

It will be much appreciated if you could kindly answer this question for MAC Mosque in Canada. Awaiting your reply.

Wassalam

Imam Dr.

Canada

----- Forwarded message -----

From: Sajid

Date: 22 June 2016

Subject: Mortgage Guidance Required

As-Salamu Alaykum,

First of all I would like to thank you for your time to clear some of my questions on Monday, Jazaka-Allah.

As you know that I am looking the right guidance about mortgage and as discussed following are my details:

- I am in Canada from last four years.
- We are family of six, I & my wife, Son (13) and 3 Daughters (10,8,3)
- I am in IT project management profession. Currently I am looking for a job. I was earning around 110K (salary + bonus). I am looking for a right job, inshallah will find something related soon, right now on employment insurance.
- I have to support my family back home on monthly basis.
- Since kids are getting older and now they are asking to shift to our own home due to several reasons.
- I am also planning to apply for my parent's visa and want to give them comfort on their arrival.

Since there are many fatwas in favor of mortgage and against it so I am not sure which way should I take? That's why I am looking for you to guide me for the right path based on above-mentioned facts. I want to take appropriate steps in the light of Deen to buy home on mortgage or continue renting.

Any further clarification please let me know.

Regards,

Sajid

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.

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

This is a typical case of families that need to purchase a house to live in. I suggest to this brother that he should shop for a house and an Islamic finance at the same time. There are several institutions in Canada that offer Islamic finance including the Islamic Housing Cooperative that is in Toronto area but provide finance all over Canada, other private companies and there is the Credit Union Assiniboine in Alberta that also offer Islamic Mortgage contract. The basic difference is that in the Islamic way the person and the finance provider buy the house together; then the latter sells its share to the customer on installments at a higher price than the purchase price (or rent it part of the property with undertaking to gradually buy it on piecemeal basis). The issue is that Shari'ah prohibit interest (which is an increment in a debt) but does not prohibit finance. Finance is a recognized legitimate profitable business provided it is based on sale or leasing not on debt provision.

If he fails to procure Islamic finance after making the search and efforts, (either because he cannot meet conditions of its providers or unavailability in his area) then with the explanation and details he gave it seems to me that the Fatwa of many scholars applies to him which allows him to resort to any bank and take interest-based finance in order to satisfy his family needs for house purchase.

Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Rabbia
Sent: Monday, June 27, 2016
Subject: Interest and mortgage in Europe

Aslam Alaykum sir,

I am engaged to be married in next 3 months INSHALLAH my finance lives in France and plans to buy a house in next year he has thought of every other way to see if he can buy house without getting loan from bank but living in a country which is interest based I want to know can he get the loan from bank to buy a house for us to live in? I have been thinking about this from quite a while and looking for a right knowledge about this according to Islam. Thank you.
Allah haffiz

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. Rabbia

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I start with congratulation to you and your future husband, now fiancé. If you think that buying is necessary (being a young couple in France does not give impression that buying a house is necessary) for you and you have sufficient moral justification for it and with the lack of Islamic finance (although I know that a French branch of a Moroccan bank offers Islamic finance) in the country, it becomes permissible, with the mentioned circumstances to buy on interest-based loan from a conventional bank.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: munther
Sent: Saturday, July 09, 2016
Subject: IjaraLoan in Canada

د. منذر القحف يحفظه الله

السلام عليكم ورحمة الله

تحية طيبة إليك ، و كل عام و أنتم بخير .

فقد أتيتحت الفرصة للتعرف عليكم من خلال الأخ خالد سلطان ، والذي كنت أستشيريه بخصوص شراء بيت في كندا ، حيث يدرس أبنائي ، و ذلك ضمن عقود متوافقة مع أحكام الشريعة .

أوضح لي - مشكورا- مجموعة من المعطيات في الموضوع ، و أحالني إلى حضرتك باعتبارك من أهل الذكر الذين نسألهم، و نستفسر منهم بخصوص أفضل الخيارات والمؤسسات المالية المتاحة لذلك في كندا .

كنت قد تعرفت على الأخ خالد في زيارته الماضية لنا في الدوحة حين زارنا في قطر الخيرية ، حيث عملت في مجال مشاريع التمكين الاقتصادي ، من خلال برنامج " التمكين للشباب العربي عبر العمل عن بعد " Distance Employment،

وهي استراتيجية مستحدثة تمكن الشباب العربي من الالتحاق بسوق العمل عبر توظيفهم لصالح شركات خارجية دون أن يغادروا بلادهم .
أملا أن تتاح الفرصة للتواصل ، سواء هاتفيا أو عبر الإيميل .
والسلام عليكم ورحمة الله
منذر

My Answer:

الأخ المكرم منذر زيدان
السلام عليكم ورحمة الله و بركاته وكل عام وأنتم بخير
بارك الله بكم وورعاكم، وشكرا على رسالتكم الطيبة،
أنا الآن مع الأهل في إجازتنا الصيفية في كاليفورنيا، وسنعود إن شاء الله تعالى في منتصف الشهر الثامن (آب) ولعلنا
نتواصل في الدوحة بإذن الله، نسكن في منطقة الغرافة وتلفوني المحمول هو 30113250
مع أسمى التقدير وأعز التحية
أ.د. منذر قحف

From: munther

الأخ الكريم د. منذر القحف يحفظه الله
السلام عليكم ورحمة الله
أشكر لكم ردكم ، رغم أنكم في إجازة عائلية ، أملا أن تعودوا للدوحة غانمين سالمين، حيث يمكن أن نتحدث حينها بقدر من
التوسع، ننتفع من علمكم وخبرتكم .
كنت أرتب زيارة لكندا نهاية هذا الشهر بغرض شراء البيت، وبالتالي فالوصول إلى نتيجة حول وجود خيارات شرعية
للتمول أو عدمها ، محدد أساسي لسفري . لذا فأسأل حضرتكم حول قضية محددة ، وهي صيغة قرض الإجارة
(IjaraLoan) ، و الذي فهمته أنه يتم من خلالها إنشاء Trust تقوم بالاقتراض من بنك ربوي بغرض تمويل الإجارة. نموذج
ذلك مؤسسة <https://ijaracdc.com/how-it-works/> Ijarah Canada
سأكون شاكرا لك إن كان من أي تغذية راجعة بخصوص شرعية هذه الصيغة، وكذلك أي روابط لمواقع أو منتديات
متخصصة بالتمويل العقاري في أمريكا الشمالية، وأحكامها الشرعية .
تحياتنا لكم ، على أمل أن نراكم في، حيث أسكن.
والسلام عليكم ورحمة الله

My Answer:

هذه عملية نصب لا تغير شيئا في القرض الربوي لأن الترتست هو أنت نفسك من الناحية الشرعية. هم يستعملون فكرة أن
الترتست شخصية قانونية مستقلة ليزعموا أن الترتست هو الذي سيدفع الربا للبنك ثم يوجرك فأنت تدفع للترتست أجرة والترتست
يدفع الربا فيذهب الترتست إلى جهنم... هذا كذب ودجل على الناس لأنك أنت تنتشي الترتست وهو يمتلك أنت فأنت في الحقيقة
الشرعية تعقد عقد الربا وتدفع الربا شهريا للبنك. وهؤلاء الدجالون يأخذون منك مبلغا من المال للاحتيال عليك...
منذر

From: Areff

Sent: Sunday, August 14, 2016

Subject: buying a room in a hotel

Salaam.....how are you?

I entered into an agreement and I am now concerned if this is halal.

A hotel in India had advertised for the general public to buy a room and they would pay rent
from the proceeds.....of the room rent only, not the restaurant or the ball room or any other
facilities.. ..It's all ok so far....they also mentioned paying ' 7 % minimum rental returns 'is
this halal?

Wassalam...

My Answer:

Before I answer please tell me if this is the whole story? Or after a period of time the hotel will pay back the amount you paid and buys back the room..

From: Imam Mosque

Sent: Monday, August 15, 2016

Subject: Islamic Home financing

Dear Prof. Monzer,
As-Salamu `Alaykum.

Thank you for answering the other questions about M & M financing. Below is another old-new question. Do you agree to send your earlier answers to the same topic to new questions, if the case is exactly the same (i.e., buying a house on interest.)?

Jazaka Allah Khairan for all what you do for the sake of Allah to help our thirsty community in Edmonton, Alberta.

Baraka Allahu feekum and may He SWT reward you the best, amen.

Imam Dr.
Canada

----- Forwarded message -----

From: Khaled

Salam Alaykum MAWLANA,

Is it ok religiously to buy a house using Islamic financing when I know that they are not 100% in compliance with Islamic rules?

JAK

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., respected Imam of Mosque

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Please inform the questioner that a finance contract is either permissible or not. Unfortunately there are many exploitative false claims in the USA and Canada of being Islamic finance and in reality it is not. A claimed Islamic contract that is in fact is not Islamic is not permissible and remains pure Riba (examples of this are Ijarah loan and Zero mortgage) you need to look at the paper and conditions you sign and that is what determine whether it is permissible or not not what is written on the website.

On the other hand, there are minor areas where people differ such as who bears the maintenance and insurance cost and the like. Differences in such areas may be tolerated as long as they are not in the main issue of ownership, interest and loan.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Thoupou

Sent: Saturday, August 27, 2016

Subject: Housing

Salam,

I live in USA and would like to buy a house but would like if there is nothing wrong (Riba) with this company <http://www.ameenhousing.com/>

Thoupou

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. Thoupou

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The contract offered by this cooperative for house finance is Shari'ah compliant. It has no Riba.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Thoupou

Assalamu Alaykum,

I figure out that I won't be able to deal with Amine Housing because I don't live in California. I am in Virginia. Is this company halal <https://www.guidanceresidential.com/> Or do you know any halal financial institution who offer no Riba mortgage in Virginia?

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. Thoupou

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Yes to the best of my knowledge unless they change their system recently.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: HINDA

Sent: Tuesday, August 30, 2016

Subject: Zero Mortgage

Assalamu Alaykum Br.

I missed your seminar on Islamic Finance in our town of Kitchener/Waterloo. I have waited more than 12 year to buy a home "Halal" but did not find any satisfactory Islamic Financing. Early this year I came across Zero Mortgage a referral institution. They have Scholars who approve their method. I met with their representative who reassured me. The information is complex for a laywoman especially the Shari'ah aspect. Anyway, I consulted our local Imam to look into the situation and the scholars listed. He initially gave me the go ahead but it still didn't

sit well with me. Then you came to our town but I missed the seminar. I would appreciate if you can look into this organization and let me know if they're legitimate Islamically. There are six members in my family and renting is not optimal but I have no intension of compromising on my Deen.

Best regards

Hinda

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. Hinda,

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Thank you for your kind email and I am sorry that you did not have a chance to be with the discussion in Kitchener.

Unfortunately the Zero Mortgage company puts on its website a Fatwa by respected scholars but does not reflect this Fatwa in its contract which carries their name and logo that was sent to me and is not also reflected in the plain interest-based promissory note that is attached to the contract. Unfortunately these two documents are in clear violation of the principles of Shari'ah and they are not based on any concept of Musharakah but rather on loan with increment (interest).

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: HINDA

Jazaka Allah Khairan!

I appreciate your feedback. Please, if you know of any Islamic financing that is permissible or something Halal comes up in the near future please bring it to my attention.

May Allah reward you for the work you do.

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My Answer:

You know the Islamic housing cooperative if you can meet their conditions and also the MSA Housing Finance organization, the contracts of both are Shari'ah compliant.

From: Imam Mosque

Sent: Saturday, September 17, 2016

Subject: Islamic Home financing 002

Dear Prof. Monzer,

As-Salamu `Alaykum.

I hope you had a nice Eid Al-Adha vacation, dear prof.

It will be much appreciated if you could advise brother Basem how or what to choose based on his question to you below.

Wassalam

Imam Dr.

Canada

----- Forwarded message -----

From: Khaled

Salam Alaykum Mawlana,

Can you please check if Prof. Monzer knows of any Mortgage product that we can use here in Canada and would be in compliance with our religion?

JAK Regards,

Khaled

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 Amin, Imam of Rahma Mosque

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

If you have in Alberta the Assiniboine Credit Union, its contract is OK and you can use it for Islamic house financing. Alternatively you have the Islamic Housing Cooperative and the MSA Housing Cooperative that are both located in Toronto but I think they are authorized to work all over Canada.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Bassem

Sent: Wednesday, September 14, 2016

Subject: Buying a second house on interest mortgage

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ وَ أَزْكَى الصَّلَاةِ وَ أْتَمَّ التَّسْلِيمِ عَلَى سَيِّدِنَا مُحَمَّدٍ خَيْرِ الْمُرْسَلِينَ

Dear Prof. Dr. Monzer,

Eid Mubarak. I pray you and your loved ones are in the best health and spirits.

I humbly seek your advice on the following matter. Alhamdulillah my family is growing and the house I live in is getting quite small and tight on us. I live in a 2 bedroom condo with my wife and 2 kids. Hadi is 9 and new baby Layla is 11 months. We are now looking in the market to buy either a 3 bedroom or 4 bedroom. Alhamdulillah we currently own the current condo and we have no mortgage on it. It was purchased via private "rent to own" agreement with a kind Muslim investor and it was paid off almost 2 years ago.

I was thinking that since I own it, I should keep it to rent it out so it can help me pay my future mortgage faster but someone mentioned to me that it is not permissible to own a house and get a mortgage on another house because it's your 2nd house. Unfortunately the house is small and I cannot have my son and daughter share the same room. Since the condo is paid off and can potentially generate an income, I felt that there's no harm in keeping it rather than selling it to put down the money on another house, it will take me longer to pay off the new house thus paying more interest in the long-run. Whereas if I keep the condo to collect rent money from it it will help me pay less interest in the long run. I just need to know if that is permissible to do.

What would you advice any of your children if they were in the same situation?

Baraka Allah Feek and I thank you in advance for your time.

Wassalam Alaykum,

Bassem

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. Bassem

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I think it is a very good idea to have a small rental property that may give you long term secured income. You should be careful that most rental properties in CA do not give good return because of the high prices of housing.

Technically from Shari'ah point of view when we resort to conventional mortgage financing we are supposed to reduce the amount on interest to minimum. This implies using all the equity in your house for the new one..

I suggest that you go with Guidance Financial or Devon Bank for purchasing the new house on Islamic mortgage, then do not sell the present one if you believe it gives you adequate rentals.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: deenah

Sent: Tuesday, October 11, 2016

Subject: Ruling on conventional mortgage

Assalamu Alaykum,

I have a question regarding the permissibility of purchasing a home through a conventional mortgage: Since there are no viable Islamic alternatives to buying a home, would it be permissible to purchase a home by way of mortgage because there is a need, family safety, excessive moving from rental to rental, location etc.?

I understand that automobile insurance is also a form of Riba but it has been made permissible because of the need for transportation- so by the same principle, is getting a conventional mortgage allowed since there is a need to live in a home in a safe and suitable location?

One could argue that we don't need to buy cars since public transportation is very convenient and accessible so we can avoid getting car insurance altogether but yet it has been made permissible if needed. Shouldn't the same logic be applied to buying a home via mortgage?

Jazaka Allahu Khairan

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. Deenah

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

For Muslims who live in a non-Muslim majority countries in the Western countries, if there is a real need for the family as mentioned in your question and there is no Islamic finance available, yes it is then permissible for the house to live in that a Muslim family may go to conventional mortgage. It is not for investment property because there is no necessity for that.

The example of the car insurance is different. Car insurance does not have any interest in it. Insurance is rejected by many Shari'ah Scholars because it is not a balanced contract since the occurrence of the incidence (the peril) cannot be known. These scholars suggested that insurance, being very useful and sometimes necessary, should be done through cooperation like in cooperative insurance not through a commercial contract like the sale because risk cannot be traded or sold. Here also if Islamic insurance is not available and you feel that it is useful (notice I did not say necessary) for you, whether car, house, property, health, business, liability or life, and there is no Islamic insurance (often called Takaful) available to you you may take a conventional insurance preferably with mutual and cooperative companies. In other words, insurance is much less problematic than Riba which is prohibited in the Qur'an with very strong wording. This is why some great Shari'ah scholars argue that even conventional insurance may be permissible.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Ayesha

Sent: Thursday, October 27, 2016

Subject: Islamic Mortgage in Canada

Salaam Everyone,

I am curious about the Islamic Mortgage. How it's different from the other banks? Please explain it. I need to know all the aspects through which you can say its according to Islamic rules. I have visited your office at Assiniboine credit union, Winnipeg, Manitoba but still I am not convinced yet. Please explain it

Greatly appreciated,

Ayesha

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. Ayesha

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The house finance for Muslims by Assiniboine Credit Union is developed on the basis of declining co-ownership which is known in Shari'ah. the bank and you buy the property together, you rent the share owned by the bank and at the same time undertake to buy, along with monthly rental payments, small shares of the property of the bank. Once you buy a share the rent has to decline because you become owning larger portion of the property and the bank

become owning a smaller portion. It goes on until you buy out the share of the bank completely.

In the contract template that we developed with Assiniboine we had to be tactful in using words because the law does not allow the bank to buy properties and lease them so we used terms like "ACU contribution toward the purchase" instead of saying shall buy and the like. these terms definitely include the meaning of purchase and own. This is why we also clearly say the ACU interest in the property is ..%.

This contract is fully Shari'ah compliant with no doubt.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

My Answer:

Dear Br. Shahzad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

This contract needs major changes. Please see my comments/

Also please tell me if there is a close for early payment at each each , I did not notice that..

Best Regards,

Wassalam

Prof. Dr. Monzer Kahf

From: Shahzad

Thank you for your response. Here is the Word document, as requested, together with some comments from counsel to Alberta Treasury Branches.

----- Forwarded message -----

From: Paul

The changes in the pre-ambule were made because the purchase has already closed. I've attached a word version of the Commitment Letter – Please revise as you see fit and send me the revisions as soon as possible for consideration.

Thank you,

From: Shahzad

Dr. Monzer,

Are you available for a conference call on your suggested changes with the lawyer for ATB and me?

MAC has already purchased the building and wishes to put ATB's funds towards the purchase.

There is no previous financial institution on the deal and, therefore, no way of doing a cancellation.

With respect to the credit card issue, ATB will simply put that MAC undertakes to pay before any interest accrues.

If suitable for the client, we will fix a date of December 15, 2016 for closing so that the sums can be known up front.

There is a commitment fee that is required upon execution of the commitment letter (that is standard in these contracts as a service fee). However ATB's lawyer is going to see if they can waive the renewal fee from the contract or at least charge it is there is a renewal.

Can we do a conference call tomorrow at 5 pm Toronto time as I will be on the road from Hamilton to London and should have an hour of free time?

Mr. Taylor, feel free to add anything I may have missed from our call and advise if you can set up international conference call particulars for tomorrow?

Salaam,
Shahzad

My Answer:

Dear Br. Shahzad,

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

After a property is purchased the debt that results from the purchase contract cannot be financed in accordance with the Islamic law except personally with no increment or return to the provider. Please tell the MAC officials that they should know better and that any finance provided by any institution to pay a debt is purely loan with interest. This is unlike financing to purchase a property. And the difference is huge.

Please tell the MAC officials who made this sale before arranging for finance that: they should collect money (on personal loan basis or on donation) from own pockets and MAC members to pay this debt because any institutional arrangement can only be interest-based.

Of course, I will be glad to receive a conference call with you and other concerned persons. Now for me is Friday morning, almost 7 am. I can be available anytime you suggest for me today (only avoid Juma prayer time which takes about 1 ½ hour, and starts after 4 ½ hours from now).

Best Regards
Dr. Monzer Kahf

From: Shahzad

Would a conversion to Sukuk solve the problem? I would have discussed further with Paul and MAC but I wish to get clearance beforehand.

My Answer:

Conversion to Sukuk means selling the property to Sukuk holders.

Yes. You can issue charitable Sukuk to own this property and this ownership may be permanent or converted at a later stage to charity (Awqaf/endowment)

Prof. Dr. Monzer Kahf

From: Imam Mosque

Sent: Monday, November 21, 2016

Subject: Is Mortgage halal or haram in Canada?

Dear Prof. Monzer,
As-Salamu `Alaykum.

Thank you very much for your response to the other question.

Below is another one if you could kindly respond to it, then it will be much appreciated.

Imam Dr.

----- Forwarded message -----

From: Shahzad

ASA,

I am intending to buy a home for my family in Edmonton but want to clarify if mortgage is permissible in Islam or not?

What is status of Mosque? Is it fully paid property or management paying its mortgage?

I would request you to discuss this matter on Juma Khutba as well so that all community members can clear their concern about this serious and genuine issue of Western society.

Regards,

Shahzad

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. Amin,

Imam,..... Mosque

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Except under necessities, buying homes or any other properties on conventional mortgage is not permissible in Shari'ah because interest is Riba, exactly with not a slight difference. Riba is prohibited in the Qur'an and it is one of the gravest sins for any Muslim.

Necessity situations were discussed by a large group of Scholars in the second international conference of Shari'ah Scholars in North America which was held in the Fall of 1999 in Detroit. The conference resolved that for Muslim families who need a house for living (not investment property) either for education, security, good neighborhood and financial reasons and they do not find Islamic finance suitable to their conditions; such families may take conventional finance and should try to get rid of it as soon as possible.

On another point, to the best of my knowledge, over the last 45 years during which I am a part of the scene of the Muslim communities in US and Canada not a single mosque was purchased on conventional mortgage. I am aware of a few cases that happened before the year 1970 in Indiana and Michigan, one of such cases ended up with foreclosure and the mosque disappeared, but since then no mosques were finance on Riba.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Mustafa

Sent: Saturday, November 26, 2016

Subject: Question

Assalamu Alaykum Dr. Kahf

I have a question unrelated to the sharia compliant mortgage work we are doing. If someone wants to purchase a home using cash with the help of someone who is providing a good portion of the funds as an investment in the home, is this valid? Could the new owner of the home

evaluate the value of the home on an annual basis and pay the investor a % based on the growth in value of the home and the investor's % ownership?

JAK

Mustafa

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. Mustafa

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh This transaction means house financing outside banks. The idea is very valid and can be implemented in a Shari'ah-compliant way which is fair to both parties.

The way to implement it is through either of two ways: Murabahah or Ijarah with a promise to buy.

Murabahah: they buy together then sign a contract in which one sells the other his/her share of the property at profit and on installments. The property will then be in the name of the final purchaser and he/she will be under debt for all installments that consists of original price plus the agreed on mark up.

Ijarah with a promise to buy: they buy together (there is no need for double transfer of title, as the first buy contract from original seller may appoint the final beneficiary to hold the title on Wakalah basis, the financing buyer will place a charge mark on the property record to secure his/her share of ownership) and then an Ijarah contract will be sign for renting the share of the financier to the beneficiary. With it a promise to buy through future consecutive monthly contracts is signed by the beneficiary to the financier (a schedule will be made to state the expected share of the property the beneficiary will buy each month), the price may be the same original price of purchase or higher or it can be reviewed by mutual agreement on a definite transparent mechanism not affected by either party on periodical basis, e.g., every year through average of three outside evaluators.

If you give me some time I can produce templates for these contracts that will have to be reviewed by local specialized attorneys.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Best Regards

Dr. Monzer Kahf

From: Shaikh

Sent: Wednesday, November 30, 2016

Subject: Some questions on mortgage

As-Salamu Alaykum wa Rahmatu Allah wa Barakatuh

Hopefully, this message reaches you while you're in the best of your health and Iman.

How are you doing Dr. Monzer? How is your dear family?

I got the below questions on mortgage from a sister; please help replying them:

1. Can Muslims in Canada utilize the bank mortgage system to buy a house?

We can use Islamic finance contracts from Banks/companies/credit unions/cooperatives that offer them. Islamic finance is based on sale or lease principles while conventional finance is based on loan with interest. You should find a a finance provider who offers house finance on (buying the property then giving it to you on) installment sale or lease town basis.

Whenever such offers exist, it is Haram to take interest loan contract from any institution.

If there is no way one can get a sale or lease based finance (either because of non-existence or because of difficult or costly conditions), buying a house on conventional mortgage for Muslim families who need it (for any reason such as children good schooling, financial stability, safety and security of neighborhood, etc.) to live in becomes permissible and such families should try their best to get rid of the Riba as soon as possible.

.2. Is it permissible to buy a house through the “Rent to own” system?

Yes if the contract is interest-free (rent as income of the finance provider is permissible) but if the contract is interest-based, it is not permissible except as explained above.

3. Some scholars say it is permissible to buy the first house on mortgage when living in a non-Muslim country when it is for your personal use. Is this correct?

Yes, with the above condition, I.e., if there is no Islamic finance. also this Fatwa applies to Muslims living in Western countries not in India for example because in India where there are large concentrations of Muslim that are supposed to create their own financial institutions (if banks are not allowed could be finance companies). in Western countries there is not sufficient business to sustain such companies

4. Is it allowed to purchase a house by reaching out to an Islamic Trust Fund providing housing loans in such a way that customers are not dealing directly with a bank and the Trust takes care of all the dealings on your behalf?

If there is such a trust Fund and it operates according to Islamic principles the answer is yes. But if you mean taking a loan from a conventional bank and assign it to a trust in the model done by a company that calls itself Ijarah/loan the answer is NO. This Ijarah loan model is based on a legal difference between the trust and its founder. This legal difference is not accepted in Shari’ah (also in Canada it is not accepted in regard to property tax and toward any and all creditors). Accordingly this model does not change the fact that you are still the contractor and payer of interest.

5. . Is it permissible to buy a foreclosed home directly through a bank?

Yes, provided above conditions are observed, I.e., without interest.

6 Is it advisable for Muslims to create associations where money is saved without accumulation of interest for the purpose of investing in a house?

Yes, it is advisable. This is exactly what the Muslim Housing Cooperative does in Canada. You may contact it and invest with it until you are able to buy your own house.

7. Is there any other alternative other than the interest based mortgage system?

Yes, to negotiate with credit unions to and convince them to offer Islamic contract like what the Credit Union Assiniboine in Manitoba did.

Salams

Imam Dr.

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

Dearest Brother Dr. Shaikh

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The questions of this Respected Sister need a lot of lecturing as if she did not attend any of the lectures we had there in Toronto area in the summer. I will try my best to briefly answer below her queries and sorry for the delay.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Best Regards

Dr. Monzer Kahf

From: Mohammad

Sent: Saturday, November 19, 2016

Subject: Ansar Cooperation - Canada

Assalamu Alaykum brother Monzer,

My name is Mohammad. I was referred to you by brother Mohsen from Masjid of Toronto.

I'm living in Canada and looking for Islamic financing to buy a house. Mohsen told me that you are expert with the Islamic financing so I would like to consult you about one of the organization I found here in Toronto, called Ansar Cooperation www.ansarhousing.com

They are claiming that they are 100% compliant with Shari'ah. I have gone through the details of their process and couldn't spot a major departure from Shari'ah. However I'm not an expert and hence I appreciate if you can give me an opinion on what might not be fully compliant in their process as I'm very meticulous and will try to avoid any "Shubhah" inshallah.

Thanks in advance, Jazaka Allahu Khayran.

Regards,

Mohammad

My answer:

Can you please send me a blank copy of the contract they offer so I can give you a detailed opinion?

Prof. Dr. Monzer Kahf

From: Mohammad

Sent: Thursday, December 22, 2016

Subject: RE: Ansar Cooperation - Canada

Assalamu Alaykum,

Sorry for the late reply, they just got back to me. Please find attached the sample agreement. Also below is the link for your reference.

<http://www.ansarhousing.com/forms.aspx#zR3zmyobpsmJpFOYY2aCXQ>

Looking forward to hear from you and Jazaka Allahu Khayran in advance.

Regards,

Mohammad

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. Mohammad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The contract seems Shari'ah compliant. I have no reservation on it. Clear enough a property is purchased on member request and then given on rental (occupancy fees or contributions) to the member, this is OK.

Article 3 is kind of vague and I can hardly understand it. Can you check how is it going to be filled: does the monthly payment include part rent and part saved for purchase of the property? What is the price of buying the property by you from the Cooperative, is it the balance of the original purchase price? Can you give me an example with number?

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Best Regards

Dr. Monzer Kahf

From: Mohammad

Sent: Thursday, December 22, 2016

Subject: RE: Ansar Cooperation - Canada

Assalamu Alaykum,

Many thanks for your quick reply.

The way I understand article 3: it is about the time when I will buy the full house at the end of the process. I can clarify further from them.

I have couple of point though:

1- I have read in Islamqa website that you cannot do rent and buy agreement on the same asset. Which seem to be the case here. <https://islamqa.info/en/139498>

While the rule is correct its application to this case is incorrect. Suppose you start together on 10/90 sharing. You rent the 90% of the house, if at any time you buy an additional 5% upon then you will be paying rent only on the 85%. The rental agreement always applies to the part the coop owns not the part you own. This combination is permissible. Contracts that cannot be combined are contracts that contradict each other (such as sale and rent when applied to same. I.e., you buy the 5% but you still pay rent for it). when the rent is declining upon purchase in 5 of the purchase, then it only applies to the part owned by the coop.

2- Also in islamqa, they said that if they own part of the house, and I'm renting this part from them, they we should share the maintenance/service/taxes according to our shares in the house. While "Ansar" said that all the maintenance/taxes/services should be paid by ME because I'm living in the house.

While it is correct that owners who share a property should share all its expenses and liabilities, it is permissible for the rent to consist of more than one part: an amount paid every month + the insurance fees for the share owned by the coop + its share of the tax and its share of miner maintenance. In this case the rent consists of all these. It is also permissible. In other words,

these are their responsibility but by terms of the agreement they are made part of the rent due on you and you are authorized (or asked) to pay them to others.

3- "Ansar" said that at the end of the process, they will do a revaluation of the house and estimate the market price of the house at that point. And then whatever capital gain on the house during the agreement period will be shared between me and them (not sure what is the mechanism exactly though),

This is a difficult condition which is inappropriate because you are going to make a commitment to buy at a price that is not known. It has definitely a serious Shari'ah problem and it is also unfair because the coop is earning the rent why earning more than that? I don't accept this condition and I am sure you will find some "sheikh" who will approve of it. the practice in Islamic banks and in Guidance Financial (which is approved also by its Shari'ah Board) is to sell it to you at the same purchase price on a declining balance basis: each time you make a monthly payment, the part that is above the amount of rent (say 8% of the price of the share of property owned by the coop) goes as payment to buy a small share of the property, your ownership share increases and the coop's decline upon each purchase (effected at each monthly payment), until you buy the last balance of the property. The monthly sales are done through sale contracts done simply by payment (in Fiqh called sale by handing بيع بالتعاطي) and each time for a small part of the property but once it is paid for the rent declines for the next month.

Salam,

Mohammad

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. Mohammad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Please see my answers below the questions:

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Best Regards

Dr. Monzer Kahf

From: Mohammad

Sent: Wednesday, December 28, 2016

Subject: Zero mortgage

Assalamu Alaykum brother Monzer,

Did you come across these people? I went to their office today and met them.

From my conversation with them, I had two Shari'ah concerns:

1- If you left the house, you will keep paying them the profit (rent) .. until you sell it....

2- If you wanted to buy the rest of their share at any point of time, you can buy up to 15% per year without any issue. If you want to buy more than 15% of their share they will charge you a fee, which is 20%-25% of their share!

Appreciate if you can share your thoughts 📩 Pazaka Allahu Khayran

Regards,
Mohammad

From: Info Zero Mortgage

Subject: Zero Mortgage.

We appreciate you contacting our group. For next steps you can either contact Zero to answer any Halal Questions or fill out the application form attached get your approval process started.

Further details are listed in our newsletter at the end of this email

Feel free to contact us at any time to help you with the process.

Zero Mortgage Canada

My Answer:

Dear Br. Mohammad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The attachment does not give their name or their plan.

Please be sure that they are not interest-based. The condition of 15% max per year is not bad. It means that using it in 7 year you can be paid off and it is in your hand not to buy more.

The condition of paying rent even if you leave the house is rather correct because rent is like sale a binding contract that cannot be broken by one party and if you leave the house you are required to pay the rent until the end of the period of the contract.

Best Regards

Dr. Monzer Kahf
