FATAWA MORTGAGE, HOUSE FINANCING 2000-2019

From: Fuad
Sent: Tuesday, June 29, 2021
Subject: Mortgage Clarification
Question:
Assalamu Alaikum Professor,
I hope my question meets you in good health.
Please permit me to know whether this kind of mortgage is halal or not.
I am a public servant in which every month a certain percentage is deducted from my salary under the Federal Mortgage Bank. The purpose is for each public servant to have access to mortgage to own a house. The requirements for the loan is as follows
The person is entitled to pay back within the period of 30 years.
The person must first pay 30% of the property as part of his equity and then approach the Federal Mortgage Bank to pay for the balance through another Primary Mortgage Institution (PMI) @6% interest rate.
The person must pay an insurance premium
My questions are
The person opens an account with PMI where the loan is deposited for him to give them approval to make payment or otherwise if he is not convinced with property he can reject it. note he can't have access to the money. The money is just there for his consent. Is this permitted Islamically?
In a situation where he approves the payment the title document will be with the PMI on his name until he finishes the repayment. Is it permitted Islamically to have his name on the title document?
What's the ruling of the 6% interest rate? Note money was given to him but property.
What is the ruling of insurance in such a transaction?
I will In Sha Allah be available for any clarification if needed.
May Allah S.W.T keep you in good state of Eeman and health.
Jazakallah khair.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Fuad
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
First my apology for the delay of my answer, I am on my vacation traveling from place to place and having restricted access to internet.
I am aware of this program. Unfortunately it is obligatory and at the same time interest-based in a country that believe in equal treatment to all its citizens, Muslims and others… the program is in violation of Shari'ah and it must be amended through a democratic demand by people like you to allow option of non-interest. It is not difficult to make such amendment and it requires calling on the president and legislators to enforce equal treatment of Muslims in it. It can be based on non-interest and it can require Islamic insurance while still gives same privileges to public servant.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards

Dr. Monzer Kahf
Professor, Islamic Finance & Economics
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From: Naima
Sent: Saturday, June 19, 2021
Subject: Assiniboine Islamic finance contract
Question:
As salamu ‘aleykum
I currently live in ……. and am searching for Islamic Mortgage options. I had an appointment with the Assiniboine Credit Union to get more information and they directed me to your contact for further explanation of how this mortgage works and what makes it Islamic, in order to understand. Can you please provide me with the specifics of the contract and how it is halal, baraka Allahu feekum.
Sincerely,
Naima
My Answer:
Dear Sr. Naima
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I am presently in Istanbul, the contract offered by Assiniboine is based on declining Ijarah\ Musharakahh. It is approved by me a few years ago. The idea of it is to own the property together on basis of co-ownership which is known in Shari’ah and the CU rents you it part at an agreed rate of rent. You give a promise to buy portions of the CU part of the property, this increase your share and reduces its share, which requires adjusting the amount of rent every time you make a buy. Hence, the part of monthly fixed payment that goes for rent will be declining and the part that goes for buying more shares is increasing until you buy the whole property.
If you have any further questions please write me.
Wassalam
Best Regards
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From: badi
Sent: Saturday, May 15, 2021
Subject: Question re mortgage
Question:
Assalamo alaikum 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 downpayment. 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 Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Badi
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
If you don't qualify for the conditions of the Islamic finance companies which are available near you, your case became 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 Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Prof. Dr. Monzer Kahf
Islamic Finance and Economics

Reply

Dear Br. Monzer
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I had previously written to you to ask your opinion on whether I could take a conventional mortage in 2013. It has been a few years and my situation has evolved and I wanted to ask once again given my current circumstances.
I took a conventional mortgage and am currently in Year 2 of the 5-year term (20 year amortization). In Toronto, in the last year, a new Islamic finance company has been operating using a Musharakah model. If I switch to them by breaking my mortgage early, here's how the numbers look.

* Over the life of the mortgage, I am currently paying $526K in payments (incl $88K interest)
* In the Musharakah model, I would pay $641K in payments (incl $204K in their profit)
* This represents a 22% increase in the total payments I have to make
* *MOST SIGNIFICANTLY* the Musharakah model is floating versus the Bank of Canada prime interest rate and is expected to go up in the course of the life of the contract (Prime rate is at all time low). If the rate goes up, I will not be able to afford the payment as currently the payment is already at 49% of my monthly after-tax pay.

I am not worried about paying more over the life of the mortgage, but I don't think I can bear an increase in monthly payments which I would expect to run into one or two years from now. Can I continue to remain with the conventional mortgage? I think I might be able to switch to

a lower rate conventional mortgage (I,e, go down from the 2.64% in my current contract to 1.99% or lower) which would reduce interest payments.
Jazakallah khair for your advice and may Allah swt accept all you do.
Badi

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Badi
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I do not think that Allah requires you to pay more or be exposed to a potential inability to pay because some company that uses a permissible model of financing charges high rates of profit. In your situation I rather suggest that you go for a lower rate on your present mortgage and try to complete the payments in as shorter time and lower total interest as you can.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
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From: Thanzil
Sent: Tuesday, April 20, 2021
Subject: Home Investment and Life Insurance

Question:

Assalamu Alaikkum. I am Thanzil living Scarborough (Ontario, CA) for last five years. I came here as a student and become permanent resident now. I do have a question? I am planning to invest in a pre-construction condo which will be ready to move in 3 years in sha Allah. My plan is to invest there and sell once it's ready to occupy. I want to take that equity of condo to deposit into my future home as down payment. Am I allowed to do this? I know the consequences of interest and want to be clear about this please. Given this country and scenario am I allowed to do this?
Also Is Life Insurance halal? I do have life insurance for last two years. It includes critical illness as well. Is it permissible? Please advise and Jazhakallah hair.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Thanzil
Ramadan Mubarak to you and Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Investment in housing and other businesses is always permissible as long as you avoid interest (= Riba that prohibited in the Qur'an) and Haram products. Remember that all such investments are subject to Zakah that is due every Lunar year to be given to the poor and needy.
All insurances are controversial and there is an alternative in some countries which took the name of Takaful of Islamic insurance. But unfortunately, it does not exist in Canada. However,

if insurance is required by law such as car insurance of one feels it is necessary for him\her it is Okey to take it. This applies to life and other kinds of insurances.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
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From: Bilal
Sent: Monday, March 8, 2021
Subject: mortgage
Question:
Dr Kahf,
Aasalamualikum wa Rahmatullah wa barakatahu,
My name is Bilal, and I am based in……. I have been working in traditional finance for more than 12 years now but I have not been able to come to terms with getting a mortgage.
As you probably know, the mortgage rates in Japan are very low and theoretically I'm am paying 2 times in rent what I would pay if I had mortgage. Unfortunately, the financial system in Japan is very archaic and it is very difficult to convince even forward-looking banks to create a "halal" product for obvious reasons of demand and market size.
Could you kindly guide me on an approach for mortgage that doesn't go against Allah and His Prophet (s.a.w) and I don't burden myself and my family.
May Allah give you ajar for your time.
Jazakallah Khair.
MaSalaam
Bilal
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Bilal
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I have no idea about ways other than the mortgage and the Islamic mortgage finance that is available in US and Canada and some European contries although with some restrictive conditions.
Can you take a shorter-term mortgage in Japan for zero interest?
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
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From: Negm

Sent: Monday, March 8, 2021
Subject: Mortgage question
Question:
Salam Alaykom Dr Monzer
I have a couple of questions about financing a car and also mortgage for a house.
Some car dealerships will basically add the interest to the value of the car and then you pay instalments, that claim this is 0% financing and sometimes they call it " buying out the interest"
So, my question is doing it this way is it halal or it is not recommended?
Now when it comes to mortgage if I can pay rent should I just continue paying rent though it is the same cost of a mortgage and what are the conditions that can make a mortgage halal, I'm in Alberta Canada, are there certain banks or credit unions that I should seek for a halal mortgage?
Gazak Allah
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Negm
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1. Riba is an increment in a debt, not in sale price. An increase in a sale price because if the time is permissible provided it is done, even known to the two parties before the contract, I.e., in the offer. Once a contract is done, a debt is then created and any increase becomes an increase in the debt. In fact sometimes we beg car dealer to include the expected interest in the price and accept buying as sale at higher price! The increment in debts opens a Pandora box that can never be closed.
2. In Manitoba Assiniboine Credit union offer Shari'ah compliant mortgage. And you may check with the trust-worthy finance companies in Ontario that offer the same. Alternatively, the Fatwa for buying a house under avoiding difficulty may apply to you and your family.

Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
www.kahf.net; www.kahf.com/blog

From: Razia
Sent: Saturday, December 5, 2020
Subject: Home halal financing - Aya Financial in Toronto
Question:
AsSalamu alaikum wa RahamtuLLahi wa Barakatuh. Dr. Kahf,
I pray you are doing well and safe by the grace of Allah.
I live in Ontario, North America. I have been trying to purchase a house for living for many years but didn't proceed as I couldn't find any 100% shariah compliant halal financing so far.
Reply

Recently I came across AYA financial in Toronto. I heard a few renowned masjid in Toronto also go through them.
Brother Dr. Kahf, if it's not too much trouble, could you please check the attached Aya documents and advise me if it is ok to purchase a house through them or not. I'm eagerly waiting for your valuable feedback.
Barak Allah feekum,
Umm Rayyan

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Razia
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Sorry for the delay.
I looked at these documents, it seems to me they are Shari\ah compliant and I hope you are not charged above market rates, may Allah guide us all.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
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From: Atif
Sent: Sunday, August 2, 2020
Subject: Buying a house

Question:

Assalamu alaikum Dr. Kahf:
Firstly, I would like to thank you for the many years of service to your community. And in particular, for translating Fiqh of Zakat which really clarified a lot of detailed questions I had related to the matter. May Allah reward you abundantly. Ameen.
Dr. Kahf, my question for you is related to buying a house. If the bank holds the legal title to the house and I promise to pay what they payed plus an increase (interest), so that I can take occupancy of the house and eventually get the title (ownership) transferred to my name, once I have paid the full amount for the house. Would this be permissible?
Awaiting your answer. Let me know if you have any questions. Jazak Allahu Khair
I really appreciate it!!

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Atif
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Thank you for your kind email,
The answer to your question is as follows:

If you call the amount above the bank's cost for the house interest, then it is interest and it means it is Haram as you confess to being Riba. BUT;
If the bank acquires the house and holds its title (it doesn't matter how or under what conditions) and you agree with it to pay an amount (any amount be it larger than cost or not) provided you take occupancy now and you also pay taxes and repairs and maintenance and the bank transfers to you the title after completion of all payments, without calling it anything (I.e., no mention of interest and no mention of sale, ownership Ijarah, etc.) this is then considered sale and it is permissible.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
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Professor, Islamic Finance & Economics
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Follow up
Walaikum Assalam wa Rahmatullahi wa Barakatuh
Kazakh Allahu Khair
Thanks for the prompt reply!
I Just have a few follow up questions Dr. Kahf:
If the title is in the banks name then doesn't that mean that the bank is selling a commodity and therefore the interest rate is profit and basically detailing there amount of profit for possession of the commodity and increase for deferred payment? As is the case with leasing.
Also, this transaction is in the United States.
Barak Allahu Feek
I am not at a level to argue with you nor am I trying to do so. I just want to understand fully.
Ma assalam
Atif
My Answer:
But if you call it interest how do you want me to call it anything else?
Don't call it interest, call it return, profit or anything else.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
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www.kahf.net <http://www.kahf.net/> ; www.kahf.com/blog <http://www.kahf.com/blog>

From: Nafiz-
Sent: Saturday, June 20, 2020
Subject: Buying house with mortgage
Question:
Assalamualikum wa rahmatullahi wabarkatu,
Dear Brother,

I hope you are well. Its been a long while I asked you some questioned about Islamic way of living life in financial perspective and you gave me those answers eloquently which I still refer to this day.
I have another very frequently asked question which is, buying house with traditional mortgage. I am willing to buy a house to live for myself and my family of 4. I have about 10% deposit of intended house I want to buy but not sure if the transaction would be halal or not. I do understand the traditional mortgage is based on interest or Riba with next best alternative of renting with uncertainty and pay higher rental price.
I know it's a dilemma and a challenge for Muslims living in western society (although eastern society now do more than west) but I just want to get a wise advice and explanation from you so that I can be assure of what I am doing is compliant with Islam.
Feamanillah
Nafiz

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Nafiz
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
If Islamic finance is not available in the country you live in, and you feel buying is important for you and your family, the Fatwa Issued by the Second International Conference on Fiqh Issues considers it permissible to buy on conventional mortgage and try to pay it as soon as you can, this conference was held in Detroit in the Fall of 1999. I was in that conference and was attended by prominent scholars including Shaikh al Qaradawi.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
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FATAWA MORTGAGE, HOME FİNANCE 2019

From: El-Disi
Sent: Thursday, October 17, 2019
Subject: House finance contact

Question:

Salaam Alaikum,
I was told by brother Abdulhai that you are subject-matter expert on Islamic finances.
Is Guidance Residential (Link below) house loan Riba according to Sharia?
Is their contact in compliance with Islamic finances?
Thank You
Amad
From: Abdelhai
Sent: Wednesday, October 16, 2019 2:27 PM
Assalaamu alayykum,
As requested, I asked for his contact.

I admit that now I don't remember if I asked him about Guidance or another matter. Pardons. Please feel free to ask him regarding the religious acceptibility of Guidance Residential.
Abdelhai

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. El –Disi
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
To the best of my knowledge the house finance contract of guidance financial was reviewed by well versed Shari'ah scholars, I personally did not find in it any violation of Shari'ah.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
www.kahf.net; www.kahf.com/blog

From: Omar
Sent: Wednesday, October 16, 2019
Subject: mortgage

Question

Assalamu Alaikum Dr Kahf,
I've been looking into a Islamic mortgage company in Canada called Manzil …….. They offer a murabahah-based mortgage product. I have been communicating with them to learn more, but am not allowed to see the contracts at this stage. Here a few details as I understand them:

- I believe they have sought financing from external firms (venture capitalists / investors) so I'm not sure the exact source of their capital, I have not researched this yet.
- their profit rate varies depending on the financing term. So if we agree to pay them back in 10 years, it is a lower profit rate than if we pay them back in 25 years
- they require the customer to give 20% down payment, then they will pay the 80% and purchase the property under their name. I am not 100% clear on the details here.

Sorry to be so vague about the details, but my question is simply if you have any advice what I should look for or inquire about to ensure it is a valid murabaha contract?
JazakAllah khair

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab 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
Murabahah is the easiest form of financing; you only need to agree on the conditions including rate of profit, installment period and the like. You do not worry about sources of their funding or other issues relating to how do they deal with others. You should look for what protect your rights. In Murabahah the house must be registered in your name because it

is a sale and they have right to put a lien on it that you cannot dispose of it without clearing their debt as the Murabahah puts you under debt of the sale price (total amount of installments).
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
www.kahf.net; www.kahf.com/blog

From: Sharafe
Sent: Wednesday, September 25, 2019
Subject: Fwd: Land Registry and Mortgage Documents.
As-salamu Alaikum Dr. Kahf,
I pray you and yours are excellent.
A brother is inquiring about a Masjid in Ontario that obtained financing to determine if it is Sharia-compliant or not. It appears they went through AYA Financial.
Are you able to have a quick look to ascertain whether or not it is?
Barak Allah feekum,
Was'salam,
Sharafe

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Sharafe
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The Agreement seems to be generally OK. I have these few points that I do not personally agree with them and feel they should not exist in a Shari'ah compliant finance contract:

1. The amount 16628.00 mentioned in article 6 page 5 needs explanation. Any non0justified payment from debtor to creditor is consiidered Riba
2. User fee and liquidated damage of article 7 are not fair they should be at the rate of calculating the user fee 4.25% applied to the then balance.
3. Both charges of article 7 alsre also not fair as the user fee then is much lower than the total monthly payment of $11110.59.
4. In the AYA Declining Balance Agreement the penalty in article 11 for early payment$16628 has no jutification, it is based on invalid claim that early payment cause damage to creditor, it does not.

Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Dr. Mohsen
Sent: Tuesday, September 24, 2019
Subject: How to buy a house in the west without mortgage
Salam dear Prof. Monzer,
Please take the time to answer this question:

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in

Dear Br.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Simply by paying cash and if needed getting loans from family and freinds.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Omar
Sent: Friday, September 20, 2019
Subject: Halal mortgage in Canada
Assalamu Alaikum,
I pray this reaches you in the best of health and iman, ameen.
I just wanted to ask you which halal mortgage companies in Canada do you know that of the are permissible to use?
JazakAllah khair
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Omer
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I am not familiar with the new companies in the market. I know the Islamic Housing Cooperative functions in accordance with Shari'ah. But I also know that there are several other private companies that operate in accordance with Shari'ah too. There are two or more that are fake, one of them in Ijara loan an done is called something like zero mortgage or something like that. But companies always come up with new financing models, it is hard to keep track. You need to check the contract itself and their Shari'ah advisors.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Raed
Sent: Saturday, September 7, 2019
Subject: Home Mortgage advice
Al Salam Alaykom,
I bought a house and took the mortgage from Guidance residential (GR) Islamic company. They stated the way of contract is sharing. They refused to share the contract with me and promised to give me low rate. I was forced to sign the contract as they put me in a corner either to sign or pay delay plenty to the owner so the did not fulfill their promises and gave me high rate. They did not buy the house and sell it for me instead at the closing day I signed the contract with a third party in behalf of the GR with presence of the owner. After two weeks of signing the contract I received letter with GR logo but the lender is US bank not Guidance which means they sold the

mortgage to US bank before even my first payment and GR apparently as a middle company. Also found out sharing means if I lose in the house they will take the rest of their money and they give me some if any left over which is same as American banks but GR stated they wont run after me if they still own money. This is the short story. Please I need you to guide me if it is ok to go refinance with American banks or GR is really Islamic and it is better to stick with them. I am looking for Halal than saving money. So please advice.
Best regards,
Raed

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Raed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I think it is useful that you discuss this with me, as there are a few things of confusion that need explanation, can you call me now on face time of what's ap. To my cell phone 1714 878 7612?
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Arif
Sent: Wednesday, August 14, 2019
Subject: Buying house on mortagage

Asalam Alaikum Dear Br Monzer,
Eid Mubarak to you and your family. I am writing to you to get your advice on a topic that has worried me for many years. That is buying a house on mortagage.
I am a 61 year old man living in New Zealand. During the last 19 years I have lived here, I have lived in a rented house. My income and my savings are not enough to buy a house. I bought land with some money I inherited. Now I have no money left to build a house.
In the last one year there has been an influx of immigrants and the house prices have shot up by $150,000 to $200,000. The house rents have also gone up. When any house comes up for rent there are 20 to 25 people trying to rent the same house. I am afraid if my landlord wants to sell the house I am renting because of good market price, I will have a big problem finding and renting another house. In another 5 years time I will retire and my pension will not be enough to pay rent and have enough money left for food and other household expenses.
I do not want to depend on my children in old age , besides only Allah knows where they will settle with their families in future. There are no Islamic Banks or finance companies in New Zealand. At present the interest rates have fallen in NZ to 1% (one percent). If I take out a small mortagage (loan), I can pay back Insha Allah before I retire.
Please advice brother as to what I should do.
Kind regards,
Arif

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Arif
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

İt seems to me, with the details metioned in the question, that the conditions mentioned in the Fatwa of the Second international Fiqh Conference of North America (fall 1999 in Detroit) apply to you. This would make it permissible to get conventional finance for families living in the Western countries that need housing and find some kind of financial, social, etc. Hardship continue living in rented places.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Aamir
Sent: Friday, June 21, 2019
Subject: Helping with family mortgage payment?
السلام عليكم ورحمة الله وبركاته
I hope you are in the best of health and imaan.
I live in Canada. A few years ago, my father and brother bought a house through a conventional bank mortgage. Our family lives in this house.
Shortly after, they started asking me to contribute the same amount as them towards the monthly expenses which also goes towards the monthly mortgage payment but also covers other bills like utilities.
Is it permissible for me to do this? I am helping make the mortgage payments (including interest, etc) on a monthly basis.
I do not have any ownership in the house nor am I on the mortgage contract.
جزاك الله خيرًا
Aamir
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Aamir
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Rather you are required to help your father, even for payment of the interest and principal for two good reasons: 1) to be kind and obedient to your father بر الوالدين and 2) to reduce his sins by paying the interest loan faster which is also kindness or better an obligation on you as much as you can do that.
Dr. Monzer Kahf
From: Aamir
Assalamu alaikum sheikh,
Jazak Allah khairan. Very beneficial. Follow-up question if you don't mind:
The house is owned 50/50 by my father and brother. I don't mind helping my father; it is my duty to do so. InshAllah we will eventually move out and get rid of this mortgage.
However having contributed to this for 2+ years now (almost $15,000+ from my end) I feel like I have helped my brother pay off his portion of the mortgage and helped build his equity in an impermissible way. A lot of it was when I wasn't living at the house either.

Is it impermissible or bad for me to "convert" my contributions into a loan and ask for the money back from my brother? It is a win-win situation because he got to pay off the mortgage and I get my money back with my hands clean.
Alternatively, is it impermissible or bad for me to ask for a portion of the house ownership that my contribution represents?
I am just conflicted in having helped my brother grow his investment with me having nothing to show for it.
Aamir
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Aamir
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
İt really depends on the circumstance. Keep in mind that the return of Aaoirah is very much worth not to neglect or sacrifice.
İf you can discuss with your brother and father amicably that what you pay should be considered as loan to them, it is OK. But if that upset them consider it, within your self as help and rent.
Alternatively, or second choice, if the property is in both names half\half, you may also discuss with your brother to consider one half of what you pay is a oan on him.
I wouldn't suggest that you seek to be consider as a co-owner in the house, you will thn be a part of the contract, better keep your heart pure.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Ali
Sent: Tuesday, June 18, 2019
Subject: buy a house through Aya Financial in Toronto
Salaam Sheikh,
Hope you are doing well. It's been a long time since we chatted. I have a client who is looking to buy a house through Aya Financial in Toronto. He had the following question:
I had a question regarding the Musharakah Mutanaqisah (Declining Partnership) contract as it relates to buying a property.
Should the title be in the name of BOTH the purchaser and financier since it is a partnership? What if it is only in the purchaser's name - is that Shariah compliant then?
Jazak'Allah for your help. Salaam.
Kind Regards,
Ali
My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Ali
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The title registration itself is a procedural matter, it is not itself part of the contract. İt is created to protect all parties involved and it is definitely a good thing to oberse,
From Shari'ah point of view in cownership, a coowner may assign the other coowner to hold the title on its behalf based on trust between themselves. This is perfectly permissible as it is purely matter of Wakalah (agency). However, I always recommend that when the title is in the name of the client, the interest of the financing coowner must be clearly mentioned in the contract (also it must be clearly mentioned that the financier ppoints the client as its agent to hold the title) and supported by a lien (charge or mortgage) that does not allow the agent to dispose of the property without approval and consent of the finance provider.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Idriss
Sent: Wednesday, June 19, 2019
Subject: Conventional mortgages
Salamou alaikoum ustaad,
This was a question I asked to Sh. Joe. I would like to here your take on this question I posed a few months ago. Barakallahu feek

> Me:"Salamou alaikoum shaykh, why are asset-based loans with interest prohibited in the shari'ah? Mortgages for example.
> In the Netherlands, we are required to completely acquire a house. The loan-to-asset ratio is 100%. A fixed interest rate for 20 years averages around 3.2 percent. The time value of money is embedded in the value created. In case you sell the house early, the profit is all yours as the legal owner of the house. You only pay a fee because of early redemption. There is no form of injustice towards the consumer in these kind of mortgage agreements.
> Islamic finance constructions like the musharaka use market-level pricing. Because a consumer rents a house for the remaining part to be redempted, the bank asks for a higher return (because of their equity stake their risk is higher). Current rent prices are at 6% of the value of a house. Almost double interest rates. In case you sell the house early you share the profit with the bank.
> The conventional asset-based loan is more lucrative for consumers and bears less risk. Why would the second construction islamically be more preferred?
> It is as if the religion is there to protect big retail banks instead of individuals and families."
> Joe: " What does "we are required to fully acquire a house" mean?"

Me:" 100% ownership. So no schemes anymore where you have a mortgage without paying the mortgage over a period of 30 years."

Joe:" Idriss, apologies but I don't follow. Don't allow mortgages lock you into a scheme to pay for the home over 30 years or less? I really want to learn more. Is there anything from the govt I can read? Like regulations or laws on how this must be structured"

Me:" Because of the 2008 financial crisis and the 2011 EU debt crisis, the Dutch government increased the regulation of the Dutch mortgage market.

Currently, if you buy a house in the Netherlands, you will only be eligible for a tax deduction on the interest if it's a repayment or linear mortgage. Dutch law stipulates that it's obligatory to repay a mortgage within 30 years. Thus, everyone that buys a house now in the Netherlands and wants to receive tax deduction will opt for one of both mortgage products and gain 100% ownership (0% debt) over a period of 30 years (or less if you choose to).

The loan to value ratio in the Netherlands is 100%. So, it's not possible to receive a loan that's higher than the value of the house.

Currently, interest rate average is around 3.2% (fixed for 20 years). The mortgage loan is deposited in a building fund and can only be used by the buyer to pay for (the building of) the house and perhaps renovations that increase the value.

Therefore, a mortgage loan is an asset-based loan. When we compare these kind of regulated mortgage loans with islamic contracts like the musharakah, it's very obvious that conventional mortgage loans are financially far more lucrative than musharaka contracts. Because, musharaka contracts know the concept of rent. Renting prices on average equal 6% of the value of a house in the Netherlands, almost double of interest rates of mortgage loans.

From a maqasid perspective, conventional mortgage loans in the Netherlands preserve the wealth of an individual/family more than a musharakah contract, because you're able to acquire the same house (100%) for half of the (interest/renting) costs"

My Answer:

I do not give fatwa as a second opinion. The definitoon of Riba is quite clear in the Qur'an, If you ask me an independent question please state what it is and I will try to answer it. However, there are several flows, in my opinion, in the Exchange of arguments that you send me below.

Best Regards

Dr. Monzer Kahf

From: yousra

Sent: Monday, June 17, 2019

Subject: Islamic mortgage

Assalmo alaikum Dr Kahf,

Hope this finds you in good health. I am writing to you in reference to the Assinaboine Credit Union (ACU) Islamic mortgage, since they have you listed as the member of their Islamic advisory board. I am looking to go in a mortgage agreement with ACU. I have learnt that ACU conducts their Islamic mortgage based on the principal of musharka , where the two parties in an agreement share both the loss and the profit from a business. I would appreciate your word on this and if the ACU mortgage actually fulfills the requirements of the musharaka . Regards,

Yousra

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Yousra
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
This contract of ASSiniboine is Shari'ah compliant, I personally contributed to its structuring and making it in this final form.
You should remember that there are two kinds of Musharaka in Shari'ah: coownership and partnership. İn the latter there is a manager and common objctive to make profit. İn coownership each party owns his\her share and one may rent its share to the other (notice there is no profit andno common management). İn this kind of Musharakah, they share any common desaster such as an earthquake or government take over of the property. One gives committment to the other to buy its gradually share, while renting (of course the rent declines as the customer buys shares of the property because the rent is only on the part that remains owned by the ACU) and the finance provider does not share price changes because of this commitment.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Wassim
Sent: Wednesday, May 15, 2019
Subject: Sharia compliant home financing
Assalam Alaikum Ustath Monzer,
is buying a house with Guidance Residential in the US okay?
Sent from Yahoo Mail for iPhone
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Wassim
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
To the best of my knowledge YES, it is OK. Their contract is based on co-ownership and declining Ijarah (they call it declining musharakah, it is rather declining co-ownership). They have rspected group of Shari'ah scholars and I studies their contract a few years ago and found it Shari'ah compliant. I assume they still use same template of contract as the one I studied.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Shakeel
Sent: May 6, 2019
Subject: real estate financing contract
Assalamu Alykum,
A bank in Chicago is offering the following financing. Do you approve this?
A Murabaha transaction involves a purchase and deferred-payment resale. The property that has been identified by you for purchase will be purchased by Devon Bank. At closing, you will assign the purchase contract to Devon Bank, which will enable the Bank to purchase the house from the seller on the same terms and conditions that you had agreed to with the seller. Immediately after the purchase, there will be a second transaction.
At this transaction Devon Bank will sell the house to you for a fixed price, paid over time, with no interest. The fixed price will include the price Devon Bank paid for the house and the Bank's profit. To determine the profit, Devon Bank will take into consideration the purchase price, the amount of down payment, the term of repayment and the market rate of return on real estate transactions that our investors expect. At closing, you will provide us with the agreed down payment and the balance of the Murabaha debt will be paid in installments as agreed. You will have the title/ownership to the property at closing.
By structuring the transactions in a Shariah compliant manner, we avoid lending you the money and therefore there is no interest involved. Rather than lending you the money to purchase the property of your choice with interest, Devon Bank purchases the property of your choice and sells it to you for a fixed price. At closing, you do not sign a promissory note that states the principal amount and the rate of interest at which the principal will be repaid. Instead, you will be signing a Murabaha contract for the balance amount due on the purchase price of the house.
On Monday, May 6, 2019, 11:21:40 PM EDT, monzer kahf <monzer@kahf.com> wrote:
You can do anything provided you do not buy a mosque with interest-based loan. Even the unbelievers of Makkah before Islam did not accept to rebuild the mosque (Ka'bah) with Money from Riba. If there is no way without Riba then you do not buy a mosque and live without it until you find another way.
My Answer:
As described, this is a Murabaha which is acceptable in shariah
Sent from my iPhone
Dr. Monzer Kahf

From: Imaam ……..
Sent: Tuesday, March 12, 2019
Subject: Fwd: Mortgage
Dear Prof. Monzer, As-salamu `alaikum.
Kindly try to answer the question below for one of our community members. I would suggest that you write a detailed fatwa for our newly launched website to be like a reference in this regard. Much appreciated.
Imam Amin

---------- Forwarded message ---------
From: Besma

Date: Tue, Mar 5, 2019
Subject: Fw: Mortgage
To: IMAAM
salam alykom
I would like to understand if mortgage is ok for muslims here in Canada getting confused with lots of opinions
is there trustful way other than bank mortgage to own house here in Canada jazakom Allah khayran

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Imam Dr. Amin

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The issue of mortgage

Mortgage in Canada and the UAS is normally interest-based. This is what banks and finance companies offer.

Interest is exactly what is prohibited in the Qur'an with very strong wording which makes it one of the most serious sins as the Qur'an declares a war from God and his Messenger against those who deal with it. The Prophet, pbuh, considered it one of the most grave sins and he added that the curse of Allh is on the taker, the giver, the witnesse and the writer of Riba.

This means that the principle is that Interest, whether in mortgage or in other lending is Haram and Muslims are required to avoid it.

İt is apparent that buying a house is important to every family in Canada and the USA, Muslim families included. A house give the Muslim family a stable place to live own, necessary comfort and security to raise children and a choice of education and schooling in addition to financial benefits that every family seeks.

A group of scholars studies this issue in the Second International Conference on Shari'ah Issues for Muslims in North America which was held in Detroit in the fall of 1999 and issued a now faous view which I fully support and adopt.

Hence the issue of buying a house by Muslim families in North America can be understood as follows:

- Buying a house to live in is one of the basic needs for Muslim families in the USA and Canada;
- A Muslim family must first seek for Islamic finance and try to get that as much as it can.
- Able Muslims in Canada and the USA are called on to establish Islamic banks, Islamic finance companies and cooperatives to facilitate the finance for buying houses in ways that are Shari'ah compliant without interest;
- İf Islamic finance is not available or its conditions cannot be met by a Muslim family and the family needs to buy a house in order to avoid the difficulties of not living in an owned residence, it is permissible to resort to interest-based mortgage for buying a house to live in;
- İn such cases a Muslim family should try its best to reduce the Haram in terms of of amount and duration as much as it is possible.

I may add here that in the USA and Canada, a few entities are now in existance announcing that they provide Islamic finance. Some of them have SHari'ah-compliant contracts and some do not have that. One should carefull about those who make false claims. One must really look at the contract itself and its condition to be ure that it is in fact Shari'ah compliant. There are several entities\companies in Canada

and the USA that provide true Islamic finance for buying houses; one should search for them and deal with them if possible although some of them may have difficult conditions.
If you cannot deal with such companies either because their cost is much higher or because their coditions are difficult, and you need to buy a house to live in, then you may go for conventional mortgage.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Friend
Sent: Monday, February 11, 2019
Subject: home mortgage
Assalamu Alaikum Dr. Kahf. Inshallah you are doing well.
I have a question for you regarding home mortgages. I'm trying to purchase a home for myself and was not sure about the following situation.
If I take out a loan from the bank to purchase a home for myself, and I need to sell the house before I finish paying off the loan, what happens to the profits from the sale of the house?
For example:
I buy a home for $700,000.
I take out a loan for $500,000.
I pay $200,000 from my own pocket as a down payment.
After a few years of making monthly payments I now have paid off 50% of the loan and I decide to sell the house for $1,000,000.
I pay the bank the remaining balance of the loan and I am left with profits.
What happens to those profits? Are they halal for me to take as income?
Jazakallahu khair Dr Kahf.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala
Aalihi wa Sahbihi Ajma'in
Dear Br. Yaman
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The buyer of the proerty, with help from a Riba-based loan, ownsit and therefore any profit result when it is sold is the owner's.
If the property is purchased with justified Riba-loan (in accordance with the Fatwa on housing for families), the profit is then Halal for him. But if the riba-based loan is not justified, the amount of the profit that arises from the loan is not Halal for him and should be given to charity as funds that have no owners. This amount in the example is 50% of the profit.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin

Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Imaam ……..
Sent: Sunday, February 10, 2019
Subject: Fwd: Buyıng a house

Dear Prof. Monzer,

As-Salamu `alaikum.

I hope you are fine and enjoying your time in Turkey. I felt very happy for you to know that you are there. Below is a question from our community member that is some how urgent for your kind answer. We developed a website for our Mosque and we now have a fatwa section. We would always love to have your detailed answers to be able to post them on our website to enlighten our community and also to ease the pressure and avoid repeated questions.

We look forward to deepen our co-operation with you.

Sincerely,

Imam Amin

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

From: Jamal

To: Imaam ……..

Assalam _o Alaikium,

As per discussion we have one question,

We are looking house but we do not have full payment, as we discuss with one of our friend he as cash in hand and willing to buy the house for us and ask us to make part payment, on following condition.

1- Price of house will be fix at time of purchase and after than no increase or decrease in price.
2- we must pay min 20% of house value.
3- 80 % will be done on over agreed time.
4- The procession of House with us from date one and to be use form persona; residence or rental property. Any house maintenance and property taxes will be our responsibility.

My question is this deal Islamic or not?

Thank you and awaiting your response.

Jamal

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Imam Dr. Amin

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Thank you for your kind email and InShaAllah we will have much more cooperation as times goes on.

Please inform the questioner that the proposed structure is acceptable in principle from Shari'ah point of view. This structure is a sale structure in which once the house is bought from original owner (say fro

$ 300,000) the finance provider sells its share, 80% of the house to the co-owner (who already owns 20%) for a price they agree on which gives some profit to the finance provider. The property from then onward shall be owned by the final buyer who is responsible for all taxes, insurance, maintenance and any other expenses. He will be under debt to the finance provider for the price they agreed on, which is to be paid at the given agreed schedule.
I said in principle because the devil is in the details. The email gives a general description of the structure. Once a detailed agreement is drafted I will be willing (of course for free) to review it in order to be sure that all shari'ah requirement are there and no violation exists.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

From: Imaam ……..
Sent: Sunday, January 20, 2019
Subject: buying a house in Canada and meat eating

---------- Forwarded message ---------
From: Walid
Date: Thu, 17 Jan 2019
To: IMAM……..

السلام عليكم ورحمة اللة وبركاته لو سمحت أريد النصيحة في امرين. شراء البيت في كندا عن طريق البنك. واكل اللحم والدجاج من المطاعم الغير حلال. شكرا جزيلا

Sent from Yahoo Mail on Android

My Answer:

الأخ المكرم الدكتور أمين السلام عليكم ورحمة الله وبركاته
شراء بيت بقرض من بنك ربوي هو من المحرمات بل الكبائر. ولكن العلماء درسوا حالات الأسر التي تحتاج للشراء إما بسبب عدم توفر السكن بالإيجار، أو تكلفته العالية أو الحاجة لسكن مناسب للأطفال وتعليمهم وللأمن والسلامة للعائلة وغير ذلك من الأسباب التي لا تهملها الشريعة فصدرت فتاوى مهمة ومعقولة لمثل هذه الأسر للشراء ولو بالربا إذا لم تتوفر طرق مشروعة للشراء، وذلك لبيت السكن فقط لا لغيره .
أما لحوم الدجاج والبقر والغنم ففي الولايات المتحدة (وأظن كندا مثلها ولكني لست متأكدا) كل ذلك مذبوح على الطريقة الشرعية فهو حلال عند بعض المذاهب كالشافعية. أما عند الأحناف فإنهم يتطلبون ضرورة الذبح باسم الله وهو غير متوفر في هذه اللحوم التي هي في الأسواق. أنا آخذ بالرأي المبيح وأعتقد أته هو الأصوب والأقوى من ناحية الدليل .
مع أسمى التقدير وأعز التحية
أ. د. منذر قحف تمويل واقتصاد إسلامي

Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@kahf.com; www.kahf.net; www.kahf.com/blog

FATAWA MORTGAGE, HOME FINANCING 2018

From: Dr. Mohsen
Sent: Saturday, December 1, 2018
Subject: buying a house in New Zeeland
Questioner:
Urgent help
Assalamualaikum, I would like to ask a question in regards to buying a house. I live in New Zealand where there are no Islamic banks available. I understand riba is haram, therefore never looked at buying a home before. Our friend who is a non-Muslim knows of this and wants to help us buy the house for us. What he wants to do is buy the house on his name by taking out a loan from the bank. Then sell to us for a fixed price. We will have to pay a 10% deposit initially. He will give us a fixed price for the property (which will be different from the price he buys house) and based on repayment time of 15 years. We will have to make weekly payments to him and slowly buy the house from him. Is this kind of transaction permissible?
Jazakallah for your help in guiding us.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in Dear Br.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I have answered this question before. YES, this is permissible.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@Kahf.com; www.Kahf.net; www.Kahf.com/blog

From: Ansari
Sent: Monday, November 26, 2018
Subject: buying a house on installments from seller who purchased on bank loan
Assalamualaikum, I would like to ask a question in regards to buying a house. I live in New Zealand where there are no Islamic banks available. The housing marketing is very tough where the rental properties are very expensive. I understand riba is haram, therefore never looked at buying a home before. Our friend who is a non-Muslim knows of this and wants to help us buy the house for us. What he wants to do is buy the house on his name by taking out a loan from the bank. Then sell to us for a fixed price. We will have to pay a 10% deposit initially. He will give us a fixed price for the property (which will be different from the price he buys house) and based on repayment time of 15 years. We will have to make weekly payments to him and slowly buy the house from him. Is this kind of transaction permissible?
Jazakallah for your help in guiding us.
Jazakallah Dr Monzer, you have been very helpful. May Allah grant you Jannah.

Will this ruling also apply to purchasing land and building on it and paying the friend back the fixed agreed price in installments or only for already built houses.
Also my parents have been renting for many years, can they also purchase a house from my friend over fixed price. He does not have a house yet to sell but can purchase another home by taking mortgage and sell to my parents for a fixed price to repay in installments.
Jazakallah for guiding us.
Ansari

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Ansari
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It is permissible to buy a house from a friend on fixed amount divided on installments over any consensually agreed on period of time. It is also permissible even if that friend purchased the house on interest-based loan and the purchaser knows that.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@Kahf.com; www.Kahf.net; www.Kahf.com/blog

From: Dr. Mohsen
Sent: Sunday, November 11, 2018
Subject: Interest-based bank loan to buy a house

Dear Prof. Monzer,
As-salamu alaykum
Hope you and your family are fine.
Please take the time to answer these questions.
Question: Interest-based bank loan to buy a house
From: Shaheena
Asalaam alaikum...I'm engaged to a guy but he doesn't have a job yet he's been searching for a job for almost 2 years now. we live in separate countries. He's planning on once he gets a job then he'll take a bank loan which he has to pay with interest for the wedding and constructing a house. I'm totally against this but he says he's going to do this only once and then he'll ask forgiveness from Allah is this allowed? He says the salary he's going to get will be very less to be able to pay for these expenses so he has no other option except for bank loan and the country he lives in doesn't have any Islamic banking. Can I get married to such a guy? Or I'll be falling into the sin of riba

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Shaheena
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Riba is definitely Haram and a big sin that provoke a war from Allah. Taking it is sinful and paying it is also sinful and the Prophet, pbuh, said that they are alike in sin. You should continue advising your fiancé to avoid Riba and accept less expensive and humbler wedding reception and accept rental or more moderate house that can be attained with the ability of your husband without resorting to any Riba transaction. Keep trying and do not accept any Riba transaction.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@Kahf.com; www.Kahf.net; www.Kahf.com/blog

From: Yousuf
Sent: Sunday, November 4, 2018
Subject: AYA financial declining Musharakah Contract?
There is a company called Aya Financial. They claim to have shari'ah compliant loans. They were recommended by Sh. Tawfique.
Can you please have a look at their website and let me know what you think?
I can provide further details if you require, but it look like all details are included in this link: http://ayafinancial.com/modus-operandi
So they call it "The Declining Balance Program" aka "Musharaka Mutanaqisah".
You and AYA finance both will have "shares" in the house. You will work to buy out the shares of the home throughout the agreed period. These payments will come monthly and there is no maximum payment amount stipulated nor is there a penalty if you pay sooner than expected.
Initially, the individual takes a 2%, one-time fee from you based on the "loan" amount. I call it "loan" for simplicity; they do not view it as a loan. They view it as an investment.
On a monthly basis, you will pay AYA financial a "user fee" to live in the house. They have calculated this to be 3.5% of the total "loan" amount divided by 12 (to make it monthly).
Aside from that, you have to begin buying the shares of AYA financial on a monthly basis. They give you the option of using a 25-year period. So the "loan" would be divided by 25 to get the minimum annual value and then divided by 12 to get the monthly value. This is the minimum you have to pay on a monthly basis to fully buy back the shares of AYA financial in 25 years.
Here is an example:
A house costs $400,000.
You put in $200,000 and they put in $200,000. You both have 50/50 equity in the house.
They allow you to have exclusive use of the property if you pay them $583/month. This user fee will decline as you buy back more shares of the house. At 60/40 equity split, you will be paying $466/month. The minimum amount of shares you have to buy back from AYA financial equals $667/month. This will allow you to fully buy back all shares of the house in 25 years. You can do higher buy back amounts if

you want to have full ownership quicker. No maximum amount is stipulated and no fee to incur if higher payments made.
Please let me know if this is enough information.
Thanks

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Yousuf
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
As described and explained by the example, this way of financing is permissible in Shari'ah. The user fee you mentioned is in fact rent for the part of the property that the finance provider owns. It is in fact investment not a loan. The rent is permissible for you to pay and for the investor to earn. Also the agreement of buying the property over 25 years (or any other number of years) is permissible and the declining rent as a result of buying more shares in the property is permissible too.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor
Islamic Finance & Economics
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From: Wendy
Sent: Sunday, September 16, 2018
Subject: Islamic Finance / Mortgages in Calgary

Good Morning Dr. Monzer Kahf,
I am the Director of Finance at Attainable Homes Calgary Corporation and we work to help middle income Calgarians' purchase homes through down payment assistance. Clients put down $2000 and we gift them the rest to get them to a 5% down payment. They then get a mortgage for the remaining 95%. From time-to-time, we have clients coming in looking for Shari'ah-compliant mortgages, something we have never been able to offer. My CEO has tasked me with finding a solution.
In addition, I have recently started the EMBA program at Ivey Business School in Ontario. Two of my peers, and I, have decided to do a project on Shari'ah-compliant mortgages and Islamic financing. Both of my peers are Sunni Muslims and we are all very passionate about this subject area.
I was lucky enough to come across your name on the Iana Financial website and was hoping you could help me with the following:

1. Is there an organization in Calgary similar to Iana?
2. Is there someone at Iana that I could talk to about how the loans are set up and papered?

Any help would be greatly appreciated.
Thank you for taking the time to read this email - have a lovely weekend,
Wendy
Director of Finance

My Answer:
Dear Ms. Wendy
Greetings of Peace
Thank you for your email,
I think I will be able to help you and give you some advice in the process of your paper with you two colleagues First you may consider looking at my website for some references on Islamic finance. In a knot shell Islamic finance is a real life finance, in contrast to monetary/finance. It is always asset based in a sense that it provides assets rather than cash. This means that debts are not monetarized and can't be traded. For retail financing the difference between Islamic finance and interest-based finance may look small except in rescheduling an already existing debt. In Islamic finance no increment can be added for the "cost of money or opportunity cost"
Islamic finance is done through sale on credit, lease ending with ownership and sharing contracts, the latter include creating companies (equity market) and venture capital. This is done normally by Islamic banks wherever they exist in Europe, South and South East Asia and the middle east.
Applying the principles of Islamic finance by interest-based banks requires reformatting the operation. In mortgage in can be as follows: 1) customer approaches the bank for financing after selecting the property and negotiating its price and signing an assignable purchase agreement. 2) customer requests the bank to buy the property for cash and promises to buy it from bank on installments. 3) bank and customer negotiate the rate of profit (exactly similar to rate of interest) and other conditions including the amount (%) required by the customer to contribute toward the purchase, after agreement the customer assigns the purchase to the bank, 4) at the closing there will be two contracts (which can be expressed as two consecutive statements in same document) singed one after the other: purchase contract by the bank from owner and sale contract to the customer by the bank, the latter recognizes the share of the property paid for by the customer. All surrounding requirement including promissory note, recording the mortgage charge, and the like are very similar to what is practiced in Canadian banking.
Further you may check with Assiniboine Credit Union in Manitoba, I worked with them a few years ago on developing a contract that is acceptable to them and their lawyer and OK from Shari'ah point of view, they have it and they offer it to their Muslim customers.
If you have any further question, please feel free to come back to me. Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@Kahf.com; www.Kahf.net; www.Kahf.com/blog

From: RIAD
Sent: Saturday, September 15, 2018
Subject: Regarding shari'ah compliant borrowing for real estate project
This is from brother Riad
Assalamu Alaikum Dr. Kahf,
I hope this email finds you doing well.
As I'm sure you're well aware, we are getting a lot of questions from Muslims in our community about what makes an investment or loan shari'ah compliant.
Someone I know is interested in investing in a commercial project and I was asked to review the metrics and help determine if it is shari'ah compliant.

We noticed that the construction costs are all financed via a loan at 6% interest. There's no reference that the loan is halal so we'll go on the assumption that it is not. And the loan amount is approximately 70% of the project.
The question that I was asked, which in turn I suggested to reach out to you since you are much more educated than myself in this area, is:
Are there screening criteria for investing in a real estate project similar to the screening criteria for stocks?
In the stock investing world, there are filters such as: sector filters (avoiding haram industries like alcohol, tobacco, weapons, financial services, etc.) and financial filters (debt, cash/interest bearing instruments, account receivables all should be < 33% of market capitalization).
I think it's common sense to filter real estate projects from a sector standpoint. Even the banks don't lend to all sectors. But when it comes to the financial filters, is there some standard methodology in the literal sense like for stocks where for example, the total debt of the project can't be more than 33% of the value of the project?
I know there are different interpretations of whether having any debt at all is halal or haram. The question that I'm trying to seek advice from you on is if you have seen any written/formalized ratios (regardless of whether they have merit or not) that say, for a "real estate" project, the debt needs to be less than X% of something (maybe construction value, realized value, etc.)?
The project in question has a loan to value ratio of approx. 70% and even without ratio guidelines, I assumed it's way too high at that level. This is using the filter used for stocks. Again, this is assuming that some level of debt is ok like that for stocks.
I trust my question makes sense. The "existence" of ratios and actual methodology for real estate, that's what we're wondering.
Jazzaka Allahu Khairan.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Riad
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes, of course your question makes sense and is important.
We need always to keep in mind the important distinction between undertaking an action, in this regard an investment or investment project or a trade or what not, and contributing to other an already established project or action, etc. to make it clearer it is a difference between creating a company and/or going public with a private company on one hand and have some cash that you want to place in the stock market.
The principle for taking action on your own is that it is Haram to indulge in any riba or other prohibited things when you establish a company, go public with one or take any initiative on your own investment in which you are the decision maker. This is well established in Shari'ah by the Hadith of "…..and what I prevent you from, you should quit it وما نهيتكم عنه فاجتنبوه" this principle came in the decision of the OIC Fiqh Academy as well as in the AAOIFI standard on the issue. For example, if one establishes a company one must not put in it articles of incorporation or by-laws that it may borrow on interest, similarly if one starts a real estate project one must not borrow on interest. (the only exception is based on necessity in

case of live-in family house when Islamic mortgage is not available). Also one may not start a business on basis of depending on interest loan.
The criteria adopted by many scholars including the AAOIFI relate only to buying shares in established companies whereby the buyer has no authority to change the company practice. All these are criteria of tolerance not of initiatives. The example going to the equity market with a few thousand dollars and buying a share (usually called investment in stocks).
Now there is case where there is a standard for investing in real estate investment trust (notice here it is similar to shares of existing companies where one has no authority) and there is talk also about level of tolerance in REIT and about criteria for Islamic REATs under laws that do not allow you to reject a lessee (i.e., how much of the properties may be rented to non-permissible activities). These you find them in both Dubai financial market and in Labuan (Malaysia) market.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@Kahf.com; www.Kahf.net; www.Kahf.com/blog

From: Hussain
Sent: Thursday, September 6, 2018
Subject: Fatwa on Zero Mortgage Canada
ASAK Sheikh Monzer,
I want to buy a house in Windsor Canada. I would like to know about your thoughts on Zero Mortgage. I have attached their contract above. If you can go through their contract and let know what needs to be changed it will help lots of Muslims in this area.
Also, please let us know if its permissible to buy a house through them if they don't agree to correct something in the current contact it the issues are found.
Thank you
Hussain
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Hussain
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I do not see in this agreement any word or expression that makes the Zero (or its investing partner) a buyer of a portion of the property. Buying and owning is what justify sale with a profit. The word partnership is vague, it may indicate sharing ownership or not but when combined with an obligation to "reimburse" the "principal" it mixes up things and pull the issue to a loan with increment.
I do not accept this vagueness in a contract that is important to determine the rights of parties. According to Shari'ah, buying and ownership are necessary to earn profit when you sell. Also there is no reference to endorsement of the initial purchase contract for the base price.
Wa Allahu A'lam

Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
Professor, Islamic Finance & Economics
monzer@Kahf.com; www.Kahf.net; www.Kahf.com/blog

From: Naly
Sent: Wednesday, August 29, 2018
Subject: Please Disregard Earlier Email about Ijara loan
Assalamu alaykum Dr. Kahf,
Please disregard my earlier email concerning Ijaracdc.com. After reading all of your fatwas it is now clear that they are also fake.
Thank you so much for your time.
JazakAllahu Khayr
Wasalam
Naly
My Answer:
Dear Sr. Naly
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
So you realize their trick. Creating the trust does not change any reality as the trust is also you. Legal entities are not questionable on Day of Judgment, only natural persons who own them are! Wassalam
Best Regards
Dr. Monzer Kahf
Professor
Islamic Finance & Economics monzer@Kahf.com
www.Kahf.net; www.Kahf.com/blog

From: Rachid
Sent: Monday, March 19, 2018
Subject: Home financing on Diminishing partnership
Assalamu Alaykum Dear Br. Monzer,
Jazaka Allah Khair for your prompt answer, may Allah bless you and give you a long, healthy and happy life inshallah!!
Indeed, Nissan will directly and automatically debit my bank account on a monthly basis, so inshallah I shall be fulfilling the condition you mentioned to eliminate the application of the late payment clause.
On one of your fatwas, you mentioned something called Financial
Musharakah for financing the purchase of home, is there any elaborated information you can indicate to us so we can better understand this concept of financial musharak.
Jazaka Allah Kair!!
Best Regards
Br. Rachid
My Answer:
Bismillah al Rahman al Rahim

Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala
Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Rachid
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Diminishing Musharakah is when you buy the house together, the financing party rent you its share of the property and you pay regular rent (usually monthly), you also give a promise to buy small pieces of his share along with rent payment, according to an agreed schedule so that at the end you become full owner and there will be no more rent, meanwhile rent declines with the decline of the ownership of the financing party. Islamic banks use this method very often and in America guidance financial uses It too.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
From: Rachid
Assalamu Alyakum Dear Br. Monzer,
Jazzaka Allah Khair for your reply !
Thank you very much for your advice and guidance and inshallah I have one last detail to ask from you in order to help me clarify this diminishing musharak and it is as follows:
Who pays for property and insurance??
In most cases, municipal government levies property taxes to pay for services that are used by the public, for example, police, fire services, schools,
waste management, recreation, libraries, etc. Although the financier is part-owner of the house, it does not use utilities or benefit from municipal services funded by taxation.
As the owner-occupant gets the benefit and utility of the space, the customer is required to pay all charges associated with that benefit like property tax, insurance, utility bills etc.
As you can see above, the customer is required to pay all charges of property tax and all the rest, can this issue be a cause of concern or it is acceptable??? as they are not willing to do otherwise.
Jazakka Allah Khair and Again thank you so much!!
Best Regards
Br. Rachid
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina
Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Rachid
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
From economic point of view, what the company says is correct; property tax in US and in Canada is used for local services. This is not the same in most other countries!
And this is immaterial from legal point of view. Legally this is an obligation on the owner. Accordingly, both tax and insurance should theoretically be share in proportion to ownership each year. But this complicates the issue for the finance provider. The Solution we always use in Islamic finance is to consider these two are part of the rent. The de facto rent becomes consisting of three parts: 1) periodical amount paid to owner; this is declining, 2) tax of the part of property owned by financier, this is usually

fixed and may increase from time to time, and 3) insurance paid to insurance company on behalf of the finance provider for the part it owns. This is perfectly permissible in Shari'ah and it is sufficient that the contract may mention: all insurance and all tax is to be paid by the lessee.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf
From: Rachid
Assalamu Alaykum Dear Br. Monzer,
Jazzaka Allah Khair for your reply!!
I live in …….. and we came across a financial company that offers Diminishing Musharakah, they are called (AYA Financial), and below some information from their website:

Difference between conventional mortgage and Aya Home Financing Agreement:

The fundamental difference between a conventional mortgage and AYA Home Financing agreement is the underlying product structure.
The conventional mortgage is an interest-bearing loan agreement while the AYA Home Financing agreement is a trade based product developed on the concept of Musharakah Mutanaqisah (Declining Balance).

How the monthly instalment 119e:

The customer pays the financier monthly instalments which consist of two portions;

- Profit portion – The financier grants the customer exclusive use of the property. For this consideration, the customer pays occupancy user fee/profit to the Financier.
- Equity portion – This portion of the instalment will be used in acquiring shares from the financier so that the customer's equity increases in the property over time.

Who pay property taxes and insurance?

In most cases, municipal government levies property taxes to pay for services that are used by the public, for example, fire services, schools, waste management, recreation, libraries, etc. Although the financier is part-owner of the house, it does not use utilities or benefit from municipal services funded by taxation. As the owner-occupant gets the benefit and utility of the space, the customer is required to pay all charges associated with that benefit like property tax, insurance, utility bills etc.
They do exactly what you stated on your email, however there are two issues that I need you to help me clarify inshallah and understand properly.

3) They state that they won't have their name on the title of the property, as below:

From the inception of the contract, the Title of property is registered in the name of the customer. The financier has a charge over the property which is registered at the time of financing the property. Once 100% of the financed amount is paid off, the charge is removed.
This makes life easier. You own their share on their behalf and they put a lien on the whole property to protect themselves. This is perfectly OK.

2) They also state they don't make any gains from the sales of the property, as below:

All capital gains from the sale of the property will go towards the customer. The financier will only take the portion of the proceeds to cover the initial contribution of the financed amount.

This is also OK. They give you a promise to sell you at cost (their profit is from the rent only). When you want to sell you notify them and then you pay them the price (at cost) of the remaining part they own of the property. If there is a loss it is also yours.

3) they also state the following if a monthly payment is missed:

If a payment is missed, a fixed 120e may be charged which is used towards administration costs associated with recovering the late payment.

A penalty in the exact amount of the additional cost caused by delay or default is permissible, it is not interest. A penalty at a pre-fixed amount is permissible provided they take from it only the exact additional cost caused by the delay and give the remaining to charity. If the extra is not given to charity, it becomes riba for them.

Please kindly let us have your opinion if this Diminishing Musharaka is shari'ah complaint.

Jazaka Allah khair!!

Br. Rachid

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Rachid

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

If they abide by what you sent me, that is OK. Be always very careful for the issues you raised, please see my answers below the questions in red:

Wa Allahu A'lam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Best Regards

Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2017

From: Salem
Sent: Friday, September 22, 2017
Subject: Ijarra Canada - Islamic Financing
Question:
Dear Dr. Monzer,
Hope you are doing well. I attended your lecture on Islamic Financing at Assalam Centre in Calgary (Canada). During the presentation, I told you that Ijara Canada (https://ijaracdc.com/residential/) gives Islamic financing and you requested to have a look at their contract. Attached is the contract between them and one of my friends in Calgary who financed his home through them. Would you please have a look and let me know if this is considered as Islamic financing. Thank you so much for your help in advance. There is more information on their website.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Salem
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
In general my observation is that this is most likely a permissible contract.
I have the following 3 points which need clarification for me in order to give a final opinion:
1. In page 2 the following para does not seem to explicitly mention that the lessor accepts to buy the property from the seller directly, i.e., by assigning the initial sale agreement between lessee and seller to lessor before closing:
Because Lessee has brought the Property to Lessor and has asked Lessor, on lessee's behalf to purchase the property from the original seller, the parties agree that Lessor is not intended to give any covenants of habitability or fitness to Lessee pursuant to Residential Tenancies Act (Alberta), 2004, even though statute or case law may otherwise impose such covenants on a typical landlord. Accordingly, Lessee agrees that no such covenants should exist in this transaction.

Lack of clear purchase from the seller makes the contract 'Inah (purchase from lessee then sell to lessee) which is not permissible as it is only a trick to circumvent Riba in the name of rent.

2. I could not understand what are the specific payments, you did not send me the attached schedule of rent and of specific payments, I need to know the exact payments by lessee to be sure that they are legitimate in a lease.

3. The fine payment that came in the below statement should be given to charity, otherwise it become Riba, this should be mentioned in the contract. To be more exact, the lessor can recover from it any actual out-of-pocket additional payment caused by the delay and the rest be given to charity, otherwise any such remainder of the fine is Riba and it becomes Haram on both parties. This is why giving it to charity must be mentioned in the contract.

an administrative charge of $50 for actual time and expected costs

Finally if you clarify the above points I will be able to give you my exact final opinion.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Professor Dr. Monzer Kahf

Islamic Finance & Economics

From: Salem

Sent: Wednesday, October 25, 2017

Subject: Re: Ijarra Canada - Islamic Financing

Question:

Assalamu alikum Dr. Monzer,

Thank you so much for your reply. We sent your clarifications to Ijarra and we got the below replies from them for each of your questions. Could you please go through them and let us know if you can make a conclusion on Ijarra islamic finance?

1.In page 2 the following para does not seem to explicitly mention that the lessor accepts to buy the property from the seller directly, i.e., by assigning the initial sale agreement between lessee and seller to lessor before closing: this is a lease agreement, it does not have to explicitly say that the lessor is purchasing, because the lessor has already purchased with the assignment of the purchase agreement to lessor, you are mixing up the documents, this is a lease, which is the contract for monthly payments, not a purchase agreement for the property.

In real estate sale there is a sale which may be assigned and then there is the closing. The closing is the real sale not the sale agreement. If there is an agreement to buy between the lessor the original seller which resulted in a closing to the lessor, please give me that agreement. Otherwise assignment alone without closing does not make the lessor owner.

Because Lessee has brought the Property to Lessor and has asked Lessor, on Lessee's behalf to purchase the Property from the original seller, the parties agree that Lessor is not intended to give any covenants of habitability of fitness to Lessee pursuant to Residential Tenancies Act (Alberta), 2004, even though statute or case law may

otherwise impose such covenants on a typical landlord. Accordingly, Lessee agrees that no such covenants should exist in this transaction. There is a 16 page OCC memorandum which implicitly states that these transaction should be enforced under mortgage law as they are a form of financing and not enforced under leasehold law.
Lack of clear purchase from the seller makes the contract 'Inah (purchase from lessee then sell to lessee) which is not permissible as it is only a trick to circumvent Riba in the name of rent. The lack of clear understanding is that you are not evaluating the lease correctly, the purchase agreement is what determines who the owner is, and the lease then determines how much the monthly payments are from the lessee.
2. The fine payment that came in the below statement should be given to charity, otherwise, it becomes Riba, this should be mentioned in the contract. to be more exact, the lessor can recover from it any actual out-of-pocket additional payment caused by the delay and the rest be given to charity, otherwise, any such remainder of the fine is Riba and it becomes Haram on both parties. this is why giving it to charity must be mentioned in the contract. This is also not 100% correct, there is a collection fee, anything above and beyond that collection fee is given to charity, IjaraCDC is a legitimate 501c3 non-profit, and we use excess funds to assist people with home acquisition, such as down payment assistance, education, we have on occasion even made monthly payment for the those that are actually in need. This does Not need to be mentioned in the contract.
an administrative charge of $50 for actual time and expected costs, the $50 is listed in the contract, but as a matter of practice we only charge $25, which is typically only $5-$8 over the cost that is charged to us for any NSF payments by our financial institution when a payment bounces, we then have some labor cost and whatever is left over is used to assist customers.
Looking forward to hearing from you.
Gazakah Allah Khairaa
Salem Hakawati
My answer:
Dear Br. Salem,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The important question is: who pays for the original purchase from the seller? Is it with a loan from a bank or what? As a non-profit org, it has no resources to buy…
As a non-profit organization, there is a need to know how does it become an owner so that it becomes a lessor.
Best Regards
Dr. Monzer Kahf
Professor
Islamic Finance & Economics

From: Salem
Sent: Friday, October 27, 2017
Subject: Re: Ijarra Canada - Islamic Financing
Question:
ASW Dr. Monzer,

Reply for your clarification is as below from Ijarra. Please let us know your opinion?
Shoeb:
"*Salaam*
Ijara is not the owner, it is the Trustee of the Trust that owns the property. The Trust will acquire the property and then sell on a lease to own basis to customer
Jazakallah Khair
Shoeb M Sharieff"
Thanks
Salem
My Answer:
Someone is evading to give the answer because he knows there is a hidden problem. The trust has no money, it is just created then who paid for the property. And If Ijarah is a non-profit org, for what does it take money and survives?
The name seems to me familiar. This name (Shoeb) is the same name of the IjaraLoan. That asks you to take a bank loan, create a trust and transfers the property and the loan to the trust, then make an Ijarah between the trust and you. This is mere bluffing because the trust is you.
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Salem
Sent: Tuesday, October 31, 2017
Subject: Re: Ijarra Canada - Islamic Financing
Question:
Many thanks, Dr. Monzer. So can we conclude that Ijara loan is not an Islamic finance? Or you still need me to forward your email to Ijarra for an answer?
Salem
My answer:
Once I received the whole documents of Ijara Loan. It was complete bluff and extortion of fees from Muslim ($2000-4000) for making a trust and a rent contract with it. so the trust pays interest and you pay rent to the trust. They missed the point that according to Shari'ah the trust is you…
Just to be sure that they are the same bluffing company (with a slight change of name and answers evading the main issue), ask them specifically: how is the house paid for and who pays for it?
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Alghazali
Sent: Thursday, October 12
Subject: self directed mortgage
Question:
al salamu 3alakum wa rahtat Allah

I have a question that i have not been able to find the answer to. This is concerning the permissibility of a specific type of mortgage.
I recently changed jobs, and in my old job i had a defined benefit mandatory pension plan. Once i left, that pension became a largo pool of money that i have to transfer to another pension vehicle at the bank. I have some flexibility with 50% of the amount but the other amount i must put in a pension fund at the bank which i can not withdraw until I'm retired.
While talking with the bank, and the conversation of financial goals came up and that i wanted to avoid a traditional mortgage the bank described to me a specific type of mortgage that i was not aware of, it is called a Self Directed Mortgage.
Basically i would be taking a mortgage through the bank, but i would not be borrowing money from the bank, i would be borrowing money from my pension fund and making monthly payment to refill my pension account, with interest. so I m basically borrowing from myself and and making payments and interest to myself. the banks job is just to administer the mortgage and they charge specific fees. more can be read about this mortgage in this article:
http://www.moneysense.ca/columns/loan-yourself-a-mortgage/
my question is weather this is halal to buy a house through. aAthough there is interest here, it is interest paid to myself from my own money that I am borrowing from myself. This money i would not normally have access to until i retire but this way i can utilize it to avoid a traditional mortgage.
I live in Canada, and access to halal mortgage options are very limited and unreliable, so this type of solution would be very helpful, but i want to ensure that it is halal before i put all my money into a fund that i can use for this.
Your help and insight into this matter is greatly greatly appreciate.
Jazak Allah Khair.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Alghazali
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
This is excellent. It is of course permissible and the interest that you pay to your own account is not considered interest in Shari'ah and also among all normal-mind people since you pay it to yourself. Governments require it in order to keep the funds for your retirement, so that at that time the government will not be required to spend on you welfare money.
The problem here is that for most people the such retirement accounts are not sufficient to buy a house. Even in such cased it is better to take as much as one can of one's retirement account and the remaining from other sources.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Bassam
Sent: Sunday, October 01, 2017
Subject: Sharhia Mortgage.
Question:
Assalam alaikom Dr. Monzer
It was a pleasure having you here in Edmonton during your last visit, hope inshaallah to see you again in the near future
As per our conversation in different occasions during the visit you indicated that you are willing to review any contract if it is compliant with the sharia or may be you have some reservations
Please see the attached one I really need your opinion.
JAK
Bassam fares
"

Sample Ijara Sharia Docs
Trust Document
NON-DISCLOSURE & NON-APPROPRIATION AGREEMENT
This Non-Disclosure & Non-Appropriation Agreement (this "Agreement") is made effective this Sep 26, 2017 Ijara Marketing, LLC, and SAMAD Group, its affiliates, associates and shareholders, collectively "IMS", of 2531 Jackson Ave, Ste 331, Ann Arbor, MI 48103 USA and Salem Tomi of address 13564- 158 Ave NW, Edmonton, Alberta, T6V1S3 with email address of salemtomi@yahoo.com and phone numberof 780-399-4441 and its affiliates (collectively the 'Counter-party').
In this Agreement, the party who owns the Confidential Information will be referred to as IMS, and the party to whom the Confidential Information will be disclosed will be referred to as Counter-party.
IMS is engaged in advising the financial services industry and supporting the same with marketing and other services to assist Muslims and other groups with common banking needs in the United States and Canada to meet those needs. The advice is based upon specific products developed by IMS and its advisors that are to be consistent with Islamic Sharia'a and supported by relevant rulings called fatawa. Counter-party is a licensed mortgage lender in multiple jurisdictions and under no restrictions from originating residential home loan activities in the United States of America. Counter-party's goals include offering or securing mortgage products which are consistent with Islamic Sharia'a, and Counter-party desires to review Confidential Information in order to review the possibility of a business, licensing or advisory relationship with IMS. Counter-party has represented that Counter-party will protect and not appropriate the confidential material and information that may be disclosed between IMS and its advisors and Counter-party. Therefore, the parties agree as follows:
CONFIDENTIAL INFORMATION. The term "Confidential Information" means any information or material that is proprietary to IMS and its advisors inclusive of a transaction flow document dated May 2003 relating to Islamic mortgage products, a related PowerPoint presentation, and a binder comprehensive of all mortgage alternative documents inclusive of origination, processing, closing and post closing on behalf of IMS, whether or not such Information is owned or developed by IMS, which is not

generally known other than by IMS and its advisors, and which Counter-party may obtain through any direct or indirect contact with IMS.

a.Confidential Information includes without limitation: business records and plans, market data and surveys, trade secrets, technical information, inventions, product design information, business processes, and other proprietary information.

b. Confidential Information does not include: (a) matters of public knowledge that result from disclosure by IMS, (b) information rightfully received by Counter-party from a third party without a duty of confidentiality, (c) information independently developed by Counter-party, (d) information disclosed by operation of law, (e) information disclosed by Counter-party with the prior written consent of IMS, and (f) any other information that both parties agree in writing is not confidential.

PROTECTION OF CONFIDENTIAL INFORMATION. Counter-party understands and acknowledges that the Confidential Information has been developed or obtained by IMS its affiliates and advisors by the investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of IMS which provides IMS with a significant competitive advantage. Therefore, Counter-party agrees to hold in confidence and to not disclose the Confidential Information to any person or entity without the prior written consent of IMS.

a. No Copying. Recipient will not copy or modify any Confidential Information without the prior written consent of IMS.

b. Application to Employees and Connected Parties. Further, Counter-party shall not disclose any Confidential Information to any employees or connected parties of Counter-party, except those employees or connected parties who are required to have the Confidential Information in order to perform their jobs and duties in connection with the limited purposes of this Agreement. Each permitted employee or connected party to whom Confidential Information is disclosed may be required to sign a nondisclosure agreement substantially the same as this Agreement at the request of IMS.

c. Unauthorized Disclosure of Information. If it appears that Counter-party has disclosed (or has threatened to disclose) Confidential Information in violation of this Agreement, IMS shall be entitled to an injunction to restrain Counter-party or its agents and representatives from disclosing, in whole or in part, the Confidential Information. IMS shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

d. Non-Appropriation. Counter-party affirmatively asserts that it has no intention of acquiring Confidential for its own use other than to evaluate a business or investment relationship with IMS.

RETURN OF OR CERTIFIED DESTRUCTION OF CONFIDENTIAL INFORMATION. Upon the written request of IMS, Counter-party shall return to IMS all written materials containing the Confidential Information, or certify its destruction. Counter-party shall not appropriate any of the materials or information for its own use in contravention of this agreement. Counter-party shall also deliver to IMS written statements signed by Counter-party certifying that all materials have been returned within five (5) days of receipt of the request, or that the same have been destroyed in a manner rendering them of no value to any other party, business or competitor of IMS's.

RELATIONSHIP OF PARTIES. Neither party has an obligation under this Agreement to purchase any service or item from the other party, or commercially offer any products

using or incorporating the Confidential Information. This Agreement does not create any agency, partnership or joint venture.
NO WARRANTY. Counter-party acknowledges and agrees that the Confidential Information is provided on an AS IS basis. IMS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION. IN NO EVENT SHALL IMS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION. IMS does not represent or warrant that any product or business plans disclosed to Counter-party will be marketed or carried out as disclosed, or at all. Any actions taken by Counter-party in response to the disclosure of the Confidential Information shall be solely at the risk of Counter-party.
LIMITED LICENSE TO USE. Counter-party shall not acquire any intellectual property rights under this Agreement except the limited right to use set out above. Counter-party acknowledges that, as between IMS and Counter-party, the Confidential Information and all related copyrights and other intellectual property rights, are (and at all times will be) the property of IMS, even if suggestions, comments, and/or ideas made by Counter-party are incorporated into the Confidential Information or related materials.
GENERAL PROVISIONS. This Agreement sets forth the entire understanding of the parties regarding confidentiality. Any amendments must be in writing and signed by both parties. This Agreement shall be governed and construed in accordance with the laws of the United States and the State of Nevada and Counter-party consents to the exclusive jurisdiction of the state courts and U.S. federal courts located there for any dispute arising out of this Agreement. This Agreement shall not be assignable by either party, and neither party may delegate its duties under this Agreement, without the prior written consent of the other party. Notwithstanding the previous sentence, IMS may assign, delegate or otherwise share or transfer any or all of its rights under this Agreement to any entity formed pursuant to the start-up financial services business targeted to Muslims in the United States and Canada.
By Clicking submit below you, the "Counter-Party" accept the terms of this NDA and agree to be bound by all of its terms and acknowledge that failure to comply with the terms of this NDA will result in prosecution to the fullest extent of the law.
Agreed & Accepted by Salem Tomi "

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Bassam
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It is nice to hear from you and I will remain InShaAllah committed to my promise.
Ghafara Allahu Laka ya Akh Bassam, this is Ijarah loan and old documents of 2010. Documents are OK but they do not say anything about source of funds. This is what matters… what Ijarah Loan does is to tell you: take interest-based loan on the house, transfer the house with its mortgage to the Trust and the trust pays interest (and goes to Hell) and make a lease contract with you; so you pay rent. This is what is incorrect

because simply the trust is you from Shari'ah point of view so you did not change anything other than giving this company a fee $2000-4000).
Alternatively if the source of funds is from the company (and this company does not have funds) and it becomes the lessor (instead of your own trust), the documents are OK for such a finance transaction.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Issa
Sent: Saturday, August 26, 2017
Subject: Islamic Finance
Question:
AsslamAlikum Dr. Monzer
I would like to buy a house through Islamic finance but I kind of scared of using any un trusted organization.
I wonder if you know some that we can trust and buy a house through Ijara from them or with them.
I attended your lecture in Calgary back in July and would appreciate if you can share the slides. Pls. share any information of how to make a credit union.
Pls. share your mobile number if possible.
Thanks
Issa
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Issa
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I fully understand your fear and it is very legitimate. To the best of my knowledge the most trusted Islamic finance organizations in Canada are the MSA finance cooperative and the Islamic finance Cooperative (Ansar…. something) most others especially Ijara Loan and Zero mortgage offer non-permissible contracts.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Nasir
Sent: Thursday, August 17, 2017
Subject: North America Islamic Finance choices

Question:
Dear Dr Monzer,
Walikum asssalam wa Rahmatu wa Barakatuh
Jazakallah, many thanks for your prompt and detailed response. Really appreciate it.
As you are a distinguished scholar in Islamic finance & economics and understand the North America market, can you please guide, state mention the Islamic finance choices available for home and related literature for guidance.
May Almighty bless you.Amen
Salams & Regards
Nasir
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Nasir
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I think the best source is to look at the Fatwa from Trusted Scholars on the Web. I have a sizeable amount of them on my website, it may be useful to read some ofthem.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Abdullah
Sent: Wednesday, August 16, 2017
Subject: Mortgage Loan
Question:
Asalamu Alaikum Dr. Kahf
How are you? I make dua that you are in good health. I live in Edmonton, Alberta. I miss the opportunity of meeting you when you were here at Rahma Mosque.
By the will and guidens of Allah i would like to ask you a question about getting a mortgage from a bank. There is not any bank that lending money according to islamic law to my best knowledge. Therefore it is very hard to buy a house through borrowing money from a bank. Brother Bassam Fares at Rahma Mosque in Edmonton told me that i could ask you for an advice. How could i get a mortgage from a bank that would be permissible in islam? How should i approach and convince the bank to give me a mortgage loan according to sharia law?
Jazak Allah Khairan brother
Abdullah
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdullah

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Thank you for your kind email and Duaa,
I understand the difficulty you face in regard to mortgage. Best way is to approach a credit union and show it a sample of the contract of Assiniboine Credit Union and ask for a similar contract. simply the contract has all guarantees and securities that the bank needs like the conventional mortgage, the difference is: it says clearly that the Bank buys the house for the seller for say 300,000 and sells it for 400,000 to you payable as follows: 2,000 every month for 60 month and 280,000 balloon payment at the end of five years (this is instead of saying: granting a loan of 300,000 for interest of 100,000 payable as 2,000 for 60 month and 280,000 after five years). of course the Balloon payment will be refinanced then.
Another way is to obtain a sample of the contract given to MAC and show it to the local bank to make a similar contract. the idea is: we want to contract to say buy and sell rather than fiving a loan for interest. The numbers, rates and securities are exactly similar.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Asha
Sent: Monday, July 31, 2017
Subject: Slide 2-House Financing and Mortgage
Question:
Salama Alaykum Dr. Kahf,
I attended your lecture at Rahma Mosque pertaining to Islamic Investments. In the lecture there was a slide related to mortgages. I was hoping for some clarity regarding the following statement "Conventional mortgage is not permissible...except under necessities". How is necessities measured? Please elaborate.
Regards,
Asha
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Asha
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The word necessities in my presentation on house financing is used in a common jargon meaning not is its specific Shari'ah. Thus necessities are not a matter of life and death, they are meant as serious needs where normal people feel that if they do not take a given action substantial benefits are sacrificed or un-warranted harm may happen. It is the person herself/himself who defines that for own self because nobody can assume the feelings of others. Necessities here means serious inconvenience that can be avoided by taking a conventional mortgage. For example: matters of finding reasonably good schools for the children, or living in an area that is clean of crimes and drugs, or having to move

more often from one rented residence to another or having adequate space to accommodate one's parents, etc.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Shah
Sent: Tuesday, July 25, 2017
Subject: Islamic Finance for homebuyers
Question:
Assalam o Alaikum
Dr. Monzer,
I missed your lecture at Rahma Mosque Edmonton where a friend of mine was able to attend.
He mentioned some points from your lecture regarding conventional home mortgage in Canada whereas there are several fatwas validating the same for personal use-meaning home to live in.
He also mentioned some programs in Canada as meeting the Islamic regulations for home financing.
Will please provide guidance about the ones compliant and the fake ones as there are many in the market and a common man can't distinguish between the compliant and non-compliant ones.
Thanks
Shah
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in Dear Br. fazli Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh The Fatwa of buying home to live in on conventional mortgage is very often misunderstood. You need to read the Fatwa in full! It says that when Islamic finance does not exist and when there is a real need for it, then you may go for conventional finance. these two conditions do not give a cart blanch for buying fist home to live in. it rather requires exerting one's effort to find Islamic finance and to ascertain the need of his family for buying a house to live in. And definitely with these two conditions the Fatwa is absolutely correct and I always support it and was part of it when it was issued in 1999.
On the other hand, the fatwa does not justify our laziness and lack of effort to create Islamic finance institutions and convince existing institutions to offer Islamic finance contract.
Finally, it is your duty to find the financial institutions that offer Islamic finance, I cannot make advertisement for them in my academic lecture. And if you have any doubt I will be more than glad to advise you if you send me the proposed contract before you sign and I can then tell you whether it is Shari'ah compliant or not.

Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Mazen
Sent: Monday, July 24, 2017
Subject: Inquiring from Calgary
Question:
لسالمعليكم ةمحرو هللا هتكربو
باركاهللا يفيمكحو جك. سررتبكفيكلغاري.
سرأتاذيكريم، ماريأكمفتوىلمجلسالإلربيالفتاءوالبحوثالتيتبنىرأيلهتنبىرأيا أشرتسريعا وتيسيرا
من رأي حنفيتكفيمايخصشراءالمنازلعبرالقروضالبنكيةالربوية.فهميعتبرون أن لحاجة إن عمتنزل
منزلةالضرورة...
صراحة،أنأقدرطرحكم، إذ لمأجدفيقوليأخذبالأحوط،لعلالمسلميزيجدونالبدائلا سالميةبدلا منالل جوءإلى
القروضالربويةحتىتتوافرالضرورة والحاجة.
ولكم جزيلالشكر
مازن
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Mazen
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
الفتوىصحيحة وهي عين ما أفتيتفي مضارتي، دون أي زيادة أونقصان.ولكنالناس لايقرؤونالفتوىبكاملها.
. الفتوىتقول إنذلكجائزعندالحاجة، وحاجةكلعائلةتقدرهاهيوقدتختلف عن وضع أي عائلة أخرى،
وتقولأيضاعندعدمتوفرتمويل إ سالميإذا وجدالمنطبق، وعلينا أنن وفر هذاالتمويل، وهو أمر ممكن. . .
وإذالمتوفربشكلمقنعمن قبلمصرفيفمتنطبقعليناالفتوى؟الفتوىلاتعطيضوءا أخضرلشراءبيت
السكن دون شروط أوضوابط. وهذاس لم شرعيفي لمصلحة.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Khaled
Sent: Thursday, July 06, 2017
Subject: Mortgage
Question:
Assalamu Alikum dear Dr Monzer,
I hope this finds you well and in good health. Eid Mubarak to you and your family.
I was asked if the mortgage contract below is acceptable from a Shariah perspective. I would appreciate your feedback.

Jazakum Allah khair and best regards,
Khaled
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Khalid
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Eid Mubarak to you and your family too,
This refinance contract does not mention any buy and resell.
For Canada and similar countries that is used to give finance for 5-7 year with balloon payment that will be refinanced, the only solution is the 'Inah sale بيع العينة In 'Inah there must be a statement of buy and resell the property. But this contract crossed the word purchase and used only refinance.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Amr
Sent: Sunday, July 02, 2017
Subject: Advice on permissibility of mortgage
Question:
Assalamu alaykum dear brother Monzer.
I would like to enquire about the permissibility of resorting to mortgage based financing. We live in Austria (Europe) without access to any Islamic financing options. My parents have been renting a house for 25 years as part of a cooperative. They have now been offered to buy the house. The house is valued at €317,000. But due to the cooperative laws here my father could buy it for €112,000 under the condition that he keeps it for 10 years. If he wants to sell before the 10 years are over then he would owe the remainder of the value to the cooperative. After the 10 years he can do what he wants with the house. I spoke to my parents and they really want to buy the house. They are in retirement and they feel that buying the house would be a security and safety for them as they would not have to worry about rent and any cancellation of the rent contract. But they cannot do so without our help, and also without financing through a mortgage. I understand that according to the fatwa from 1999 in Detroit if certain conditions are met, a mortgage can be permissible.
Does this apply to our situation? I am very worried about having to take a non Islamic financing option, but I feel under pressure to help my parents especially in the absence of Islamic finance options.
Jazzak Allahu khair,
Salam,
Amr
My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Amr
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
As you explained I think the Fatwa applies to this situation of buying the house for the reasons mentioned in your query. There is also a similar Fatwa from the Islamic European Council. May Allah be always with your parents and with your family for helping them and with us all.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

From: Dr. Mohsen
Sent: Wednesday, June 28, 2017
Subject: Another question
Question:
Salam Dr. Monzer
Here is another question:
Mortgage in west
We are struggeling for housing for a long time. We have two young kids and have to move every few years because of houses crisis in uk and how the system here works. We wanted to take a mortgage which means u can settle in one place and is cheaper as well. The rent is quite high in this country unless u live in small towns and because of my and my husband work we can't move. Is it halal to take mortgage based on system here that u pay extra which means it is haram in islam. Some scholars said that it is halal if it's for living purpose and not making a business of it. Only in country where rental market is very expensive and no certainty? Please advise me on this.
Asslamu allaikum
Kind regards,
Dr. Mohsen
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Dr. Mohsen,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please inform the questioner from the UK that the principle for Muslim families who live in the Western countries and need to buy a house to live in is: it is permissible to use conventional interest-based mortgage for this purpose only PROVIDED THERE IS NO ISLAMIC FINANCE AVAILABLE TO THEM. There is a Fatwa in this regard, issued by the Islamic Fatwa Council of Europe and by the 2nd International Conference of Shari'ah Scholars held in America in the Fall of 1999.

It is important that the questioner must check with any of the several Islamic banks in the UK, I know that they provide Islamic house financing and only if this family cannot fulfil their conditions while they can qualify for conventional mortgage then only it becomes permissible to them.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Best Regards
Professor Dr. Monzer Kahf
Islamic Finance & Economics

FATAWA MORTGAGE 2016

From: Imam ……. Mosque
Sent: Tuesday, May 09, 2017
Subject: Seller financing of homes
Dear Prof. Monzer,
As-Salamu Alaykum.
Below is a question which we received a couple of days ago from a brother in the community. I hope you kindly have few minutes to answer it for us.
I will send you the letter of invitation very soon, InShaAllah.
Wassalam
Amin
---------- Forwarded message ----------
From: Mahdi
Salam Imam
Regarding seller or owner financing; a Muslim brother is selling his home and we showed interest. Then found out he has a mortgage for 2 more years. I am interested but wanted some guidance. I wouldn't be paying the mortgage, I would be paying monthly payments and a down payment for a number of years to him directly. He agreed that the arrangement must be Shari'ah compliant.
What conditions should I be looking for or demanding to ensure its a 100% halal option.
Jazaka Allahu 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. dr. Amin
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Let us make it through an example: suppose the current price of the house is 100000 if paid cash, the owner still owe 6000 principal but with the interest they become 7200 payable at 300 every month for 24 month. Suppose the bank accept to transfer this debt

to the buyer (in USA they call accepts that the buyer assumes the debt, this is practiced sometimes)
Then you negotiated a cash price with the owner at 150000.
Scenario 1: you have the cash, then you pay 142800 to the seller and you assume his loan to the bank and pay every month 300 to the bank for 24 month. This is Halal as you have nothing to do with the fact that the debt on the seller contains interest.
Scenario 2: you do not have the cash and you negotiate with the seller installment sale for 5 year (or any other number) at a price of 150 plus 6% (or any increment or rate for the time), I.e., 195000. The contract between you requires you to pay 300 every month to the bank for 2 years (total of 7200) and 3130 to the seller every month for 60 month (total of 187800). This is also Halal and permissible.
Scenario 3: the bank does not accept you to assume the debt and requires payment at time of sale with or without penalty on the seller. You contract the sale for five years installment with cash payment of 6000 (or any amount that the seller accepts of which he pays the debt to the bank with or without penalty) 189000 are divided over 60 month at 3150 monthly payable to the seller. This is also permissible, it is also permissible if you pay the 6000 directly to the bank to release the charge.
Non- permissible scenario: if the contract says 150000 plus interest at 6% or interest of 45000.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

From: Husam
Sent: Monday, April 17, 2017 11:14 PM
To: Monzer Kahf
Subject: Islamic crowd funding for house finance
Assalamu Alaykum!
Initially, let me sincerely thank you for taking the time to comment on the article. May Allah put Barakah in your time. My apologies for taking long to get back to you, as it has been tax season here!
The intent of the first section was not to deny or discredit the achievements of IF pioneers such as yourself. I commend the work that has created this industry, particularly in these highly regulated markets. Also, I feel that there are far too many people discrediting the advancements without understanding the working of mortgages. To be honest, I don't want to be affiliated with such people; rather I strive to be part of progression forward - hence I sincerely intended the paper to be a solution to a problem without discussing or examining faults of others. I can see how I failed in this regards.
The goal of the first section was to illustrate the evolution of methods used to finance in America. I see that labeling the initial as an Immigrant Lending Model is not correct, but rather a method Immigrants financed. I did not mean to imply that this was the only viable Islamic method. I do realize how my words do seem to reflect that. Rather I

wanted to show that interest-free lending was utilized for financing not long ago. As you commented, the primary dilemma was the lack of protection realized by the lender.
Also meant to be encapsulated in the first sections was that the current options, Murabahah and Ijarah, do have juristic problems. Even Devon banks Murabahah contract did not receive a favorable review from the referenced AMJA ruling.
In no way did I intend to discredit business contracts as a form of home purchase, rather, I wanted to challenge the paradigm that they are the only Islamic option. I see it as problematic that a loan is not considered and that profit maximization has become the benchmark. The resolution of this problem was the intent of the paper.
Granted, as you mentioned, interest based financing and IF contracts aren't going anywhere, but an alternative that is loan based, particularly with the proven success of crowdfunding, can provide an alternate solution; and due to the simplicity and security, could very easily be entirely Islamically permissible, and conversely - absolutely no elements of prohibition - which very few, if any, could claim. Ameen housing, which was the only option without juristic issue, faces challenges to scaling. Personally, I do have an issue with high leverage long term models, however, that is beyond the scope here.
However, a crowdsourcing lending model could resolve any juristic issues and offer scalability, as evident by the success of crowdfunding and even address other items typically out of consideration, such as altruism and overleverage.
Again, I cannot overemphasize my gratitude for your time.
I will make the recommended changes and submit to journals. If you have any suggestions as to what journals to submit, please let me know, as my goal has been to expose my concept with the intent of locating a student or researcher who could assist or carry forward.
Jazakum Allahu Khair,
Husam

My Answer:

Dear Br. Husam
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
There are still issues that you do not address. 1) While it is good to give loans, they are charity and doing business in not less Islamic. So the description of less Islamic is incorrect, 2) AMJA is not a Fatwa giving body in finance. there are recognized Fatwa giving bodies in this regard and there are specialized people, 3) the idea of crowdfunding is just a new name of old practice, it is OK and can supplement house finance, but it cannot replace profit-seeking finance which is used in Islamic cooperatives; you should present it as supplement not as alternative, 4) Murabahah and Ijarah do not have any Shari'ah problem and also using funds from interest-based main stream does not have any Shari'ah problem and if there are persons or AMJA who believes that they should be educated rather than going along with them, 5) using value-loaded words such as entirely permissible is in appropriate and misleading, crowdfunding can be used for profit (interest in the conventional) or for charity, this makes it another way of raising funds not an alternative.

Finally, there are 3 recognized journal in this area: Islamic Economics by King Abdulaziz U in Jeddah, Studies in Islamic Economics by IRTI of IDB and the journal of the School of Management and Econ in the IUMM in Malaysia.
Best Regards
Dr. Monzer Kahf

From: Imam ……. Mosque
Sent: Sunday, April 16, 2017
Subject: Zero Mortgage
Dear Prof. Monzer,
As-Salamu `Alaykum Wa Rahmatullah Wa Barakatuh.
I hope you and family are fine.
A brother in our community is kindly asking about the authenticity of the 'Halal Mortgage' in the link below.
I wish you had some few minutes of your precious time to send us your opinion.
We are always grateful for your help and support.
Imam Dr. Amin
---------- Forwarded message ----------
From: Alam
Salam brother please check the site .
Are they really offering halal mortgage.
Thanks
Alam
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
A Zero mortgage Contract was presented to me last summer and I studied it and found it interest-based. It is not Shari'ah compliant. If same program is still offered by this company, I do not accept it.
Please note that I do not give opinion on the basis of websites because they usually change overtime. I give opinion on the contract and the process of its use only.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

From: Majd
Sent: Thursday, April 13, 2017
Subject: بيع عقود التمويل الإسلامي

بطاقة الرسالة المرفقة:

السلام عليكم
عندي سؤال خاص بشراء منزل للسكن الشخصي أمريكا؟
عندنا مؤسسات "إسلامية" تعمل على مبدأ المرابحة طريقة للبنك الإسلامي، ولكن هذا بعد عامٍ تقريباً يتبين أن هذه المؤسسات أخذت الغالب المرابحة العالية أكثر من البنوك الحالية!
ما هو الحكم في هذه الحالة؟ هل يجوز لي شرعاً!" وهل يجوز لي الدخول في هذا العقد أم أخذ قرض من البنك مباشرة! ولا يخفى عليكم، أن إيجار الشقة في عادل أوفر وقد أسأل الطالبة
تحياتي
محمود

My Answer:

الأخ المكرم أسأل الله أن يجعلك
السلام عليكم ورحمة الله وبركاته
هذه المؤسسات التي تتعامل بالمرابحة وتجارة العقد لا أنصح أي مؤسسة تتعامل بهذه الطريقة. من البنك مباشرة إلى المشتري بالتقسيط مع عقد مرابحة لا يجوز شرعاً وهذا ما تقوم به البنوك الربوية.
وهناك مؤسسات إسلامية تقوم بعقد المشاركة المتناقصة (شركة العقد) وهي أن تشارك البنك في العقار ثم تشتري البنك حصته على دفعات مع عقد إجارة. وهذا جائز لا غبار عليه وهو المعمول به في البنوك الإسلامية.
أما مسألة أن السعر الذي تأخذه هو أكثر من السعر في السوق فهذا أمر طبيعي لأن البنك يبيع بالتقسيط وهو يضمن لنفسه أعلى من سعر السوق.. وهي بضاعة.
ثم إن سعر السوق قد يرتفع وقد ينخفض وهو حر في أن يبيع بالسعر الذي يريد وله أن يختار المشتري الذي يريد وله أن يبيع بالتقسيط أو بالنقد. والله تعالى أعلم.
مع أسمى آيات التقدير والاحترام
أ. د. منذر قحف

From: Imam …… Mosque
Sent: Monday, February 27, 2017
Subject: Mortgage and loans in Canada
Dear Prof. Monzer,
This is another question for your kind consideration.
---------- Forwarded message ----------
From: mufida

السلام عليكم
عندي سؤال خصوصا القروض الشخصية من البنوك الاتي هل حرام ام لا؟ اريد الاقتراض من المصرف لغرض التجارة حيث اغلب الفلوس. وهل الاقتراض من البنك اسهل فيتبادلون الرد حلال أم لا؟ علما بأن البنك الاسلامي أخف ربحا من البنك الأخير .
ارجو الرد وجزاكم الله خيرا .

Thanks a lot for your time and efforts with our Mosque and community.
Amin
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

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1. I am not aware that there is an Islamic bank in Ottawa.
2. Islamic banks do not give loans, they give finance for goods and services. For business purposes, you approach an Islamic bank to buy inventory (for example) for a cash amount of 100,00- and sell it to you on credit for six month for 103,000. This is called Murabahah and it is permissible. What is Haram is lending for increment not sale on credit at a higher price. The difference may not look big but it is in fact huge; some of the differences is: at the level of the society, loans can be given without limit but sale on credit cannot be except for the price of the goods; loans can be given to pay previous debts, but that cannot be done in case on sale on credit, loan can be done between banks a lot more than done between banks and individuals but sale cannot be done between banks. The whole theory becomes different..
3. In Shari'ah, an increment in a loan or debt is Haram and considered one of the most grave sins as mentioned in the Qur'an (2:275-79). Accordingly it is Haram to take loans from banks as long as such loans include a condition of interest.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Best Regards

Dr. Monzer Kahf

From: Janeef

Sent: Thursday, February 23, 2017

Subject: Zero Mortgage

Assalamu Alaykum Dr,

Could you please advise if the mortgage products from Zero mortgage is halal? I requested them to send copy of their contract. I can send it to you once I receive from them.

http://www.zeroglobal.biz/services/zero-mortgage/
<http://www.zeroglobal.biz/services/zero-mortgage/>

Zero Global: Zero Mortgage <http://www.zeroglobal.biz/services/zero-mortgage/>
www.zeroglobal.biz <http://www.zeroglobal.biz>

The Zero Mortgage Advantage: No additional fees – home ownership costs are the same as conventional mortgages; No upfront fee; No fee per mortgage payment

Jazaka Allahu Khair

Peace,

Janeef

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. Janeef
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Unlike what it is claimed on their website, zero mortgage contract, if you read it carefully, is interest-based. It is not permissible like other mortgage.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

From: Janeef
Jazaka Allah for your immediate reply. I am not sure if this is an appropriate question. Do you have any recommendations if any other Canadian company that is interest free and complies with Shari'ah? Thanks again. I appreciate your time.
Peace,
Janeef
My Answer:
The Islamic Housing Cooperative has a Shari'ah compliant contract although its conditions may not suit middle income families. And I am sure there are others if you search well. There is also the credit union Assiniboine, it offers Islamic mortgage for Muslims in Manitoba.
Best Regards
Dr. Monzer Kahf

From: Sameer
Sent: Monday, February 13, 2017
Subject: Murabahah structure for Canadian market if house finance
Assalamu Alaykum Dr. Kahf,
Hope you are in the best of health.
Quick introduction my name is Sameer I operate in Toronto as a wealth manager. I have come across the Murabahah structure and wanted to get your opinion if possible. I know you are busy if you have some time kindly review the outline attached in the word document. Or please let me know what is the process to ask questions. Thank you for your time.
Jazaka Allahu Khayran
Best Regards;
Sameer
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. Sameer,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

There is a need for some changes to make it Shari'ah compliant. Otherwise what is the difference between it and a loan, just calling the loan financing and calling the interest profit!
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

From: Sameer
Assalamu Alaykum Dr. Kahf,
Hope you are in the best of health.
Quick introduction my name is Sameer I operate in Toronto as a wealth manager. I have come across the Murabahah structure and wanted to get your opinion if possible. I know you are busy if you have some time kindly review the outline attached in the word document. Or please let me know what is the process to ask questions.
Thank you for your time.
Jazaka Allahu Khayran
Best Regards;
Sameer
Please see this proposed contract:

The Fund or Financier proposes to offer a residential home financing product which is compliant with Islamic principles. Fund or Financier will use an Islamic financing structure known as *Murabahah*. This structure is an installment sales program in which is similar to those of a typical long-term closed mortgage. Fund or financier earns a return by adding a pre-agreed financing charge to the amount it finances and the purchaser makes monthly payments based on a pre-determined amortization schedule.

The concept underlying the *Murabahah* process is that title transfers from the Vendor to the Purchaser, as directed by the fund or financier, at the closing date (as set out in the Purchase and Sale Agreements) or at such other time as mutually agreed between all parties. The basic process is as follows:

- The Purchaser finds the Property he or she wishes to buy. The Purchaser will enter into an Initial Purchase and Sale Agreement for the Property, as would be the case in any real estate transaction.
- Fund or financier approves the Purchaser and the appraisal of the Property. Once all necessary approvals have been obtained, Fund or Financier and the Purchaser will enter into a Financing commitment in relation to the purchase of the Property.
- The Purchaser will assign all right, title and beneficial interest he or she has in the Initial Purchase and Sale Agreement to Fund or Financier by way of the Notice of Assignment.
- Upon completion of the Assignment, the Purchaser and Fund or Financier will enter into a Home Financing Agreement whereby the Purchaser commits to pay Fund or Financier the Initial Purchase Price plus the Financing Charge over the Term of the Home Financing Agreement. A Notice of Assignment will then be delivered by the

Purchaser to the Vendor, for acknowledgement and execution by the Vendor, confirming the Vendor's acceptance of the Notice of Assignment and the terms and conditions set out therein.

- On closing, Fund or Financier will direct the Vendor to engross the transfer of title to the Property in favour of the Purchaser. Upon registration of the transfer of title in favour of the Purchaser, Fund or Financier will register a first ranking security interest against title to the Property in respect of the Home Financing Agreement.
- Subsequent to the closing of the purchase of the Property, the Purchaser will make monthly payments as required under the Home Financing Agreement.
- The Purchaser will make payments as per the amortization schedule which will include Principal plus the financing rate over the term, at the end of the term the purchaser will have to pay the outstanding remaining balance. As there will be no renewal at the end of the term under the *Murabahah* structure.
- Amortization payments can mature the same time of the term or can be longer. But no renewal at the end of the term. Remaining balance must be paid.
- ***Financing Rate***

  The Home Financing Agreement will specify that the Financing Rate will be calculated in annual percentage term as follows:

  Financing Rate = M / (A X T) x 100 where:

  M is the amount of the Financing Charge that represents the Cost of Financing

  A is the Average Financing Amount over the term of the Home Financing; and

  T is the Term of *Murabahah* in years.

  As an example of the amortization schedule see below:

  Source of the table: https://islamicbankers.me/islamic-banking-islamic-contracts/in-focus-murabahah-contract/

Dear Dr. Kahf,

First of all I thank you for getting back to me. Thank you for clearing, as when this was presented to me it caused doubt and felt like a conventional based loan.

Questions:

* If those changes as you have mentioned are made that would make the process Shari'ah Compliant?
* So, an assignment notice with the sale agreement when the vendor signs off states virtue of this assignment the fund takes ownership and risk.
* And when the fund sells the cost plus to the purchaser, should there be a sale agreement or can you say it would be compliant if there is a commitment letter which binds the fund and states the cost and profit price and the financing rate? The reason I mention this when you have another sale agreement based on Canadian tax rules that would trigger a capital gains tax hit to the investors of the fund even before they have received the profit since the payment will come by a deferral basis over the term of the Murabahah. And would have to pay the whole capital gains tax in the first year instead of over the term.
* So, can a commitment letter replace a sale agreement between the fund and the purchaser.
* The commitment letter will outline all the details including the cost, profit, term, financing rate, details, conditions, no renewals etc.

Most of the banks here use a commitment letter when they are ready to approve and move forward with the financing.
Jazaka Allahu Khayran
Best Regards;
Sameer

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. Sameer
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
There must be assignment of the first sale to the fund, then a letter from fund to vendor to transfer title to the name of customer of the fund, then upon closing (that is just at closing after registering in name of customer) a sale from the fund to the customer. Commitment letter definitely is not sufficient.
I also prefer that another document be signed when the customer assigns the purchase to the Fund: an MOU between fund and customer stating that the Customer promises the Fund to buy the property at $….+… (cost plus profit) and an Permit from the fund to customer to hold the title in his name on behalf on the fund until a (already prepared sale from fund to customer) is signed.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

From: Idriss
Sent: Friday, February 10, 2017
Subject: Are conventional mortgage contracts Riba- based or ownership-based?
Salamu Alaykum Professor Kahf,
Some experts in the field of Islamic Law have raised the question whether conventional mortgage contracts fall under the prohibition of Riba. Although legal ownership resides with the buyer of a house, they argue that real ownership belongs to the financial institution providing a loan, thus disqualifying it as Riba. I would like to hear your opinion on this issue.
Baraka Allahu Feekum,
Idriss

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. Idriss
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

When you read a mortgage contract for house finance and understand the relationship you will realize that it is an interest-based loan. it is incorrect that the providing bank owns the house. The house is owned by the buyer and the loan provider has a lien (called also charge or mortgage)to the benefit of the loan provider. This mortgage allows the lender to repossess (after certain procedures) the house and sell it to collect its principal and due interest (this is what is called foreclosure).
Definitely the property is owned by the purchaser and definitely it is a loan with interest and definitely any interest as known today in banks is Riba as defined in the Qur'an (2:279) and as prohibited in (2:275). The lien that is recorded on the title of the property is very similar to what any lender may have on the property of the borrower, not a single difference..
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Best Regards
Dr. Monzer Kahf

From: Ismail
Sent: Thursday, January 26, 2017
Subject: ZERO Mortgage - Is it Shari'ah compliant Islamic Mortgage ?
Assalamu Alaykum Dr. Monzer Kahf,
Thank you for coming to London Ontario last year to share with us your knowledge on Islamic Finance and Mortgages specifically. I have attached contracts from Zero Mortgage and their associated funding partner. I am wondering if you are familiar with Zero Mortgage and if you consider their Mortgage Model Shari'ah compliant.
The documents from their funding partner has the term "interest" and my gut feeling is that this is not acceptable. I would appreciate your feedback.
Also, I followed your recommendation and contacted our local credit union Libero; I am waiting to hear back from them to see if they are willing to entertain a similar model to Assiniboine Credit Union.
Jazaka Allahu Khairan,
Ismail
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. Ismail
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
We studied this contract; it is in fact interest-based.
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 Jazaka 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

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: 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: 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 In Diana 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: 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 التعاطي 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: 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

From: Shahzad
Sent: Thursday, October 27, 2016
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-amble 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,
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
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: Bassem
Sent: Wednesday, September 14, 2016
Subject: Buying a second house on interest mortgage

بسم الله الرحمن الرحيم و أزكى الصلاة و التسليم على سيدنا محمد خير الورى و على آله و صحبه أجمعين
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: HINDA
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

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.
Get Outlook for iOS
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.
---**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:** 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
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: munther
Sent: Saturday, July 09, 2016
Subject: IjaraLoan in Canada

د.منذر القحف يحفظه الله
السلام عليكم ورحمة الله
تحية طيبة إليك ، وكل عام وأنتم بخير .
فقد تلقيت حلال الفرص تعرفكم من خلال الأخ سلطان ، والذي أنت أشتري رهن خصوصا شراء بيت كندا ، حيث درس بأنواعي ، وأنا أفوض مع أحكام الشريعة .
أوضح لي – مشكورا- موجوعة من المعطيات في الموضوع ، وأحالني إلى حضرتك باعتبارك من أهل الذكر الذين نسأل هم، ونستفسر منهم خصوصا أفضل الخيارات والمؤسسات المالية القائمة في كندا .
أنت تعرف أخي الأخ خالد مدى تزايد اهتمامي في الدوحة حيث زاد في الفترة الخيرية ، حيث عملت في مجال مشاريع التمويل الشخصي ، من خلال برنامج "التمويل بالشراء العربي عن بعد " Distance Employment، وهي استراتيجية مستحدثة من التمويل بالشراء العربي سوق العمل عبر توظيف مصالح شركات خارجية دون أن يغادروا الدوحة .
آمل أن تتاح الفرصة لوصل ، سواء هنا أو عبر الإيميل .
السلام عليكم ورحمة الله
منذر

My Answer:

الأخ الكريم منذر زيدان
لسلام عليكم و رحمة الله وبركاته وكل عام وأنتم بخير
بارك الله بكم ورعاكم، وشكرا على رسالتكم الطيبة،
أنا الآن مع الأهل في إجازتنا الصيفية في كاليفورنيا، وسنعود إن شاء الله في نهاية شهر آب (أغسطس) من العام القادم 2017، ولعلنا نتواصل في الدوحة بإذن الله وسر في نهاية الشهر الفضيل في رمضان المبارك. هو 30113250
مع أسمى آيات التقدير وأعز التحية
أ. د. منذر قحف

From: munther

الأخ الكريم د. منذر قحف حفظه الله
لسلام عليكم ورحمة الله
أشكركم على ردكم ، رغم أنكم في إجازة ، آملا أن تعودوا للدوحة قريبا نسبيا، حيث لم أكن أتحادث حينها بقدر من التوسع مثلما هو الحال الآن، وأرجو أن أكون قد وفقت في توضيح وجهة نظري .
لقد أتت زيارة لكندا هذا الشهر بغرض شراء البيت الذي يتوجب التواجد فيه للوصول إلى نتيجة حول وجود خيارات شرعية لتمويل أو عدمها ، محددا أساسيا لسفري. لذا أسأل حضرتكم حول قضية محددة ، وهي صيغة قرض الإجارة (IjaraLoan) ، والذي فهمت أنه يتم من خلالها إشراك Trust توافق وجهة الاقتراض من البنك بوجوب غرض تمويل الإجارة. نموذج لذلك مؤسسة Ijarah Canada https://ijaracdc.com/how-it-works/
سؤالكم شكرا لكم إن كان من أي صيغة راجع بخصوص شرعية هذه الصيغة، ولذلك أي رابط مواقع أو نحو ذلك تم فحصه قبل تمويل العقار في أمريكا الشمالية، وأحكامه الشرعية .
تحياتي لكم ، على أمل أن نراكم في ..... حيث أسرتكن.
لسلام عليكم ورحمة الله

My Answer:

هذه عملية قصيرة لا تغني في القرض الربوي لأن التورط هو أن تفتسك من الناحية الشرعية. هي تعمل فكرة أن التورط شخصية قانونية تقوم بالربح الذي سوف يعفي البنك من الربا فإنك تدفع للتورط أجرة التورط في هذه الربا... هذا كذب وتدجل على الناس لأنك أنت الشريك التورط وهو يمثلك أن تدفع الشرعي قدر الربا وتدفع الربا الشهري للبنك. وهؤلاء الدجالون يأخذون منك مبلغا من المال الضخم عليك...

منذر

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: 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: 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 un-questionably.
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: مجد
Sent: Saturday, April 16, 2016
Subject: Mortgage finance in Canada
أرجو أن تكونوا وعائلة الكريمة في أتم الصحة والعافية شكر لكم معروفكم بإعطائي ريك إلى الكترون.

لقد وجدت عملا والحمد لله في إحدى المناطق النائية في كندا وأريد أن أحضر الأهل للسكن معي.
في هذه المنطقة لا توجد بيوت جيدة آل جار وقد وجدت بيتا جيدا جدا لكن وسعره تمرف عن وعاء ما ولا أستطيع أن أدفع كامل ثمنه وقد بدأت أحتاج على أقل 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 تتواضع الحين 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

ألخ 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: 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 you 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/8714/4950/6057/Zero_Mortgage_Insurance_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
Abuelezz
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
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,
1. 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: 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 تكون بصحة وعافية بإذن الله
وددت الإفساد فضيلتكم في مسألة المؤسسات التمويل العقاري الموجودة في السوق العقاري الأمريكي فأنا أريد شراء منزل لسكني بإذن الله وبحث عن إحدى تلك المؤسسات تكون أقرب في شروطها في الشريعة وبعد هذا عن شبهة الربا الوقوع في الفائدة فهل فضيلتكم تقترح لي أوتزكي أحدا أو أعضاء؟ أرجو التكرم بالإفادة وجزاكم الله خيرا وفي عبكم موعلكم
السلام 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:

2. 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.
3. 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: 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: 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: 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

FATAWA MORTGAGE, HOUSE FINANCING 2015

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=7qNTxz7tvIw> 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

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 as 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: 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 œ107 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 œ10700 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 do 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 asses 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: 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: 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: 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: 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: 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: 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: 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 form 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

FATAWA MORTGAGE, HOUSE FINANCING 2014

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: 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: 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: 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: 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: 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: Muemenah

Sent: Sunday, May 25, 2014

Question: Islamic mortgage in America

السلام عليكم دكتور،
في ميشيجان لشراء بيت "university bank"نقترض من البنك الاسلامي والدفعة الشهرية تتألف من حق انتفاع ثابت بمثابة أجار شهري و جزأ من قيمه البيت حتى الانتهاء من تسديد قيمه البيت كاملا.
هل هاذا جائز شرعا؟
شكرًا جزيلا
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 الحبالين عندكم
مع أسمى التقدير وأعز التحية
أ. د. منذر قحف

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
My Answer
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.
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: 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 is 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 make 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 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: 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 circulated the fatwa from one of the NY based scholar that ijaraloans 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 circulated the fatwa from one of the NY based scholar that ijaraloans 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

FATAWA MORTGAGE, HOUSE FINANCING 2013

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 do 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 sever 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: 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: 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: 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: 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: 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: Sarmad

Sent: Saturday, September 14, 2013

Question: Buying House through Ansar Cooperative Housing

اسلام علیکم و رحمة الله وبرکاته

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 that 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: 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 upraising 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: 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 first ....Please 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: 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, 20 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: 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 (بـيـع بـا لأجـل). 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: 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: 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 that 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: 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: 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: Iman
Sent: Thursday, February 14, 2013
Location: Canada

Question: Ijarah/loan

Salam Alaykum
I live in Canada and I am trying to find a way to purchase a home without Riba. Currently to live in a safe neighborhood one needs to either purchase a home or pay very high rent prices that sometimes is just not affordable. I came across this company called IJARA LOANS. Their way of banking is as such:
How the Program Works

* The individual selects the property;
* Pays the required on-account payment (traditionally called down payment), which could be 3.5% to 20% or higher if the individual chooses to do so.
* An independent trust <http://www.ijaraloans.com/?p=149> holds the title to the property.
* The house can be leased for 10, 15, 20 or 30 years, depending on the individual choice.
* The lessee pays monthly rent to the trust <http://www.ijaraloans.com/?p=149>, also called on-account payments. The trust <http://www.ijaraloans.com/?p=149> will

pay real estate taxes and property taxes on behalf of the lessee and add these to the monthly rent. At the end of the lease period, the title is transferred to the lessee for a fee of $1.00.

* Should the personal situation for the lessee change and he or she has a need to sell the house, the trust <http://www.ijaraloans.com/?p=149> is informed of this need and an arrangement is made to sell the house. If there is a profit, the lessee keeps 100% of the profit. If there is a loss, the lessee bears the first loss.

They have emailed me a fatwa that was signed by Sh. Muhamad Taqi Usmani however I know how some companies may not be truthful about their fatwa's so I don't always trust it. The company claims they have 38 investment companies and the loans come from them, once the loan is received it is then converted to be Shari'ah compliant. They claim that with Ijarah, suppose you want to buy a property, you walk to Ijarah and fill the application. They will create a trust and the trust will purchase the property (with funds from the investor) and each month you will pay rent to the trust. A portion of that rent will go towards your ownership until you have 100% equity. They say that rent on money is Riba (haram) but rent on property is rent, which is halal. They say that their transaction is based on rent to own. The property will be held in a trust and there is a lease agreement between you and the trust. There is a profit gained but what makes it halal is that the profit is gained form the rental of the property, not for the usage of money (which is essentially what Riba is). Sheik is this true and do you find this company to be halal or haram. Here is their website http://www.ijaracanada.com/ <http://www.ijaracanada.com/>

My Answer:

Bismillah al Rahman al Rahim

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

Dear Sr. Iman

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

No, this is not true.

What they hide is the following: the trust takes a loan on Riba basis. They claim that the trust is independent. This claim is not true according to Shari'ah. The trust represent you and it is in fact (from Shari'ah point of view) you exactly in regard to the ownership of this property. This is why it reflect the tax and other expenses on you and this is why they say the profit when you sell in yours so is the loss if any.

Rent of a property is of course Halal and it is one of the forms of Islamic finance in contrast to interest on debt in case of getting a loan which is Haram. The Fatwa of Shaikh Usmani is on the rent and it is of course correct it is not on the structure (create a trust on your behalf, the trust buys on interest and pays interest on your behalf, the trust owns and rents to you, you pay rent to the trust). THE FACT IS THAT THE TRUST IS YOU; SO YOU PAY INTEREST AND CHEAT YOURSELF THAT YOU PAY RENT.

Based on previous Fatwa that I gave and many Imams people spread in Canada and the US this company changed its propaganda. Now it did not tell you that the trust buys on loan basis and pays interest on your behalf. They fabricated this investor which is banks giving loans to you in the name of the trust. This trick they play on simple people and

charge them for it a few thousand Dollars. Please remember that according to Shari'ah this kind of trust only represents you, it is not independent from you.
I suggest that you should try the Islamic housing cooperative, some credit unions which offer Islamic contract.
Remember again that the problem in the Ijarah loan is: that the trust is you, so that you buy on interest and cheat yourself in claiming that you rent to yourself. It is not the point that Ijarah is permissible.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Charef
Sent: Thursday, January 10, 2013

Question: Ijarah/loan

Dr
As-salaam Alaykum and thank you in advance for taking the time to read my email;
The Ijaraloan (Islamic Home and Business Finance in the USA and Canada) are based on a Fatwa of Mufti Muneer (see attached) regarding their contract for financing home in Canada and USA.
What is your opinion about this Fatwa?
Jazakum Allahu Khairan for your constant help
Charef

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Charef
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
This is atypical abuse of Fatwa. The Fatwa is about Ijarah and the Ijarah is correct. Yes.
The problem is with the structure: tale interest loan, transfer the loan to a trust (the trust is still you from Shari'ah point of view), make an Ijarah between you and the trust (that is you with yourself), the trust (that is you) pays interest to the bank and collect rent from you. This is the problem not the Ijarah contract.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2012

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: Walid
Sent: Saturday, December 29, 2012
Location: Canada

Question: buying investment property on interest loan

لس الم عل ي كم و ر ح م ة الله و ب ر ك ت ه،

أ ن ا م س ل م ي و ل ي د ، م س ل م ق ي م ي ف ي ك ن د ا. ق ا ل ت الأ خ ت ف ي ال م ؤ ت م ر الإ س ل ا م ي ف ي م ي ن ق ت و ر و ت و و س أ ل ت ه س ؤ ا لاً ت ع ل ق ب ال ق ر و ض م ن ال ب ن و ك ال ك ن د ي ة (ال م س ا ق ب ال ب ن و ك ال ر ي و ي ة ف ي ن ص ح ن ي ب ال ر ج و ع إ ل ى ح ض ر ت ك ب م ا ن أ ك م و ن ا ل ل ه ل ل ح م د أ ه ل ع ل م و ي ن و ق ة س أ ع ر ض ع ل ي ك م س ؤ ا ل ي ب ال ق ص ي ر ل ت ن ا ل ي ح ت ا ج ي ً ا أ ن ت ق ل و ا ش ك ر ي م س ب ق ً ا ل ى الإ ج ا ب ة:

أ ن ا ط ا ل ب ف ي ال م ا ي ح ت ي ر ع م ر ي ??س ن ة، ت ز و ج م ن أ خ ت م س ل م ة ت د ر س ال ط ب. ي ق د م ل ن ا ال ب ن ك إ م ك ا ن ي ة ق ر ض ش خ ص ي ق د ر ه ??????$ ك ن د ي م ع ف ا ئ د ة ت ن ا س ب ي ة ??س ن و ي ً ا. ه ذ ا ال ب ن ك ي س م ح ل ن ا ب ش ر ا ء ب ي ت ب ق ي م ة م ا ي ن و ن د و ل ا ر ي ت ح و ي ل ى ع د ة ش ق ق س ك ن ي ة ل ل إ ي ج ا ر ب م ا أ ن ال ب ن ك ي ح ت ا ج إ ل ى ن س ب ة ??? م ن أ ص ل س ع ر ال ب ن ى. إ ذ ً ا ل س ؤ ا ل ق س و م ل ا ق س م ي ن: الأ و ل ه ل ي ج و ز ل ن ا أ خ ذ ا ل ق ر ض ال ش خ ص ي م ن ه ذ ا ال ب ن ك ال ك ن د ي م ع ال ا ي ا د ة ال م ت ر ت ب ة ك م ا ذ ك ر ت أ ع لا ه؟ ال ق س م ال ث ا ن ي ه ل ي ج و ز ش ر ا ء ال ب ن ى ع ن ط ر ي ق ال ب ن ك ع ل ً م ب أ ن ف ك ا ي ا د ة م ت ر ت ب ة ي ج ب د ف ع ه ا؟

أ ح ب أ ن أ ض ي ف ب أ ن ه ذ ا ال م ش ر و ع م م ب ال س ب ة إ ل ي ن ا و ل ك ن ه ل ي س ض ر و ر ي أ ي ز أ ن ا ب إ م ك ا ن ا أ ن ن ع ي ش م ن د و ن ه. ال م ش ر و ع ر ب ح ب إ ذ ن ا ل ل ه ع د ا ل ح س ب ا ت ال د ق ي ق ة ي ق م ت ب ه ا. ه ذ ا ال م ش ر و ع س ي س ا ع د ن ا م ا د ي ً ا ع ل ى ب ق ي ة م ك ا س ز ن ا ف ي ه ذ ا ال ب ن ك و ا ل ت ا ي س ي ع و د ع ل ى ال م س ل م ي ن ب ال خ ي ر ف ي ن ي ل ة ال م ط ا ف ع ن ط ر ي ق ب ا ب ا ل م س ا ع د ة ل ل آ خ ر ي ن ال ت ي ل ا ي م ك ن أ ن ت ف ت ح ل ن ا .

أ ش ك ر ك م ج ز ي ً ا ل ل ش ك ر ل ك ت و ر م ن ذ ر و ف ع ن ا ا ل ل ه ع ل ي ك م،

ل س ا ل م ع ل ي ك م و ر ح م ة الله و ب ر ك ت ه

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Walid
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I can understand that the interest transactions in the Western countries sometimes provide lucrative opportunities but honestly they also may have pitfalls that better be avoided.
Riba is very strongly prohibited in the Qur'an and Sunnah. It is a very serious matter to be avoided under all circumstances.
Discussion in Scholars circles argued that for families who live in the West, where Islamic finance is difficult to find, and who in fact need housing for the family which cannot be provided through equivalent Islamic finance, may resort to conventional mortgage.
In my opinion these restrictions must be abided for: for family residence only, it is in fact needed, and Equivalent Islamic finance is not available. These rules out business and investment uses.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Ayman
Sent: Wednesday, December 19, 2012
Location: Vancouver, CANADA
Question: Islamic home purchase financing in Canada
Dear Dr Monzer,
Assalamu Alaykum wa Rahmatu Allah wa Barakatuh,
My name is Aymen, I live in CANADA, I am actively looking into Shari'ah financing for home ownership. I came across IJARACANADA a financing company operating in both the US and Canada and claiming to provide Shari'ah compliant loans. My question are listed below, I hope that you can find some time to answers them and I would like to thank you in advance for the time you are dedicating to serve the Muslim community in North America especially on these delicate financial matters:
a. Did you evaluate IJARACANADA IJARA Canada before? Is it 100% Shari'ah compliant.
NO, and I don't evaluate companies. I answer a question and I require it to give me details without referring me to a website. Websites may change.
b. I have sent them some questions to the best of my knowledge and I would like to get your opinion the question/answers below:
1. In a conventional mortgage if you pay less than 20% for the down-payment you are required to pay mortgage insurance. I was informed by IJARACANADA that they apply the same rule as this is a law requirement and that they don't have another way around it. Is this permissible?
Insurance is permissible, let alone being required by law or not, provided it is not interest based.

2. On the Issue of Sharing loss and Gain, I got the following answer from IJARACANADA: "in a Shari'ah compliant loan the requirement is a sharing of the gain and the loss, not just the loss. The sharing is required according to the percentages of ownership, if however, someone owns 100%, who do they share with? There is no one to share with. This applies in an Ijarah transaction as there is only one owner, the Trust, and as beneficiary of the Trust that gain or loss transfers 100% to the customer"

both the question and answer are incorrect: 1) there is nothing called Islamic loan, 2) in housing Ijarah the property is owned by the two together, who actually own the trust (the trust is just a veil). There is a pledge however by the customer to buy the property along with payment of rentals. This pledge makes the customer liable for any loss which results from his action of lack of action. If a loss arises from his action as in foreclosure he must compensate the beneficiary of the pledge for any loss. But if the loss arises from act of God or act of government (say the property insurance turns out to be insufficient then loss must be shared. In my opinion this is what Shari'ah compliant is.

2. IJARACANADA offers variable rate 5 years mortgage terms, which makes the final amount to be paid back for the loan undetermined in advance. Is variable rate permissible or the fixed rate is more in line with the Shari'ah?

a. I researched this matter and found some opinions saying that this is permissible given this is a lease and the lease term can be reviewed every certain period agreed upon between the lessee and lessor. Is this permissible?

I can't tell about what does Ijarah Canada does in this regard.

Variation of rate of Ijarah may be as follows: in the contract it is permissible to set a definite increase or decrease every month, year or what not. Variation may be set on the basis of a benchmark such as interest rate announced by certain authority or outsider but definitely known to the 2 parties.

Setting a contract for five year and a balloon at the end with option to renew is permissible provided the customer has a right to shift to another finance provider and to negotiate the rate and all other conditions.

b. In case the variable rate Shari'ah loan (there is no such word in Shari'ah) is permissible, the conventional interest rate is used as a benchmark to determine the new rate when 5 years term ends. Is it permissible to use conventional interest rate as a benchmark?

Yes

c. Finally, In case the variable rate Shari'ah loan is permissible, should the lessee and lessor agree to set a min and max for the rate to avoid unreasonable rate hikes?

Yes

JAZAKA ALLAH KHAYRAN for your time and help and may ALLAH reward you in the dunya and akhira Ameen,

BTW, insurance can be paid by the customer, the share of the other owner of it can be, by a condition in the contract, considered like a part of the rent.

Salam Alaykum

Aymen

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Aymen
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please see my answers in red below your questions:
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Dear Dr Monzer,
Assalamu Alaykum wa Rahmatu Allah wa Barakatuh,
I would like to follow-up with you on an old inquiry I sent you back in February 2012 regarding Ijarah loans Canada Company which claims to offer Ijarah financing for Muslims. I found recently the fatwa below where it is clearly mentioned that this company is a fraud and that it is misleading the Muslim community by claiming it is Riba free. I wanted to double check with you such information and Jazaka Allah Khayr for all your efforts and may Allah help you help us stay on the straight path.
JAK
Assalamu Alaykum
Aymen
My Answer:
Dear Br. Ayman
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes, it is true, a friend sent me the detailed documents on its transaction and based on that I issued a detailed Fatwa prior to this brief one. This is a fake company: it creates a trust and makes the interest contract in name of the trust which in its turn rent you the property. The point is that the trust has a legal independent identity in Western laws while in Shari'ah the trust simply represents you. They abused this formal independence to claim that this way it is no more interest. It is a dirty trick!
Best Regards,
Wassalam
Prof. Dr. Monzer Kahf

From: Nora
Sent: Wednesday, October 03, 2012
Location: Canada
Question: Mortgage in Canada
Asalamu Alaykum,
My husband and I have been renting for over three years, we have two young children, one which will be starting school next September. We live in Mississauga where house prices are extremely high. We would like to purchase a house to gain some stability, especially that our son will be starting school next year InShaAllah. (We have friends

that are renting and are forced to leave their house constantly because the home owner would like to sell etc.) We have been researching mortgage and other alternatives. We don't want to do anything haram, but what option do Muslims have in this country for being able to purchase a house. We were looking at Islamic loans but cannot find anything that is comparable to a standard mortgage, many Islamic loans ask for far more return, and would end up costing us more, and would take us much longer to pay off.
In addition if we continue to rent, not only may we be forced to move from one school district to another (moving our child from school to school), but we wouldn't have any money to save in hopes of buying a house in the future and securing a permanent residence when we retire, InShaAllah.
Wassalam Alaykum
Nora

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Nora
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The established Fatwa for Muslims living in the Western countries is that whenever resident house is needed for the family and Islamic finance is not available to them, they may go for conventional finance. I know in some provinces it is now available through some conventional credit unions which offer Islamic contract for house finance. In Mississauga there is the IHC but if it is not accessible to you because of its conditions then you may go for the Fatwa.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: OnIslam.net, Live Fatwa
Sent: Wednesday, September 26, 2012
From: Houda

Question: Should I sell the house bought on mortgage

If someone bought a house with mortgage already, do they have to sell it? Also, are there any banks in Canada you would recommend for someone to use to buy a house, and for student loans? Also, what can one work in Canada, as a female, and as a halal job?

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Houda
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

No one is not required to sell if one bought a house with mortgage if it is the house to reside in. try to make full payment as soon as possible and meanwhile if you find a good opportunity to sell it and buy on Islamic finance if it is available equally one must do that at the appropriate time without incurring losses.
For other two questions I am not qualified to answer them. I know there are many jobs available for Muslim males and females.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Prof. Dr. Monzer Kahf
From: Asif
Sent: Friday, August 31, 2012

Question: on Islamic financing for a house

Assalaamu Alaykum,
I hope you are keeping in good health InShaAllah.
You have helped me and my wife in the past with questions related to finance and I hope, InShaAllah that you will be able to help us again with another concern that we are faced with now.
I have been looking at my options to buying a house in a halal manner in MA, USA and it looks like my best option is Guidance Residential (http://www.guidanceresidential.com/) which is having a Musharakah based approach. On the surface everything looks good, but many people on the internet warn that this is not a Halal option at all.
I am loathing to consider going for normal interest based loans (based on the necessity factor), as some have said, as I do have an Islamic option available to me, which is Guidance.
Many of the Guidance principles are approved by scholars of repute as given on their website
http://www.guidanceresidential.com/guidance-fatawa
The main concerns raised by those opposing the guidance scheme are the following points:
1. Guidance is not a true partner
- They do not bear the loss in case of default
- They will not 'share' in the cost of maintenance of the home
Some links to online criticisms:
http://amjaonline.com/00en_f1_details.php?fid=22321
http://hopeun.blogspot.com/2011/03/v-behaviorurldefaultvml-o.html
2. Guidance will 'resell' the contract to Fannie Mae/Freddie Mac so in essence, they are a 'shell' of halal coating over conventional banking. I believe this process is called securitization in conventional terms.
This aspect is even mentioned in their white paper, I do not know how valid their approach is Islamically though.

http://www.guidanceresidential.com/learning-center/white-papers
My question to you is do you have an opinion on the conformance to Islamic principles with respect to Guidance Residential?
IF not favorable, do you advice of any other options that are better?
Jazakallahu Khair.
Asif

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Asif
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I have studied the GF contract and it is correct. Besides it is approved by respected scholars. Notice that it is in fact Sharikat milk not Sharikat 'Aqd (Co-ownership not contractual partnership) in which one co-owner leases the other its share with a pledge to buy it back from it.
Insurance and maintenance can be charged by agreement to lessee. Besides, since it is based on owning property and leasing it, it is permissible to securitize it because securitization amounts to selling the property and new owner enjoying the earning of the rent. Further, what does the company get finance from is not a matter of your concern because your concern end categorically in the contractual relationship between you and the company. Furthermore. In case of default, it is your mistake and your failure to fulfill your promise. This puts the burden of it and all its financial consequences on your shoulders. There is a case where the partner who got a pledge from you to buy its share may lose with you. This is if the property is destroyed by force major and the insurance payments turned out to be not sufficient to cover both shares, it is then (according to GF contract) on both proportionally. A similar case is if the property is confiscated by a local government and the compensation paid fell shorter than the cost price. Loss is also shared. Finally insurance can be on the lessee as a part of the rent I.e., the rent is a sum of money plus the insurance service.
Objections came from people who do not know Islamic finance and are not familiar with the new concept of Islamic financial intermediation.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: OnIslam.net, Live Fatwa
Sent: Friday, August 31, 2012
From: Muslimah (AAI)

Question: Loan to Buy a House

Asalamu Alaykum. We live in the capital city of Nigeria where the cost of renting an apartment is very high. There is this house meant for sale in the neighborhood but we don't have the cash to buy. I advise my husband to take mortgage from a commercial

bank where he worked (there is only one Islamic bank in Nigeria and it commences operations in 2012) but he insisted that the loan has RIBA, he can't take it. I tried to explain the "LAW OF NECESSITY" as issued by the committee of scholars in Detroit in 1999, but said we haven't meet the third condition provided, because he believe that with our earnings, a six years savings can get us a house without haven to take any RIBA loan. The problem is that after the six years, we can't still afford a house in that location due to inflation, we can only afford at the outskirt of town which could be far away from our places of work. Please, I need your advice:

1) Can we take the mortgage based on the law of necessity?

2) Can we take the loan if we can liquidate it within 4 years? May Allah continue to bless and guide you as you enlighten us on Islam.

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Essam,

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Please inform this noble sister that her husband is 100% right. The necessity concept applies to minorities not to the Muslims of Nigeria. Muslims in Nigeria should have established several Islamic banks by now. Not only one.

Besides, thanks To Allah that an Islamic bank is established there and it's close to them just in Abuja. They can use the facility from the Islamic bank. There are also other companies that provide Islamic finance companies which they can contact. One of them is the company.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Khurram

Sent: Thursday, August 23, 2012

Location: Canada

Question: Mortgage

Asalamualkum Dr. Monzer:

I am a 36 years old Sunni Muslim (Hanafi School of thought). We reside in Canada permanently and renting an apartment right now. My Rent is $1350 approx. per month. There are very few Shari'ah financing (Mortgage) available in Canada and those are not in reach for a common man, they require more down payment and it is very difficult or nearly impossible for a person who has financial condition like me.

I would like to know if in this condition we can use conventional mortgage from a Canadian Bank in order to buy our own house. We live on the rental apartment and I feel rent is a waste of money as it can never give us financial stability if we can buy a house in approximately similar monthly payment. I would like to know is Mortgage is

permissible in certain conditions if we would like to buy a house for our personal use not for commercial use such as renting.
Please also note that we do not have any other money or property that we can use to buy the house on cash.
Please advise and please let me know if there is any Fatwa for this?
Jazaka Allah Khair.
Khurram

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Khurram
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I am sorry to refuse the identification as "Sunni Muslim Hanafi" isn't Muslim sufficient for all of us.
I think Canada has many opportunities for house finance in ways that are Shari'ah compliance that you should search for. One of them is the Muslim Housing Cooperative and another is the Assiniboine credit union in Manitoba.
But if you cannot qualify for them the Fatwa is: if there is no Islamic finance to which one qualifies, Muslim families may take conventional finance for buying their house to live in provided they actually need it. Families determine their own needs keeping in mind that they are dealing in this matter with Allah who knows the real needs.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam

From: Sarah
Sent: Thursday, August 09, 2012

Question: Mortgages

Assalamu Alaykum brother,
Reading your website, I have noticed that you reference the 1999 convention in Detroit. I have 2 young kids and I would like to buy a house. There is no Shari'ah compliant financing in Edmonton, Alberta and the Cooperatives in Toronto are very expensive. So according to the fatwa in this convention, am I permitted to buy a house from a conventional bank? Please advise.
Sarah

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Sarah
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
This is the Fatwa, yes, but of course it is you only who can determine your and your family need to buy. If you do that the Fatwa says that it is permissible in case of need for

the prime residence and when Islamic finance is not available to you (being expensive for your condition is certainly a valid reason).
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Asma
Sent: Saturday, July 14, 2012
Question: Islamic mortgage in Alberta
Asslamu Alaykum
I want to ask if there is any Islamic mortgage or any credit union that offers Islamic mortgage available in Alberta Canada. There is Ijarah loan who claims to give Islamic mortgage but I want to see what your opinion on them is.
Kind Regards
Asma
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Asma
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I know that Assiniboine Credit Union offers Islamic finance in Alberta.
As for Ijarah loan they are fake and bluffers they extort you money and offer you a solution that is not valid in Shari'ah. They establish a trust for you which pays the interest and lease you the house and get interest from you. This does not make a difference in Shari'ah because according to Shari'ah the trust is yours and represents you. It is a legal trick in Western laws that is not acceptable in Shari'ah.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Rashid
Sent: Tuesday, July 03, 2012
Question: Ijarah Conversion Product...
As Salam O Alaykum Wa Rahmatullah Wa Barakatuh,
Brother,
Please read below the IJARA CANADA's Shari'ah comply home mortgage module and advice if is permissible…help me to understand by elaborating your reply…
1. IJARA CANADA module and how it work
Ijara's model is Ijarah wa Iqtina, basically rent to own, the property is owned by a single asset Trust, you are the beneficiary of the Trust and for your protection your name

shows up on title. The main difference is that Ijarah does not borrow the money and lend it out, the investor puts their money into each individual investment.
2. How does IJARA gets $ resources to finance the houses.
Funding can come from a variety of sources, we work with traditional banks, insurance companies and some private investment. The key here is that there is nothing in Islam that excludes a non-Muslim from making an Islamic investment, Ijarah does NOT borrow money and then loan it out.
Many Banks and Insurance companies are eager to get into the Islamic Finance business but they don't know how to do it, so they are happy to work with us as we can show them how be involved in the Islamic Finance industry, as far as their profit, they don't care how they earn it as rent or interest, they are just interested in making a profit.
3. How do IJARA protect their investment and if I join them, then my investment.
The investment is protected by the property, your investment is protected by your ownership in the Trust. As a technical point your ownership in the trust is not really ownership as there are no owners in a trust, what you have is "Beneficial Rights to Ownership" and this is permitted.
Jazaka Allah Khairan,
Rashid

As Salam O Alaykum Wa Rahmatullah Wa Barakatuh,
Dear brother Prof. Dr. Monzer Kahf,
Jazaka Allah Khairan for your detailed answer and my apology, on coming back so late. Actually, your answer saved me and my friends on falling to this trap (may Allah reward you for this).
I was busy on exploring the other "interest free home loans" options and came across with IFFCO (Interest Free Financing Corporation), below is their web link…
I personally, met with Dr. Nadvi (IFFCO's Shari'ah advisor) and after having his approval, went ahead to contact IFFCO for home loan approval process. Long story short, IFFCO has approved me for a house loan and provided me their contract document (attached).
Here I am again, requesting you to please find some time from your busy schedule and have a look to this doc and advise if this comply with Shari'ah.
Jazaka Allah Khairan for your help and time
Rashid
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Rashid
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
This transaction is a bluffing, putting the Haram in a dressing that looks permissible. It is a mere legal trick. Recently a brother sent me the full actual documents and I read them carefully. Here is my answer to him:
"Now with the info you sent me I blame myself that I let down many people in the past, I feel very sorry.

The Scheme of Ijarah Loan is a PURE SPAM it unfortunately foul brother and sisters, like this poor family to extract some money from them convincing them that they are really changing reality. These papers, although they are prepared by lawyers, are simply change of name not change of nature of contract. In the past I refused to answer any question on this Ijarah Loan without having a hard document in my hand because people asked me to see its website and I don't give fatwa on website nor on entities. I give Fatwa on specific document/ question. Now I have the document. It is as follows: make conventional mortgage, create a trust and open an account for it, assign the property to the trust along with its conventional mortgage, make a lease with the trust and pay it rent, the trust pays the bank. AND THE SOLICITOR GETS $2500. For God's sake is it a horrible spam. From Shari'ah point of view, the trust remains you no matter what you call it, and you remain in a conventional mortgage, no difference, it is only a spam to take money from those innocent and low on knowledge people. It looks rent but it is through a legal trick. THIS HARAM TO OFFER AND HARAM TO TAKE BECAUSE IT IS ONLY A TRICK USING LEGAL DEFINITIONS OF TRUST AND YOU TO EXTRACT MONEY FROM YOU.

Tamer, it is now your responsibility and mine to spread the word, this similar to that criminal who used to call mosques claiming that he was going to meet them on behalf of prominent Muslims or institutions but he lost his money in the way and ask for a few thousand dollars be sent to him by Western Union. Remember that criminal. This is exactly like that."

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

As Salam O Alaykum Wa Rahmatullah Wa Barakatuh,

Brother Dr. Monzer Kahf,

Just checking if you have got any chance to look in to the details of this contact from your very busy schedule.

Jazaka Allah Khairan…

Rashid.

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Rashid

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Yes I studied them carefully and realize that they are bluffing to extort money from Muslims. What they miss is basically the fact that a trust is considered in Shari'ah as a representative of the founder and anything done by the trust is considered as done by the founder. (Western laws give the trust separate identity). This means that if the trust calls what it takes from you rent and pays interest to the bank, it is you who actually

pays the interest. Hence this procedure does not change any of the facts from the point of view of Shari'ah, it only have you pay the fee to the bluffing company.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: Helping other take mortgage

From: Xplong
Sent: Friday, July 13, 2012
Question: Tenant rental Letter for mortgage refinance
Dear Sheikh AsalaamuAlaikum.
I rent my office in a building. Recently my landlord gave me a Tenant Estoppel Letter to sign for his refinancing purposes. I signed it because it was all true about my rent amount, rent term, size of my office etc. Is that haram because he will use that for his refinancing purposes?
Please respond soon if it is haram, I will request to take it back from him.
Jazaak Allahu Khair.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It is not your business whatever he does with his things and he has a right to get such a letter from you as long as it describes the reality. It is not Haram to sign it even if you know that he is using it for refinance
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Saeed
Sent: Monday, July 02, 2012
Location: BC, Canada
Question: Mortgage
Salam Alaykum brother Dr. Monzer Kahf,
I have been living and working in BC since 1997. I still have mortgage on my house, but at this point I am decided for sure to sell the house and get rid of mortgage and interest and start with Islamic loan. Is there any chance to deal with this with an Islamic organization at some point? How does it work in North America or Canada? What is the best way for me to approach to this plan?
I will be grateful to you in advance and looking forward to hear from you soon.

Jazaka Allah Khair,
Saeed

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Saeed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
To the best of my knowledge there are two institutions that offer Islamic house finance. The Islamic Housing cooperative in Toronto Area and the Credit union Assiniboine in Alberta both can provide finance outside their areas check them on the internet. I definitely do not recommend any institution and do not take any commission from any institution. The Assiniboine contract was formulated with my advice a few years ago.
BTW, you should be careful of institutions that claim Shari'ah compliance but they are not like Ijarah Loan that is offered by some company in Canada.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Brother
Sent: Monday, June 18, 2012
Location: Canada

Question: Ijarah Loan

As-salamu Alaykum,
When I first heard about Ijarah I was thankful to Allah for blessing our community with another Islamic alternative to the conventional un-Islamic financing. I told many people about Ijarah. I hope I did not make a mistake.
A number of Muslims claim that upon calling Ijarah for Islamic Financing, they were advised to obtain conventional interest-based mortgages first, then Ijarah would take over the financing. Apparently Ijarah charges a $2000 restructuring fee for taking over a conventional mortgage. Please explain: is this a policy? If not, what is Ijarah doing about employees undertaking this corrupt practice? How could an Islamic financing company that is supposed to be helping Muslims comply with their faith encourage them to do the opposite?
Is Ijarah simply deceiving Muslims to think they are complying with their faith? I am interested to see how Ijarah will respond to these concerns. I sincerely hope these are all just misunderstandings.
Not only is the Muslim Community of Fort McMurray awaiting your response - which will dictate the number of attendees at your upcoming session - your response will InShaAllah be shared with leading Muslim organizations and figures across Canada and the United States.
Also, please explain the assumption that "trust is still in fact the same borrower" is not correct. The trust is NOT the customer, as is evidenced by the legal definition. And If the

Trust conducts a Shari'ah-compliant transaction with the Bank, then the model is fine, correct?
Are we assuming the transaction between the Trust and the Bank will be un-Islamic, or is it clearly outlined as an un-Islamic transaction in the contract?
Your brother,
Sharafe

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
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.
And yes, that is correct but then there is no need for the trust, since if the trust can do it why not a natural person can do it too.
The point is exactly this.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Brother
Sent: Monday, May 07, 2012
Location: Canada

Question: Purchasing House through Ijarah Loans

We have been in Canada for over 5 years but still renting because we did not want to undertake a loan and pay Riba. We were told about a financing company called 'Ijarah loans' that basically use the policy of 'rent-to-own'. As always some Muslim friends have voiced concerns and doubts about the concept of Ijarah loans, saying it is not totally Halal way. I would appreciate if you could look up the website and give your expert opinion in this case.

My Answer:

Praise be to Allah.
Ijarah loan is a fraud: it asks you to get a Riba loan from a bank and transfer the loan to a trust which pays the interest and the trust rents you the house. They missed the point that although, according to Western laws, the trust has an independent legal identity, it

represents you according to Shari`ah; it is not then different from you. This is the FRAUD of this company.
On the other hand there is the Islamic Housing Cooperative of Canada in Toronto area and there is the Assiniboine Credit Union in Manitoba who offer Shari`ah compliant financing based on real Ijarah or Murabahah.
Allah Almighty knows best.
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

FATAWA MORTGAGE, HOUSE FINANCING 2011

From: Sharafe
Sent: Saturday, December 31, 2011
Question: Home Purchasing Agreement
As-salamu Alaykum Dr. Kahf,
You can expect a check in the mail soon for your previous services, may Allah bless you.
We're currently looking at an opportunity and would like your consul:
- The Developer (……) is looking for a minimum purchase of 5 lots.
- We do not have the funds to purchase and build homes.
- We are soliciting clients who would like us to build homes for them.

How do we structure the agreement between us and the buyers?
*Do they purchase a home from Keen Builders even though we don't own the lot or haven't built the home? My hunch is not, so then it can't be a purchase agreement.
*Do we structure it so that they are hiring us to purchase the lot on their behalf and building the home for them?
The issue is: we can't purchase the lots until we have funds, but we can't have funds until we have an agreement with the buyers, but how do we have an agreement with the buyers if we don't own the lots?!
Please advise before we go to the lawyers to draft an agreement.
Barak Allah feek,
Sharafe
Forwarded message
Subject: building project
As-salamu Alaykum, Aqeel,
Here's an email I sent last week to a number of clients or potential clients, have a read and let's chat tomorrow InShaAllah.
You are receiving this email because you are seriously interested in or you have already committed to building a home through …… builders either as an investment or a residence.
Alhamdulillah, based on the responses, it looks like we may be building 7 homes; if you know others who want to join, now's the time, so have them contact me. The more we build, the better prices we can InShaAllah get for materials and services.
Next Steps:
0. Pray istikhara and consult others - this is a major commitment so think it through carefully and don't over-leverage yourself or your family. The dunya is the dunya, there will always be good investment opportunities - and the best investments are good deeds.
1. Review the attached lot-package and select the lot you would like.

2. Arrange your financing your own way; please note: your financing is your responsibility, do your homework!
3. Sign a contract with Keen where we agree to roles and responsibilities and commercial terms
4. Make your first payment.
5. Builder purchases the lot on your behalf and builds the home(s) by next fall or sooner.
A risk to working with Keen is that we are still a small company and are not yet as established, streamlined, and structured as our larger competitors.
A benefit to working with Keen is that we are committed to following Islamic Law in all of our business, and we mean it.
Ask our first two clients: Mohammed and Shadi about their positive and negative experiences working with us to get a better picture about us. Or go visit our job sites.
Feel free to call me to discuss further.
If we're both honest with each other from the beginning, Allah will bless our business transaction as the hadith mentions, so let's get started on the right foot.
If this path is best for us, then may Allah facilitate it, if not, then may He protect us from it.
Bismillah
Sharafe
Please see attached.
Let me know if you have any questions or concerns.
J M
Project Coordinator

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Sharafe
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
To solve this dilemma you need to use what is called Istisna sale. It is exactly what builders use in America and Canada. You sell the home on description for a price which is paid on installments. You need, as usual, to set the date of delivery and adequate fine for any delay and full list of description of building material, etc.
Of course you can do that after you get undertaking from the land owner that he is selling it to you. It is permissible.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Lamya
Sent: Wednesday, December 07, 2011

Question: Ijarah Loan

Asalamu Wa Alaykum Dr.

I bought a house using conventional loan because I could not afford the Islamic loan, and now I want to change to the Islamic loan. I found this company that provides Islamic finance called Ijarah Loans. They told me that I don't need to refinance because my current rate is good, I can do something called Conversion. This is their website in which they explain this process in more details (www.ijaraloans.com)

Basically, Ijarah loans have this conversion process which will transfer my regular loan to a Shari'ah compliant loan. The title will transfer from a current borrower owner to a trust which will own the home for the benefit of the new investor. So, I need to sign the following papers: trust agreement, lease, promise to purchase, however they don't provide these documents ahead of time.

My question is: please tell me if this is Halal to go with, especially that it is difficult for me to refinance.

Regards,

Lamya

My Answer:

Bismillah al Rahman al Rahim

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

Dear Sr. Lamya

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Please notice that in Shari'ah a loan is not used in business because a loan does not create or generate increment and therefore interest is prohibited because it is presumed on a loan.

I cannot give opinion on websites because they do not give complete and accurate info, they only provide propaganda material and they may change from time to time. Accurate info is taken from actual contract. Alternatively you ask me a specific question and I try to answer it.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Islamic Finance and Economics

From: Mohammad

Sent: Saturday, November 12, 2011

Question: Ijarah/loan

Salam Alaykum Khalo,

I hope that you and Family are doing well and I hope you have had an awesome Eid :-)

I am considering buying a house and was looking for an Islamic financing option and I came across http://www.ijaracanada.com .

I was wondering if you have any advice on this, after all there is no one better to ask :-)

Jazaka Allah Khair

Regards,

Mohammad

My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Nephew Mohammad
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don't know this Ijarah, I heard of it though. What I suggest is to ask them what their contract is and send me this info. I know one company promises to convert conventional into Islamic, it is a kind of trick with lack of transparency.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Shazim
Sent: Monday, September 12, 2011
Question: Ijarah loan
Salaam Dr Kahf,
I attended your sessions on Islamic Financing when you were in Guyana a while back. I am now living in Canada and would like to buy a home, however they are so many opinions out there I really do not know what is correct anymore. Anyway I dealing with a company called Ijarah Loans from the US with a branch in Canada. Their website is http://www.ijaracanada.com/...can you please have a look at it and advise me if this is ok.
Best Regards,
Shazim
My Answer:
Dear Br. Shazim
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It is nice hearing from you again and Eid Mubarak to you and your family,
I'd rather have you look at it and describe it to me and I give you my opinion based on what you tell me. You know I should not speak on entities themselves.
Best Regards,
Wassalam
Prof. Dr. Monzer Kahf

Dear Dr Kahf,
Jazaka Allah for responding so quickly. Eid Mubarak to you and your family too.
This is how they describe the transaction: a single asset Trust is created, the Trust purchases the property, and then leases the property to the customer. With each monthly payment, a portion of that payment goes towards ownership, until the customer owns 100%. HOW THE PURCHASE PRICE OF THE IJARA TRANSACTION DETERMINED

The purchase price that is agreed to in the Promise to Purchase is equal to the original purchase price less the down payment made by the customer plus $1.00. For example, if the value of the property is $200,000 and the customer makes a $40,000 down payment, then the initial amount the customer has to pay the investor for 100% ownership is $160,001. As the customer's ownership increases, this amount reduces, until the final ownership payment of $1.00

HOW THE MONTHLY IJARA RENT PAYMENTS CALCULATED

The initial Ijarah amount that is financed by the customer, earns profit for the investor through monthly rental payments. Traditional amortization calculations are utilized to determine the exact monthly payment. The mathematical formulas are acceptable as there are no Shari'ah issues with mathematical calculations. The major difference between a traditional mortgage amortization and an Ijarah transaction is that the Ijarah transaction is based upon a reverse amortization calculation.

THE BASIS OF USING A PERCENTAGE

While it may appear contrary to the Shari'ah, it is in fact acceptable to describe the profit on an Islamic transaction as a percentage. The following example should clear up any confusion regarding the acceptability of quoting the profit as a percentage in an Ijarah transaction:

I. Suppose you have a $100,000 in cash.
ii. You purchase a home and pay cash for the home.
iii. You rent the home to a tenant for $500 per month
iv. At the end of the year you have collected $500 x 12 or $6,000 in rent
v. That $6,000 in rent is a 6% return on your $100,000 investment

Is that 6% Rent or Riba? Well it is clearly it is Rent, as it is based upon a business transaction. Now let's look at a traditional mortgage interest transaction:

I. Starting with the same $100,000 cash.
ii. You give someone the money.
iii. They proceed to purchase the same home with those funds.
iv. They pay you the same $500 per month, or 6% a year for use of the money.
v. This is basically rent on money

In this case is the 6% Riba? Yes, it is rent on money. The first example was rent on property. So it should be clear that from a Shari'ah perspective it is acceptable to describe the profit on an Islamic Ijarah transaction as a percentage. Furthermore, it is also a requirement under the Truth in Lending Act/Consumer Protection Act that any profit earned on a residential real estate finance transaction should be described as a percentage so that a customer can clearly understand what the overall cost of the finance transaction is.

TENANT OR HOMEOWNER?

In an Ijarah transaction, you are technically a tenant. You sign a lease that obligates you to a rent payment over a period of time. However, unlike a typical rental property lease, you are responsible for all the maintenance of the property, and you have all the rights and duties of a Homeowner. You can sell the property anytime you wish, you can remodel, decorate, landscape, sublet, or basically utilize the property for any legal purpose that it is zoned for. The only exception may be if you engage in an activity that

may adversely affect the value of the property, like demolishing a garage without rebuilding it. For all practical purposes your role is the same as a homeowner, because once you have fulfilled your obligations under the lease or promise to purchase, you become the owner of the property.

SHARING OF A GAIN OR LOSS

One of the basic Shari'ah compliance principles is that there should be a sharing of either a gain or loss in a finance transaction. The Ijarah transaction is structured in such a way that 100% of the gain is rightfully the customers. Under the Shari'ah, the gain or loss is shared by the parties in a transaction according to their percentages of ownership. The Ijarah transaction abides by this principle, in that at the time of realization of the gain or loss, there is only one owner of the property, and that is the customer. From a procedural perspective, at the time of sale:

1. The Trust will transfer the title of the property to the customer,
2. The customer will then transfer the title to the new buyer,
3. The new buyer will then settle the transaction according to the agreement with the customer,
4. And then the customer will settle with the trust according to the agreement between the customer and the trust (the Ijarah documents)

The procedural steps above creates a situation where the customer holds 100% title, albeit for a short period of time, but by doing so entitles the customer to be the beneficiary of the difference between the two agreements; that is the sale to the new buyer, and the original Promise to purchase agreement with the trust.

Now if I can remember correctly this sounds the same as what you taught us back in Guyana, but with so many terminologies, it gets difficult.

The other thing, I know you are not allowed to comment on the entity, however as this is a US company and I am in Canada how can I verify that this is a legitimate company.

Best Regards,

Shazim

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Shazim

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

The way it is described below it seems to me that the Ijarah contract is Shari'ah compliant and has no Shari'ah problem to the best that I know.

You should not worry about terminology that is needed to be compliant with the laws in the US and Canada.

For the credibility of the company, best thing is to have your lawyer or real estate agent check on it and check the documentation. See if you can have any referrals from previous customers of the company in Canada.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Laura
Sent: Friday, August 03, 2012
Question: Ijarah loans Canada
Assalamu Alaykum Dr. Kahf,
I am looking for an option to finance house purchase in a Shari'ah compliant manner in Alberta. I have read some of your responses to questions on this issue on the Muslims of Calgary website, and you mention specifically that the Assiniboine credit union is an option. However, upon looking into this I have found that they only offer Islamic mortgages for homes purchased in Manitoba. I have also tried to contact both Salam financial and UMfinancial and have found that neither of them are in business (at least there is no current website or contact information for either). Could you please let me know if Ijaraloans is a Shari'ah compliant option? I do not want to enter into anything that is not halal, and hoping that there is an acceptable option in Alberta/ Canada. Jazakallah Khairan and thank you for your time.
Salam
Laura
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Laura
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It is unfortunate that you did not find appropriate finance in your area. Have your tried the Islamic Housing Cooperative in Toronto. I know it works all over Canada and I know that as a cooperative you have to become a member quite sometimes before you can be eligible, beside they require higher initial payment. I do not advise Ijarah Loan. It is complete bluffing in order to charge you a handsome fee. Creating a trust and assigning the interest transaction to it and the trust gives you the property on Ijarah is a legal trick which is in vain because according to Shari'ah the trust is you.
Doesn't Assiniboine Credit U give financing outside its State? I suppose it should be legally able to do that. Alternatively why don't you take a pioneering action and replicate the contract of Assiniboine with a credit union in Alberta.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Chantal
Sent: Friday, July 22, 2011
Question: Guidance Residential, etc.
Assalaamu 'Alaykum wa Rahmatullah wa Barakatuh,

Insha'Allah this message finds you in the best state of health and Iman. I would like to know what you think of Guidance Residential (http://www.guidanceresidential.com/how-it-works) and other co-ownership methods for housing finance. Does this function as an acceptable way to buy houses?
Jazaka Allahu Khair.
Chantal

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Chantal
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I am sorry that I don't give opinion about entities and persons.
The co-ownership, when applied rightly, is an excellent Shari'ah compliant finance methodology.
The criteria to judge a finance contract here in America are two: 1) check the contract itself whether it says buy, co-ownership, lease or delivery to occupant, occupancy fees or charges or rent and the like. Most contracts here in America do not say explicitly lease and rent in attempt to avoid direct hit by tax laws because rental payments are not deductible. On the other hand if the contract says: loan and interest, even though if the company tells you that (between us it is rent and ownership) or even if the company tells you that we apply the equation of calculating the rent in the area and then we give you discount but the contract you actually sign says loan and interest, this is what matters and what defines the relationship between you and the company.
There are companies that claim to have co-ownership but the contract you sign clearly says: loan and interest. This is simply abuse and misleading of client.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Zeeshan
Sent: Saturday, June 18, 2011
Location: Toronto

Question: Islamic Home Financing Model

Assalamu o Alaykum Sheikh
First of all I feel really sorry for direct approach. I got your email from web as I was desperately searching for a way to ask you a question about an Islamic Financing model/institution in Canada. It may be couple of minutes of your time but it would really clarify the confusion in my mind which has kept me restless and sleepless for past few months. I really look forward to a response from you...JazakAllah
We have an institution called Ansar Cooperative in Toronto http://www.ansarhousing.com/

They work on similar fashion as Guidance Residential in US as far as I have understood. Here is a complete process how they work:
http://www.ansarhousing.com/home_buyers_overview.aspx
I have two questions pertaining to them.
1. My observations is that the rent they quote is fixed for a specific amount that is on financing of 225,000 they would quote a rent of 1695 per month regardless of where the property is. Does that make it less Islamic.
Yes, it is OK to have the rent fixed regardless of location. This is a “financing” so to speak rent not a real estate rent.
2. The rent they charge is higher than market. So for my house they are offering to extend 225,000/- (which is my remaining financing) and asking for a rent of 1685 per month. As per market the total rent of my property(bought at 382,000 last year) is not more than 18,000/- in total and their share as per this formula is 10,602/- [(225000/382000)*18000] . The rent they charge comes out to around 9% on 225,000(1685/225000) and market fixed mortgage rate is around 4%.
They raise financing directly thru members and have paid them average dividend of 6-7% over past few years. So it is not low cost source of funds probably as they don't raise it from conventional financial institutions.
So What I am asking is:
Is 9% too high keeping in view how they operate and if yes is it permissible to pay a very high price for Islamic financing if it looks manipulation of consumers.
Compared to the market 9% is definitely high. This happens when a company offering Islamic finance exercises some monopolistic power in the market. But considering the other side of it, if you are an investor (member) with it you wouldn’t accept the o.25% banks give on deposits, would you? You would find similar rates in conventional finance companies in Canada and the US.
I would really appreciate if you could take out some time and help me reach a conclusion. I bought this house around a year back and paying mortgage of 3.75% over it. I am very restless hearing that even paying interest is a bad deed. I would really appreciate your response. May God Almighty give you reward for this.
JazakAllah Khair
Zeeshan

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Zeeshan
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please see below:
Wa Allahu A’lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Salma
Sent: Friday, May 27, 2011
Location: California
Question: Islamic home finance at additional cost
Asalamu Alaykum Dr Kahf,
We have a question for you that we would appreciate your opinion on.
My husband and I recently purchased a home in Southern California. We initially were going to go with an Islamic based home financing program in Michigan (through University Bank) because they were an Islamic option and had the best rate. Because our real estate agent had contacts with Bank of America, we also had gone through the mortgage process with BoA but we had decided to go with University Bank because they were Muslim. We paid 5K into escrow when we signed the contract with the seller thinking that we were set with University. A few days before closing, University Bank said they had to charge us an additional 7,000 fee that they forgot to add into the initial estimate. We could not afford this additional cost and so we decided to go with bank of America who honored our low rate with University.
Should we have backed out completely from the purchase of this home? We would have lost 5K, but financially that would only set us back one month.
Our intention in buying this home was because we are living in southern California for the next 6 years (due to my husband's job) and it is cheaper to buy than rent. We are trying to pay off as much as we can as quickly as possible and when we have money saved up we want to refinance with Ameen Housing in the Bay Area.
JAK
Salma
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Salma
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don’t see that you did wrong under the circumstances. Adding a new charge after they made a commitment with you is not ethical on their part.
Wa Allahu A’lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Zaheer
Sent: Sunday, April 10, 2011
Location: British Columbia, Canada
Question: Islamic way of home financing
Dear Dr. Monzer Kahf,
Assalamuallaikum Wa Rahmatullah Taala Wa Barakatuh,

I would really appreciate if you could help me in coming to any Islamic conclusion to my problem. I have met with one non-Muslim fellow through a friend of mine who is working for real estate and loan giving agency in the province of British Columbia, Canada. I have had discussions with him and agreed to work with him if his company agrees to grant loans to Muslims in this province according to Islamic Rulings/Shari'ah. I have been trying to find people like you who can help me in giving information how can money borrowing can be done to buy homes so that the deal will not be un-Islamic. I assume 'interest' would be removed from the dealing and perhaps a service charge implemented or something else. As I am not sure how it would be, it is the reason why I'm asking how specifically it can be done.
Jazzakallahu Khairan Fiddarain.
Wassalam,
Zaheer

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Zaheer
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It can be done in either of two ways, none of them changing the word interest by a service charge. 1) Murabahah: the finance company buys the house on request of the customer and sells it to her/him on deferred payment for a higher price. The price consists of cost of purchase plus a markup that depends on the period of finance. We applied it in Edmonton, Alberta. 2) You can use a co-ownership agreement with a lease to the customer. The return of the company is the markup or the rent.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Azfar
Sent: Sunday, April 10, 2011
Location: US

Question: Financing to purchase a house

Assalamu-o-Alaykum Dr. Monzer,
I live in US.
I am currently renting a house that has been foreclosed by the bank (I began the lease long before foreclosure occurred).
I am considering buying this house but have following questions in regards to financing:
1. Some scholars (like a local Sheikh in my town) say that if a bank owns a property, it is halal to finance through that same bank using traditional (interest-based) mortgage process. I do not know how he came to this conclusion but I guess he is considering this as "Murabahah". What is your opinion on this?

The contract is structured as cash sale plus interest-based loan. It cannot be interpreted other than what it says. Hence, it is Riba based. I agree with you Imam if he said it is lesser of an evil that buying and getting a loan from some other corner because there is a distant meaning that you are buying for the total amount similar to Murabahah since you are paying interest to the seller.

2. The second option I am considering is the Ijarah schemes that companies like Guidance Financial, University Financing, Devon Bank, etc. are offering in US. I have read concerns on these financing that they don't share loss hence it's not Islamic. Also, despite that they are partner, they don't share tax payment. What is your opinion on this?

If you trust the Shari'ah advisors of these institutions go ahead for these options. I studied one of them and it is OK from Shari'ah point of view. It is permissible to take an undertaking from a customer to buy the property for a given price and to pay the tax for the whole property. Tax payment becomes a part of the rent, and not-bearing a loss is a result of the pledge to buy.

Jazaka Allah Khair.

Azfar

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Azfar

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Please see below:

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

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: Hassan

Sent: Monday, February 07, 2011
Location: United States

Question: Islamic Financing home contract

Assalaamu Alaykum wa Rahmatullah Dr Kahf;

Please allow me to extend my gratitude for all the work you do for the benefit of all of us living in the United States. I have learned so much from reading the various Fatawa and articles on your website.

May Allah (swt) reward you all tremendously in this world and the hereafter.

I am fascinated by Islamic financing and how it compares to conventional financing.

I have a personal situation that I am hoping that you can assist me with as I am unable to find pertinent information about it.

I have been looking far and wide for an example of a Credit Sale (bai muaajal) contract (not Murabahah) but I have been unable to find one and so I came up with my own by cutting and pasting/modifying what I believe to be the proper clauses from existing contracts.

I am in the process of selling a property I own. I do not have any loan on the property-I own it completely. The buyer is unable to pay me cash for the property and he does not want to go for a Riba based conventional loan so the buyer has asked me to finance the sale for him for 60 months. He is willing to pay me a small amount per month for 59 months and the balance (large amount) as the 60th payment. He has also agreed for me to increase the price in return for deferred payment.

I live in Texas and the laws are not favorable for an Ijarah wa Iqtina type transaction - the only way I can do this is by a credit sale (bai muajjal) where I will convey full ownership to the buyer and the property will be held as collateral for the money he owes me.

I have researched quite a lot on how to make the contract and I have come up with the following. I would very much appreciate it if you can go over this contract to see if it is Shari'ah compliant. I apologize for tasking you for such a great favor but I trust your input (The contract is not long).

If a particular section is not Shari'ah compliant, please point it out and possible solutions.

Again I thank you so very much and ask Allah (swt) to protect our scholars.

Hassan

Contract follows (attached as well):

REAL ESTATE FINANCING AGREEMENT

THIS AGREEMENT (the "Agreement") is made as of the 24th day of August, 20010, by and between:

(1) Seller. (herein known as Seller), as seller and

(2) Buyer (herein known as the "Purchaser"), as purchaser.

FOR GOOD AND VALUABLE CONSIDERATION, THE LEGAL SUFFICIENCY AND RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED AND AGREED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. SALE OF PROPERTY

The Seller hereby agrees to sell to the Purchaser and the Purchaser agrees to purchase

from the Seller the residential property located at 123 MAIN ST, DALLAS, TX 75011, together with the buildings and other improvements now or hereafter erected thereon, and together with all improvements, easements, appurtenances, fixtures, furnishings, equipment, rights, and privileges contained in, belonging to, or in any way pertaining or beneficial to said premises (the "Property"), whether or not attached to or to be attached to the land, buildings, or other improvements and whether or not specifically described or referred to herein. The Seller shall deliver to the Purchaser a deed conveying good title to the Property. The Seller agrees to give actual possession and occupancy of the Property to the Purchaser at the time of settlement hereunder.

2. PURCHASE PRICE and DOWN PAYMENT

Purchaser is unable to purchase Property for cash and has requested a deferred payment plan for a maximum of 60 months (Term) tendering an initial down payment of $10,000 (Down Payment). Purchaser agrees to pay an additional sum (Profit/Interest) to the Seller for allowing payments to be made in installments. The amounts of the total Debt is as follows:

Cash Purchase Price	$125,000.00
Purchaser's Down Payment	$10,000.00
Original Owed Amount	$115,000.00
Seller's profit/interest **	$44,960.07
TOTAL DEBT	$159,960.07

** Profit is calculated at a rate equivalent to an interest rate of 8.00% amortized over 360 months for the Term of this Agreement (60 months) with a balloon payment due at the end of the Term.

3. ACKNOWLEDGEMENT OF INDEBTEDNESS AND SECURITY INTEREST

Purchaser acknowledges that the above Debt is owed and unconditionally promises to pay this Debt to the order of the Seller on or before September 1st 2015 (Maturity Date). In consideration of the agreement of the Seller to sell the Property to the Purchaser, the Purchaser agrees that it will execute and deliver a first Trust Deed and security agreement ("Deed of Trust"), in form and substance satisfactory to the Seller, in favor of the Seller as Beneficiary, granting the Seller a security interest in the Property, securing the payment of the total purchase price for the Property due hereunder and Purchaser's performance of its other covenants, agreements, and obligations hereunder. Unless otherwise agreed in writing by the Seller and the Purchaser, the Deed of Trust shall be executed immediately after the execution of this Agreement and delivery of the warranty deed by the Seller to the Purchaser as provided hereunder. The Deed of Trust, together with any and all other documents executed from time to time as security for Purchaser's covenants, agreements, and obligations hereunder, are together herein referred to as the "Financing Documents".

4. TERM

The term of this Agreement is from the date of signature until the Debt has been repaid to the Seller in full but in no event later than the Maturity Date.

5. PAYMENTS

The Debt shall be paid by Purchaser to Seller in 59 equal monthly payments of $843.83 along with the payment for insurance and real estate taxes. A final payment of

110,174.10 is due on the 60th payment.
Payment is due on the first day of each month beginning on October 1st 2010 and continuing until the Debt is paid in full but in no event later than the Maturity Date. Purchaser shall make all payments due under this Agreement in the form of cash, check or money order. The Purchaser shall make the monthly payments at
PAYMENT ADDRESS
6. BALLOON PAYMENT
Purchaser acknowledges that there is a balloon payment due with this Agreement. The balloon payment totaling $110,174.10 is due in full on the Maturity Date.
7. LATE CHARGE
If the Seller has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, the Purchaser shall pay a $25.00 administrative charge to the Seller for actual time and expected costs of processing each late payment, subject to applicable law. The Purchaser shall pay this late charge promptly but only once on each late payment. Seller does not intend to profit from this late payment fee. Any amount of this late payment fee not used by the Seller in its effort to collect said monthly payment shall be donated to a charity of the Seller's choice.
8. EARLY PAYMENT
Purchaser may pay off a portion or all of the Debt at any time without penalty. All prepayments will be deducted from the final amount due under this agreement and will not reduce the amount of any specified monthly payment. When the Purchaser makes a Prepayment, the Purchaser shall tell the Seller in writing that the Purchaser is doing so. The Purchaser may not designate a payment as a Prepayment if the Purchaser has not made all the prior monthly payments due under this Agreement. Seller reserves the right to discount the debt in the event of full or partial prepayment.
9. DEFAULT
In the event that Purchaser fails to comply with the terms of this agreement and the Deed of Trust, the Seller may declare the Purchaser in default. In the event the Seller declares the Purchaser in default, the Seller may declare the entire balance of the Debt due and payable in accordance with the terms of the Deed of trust along with any costs and fees, including attorneys' fees and court costs, incurred in recovering the Debt. Seller may also exercise all of Seller's rights and remedies under the Deed of Trust.
Alternatively, Seller may seek to recover the Original Purchase Price plus an amount of profit due at the rate provided for calculating the profit listed in listed in paragraph (2), any costs incurred under this agreement, and any collection costs including attorneys' fees and court costs minus payments already made to Seller by Buyer.
10. ASSIGNMENT; TRANSFER;
The Purchaser agrees that it will not assign or transfer to any party all or any of its rights or obligations under this Agreement.
IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.
Signatures

Dear Dr Kahf;

I thank you so very much for your prompt reply. It is much appreciated.
I wish I could consult with you face to face regarding this - as that would be a more effective medium. I wonder if you would allow me to do so - perhaps a phone consultation would suffice. Please include your phone number if you are so inclined.
Some comments:
The contract is indeed brief and as you indicated, not sophisticated. I purposefully left out Deed of Trust and protection related issues as they were not Shari'ah related (from a financing point of view) and I wanted to give you the least trouble as I could. In fact, most of the clauses were copied directly from Devon Bank's Murabahah Contract (attached for your perusal) as Devon Bank's Murabahah contract is looked upon favorably by most scholars. I hope I am not doing anything illegal or un-Islamic in copying but I don't have much choice at this time.
One of the reasons I stated the cash price and worked off of that is that I am thinking of pursuing this as a business and would most likely be selling to non-Muslims as well. I would need to show them how I arrived at the fixed (increased) final price ($169,960.07). They would need to know what 'rate of interest' they are paying for the deferred payment plan. I modeled this clause similar to Devon Bank's contract.
How do you propose I write clause 2 to show the buyer how I arrive at the final price considering the above?
Please have a look at Devon Bank's contract and do assist me with the compilation of this clause (2) in particular.
Thank you so very much.
JazakAllahu Khairan
Hassan

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Hassan
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don't like this contract for two main reasons: it does not seem sophisticated sufficiently to protect your rights, both of you. I suggest that you should start from a formal sale and deed of trust conditions, it is about 15 pages and there are forms that lawyers have and forms sold on internet. Then make changes to make it Shari'ah compliant.
The second reason is its Shari'ah clauses are not tight. You have to make up your mind from the beginning on installment sale or lease. In sale there is no change of price later on and in lease you may make in the contract itself many anticipated variations and options.
You cannot include in the contract any reference to two prices. It must be one price of a sale.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam

Prof. Dr. Monzer Kahf

Wa Alaykum As salaam wa Rahmatullah wa Barakatuh Dr Kahf;

I tried calling at 12:10pm (CST) [9:10am your time] but apparently you were not in the office or perhaps the connection was not optimum.

I have updated the contract as you indicated except clause (2) which I reworded as enclosed (due to the explanation I gave in my previous communication).

Do please give me your input on this version.

I just want to take a moment to impress upon you how much I appreciate this assistance.

It means quite a lot to me. May Allah (swt) reward you for sharing your expertise in a manner that enables the establishment of His deen? Thank you Dr Kahf.

-Br Hassan

My Answer:

Dear Br. Hassan

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I really don't know what to say to you. I kept your email in things to do for all this time and could not have time to read the documents you sent me.

I am so sorry for not being able to answer at this time.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Assalaamu Alaykum Dr Kahf;

Unfortunately I am unable to place a call to you - the line rings continuously.

I know how busy you must be - I was wondering if you were able to take a look at the contract.

JazakAllahu Khairan.

-Br Hassan

My Answer:

Dear Br. Hassan

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

You may call me at any time between 9 am and 3 pm Makkah time (you know I am in Qatar, it has same time zone as Makkah). We are here 8 hours east of New York time, 11 hours each of California time.

Best Regards,

Wassalam

Monzer Kahf

Wa Alaykum As salaam wa Rahmatullah wa Barakatuh Dr Kahf;

I appreciate your assistance and help in this most important matter.

If you are able to find the time in the future it will be much appreciated.

If not, I thank you just the same for your effort. May Allah (swt) protect and reward you.

Br Hassan

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Hassan

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I reviewed the revised contract. I can live with it in this form although I have a little wording problem of “cash price” and “charge for deferment” I don’t like the word deferment in it because it relates to interest especially that we called the first item cash price. I would rather use the word cost and markup instead of cash price and deferment charge.

Wa Allahu A’lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Rauf

Sent: Sunday, January 30, 2011

Location:

Question: Murabahah - Commercial Property Financing

Assalaamu Alaykum Sh Monzer;

I pray that you are doing well, InShaAllah T'ALLAH.

Are you back in California or still based in Qatar teaching?

I have a client here in Edmonton who is wanting to purchase a commercial property on a Murabahah basis. There is a willing bank to structure the deal for him. Although I know these steps, I'd still like a senior mentor like yourself to review some of the communication points that I make to both the banker and the client. Would the following appear correct?

Steps involved in a 3-party Murabahah sale: banker, buyer, seller:

1. Client has preliminary discussions w/bank regarding the intent to purchase property
2. Client signs an "Intent to purchase" agreement w/seller w/condition + place a non-refundable deposit nonrefundable deposit is not permissible. The bank is entitled to a charge equivalent to the actual loss incurred including time spent, etc. an application fee (e.g., $ 100, credit report fee and the like are permissible)
3. Client talks to the bank and discloses ITP documentation
4. Client pays the bank a down-payment 10%
5. Bank buys the property from the seller for $X. Bank enters S&P agreement w/seller.
6. Client buys the property from the bank for $X + Profit.

Would the above process flow be accurate?

At which amount should the bank apply the profit to, given that the client pays a deposit? Is it the purchase price of the property OR the purchase price minus the

deposit? The two scenarios will result in a different profit for the bank and the installments for the client.
Of course on the amount financed, how can the bank charge profit on what it does not finance?
Bank applies profit to purchase price:
Property: $100,000
Profit rate: 10%
Deposit: 10%, $10000
Banks financing plus profit: $110,000
Minus deposit: $10000
Total balance due towards client: $100,000
Bank applies profit to (purchase price - deposit)
Property: $100,000
Profit rate: 10%
Deposit: 10%, $10,000
Financing amount (after deposit deduction): $90,000
Total balance due towards client (after profit): $99,000
Contracts & Fees
The banker has done a Murabahah deal prior to this one and they have contracts from that deal available. So we would either get new contracts developed or have the current one reviewed. It was a similar transaction. How your fees would be structured either way.
As well, the transaction will likely move fast, after placing the offer we'd have about 30 days to get it all done. Would that be ok on your end in terms of availability?
Depending on the size and complexity of the document, it takes between 1.5 and 3 hours to review it unless it requires correspondence with the bank/its lawyer and repeated reviews,
My rate is US $495 per hour.
I am still in Qatar and available for consultation and review.
Jazaka ALLAH Khayr ya Shaykh.
Was-salaam
Rauf

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Rauf
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please see below:
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2010

From: Muslimah
Sent: Saturday, December 11, 2010
Location: Singapore

Question: House financing and Providence Fund

Hi

Me and my Fiancé have a few questions involving Riba and hope that you can help.

1) In our country, a portion of our monthly salary is deducted to be put into the Central Provident Fund which does accumulate an annual interest of 2.5% (This deduction and accumulation of interest is compulsory for all persons legally employed in the country earning more than $500 and the funds collected are invested by the government. The investment are done without us having any power over where or how it is done.). Our money which has been set aside in this fund can be used for purchasing our homes and paying for our medical bills. Thus my questions are as follows.

a. Will we be responsible for this accumulation of interest and be considered to have sinned in regards to the laws of Riba?

NO, you are not committing a sin by working in this country and it is not you who is dealing in Riba, it is the Providence Fund management. This deduction represents a saving to you for old age, it is not a bad idea at all, rather it is an idea that Shari'ah encourages. The government regulates and uses this savings in a way that is not Shari'ah compliant, this is not your sin. If the government credits to your account the actual profit from using these savings and the use is not in Haram area (say in construction of residences) while it guaranteed minimum of 2.5%, it is permissible to take these additives along with the principal amount deducted from your salaries. But if the government takes it from you and just gives you 2.5% interest considering it a loan to the government, this interest is Haram to use for your own objectives. Rather YOU MUST TAKE IT AND GIVE IT TO MUSLIM CHARITY OR POOR AND NEEDY MUSLIM PERSONS. Same if the government gives you actual profit but it uses the money in Haram ways like lending it to banks.

b. Should we one day utilize this fund money to purchase our homes or pay for our medical bills, will we also be considered to have taken part in the dealings with Riba?

When you use it to buy a house or for medical bills, use only the accumulated deduction and any Halal addition. This is why you should keep an account (I think the fund usually send you statement to that effect) of the principal and the interest, any amount you withdraw above the principal should be given to Muslim charity.

c. We analyzed that the only way we can truly escape Riba is to move to another country where we will be separated with our families. Should we go to such extremes?

There is no urge or need to leave your families. You may stay and accept the deduction and avoid interest by giving it to charity you are not the one who is earning it or asking for it.

2) Should we proceed to purchase a home with the money in the fund, and then in a few years' time decide to sell the house, the amount of money which we have used from the fund will be deducted from the sale proceedings and put back into the fund including the accrued interest which would have been accumulated (These are all compulsory and the amount will be automatically transferred back into the funds account by the government upon completion of the house sale). Thus my question as follows.

a. Will we then be considered as a giver of Riba and be dealt with accordingly in the Islamic law pertaining to Riba?

If you buy a house and money should return to your account in the providence fund with interest charged to you to the benefit of your account in the fund. You need not worry about paying this interest because it is in fact not interest as you pay it from your pocket (or account in your bank) to another account (with the PF) that you own. In other words, it is from you to you. This cannot be interest as we know it that is prohibited in the Qur'an. What is prohibited is paid from one to another. This is equivalent to the government telling you: you can use the money you have in this account provided you save in the future to your own self a larger amount that the amount you took. This is permissible for the government to impose it on you and permissible for you to do.

Finally, please remember that OUR BELOVED Prophet said that we are not responsible for what is imposed on us, whether by law or any other force.

We hope that you can assist in clearing our doubts as we have spent a lot of time trying to find the answers to our questions and could find nothing that could help us. Thank you so much for your time.

My Answer:

Bismillah al Rahman al Rahim

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

Dear Sr.

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Please see my answers in red below the questions:

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Dear Sir

Assalamu Alaykum and thank you so much for your prompt reply.

In regards to my 1st (Q1a) question, can I further clarify so as to be sure?

1) In our country, a portion of our monthly salary is deducted to be put into the Central Provident Fund which does accumulate an annual interest of 2.5% (This deduction and accumulation of interest is compulsory for all persons legally employed in the country earning more than $500 and the funds collected are invested by the government. The investment are done without us having any power over where or how it is done.). Our

money which has been set aside in this fund can be used for purchasing our homes and paying for our medical bills. Thus my questions are as follows.

a. Will we be responsible for this accumulation of interest and be considered to have sinned in regards to the laws of Riba?

NO, you are not committing a sin by working in this country and it is not you who is dealing in Riba, it is the Providence Fund management. This deduction represents a saving to you for old age, it is not a bad idea at all, rather it is an idea that Shari'ah encourages. The government regulates and uses this savings in a way that is not Shari'ah compliant, this is not your sin. If the government credits to your account the actual profit from using these savings and the use is not in Haram area (say in construction of residences) while it guaranteed minimum of 2.5%, it is permissible to take these additives along with the principal amount deducted from your salaries. But if the government takes it from you and just gives you 2.5% interest considering it a loan to the government, this interest is Haram to use for your own objectives. Rather YOU MUST TAKE IT AND GIVE IT TO MUSLIM CHARITY OR POOR AND NEEDY MUSLIM PERSONS. Same if the government gives you actual profit but it uses the money in Haram ways like lending it to banks.

In regards to the section in green, I would like to confirm that we are guaranteed a minimum 2.5% interest on top of our principle sum (E.g. The government invest and earn 10% and return a minimum 2.5% to us in the form of 'interest' to the provident fund account. Thus in the case the term 'profit' and 'interest' could be used quite confusingly). We are not entirely sure in what way the government use our money in the funds. Thus we also are not sure/informed if they are using it in Haram areas or otherwise.

- You mentioned that in this case it is permissible to take these additives (meaning the interest portion?). Does this mean, that we will be allowed to use these additives as well when we decide to buy a house? Or must we give these additives to charity?
- In this case, as we are unsure of how they make use of the funds (Haram or otherwise), is it still permissible for us to take the additives?

I would like to thank you once again for taking time to help us clarify our doubts. May Allah SWT bless you for all the help that you have rendered to us and beyond?

Regards,

My Answer:

Bismillah al Rahman al Rahim

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

Dear Sr.

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

You could have said from the beginning that you are talking about Singapore CPF. I have a Fatwa about it on my website. I was asked the question many years ago.

Now, what I said in my previous email to you is still valid and I like to make an addition.

1. To my understanding this CPF gives benefits in accordance with circumstances of the employee and her/his family in ways that are similar to insurance. I mean by that when the employee reaches retirement age, the benefit is calculated on the basis of number

of years served, salary in the last few years, size of family, health conditions (as in case of disability). Also in case of death, there are benefits to widow/er and minor children, etc. if this is the case you do not worry about interest credited annually to your account and all these benefits are permissible on the ground that they are benefits for these situations given from government. This is inspite of the fact that interest is credited on the deductions.

2. On the other hand, if the CPF is operated as a saving fund: meaning at the time of retirement or death, the employee (or survivors) is given only the amounts deducted plus accumulated interest. If this is the case, then this accumulated interest should be given to charity it is Haram to acquire for yourself.

Please correct my understanding on this point, does the fund operate according to 1 or 2 above?

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Dear Sir

Below is a link for you to better understand the Provident Fund System in our Country. Via the article, it could probably help to determine if the investments of the Provident Funds are of Haram areas or otherwise. Thank you.

http://www.asiaone.com/Business/My+Money/Building+Your+Nest+Egg/Investments+And+Savings/Story/A1Story20070924-26743.html

<http://www.asiaone.com/Business/My+Money/Building+Your+Nest+Egg/Investments+And+Savings/Story/A1Story20070924-26743.html>

Regards,

Dear Sir

Assalamu Alaykum.

The CPF System in Singapore works as per point 2 from your previous email. It acts like a savings system and does not base its given amounts in accordance to the individual's circumstances or situations. All given amounts are based on the deductions of the individual salary and interest given only.

The explanation that has been given to us as to how the money in the fund are being used has been quite controversial as what you can see from the article link I have forwarded previously. The main explanation given to us is that the CPF board loans the government the monies in the fund in return for a fixed interest rate of a minimum 2.5% to its account holders. Thus even if the government were to make a loss in their investments, the 2.5% minimum still applies.

In this case, can I safely say that we will need to take this portion of interest and give them to charity before we can utilize our money in the fund to purchase a house?

Thank you.

Regards,

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
What the CPF management does with the money and what the government does with the loan it takes from the CPF are immaterial to you as a depositor with the CPF.
If you are 100% sure that the fund does not work on benefits basis but rather only returns to you accumulated deductions plus interest, then this interest should be given to Muslim charity when you collect it, you should collect it from the CPF. Its collection begins after you recover all your principal.
Using any part of and all your contributions to buy a house or pay medicals is permissible
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Dear Sir
Assalamu Alaykum
Thank you so much for your replies. I have 1 final issue that I would need addressing.
So now, to the issue of buying a house.
After doing all the necessary to rid of the interest portion and utilize our CPF money to buy the house, we will now need to consider the balance payment for the house.
Example, the house cost $200,000. Total funds in our CPF is $100,000 which can be used to pay for the house thus leaving us with another $100,000 to pay. There is no Islamic compliant housing loans available in the country at the current moment. The only bank which have expressed interest in launching an Islamic compliant housing loan did not give a specific time frame as to when they will launch this system and it could take years.
After much thought, we have considered the following options
1. Rental
Rental option however is very expensive - We could end up paying more/double each month as compared to owning our own house
2. Living with others/relatives
This could cause inconvenience to those whom we seek help to.
3. Housing Loan
We will be dealing with Riba
In this situation, will the housing loan be exceptionally permissible?
Regards,
Dya
My Answer:
Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don't go for a housing interest-based loan in Singapore.
I am fully aware of the Fatwa for Europe and America in this regards but I believe it does not apply to Singapore for several reasons;
1. The Fatwa specifically says that it does not apply to Muslim majority countries because Muslims are required to create institutions that fulfill their needs in Shari'ah compliant manners. This rule does not give room to going over the prohibition of interest simply because may Muslims did not fulfill their collective duties. Otherwise religion itself would change over time as what happened to other religions.
2. Muslims in Singapore (as in India) are focused and concentrated in nears near each other's, they have the same abilities as Muslim majority countries.
3. There are several Islamic banks in Singapore that provide Islamic finance, they should be convinced and should be able to provide Islamic house finance.
Until you find appropriate Islamic house finance, you should seek help from family and friends and any arrangements other than interest-based loan.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Hashem
Sent: Monday, November 29, 2010
Question: Home purchase financing
Salaam Dr. Kahf,
I appreciate the most valuable presentation in Islamic Finance you gave during the MAS convention yesterday.
I have missed out one notion on "home short pay". What is the reason the Shari'ah would illegalize such transaction.
On another note, I'm in the process of purchasing a home. Is there any Islamic financial institute such as Lariba, Guidance, Devon...etc. that claim they are Shari'ah compliance but they are not?
In other words, can we go with any of them without any violation?
Thanks in advance in answering my questions
Keep up the good work!
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Hashem
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

If you mean by short pay short sale, I did not mention this in the lecture but I believe it is permissible because it is done normally with approval of the lender.
I do not give direct judgment on any company. I can give you the criteria and you check on your own: 1) check the contract itself if it says loan and interest it is then Haram although they may call it any other name but if it says buy and sell or alternatively buy and Musharakah or Ijarah or occupancy fees or any other words than interest and loan then the likelihood it is permissible exist. If you are not shown the contract itself or told that the company uses standard contracts (standard contracts are interest based), it is most likely not permissible; and 2) ask whether the contract itself (not the information and propaganda extracts from it) was approved by a Shari'ah specialist and who is he? If you trust the knowledge and honesty of that person condition two is fulfilled
I know that some companies offer interest/loan based and call it other names they claim it is Halal but in fact it is not.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Afsar
Sent: Tuesday, November 23, 2010
Location: Canada
Question: Halal Business Financing
Assalamu Alaykum Dr. Monzer,
This is Afsar, a friend of Sh. Tamir and Sharafe. We met when you came to visit Edmonton and corresponded a few times a long time ago. I've since moved to Vancouver. I recently started a company and was hoping that you could possibly advise me in a matter of great importance. My company, while brand new is aiming to be a premier acquisition company, buying other companies and expanding them to reach an even fuller potential.
Recently we have come across an extremely good prospect and are looking to make sure we keep our business Halal and acquire equity financing in which they would take a stake in our company in exchange for the capital and receive dividends in the meantime. It is an exceptional and very well-known business chain with 60 very successful stores. I was hoping that you could provide some help and direction in regards to this. If you can be of any help in regards to banks, private equity, or venture capitalists that provide large sums of halal Capital (20 Million). On another note, perhaps you know if it's possible to engineer current bank documents to make them compliant on such a scale in Canada. I hope you can help us out insha Allah. I realize this is a lofty and perhaps outlandish business prospect but I will do my best and exhaust all my options to make it successful insha Allah.
Wa Salam Alaykum,
Afsar
My Answer:
Dear Br. Afsar

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes, brother I remember you and pray for your success. I am not in the area of contacts with finance providers. And I cannot do things that I don't know. I can help in advising on contract and how to make a finance Shari'ah compliant. If you make a contact with a banker there I can help reformulating the contract, of course with the help of the bank\s lawyer, to make it Shari'ah compliant but still acceptable in the context of existing laws.
Best Regards,
Wassalam
Monzer Kahf

Assalamu Alaykum,
I pray that you and your family are doing very well and this finds you in a state of high Iman.
I've been reading many of the fatwa's and information that you've published on investing. I was curious about determining the debt level of a company and it being less than 1/3 of their assets. Is short term debt/notes payable as part of their normal operations considered debt? For instance, I'm considering purchasing shares in Rogers Sugar Income Fund that just switched, or will be switching there dividend from interest bearing to capital dividends. It's about 9% per annum. Their balance sheet stipulates that they have 104 million in short term debt/notes payable, as part of their daily operations they are given 30 days net on many of the products they purchase for ongoing operations, is it to be considered as part of that debt?
First, are you sure about this fund?
On a side note, I noticed recently that islamonline.net is, for some reason not allowing me to see the new Fatawa in English, I've copied and pasted much of your work, is there another way to find them?
Wa Alaykum Assalamu,
Afsar
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Afsar
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
If you are sure that this fund operates actual sugar production and trade and the short term debts are not interest-bearing debts you do not include them in the calculation. What is intended by these criteria of leveraging is only interest-based leveraging. The idea is the company should not have a large chunk of its operation financed by interest-bearing debts. If the debts do not bear interest, the percentage of leveraging itself is not an issue from Shari'ah point of view.
Further, many financial institutions may call interest dividend because the legal distinction between them is different from the Shari'ah difference. In Shari'ah we look at the source, if the source is interest, we call it interest, in accounting we look at the way it is calculated if it comes as the net amount of the profit and loss account, it is

dividend even if all the items of income are interests on loans. This dividend is interest in Shari'ah
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Maliha
Sent: Thursday, October 28, 2010
Location: Pakistan

Question: Buying a home in Canada

AOA

I got your e-mail address from internet. Actually I am from Pakistan and a Muslim having common problem that I don't have enough money to buy a small house/condo to live in. I am a single mom and got divorce after 16 years of marriage here in Canada. I have two sons 15 and 17 with me. I have their full custody because their father went back home and was not interested to have them.

I studied here ECE and then one year Special Needs in college and now a days I am doing supply job which is not enough to run daily expenses. I got some money from my job from my parent as my share in property and I want to have a small house here, because I am not getting any help from state and I have to pay my loan too. Now a days I am living in a building with a smoking and weeds environment. My elder son ruined one of his academic year before as he was indulged in bad activities then I contacted his uncle and father in Calgary (his father was in Calgary with his brother then waiting for his nationality) and almost forced them to take him at least one year to change his environment. He went there got admission in school and got 90% marks in first semester and then his father in December his father decided to go back for second marriage and his uncle was not ready to take him without his father so my son did not come to me in Mississauga Ontario he moved to a basement, living by himself. It was so painful for me and I requested his father to go and check there, which he refused and then I contacted police there to ask for help as he was not 18 and my assumption was that they should force them to live with his father or mother and they should stop his father to leave the country after allowing his son living like this, but all in vain.

He got full time job at Tim Horton's, left the school, again in smoking and weeds and bad friends and I was here praying all the time and forcing him to come back. I August 2010 he suddenly decided to come and live with me. Now he is here, going to school with university subjects but having kind of care free company again, smoking(don't know about weeds or other things).

I know mortgage is not halal for us but I contacted in ISNA too. They introduced "halal mortgage" for us almost on double rates which I can't afford as I have only 50 thousand dollars from back home which I can give for down payment. I need your advice what can I do and what should I do? Am I allowed to have a small house to live in?

I will wait for your positive response.

Regards

Maliha

My Answer:

Bismillah al Rahman al Rahim

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

Dear Sr. Maliha

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Whenever the Halal mortgage is not available (either it does not exist, or it exist but its conditions are not affordable or exploitative), Muslim families may go for conventional mortgage if they need housing. The second International Conference on Fiqh that was held in Detroit in the fall of 1999 issued a resolution on this matter as I stated above.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: RSMRIN

Sent: Thursday, September 30, 2010

Location: New Zealand

Question: Home loans questions

As Salam Alaykum Wa Rahmatullah wa Barakatuh

Respected Scholar,

I live in New Zealand for the past 10years and have got four children.

Since migrated here living in rental property and recently the rents have gone up very high and I pay $365 a week which is very high.

I want to buy a home but cannot because there is no Shari'ah-based bank and no investment company that can provide home loans Shari'ah based.

In this circumstances need to know I am allowed to take loan from the bank but I land up in paying interest which is Riba and haram

Please do suggest according to Quran and Sunnah what is best for me and for my family

I pay huge rent like I am paying off some one loan, mortgage

Jazakallah

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br.

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

This matter was discussed by more than one group of scholars in Europe and America since 1999. The result is: whenever there is no Islamic finance available and since housing makes a great importance to Muslim families who live in the Western countries, this matter is then treated as if it were a full necessity that calls for relaxation of the prohibition according to Shari'ah. This means that for these families who need housing

and renting creates difficulties for them, it is permissible to go through the interest based mortgage.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Monowar
Sent: Wednesday, September 01, 2010
Location: Toronto

Question: Ijarah/Loan

Assalamu Alaykum Wa Rahmatullah Wa Barakatuh sheikh,
I am currently looking for buying a house. As you know in this country, renting is also not Riba free. The standard lease agreement has "interest" clause in it.
In the past I have seen companies in Toronto advertise "interest" free, however they are not Riba free. As far I understand, profit sharing requires sharing "risk" as well. Could you please take a look at this information, and verify if they are completely "halal" home financing?
I have looked into these documents, however I am not completely sure of.
http://www.ijaraloans.com/HowItWorks.htm
http://www.ijaraloans.com/Ijara.htm
Jazakallahu Khairan,
Monowar

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Monowar
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don't give opinion based on Website info because they are changeable.
I can tell you though that the point of risk sharing is incorrect. It applies only to Musharakah type of financing but financing through leasing and through sale on credit, while perfectly Halal do not have any risk sharing. Rather they are based on the principle of ownership that is the foundation of Shari'ah finance. IF YOU OWN, YOU ARE THEN ENTITLED TO MAKE PROFIT. This profit comes either from the utility of the asset or from its price variant.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Reshad
Sent: Tuesday, August 31, 2010
Location: California

Question: Shari'ah Compliant Home purchases

Assalamu' Alaykum,

My name is Reshad, formerly from southern California but now living in the Bay Area. Masha Allah I've known Ammar through Hawthorne and Yaman through MAS Orange County for some time. May Allah protect and reward them both. I've also read up on some of the material you have published and may Allah reward you for your work. I am writing to you on the subject below because I highly value your opinion and expertise on this subject.

Recently I have been looking into the prospect of purchasing a condo while I live here in the Bay Area with my wife. I was introduced to Guidance Residential and the idea of Shari'ah compliant home purchases. Alhamdulillah I've heard about these organizations and other (La Riba) and have always been in favor of Shari'ah compliance. However, after learning about their practice of co-partnership vs. interest based loans, at some level they 2 practices almost seem the same. The overall amount a person pays could even out in the end. Of course Allah has made business transactions halal and interest haram (as stated in the Quran).

So the question arises as to what makes a transaction Shari'ah compliant. I've tried to do my own reading on fatwas and sites (ex. Qaradawi's fatwa allowing interested based loans in need-based situations, etc.)

My goal in speaking with you is to understand the concept of Shari'ah-based financing and economics further. Many people I know and deal with on a daily basis are skeptics of the "Islamic" way of things. And Alhamdulillah I do my best to convey the message and correct practice of Islam as much as I can. When it comes to economics and finances I am less versed in this subject.

I would love the opportunity to speak with you over the phone or email or even if you just have a few references for me that would be greatly appreciated.

Jazaka Allahu Khair and thank you for your time.

Assalamu 'Alaykum,

Reshad

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Reshad

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It is not easy to explain a two year study in an email. Basically finance for return is permissible in Islam what is prohibited is a return on debt (or loan because it is a debt). You do not expect that Shari'ah should require people to give you free finance. Finance can be though the concepts of sale, lease or partnerships.

If you want to call me I can be reached on 949 502 7545 from now until 1 pm today.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Subject: Balloon payments in Islamic financing

From: Maryam
Sent: Saturday, August 21, 2010
Location:

Question: Are balloon payment permissible in Islamic finance?

As salaamu Alaykum Dr. Kahf
InShaAllah you are well during this blessed month of Ramadan. I wanted to know if Balloon payments that adjust your monthly payment are acceptable in Islamic financing.
Jazakallahu Khayran
Wsalams

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Maryam
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It really depends on the contract and the relations between the parties. Let us take house financing as an example.
If the contract is Ijarah based, balloon payments mean buying more of the part of the property that is owned by the Islamic finance company. This should reduce the rental amount in a proportional was and it is of course permissible.
If the contract is Murabahah based, the amount due is simply a debt in the gross amount because it is a price of the house when sold on installments. Early payment of a debt or a part of it does not change its value or the balance of that debt. However, it is permissible for the two parties to agree to reduce the balance of the debt (I.e., the amount of each installment of the remaining debt) as a result of a balloon payment provided two conditions are fulfilled: 1) there is no prior agreement at the time of contract to reduce at a stated rate; and 2) the full early full or partial payment of the debt is not performed in a way that makes it discounting (like when you take a promissory note and discount it at a bank which gives you its present value at the current rate of interest) because discounting a debt at a third party is pure Riba (the difference between the present value and the face value is pure Riba).
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Danial
Sent: Saturday, August 07, 2010
Location: Canada

Question: Islamic Mortgage

Assalamu Alaykum,

I am looking to buy an apartment in Vancouver, Canada. I have enough cash to put a 50% down payment from the asking price which is $260,000. For the rest of the 50%, what type of mortgage would you recommend? From what I read about "Islamic mortgages", many of them seem to be Ponzi schemes designed by non-Muslims to put wool over our eyes. So do you know any type of "Islamic mortgage" that is truly Shari'ah compliant from any known financial institution in Canada? Please let me know because I have found one "Islamic" mortgage only to find out there was a fatwa saying it is nothing more than a RIBA-based mortgage.
Jazakallah Khair

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Danial
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Of course there are differences of views about Islamic finance and there are many view given by traditional Shari'ah persons such as Imams who hustle to give opinion without knowing what Islamic finance is. There are also claims of Islamic finance but the reality is only traditional mortgage. All these exist and it is your own Ijtihad that you must exercise in finding the knowledgeable Mufti.
To come to the subject: what I am confident you realize is that Islamic finance is not giving loans and it is not free. There is going to be profit realized by the finance provider and this profit has to be at the market rate too otherwise its provider will be driven out of the market.
Islamic finance is founded on the basis of sale, lease or sharing. It does require the finance provider to own a real thing not only a debt. And once it owns (even for one split second) it can sell for profit. Islamic finance provider is not required to take a price risk. Only ownership is required to justify profit. The profit is caused by the difference between cash price and deferred price that is recognized in verse 2: 275. This difference is also a part of real life.
What is the difference between Islamic finance and interest-based when the latter also finance a real commodity like a house? (Notice conventional finance may also finance pure debt such as extending a debt to a new maturity). The difference become only in the contract that say buy and sell or buy and lease/sell. Of course this difference has its implications of real ownership for a split second.
Finally, how do you know whether a contract offered here in North America is Shari'ah compliant or not? Two criteria: 1) does the contract itself (not the advertisement info and papers of propaganda) say: buy and sell or buy and lease/sell or rather it says loan and interest; and, 2) do you trust its Shari'ah advisor?
This is what you need to check.
To my knowledge the following fulfill these criteria: Islamic Housing Cooperative, Ansarco, and credit union Assiniboine of Winnipeg (I contributed to drafting this contract with their lawyer), there may be other companies too that you need to apply the two criteria to find out.

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

From: Farooq
Sent: Wednesday, July 21, 2010
Location: Edmonton

Question: ISNA Canada House financing model

Assalamu 'Alaykum Dr. Kahf,

I know that you must be extremely busy, but I need an answer to a rather urgent/important question. My wife and I have four days to decide whether or not we will be purchasing a home here in Edmonton and have considered working with ISNA Canada's housing cooperative for the home's purchase. I had initially thought that the housing cooperative divides profits and losses, but as it turns out, they don't. I've attached their rules and regulations to this email, but here's what the clause states:

The transaction of sale between the IHC and the Occupant member will be based on the original purchase price of the housing unit.

My discussions with their head office have indicated that if a member were to resell their home, the cooperative would first, sell the home back to the member at the price the home was originally purchased...the member would, in turn, resell the home on the market thereby incurring 100% any profits or losses.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Farooq
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I am glad to know that they make this change in their contract. In fact I discussed it at least twice with Br. Nasim that they should make this correction.

THIS CONDITION IS AN IMPORTANT IMROVEMENT in the contract, it is based on an open promise to sell that gives you the option to exercise it at any time not only when you sell but also if you decide to accelerate. It is fully Shari'ah compliant and it is a good improvement in the contract. The IHC is a finance company not a real estate trader. They should give this promise and leave that matter that relates to price of property and changes in it to you only.

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

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1. Is this sort of arrangement invalid (wherein risk is not shared between the two parties)?

2. If it is valid, does it conform to the 'spirit' of the law? In other words, has the agreement been worded such to frame this clause in permissibility, but in effect, run counter to the 'spirit' of the prohibition of Riba?
A prompt reply would be greatly, greatly appreciated and result in several du'as for the good doctor :-)
JazakAllah Khairan,
Wassalam,
Farooq
P.S. A note: previously, when Ansar Co. was under the direction of ISNA Canada, the resale clause read as follows:
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.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Farooq
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes, I am saying it is better for the IHC to avoid sharing the price risk, the promise to sell does not remove their factual ownership and their bearing of the risk of destruction. This risk is what relates to ownership but price risk can be avoided.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Dear Dr. Kahf,
Assalamu 'Alaykum,
Many thanks for your prompt reply. For clarification: are you suggesting that it is better for there to be no shared risk between IHC and the "member"?
Wassalam,
Farooq

My Answer:

Not that but it is different kind of contract as sharing applies only to Musharakah not to sale or leasing
Prof. Dr. Monzer Kahf

From: Ali

Sent: Tuesday, July 06, 2010
Location: Britain

Question: Islamic finance is more expensive than conventional

AsslalamuAlaikum

I and my brother live in our current home with our parents. We are married and have started families. In 5 or 10 yrs. time we will need another house therefore have taken out a conventional mortgage on a house and rented it out. The rent itself covers the mortgage most of the time. At the time there were no viable halal mortgages. Now the Islamic Bank of Britain offers a halal mortgage at 4.75% rent, this is very similar to the interest charged by conventional banks. So in principal I could switch to the Islamic Bank. But they have a clause to say they can increase the rent by 2% to 6.75%. This is probably if Government interest rates go up. If I do take this up and the rent goes up then I would be paying £20,000 more than a conventional fixed mortgage. I know that interest is haram, but don't know what to do. The 2nd home is not a necessity now but will be in a number of years, and the reason we bought it now is that it will save us allot of money than buying it in 10 years' time. Should I go for the Islamic Mortgage at a potentially much higher cost or keep with the non-Islamic mortgage, or sell the house and save ourselves from Riba and hope that in 10yrs a comparable Islamic mortgage is available. Please let me know your views.

Wassalam.

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Ali

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I don't see any necessity, as you said, to buy now. Besides I suppose that Islamic and conventional in Britain are about the same from the point of view of rate. Search with other Islamic banks and finance company for a fixed rate, may be this bank itself has a fixed rate program too. I know most conventional banks in Britain stopped giving the fixed rate on housing except for a short period of 5-7 years, check on all these other options and negotiate with the Islamic bank

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Amr
Sent: Thursday, May 06, 2010
Location: USA

Question: Foreclosure and short sale

Salam Alaykum,

I bought a house 4 years ago with Bank of America. Currently the house is negative 120,000. Meanwhile my job changed and I would like to move from the area closer to

the Job and as well, I applied my children to the Islamic school which is one hour driving from where I live. I can still drive the kids and my children to where we need to be with difficulty. I wanted to sale the house. The lawyers advised my only option will be to stop paying the bank and apply for a short sale and negotiate with the bank to accept the loss of difference in price. The bank in that case has no many choices because I have no other money saved to come after. Also noted that over the last 4 years I paid for the bank in interest around that 120,000 number, so the bank at the need of the day will not make money on my loan but in the meantime will not make profit as well. As you know with current economic crisis many banks took money from our taxes to stabilize their situation and even zero interest money to post loans and economy, so I am indirectly with my taxes (around 60,000) last year helping the bank to function.
What I am worried about is would the difference in sale or foreclosure be a loan against me at the day of judgment or would it go with the known law and contracts in this country in a complex financial system.
Jazaka Allah Khair
Amr

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Amr
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
This is permissible InShaAllah because it is always permissible to use the legal system as long as you do not hurt other persons. It is not a matter that you pay taxes and how much, it is rather a matter that you do what the law allows and has no harm on others, the government had assigned funds for these cases, and banks are leaning on these funds.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Momin
Sent: Saturday, May 01, 2010
Location: Canada

Question: financing from conventional banks on Shari'ah compliant ways

Asalamualikum Dr. Kahf,
I pray you are in good health and faith InShaAllah.
I had a couple question I wanted to ask you.
I am a land developer, and to do thus we need a lot of capital, to put all the services into the ground before a residential lot a reality.
In doing so, we have to get a construction loan from the bank to do that, due to the capital costs of servicing.

My question to you is do you know anyway or manner, or have a template, or a tried or tested method that I can deal with a bank to make the loan Shari'ah compliant? As loans like this are draw loans so, after certain duration a certain amount is released, but then there is interest to be paid on it.

I was thinking out loud to myself the other day (I don't know how possible or practical this is) that if we can get a bank to become an equity investor into the project so the loan changes to an investment to get the servicing done and we give them a ROI of say 10% would that make it halal? So no interest payments and a return of 10% of investment at the end of the project… I don't how practical it is, but just wondering if you know of brothers or people who have done creative things to make loans Shari'ah compliant.

I have put all my projects on hold, as now my heart does not feel content using Riba when doing business, and everything is at a standstill. I pray that Allah accept my intentions, and if that mean that I will have to stay at a standstill may that be witness in favour of me in the hereafter.

Dr. Kahf if you have answers please

1. Do let me know if there is something I can do?
2. What your consulting fee for that advice is?

JAK

Wassalam

Momin

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Momin

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I don't charge for Fatwa. If we do some work together on consultancy basis I will then charge.

If you can convince your banker to do this it will be great. In an experience we had in Nashville the banks at the end backed up for a trivial reason, its accounting system does not accommodate the transaction.

This idea of partnership is one option as you mentioned it. It can work but the bank must be ready to take risk in it because you cannot guarantee principal or rate of profit.

Another idea that may be closer to the mind and practices of bankers is a line of credit based on Murabahah. Murabahah is a transaction considered by the Controller of Currency Administrator of National banks (a department of US Treasury that supervise national banks) as a normal banking business. It works as follows: the bank authorizes you to purchase for the bank a merchandise or service and then buy it from the bank at deferred payment and at a markup. On the due date you have to pay the marked up price. It can apply to guying goods and service but it is not good to paying fees. In Murabahah, you guarantee the principal and the profit (the mark up). It can work with the idea of a line of credit. The difference between conventional line of credit and

Murabahah line of credit is that every transaction must have its due date and due date cannot be extended for an increment (strictly speaking Riba is an increment of a debt). BTW, where are you in America? And did you think of working with a group of investors instead bank loans? It is another option that does not give you credit as much as a bank may give but it may work well with transparency and formal legality in its arrangement. It may be another option too.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Hasan

Sent: Friday, February 26, 2010

Location: Michigan, USA

Question: Short sale

لسالمعليكم ورحمة الله

أنا رب أسرة، زوجة وخمسة أولاد، أعيش في أميركا، (Dearborn - Michigan) أريد أن أشتري بيتا لسببين: صعوبة الإيجار لكبر الأسرة، ولأن أسعار البيوت منخفضة، خاصة مع ضعف الحالة المالية لي، وعليه فأمامي فرصة معروضة ال: وهي كالآتي:

أحد معارفي اشترى بيت من 10 سنوات بمبلغ 140000 دولار بقرض ربوي، وبعد سدي البنك شهريا طول هذه المدة، وجد أن عليه 130000، والبيت الآن لا يساوي 50000، لذلك قرر أن يتركه ويشتري بيت آخر وأسعر وبمبلغ أقل، لكن بنفس الطريقة الربوية، التي أراها حراما شرعا.

عرض علي صديقي هذا أن أشتري البيت بنظام (short sale) هذا سيفيد في أن يحسّن وقفه أمام البنك، وأنا أفتي في أن آخذه أرخص من سعر السوق، ولأني لا أحب المغامرة، ولا أثق في السوق العقاري في أميركا، ولضعف قدرتي المالية، أنوي أن أعرض على البنك بمبلغ 20000 نقدا حتى لا ألجأ إلى القرض حتى من الشركات أو البنوك التي تدعي أنها تتعامل بالنظام الإسلامي (المرابحة)، فهل لو وافق البنك - وهو مستبعد في رأي الكثيرين - يكون في الي عظلم أو غبن للبنك ؟؟؟

وإذا لم يوافق البنك فسأكون مضطرا لأن أفرغ السعر إلى 30000 ، أو ربما 40000، وفي هذه الحالة لن أدفع نقدا، وسوف أبحث عن بعض الشركات أو البنوك الإسلامية لتدخل معي في الشراء بنظام المرابحة فهل في ذلك بأس ؟

وما أفضل الشركات التي تتعامل بهذا النظام ؟

جزاكم الله خيرا ،،،،،،

لسالمعليكم ورحمة الله

أ. س

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Hassan

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

You may buy it from the bank for cash for any price or you may take Islamic finance on Murabahah or Ijarah (they call it partnership) from any finance company. I do not solicit business to any one of them therefore I do not recommend any name. But you should be careful that the contract is Shari'ah compliant not simply the advertisement. The contract must say buy and sell or buy and assign to you to use for occupancy fees (they

cannot say rent in order to avoid violating laws). If the contract itself says loan and interest it is of course loan and interest even if the propaganda says otherwise.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Sarim
Sent: Friday, February 26, 2010
Location:

Question: Home financing in Canada

Greetings Dr. Monzer;
I hope all is well for you. I had previously contacted you with regards to assistance in Islamic home financing product we are working on. In due time I will be giving you further information in terms of the product structuring and may require your advisory services. In the meantime, I wanted to discuss with you few questions:
-In terms of permissibility in Shari'ah, what are the parameters and is it ok to have a compliant product I.e. front end contracts are either Musharakah or Ijarah and back end are interest based. For example, Guidance Residential in US has this sort of facility from Fannie Mai and Freddie Mac.
Perhaps if you feel appropriate to discuss this over phone I can call you at convenient time.
Regards,
Sarim

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Sarim
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I do not make or accept the distinction between Shari'ah and Shari'ah compliant. If a contract is Shari'ah compliant it is Shari'ah based and it is acceptable. You cannot make a Shari'ah based contract that hides interest in front or in back and the guidance contract is not that kind. What you should realize is that Shari'ah allows financing as a profitable transaction as long as it is not based on lending. This is simply because a debt does not create increment and does not deserve any obviously. While financing through deferred or installment payment or through Ijarah creates value and it is therefore permissible to earn through it. The difference may not be so obvious when you finance in retail real assets or sales but it is so obvious on the macro when you find that most inter-bank transactions are not permissible in Shari'ah.
It will be a pleasure working with you on developing suitable financial products for Muslims in America and if you have other questions you may call me on the same phone number I gave you earlier (it is on these emails below) but I always prefer email.
Wa Allahu A'lam

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

From: Fadumo
Sent: Tuesday, February 23, 2010
Location: Norway

Question: Buying a house on interest in Norway

Asalamu Alaykum
My name is Fadumo and I live in Norway with my 4 children and my husband.
I work as a school teacher. My income is enough.
Housing here in Norway is hard We have moved a lot and we are renting a house right now and have done that the whole period we have lived here 10 years .
My question is there are no Islamic banks here in Norway and I want to buy a house but am not sure if it's halal.
Because off the interest off the loans from the bank.
Q 1. Can we buy house?? There are a lot of Muslims who have bought houses but I just want to be sure if it's halal according to the Shari'ah law.
And if we can't buy a house as a loan from the banks here what other options do we have?
Q 2. Do you know of other Islamic banks in other countries that can help us?
Waiting for an answer thank you and Asalamu Alaykum

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Faduma
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
In my opinion your case is a case of substantial need, with lack of Islamic banks, it becomes a typical case for the Fatwa that permits using conventional interest loan from a bank to buy a house. A House is needed and Shari'ah intention is not to deprive Muslims from owning. There is the Fatwa of the Shari'ah council of Europe and of America in this regards.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Rana
Sent: Tuesday, February 23, 2010
Location: Winnipeg MB, Canada

Question: Islamic financing Offered by conventional credit union

Assalamu O Alaykum,

I am writing this mail from Winnipeg MB, Canada. Last week we had conference on Islamic mortgage, organized by Assiniboine credit union. Yours name was in the list of Islamic finance advisory board.
Now here is my question and concerned. Can you help me to understand about this contract to make it Islamic (or basic principle those were adopted from QURAN & SUNNAH.
By generally looking not only me for most of us this is looks like regular conventional mortgage. Because with this Islamic mortgage Muslim applicant will pay same amount of interest that is paying a regular home buyer (non-Muslim).and almost all conditions are same except Muslims are bound to pay down payment more that is 20% of the cost of house.
I will be appreciated and thankful for yours favor and information. If you answer as soon as you can that will be very nice of you.
Once again JAZA KUM ALLAH KHAIRAN.
Was Salam.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Rana
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes, this scheme is Shari'ah compliant. Islamic finance does not mean it should be based on sharing, it can be also based on leasing as is this program. It is exactly when you rent a house and the lessee buys from you a small percentage of it along with each payment of rent. The rent declines and the part he owns increases until he buys it all. The requirement of 20% down is only because they were afraid of the success of this scheme. The nature of the contract is different although the rent can be equal to the rent of interest. This is a good scheme and I commend Shaikh Hosny who was able to negotiate with this credit union a lot until we reached this contract. I reviewed it all.
You should remember that Islamic finance may be on fixed return like this (rent) or it may be on venture capital basis. Bot in both cases it has charges that make the profit of the other party.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: contracts for financing Real-Estate development

From: Mohammud
Sent: Friday, February 19, 2010
Location: California

Question: Home financing through home builder

Assalamualaikum Br. Monzer,

Hope you are doing well InShaAllah. I got your email from your website. I live in California and I have heard that if you purchase a home directly from a builder (assuming that the builder is the financer and owner of the home) that it is permissible to do so and not considered Riba. Is this correct?
The reason they say it is correct is because the builder owns the home and you can buy it directly from the owner as long as the "interest rate" is a fixed rate over the entire loan.
If this is correct, I have a follow-up question.
For example if I buy a house from the builder for $100K at a fixed rate of 5% (and assume that I calculate the payments over 30 years, and the total cost is $200K over 30 yrs.), do I have to promise the builder that I will pay the $200K whether I sell the house in 2 years or 30 years?
Do I have to promise that I will pay the builder a "fixed" price?
Or if I sell the house in 2 yrs. do I only owe the builder the payments until for 2 years (and the rest of the money is my profit assuming that the home increases in value)?
What happens if the home decreases in value is it permissible to sell it for less that its worth (or foreclose) on the property?
Jazakallah Khair.
Wassalam

Walaikumusalaam,
Thank you very much Br. Monzer.
What I am wondering is that if I was to buy the property from the builder for a fixed total price of a total of $200K for example (although the cash price was $100K). Then if I sell the house at any time (2 yrs. later or 30 yrs. later) I would have to pay the builder $200K. Is that normally how it works? Do I have to Islamically pay the total $200K no matter when I sell the property?
However, if I was to get an "Islamic mortgage" (I.e. Musharakah, or Ijarah) then if I was to sell the home I would normally only owe the rest of the amount that is left on the cash price ($100K, rather than the $200K which includes the rest of the years of payments) when I sell the home. Are these "Islamic mortgages “not setting the fixed price?
Maybe I haven't understood this correctly, but if you could please shed some light on this, I would great appreciate it.
Jazakallah Khair
Mohammud

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Mohammud
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The point is not whether interest rate is fixed or not. The point is whether the increment is a part of the price or you set the price and create a debt for it then increase the debt

by interest. Sale for deferred payment and at a higher than cash price is permissible because the difference is a part of the price. On the other hand we have a Saying of the Prophet Pbuh that a sale for a cash price of …. Or a deferred price of … is forbidden and the difference between the two prices is Riba. It is clear that the difference between the two prices is an increment in the debt that is created as a result of the sale.
In brief, buying from the builder (or owner) is permissible if the sale is done at a given price and given installment, If the seller likes to call the price differential an implicit interest we do not mind. It is not permissible to buy at a cash price and add interest on the debt.
The idea of being fixed comes from the point of being a price in a sale not an increment of a debt. A price in a sale contract must be determined in the contract and cannot be variable
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Walaikumusalaam,
Thank you again Br. Monzer I really appreciate it.
Is it Islamically ok to only pay the principal when selling? I could be wrong here, but the impression I was under is that the reason the price is set is so that you must pay the total full price no matter when you sell, that you agree on in the beginning?
Please let me know.
Jazakallah Khair.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
No that is not the way it works. In all the mentioned cases if you decide to sell earlier than the full period of the contract you pay only the principal and nothing extra.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Assalamualaikum Br. Monzer.
I actually have two more questions related to this as well.
1. Are late payment fees permissible to pay (as a seller would normally charge)?
2. Also are pre (early) payment fees, permissible to pay?
Jazakallah Khair.
My Answer:
Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Both are permissible. The delinquency fine should be taken to charity (the creditor is only entitled to a part of it that equals out-of-pocket cost of delinquency). Early payment fine can be taken by the creditor.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: AbdulAziz
Sent: Wednesday, February 17, 2010
Location: Canada

Question: house financing in Canada

Alslamu Alaykum Wa Rahmatu Allah Wa Barakatuh
Dear Dr. Monzer Kahf,
I am Dr. Abdulaziz living in Canada, I did work hard last few months to get house according to Islamic rule and Shari'ah law and after months of negotiation with Canadian finance institution we end with this agreement which I hope it will follow the Murabahah sales contract.
Please, the contract or agreement was attached to this email for your consideration
So I am not sure that this transaction will be compliant with Shari'ah Law and for this reason I did take this to you prior to any engagement with the others.
Kindly for your opinion and advice and if there is any cost for Shari'ah advice please don't hesitate to let me know.
Jazaka Allah Khairan
Regards
Abdulaziz

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdulaziz
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
In general it is very good that you could convince a conventional provider to go this route. There are a few points that seems unbalanced and rather contradictory especially the tenancy in a sale and the liquidating damage. \if you are willing to give them that much of unbalanced concessions it should take a different form such as penalty, suppose you die during the five year, can your heir carry this contract? The laws in America do not allow such concession in house finance because they are too much. In Shari'ah the creditor is allowed actual damage but nothing more.
Wa Allahu A'lam

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

Alslamu Alaykum Wa Rahmatu Allah Wa Barakatuh
Dear Dr. Monzer Kahf,
I am Dr. Abdulaziz living in Canada, I did work hard last few months to get house according to Islamic rule and Shari'ah law and after months of negotiation with Canadian finance institution we end with this agreement which I hope it will follow the Murabahah sales contract.
Please, the contract or agreement was attached to this email for your consideration
So I am not sure that this transaction will be compliant with Shari'ah Law and for this reason I did take this to you prior to any engagement with the others.
Kindly for your opinion and advice and if there is any cost for Shari'ah advice please don't hesitate to let me know.
Jazaka Allah Khairan
Regards
Abdulaziz
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdulaziz
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
In general it is very good that you could convince a conventional provider to go this route. There are a few points that seems unbalanced and rather contradictory especially the tenancy in a sale and the liquidating damage. If you are willing to give them that much of unbalanced concessions it should take a different form such as penalty, suppose you die during the five year, can your heir carry this contract? The laws in America do not allow such concession in house finance because they are too much. In Shari'ah the creditor is allowed actual damage but nothing more.
My comments are attached on the contract itself
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Dear Prof. Dr. Monzer Kahf,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh.
I am still in negotiation with the Vendor about the Murabahah sale agreement.
Kindly, I did attach the agreement after they answered your inquiries and their comments in (blue) and your comments in (green), I am waiting your reply to sit with them again this week.
Please make Duaa for me to get Halal way and follow the straight path.

Jazaka Allah Khairan
Regards
Wassalam
Dr. Abdulaziz

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. AbdulAziz
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please receive my comments
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Mohamed
Sent: Sunday, January 31, 2010
Location: United States

Question: Mortgage

Dear Brother Monzer,
First of all, BARAKA ALLAHOU FIK for your kind answer.
Second, here is the context:
I'm French/Tunisian citizen who works and lives in France (Lille/North of France). One year ago, based on my understanding of Sheikh al Qaradawi and the Imam of my mosque interpretations of home mortgage, I bought a home in Tunisia. The bank is located in Tunisia and the loan is based on interest. (My wife and I brought almost 50% of the home cost). Tunisia is my home town and having a home there was important at least for my retirement (INCHALLAH)
My understanding was that since it is my first home, given the inexistence of any Islamic bank (from a business to consumer perspective) in Tunisia or in France, I would be able to do so since I comprehend owing a home as a necessity.
At the same time, I live in France where I'm renting an apartment. The apartment that I'll be renting (once I'll get back next June InShaAllah) will be around 800/850 €/month (equivalent of 1120 US $/1190 US $) and there is a high probability that I'll spend the rest of my academic career in France (so the next 26 years INCHALLAH).
In France, I heard that one bank may open an Islamic branch but this is not 100% certain for the moment. I tried to contact the Islamic Bank of Great Britain about having an Islamic loan in France but got no answer and thought consequently that it is hard or unfeasible.
Third, here is my question:
Given what precedes, am I allowed to buy a home as my main residence in France through mortgage home with interest?
Finally, thanks so much for you accepting to answer my specific question

BARAKA ALLAHOU FIK
Mohamed

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Mohamed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I believe in the Fatwa of Shaikh Qaradawi in this regards. It seems to me that you did not put it in its right place. It applies to buying your house that you intend to live in. 26 years later is too long to discuss at present and make the Fatwa for, isn't? This house in Tunisia could have been finance in accordance with Shari'ah as there is an Islamic bank in Tunis (I understand that a second one is either already established or about to open). Now that is a past and it is not your house of residence. It is either an investment house if you are renting it or it is like a vacation house that is used only for a short period in the year. I suggest that you make your best to pay it off the soonest.
Your main residence is the one that you intend to guy and if you do not find Islamic finance for it you may buy it on conventional mortgage in application of the said Fatwa that I agree with.
On the other hand, if this house you bought in Tunisia is kept for your use when you go there and/or meanwhile a member of the family (e.g., parents or siblings) uses it or it is kept unused most of the time but only when you go to visit in Tunisia I look at it similar to a vacation house and it is not subject to Zakah. If it is rented I consider it an investment property and it is subject to Zakah on its market value to be included into your other Zakatable item every lunar year at 2.5%.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Sharafe
Sent: Thursday, January 07, 2010
Location: Canada

Question: ISNA House financing scheme

As-salamu Alaykum Sheikh Monzer,
I pray you and your family is constantly getting closer to Allah (swt).
Alhamdulillah Iana Financial is progressing - slowly but surely :) (www.ianafinancial.org) InShaAllah we'll be handing out our fourth interest-free loan within the next couple of days and our monthly-donor pool is gradually increasing Alhamdulillah. Make duah. Also, send us your advice and comments.
I'm curious about the following Islamic Housing scheme by ISNA Canada, www.isnahousing.ca
I'm not sure if you reviewed this, but I'm particularly wondering about the following clauses:

1- “B) Monthly occupancy charges (rent) will be based on comparable housing units and their relative costs, and these may be reviewed every year.”
I see in the yearly revision an exploitation of Muslims in comparison with banks that makes the review every 5 or 7 years, why do we need to make more profit from Muslims than the conventional banks from their customers?
2- “F) Members are not allowed to rent, lease or sublet all or part of the housing unit.”
This one seems unfair. If I own part of a home, and am wholly responsible for the home; why can't I rent out all or at least the part of it that I own?
3- “D. The transaction of sale between the IHC and the Occupant member will be based on the original purchase price of the housing unit.”
I don't understand this, the sale should be based on real-market-value...regardless of who is buying, and that could mean a profit or loss either way. I’m I misunderstanding?
4- “E. All expenses associated with the transfer/sale of the housing unit will be the responsibility of the member and not of the IHC.”
Again, I don't see why these expenses aren't proportionate?
5- “F. If a member wants to transfer/sell his/her housing unit within one year from the date of acquisition by the IHC he/she will be required to pay a penalty of $5,000.00.”
This clause seems unfair as well - especially as there is no explanation behind it.
6- “G. Beginning after 12 months from the date of acquisition of the housing unit in a calendar year, the member will have to buy $5,000.00 worth of shares or 10% of the purchase price of the housing unit, whichever is less, every year.”
Is this allowed to be stipulated in the contract?
7- Lastly, I heard - I'm trying to confirm this with ISNA - that after determining what the average rent is in the area, ISNA will add an extra $200-$300mn to that value before determining the proportionate rent payment, if this is true, is this allowed?
Jazaka Allah Khayran ya sheikh,
Sharafe

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Sharafe
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I am glad to hear that AIANA is doing well and thanks for informing me.
Please see below for answers
1- This seems fair since rent prices may increase or decrease over time.
2- It is wrong and also a Shari’ah violation to have this condition. However, civil and common laws allow it. I can see the worry about it. . For assurance of monthly payment. Instead they may ask for additional guarantee in case of renting out.
3- I agree with them not you. The IHC is not a real estate company. It is only a finance company. Finance companies earn only from financing not from price variation. This condition assures the purchaser that all price rise is his. This makes it competitive with conventional house finance.

4- Again they are right. As a finance org. it is concerned about having a given rate of return for its investors. If it bears any of these expenses it is going to raise the gross rent to make up for what it spends and even take profit on that too. All expenses can one way or the other is charged to the customer from Shari'ah point of view. No problem.
5- Agree, NO justification for this at all.
6- It is permissible although it may be a little harsh. The IHC customers are limited to those who are upper middle class who can pay for the house in medium term rather than 25-30 years.
7- Theoretically it is allowed if it is disclosed to the customer and he/she accepts but again it is exploitative and should not be there. Prohibition comes only if the increment is excessive or not disclosed and consensual.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2009

Subject: Assignment and assumption of house finance contracts

From: Hassan
Sent: Wednesday, November 04, 2009
Question: assuming a conventional loan in house buying
Assalaamu Alaykum Br Dr. Kahf;
I read with interest your website. Thank you for providing such information. I am an investor in Real Estate, however, no amount of profit is worth the anger of Allah (swt) and so if possible, I respectfully request clarity about the soundness of the following transactions:
1. Can I purchase a property by taking ownership (deed) and agreeing to continue to make the monthly payments on the existing conventional (interest-bearing) mortgage?
Ex: Seller has a conventional mortgage on the property with some equity. I want to buy the property. I pay to the seller some money for his equity and continue to make his monthly payments on his mortgage. The mortgage will still remain in the seller's name and he will be responsible for it. I have no agreement with the lender - I simply continue to make whatever payment the seller was making until I sell the property or finish all payments.
2. Is it permissibility to transfer/assign my contractual rights for a profit to another party?
Ex: I am contracted to purchase a property from "A" for $100,000. Can I transfer/assign my contractual position to "B"? "B" will now close the transaction with "A" for $100,000 and pay me a fee for example $2000.
I appreciate any insight you can provide.
Jazaka Allahu Khair for your assistance.

Hassan

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Hassan

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1. I am not sure if your description of this transaction can be implemented. How would you close on this property without assuming the loan toward the lender and transferring the mortgage to your name? Or would you keep the property in the name of seller and then what represents your interests? But assuming this is implementable exactly as described, it is permissible. A problem may arise if you decide to accelerate or make full or partial pre-payment. The practice in residential real estate is to reduce the principal for any acceleration or pre-payment, in this case what happens to your commitment of paying the gross installments (total of interest plus a part of principal). If you do not accelerate and do not make a prepayment, the transaction as described is permissible. On the other hand, assuming the loan and transferring the mortgage is a Riba transaction, a little lesser of an evil than initiating a new loan because one may look at it as assuming the debt of the seller as in the case of the question.

2. For an existing ready for delivery real estate property it is permissible to surrender the purchase contract for an increment, it amounts to a sale at a higher price. If the property is not ready to deliver a problem arises of selling what does not exist. Sale of what does not exist is not permissible, although one may contract the construction of a building with a contractor.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Haider

Sent: Thursday, October 15, 2009

Location: Pakistan

Question: Home finance from an Islamic bank

Assalamu o Alaykum

Dear Sir

I want to take advice in matter of the home loan which I borrowed from the meezan bank Multan Pakistan. The bank is charging me the interest in the name of rent at very high rate. To the installment is beyond my capacity as I am a salaried person. At the time of applying the bank told that your installment should be one third of your pay but it is now exceeding the pay rather this is half of my pay and I am in very difficult situation. Kindly give me advice in this regard and oblige.

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Haider
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don't understand why the rate have changed, did you have a contract with variable rent? You should have been careful the moment you made your contract. Variable rent contracts allow the bank to increase the rent within certain limits. In this case you may need to re-negotiate the rent with the bank or any other Islamic banks instead of this one. But remember conventional bank also give variable interest rates on housing.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Lamya
Sent: Tuesday, October 06, 2009
Location: California
Question: house finance with conventional loan
Aslam Wa Alaykum Dr.
I want to buy a house in California and I found a good loan, but I am not sure if I should go with it or I should find an Islamic loan. According to Sheikh Al Qaradawi, it is O.K to use the conventional loans to own a house. I am trying to get different opinions just to get peace of mind. Please let me know what you think as soon as u can.
Jazakum Allah Khair
Lamya
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Lamya
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please notice that the Fatwa of Shaikh Qaradawi is conditional. That is: Muslim families who need to buy homes for their own residence in America and other Western countries may resort to conventional mortgage IF ISLAMIC FINANCE IS NOT AVAILABLE. Now there are several companies that provide Islamic finance. If they charge above the market range or if they require conditions that you cannot fulfill then you may resort to conventional borrowing because these circumstances mean that Islamic finance is not available to you.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: Is Ijarah/loan Shari'ah compliant?

From: Khalyl
Sent: Friday, October 02, 2009
Location: Toronto, Canada

Question: Ijarah loans

Assalamu Alaykum wa Rahmatullah dr Monzer,
I pray you and your family are well.
I live in Toronto and currently have a house with a conventional mortgage (based on the Fatwa permitting this). I found the below Islamic financing alternative, Ijarah loans, which looks competitive. I don't know how to evaluate whether this is a valid alternative. Apparently, this company has been operating in the USA for some time although it is new to Canada. Have you come across them before and do you know if their contract is acceptable, I.e., Riba-free? The representative said the rate will be like 4.45%. Their investor is a credit union, so unfortunately it seems this is tied to the interest-rate.
Any advice you can provide is appreciated.
JazakAllahu Khairan.
Khalyl

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Khalyl
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
From the info you sent, it seems OK in principle, everything contained in the info you attached is ok including the point that they are backed by a credit union (it should be thanks Allah that this credit union accepted to offer Islamic contract rather than unfortunately). Of course to give a final word one has to review the contract itself but this is usually the job of the Shari'ah advisor as it takes quite a bit of time and it is therefore costly.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Imad
Sent: Monday, August 17, 2009
Location: Stockholm, Sweden

Question: House financing in Sweden

Dear Dr. Monzer Kahf,
Assalamu Alaykum wa Rahmatullah. I live in. Like any other Scandinavian cities, housing is an extremely difficult thing in Stockholm. Since I have finished my studies a few years ago, I have been facing severe difficulties related to housing. As a student, I had the

access to the student housing, but, I cannot live in those houses anymore as I have already graduated. In Stockholm, one has to get an apartment from kommune (I.e. city council). Alternatively, one can get a place on so-called “second-hand rents”, means it is originally allocated to someone else, but for some reasons, it is rented temporarily to a new tenant. These kinds of renting are usually only available for shorter terms, 6 months, 1 year or so. I have tried to get a kommune flat (I.e. city council flat) since long and after more than one year of waiting, my schedule now is 526 as of last week of February. I started with 600+ when I registered. This means, after 526 people get a flat, then I will get one from kommune (I.e. city council). So, I virtually gave up on this option.
In the beginning of 2008, I have stayed in a private apartment where I could stay from January 2008 until end of April 2008. After that, I stayed in a second-hand rent apartment in Stockholm until 31 March 2009 this year. Officially, I was staying illegally in that rented apartment. The owner showed me as his cousin and I am staying in this apartment as his guest, while paying more than the usual market rate. I also have to use his name as c/o for my address purposes. This is not a very good feeling to say the least. Moreover, when I came in that house in May 2008, I had to give him 3 months of advance rent payment, which I can only get back after I leave. I left this place in 31 March 2009 and after that, he would check the apartment and keep some money for renovation, which may have been caused by us. My experience since 2007 tells me that usually they use at least 2 months of deposit and renovate the house. As a second-hand renter, I basically have no say and accept his demands that he needs to use my deposit to do the renovation. This essentially means that I would have to pay at least a total of 14 months of rent for the year 2008. The same had happened to me in 2007, when I basically paid almost 15 months equivalent rent for staying in such an apartment.
Now, I needed to get an apartment from 1 April 2009 and I did not feel very good to go through the same process. Moreover, generating money for the deposit is also very difficult, which I have lost mostly in my last two experiences. On top of it, after changing apartment every time, it takes a month or two to settle down in new place, which really takes away a lot of energy and time. With my wife and kid, this has very stressful for the last few years.
I actually am not able to perfectly describe the hassle and difficulties that we are going through every year due to this situation. One solution that I could have done many years ago, was to get a bank loan for this, but refrained from doing so. Now, after my son has grown up and we have many things at home that it is virtually impossible to move at least once every year, in some cases even two times a year.
So, I need your suggestions and advice regarding this. I have been in touch with Islamic Bank Bangladesh Limited, Islamic Bank of Britain, Bank Islam Malaysia, but none could give me a loan that I can use here in Sweden. Only option for me was to take a loan from here. I have been waiting for Islamic bank to be established in Sweden. But, it seems that it will take time, so I took a loan from a bank in Sweden and bought a house in April 2009. I intend to move to an Islamic house loan as soon as there is an option in Sweden.

I have tried to read many resources on Islamic finances and tried my best to ensure that I am doing any haram thing by taking this loan. So, I would like to hear from you if this was a correct decision from my side. Jazakallah Khair.
Wassalam,
Imad

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Imad
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
It seems to me that the situation you described is a typical case for applying the Fatwa on taking conventional house finance for Muslim families in Europe who cannot reach Islamic finance.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Abdul Aziz
Sent: Saturday, July 25, 2009
Location: Baltimore, MD

Question: Islamic finance is more expenses

Dear Dr. Kahf:
I am interested in refinancing my house hopefully with Islamic Financing. I have checked some Islamic Financing companies. They have all sorts of contracts which make it look as though it is Islamically Ok. Further research revealed that
1. These companies in the end sell the mortgage to other large companies that may be dealing with interest. This means that Islamic Financing companies are only servicing the loan or packaging it in way that it looks acceptable, but the source through which money is available may be involving interest.
2. They charge higher rate than the market rate.
My question is if these companies are really providing a 'halal' transaction. Is there a company you know that is free of all these problems?
You have referred to fatwa by Second International Conference on Fiqh that was held in Detroit in the fall of 1999. How can I have access to this fatwa?
Jazaka Allah Khair for your efforts and time.
Abdul Aziz,

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdul Aziz
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1. Whether finance provider gets money from other source and on interest or not is none of your business. This is their business. What matter to you is that the contract between you and the company is Shari'ah compliant? If they do only packaging and reformulating that is well and good, in fact it means that they are really caring about your faith and they give you a contract that suits your objectives. Do you ask the supermarket where you buy bread and food whether it finances its purchases on interest? Additionally, some of Islamic finance providers use the "lease purchase" contract; this is permissible to resell to another company/bank because it is a sale of real estate not a loan. What is prohibited in Shari'ah is sale of loan at different than face value. Besides some Islamic finance providers are non-Muslim and they do not claim that they are Muslim institutions. You can take from them Islamic contract on Murabahah or Lease/Purchase regardless of their sources. Those that claim they are fully Islamic and have Trustful Shari'ah boards/advisors do not resell their Murabahah contracts. Unfortunately there are also companies that use Islamic names and do not provide Shari'ah compliant contracts.
2. I do not give personal judgments on companies or individuals and I do not recommend or suggest any company. If you ask me about a specific contract or condition in a contract I can answer your question if I know the answer.
3. If a provider of Islamic finance is not offering rates within competitive range, I would consider it as non-existing in my search for finance/refinance.
4. Unfortunately, although I was in that conference of 1999, my copy of its decisions in hard not soft and I don't remember where I placed it. Try to reach SSANA (Shari'ah Scholars Assn. of North America) or Shaikh Muhammad Qatanani of New Jersey or Shaikh Safwat Mursi of San Francisco, they may have the text of it.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Shiraz
Sent: June 7, 2009
Location: Canada

Question: Providing Islamic house finance from interest loans received from conventional lenders

Salam.
In Canada, there is no Islamic banking so far. There are some Islamic financial organizations, but the problem is that most of them are taking money from non-Islamic financial organizations. So people criticize Islamic way of financing by saying that although agreement between Islamic Financial Organization and lender is free from interest, the agreement between Islamic organization and conventional banks / financial organization is still based on Interest.
The problem becomes more complicated as these Islamic organizations do not show their own agreements with lender.

In such case what is responsibility of lender? Can he proceed as at least his own agreement is interest free?
Second, there is very common statement going on in Canadian Muslims which is that any power of sale house or foreclosure house (which is owned by bank due to previous defaulters) is completely halal as long as you are taking mortgage from the same bank who owns the bank.
Please, clarify this point as how comes it become permissible in such scenario as mortgage is still conventional and interest based.
Regards
Shiraz.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Shiraz
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
For the first point: it is wrong to ask where these Islamic org get their money from. If they are doing Haram in the way they get, it is their sin not that of persons who use their facilities. You should not interfere in what other persons do as that is none of our own business. Of course we may advise them but the contract between finance provider and you is the only thing literally which matters to you. Besides I know all these org who provide Islamic finance in Canada, get funds from depositors or from conventional banks and credit unions in ways that are Shari'ah compliant. It is a mere false accusation. Remember that there are always crooked persons among Muslims and also among non-Muslims who may cheat finance users.
By the way you used the word lender twice in a wrong way. Maybe you mean finance user instead.
For the second point: you statement is vague there is nothing "power of sale house". If you mean whether it is permissible to buy the house from the bank if the house is on foreclosure, yes it is permissible of course you have to buy it in accordance with Shari'ah not on same conventional mortgage. If you ask whether the bank (Islamic or conventional) has a right to sell when the purchaser stop payment. Yes it has this right.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Nadeem
Sent: Saturday, June 06, 2009

Question: Conventional vs Islamic house finance

Dear Dr Monzer Kahf,
Assalamu Alaykum Warahmatullahi Wabarakatuhu

First and foremost, May Allah reward you for excellent work you have done and continue to do so on Islamic Finance. I often refer to your Fatawa and it is truly a blessing to have you among us in North America.
I am writing to seek your advice concerning the situation I am in. I've read background and differences between conventional mortgages and Islamic financing. But so far I've not seen any opinion on situation similar to mine. Here is my situation and I'll be brief.
1. We are married couple with two children, living in Columbus OH.
2. After a lot of careful thinking and contemplating, we can say that we are in need of a home and have finally decided to buy one.
3. We have done extensive research and looked at both, new and existing homes, Due to current housing crisis it would be cheaper and make sense to go with new home in our city.

4. Almost all the Builders in our area are offering huge discounts if we finance with them. One we might go with is offering 50,000 discount on home price and 1% reduction in mortgage rate.
5. It is not that Islamic Financing is not available, it is but it will cost us huge, 50,000 upfront and then at least 1% higher rate.
6. I've read few blogs but not Fatawa that it is permissible to get conventional loan where seller and lender are same entity, in my case it will be builder.
I've read about fatwa on conventional financing in Second International Conference on Fiqh in North America (Detroit , Fall of 1999 ,chaired by Shaikh Qaradawi.) that when Islamic financing is not available it is permissible to resort to conventional. In my case it is available but it will cost us a lot. I am in dilemma if that applies to me or not.
Also, what is your opinion on #6 above? I'd appreciate your valuable response.
Jazakallahu Khair
Wassalam
Nadeem

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Nadeem
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Ehen we talk about availability of Islamic finance we mean it to be within a reasonable/affordable range of prices, conditions and requirement. When these matters are not available at Islamic finance provider, then we consider that the latter is not available.
On another point, getting finance from seller may be Shari'ah compliant if you make the contract in a way that makes the total face value of all installments as the purchase price of the house.
But if the sale is made say at 200,000 then add interest at 5% and 360 installments of 1000 come to a total of 360,000, this contract is then interest based not sale for a deferred price. This is What the Prophet, pbuh, said in a well-known Saying that read

about sale for two prices, cash and deferred, "you get the lower of the two prices or else the difference is Riba."
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Ahmad
Sent: Saturday, June 06, 2009
Question: Foreclosure
Salam u Alaykum Br. Monzer,
I have heard that obtaining financing from a bank for a bank owned home (foreclosure) in not haram. The reason for this is because it only involves two parties (buyer a seller) as opposed to traditional financing which involves three parties (buyer, seller and financier).
Please advise your thoughts on this matter
Ahmad
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br.,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Getting finance from seller is permissible PROVIDED the contract itself is permissible. The way that makes it Shari'ah compliant is when the price is deferred or installments and the sale is contracted at the deferred price. It doesn't matter if this installment price is higher than the cash price and it does not matter if the difference between this higher installment price and the cash price is calculated according to a certain rate, any rate. What matters is: sale is contracted at one price the installment price.
The Prophet, pbuh, advised that if one makes the contract as a cash price and then adds an increment for deferment (of course installment is like that) the difference between the two prices is then pure Riba that is forbidden in the Qur'an and Sunnah. Meaning that even between two parties only there may be Riba if the contract is made as sale for a given price and then add another amount for accepting payment on installments.
The reason is apparent: interest is an increment in a debt. Once you contract a sale, the contract transfers ownership of the house and creates a debt on the buyer. Then postponing payment for increment becomes Riba because it is an increment in a debt!
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Abdul Aziz
From: Nadeem

Sent: Saturday, June 05, 2009
Location: America

Question: Islamic house financing is much more expensive than conventional one

Dear Dr Monzer Kahf,

Assalamu Alaykum Warahmatullahi Wabarakatuhu

First and foremost, May Allah reward you for excellent work you have done and continue to do so on Islamic Finance. I often refer to your Fatawa and it is truly a blessing to have you among us in North America.

I am writing to seek your advice concerning the situation I am in. I've read background and differences between conventional mortgages and Islamic financing. But so far I've not seen any opinion on situation similar to mine. Here is my situation and I'll be brief.

1. We are married couple with two children.
2. After a lot of careful thinking and contemplating, we can say that we are in need of a home and have finally decided to buy one.
3. We have done extensive research and looked at both, new and existing homes, Due to current housing crisis it would be cheaper and make sense to go with new home in our city.
4. Almost all the Builders in our area are offering huge discounts if we finance with them. One we might go with is offering 50,000 discount on home price and 1% reduction in mortgage rate.
5. It is not that Islamic Financing is not available, it is but it will cost us huge, 50,000 upfront and then at least 1% higher rate.
6. I've read few blogs but not Fatawa that it is permissible to get conventional loan where seller and lender are same entity, in my case it will be builder.

I've read about fatwa on conventional financing in Second International Conference on Fiqh in North America (Detroit, fall of 1999, chaired by Shaikh Qaradawi.) that when Islamic financing is not available it is permissible to resort to conventional. In my case it is available but it will cost us a lot. I am in dilemma if that applies to me or not.

Also, what is your opinion on #6 above? I'd appreciate your valuable response.

Jazakallahu Khair

Wassalam

Nadeem

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Nadeem

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

When we talk about availability of Islamic finance we mean it to be within a reasonable/affordable range of prices, conditions and requirement. When these matters are not available at Islamic finance provider, then we consider that the latter is not available.

On another point, getting finance from seller may be Shari'ah compliant if you make the contract in a way that makes the total face value of all installments as the purchase price of the house.
But if the sale is made say at 200,000 then add interest at 5% and 360 installments of 1000 come to a total of 360,000, this contract is then interest based not sale for a deferred price. This is What the Prophet, pbuh, said in a well-known Saying that read about sale for two prices, cash and deferred, "you get the lowest of the two prices or else the difference is Riba."
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Kashir
Sent: Wednesday, May 20, 2009
Location: United States

Question: Mortgage process

As Salam O Alaykum Brother Monzer,
I am in dire need of your help regarding my first home purchase and the mortgage process?
Based on my research (please see the references below) and what I have heard from people, I am very confused and need guidance with your export knowledge to make a halal decision in my life.
Scenario:

- I have bought a new (to be build) home from a Centex builder. The home will be ready end of this month
- Builder is only paying $7500 closing cost if I go with CTX mortgage, which is their mortgage company
- CTX mortgage is giving me 4.625% interest rate for 30 yrs. loan
- I only have 10% down payment to make. I can't afford more than this. Builder paying $7500 helps me significantly to buy the loan.

Question:

- According to Islamic law, am I permissible to buy a home from the builder and pay regular interest?

(I heard from people that if you go with builder or bank who owns the property, then it is ok?
However, according to the references below, it sounds like it is not allowed)
Options

- I have contacted Guidance and filed an application with them.
- They require at least 10% down payment. In my case they are willingly to allow 5% down
- I will not have $7500 towards closing from builder, I have to pay out of pocket.
- The profit ratio (interest rate) will be higher than 5% with Guidance.
- The monthly payment will be higher with Guidance.

If I go with Guidance.

- I will have to stretch significantly to go with Guidance. This will also result in almost emptying my bank account to start with them. I will not have backup money, unless they allow me to pay 5% down.
- However, I have a good stable job and InShaAllah will be able to successfully make monthly payment and save more.
- My father recently had heart attack and I was planning to save money for his medical expenses.
- Early next year, my brother and sister's marriage ceremonies are happening, I need to save money for that as well.
- We are Masha Allah expecting a new addition to our family as well this year
- After buying the home, there are bunch of new expenses that will occur

Please advise me in the above situation what should I do and what is permissible in Islam according to Quran and Sunnah.

Another quick question I would like to ask for my better understanding.

Would it be allowed according to Shari'ah, if I ask builder to make the following change in the contract?

Amend the contact to buy and to make payments to parent company, i.e., Context, instead of doing purchase agreement with Centex Homes and lender agreement with CTX mortgage?

Centex is a parent company of both of these and they are called its divisions or affiliated companies.

If they agree to make above changes, would I still need them to amend the contract on the installment prices instead of cash price and interest?

JazakAllah Khairan for your help and guidance in this regards.

Regards

Kashir

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Kashir

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It really makes no difference whether you make contract with the parent company of not. This is not the issue. The issue is to buy at interest or buy on deferred payment (installments). The first choice I would say is to make it like what is called in some states "land contract" sale for a price that consist of say 20, 000 first payment and 120 installments of 1000 each due ... This the law, to the best of my knowledge, requires the seller to calculate and inform you explicitly what is called "the implicit interest rate" that is for this sale the cash price is so much and by committing to this schedule of payment you are actually paying interest, implicitly, at the rate of? This explanation is not part of the contract. If I see a contract like this even with this declaration of implicit interest I would accept it as Shari'ah compliant, even if the declaration is made on the same page

of the contract. Because it is only explanatory and required by law, the law calls it interest but when it is an integral part of the price it is not interest for us.
If this is not possible, making the contract with the parent company will be for interest and you apply the famous Fatwa of buying residence on conventional mortgage when the conditions required by Shari'ah compliant providers cannot be met by you.
Under the circumstances that you mentioned and if the financial difference makes a real difference to you your option to get the interest-based mortgage from the builder seems to be a better one. Islamic finance must not be costlier. This is an important point and the Fatwa of the Second International Fiqh conference that was held in Detroit in 1999 seems to apply to your case. BTW, taking finance from the seller may be OK provided the contract is amended to make it on the basis of installment price instead of cash price and interest.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Kashir
Sent: Monday,
Location: Guyana
Question: Borrowing to buy a house
Dear Dr Kahf
As salaam mu Alaykum
Hope that all is well with you and yours by the Grace of Allah.
Whilst here an opportunity has arisen to purchase a property in Miami for about $500,000 USD and we were hoping that you could point us in the direction of the appropriate lending agency for this or any other guidance in these matters.
Insha-Allah I hope we can be in touch.
Was salaam
Kashir
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Kashir
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
For residential finance the best company is Guidance Financial (you can find it on the internet) its contracts are reviewed by a trust worthy group of Shari'ah specialists. If it is not residential, you may like to consider Zayan, university bank in Detroit area and Devon bank in Chicago area. They all provide financing nationwide and their contracts as usually Shari'ah compliant, they have Shari'ah councils on board. If these fail, the alternative is to have what is called land contract. It is a seller finance contract whereby you agree on interest and you can consider the total payment as a price rather than price plus interest. Of course from the legality point of view it is interest-based. Since

the property is not for necessity use as a residence, it is not possible to benefit from the Fatwa that allow conventional mortgage if Islamic finance is not available.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Muhammed
Sent: Wednesday, May 06, 2009
Location: Canada

Question: House financing in Canada

Wa'alaikum Assalamu,
Jazakallahu Khairan. Akhee, I have been researching Islamic Financing for over 10 years in Canada, and am very familiar with what is involved here.
Nur Cooperative: has no capital, not currently offering anywhere in Canada
UM Financial: currently no capital, not currently offering anywhere in Canada
Salam Financial: not established yet, not likely to be established in the near future
Al Bassam House: still not established, maybe within 1-2 years.
Other organizations such as Ittihad Capital, LaRiba, etc., do not do residential financing.
I have also called every single group in the USA that offers such services and none are able to operate in Canada.
I'm sorry but I have been very diligent trying to find options. I have spoken to credit unions, banks, and every Islamic organization out there to try and develop an Islamic contract that enables me to buy. In fact, for years we have been lobbying with the credit unions to provide us a service. And I am not the only one, we are at least 30-40 families here in our city alone renting and waiting for an affordable Islamic option.
If I am missing something, please do let me know. It would seem I just need to be patient until a group can raise more capital. Which is difficult when the economic situation is as this.
As for the Ijarah Loans transaction, I don't know how much more detail I can provide.
I am wondering:
1. Is it Islamically permissible for me to sign the regular mortgage with the intention that it will be converted to a Shari'ah compliant transaction before the first interest bearing payment? (we were thinking about the hadith with Bareerah, when a Ayesha (RA) signed a contract with an invalid condition (she would return Bareerah's children to the seller).
2. It appears to us that basically what happens is that Ijarah Loans takes over the mortgage, and then the contract between us and Ijarah Loans is Shari'ah Compliant (that contract is approved by Taqi Usmani). Is that then permissible? We are under the impression that as long as our end of the contract is Islamic it is ok.
Again, I am really sorry to bother you. Believe me I sincerely just want to do what is right. At the same time, I desire stability for my family. And believe I have researched every option feasible.

Jazallahu Khairan, May Allah SWT bless you and your whole family for taking the time to help me!

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Muhammed

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

My apology, I thought you did not do your homework first and I am surprised that UM Financial stands empty handed now because I know they are financed by one of the largest credit unions in Canada! Searching for 19 years you could have benefited from the services of the housing cooperative by meeting its long list of conditions by now!

The Hadith of Barira is irrelevant because The Prophet, pbuh, informed A'isha that the condition they asked for (not a matter of children but a matter of pledging Barira's Wala', that may then give a part of her estates when she dies, to the seller) a condition that contradicts the sale contract. This is because the Fiqh maxim dictates that a sale transfers ownership and ceases all relations between seller and object of sale.

I don't understand the way this Ijarah/Loans Company works, why should you first sign a mortgage contract?

However, if sign a mortgage contract, then assign it fully to this company so that you have nothing to do with it any more, I.e., no recourse on you, and this is done before any payment begins, I see no problem in signing it as a vehicle to reach the other contract that you said was studied and approved by Shaikh Taqi.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Mohammed

Location: Canada

Question: Ijarah Loans

I am hoping you can give me advice on a matter. I live in Canada and have been renting for 10 years now. I now have 4 children Alhamdulillah and badly want to purchase a home and have stability.

Unfortunately, I just cannot in my heart take out a mortgage even given the fatwas that allow it in the west. Somehow my heart just won't allow me to do it still. So I have been saving but I am getting very desperate.

So, there is a new company that came to Canada called Ijarah Loans form the US. They say they have a product, where I go get a regular Mortgage from the bank and then before the first interest bearing payment is made they convert it to a Shari'ah compliant transaction. I don't really understand how it works, it sounds to that basically I end up paying Ijarah Loans then they pay the bank the regular mortgage payment.

I also feel this is not ideal, because I am the one to sign the agreement in the first place, and then they are paying the bank the regular interest payments.

Please advise as we respect your opinion very much Sheikh.
Jazakallahu Khairan
Muhammed

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Mohammed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Canada has several programs of home financing that are Shari'ah compliant. You just have to make your research and choose one that suits you. I advise you to go ahead and purchase with the help of Shari'ah finance with one of these programs.
For this specific program, the way you described it does not give any initial impression that it is Shari'ah compliant. But please check for more details and send them to me to see whether it is acceptable or not from Shari'ah point of view.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Mohammed
Sent: Tuesday, May 05, 2009
Location: Canada

Question: Ijarah Loan structure in Canada

Wa'alaikum Assalamu and jazakallahu Khairan for your fast response,
Unfortunately, in Canada there is currently only one Islamic financing program operating (the rest have run out of capital), and that one is extremely unaffordable in terms of down payment. We could never save enough for it.
Ijarah Loans (www.ijaraloans.com) is now operating and has a conversion product in our province. Please take a look and let me know what you think. I will also paste some of our exchange with the company:
I was hoping to get more information the mortgage conversion program in Canada. If you don't mind, could you please provide answers to the following questions:
1. What exactly is mortgage conversion? [Shoeb Replied] we have a proprietary process under which we can 'convert' a mortgage transaction to an Islamic Shari'ah compliant process. We basically change the nature of the transaction from a mortgage/interest transaction to an Ijarah™ rent to own transaction.
2. What role does the bank play after a mortgage has been converted? [Shoeb Replied] the bank basically becomes an investor, and earns their return through a rent payment.
3. What about Ijarah Loans? [Shoeb Replied] we are a trustee of the trust that is created, and administer the lease, promise to purchase, reporting, etc.
4. Are my monthly payments made to the bank or Ijarah Loans? [Shoeb Replied] you monthly rent payments are made to the trust and collected by Ijarah Payment Processing.

5. I noticed all of your offices are located in the United States. How are payments of property taxes handled? [Shoeb Replied] there are two ways in which the payments can be handled, 1) it can be part of your rent payment, 2) it can be paid by you directly, but typically it's included in the rent payment.
6. Roughly, how many mortgage conversions have you completed in Canada? [Shoeb Replied] we just started in Canada a few weeks ago, so we have not completed a conversion yet, however, we already have over 25 deals in process.
7. Have you encountered any issues? [Shoeb Replied] no issues yet in the States, and none expected in Canada.
8. Are all Canadian banks open to mortgage conversions? [Shoeb Replied] there is a loophole in all mortgages both in the States and Canada, that allows us to do what we are doing and the Bank does not really have a say in it, as long as we don't change the economics of the deal, we can change the nature of the transaction.
9. Is there a limit to the size of the mortgage you will convert? For example, is a $400,000 mortgage reasonable? [Shoeb Replied] we are not limited by size of mortgage, what does create an issue is if the mortgage is a commercial mortgage, which is still possible to convert, but any residential mortgage is no problem.
10. What is currently preventing you from offering Ijarah/Musharakah products in Canada? [Shoeb Replied] several issues we are working through, the main one being licensing, and finding appropriate investors for the Canadian market. We have elected to start with our conversion product to demonstrate a demand, which will Insha Allah allow for a faster entry with our other products.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Mohammed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
1. There are at least four institutions that provide Islamic finance in Canada not only one. I know that the conditions of the Islamic Housing Cooperative are difficult to meet but others are not like it. Please make your homework right!
2. I don't give opinion on the basis of websites, they are changeable. Please give me a definite question and I can then answer it. I raised questions on this loan/Ijarah idea and need full details to give my view.
Wa Allahu A'lam

From: Mohammed
Location: Canada

Question:

Assalamualaikum Br. Monzer,
Hope you are doing well InShaAllah. I got your email from your website. I live in California and I would like to know if "Ijarah wa Iqtina" contracts are Islamically permissible for home loans? (I'm sure it depends on the specifics of each contract - but

I'm wondering if "Ijarah wa Iqtina" is permissible in general as a contract to purchase a home)
Also, is there a preferred method? Meaning is for example Musharakah a more preferred method than Ijarah wa Iqtina from an Islamic perspective?
Thank you very much.
Wassalam

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Muhammud
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Ijarah wa Iqtina is permissible as a concept, companies may express it in different ways sometimes adding certain conditions that are either not legal or not Shari'ah permissible. In home finance there is nothing called Musharakah because the finance institution makes its income only from renting you its share. (Murabahah may apply but not Musharakah). Any company that uses Musharakah in home finance is making a misnomer. However in other businesses such as financing machines for a factory or the place of business for a car dealer, Ijarah and Musharakah may be used alternatively. There is no Shari'ah preference for either above the other.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Mohammed
Location: Canada

Question:

Jazakallah Khair Dr. Monzer.
Below is a summary of two types of financing. Would you say both these ways are equally permissible (even if I am not in hardship - basically I can rent instead of buy if necessary)?
Ijarah wa Iqtina
1. Buyer selects property
2. Buyer pays the "on-account payment" (down payment)
3. Independent trust holds the title to the property
4. The house is leased to the buyer. The lessee pays monthly rent to the trust. The trust pays the real estate, property taxes on behalf of the property and adds that the monthly rent.
5. At the end of the lease (usually 30yrs) the title is transferred to the lessee for a fee of $1.00 (By the way, is the $1.00 at the end allowed Islamically?)
6. If the lessee would like to sell the house the trust is informed and an arrangement is made to sell the house (the trust transfers title to the lessee so the house can be sold and the "owner" (in this case the lessee becomes the owner who takes the full gain or

loss on the property.). If the house is sold at a profit, the lessee keeps 100% of the profit. If there is a loss, the lessee bears the first loss.

Musharakah type (Declining Ownership) - maybe it is called something different

1. Buyer selects property
2. The buyer and co-owner form a partnership
3. Both buyer and co-owner buy the home together - each having the share they put into the property as the down payment amount
4. The buyer makes monthly payments to the partnership. Part of the payment is a "utility fee" to use the home and rest to increase the buyers share in the partnership
5. Over the course of time the buyer buys the entire share of the property and becomes full owner of the property.

Questions:

1. As described above is the "Ijarah wa Iqtina" contract permissible?
2. As described above is the "Musharakah type" contract permissible?
3. Would you say that one type of contract is preferred Islamically for home financing?
4. If there is loss or damage to the property and the insurance company refuses to cover the losses then is it Islamically ok for the buyer (or lessee) to cover the attorney fees, loss, etc. even though he/she does not actually own the property under the Ijarah wa Iqtina contract? Or must these fees Islamically be covered by the trust (the lessor in the Ijarah wa Iqtina contract since the trust actually owns the property?
5. Is the $1.00 at the end to transfer title (from the trust to the lessee) allowed Islamically?

Thank you again very much.

Wassalam

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Mohammud

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1. yes
2. Yes and it is in fact Ijarah wa Iqtina because there is nothing in law and in Shari’ah called utility fee, it is rent pure and plain, let them call what they like.
3. No
4. In both cases there must be no condition requiring the lessee/user to pay all such cost or difference, these must be distributed to both in proportion of ownership (the trust simply represent both, it is not an entity that makes a legal difference except for bankruptcy protection and the like). Voluntarily any one can volunteer to bear these cost or any other cost.
5. Yes but this is a jock that courts do not accept both Shari’ah and others because title is transferred not for the 1 Dollar but because the lessee paid the full price over the period of 30 year in addition to the rent of the part the lessee does not own (in fact there is a court case to this effect in 2005 and Malaysia).

Wa Allahu A’lam

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

From: Annas
Sent: Sunday, May 03, 2009
Location: United States

Question: House Financing Structure through establishing a company

Dear Amo Monzer,

InShaAllah you and your family are well and in the best of conditions!

I am e-mailing you today because my older brother Bilal, has come up with an interesting idea of how one could possibly structure an Islamic home financing contract in a way that is not only compliant with the tenets of Shari'ah, but which also does not render investors or those seeking halal financing at a financial disadvantage (in the specific context of German law). I would very much appreciate your opinion on the Islamic validity of such a contract or arrangement. For in case it is sound, it should not be too complicated to set up dedicated real estate investment funds based on this structure, and one would have found a way to serve the yet unmet demand for Islamic house financing in Germany.

In short, one of the core problems of having an Ijarah-like house financing in Germany is the fact that with each sale transaction of a real estate property, the government demands the payment of a property tax. Thus, if an investor wants to buy a house and then gradually sell it to the person seeking the financing (while at the same time receiving rent payments for his share of the house) one would have to pay the property tax twice.

The idea that Bilal has come up with, and which according to German law would not make the double payment of the property tax compulsory, goes as follows:

1) An investor (private person or legal entity) and a private person enter into a partnership and found a private company. The purpose of the private company is to buy the house that the private person wants to buy and seeks financing for.

2) The investor and the private person supply this company with the capital that is needed to buy the house (for legal reasons, the private person would need to supply at least 5,1% of the capital).

3) This private company buys the house that the private person wants to buy and needs financing for. If we assume that the private person has supplied 5,1% of the capital to the private company which now owns the house, and the investor has supplied 94,9% of the capital to the company that now owns the house, then the shares of both investor and private person in the private company effectively also constitute shares in the house.

4) The private person would then rent the house from the private company for a pre-defined duration (say, 20 years). The rent would be the regular market rent. The private company would the distribute the income from the rent to its shareholders (e.g., in this case, in the beginning, that would mean 5.1% of the rent goes to the private person, and 94,9% of the rent goes to the investor).

5) At the same time, the private person and the investor agree on a plan whereby the private person gradually buys the shares of the investor in the private company, say over a time period of 20 years in monthly installments. After 20 years, the private person would fully own the private company which owns the house, and thus the private person becomes the sole owner of the house.
Using this structure, we have several contracts:
1) The contract for the foundation of the private company (where private person and investor supply a certain share of capital each).
2) The contract whereby the private company buys the house.
3) The contract whereby the private person agrees to rent the house for a pre-defined time frame.
4) The contract whereby the private person agrees to buy off the shares of the investor in the private company that formally buys and owns the house.
All four contracts would have to be signed simultaneously.
Of course, there are much more details to consider, for instance, as to what would happen in the case of bankruptcy, how the rent is determined, etc... However, before enlarging on such details I wanted to kindly ask you for your general opinion on this matter, especially on whether you think that such a structure is in line with Islamic law. In case you think it is, Bilal and me would develop a more sophisticated model that is thought through both from a legal and a business perspective.
As per our current understanding, from a tax, legal and business perspective, such a structure is perfectly competitive and does not entail any significant financial disadvantage to any of the parties that are involved in such a transaction.
I would highly appreciate your opinion on this subject matter, and thank you in advance for your help and consideration. In case you have any queries, please do not hesitate to let me know.
Jazakumu Allahu Khayran Al-Jaza' for your kind advice! I am very grateful for your guidance!
Baraka Allahu Fiekum and my best Salaams to the family,
Wassalam Alaykum Wa Rahmatu Allahi Wa Barakatuh,
Annas

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Annas
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The idea works perfectly. Two things need to be checked: 1) cost of establishing and maintain the company for 20 years or more, are there any reporting it is required to make, registration fees, etc.; and 2) the mode of transferring shares from one partner to the other, does it have any taxes, recording, fees, etc.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam

Prof. Dr. Monzer Kahf

From: Mohamed
Sent: Wednesday, April 08, 2009
Location: Canada

Question: Paying off bank house mortgage

Dear Dr. Monzer,
Assalamu Alaykum wa Rahmatullah wa Barakatuh,
I live in Canada. I read the fatwa posted on your web site, that says it's Ok to buy a house through a mortgage under certain conditions and I did buy a house by taking a mortgage through one of the banks here in Canada. After buying the house I got a contact to work in the Middle East, so I closed my house and went to work in the Middle East, now I'm returning back with some savings. Do I have to pay all my saving in the house to get rid of the interest? Or just keep paying according to the old schedule?
Jazakum Allahu Khairan for your constant help
Yours,
Muhammad

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Muhammad
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The principle is that any action taken on the principle of necessity or quasi-necessity (I.e., need by large number as in the case of the Fatwa on conventional mortgage for housing) can only continue as long as needed only and once a person has sufficient means to pay off such an interest debt should do that. This may be especially the case when there are no other consideration for the mortgage such as tax relief that does not exist in Canada.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Dear Br. Mohamed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please put a key word in the subject line, the word "financial question is not a key word.
Best Regards,
Wassalam
Monzer Kahf

From: Amr
Sent: Sunday, March 22, 2009
Location: United States

Question: LaRiba house financing

Dear Prof. Kahf,

This is Amr Taha of IslamOnline.net's Politics in Depth section. Upon the recommendation of Mr. Wael of Shari'ah department, I would like to take your professional fatwa about Lariba's method of home financing, which they say it is completely based on Shari'ah. Actually, they are using a certain method of financing that I am not sure whether it includes interest.

I would highly appreciate if you could read the following link (about Lariba's system of home financing), and send me back whether this system complies with the Shari'ah or not.

http://www.lariba.com/home-financing.htm

Looking forward to hearing from you.

Highly appreciated,

Amr

Dear Prof. Kahf,

Thank you for your email. Kindly note that the aim of my email was not intended to have fatwa per se. I look forward to cover Lariba's home financing from a comparative perspective to the Western one (the coverage is not about religion, it is about society), and I really did not know whether their system of home financing is based on interest or not, because I think if I embark on covering Lariba's home financing method without understanding their system from a Shari'ah perspective — which I did not know — it will be not professional for me to cover something that I do not know about. I did not intend to use the Fatwa online as I just wanted it for me in order to be able to understand their system before covering it.

I hope you kindly understand the aim and purpose of my email as I did not intend to have a fatwa to be published online.

Looking forward to hearing from you.

Highly appreciated,

Amr

Dear Prof. Kahf,

Thank you for your kind and prompt reply. I very much appreciate your kind advice. Do you know some institutions in the United States that do not really use interest? I would like to cover Islamic institutions that really use Shari'ah, but I did not know those which really respects Shari'ah.

Looking forward to hearing from you.

Highly appreciated,

Amr

My Answer:

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

This answer is confidential and for your own personal consumption and use only. Lariba uses contracts that are exactly conventional. The legal relation is pure and only conventional but the advertisement and propaganda is Lariba and that they look at the

real rental market and then give discount of the rent to match the interest rate (remember that fact is the rent is always above the interest rate although it may happen that sometimes rent may be lower for certain odd reasons like too much speculation of house prices like what happened over the past few years). Everybody tried to advise them to change and all other providers do give real Islamic contract but they insist on their way (I personally think that the reason the chairman of Lariba gives is what he really believes: he fears that if he does not use the conventional contract he then would be traveling in troubled and untested water that may turn against him any time). Remember also that Lariba bought a local bank and he insists on keeping it interest-based. We have other companies including a bank owned by a Jewish family that offer fully Shari'ah compliant contracts and they are doing well without the fear of Lariba. In brief "Lariba is only Riba" nothing else but with big mouth that dares to claim otherwise without any basis.

Best Regards,

Wassalam

Monzer Kahf

Bismillah al Rahman al Rahim

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

Dear Br. Amr

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It is inappropriate for me and for Islam on line to give Fatwa about persons, natural or legal because persons change over time. If you are asked about a contract you give an answer on it not on the company. I know very well this company but I don't give Fatwa about companies. Give a contract and I will answer it.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Dear Br. Amr

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Yes, please check Guidance Financial, and Samad Ijarah and company, also University bank in Detroit. There is also Devon bank in Chicago (this is the one owned by a Jewish family, just look at it but do not write on it and do not make promotion for it). Please be assured that I have no relation and no benefit from any of these. These companies Offer Shari'ah compliant house finance in USA, there are also a couple of companies in Canada.

Best Regards,

Wassalam

Monzer Kahf

From: Ammar

Sent: Wednesday, March 11, 2009
Location: Hawthorne, CA
Question: Ameen Housing Co-operative
Assalamu Alaykum,
A brother asked me about Ameen Housing Co-operative, located in Santa Clara, Ca.
Is it halal? And is it feasible?
Sincerely Yours,
Ammar Kahf
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Son Ammar,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes it is Shari'ah compliant but its conditions are difficult to meet.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2008

From: Nafi
Sent: Wednesday, December 24, 2008
Question: Islamic finance for house buying
Salam Alaykum
I want to take a home loan from an Islamic Bank in Australia called MCCA.
The transaction will be: Ijarah muntahiah bittamlik as they say. However when I asked MCCA where they got the money from? They said from Australian Financial Institutions which of course lend the money with interest.
Is it halal to borrow from MCCA?
Please advice
Jazaka Allahu Khayran
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Nafi
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
There are two points here that you should please keep in mind:
1. The contract between you and the finance provider is what matter to you and it is not of your business what relationships the finance provider may have with other persons

and entities. Let us take a case when a conventional bank offers you a permissible contract, like house finance of declining lease basis or even opening a current account or transfer of funds, is it permissible to take this contract while you know that the same party makes all kinds of non-permissible contracts with other persons. It is of course permissible because Allah does not appoint you to check other people's transactions and relationships and in fact even does not allow you to poke your nose in other people affairs; that is none of your business or concern except on a matter of offering a kind advice.

2. The MCCA, as an Islamic finance provider does not take funds on interest from other entities. The point that you came to know it takes funds from banks does not mean it takes them on interest basis, that you should be assured of. The MCCA, like several similar Islamic organizations in Canada, USA, UK, Netherland and other Western countries makes arrangement with banks and credit unions to assign the lease contracts to them, this assignment, from both legal and Shari'ah points of view, means sale of their share in the property to the conventional bank, at a lower rate of rent than the rate you are charged (so that it makes some profit out of the difference). Such organizations are able to do this on the ground of offering banks bulk transactions and with the help of some community support programs. Normally, banks won't give you similar privilege on individual basis. I suppose there is some misunderstanding or miss representation in you statement that they take funds on interest basis, they don't. But please notice that I make point No.1 first to indicate that even if they take funds on interest the contract you have with them is still permissible and it is permissible to make transactions with them.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Subject: Buying a house from banks' Auction, foreclosure, etc.

From: Mahmoud from OnIslam website

Sent: Thursday, October 23, 2008

Question: Buying a house from banks' Auction

Asslamu 'Alaykum professor Monzer,

Hoping you and the family are very well.

Forgive us for troubling you with our questions.

Questioner's name: Hosam

Country: Saudia Arabia

Assalamu Alaykum. I would like to know the scholars opinion in buying a house in a mortgagee sale or auction, the price is usually less than market price as banks are keen on getting their money

Jazakum Allahu Khayran.

Wassalam 'Alaykum.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Husam
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Are houses auctioned by banks in Saudi Arabia, I don't believe it, or should I?
Buying a house from a bank or thru auction is permissible because it is permissible for the creditor to force sale a lined/mortgaged property if the debtor does not pay on time. It is a forced sale thru the formal legal procedure and it is permissible in Shari'ah. Of course the price will be lower on such property because of the idea that it is needed to be done within a short notice and regardless of the market conditions especially that these times are times of buyers' market not sellers' market. No problem in that either, this is life after all!
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Samy, Islam on line
Sent: Thursday, September 25, 2008
Question: Purchasing House with Bank Loan
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh,
I hope you are fine.
In the Latin culture of law, when someone wants to purchase a house, 1) first of all, he has to go to the financial institution, I.e. a bank, to request a loan. When the negotiation finishes, the bank gives to the debtor the sum of money, and this is notarized by the notary, who witnesses and writes the loan contract, with the specified interest rate. So, the interest based loan has been created. Afterwards, 2) the bank wants a guarantee, I.e. the mortgage, so with the notary's deed goes to the land registry in order to create it. In this point, the register checks all the points of the contract between the bank and the debtor and records the information in order to reflect that this house has the charge of the mortgage and it is erga omens (can be exercised with respect to third parties) and to execute if the debtor does not pay. And finally the register creates the mortgage, without doing anything else than observe the legality and the conditions of the contract. My question is: in all this process 1) and 2), what are the actions that fall in Allah's wrath based on Islam? Can we consider the notary a witness of the contract, besides the debtor and the bank? And, once the contract and the deed are created, the activation of the mortgage can be considered to be equal to the constitution of the Haram interest based loan? What are the boundaries of the Haram and the Halal between the direct and indirect collaboration in this kind of transaction, when in many fatwa we read that the indirect one may not be considered totally Haram. Jazaka Allahu Khairan.
Jazakum Allahu Khairan for your constant help
Yours, Sami
My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Nimoon
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The correct Hadith counts four functions: taking Riba, giving it, writing it, and being its witness. If some of these activities are done by more than one person, the Wrath of Allah touches each doer of any portion of that activity. Let us look closely in your example who are the doers of Haram: the two parties to the loan contract, the Notary who authenticate the contract and signatures on it (a witness) the Registrar who write it in the real estate records, the lawyer of the bank and the client who draft the contract, the bank loan officer who negotiate its terms, and may be more. . .
Those who are not involved directly to the transactions are: the bank IT person, the seller of the property, the teller who makes payment regardless of what it is for, the real estate agents who helped the deal knowing that it is going to be done on interest basis, etc. . . By the way this process is about the same everywhere not only in Latin America!
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: farhan
Sent: Monday, September 22, 2008
Question: House financing
Assalamu Alaykum,
I have a question regarding Islamic finance of housing as discussed by Mufti Taqi Usmani in his book "Islamic Finance". I have read the chapter in quite detail, in regards to co-ownership model for financing a house. I have also discussed this plan with Meezan bank in Pakistan that uses this very same model. Since I am in the US, I need a company who will use this mode of finance for me here in the US. Guidance Financial is a company; I am not sure if you are familiar with them, also states they use the same model and have official approval by Mufti Taqi Usmani regarding their model being compliant with Shari'ah. However, after studying their model, I do not believe they are using the model as it is supposed to be. I wanted to know if you have studied the model of Guidance Financial and your opinion regarding it. My concern is they are selling you back a share of the house but not at a fixed price, rather than the price increases every month. I understood that the price of the property that you are buying back should be fixed. We can discuss further after your response. I hope I am able to make clear what I am asking.
Jazaka Allah Khair.
Farhan
My Answer:
Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Farhan
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I understand your question completely. Unfortunately I do not give Fatwa on persons, legal or natural. I give only on issues. The issue of house finance on co-ownership basis includes a promise to sell on piecemeal contracts along with rent contract. As you said quoting Usmani, it is permissible in Shari'ah.
For the specific contract of the specific company that you mentioned, you need to read the contract again and try to understand it with empirical example, I think you misunderstood it. . .
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Farhan
Sent: Monday, September 22, 2008
Question:
I appreciate your prompt reply. My specific question is, is it permissible to sell the share of property at different values (increasing value) each month or does it have to be a fixed amount? I understand if you are not able to give a "fatwa". Any help will be appreciated.
Jazaka Allahu Khairan, Farhan
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Farhan
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
When a sale contract is concluded between two parties they can set the price the way they agree on. Hence, if a contract is done every month for a part of the property (whether equal parts for all months or not) the price of each part must be known at the time of each contract, these prices can be equal or not equal; it is a matter of agreement.
Please notice that while I give you this generic answer, the house financing contract that is based on co-ownership is not structured in this manner. It is rather a series of monthly sale contracts of ever larger segments of the property (the part of the house that is sold each month is larger than the part sold the month before it) at a promised price that is exactly equal to the share of that month's segment of the original purchase price of the property. In other words, the price per square foot is the same as the cost price but each month the number of square footage sold is larger. So that the amount you pay toward purchase is larger each month and the rent is smaller because you continuously

buy larger portions not because you pay higher price. You apparently misread the contract.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Samy, Islam on line
Sent: Wednesday, September 17, 2008

Question: Buying a House with non-Shari`ah Compliant Mortgage

Dear Dr. Monzer,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh,
I am working in UK for the past 6 years. I bought a house in Scotland in 2004 with HSBC mortgage. Unfortunately there are no Islamic/Shari'ah compliant mortgages available for property in Scotland. In 2007 I moved to England for job and rented a flat in the new city. As I was not sure about the duration of my job and still not sure when will I go back to Scotland so I did not sell my house in Scotland but put it on rent instead. Now I am paying 857 pounds/month in mortgage and 600 pounds/month as rent of my flat in England. I get a rent of 620 pounds/month for my house in Scotland. I am not sure whether I can spend that money to pay the mortgage or to pay my rent in England as the house was bought with non-Shari'ah compliant mortgage and I pay interest on that. I would be very grateful for your help.
Jazakum Allahu Khairan for your constant help
Yours, Sami

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Sohail
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I don't seem to be in a position to say anything. I cannot set your financial plan for you and you don't need a financial plan any way!!
You have obligations to pay, for wrong or not, that you have no choice to do without and you have income that you earn from rent and from work. Then go ahead and pay your current rent, the mortgage of your house that you want to keep and your other expenses. You pay all these from the pool of your income that comes from the rent of the house and from compensation of your working hours.
Wa Allahu A'lam
Wa Al Hamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Nazmul
Sent: Wednesday, September 17, 2008

Question: house purchase mortgage

Assalamu Alaykum Dr. Monzer:

Alhamdulillah I have found your webpage today and was eagerly going through your fatwa mortgage 2007. PDF file. I truly admire your devotion to Islamic finance and your efforts. May Allah grant you Tawfiq to do more for the Ummah?

I will appreciate if you clarify my following concerns.

1. I became confused about the extent of "Halal" about bank mortgage. You said "If you need a house and do not find Islamic finance at competitive rate you can go for conventional finance according to the Fatwa of the Second International Conference on Fiqh that was held in Detroit in the Fall of 1999". In Canada, we have ISNA housing loan and based on my experience with them for my home buying, the "rent/occupancy charge" was ~8.3% of the amount I borrowed. Whereas with bank, probably I could have got it for ~4.5%. Also, the bank offers open, variable interest rate mortgage. Based on the above scenario, will it be permissible (Halal) for me to go to a bank?

2. Regarding Zakah,

Wassalam, Nazmul

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Nazmul

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1. The Fatwa is still valid and its application should be done by each individual on her/his own judgment. You know brother people differ in their evaluation of differences depending on their own equations and market prices also vary whenever there is a difference in the rate and conditions of a contract, it is the personal judgment that applies with regards of how one looks at these differences. Some people disregard price differences all together and some others for them a small minute difference is a serious issue. This can only be exercised on personal levels by each person alone; nobody can make such decision for any other person. Please apply the fatwa on your own judgment and perception of the difference whether you consider it a big difference or not in both the rate charged and other conditions of the contract,

2. Zakah is due Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Moustafa

Sent: Thursday, July 10, 2008

Question: House Mortgage Urgent

Salam Dr. Kahf,

I am in the process of buying my first house here in California. I would like to do it Islamically if I can. I have been talking with GUIDANCE, but their rates are way higher than other regular banks in the US. Their rate today is 6.75% whereas other banks are

around 6.0% - 6.1%. Houses here in California are expensive and since I have to finance a large amount. My monthly payment and the profit there are going to make, is going to be a lot higher. In addition when I talked to them I felt that they are no different than other banks. Maybe the concept of Musharakah makes sense to me but the way they do their calculation is the same as any other banks. I don't know much about how Islamic financing works but I read your Fatwa about if the Islamic banks don't give competitive rates we can go to other banks.
Question 1- Does GUIDANCE comply with Shari'ah Law 100%. So doing finance through GUIDANCE is worth it.
Question 2 - Could I take the fatwa and use other banks for the reason I specified above.
Please if possible you can email me back as soon as possible because I have to make the decision very soon.
Thank you and Jazaka Allahu Khairan
Moustafa

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Moustafa
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Please notice that I cannot make a decision for you, it is your personal responsibility toward yourself and toward Allah, I shall not be accounted on your behalf. This means that I can only tell you principles that may remove misconceptions.
1. The way of calculation is of course similar between any provider of Islamic finance and any provider of conventional finance. This is because they both provide finance, one in accordance with Shari'ah and the other on interest basis. This similarity is even not denied in the Qur'an (please read carefully Verse 2: 275).
2. Determining whether a finance contract is Shari'ah compliant or not depends on 2 points: 1) careful reading of the contract itself (not the advertisement writings that are very often misleading and inaccurate) and whether it is a loan contract or sale or lease/sale. A loan contract is not permissible in Islamic finance and any increment in it is interest that is prohibited. An increment in a sale or lease/sale is permissible; and 2) whether the contract has been reviewed by Shari'ah scholars whom you trust and accept their view. Here I can advise you that the Shari'ah scholars of Guidance are excellent experts and very trustworthy.
3. I don't give any personal judgment about any other human being or legal entity that is not within my role, I can only give views on ideas. This means that I don't answer your question No. 1. For question No. 2 you should notice that it is you who should answer this question, I gave the principle already. . .
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Abdelhai
Sent: Wednesday, June 25, 2008
Question: Shari'ah house financing
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh.
I have a former coworker named Muzzammil who is seeking Shari'ah aligned financing for his real estate investment. He stumbled upon La Riba and was happy to see that Muslims have at least this choice.
I understand why you did not make a ruling on the validity of La Riba or Guidance Residential on the Islamonline.net consultations. However, how can Muzzammil and any brother / sister of humble knowledge make a decision between La Riba [Residential] and Guidance?
What are your thoughts and scholarly absorption on La Riba and Guidance?
Are there other choices besides these?
If unfortunately you cannot answer, please direct me towards the necessary logic.
Jazaka Allahu Khayran again Wassalam Alaykum wa Rahmatu Allahi wa Barakatuh.
Abdelhai
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdelhai
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Look into these two criteria and neglect everything a website or any advertisement material say, claim or show:
1. What does the contract itself (no other introductory or any other materials) say: loan and interest or purchase/sale and price or purchase or partnership and rent? The first is Haram and the other two are permissible.
2. Has the contract been reviewed by Shari'ah scholars whom you trust. In other words, look who reviewed and agreed on the content of the contract. If you find a group of Shari'ah scholars that reviewed the contract you may trust it but if you find one person who does not know Shari'ah did that, you can then decide for yourself.
These two criteria make or break in term of acceptability of a finance contract from Shari'ah point of view. If you find none that fulfills these criteria or if one that does fulfill them charges much higher rates, you may then go for conventional.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Abdelhai
Sent: Sunday, June 29, 2008
Assalamu Alaykum.
Jazaka Allahu Khair. I am humbled.

I have the perception that both Guidance and La Riba use the Declining Balance Musharakah model. As such, is it possible for you tell me on which detail of the model they differ -- explaining at a brief top-level treatment and without endorsing either of the institutions? Also, please pray for me and every person who asked Allah with a softened heart for His Bounty.
Jazaka Allahu Khair wa Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh.
Abdelhai

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdelhai
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I guide you to look at facts of contract and Shari'ah reviewers and you tell me about perceptions. Did you understand what I said? Please read it again and try to understand my statements and don't tell me about what you read on the website or what they tell you or your perceptions. . .
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Samy, Islam on line
Sent: Tuesday, June 24, 2008

Question: Taking Interest-based Loan to Buy a House

Dear Dr. Monzer,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh,
In the Name of Allah, Most Gracious, Most Merciful. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger. Dear brother in Islam Al Salam Alaykum I am a Swiss Muslim live in Switzerland. I live in a rented house for around 10 years; this house has 2 floors, 2 families live in this house each floor one family. The owner of the house wants to sell the house to one of these 2 families (my family or other family). The owner propose us first as we are living in this house much longer than the other family. We want to buy house because our children grew up and go to school in this area and my old father lives in the same street and the house cost 1550000 Swiss Franc. The money we saved is only 700000 francs, to be able to buy this house it is necessary to take interest-based loans from banks, we rent this house since 10 years already and we are paying rental fee which the same amount I am going to pay to the bank as interest , if the other family will buy the house, they will ask us to leave because they always wanted to live in the part we rent as it bigger and nicer, and we cannot easy find new house of apartment in the area where we live now. We only want to keep this house and no attention of doing business or earning money in this bank deal. Any prohibition may have certain necessity circumstances that call for relaxation. This applies to Riba and too many other prohibitions. Of course, a necessity must always be

given its right weight since it is Allah, the Most Knowledgeable, Who is going to screen our truthfulness, not anyone else, can you justify this case as necessity and advise us to go ahead and buy the house or say Hasbi Allah wa nima alwakeel. May Allah guide you to the straight path, and guide you to that which pleases Him
Jazakum Allahu Khairan for your constant help
Yours, Sami

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Susi
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Here we are faced with a common need that applies to your case and many other Muslim families that live in Western countries that have no Islamic house finance facilities. I believe that this kind of needs call for relaxation of Riba and if I was in your place I would go ahead and take an interest-based loan and buy the house. I pray to Allah to help you pay this loan to the bank in a very fast way InShaAllah.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Salim
Sent: Monday, May 26, 2008

Question: Taking a loan to build a house

In India no Islamic Finance available. How to finance my house construction without finance? May I take interest based finance for a short time & repay at the earliest by making some other arrangements like selling some other property or by giving the same under construction house on lease / on heavy deposit sufficient enough to pay the loan amount. The need is genuine. Please advise me.
Thanking you,

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Salim
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I know that the Muslim community in India is large and has much wealth in it. It is the collective obligation of the Muslim community in India; you are included, to create suitable institutions of finance in compliance with the Shari'ah. I can't say that Muslims in India may resort to interest-based borrowing for their financial needs. Sorry.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam

Prof. Dr. Monzer Kahf

From: Abdulla
Sent: Friday, April 17, 2009
Location: Canada

Question: Permissibility of Mortgage in Canada

Assalamo Alikom Wa Rahmatu Allahi Wa Barakatuh.
My name is Abdullah I came here with my family from 10 months I have 3 kids (1 girl 5 years and twins 7 months) we live in rental town house with monthly rent 1350 $ and the hydro cost me around 200 $ so the total is 1550 $,, cause we were looking for big place as my mother in law and father in law live here with us from beginning to help my wife in caring of the twins and when they will travel they will come back or my mother will do as we need always help for the kids as my wife will search for work to help in the income ....I worked in Wal-Mart night shift from 6 months… and I feel I wasting all my money in the rent and all my friends advise me to save this money for my kids with buying house specially that the prices is good these months…so I decide to bring money from my back country as 5 % down payment and take mortgage but I am afraid if I take the mortgage this will be "Reba" or the variable interest not consider that …so my friends advise me to send you my case in details and ask you is it halal in Canada to do that or no and if not , can you show me Halal way to take a house without go to Reba ?… So please help me in that and appreciating your time.
Jazaka Allahu Khayran
Abdalla

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdalla
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
In Canada there are several home finance providers that abide by the Shari'ah, please first check on them and do your homework. If their conditions cannot be met by you then most likely other banks may not also give you finance. But if after exhausting your chances with Islamic providers, then for your case it is permissible to resort to conventional banks because the conditions of exception seem to apply to your case.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Amir
Sent: Saturday, April 12, 2008

Question: conventional mortgage use

Assalaamu Alaykum,

I would like your opinion on a matter regarding the use of a conventional mortgage in the setting of an existing loan. I am a married resident physician at the University of Pennsylvania and have approximately $30,000 of outstanding student loan debt (from medical school) that I am paying off in monthly installments. My wife and I have thus far been renting an apartment and we're currently looking for a different place given that our lease expires in several months. Philadelphia in general is a relatively expensive place to rent an apartment (in a safe part of town) and given this we have thought that instead of continuing to rent an apartment, at a cost of approximately $32,000/year, we could instead purchase a condominium using a conventional mortgage (there are not any viable Islamic financing alternatives in this area that I am aware of) and then in two years, when my residency training ends and we move from Philadelphia, we could sell the property and thus recoup most, if not all, of our original purchasing expenses. Then we could use the money saved from not renting, perhaps as much as >$20,000, to pay off the interest-bearing student loan debt that I have.

I am confused as to whether this would be permissible because although a conventional mortgage is being used, the savings of doing so versus rent would reduce the amount of interest that I have to pay on the student loan debt; however on the other hand would doing so be an example of "two wrongs do not make a right"?

Thank you in advance for your assistance.

Jazaka Allahu Khairan, Amir

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Amir

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

When you have an interest loan outstanding you really should give priority, reasonably, to pay it off as soon as you can. Reducing the amount of interest being paid is also a valid objective.

If you think that you made your math right and you will certainly be better off buying than continue renting, what I suggest is to consult the few Islamic finance companies/entities that provide Islamic finance in America (I think they should be licensed in Pennsylvania), and see if you can get Shari'ah compliant contract from one of them. I normally do not give names but you may check on the internet.

If you could not find Islamic finance and you still believe that buying is better for you, you may then go for conventional according to the Fatwa of the Second International Conference of Fiqh in North America that was held in fall 1999.

Wa Allahu A’lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Samy, Islam on line

Sent: Sunday, April 06, 2008

Question: Taking a Bank Loan to Buy a House

Al Salam Alaykum wa Rahmatu Allahi wa Barakatuh I would like to ask an important question for us who are living in Europe. Is it allowed for us to take a loan from a bank to buy a house for living? Actually we heard many different answers from many Islamic sides. There are some who had given permission just to buy house for living, there are some who did not give permission for that and there are some who had given permission according to the case of the person who asked. So, I would like to specify my situation, I am a Norwegian citizen with a Palestinian background. I am working as a bus driver. I earn a good income to pay the rent of the house, another invoices and it can be some extra money to the next month. Reasons which push me to think to buy a house are, 1- We know the all here in Norway that they who hire out their houses do that just for a definite period. It can be one, two or some years, and this period actually is short, and exactly time which a person needs to get used to live there. It means that they who rent the place where they living from other must move them every a definite period, and like this situation is not easy (to move or to find another house), and it can do the people not stability and not safely in their life. I know some people who had been become a psychical because of that. 2- To rent a house here in Norway is a quite expensive. When we buy a house, we pay for our houses, and it means that we don't lose money through a paying rent house to other who rent out their houses to us. Also, in the case of it is allow doing that, what are the circumstances which give this permission to the person to do that? I hope to hear an answer from you as soon as possible, and to be my question a useful for the all. Regards, Raed.

Jazakum Allahu Khairan for your constant help

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Raed

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It's been the opinion of both the Fatwa Council in Europe and the second International Fiqh Conference (1999) in America that Muslims who live in the West and need housing may buy a residence through conventional interest-based mortgage provided Islamic finance is not available. I suppose Islamic house finance is not available in Norway. If this is correct then buying through conventional banks should be permissible because the Shari'ah is send to make things better not worse as long as we do the best under the circumstances.

I know, as you very well do too, there is another view that takes the difficult side, but it is of course your own heart that you must consult.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Syed

Sent: Tuesday, April 01, 2008

Question: House finance

Assalaamu 'Alaykum Dr. Kahf,

I need advice on a situation I am currently in. I am currently a home owner which I bought on cash, Alhamdulillah. Now I want to buy another home closer to a new Islamic School that my children go to. I don't want to sell my current house but want to lease it. Now the new home builder is offering me incentives up to $20,000 if I bought the house on cash or use their preferred loan vendor. I want to go with Islamic Financing but I will not get any incentives if I do so. As I can see it, I have the following options.

1. Sell my old home and buy the new home (which I am hesitant to do so)
2. Close the home with the builder's preferred vendor and then refinance with an Islamic Bank. I might end up having to pay at least one mortgage payment (with interest) to the builder's preferred bank before I refinance (since it takes about 4-6 weeks for the home to be registered with the city)
3. Forego the incentives and close with Islamic Financing.
4. Cash out my old home to buy the new home on cash (might not get enough money and the process is a little complicated).

Please advise on what is my best option that fits under the umbrella of Shari'ah. May Allah reward you.

Jazaka Allahu Khairan, Wassalam,

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Syed

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

It seems that the fourth solution may be the best, is it any longer than normal refinance and all Islamic finance companies are equipped to do it in Shari'ah compliant way. If this is not feasible within the time constraint you will have to choose the least among all "wrong" solutions, this may be No. 2 unless it is more costly! If you are changing because of the school facility this may InShaAllah covered by the Fatwa of necessity that mentions such reasons for buying with conventional finance. My understanding of this Fatwa includes comparing prices and other facilities in the two contracts so that if the Islamic contract does not give me similar facilities or gives them at a higher cost it is considered as not available.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Ahmed

Sent: Friday, March 21, 2008

Question: Islamic Finance is expensive

Salam Alikom brother,

I really appreciate your time to answer my question, and I really take your Fatwa into consideration, because I read a lot of your Fatawa before. I have one more question the Islamic mortgage that I am dealing with now charged me over my budget.
Regular mortgage would be around $1250 to 1300 a month, but the Islamic mortgage charges me $1722 a month. It's really hard because I have to do over time now to cover this payment. Should I consider refinance with regular mortgage or stay with Islamic mortgage?

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Ahmed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
I suppose Islamic home financing here in America must be competitive with conventional finance. If it is not then we are comparing eggs and apples!
I suggest that you must first try the company you are with for a refinance (could it be a matter of just changing rates overtime between the date of your contract and the present rates?), and if you failed, then it seems to me that such a big difference is exploitative and it justifies considering the "Islamic finance" as not available. Because its availability is of course considered within a reasonable range of competitiveness with the market rate.
Wa Allahu A'lam
Wa Al Hamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Ahmed
Sent: Wednesday, March 19, 2008

Question: Buying a house on Islamic finance

Al Salam Alikom,
My name is Ahmed, I am from USA.
I just bought a house under Islamic law by guidance financial. They offer Islamic law mortgage (co-ownership program) I would like to ask you if this mortgage still Riba (even though I am dealing with Islamic institution) or it's Halal.
Salam 3alikom

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Ahmed
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Yes, Dear Brother, this contract is permissible in Shari'ah.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin

Wassalam
Prof. Dr. Monzer Kahf

From: Nasir
Sent: Thursday, March 19, 2009
Location: Canada

Question: Lessee responsibility of Mortgage

Dear Dr. Monzer,
Assalamu Alaykum wa Rahmatullah wa Barakatuh,
Dear brothers: Living a west, should a person who rents a residential place be concerned about the possibility of an existing mortgage on the property (which translates into Riba)? Is the renter obliged to investigate this such thing before renting? Basically, can one lives and prays in a place that is purchased via mortgage? Asalum -al-Alaykum
Jazakum Allahu Khairan for your constant help
Yours,
Nasir

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Nasir
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
The renter is not responsible about the action of the owner of the house. This means that you do not ask the owner how did he get the house and what loans are on him when you rent. This is not your responsibility and none of your business.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Awil
Sent: Monday, February 11, 2008

Question: Home Financing

Asalamu Alaykum,
I hope when this letter reaches you and your family is in good health. I bought a house couple years back with conventional mortgage; before I buy it, I have researched about this issue I have asked many scholars some they say there is fatwa that you could buy house in America with the conventional mortgage, and some say it's totally Haram if it's involved with interest so they say your option is the Shari'ah way like (Lariba or Guidance). It's been confusing for my wife and I like the way they calculate things like Ijarah and their profits. I would really appreciate it if you could shed some light on this matter and please tell me that I am doing something Haram and I should consult immediately with (Lariba or Guidance) or that okay with my conventional mortgage.

I am looking forward for your response and again Jazaka Allahu for all the great information and knowledge on your website.
Thanks, Awil

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Awil
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Whenever Islamic finance is available conventional one becomes non-permissible. That is the rule because the Fatwa on accepting conventional finance is founded on the ground of two points: 1) there is need for house financing for Muslims in America; and, 2) there are Islamically permissible approaches. For already existing interest-based contracts, one has to make ones best to clear oneself from them as soon as one can.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Naim
Sent: Sunday, January 27, 2008

Question: European Muslims, Buying a house

Salaam Alaykum I would like to know if it is permissible for us, living in Europe to buy a house? Do we have to rent a house and pay each month a price, of buy it with interest?
Naim

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Naim
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Of course interest is prohibited and any interest-based loan is also prohibited in our Shari'ah.
However, when a large number of Muslims live in a situation where a prohibition that does not deal with morality or avoiding shame, is certain to cause a great difficulty and awesome inconvenience, and the Islamic solution is not available the rule of prohibition is relaxed. Religion was not sent to create difficulty; it is rather send to remove it. Consequently for Muslim families that live in the West, Europe, Americas, Australia and the like, if Islamic finance is not available and they need to buy housing, as there is a great difference between buying and renting from both financial and social points of view, they may go for interest-based finance for buying the needed residence only and of course in as much as it is needed. This has been studied by several Islamic scholarly forums and this is the opinion of the majority of Shari'ah scholars.
Wa Allahu A'lam

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

Subject: buying investment real estate on loans

From: Samy, Islam on line
Sent: Tuesday, January 08, 2008

Question: Buying Lands and Houses by Bank Loans

Dear Dr. Monzer,
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh,
Is buying lands and houses, by bank loans which include interest, considered Halal in all cases? (Like someone well off but wishing to expand his fortune for later generations). And if not, would inheriting be Haram as well? Baraka Allahu feekom.
Jazakum Allahu Khairan for your constant help

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salam ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Abdu
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Taking an interest loan for any purpose is Haram. Interest, as defined being an increment in a loan, is forbidden in the Qur'an and it is one of the gravest sins that invoke the Wrath of Allah. This applies not only to taking interest but also to its give, writer and contract witnesses as our beloved Prophet said (every authentic saying reported by both Bukhari and Muslim. Of course, there may be circumstances of necessity or its like, where taking an interest loan may be justified, such as the residence house that is needed by a Muslim family where there is no Islamic financing available. It is obvious that there is no necessity to expand one's wealth!
If one inherited a property that is ridden with an interest loan, one would be required to rid it from the Haram as soon as one can, otherwise one would be sharing in the Haram activity.
Wa Allahu A'lam
Wa Alhamdu Lillahi Rabb al Alamin
Wassalam
Prof. Dr. Monzer Kahf

From: Samy, Islam on line
Sent: Thursday, January 03, 2008

Question: Taking a Loan to Buy a House

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh,
I am not able to buy a home by the money which I have. Can I take loan from bank to make home. Thanks and Jazaka Allahu Khairan.
Jazakum Allahu Khairan for your constant help

Yours, Sami

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Haneef

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Loans with interest are Haram whether for houses or for any other reasons. Of course, we have the rule of necessity that may relax a prohibition. I don't see in the question any discussion of any necessity or the place where residence is been purchased. UAE has several Islamic banks and they all provide for Shari'ah compliant home purchase financing, a fact that make it not necessary in UAE to use interest finance!

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2007

Subject: Buying a House in North America

From: Yasir

Sent: Saturday, December 15, 2007

Question

Aslam Aleikum Uncle Abu Yaman,

First, I wish you and your beloved a mubarak and prosperous Eid. May Allah Almighty accept our good deeds.

A brother who used to live in Edmonton, AB told me that you were there sometime ago and delivered a lecture about buying house through mortgages. The brother told me that you have mentioned that the contract can be sharia compliant with three conditions. Would you please elaborate on that and en light me please. If you have text in Arabic it would be better.

This is a grey area, or a shubha. I have been thinking about it and reading and hearing from those who allow it and those who forbid it. One brother told me that buying a house through fixed interest rate is the closest to being sharia complaint. Is that true? Others say that this is the way it is in North America and we should go with flow.

Kindly, at your convenience en light me with your valuable opinion.

Jazakum Allah kheiran wa Ahsan ilaikum. Warm Regards,

Yasir

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Yasir
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Buying a house through fixed interest is the EXACT RIBA THAT IS PROHIBITED IN THE QUR'AN. This makes it the farthest from Halal. It is true a Shari'ah complaint not a Shari'ah compliant! And... we don't go with any Haram because it is "the way in North America, do we..." It may become doable under conditions of necessity or quasi necessities. Since you know the controversy and arguments about it I will not elaborate here.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: Commercial Real Estate Loans
From: Saleh
Sent: Thursday, November 22, 2007
Question
Assalamulikom Sheikh Mozer,
My wife and I purchased our first home using cash. We took out an equity line of credit on this home, with which we used for home improvements and to invest in a rental property. We then took out another equity line of credit on this rental property, which is not being used. Our plans are as follows: to purchase a mobile home park using a commercial loan, which requires a down payment. We planned on using the unused equity line of credit to cover this down payment. In order to be approved for this commercial loan, one must have good credit, a down payment of 20%, and the business that we plan to purchase must meet a specific requirement of appraisal/net profit. The bank also must approve the business plans in order to assure that the business has little chance of failure, this way providing security for both the business owner and the bank, because if the business fails, the bank will be forced to liquidate the business and will also have to take a loss. Once approved, the owner assumes complete responsibility of the business and is expected to compensate the bank by paying interest on the loaned amount. We feel as though the economy in which we live in today makes it nearly impossible to invest in one's future without using a loan to start up. In my specific situation:
1. I must work for someone for several years while trying to save up enough money to branch out on my own. Or,
2. Since I do not have a high educational degree, I would be stuck working minimum-wage jobs, which would put hardship on my wife and kid.
Or,
3. I may choose to invest in my future by furthering my education, which I would be forced to pay for with a loan. Even upon graduation, one cannot begin a business in his field of specialty without starting it up with a loan.

After considering the struggles one would encounter if prevented from using a loan to invest in one's future, we hope to receive a fair answer on whether the equity line of credit and/or the commercial loan is permissible in Islam. Jazakum Allahu Khairan,

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina

Muhammad, wa ala Aalihi wa Sahbihi Ajma'in

Dear Br. Saleh

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

What can I do to you other than saying that Islam prohibits Riba and that interest in all these transactions that you've done is the same Riba that is prohibited in the Qur'an. Many and in fact a great deal of Muslims in North America are managing their lives without interest except you!

Wa Allahu A'alam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Prof. Dr. Monzer Kahf

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ubject: Buying a House with an Interest-Based Mortgage

From: Moustafa through Islam on line

Sent: Thursday, November 08, 2007

Question

As-salamu 'Alaikum, Dear scholar, I have bought a house with an interest-based mortgage in an attempt to provide more security for the family, at a time when I was ignorant about our religion. Now, however, I have realized that this was a bad decision and I would like to correct this and hope for the forgiveness of Allah. My question is about how to correct this situation: 1) Do I have to get rid of the house; sell it, keep my part of the capital and donate the remainder? 2) Or can I "re-buy" the house? I mean, can I, after subtracting my part of the capital from its value, donate the remainder and consider the house as my lawful property? Can I do this in installments, i.e. donate a sum

each month until I have donated the full amount and consider then that I have bought the house correctly? If this option is valid, are there any conditions that would apply? Or is option 1 the best and should I get rid of the house? Are there any other options that I could consider in my specific situation? Alhamdulillah, I am able to pay rent but I live in Belgium where we have no Chari'a-compliant financing possibilities to buy a house. Jazak Allahu Khayran

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Moustafa

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Now that you have the house, and you need a residence for your family anyway, and that there are no Shari'ah compliant facilities where you live that may help you buying it, What you've done is done and there is no sense in undoing it because you, like any other Muslim who has a family in circumstances likes yours as a small minority with no ability to create Islamic finance facilities, need a residence to live in and Allah does not intend to make us all, as minorities, live in rental places, this is not the intention of the prohibition of Riba. This gives room to the known Fatwa that under such circumstances, buying a residence on Riba becomes tolerable. The repentance from Riba require to give up what you earned from Riba, in this case you paid Riba rather than gaining it. Keep the house if you need it, it is a security for your family and its future, give as much as you reasonably can as Sadaqah because Allah promised that good deeds take away the bad doing إن الحسنات يذهبن السيئات and pay the rest of the debt that is still on the house as soon as possible in order to rid yourself of Riba and pledge between you and Allah to avoid interest in the future.

Wa Allahu A'alam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Subject: Working as a Mortgage Advisor

From: Salman through Islam on line

Sent: Wednesday, November 07, 2007

Question

DEAR SIR, I WOULD LIKE TO ASK THAT WHETHER IT IS A HALAL WAY OF EARNING TO WORK AS A MORTGAGE ADVISOR. I HAVE SHIFTED TO UK AND WANT TO DO MORTGAGE ADVISOR COURSE SO THAT I SHOULD WORK AS A MORTGAGE ADVISOR. PLEASE ADVICE.

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Salman

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

If you'll only advise person of which offer may have less material advantages, it is not specifically Haram. But if this job, as usual, requires that you fill in application and help processing, it is certainly covered by the Wrath of God as it becomes a part of writing interest contracts.

Wa Allahu A'alam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Subject: Selling a House Bought on Interest

From: Hamza through Islam on line

Sent: Monday, September 24, 2007 12:58 AM

Question

Assalamalaykum my question is about interest I know today's interest is Haram to take so what should a person do in a case where he has accepted that its haram and lets say he has a house on interest back from the days of ignorance(4-5 years ago) that he rents out to someone and he wants to sell it to get out of this situation but the tenant is having a hard time finding a new place so its taking time months so far does a person abandon the house or continue to wait and be patient until the tenant moves so he can sell it and then be done with interest. I need advice I fear Allah swt and I dont wanna anger him but I'm taking actions but are they enough please inform me more on this inShallah.

Jazakum Allahu Khairan for your constant help

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. hamza

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

What was done in the past requires Istighfar and good deed including charity Since Allah, Subhanahu wa Ta'ala promised that good deeds removes bad ones.

On the other hand a part of repentance is to quit the Haram and pledge to yourself not to do it again. Of course, you are required to avoid hurting any body, the tenant included. You can give the tenant a note to vacate and give it a reasonably sufficient time to find some other place.

Wa Allahu A'alam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Subject: buying houses on credit

From: mahajan

Sent: Tuesday, July 03, 2007

To: monzer@kahf.com

Question

Dear Sir,

We are studing the Islamic economy. There is a disputed question arises: we are as Muslims, can we take credits from conventional banks in our country (Kazakhstan) to do businesses or to buy homes on credit. Some our educated brothers say that it is not allowed by Shariah, there is riba. This is disputed hard issue in our country among Muslims.

Please, provide us with comprehensive answer or send us your related articles to this issue. Thank you very much.

My Answer:

Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Br. Mahajan
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh
Any interest-based transaction is Haram whether it is for houses, businesses, cars or any other goods. Muslims are required to establish Islamic banks and companies that provide them with finance in accordance with the Islamic Shari'ah that is finance based of sale with deferred payment, lease or equity contribution. You are a Muslim country and you have to establish Islamic banks
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: question on Hajj and mortgage
From: Wael through Islam on line
Sent: Monday, June 25, 2007
Question
Dear Dr. Monzer, As-salamu alaykum
I have a house mortgage with a bank and expect to finish the mortgage payments within 3 years. The house at the moment is worth about twice the outstanding balance of the mortgage. All current payments are up to date. Am I allowed to perform Hajj now (with savings that I have) or should I wait until the mortgage is paid off?
Jazaka Allah khyran
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab 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
House mortgage is a long term arrangement. It is against future income not against present cash. Under normal circumstances when people take mortgage, their life style otherwise is not affected much, they continue going out for dinners, on vacations and spending their almost normal way as before. An evidence of this is the savings this questioner has accumulated while still under the burden of the mortgage, otherwise why didn't she/he pay immediately any amount left after spending for the house mortgage?
The implication of this is that both Zakah is obligated on these savings (with the conditions of Nisab and passage of a lunar year) and Hajj is also required if its financial and physical conditions are satisfied. We must keep in mind though that this is an interest-based mortgage and I assume that this person has taken it in accordance with the Fatwa that is based on family and personal general needs that are treated as

necessities. Accordingly I argue that Hajj is not only permitted but rather obligated if its other conditions are satisfied in the case of this questioner.

On the other hand, if we assume that the Fatwa does not apply to this case, it means that this person has been sinful in taking the mortgage and not making his/her utmost to pay it back and that now she/he wants to repent. In this case it is permissible to go for hajj on the ground that no deed affects the other although it is preferred for her/him to get rid of the sin by paying the maximum possible, including the money that may be used for Hajj, to reduce the sin of Riba.

Wa Allahu A'alam

Wa Alhamdu Lillahi Rab al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Subject: Buying a house on Standard Credit at a Swiss Bank with Interest

From: Karim through Islam on line

Sent: Monday, June 25, 2007

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

We are a Muslim family with one son living in Switzerland and only one of us is working. We are renting an apartment just fulfilling our needs since we are married (since 6 years). As the neighborhood and surroundings have strongly degraded and deteriorated, we would need to move. When starting looking for a new apartment, we have unfortunately realized that the rents for similar apartment have increased at least 32%. Once all the monthly bills are paid, and considering a new rent (if we would have moved), there is only a little left for savings or something unforeseen. We also do not have any property. By renting an apartment, we would never be able to save enough money to acquire a property for family security. If we would have to pay the new rent, we could possibly also buy an equivalent apartment with approximately similar monthly costs. Unfortunately and after a long search, we could not find in Switzerland an Islamic bank to provide us with the needed money to buy an apartment. Therefore, our question is: would it be in our case permissible to take a standard credit at a Swiss bank with interests? As we know Riba is forbidden and haraam, we are trying since a while to have a clear answer to our question by asking different Islamic sources about our case. Your response might be our last resort next to the Istikhara prayers we intend to do in parallel. We would really appreciate your response at your earliest convenience. Jazakum Allah khayran.

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Karim

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

I remember answering this question recently and I think it is wrong to shop around for a Fatwa. What you have to do is to shop around for an appropriate source of Fatwa and then ask once Mufti only. Fatwas are not for "compare and contrast"!
I argue that this is a typical case for the application of the famous Fatwa about Muslims families buying residences in the West that came repeatedly from different respected sources and I believe in it strongly. My answer is accordingly, yes, it is permissible in the case described to take a conventional mortgage for the residence for your family.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: Taking a Standard home mortgage at a Swiss Bank with Interest
From: Asmaa through Islam on line
Sent: Thursday, June 14, 2007
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
Our question is regarding Riba. We are a Muslim family with one son living in Switzerland and only one of us is working. We are renting an apartment just fulfilling our needs since we are married (since 6 years). As the neighborhood and surroundings have strongly degraded and deteriorated, we would need to move. When starting looking for a new apartment, we have unfortunately realized that the rents for similar apartment have increased at least 32%. Once all the monthly bills are paid, and considering a new rent (if we would have moved), there is only a little left for savings or something unforeseen. We also do not have any property. By renting an apartment, we would never be able to save enough money to acquire a property for family security. If we would have to pay the new rent, we could possibly also buy an equivalent apartment with approximately similar monthly costs. Unfortunately and after a long search, we could not find in Switzerland an Islamic bank to provide us with the needed money to buy an apartment. Therefore, our question is: would it be in our case permissible to take a standard credit at a Swiss bank with interests? As we know Riba is forbidden and haraam, we are trying since a while to have a clear answer to our question by asking different Islamic sources about our case. Your response might be our last resort next to the Istikhara prayers we intend to do in parallel. We would really appreciate your response at your earliest convenience.
Jazakum Allah khayran.
My Answer:
Bismillah al Rahman al Rahim
Alhamdu Lillahi Rab al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in
Dear Sr. Asmaa
Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Of course you should realize that we are talking here about the degree of tolerance different persons have because we both realize that Riba is prohibited and that buying a residence on interest is clear and apparent Riba.
The principle in Shari'ah, for appreciating and understanding the degree of tolerance (relaxation of a prohibition) is that whenever there is hardship that applies to a large number of people we treat this hardship as a necessity and therefore we relax the prohibition to the degree that removes the hardship. On the basis of this Shari'ah rule, more than one Fatwa have been discussed and issued in North America, Europe and Australia by very respected Shari'ah scholars and Conferences. I can understand your situation very well and I can tell you that there are many devout Muslims in the West who share very similar situation. So I can tell you, based on the info you gave about the family, its future financial security, the suitable neighborhood for its living and raising children, etc., If I were in your position I would go ahead and BUY ON CONVENTIONAL MORTGAGE. Your case, as explained, is a typical case to apply this Fatwa. I argue for it and I believe in it and I stand against those among us who pretend ""cold Taqwa"" and reject it because there is no Shari'ah ground for claiming that a Muslim family must live under the sufferance that is caused by not applying it.
Wa Allahu A'alam
Wa Alhamdu Lillahi Rab al Alamin
Wassalam
Prof. Dr. Monzer Kahf

Subject: Home Mortgage loan
From: Syed
Sent: Monday, June 11, 2007
Question
Assalam alaikum Brother Monzer Kahf,
I would like a few minutes of your busy time for this 'halal' product on home loans.
One Muslim Financial Institution offers home loans as Shari'ah-compliant. It is called musharakah mutanaqisah by them. What it does is fix a percentage as profit (equivalent to today's 1,2, 3 and 5 year mortgage term loan) and amortized over 25 years). When I check their calculator, the split between what they call 'rent' and 'principal' is IDENTICAL to the penny with a conventional mortgage calculator. The terms need to be renewed after the expiry of the 1, 2 3 or 5year term as the case may be just like a conventional mortgage. This institution apparently borrows money from a Credit Union and retails it as home loan but considers the lending as 'partnership'.
Their product has been considered 'halal' with fatwa issued by many prominent Muslims in the Toronto community. I personally feel uncomfortable because the whole concept is exactly similar to conventional mortgage except that the interest portion has been named as 'rent' by them.
I have not named the Institution's name on purpose, but if you need more info, I can refer you to their website so that you may make an informed decision.
Thank you Brother Kahf for looking into my question.
Syed

My Answer:

Bismillah al Rahman al Rahim

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

Dear Br. Syed

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

1) I can understand to the fullness, your worry and the similarity that you mention. When I was last time in Ottawa, I met some of its officers and they assured me that they do not borrow money from the credit union but they made arrangement with it to give them also a line of credit on similar grounds to the way they provide financing to you and other Muslims. I say this just to correct a statement you mentioned although it is none our your concern as a Muslim if you make a transaction with any other party to ask that party where and how do you get your money. Do we know whether the bakery buys its fours and salt on interest loan? or the house you rent is also purchased by the land lord with an interest loan? or any other transaction with any other party is financed by the other party on interest? Don't we always go to conventional banks and make ""permissible"" transaction with them without asking about their other transactions that they make with other person? And we would be very happy if we succeed in convincing a conventional bank to give us financing by means of a contract that is consistent with Shari'ah? If a Muslim person gives us the same we MUST also not ask the question of ""where did you get your money from"".

2)The similarity alone is not a reason for judging the contract whether Halal or Haram. If you look carefully in the Qur'an [2:275] you will notice that the Verse does not deny similarity that was used by unbelievers to claim that Riba must be permissible because it is similar to sale! Instead of denying similarity the Verse went on to say that one is permissible and the other in Haram. This tells us that we must look and the issue from all its aspects: similarity and differences together, not similarities alone!

3) To the best of my knowledge, the organization you refer to uses a contract of ""buying the house together and renting its part to the customer"" for the number of years you mentioned and later you can renew the rent for an agreeable rate of rent or rent it to another party or sell it. Of course we must realize that this is not like a company that owns houses and rent them. The difference is that it buys, along with you, the house of your choice in order to rent it to you. This means that it has the right to tell you "" I never wanted to buy this house and I did that only for you and on the basis of your commitment that you are going to rent it and buy small portions along with the renting (Musharakah Mutanaqisah), hence if you decide to back up at any point of time you will be forcing me to liquidate at a time that is not convenient to me and then in that case you will have to carry the result of any financial damage you cause to me!

4) If the contract says ""buying and owning together and renting its part to you with the ability to renew the rent later at different rate"" the contract is correct and Shari'ah compliant inspite of the similarity in numbers as the calculator tells! I think the contract you refer to says what I just mentioned and if so the endorsement by those scholars in Toronto is justified and respected!

Wa Allahu A'alam

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

Subject: Buying apartment for children on interest
From: Rabi through Islam on line
Sent: Sunday, May 06, 2007
Question
Dearest Dr., As-salamu alaykum
I would like to have a clear answer if possible on the following issue:
I'm Canadian citizen (of Arabic origin) working in Abu Dhabi -UAE . I have two sons studding in Edmonton Alberta , Canada and the third son will follow them next year.
I would like to buy an apartment for them near the University to stay in it for their studying period and we may use it on later stage.
I do not have enough money to pay the full amount and the only available financing is through the bank. Jazakum Allah Ana Khayran.
Rabi
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Rabi
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
It seems to me that this desire of this questioner does not warrant the application of the exceptional Fatwa for Muslims in the West. The reason is that this Fatwa is based on real need that apply to a large mass of people and we therefore treat such needs as similar to necessities in regard to relaxation of a hindering prohibition. Buying a house or residence for your children while they are studying at the university is not such a need, most student live in rented rooms and residences, they don't really need to buy a residence. The essence of the Fatwa is based on needs for good schooling, security, quality of social and environment life, etc. All these I don't find them in the question's case, whereby the family lives in Abu Dhabi and adult children will go to a university!
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: business mortgage
From: Ahmad
Sent: Tuesday, May 01, 2007
Question
Alsalam alikoum

I took a mortgage loan to start a business. I didn't use any money from the profit of this business, but I kept it aside in a separated banking account.
I'd like to know if there is any way to make this profit halal?
Since I started working, I record all the hours I spent working in this business. if I pay my self the minimum wage per hour as if I was working for stranger this salary will be halal or not? Thanks and alsalam alikoum.

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ahmad,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
The sin of signing a Riba contract and of actually paying Riba requires sincere repentance on your part and continuous Istighfar and good deed as Allah promised that good actions would wipe out bad ones. If you have the business before taking the loan, the difference in profit between the period before the loan and after it is attributable to the increased assets financed by the loan. If you give that difference for Muslim charity that must be sufficient InShaAllah to keep your own business clean. But if you all the business is financed by interest loans, your assumption of a fair compensation for your work seems reasonable and what is extra may be given to Muslim charities.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a house through Islamic Banking System
From: Salem
Sent: Tuesday, April 24, 2007

Question

Dear Dr. Kahf, Assalam Alykum wa Rahmatul-Allah wa Barakatuh
First of all, I would like to thank you for your efforts for serving Islam and Muslims across the world. I'm writing you regarding buying a house in Oman through an Islamic Bank.
We here in Oman have no Islamic banks nor Islamic transactions thru regular "commercial" banks. The CEO of the Central Bank of Oman announced recently said in a paper that the government is not planning to introduce the Islamic banking system in the country.
I've came across a financing company from the Kingdom of Bahrain that can finance buying a house for me in Oman. They work as the guarantee party for me to get a loan from the Bahrain Islamic Bank. They cannot buy the house for me in Oman but they can transfer the money of the house to my account in Oman. In order to make things ""halal"" [according to them], they buy diamond in Bahrain [worth the same amount of money of the house] on behalf of me and they again sell it to another party [The bank

representative said that this transaction is monitored by their Islamic advisory committee]. He also mentioned to me that I can have the diamond and I sell it through my own way. He said that they have a fatwa that says that this is isalmically halal. They call this transaction "Tas'heel (تسهيل [my friend told me that is called tawaruq in Isalm]
My question is ""Is it OK for me to take this money for buying my house in Oman? Please note that they apply a fixed profit rate on this money over the period of the loan. Please note that this is considered as my only option to buy a house. I've been renting for about 15 years because I cannot buy (or build) a house on my own and I don't want to get a Riba loan from banks.
I hope I've explained the case well. I appreciate your inputs on this matter.
Assalam Alykum wa Rahmatul-Allah wa Barakatuh. Your brother,
Salem

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Salem
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
It is unfortunate that the Government is not introducing Islamic banking in Oman. I really am surprised by this position and behavior especially that the neighboring Dubai has so much of Islamic banking and so much of excess liquidity that Islamic banks would love to invest in Oman development.
Your friend is right this is called Tawarruq and each bank gives it its own sub-name. This is pure Riba hidden under a different name although we have, unfortunately, some close minded Shari'ah scholars who approve of it as it looks, on the paper, as pure sale and buy! All respected Scholars know it is Riba and do not accept it.
I suggest that you should find some other means of financing through the land developers and builders, sale on installments that is very common in all Arab countries.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Working for a Company Providing Mortgages
From: Ehab through Islam on line
Sent: Monday, April 23, 2007

Question

Alsalam Alaykum Can you pls. explain if it is lawful (or not) for a Finance Manager to work for a company while one of its branches of business is providing mortgages. The company has other branches including import, export and manufacturing. However, the Finance Manager is responsible for all financial mattars for the three branches. Jazakum Allah Khayran

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ihab
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
This kind of question is very difficult to answer because no matter what one does one remains tainted with interest. We must remember that The Prophet, pbuh, warned us of this kind of situation in his Saying that there will be a time when even those who avoid Riba they will be touched by its dust.
I suggest that a finance manager should observe two basic principles in this regard. One, he must avoid signing or authorizing any interest-based contract because that is covered by the expel from the Mercy of God (the La;nah) that is mentioned in an authentic Saying. Second, he should apply the majority rule. if most of what he does relates directly to interest his job becomes non-permissible but if the majority of his time is used for permissible transactions his job becomes permissible.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

-**Subject: Buying House and Car with Interest**
From: Through Islam on line
Sent: Thursday, March 22, 2007
Question:
I'm a Bangladeshi but recently moved to Singapore for job purposes. My worry is, relocating to a non-Islamic country for job purposes was not an ideal choice in the 1st place. And since I?ve relocated already, is it permissible to buy house and car with interest based bank loan in a non-Islamic country, assuming I plan to live here for longer-term (probably not for rest of my life)? Or is it better (from Shariah point of view) to keep paying rents & use public transpiration? Highly appreciate your answer.
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Noor
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
The prohibition of interest is not restricted to Muslim countries. It is restricted to Muslims. Therefore, any Muslim anywhere is required to abide by the Shari'ah as much as she/he can keeping in mind that giving interest is as prohibited as taking it and the Prophet, pbuh, said (The Wrath of God is on the taker of Riba (Interest), its giver, its writer and two witnesses).
Besides, in Singapore, you will be much better off using the public transportation for moving in this small city with very efficient public transportation. And, there are several

Islamic banks, some have already opened, licensed over the last two years. You can deal with them for house purchase.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Getting a Riba Mortgage to Buy a House
From: Oum Muhammed Through Islam on line
Sent: Monday, March 12, 2007
Question:
Essalam Aleikum We live in Canada together with my spouse and two children, Elhamdoul'llah so far we have respected every basic aspect of our beloved religion, but lately as our kids have reached the age to be schooled we chose an Islamic school they can go to which unfortunately is paid and not free. since we are not compromising on our kids education we are willing to pay the price no matter how high it is. However, we are renting a small apartment right now and may have to move to get closer to this Islamic school which means that our rent will increase as the schools are usually in residential neighborhoods. We both work so that we can afford both rent and education which take more then 2/3 of our combined salaries. This is why we cannot afford to save for a house the Halal way. Now that I have exposed my situation, I would like to ask you djazakoum allah kheiran whether this is enough for us to seek a riba mortgage to get the house close to the Islamic school and save the money we waste on the rent. May ALLAH Reward you!!
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sister Oum Muhammed,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
According to the explanation you provided it seems that your situation exactly fulfills the conditions mentioned in the famous Fatwa of the Second International Conference on Fiqh that was held in Detroit in the Fall of 1999. It means that if you have no Islamic financing in Canada or if the conditions required by the Islamic financing can't be met by you, it would be permissible for your family to buy on conventional mortgage.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Creative Housing Solutions
From: Sharafe

Sent: Friday, February 23, 2007

Question

Assalamu Alaikum Shaykh Monzer,

I appreciate your help in evaluating various contracts and schemes may Allah reward you and increase you in knowledge and understanding for your efforts in His Way.

Here's another program I found and I was wondering if you could take a look at "how it works" and give me your preliminary thoughts, if it's worthwhile I can pursue it further and get a copy of the contract. The link is:

http://www.chsicanada.com/program/howworks.html

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Sharafe

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

The lease part of it seems permissible and the promise to sell seems also permissible. Beware, what I read on the web is incomplete and there are things apparently hidden, it seems too good to be true there must be a hook somewhere in the process or the pricing, otherwise, ask yourself: what is the benefit of the company and why does it offer this to you, go deep in understanding it before you make any commitment and if you want me to see the contract later I will be glad to look at it.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying House Through Bank Mortgage

From: Faten through Islam on line

Sent: Wednesday, February 21, 2007

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

I want to buy a house inshalah , there is an Islamic association that can buy the house with applying Shar?ah , but my problem is I have to pay a percent which is around 40,000 $ (which I don?t have and no one would loan me this amount of money) and I can?t benefit from this solution unless it is through them. My question is can I buy the house directly through the bank (Mortgge)? With knowing that I have an apartment in Lebanon but not finished and my husband works here and we are settled here. Wa Jazakom allah khair

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Faten

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Living in Canada if you believe that your family needs to buy a house and the Islamic financing is not available to you because of any reason as you mentioned, you may resort to conventional mortgage for buying the residence. This is the essence of the Fatwa of the Second International Conference on Fiqh that was held in Detroit in the Fall of 1999.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a house on mortgage
From: Mahmoud through Islam on line
Sent: Tuesday, February 06, 2007
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
Al Salamualykum I live in USA and I am planning to buy my first house to live in. I was not sure about what is the right thing to do and not be considered as ?Haram? regarding taking a mortgage. Recently I found out that I can buy the house through an Islamic mortgage company which apply the ?Mosharkah? concept; however, based on their calculations it is going to be very difficult for me to afford the payment compared to the other American companies. I have read some fatwas but I am still not sure what to do especially that I need a bigger house for my family, and renting a house will cost almost the same as buying a new house. Jazakum Allahu khayran.
Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mahmoud
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
The Shari'ah does not require us to buy at a higher price because the offerer of financing is Muslim and it is offered as compatible with Shari'ah. In fact the Companies that offer Islamic finance must act in a very competitive manner with regard to their prices, rates and conditions, why not the company makes the some sacrifice? and they ask the customer to accept higher rates!
If you need a house and do not find Islamic finance at competitive rate you can go for conventional finance according to the Fatwa of the Second International Conference on Fiqh that was held in Detroit in the Fall of 1999.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,

Dr. Monzer Kahf

Subject: Having a Job of Selling Mortgages

From: Muhammad through Islam on line

Sent: Thursday, February 01, 2007

Question:

DEAR SIR, ASALAMUALAIKUM, I WOULD LIKE TO ASK THAT I AM INTERESTED IN DOING A COURSE DUE TO WHICH I COULD SELL MORTGAGES AND AFTERWARDS I WOULD LIKE TO DEVELOP MY CAREER IN SELLING MORTGAGES AND INTERMEDIATING BETWEEN THE LENDER AND BORROWER, PLEASE CONFIRM WITH AUTHENTICITY THAT WHETHER MY CAREER AND DOINGS WOULD BE BASED ON HALAL INCOME? PLEASE ADVICE PROPERLY AS ITS A METTER OF MY CAREER.

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Salman

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Studying mortgage and how it is done and relations between lenders and borrowers in housing and other transactions is permissible. On the other hand working as a mortgage officer whose main job is to intermediate between the lender and the borrower in making interest-based mortgage is Haram because it is included in writing interest-based contract and being a witness to it. These both jobs are mentioned in the very authentic Saying of the Prophet, pbuh, that is reported by Bukhari and Muslim to the meaning that the Wrath of God is on the taker of Riba, its giver, its writer and its two witnesses. Working as a loan officer or a mortgage officer requires you to be the main person in making the contract and normally you are the writer of it for the borrower. This job is not permissible according to Shari'ah.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: House buy for cash and sell/lease

From: Amadu

Sent: Thursday, February 01, 2007 7:01 AM

Question

Dear Dr. Kahf, AS-SALAAMU ALAIKUM WARAH'MATUL-LAAHI WABARAKAATUHUU

We approached a finance company here in the U.A.E. for funding for a project. They have requested that my friend give them the details of the house he owns so that they will give us financing by means of buying the house he lives in and giving us cash.

I know they will try to get some extra profit of of this trade? What is there a shari'a compatible formula that they can use? Thanks in advance

Amadu

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Amadu

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

It seems that what the bank wants to do with you is to buy the house from your partner for cash and lease/sell it over a period of time (say 5 or 7 years). This is a trick that is a kind of Tawarruq that is approved by some narrow-minded Shari'ah scholars but disapproved by the great majority. To me this transaction is worse than Riba because it hides Riba at a higher cost.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Loan for purchasing house

From: tariq

Sent: Wednesday, January 03, 2007

Question

Dear Brother Monzer, Asalamualikum

I am from India and I want to know about buying a house from an interest based loan.

1. I do not own a house presently and am living in a rented house. I know it is not permissible for us to take interest based loans. But I have read from your various Fatwas which mention an element of necessity makes it permissible. My specific question is with regard to what can be described as a necessity? I am planning to try other sources to buy a house. Please pray for me that I do not have to buy this house through an interest based loan.

2. You have once mentioned that there is an Islamic Bank in India. Can you please name it? What are Shari'ah rulings on living in a house on lease basis. I have heard various people stating that this is not permissible in Islam since the lease amount is returned to the tenant on expiry of the lease period and the landlord does not get any money for leasing his house since there is no monthly rental.

3 Is it better to put one's money in a current account and earn no interest at all or put it in a savings account and give the entire interest amount as charity? Wasalam

Tariq

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Tariq

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1- My understanding is that the Fatwa on necessity for housing must not apply to India because of the very large Muslim community and its ability to create Islamic finance organizations and companies. Making it easy discourages that. The Fatwa is for small Muslim minorities who are scattered in non-Muslim countries with no Islamic finance institutions and inability to negotiate Islamic contracts with conventional companies/banks. It is only for housing.
2- On the other hand I heard that the Islamic Fiqh Academy of India issues a similar Fatwa for Indian Muslims. Don't take me as a source, check with some reliable 'Ulama in India.
3- There used to be a quasi Islamic bank in India under the name of Amanath but it seems that it went out of business.
4- I wouldn't advise to put large sums in conventional banks. But if you have to do that for a transitory period, it is better to put in savings and give the interest to Muslim charity. For small amounts checking accounts seem to be better.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: second mortgage
From: Benhima
Sent: Tuesday, January 02, 2007
Question
Assalamu alaykoum.
In cha allah I am planning to buy a taxi license in Laval Quebec Canada, I explained to the bank the Islamic rules, they accept to make a contract not mentioning interest rates ,they will calculate it according to their way which is a 5.15% interest rate, but in the contract they will write as an exaple that the 200,000 $(my house as a guarantee)which is a second mortgage loan will be payed 250 000$ in 7 years .or 5.15 represent administration fees, I tried Islamic financial institution in Canada as MIJ but they no money available.
I appreciate very much to have an answer this week before January the 5th 07
WA ZAJAKUM ALLAHU KHAYRAN WA ASSALMU ALAYKUM WA RAHMATU ALLAH
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Benhima
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Interest is an increment in a loan. This is exactly what is called Riba in the Qur'an. Any increment in a loan is prohibited and it is Riba no matter what it may be called. In fact all over the Arab country it is called "Fa'idah" and in Saudi Arabia it is called" Umulah." both are good words that do not mean Riba from a language point of view. Names do

not change reality both are Riba as mentioned and defined in the Qur'an in Verses 2:275-279. In a mortgage contract calling interest administrative charge does not change the truth of it, it is still interest and Prohibited. To explain it a little more, the cost of writing a loan contract and administering it is of course the responsibility of the borrower. Giving a loan is considered an act of benevolence that deserves thanks and reward from God but any charge that result from giving it like the value of paper and wage of writer are to be carried by the beneficiary of the loan. While you can charge the debtor for the cost of the loan you cannot hide under this cost a ""price for the money"" which is interest. Obviously a 5.5% is not a n administrative cost, it is interest! Administrative cost may be only a few dollars!

Why not going for a lease or for financing from seller, I've seen installment sale contracts from car dealers in Toronto that are exactly compatible with the Shari'ah although the dealer calculated the installments on the basis of interest, that does not matter! the space does not warrant a detailed explanation of the difference and why installment sale is permissible while a loan with increment is not. You may need to make some homework to get a full grasp of it. the difference is very important though!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

From: A. Benhima

Question

Bismi allah al rahman al rahim

Al salamu alaykoum wa rahmatu allah I taala wa barakatuh.

May allah accept your efforts and time devoted to spread the Islamic values and teaching especially this time.

What I understood from your email that the contract with the bank is haram.

There is some taxi owners sale with 14% interest for 9 years you pay exp 850$ per week.

The Islamic financial institutions as MIJ their charges are based on the value of the rent which is 650$ per week in LAVAL Quebec.

Dear brother al hamdu lillah I finished the payment of the house and as I mentioned the bank wants to give 200000$ for the house(will be sold to the bank)and the bank will engaged to sale me the same house in 5 to 7 years and the price will be exp 250 000$.

In the contract the interest won't be mentioned, but the bank will be calculating their profit or interest on 5.15%.

Please advice me. Again may allah accept your efforts. Wa jazakum allah khayran

Wa assalmu alaykum wa rahmatu allahi taala wa barakatuh

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Benhima

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I cannot make decision for you, it is you who decide for you and no body else. Of course 14% is a steeling not financing. On the other hand if the bank buys from you for 200,000 cash and sells you for 250,000 on installments, this is called Bay' al 'Inah and it is prohibited in Shari'ah because it is in fact interest. I can't mold the Shari'ah to fit your financing. I am definite there are means available to persons in Canada to buy cars for taxis or otherwise that do not involve loan and interest. Financing is permissible in our religion but financing by means of loan with increment is not permissible.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2006

Subject: Claiming interest deduction in leasing/purchase
From: Zaid
Sent: Monday, December 11, 2006
Question
I want to know how to lease option a house but have the owner structure the contract so that there is no interest in it. And still have the seller benefit by being able to write off "interest" in his taxes and benefit from not getting the full amount all at once
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Zaid,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Now I understand the question, thanks to your explanation and the attached form.
The way to do Islamic seller financing is to sell at a price that includes the mark up. Reporting to IRS can be as financial charge, it they call any financial charge interest that is their problem. Fulfilling the requirement of implied rate of interest, schedule of amortization and what not can be done with the word ""financial charge"" which is taken in the conventional context as interest but it is permissible in the Islamic context as part of the price. You will have to use the same forms that the IRS require for interest, and that is ok as long as the contract is clear being not a loan but a deferred price. Living in this country and any Western country that is saturated with interest, although they claim being Christian! We have to use words that have double meaning in regard to financing because the Islamic finance is not one that provides credit free but it is one that refuses to provide it on lending basis as loans do not create money!

If you want to do it the right way, you need a lawyer who can cooperate with a person like me to formulate a contract form that is both within the laws here and within the Shari'ah too. It can be done but it cost a fortune and only banks who will make many contract out of it can invest in this exercise.
For you what I suggest is: make a draft on the basis of what I mentioned to you and the form you sent me and email it to me, I may suggest certain changes and we'll go from there.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Using State Allowance for Housing Purposes
From: Adzin through Islam online
Sent: Thursday, November 30, 2006
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
May Allah accept your help. My wife is Muslim almost five years, around the time she entered Islam, her father (non-Muslim) created a Building Saving account for her in a Bank and during this period, he was the one sending a fixed amount to her account. The Building Savings is a government-subsidized product (donation) designed to support housing needs. So there is a State allowance plus a 2% interest from the bank itself. The Interest from the bank we believe it is harram and we will get rid of it inshaALLAH. The question is about the state allowance, what is its status in Islam? Today, alhamdulillah we are not in an urgent need to buy a house, we are planning to move to another country next year inshaALLAH, could we use this money for housing purposes then? An other issue with her father :-), from her birth he is having for her a life insurance so if anything happens to her, her parents will receive some amount of money. As I got to know, interest is associated with it, what do you recommend in this case? I believe that her father has been having good intentions when he created such contracts. However, my wife wants to be in the safe side. We are planning to go to Hajj inshaALLAH this year, please make duaa for us! Thank you! Wassalam
Visitor Notes: My wife is czech and we are living in Czech Republic. Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Azdin
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
First, May Allah accept your good intention and your coming Hajj, both of you.
1. Just as you said, the interest the bank gives on this saving account is Riba and it is Haram because it is her account and a Muslim must not earn any Riba. What you do

with it, give it to a Muslim charity to be spent on the poor and needy, it is not Haram for them because of their need. (If the account is in her father's name and at any future point of time he gave her a gift, say the total money in such an account, we don't go into what details it consists of, and she can take the gift of her father without asking him about the source as long as it is legal according to the prevailing law in his land).

2. The government subsidy is HALAL, it is permissible because it is given according to law. Any government may give some one some amount of money, as long as it is not a bribe or not to tame an action that hurt others like retention that is done by American CIA, that giving is permissible and accepting it is also permissible in Shari'ah. That is you can use this government subsidy for any purpose, of course within the law.

3. The insurance policy: Most life insurance policies have interest element in them that make them not permissible for Muslims. In the case of your wife, it is not her policy, she is not the owner of of the policy nor the beneficiary. It is her family's policy, and her parents are not required to follow the terms of our religion. Your wife has no sin at all in regard of the interest element in this life insurance and she does not benefit from it any way as the benefits will be received if she dies. This policy may have a clause, that is typical in many insurance policies that says: should the insured stay alive after a number of years, the face value of the policy will be paid to her. If the policy has such an article when your wife receives the amount of the policy she will then be required to give away to Muslim charity the accumulated interests in this amount (this is easily known and you get this info from the insurance policy, it may also be mentioned in the contract itself.). In other words, she can take the amount paid by her father plus the return on it if it was invested in permissible manners.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Mediation in Riba-based Mortgages
From: Sr. Nawal through Islam online
Sent: Wednesday, November 15, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I have recently started business as mortgage broker. Assisting people and small business in getting loans. Either for personal use or investment. Q1. As Mediator is integrate part of the mortgage transaction. So that will qualify him/her to be a witness or a writer, who is mentioned and cursed by the Prophet (peace and blessings be upon him) in the Hadith Q2- Is purchasing house/ investment & Business via Finance/interest is considering Riba for Muslim who lives in non-Muslim country, such as USA. And what the definition of riba? Please kindly specify your answer regarding those matters, since your prior answer regarding those matters was slightly confusing to me at your prior fatwa on line.

Visitor Notes: Dr. Monzer Kahf, I need your gaudiness. I know it's hard to say haram / or halal but I need your help. And please feel free to email me Nawal@young-mortgage.com. I need to make decision right now. And the fatwa below really very confusing to me PRIOR FATWA -----When you mediate in Riba-based mortgages, I cannot say your service and income are specifically haram because this is not specifically one of the four cursed persons as mentioned by the Prophet (peace and blessings be upon him): the taker, the giver and the two witnesses. But I don?t want to just say that because it is very close to being a witness or a writer (the word?writer? came in a version of the Hadith. Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Nawal
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I say clearly: working as an interest-based mortgage broker is much closer to be Haram than permissible for the following reasons: Living in the USA, there are many Muslims for whom going for interest-based mortgage may be permissible but you can't restrict your services to help these only, can you? While giving advice on which mortgage is less expensive is not Haram, a mortgage broker can't avoid writing a mortgage application, carrying for processing and very often signing it as a writer or adviser. I therefore go for avoiding this kind of a job for any Muslim.
Interest is clearly and definitely "any increment in a loan." If there is no loan, there is no interest. Here what matter is the fact not the form but financing with reward is not Haram in Shari'ah although it may appear, in figures, similar to Riba, as Verse 2:275 refers to.
Finally conventional mortgage as practiced in the USA is Riba-based not a single drop of doubt about it. However, we can formulate Shari'ah-based contracts that appear to a superficial person similar to interest.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: house loans

From: Diana
Sent: Wednesday, November 01, 2006

Question

Asalam Aulikum,DR. Monzer,
My Brother in law stated you had told him he doesn't need to refinance his home? I was planning to refinance the house with DEVON Bank under the Murbaha Contract.
I recall 2 years ago you had insisted that the loans that were done were all Haram. I am curious on what bases is it now permissible? Kindly let me know, Jazak Allah Khier,

Diana

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Diana,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

I don't remember what I said tow years ago in Austin but I doubt I said that house financing is Haram outright. Details as follows:

1. Interest-based house and other financing is definitely Haram because interest is the same Riba that is prohibited in the Qur'an and the Sunnah.
2. Housing is an essential Human necessity and there are many situations where buying a house (in contrast to renting that fulfills the basic necessity too) is very much needed (although it is still below the level of necessity). this need applies in North America to the great majority of Muslim families for many reasons that include: quality of schooling, security, residential stability, reasonable minimum comfort, taxes, financial stability and building equity, etc. The rule in Shari'ah is that A NEED THAT APPLIES TO A LARGE NUMBER OF PEOPLE IS TREATED AS IF IT WERE A NECESSITY.
3. Therefore, whenever Islamic financing is not available or not accessible (including being substantially more expensive), it is then permissible to resort to conventional mortgage in application of the principle that NECESSITIES CALL FOR RELAXATION OF PROHIBITION. This is the essence of the Fatwa of the Second International Conference on Fiqh in North America that was held in Detroit in the Fall of 1999 and was chaired by Shaikh Qaradawi.
4. What I mentioned to Bassel was based on this because he mentioned that it will be substantially expensive for him to switch at this point because the rate he got on his present house mortgage is very law. I also know that Devon Bank adds extra charge for Islamic financing!

Please feel free to write again if you need any more details and give my Salam to your father and husband.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: ISLAM AND INSURANCE Zakah and Mortgage

From: shabbir

Sent: Friday, October 06, 2006

Question

Dear Bro. Monzer, As-Salaam-Aleikum,

My name is Shabbir and I leave in Canada.

I would be very grateful if you could please advise me whether insurances such as Life and Medical are allowed in Islam.

Secondly, on the issue of Zakaat, if say in 2005 my cash balance in the month of Ramadhan was 30,000 and my debts were 10,000 and I paid zakaat on 20,000.00, what will be the zakaaat payable in the month of Ramadhan of 2006 when my cash balance has increased to say 40,000 from 30,000 but my debts of 10, 000 have remained the same. In other words my net worth has increased by ten thousand.
Third, is it permissible for one to buy a house on mortgage for personal use? Your favorable response will be greatly appreciated. Jazaak-Allah Your brother in Islam
Shabbir

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Shabbir,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1. Insurance is controversial, I stand with the opinion that it is permissible provided the contract is not interest-based and the subject of insurance is permissible (e.g., whole life insurance is normally interest-based and insuring a liquor shipment is not permissible).
2. Your Zakah question is not clear. Long term debts are not deductible from Zakatable assets when you calculate Zakah. If the 10000 debt of last year is the same of this year, you should have not deducted it last year. Now you need to to recalculate last year's Zakah accordingly and pay the difference and make this year on the same basis. A debt that is deductible must be one that is going to be paid in the future (i.e., after the day of calculation) but out of the existing assets on the day of calculation. Debts that are payable out of future revenues/incomes such as mortgage debts are not deductible. On the other hand, if the debt of last year was paid then a new debt arises that is going to be paid out of the 40000 you have for this year, then what you've done last year is correct and you can deduct the present debt if it is going to be paid out of this 40000.
3. Conventional mortgage is not permissible if Islamic financing is available to you. If Islamic financing is not available and you need to buy a residence and you don't have the amount readily available you may then resort to conventional mortgage and then you make your effort to pay it ASAP.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Bought a house on interest in the USA, What to do about already paid interest?

From: Mohamed
Sent: Thursday, September 28, 2006

Question

AlSalaam Alik Dr. Kahf

With my sincere apologies, I meant to ask you on a financial matter. I bought my house in 1992 with a loan from a local bank. Although I paid it off quickly in five years I obviously paid interest on the loan. What should I do regarding the interest, I think I can find out how much it is? Am I to pay Zakah on it? At the time I did not know of Islamic banks in the U.S. nor did I research the issue. JAK for your patience with me
Mohamed

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Dr. Mohamed
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I suppose you live in the USA and you have a family and children. Most likely the Fatwa about buying residences applies to you. It says that Muslim families in the West that need residences because of many reasons are permissible to use conventional mortgages if there are no Islamic financing available to them. The basis of this Fatwa is two folds: necessities call for relaxation of prohibition and needs (lesser than necessities) that relate to a large number of people are treated the same as necessities in this regard.
However, the General rule that I quoted earlier "Good deeds wipe away bad actions" is what applies here. There is no specific Kaffarah for Riba. For takers, returning the amount to due owner if advisable or to general charity if the payer was a Riba based institution and with it Istighfar and Repentance and making more and more of the good deeds, in prayers, fasting Charity, etc. For givers of Riba, obviously the last part only applies, i.e., Istighfar and Repentance and making more and more of the good deeds, in prayers, fasting Charity, etc.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House through Mortgage

From: Mohaned through Islam online
Sent: Monday, September 25, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I live in Canada, I bought a house through a mortgage four years ago, in those four years the price of the houses in my area doubled, this year with the renewal of the mortgage, I found it a good opportunity to increase the mortgage amount based on need for renovation, which is far lower in rate and more comfortable in payment than renovation mortgage. I took into consideration that it is as if I sell a share of the house to the bank?mortgage institute? I did many renovations but not all, because the other renovations will be postponed for couple of years, is it lawful to use this money left for

other purpose, as pay cars, mortgage payments?etc.? Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. mohaned,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I believe that renovation mortgagee is not covered by the Fatwa on the permissibility of getting a conventional mortgage if one does not find an Islamic financing for the necessary house to live in. Renovation is not necessary. Therefore the general principle still applies that taking an interest-based loan is one of the most grave sins in our Religion. The only way you can do now is to rid yourself of this additional mortgage as soon as possible by using this left over and any other funds toward this purpose.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Mortgages to buy investment property
From: Mohamed through Islam online
Sent: Sunday, September 24, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I am writing to you with regard to taking a mortgage to invest in a property to rent in the future
I own a property and live in UAE, the property i own is in UK and i am trying to buy a second one and may be more in the future to secure a source of income for myself in my old age and to my kids education in the future. I tried to go with Islamic type mortgages, however these type are first of all of a very high interest rate, non flexible, with non known banks (might end up corrupted), the use the concept of that the bank buy the property, then the bank will rent it to me for a 25 years, following to that you I will own the property. The non Islamic deals will also let me pay toward the property in 25 years then i can own the property by the end of the term (25 years), with lots of flexible approaches and easier to deal with.
I am finding it much easier to go with a non Islamic (even the so called Islamic bank use the same finance rules) bank to take a mortgage against buying a property. Please note that few years back even buying your first home using a mortgage was considered Haram, After Dr Qaradawi talked about it, it is halal now. does that mean that may be in a few years time the second house will be non haram because some body will think deeply that all the deals are the same??
please advise thanks Best Regards

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mohamed
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I don't think so! you know that buying a residence is a kind of necessity but attempting to become rich (even when you call it for retirement or for kids education!) is not a necessity, otherwise you will be discarding the text of the Qur'an that prohibits Riba. Further, the rule of necessity and its application to interest and other areas is as old as the Islamic Shari'ah itself, it is not a new development, evolution or change in the rules? There will be no change that will make what is Haram Halal, please be assured about it! Riba is prohibited and Muslims are required to abide by that and invent means of financing that avoid Riba. Besides, it is incorrect to think of the new Islamic banks as unknown or obscure, Islamic banks (there are 2 of them) in UK are licensed by the Bank of England and practice their financing in the open transparency under the supervision of the B of E. If their profit/rent rates are high now why don't you and your colleagues establish an Islamic bank and compete with them to reduce the rates?
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House through Non-Islamic Mortgage
From: Heiba through Islam online
Sent: Tuesday, September 05, 2006
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I am a muslim living in Europe. I need to buy a house through non islamic mortgage but I may move from my city in every 2 years or so to anathor city. My question is: Can I rent it?? then if not, what should I do?? GAZAKOM ALLAHO KAYRAN. Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Hieba
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
If you buy in accordance with the known Fatwa on buying residences and you find yourself qualified for this Fatwa, whenever you move to another area you don't have to sell that house and you can rent it. Obviously you are not abusing the rule by moving intentionally only for the purpose of buying another house and renting this one.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House in the Netherlands
From: A Brother through Islam online
Sent: Monday, July 17, 2006
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I have a question about buying a house. In the moment we are a family of 6 persons (my parents, two sisters and my wife) living in The Netherlands in Europe. Next year we will be with 8 persons as my brother and his wife will join us. The house where we live in now is a rented house and is getting too small for us all (it has 3 bedrooms, a living room and an attic).
Renting is xpensive, especially if you want to have a big house that is big enough for our family. We are considering the option of buying a house. This has advantages and disadvantages. An advantage is that we can afford to buy a big house, paying less money than we would have to, if we were to rent a big house or two smaller houses, since we desire to live together in one house. A disadvantage is that with buying a house we will have a debt and we will have to pay interest which is haram. My question is : is it lawful within Islam to buy a house to be able to live with the whole family in one house instead of renting a big house (or two houses) which is more expensive? In the moment there are no islamic banks in the Netherlands. Could you inform us the best way to take, following the path that pleases God, the path God has chosen to be the best? Thank you for your answer. Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Allah, Ta'ala, will not please to have you remain poor or in a rented house if buying is better for your family. Therefore we must all take all measures, within the limits of Shari'ah, to save on our expenses and make more money on the income side. If there are no Islamic finance facilities where you live and you cannot convince a conventional bank to give you financing in ways that conform with the Shari'ah, the Fatwa Council of Europe and the Second International Conference on Fiqh in
America studied this matter and resolve that under such circumstances for a residential house to live in it is permissible to take an interest-based mortgage and try to pay it as soon as possible.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,

Dr. Monzer Kahf

Subject: Facilitating Closing Attorney in the Mortgage/Lending Process

From: Abdullah through Islam online

Sent: Wednesday, July 05, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

As a practicing real estate attorney, one major aspect of my practice is to close real estate transactions. A typical situation arises (whether it be commercial or residential) when a buyer and/or seller come to my office and request that I help them in "closing" the transaction. They may use my trust account for the deposit that they will be placing to show their good faith in buying the property from the Seller. After this is done, I order survey's to be performed, have inspections performed, and perform a review of the title on the property and issue a commitment which states that I insure that the title to the property is in fact in the name of the current owner and is in fact owned by the current owner without any other interests or claims against the title. On the day of closing I facilitate the real estate transaction between the buyer and seller and make sure documents are executed correctly and collect and distribute funds related to the closing. I also represent the Title Insurer's interests as I am technically the Title Insurer's "agent" in insuring the title to the property is good until the documents are recorded (Title insurance is a requirement in institutional lending, although it is not required for private lending), and also I represent the lender's interests and I am technically also the lenders "agent" since I have to follow their instructions in regards to what documents need to be signed and what to do with the money they deposit with me. Furthermore, I have to make sure that the buyer and the seller are informed and protected throughout the transaction. There are two issues that are of concern, one is that I witness or notarize most of the documents (including the promissory note and mortgage) and the other is that our trust account (which we cannot play around with) acts as the holding pot for deposits and we are to distribute the funds as instructed to the respective parties (this includes property taxes, insurance premiums, fees for inspection and survey and also at times the origination fees and interest on the first month of the loan for the lenders). I have closed for various organizations which are supposedly "Sharia-compliant" mortgage companies and engage in the same process described above, even as it comes down to collecting the first month of the loan's "profit" (as supposed to conventional "interest") at closing. Although I am convinced that the structure of these "Shari'ah-compliant products based on Musharakah (co-ownership/partnership) or ijaar (lease to purchase) are different than the structure for borrower-lender relationships, in the end many a times I have to convince my clients of the same, even though U.S. regulatory requirements may make them look the same. A prime example of this is that a document called the "Truth In Lending Statement" has to be produced to homebuyers, since an APR (Annual Percentage Rate) and a resulting interest rate must be disclosed to the buyer, even if it is ""profit"" instead of "interest." The bottom line is that I engage in the same process for both types of mortgages. Nevertheless, I am still concerned about witnessing and the fact that the money has to be received and

distributed by me. Is my involvement as the facilitating closing attorney in the mortgage/lending process prohibited? Can you provide any other insights or advise. Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Abdullah
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
It seems to me that notarizing an interest-based mortgage amounts to being a witness to it ant this is included in the Wrath of God that is mentioned by the Prophet, pbuh. This part of your action is not permissible in Shari'ah. Most likely also not permissible is handing over the main document of the loan and the money that is part of it (interest and principal, first month or other). On the other, reviewing the documents seem to be permissible, even advising the signatories about their mutual obligations (although interest based) seem to be not included in the Haram per se. Certainly there is a big difference between the co-ownership/Ijarah arrangement and the mortgaged loan and the procedural matter of the annual Percentage Rate doesn't matter. It is a percentage of financing charge not interest. Financing charge, call it whatever you like, is permissible as long as the contract is not loan based.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: No interest for a year and home mortgage

From: mohamed
Sent: Friday, June 30, 2006

Question

Salam Alaykum Dr Monzer
My Name is Mohamed, and i live in sydney Australia, brother i have a few questions that I really hope you can answer forme inshallah. I'm always on the islam online website and alhamdulillah it has helped me clarify a few things. My first question is, There are retail companies who advertise that you can purchase anything from their store on a 24 month interest free plan, you pay no deposit, no payments and no interest till that 24 months are over, you can pay it off though within the 24 months, and if you do it would mean you didn't pay any interest on the product, a Sheik here says that it is haram to use this system because we are signing into an interest agreement, i wondered what your thoughts where on that?.
My second question is, I brought an apartment 4 years ago using the conventional banks, that means im paying interest, may Allah(SWT) forgive me, the reason i took out the loan was before i had purchased the apartment i had asked the Mufti of our area if it was ok, since I was going to get married, and the home was not for an investment, he

told me it was fine to purchase a home by interest based loans from the bank as long as i buy it to live in it, now there are some Sheiks who say no, it is haram and i'm with them, that is why i have my home for sale, so that i get rid of paying interest inshallah, we have an Islamic bank in Sydney by the name of MCCA, who people say use the rent method, their website is www.mcca.com.au <http://www.mcca.com.au>, just wondering if you could check them out for me and give me your opinion on them, as i wouldn't mind keeping the apartment i live due to the fact that it is right across the road from the main mosque in sydney, and it is in the heart of the islamic community in Sydney, the street i live in is 98% muslim owned alhamdulillah.
Dr Monzer please forgive me for the long questions, Inshallah may Allah(SWT) reward you for your efforts and help. I have another question which i will send to you in a later date inshullah.
Jazakum Allah

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mohamed
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
You need to realize that each Muslim is required to make certain level of Ijtihad, the least of it is to research about whom to ask for Fatwa. There are always different opinions on any given issue and it is your personal responsibility to select and determine your own criteria for this selection.

1) My opinion about sale with no interest for a certain period is: If you are sure about yourself that you will pay on time, it is permissible to take this advantage. What you sign is a contract that is Haram to issue but not Haram to accept and you only accept it. This means that a Muslim institution is not permitted to issue a contract to its customers with this interest condition. But it is permissible for a Muslim to accept this contract because the interest clause is optional and the choice is left to you. For you, it amounts to signing on accepting a choice between a permissible action and a Haram action. Would it be not permissible to say I accept if someone gives me a choice of "you either drink alcohol or drink milk"? would I be sinful if I accept this choice? Definitely not! However, we must not forget the condition that I am sure of myself that my choice will never be the Haram under all circumstances (this can easily be confirmed now by giving authority for auto deduction from my bank account or ordering my bank to make payment on time, I can schedule it on the internet banking even a year or more in advance). By the Way, this is my view about credit cards too.

2) For buying residences for Muslims who live in the West, I go along with the Fatwa of the Second International Conference on Islamic Fiqh in America (1999) that is the same as the Fatwa of the Islamic Shari'ah council of Europe that ""when Islamic finance institutions or Islamic contracts from conventional institutions are not available or obtainable, it is permissible for Muslim families who live in such countries and need housing (as small Muslim minorities) to buy homes on conventional mortgage. If you are one of these, you may apply this Fatwa.

3) I don't give personal opinions on Islamic institutions; but you can always judge for yours if you apply these 2 tests: 1) do they have a Shari'ah advisor whom you trust; and 2) does the contract itself (not advertisement papers and flyers) say ownership and rent in contrast to interest and loan.

Finally I know there are many local non specialized prayers leaders who give other views!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Taking a Loan to Buy a New House

From: Waleed through Islam online

Sent: Tuesday, June 27, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

We currently own our house but due to work we have to move to a City that is a lot more expensive. In order to live at the same level as we currently are (in a good suburb with the same quality home) we would need to take out a loan. I am not trying to get something better; I just want to maintain the same and not go backwards. I want my children to attend a good school and you must live in the immediate area in order for them to gain admission. Can I do this? Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Waleed

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

If you live in the West, it seems that the Fatwa of the Second International conference on Fiqh in North America that was held in 1999, may apply to your case. it resolves that if there are no Islamic alternative financing, a Muslim family that lives in America and needs a house may take a conventional mortgage.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Shall We Go for Mortgage?

From: A Sister through Islam online

Sent: Saturday, May 20, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

Me and my husband currently live with my parents we also have a child, but we need to buy a home of our own now. I do not want to take a mortgage out my husband is applying pressure that i do so. He does not want to rent a place. we only wont to get something to cover our heads with a flat. So we contacted all the Islamic Lending available in the UK and the maximum they can offer us is not enough to buy a 2 bedroom flat only a 1 bedroom. Were as other lenders have said they can offer us the amount we need to buy a 2 bedroom flat. Now i really really don't want to do this as i am very afraid of Allah and what will happen. My husband wont really reason with me and says it is not haram and we are allowed to do so. My friends say it haram that's it nothing else to it what do I do. I have tried to reason with my husband but he wants to do this. I pray that Allah forgives me, but i see no option but to do it. Please help. Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr.
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
If you need the two bedroom flat and you don't find an Islamic finance for it, it is ok to go for conventional according to the Fatwa about Muslims who live in non-Muslim majority countries.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Taking a Debt to Have a House

From: Isam through Islam online
Sent: Wednesday, May 10, 2006

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I'm a Moroccan teacher. i'm planning to get married soon inchalah.the problem is that i can't live with my parents in the same house because of many concideration(my mother says that she insists to remain alone with my father because she is ill and tired+ I have many brothers at the same house).there is a state organasation which gives a debt of 4.5 percent to construct a house.my question is : is this debt to construct a house which is neccessary for me a riba? If yes what s the alternative knowing that renting houses here is not that cheap?and is it true that yussef alqaradawi allowed people in need to take a debt from a bank to purchase an ordinary house where to live?
jazakoumou lahou khayran

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Isam,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Muslims, when they are in large number living close to each others as in Muslim countries are required to get together to create institutions that help them make financing according to Shari'ah. Islam prohibits all kinds and forms of interest even when it is for a good cause like building houses and regardless of the rate of interest, low or high. Besides, to the best of my knowledge, Shaikh Qaradawi has no fatwa that interest is ok for buying or building houses. His Fatwa is for Muslim communities in non-Muslim countries and it is based on their inability to create Islamic finance institutions. It does not apply to Muslim countries or large and concentrated Muslim communities.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: house from the bank in Canada Halal or Haram?
From: Sr. Hanadi Islamic Horizons
Sent: Tuesday, April 11, 2006
Question
Assalamou alaicom, I need a Fatwa:
To buy as house from the bank in Canada Halal or Hram Acheter une maison en amÃ©rique Ã travers la banque!?
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Hanadi
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
If you mean buying a house with financing from a bank on interest basis, the answer is YES, It is forbidden to buy a house with interest-based financing unless there is a necessity or quasi necessity. This issue was discussed in the Second International Conference on Islamic Fiqh in North America held in Detroit in the Fall of 1999 and the meeting, in presence of Shaikh Yusuf al Qaradawi, resolved that: For Muslim families who live in the West that do not find suitable Islamic finance providers through contracts that are compatible with the Shari'ah and cannot find conventional banks that give them financing according to Islamic Shari'ah, it is permissible to resort to conventional mortgage financing for buying their residences. Residence is considered necessary and although buying (compared to renting) is not a necessity but it is a kind of general need that is treated as necessity because it encompasses a large number of Muslims. Please apply these rules and find out if you qualify to use this Fatwa.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Your advice on mortgage question kindly requested
From: Arshad
Sent: Thursday, March 09, 2006
Question
Dr. Kahf; Assalaam Wallukum.
We had the privilege of hearing your weekend lecture in Cincinnati, Ohio in February, 2006. Thank you very much, you taught us quite a bit. We need your guidance on our specific situation. I read through many of your cases on your web-site but did not find one similar. Here is our situation.
1. We purchased a house 1.5 years ago with a mortgage through a western bank, as we were not very knowledgeable about riba at that time.
2. We rented out our house as soon as it was built, and currently live in an apartment. The apartment is small and all 3 children (girl age 14, boys ages 13 and 12) share 1 bedroom. I am very uncomfortable with this arrangement, and do not think it is proper - separate issue. We had planned to move into the house when we are in a better financial situation, which is soon, inshallah.
3. We are uncomfortable with the fact that our mortgage is riba-based. We would like to transfer to an Islamic Financial Institution, but if we do, our payments will increase by about $350 per month because our old interest rate was very low and we paid only 10% down. We would not be able to afford the house if we changed to Islamic Financing, nor would we be able to easily rent it out to cover the monthly payments and taxes. Islamic Co-operatives in Cincinnati is not an option as they cannot accommodate an amount of $250,000.
4. I have been told by some of my muslim brothers, though not scholars, that we should refinance through Islamic Financing, when this mortgage term expires (in 3.5 years).
Question: Should we get out of our Riba mortgaged house right away, even if it means we not being able to afford the house, or can we wait until the mortgage term expires and then transfer? We should, inshallah, be in a more stable financial situation at that time, and would be able to better absorb a difference between western bank rates and Islamic rates. Jazza Allah Khair.
Arshad
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Arshad
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Thank you for writing me and I want you to please notice that Islamic financing should be within the market range (sometimes and all times one may find some exceptional deal in the market that isn't usually there but the market range remains a good guide).

Therefore if a company offers an Islamic rate that cost 350 per month more than a conventional rate for an amount of 250,000 it is not Islamic but exploitative and exploitation is also Haram!
My suggestion is that it seems to me, under the circumstances that you mentioned, that the Fatwa about resorting to conventional mortgage may apply to your case and it is ok then to continue the existing mortgage and move to your new house. When it comes close to expiration search for an Islamic alternative, you may then find one InShaAllah within the market range and take then an Islamic financing contract.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Getting a Conventional Mortgage for a Short Period of Time
From: Reda through Islam online
Sent: Monday, February 13, 2006
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
Bismi Allahi arrahmani arrahim. Dear Scholars can you please clarify and if possible give me a definite answer to my Question which is in regards to Mortgages. I live in the UK I have just married, the house we live in is a 1 bedroom house and we pay £600 rent a month. I have approached islamic banks for Mortgage (Amamnah finance), as I do have about 15% of the value of the house. even then they said I wont be able to afford it based on my salary, and it is true I will not be able to afford it at this time. I approached conventional Banks for conventional Mortgages and they offered us a good mortgage with repayments that we can actually afford and it will give us the chance to buy a bigger house than the one we live in. in regards to darurah of the matter, My wife is finishing her studies at University and she cannot actually do her work properly because of the lack of space, we are happily married but the space issue gets to us and sometimes gets in the way of our marriage. I have asked about this and I was told that I do not have a darurah in this case because I have a roof to live under. My question is as follow, My intention is to get a conventional mortgage for a short period of time to get the space and get a house which we can actually call home, inchallah and with allah's help improving our financial situation we will move to an islamic mortgage when we can afford it, I am working towards getting a better higher paid job? Second is my situation a darurah or is it not? Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Reda
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Necessities are things that create a substantial harm, if they are not available, to either of the five fundamentals that are: life, religion, mind, property and posterity. I don't believe that your case is a necessity. But wait a minute!
your question is partially incorrect because it is not necessity that matters, it is rather reasonable convenience (al Hajah) if it applies to a large number of people! This is called in Islamic literature "al Hajah al 'Ammah" that is convenience that encompasses many people. You case is not unique, brother! it is about the same for most Muslim families in the UK, USA, Canada and many other countries in the West. Such a Hajah 'Ammah is given in our religion the same treatment as necessities that apply to individual persons.
According to the Fatwa of the European Fatwa Council and the Fatwa of the Second International Fiqh Conference held in Detroit the Fall of 1999 your case allows you to take a conventional mortgage because the Islamic one is not available to you. By the way, I treat an Islamic mortgage offer of a higher cost or of difficult conditions as non-existing. And for your personal case, the Islamic financing is within that range as you said in your letter.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Taking Loan to Build a House
From: Osman through Islam online
Sent: Thursday, February 02, 2006
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I'm United Nations staff member. We have been paid our salaries through UN Bank,. It has branches all over the word. Membership is restricted only to UN staff. It is NON-Profit,Cooperative Financial institution. It was established mainly to serve UN staff. It offers loans for house,education and cars. I'm thinking of taking loan to build a house. They take 9% interest from the total amount. The amount is to be paid back within 8 years. They justify the interest to cover management/rentals expenses. Now, I need to know if this is Halal or Haram. I know a lot of Muslims who have taken loan from this institution, But need to verify. Thank you very much for your great support. God bless you and all Muslims. Osman A. Elawed United nations Angola /South Africa.
Visitor Notes: Please note. That installment they take from salary. The loan requires no warranty.
Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Osman
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Permissibility or non-permissibility can't be taken from what people do, Muslims or otherwise! The Shari'ah determines permissibility. Interest is Haram for any reason and for any cause and under all circumstances. Of course, there are situations of necessity whereby any prohibition (actually except one, murder) may be relaxed! Buying a house is not a necessity, especially for a person who can pay for it in 8 years and also especially for South Africa where there is an Islamic bank, and also especially that you are paying 9 % and the market rate is much lesser! Does it make a Muslim violate the commandments of God if some other Muslims disobey God and His Messenger? There are many who Obey God too and they make much better examples!
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Purchase homes with Interest
From: Riffat
Sent: Tuesday, January 24, 2006
Question
Dear Dr. Khaf, Assalamuallaikum,
I heard that you have said somewhere in an article that buying a home in Canada or USA as long as you have no other means is ok to buy using a mortgage and I have been trying to find this article can you please provide me a copy? Regards
Riffat
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Riffat
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh Please refer to my Fatawa on my website www.kahf.net or in www.Islamonline.net, there is something like that.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2005

SUBJECT: Buying a property on Islamic finance in Toronto
From: Abdullatif
Sent: Tuesday, November 01, 2005

Question

Assalemu Alaykum Dr. Monzer

May Allah accept your worship in the blessed month of Ramadan, and Jazaka Allahu Khairan for willing to take the time to answer our questions. We might be getting to you for more questions, but the most urgent of these;

There is a bank/financial group showed interest to finance and/or lend us money to buy a property that will be used by the Muslim community in Toronto as an Islamic Center & School. They asked us for our formula for finalizing the deal, which from our perspective has to be a sharia-compliant one.

1. The obvious solution was for them to pay the property as a cash deal then turn around and sell it to us with different terms – installments. If we were to do this we will have to pay the applicable taxes twice.

2. The second suggestion is for them to sign the deal with the vendor at the agreed price but on the day of closing the property will be transferred to our name, the Bank will pay the vendor and we sign the terms of how to pay them back. If we were to do this we will prevent paying the taxes twice.

Again the lenders are open to new suggestions, do you have a sharia-compliant deal structure that we can propose where all parties will feel comfortable with?

Eid Mubarak to you and your family. Regards,

Abdullatif

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Abdullatif,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

You do not need to make two closing. You need an agreement between you and the financier that specifies its role in the transaction. I assume you have located the desired real estate and have signed a purchase agreement with the seller, what you need to do is the following:

1) On or before the "Closing Date" (as defined in the Purchase Agreement), but only upon the written direction of financier, you assign all of your right, title and interest in the Purchase Agreement to financier (create an Assignment and Acceptance of Purchase Agreement between you and the financier). The acceptance of assignment must include appointing you as nominee of the financier in the acquisition of title to the property upon the terms and conditions set forth herein and in the other documents evidencing these transactions.

2) Immediately following the execution and delivery of the Assignment Agreement, the closing of the acquisition of the property shall be consummated by you as nominee for financier.

3) Resale Agreement. Immediately after the execution and delivery of the Assignment Agreement and the closing of the acquisition of the property in your name as nominee for financier, make/sign separate agreement with the financier, substantially similar in form to the Purchase Agreement, pursuant to which financier will

sell, assign and transfer all of its right, title and interest in and to the property to you with mark-up (Murabahah) financing on the basis of installment sale, and containing, among others, the following terms and conditions (this resale agreement is prepared and made ready to sign in the same sitting but immediately after the closing):

(a) The Purchase Price for the property shall be _____ Dollars ($_____), with _____ Dollars ($_____) payable on the Closing Date and the balance of the Purchase Price, being represented by a financing on the basis of installment sale, payable in _____ monthly installments over a period of _____ years. Notwithstanding the description of the transaction as two sales, which description is intended solely to comply with Islamic law, the transaction shall be analyzed for all taxation and regulatory purposes as similar to a loan transaction.

(b) Said financing on the basis of installment sale shall be evidenced by a promissory note and secured by a first mortgage lien on the property, an assignment of leases and rents and such other security instruments as are usual and customary in similar transactions (collectively, the "Resale Documents").

(c) Financier will make no representations and warranties of any kind to purchaser with respect to the Purchase Agreement or the property, including, without limitation, its physical condition, occupancy and status of title other than its ability to enter into the Resale Agreement and to close the transaction described therein. Purchaser will rely solely on its own due diligence, which may include, at its sole election, a review of title, a review of a survey, a physical inspection of the property and a review of any documents affecting the Property or title thereto and the retention of legal counsel or other professionals to represent purchaser in connection with the Purchase Agreement, the Assignment Agreement, the Resale Agreement, the Resale Documents or any other portion of the transactions described herein.

(d) Although legal title to the property is passing directly from the seller to you, first as nominee for the financier and then as holder of the beneficial title as well, without passing through financier, to the extent appropriate, financier will execute and deliver a quitclaim deed with respect to the property to you on the Closing Date. Any transfer taxes, reassessment of property taxes or other fees, costs or expenses associated with the transfers of title as set forth herein, in the Purchase Agreement and the Resale Agreement shall be at your sole cost and expense and you shall indemnify, defend and hold financier harmless therefrom.

(e) Notwithstanding any provisions of the note representing the balance of the Purchase Price due from you to financier, the security instrument evidencing financier's first lien on the property, this Agreement or any other documents relating to this transaction to the contrary, no payment on the debt evidenced by said note or the security instruments securing same shall be deemed to be the payment of interest. Notwithstanding the foregoing, for purposes of compliance with applicable regulatory requirements, the parties may calculate an implied interest rate on such payments.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Islamic Financial Institution, Mortgage and financing education

From: javed

Sent: Wednesday, October 05, 2005

Question

Dear Brother Monzer Kahf, Ramadhan Mubarak to you and to all your family,

1. I had a detailed discussion with a member of The Islamic financial institution (UMFINANCIALS). I was told that they are copying the model of 'Diminishing Musharakah' or Declining Balance from Guidance Financial Group based in Virginia http://www.guidancefinancialgroup.com/home/home.asp

Guidance Financial has Scholars like Mufti Taqi Usmani as its Chairman of the Board and many other prominent scholars.

I am sending you the link to the fatwas by these prominent scholars. www.guidancefinancialgroup.com/sharia/shariacertificates.asp. These fatwas are signed by Mufti Taqi Usmani and other members of the board.

Please let me know if you feel satisfied by the Guidance Financials model. UMFinancial is following them as well. So to say that if one is correct than the other is correct as well is safe.

2. Coming back to your answer to working in a Bank. The salaries for the people working in the technology department are also earned through interest because that is the main source of income on the banks.

This means that if I work in technology department of a brewery that is also allowed because I am NOT directly involved with whatever takes place in the factory for making of beers and wines. I am only trying to understand from Scholars like you so that I have a better understanding of Islam and not a tunnel vision as many people have.

3. I was surprised to read your view that University education is NOT necessary. If that is the case than how is the Muslim Ummah going to be blessed with Scholars like you, who have deep knowledge of finance and of Islam as well. I still don't know if there are other Halal means of financing University education that can cost around $20,000 per year. Jazak Allah. Allah Hafiz.

Javed

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Javed,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1) If what this financier does is exactly like guidance with not a single change, guidance contract was reviewed by respected scholars that you can trust them.

2) Shari'ah may have different positions in regard to different subjects of prohibition. For instance, the Prophet, pbuh, said that ten functions are prohibited in regards to liquor; they include brewing, transporting, selling, buying, serving etc. but did not mention other functions that also helped in the liquor business. You can't add

without rightful substantiation. Hence, one can't claim that selling cup to a liquor drinker is Haram especially that cups may use for other purposes too.
In regard to Riba, the prophet prohibited taking, giving, writing and be a witness to its contract. Here again selling paper to the writer of interest is not Haram, Expansion of prohibition imposes undue difficulty on people and the Shari'ah tends always to make things easier. Certainly such related activities are not the best jobs in the world, although permissible but one has to draw a distinction between the Haram/Halal issues and the Taqwa issues that go above that.
Additionally the sources of banks income are not only interest, but even if they were only interest, we are not ordered to avoid taking any of the resources (or property) of one who practices taking Riba (Murabi) in exchange of lawful things. For instance, in no where in our Shari'ah you will find a statement that you may not sell such a person bread to eat or cloth or water or man-hours to do Mubah things such as cleaning his house or transporting his furniture. these are examples from real life in the past that if there are any such prohibition it should have been mentioned. More amazing, are we prohibited to sell a prostitute food or housing services? We are not (to the surprise of some who want to mix the rulings of Halal/Haram with preferences and opinions.
3) There is a distinction between what is necessary to the Ummah and what is necessary to an individual, the Ummah needs physicians but not every person has to become a physician. an extremely high percentage of human beings live and earn with no university degree. On individual level university study is not a necessity because necessities are well defined in Shari'ah (those that are indispensable to live, practice religion, protect mind, property and posterity). The great majority of youth in America work, get scholarship and study and even more that those who study at universities are those who don't go for higher education. Aren't they living and earning? I still argue that there is no necessity for loans to finance education, in fact all of it not only university education. Any student who can't study at a university without an interest-based loan must work for sometime to save for studying or have a part time job along with studying.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: What companies offer Islamic mortgage in the West?
From: Ather
Sent: Monday, October 03, 2005
Question
dear brother monzer.
Thank you for replying to my email and taking interest in my case. I contacted two organizations and their website is www.guidancefinancial.com and www.lariba.com.you might be aware of them, these are the only two I could find. I contacted guidance and they are asking for more then double the amount then what the local bank here in my

city is charging for closing cost. Please read their philosophy on the website. I have talked to both of them and it has left me frustrated. I think that according to Islam if you borrow money from somebody and you have to pay more then the actual amount then that's interest. One calls it rent and the others say they will be co owners of our property. Please review and let me know what is right and who is right. I have come to the conclusion that why not borrow from an American bank if we have to pay interest. I will be waiting for your reply. Thanks. ATHER

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ather,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I don't want you to feel frustrated but please realize that there are several Islamic manners and common-law legalities in talking about specific persons/companies. I don't speak about any.
I asked you to get copies of their contracts so I can give an opinion on what is written. I know these websites but neither of them has a copy of the contract. The contract that you sign is what matters and nothing else.
I can give you the criteria in the following and advise you about a Shari'ah point as I understand it.

1) Apply two tests: a) if the contract reads loan, it is then interest-based and b) if the contract gives the names of known and respected experts is Islamic finance as advisors who formulate the contract, you will have a trust in it.
2) The phrase ""partners in the property"" is an assuring phrase because it means that the contract is ownership based and this is normally permissible. This word must not frighten you.
3) If the cost of the Islamic contract is substantially above its interest-based equivalent, I consider it as non-existing and go for the Fatwa on conventional mortgage because the provider of Islamic financing must be competitive. But you need to realize that competitiveness means that you are with the market, you may be average, this means that one will find always a cheaper offer!

Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Working With a Real Estate Company
From: Sherief through Islam on Line
Sent: Thursday, September 29, 2005

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

I have two questions: 1. Is it permitted to work for a Real Estate company as a sales person or a broker? 2. Is it permitted to refer others to the same real estate company under me because I get a portion of their transactions by my referals eventhough they will probably help their clients get loans to buy their homes? I can not gurantee what others I refer do (they are not Muslim like me) so they can help their clients get a mortgage that is riba based? So in that case will the money I receive from their transactions by my referal be considered Halal? Jakum Allah Khair. WA'alaikum Asalam, Sharief

Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Sherief,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1) Working as a real estate agent or owner of an agency is permissible because the main line of business is helping people buy (sell) real estate properties. What is prohibited in Shari'ah is taking interest, giving it, writing it and be a witness to its contract. It is not forbidden to help people buy and sell properties. Of course, two things are Haram to write an application for forbidden interest-based loan (a buyer my be under conditions of necessities and hence its loan may not be forbidden) and to help sell a stolen property. These must be avoided by any agent, whether is real estate or other businesses.

2) The same apply on the referral because in referral you are also helping in buying and selling, and it is none of your business how the buyer is going to finance her/his purchase or whether the other agent is going to help in writing the loan application and you are not required to investigate what other people (agent or buyer) are going to do or how are they going to proceed in their relationships.

In both cases your commission is Halal InShaAllah.

In referral there is another point that must be clear, when you refer a friend who comes to you on the basis of trust and confidence and you refer her/him and take commission the referred friend should no that in referring her/him to that specific agent you will get a commission if she/he does not know that and take your advice as friendly trust basis advice such a commission is deserved to the friend not to you. You can't be an paid adviser without the recipient of the advice be knowing that you are paid, i.e., you have an interest in this advice.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Islamic Financial Institutions

From: javed

Sent: Tuesday, September 27, 2005

Question

Dear Brother Monzer Kahf,

A financial Institution in Toronto until recently was offering "interest-free" loans to first time home buyers only. They have recently announced a scheme under which they will offer relief to existing home-owners and take over their existing mortgages.

I have read a lot about the fatwa of mortgages and also about the fatwa of Sheikh Yusuf al Qaradawi. The Muslim scholars are divided on this issue just like any other issue. It is the common Muslim like me, who wants to go the way of Quran and Sunnah but who does not know what to do and what not to do. The word "necessity" is the one people debate about. Is it "necessary" to buy a house? Also where there are no Islamic

Financial Institutions are available. Now there is an Institution available but people are doubtful about it.

I seek your expert advice about this financial institution (……..) if what they are offering is in compliance with Shari'ah or not? If they are, than I will certainly pay the penalty for breaking my existing mortgage and go with UM Financial.

They are offering 4.95% for 2 years and 5.75% for 5 years amortized over 25 years. Their model is based on Islamic concept of Musharakah. I am currently paying 4.35% interest on my mortgage. Whatever they are doing is similar to a bank except that they call themselves Shariah Compliant.

In one of your fatwas on your web site you said : "Islamic Financial Institutions are supposed to give you at comparable rates or at lower rates encourage people to avoid Riba".

They say: "Our Musharakah model allows home ownership, option to buy out our shares at the time of resale allowing you to keep full appreciation in house value."

Please take a few moments of your time and let me know what you think about this financial institutution. This institution has a Shariah Board which has given a ruling that this Financial Institution is Shariah Compliant.

Your response will not only help me a great deal but also the Muslim community who has doubts about the institution.

Secondly, about working in a bank or a financial institution that deals with Riba. Some say it depends what department of the bank you are working in. For example it is OK to work in the Technology department but not in the department dealing directly with Riba.

Thirdly, I ask for your comments on the loans that the students take for their education, e.g. OSAP (Ontario Student Assistance Program) in Ontario Canada. Students have to return the loan with interest once they complete their education. If they don't take loan what is the other alternative? Buying a house may not be necessary but going to

University/college is! I will wait for yours answers anxiously. Jazak Allah, Allah Hafiz

Javed

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Javed,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
1) I don't give Fatwa on organizations. Please email me a copy of their contract and I can give you my opinion on it. The writings that are meant for promotion and propaganda are not sufficient.
2) Yes, I argue that working in an institution whose main business in interest lending but have some other activities is permissible if one does not fill in interest applications or sign them...
3) I don't agree that university education is necessary and I don't agree that there are no other means of financing it. Any one can work and study in America, Canada, UK, Germany and the like. Housing for families is certainly more of a necessity that university study financed on interest. Any education loan on interest basis is Haram and the exception may be very much limited.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Urgent Question please Buying a House through Mortgage
From: A Sister through Islam on line
Sent: Wednesday, September 07, 2005
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I live in Canada and I would like to ask you about the mortgage issues. I have two kids and I want to have more but my landlord is not allowing me. He said that I will have to move out if I have another. If I rent outside it is difficult to find a reasonable size home without someone else living underneath you in the same home. We tried to go with ISNA to buy a house but they asked too much of a down payment that we don't have. So are we allowed to buy under mortgage. What are the guidelines because we are having a problem excepting mortgage as an option. We don't want to go on the wrong path. We look forward to hearing from you soon, please. Jazakum Allahu Khair.
Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. ,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
It seems that the Fatwa of the Second International Fiqh Conference, Detroit 1999, applies to your case. Of course you and your husband will be the best judge. The Fatwa's essence is: Muslims families in North America who need housing for reasons of accommodating members of the family, especially number of children, education, schooling, environment and neighborhood and financial and tax elements and who

don't find Islamically permissible contracts to finance buying their residence home for any reason, are permissible to go for conventional mortgage because decent housing is an essential need to every Muslim family and such needs apply to all Muslims in North America.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: questions on house buying
From: Sayed
Sent: Monday, August 22, 2005
Question
Dear Monzer,
I was in the jumma prayer with my family last Friday at Ar-Rashid Masjid, Edmonton Canada. Myself and my wife was impressed with your Qutba and also the evening conference.
We thought of asking few questions on buying a house. How can we decide which of the Islamic financing companies are 100 % Islamic. To name a few Ansar Group, and UM Financial (its in Toronto) and Guidance in USA and LA Riba etc. I have checked the web sites of them and now I am disturb and thinking they might be cheating Muslims (I might be Wrong).
What is the basic thing to find in them? because every thing looks good every one wants to sell their product.
I will be very happy to see your reply. I have just gone through your web site. Jazakallah,
Syed
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Sayed,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Many thanks for your letter, I really also enjoyed my visit to Edmonton and meeting you fox.
Apply test one and test two:
Test one: look at the contract that you are going to sign itself (let aside the advertisement flyers and explanations), does it use the terms ""loan"" ""interest"" or it says Ijarah, lease, Musharakah, Murabahah, etc.
Test two: who is the Shari'ah advisor of the organization, is he/she a well known Scholar who is expert is Islamic Finance, or just an ordinary Imam of a mosque. It there is no Shari'ah advisor at all that is even worse.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Refinancing of Devon Bank
From: Fakher
Sent: Sunday, August 14, 2005
Question
Cc: samer@austin.rr.com
Subject: Devon Bank
AsslamuAlaikum Sh. Kahf,
I hope you made it safe back home and you did not have any delays in the airports. It was nice to have you in Austin and it was very interesting seminar. InshaAllah, we will have you again.
I am touching base with you on the Devon bank Murabaha contract, did you have time to review it?
I am including Br. Samer in this thread who is intrested as well.
JAK for your help, Regards
Fakher.
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Fakher,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I have a few points on the papers you gave me:
The issue of late payment fees:
1. On the surface the text on p. 4 seems ok, but:
2. Distribution to charity is left to the discretion of the seller. This is incorrect , it rather must be the discretion of a religious committee and it is ok if this committee is at the seller's.
3. The same text mentions "the cost of collecting any fees ..." it should be only the "cost incurred by the late payment"
4. On p. 6 you consent to transfer of the debt of the Murabahah: this text is not needed for the Murabahah because it implies getting your consent to a Haram thing "transfer a debt at discount".
5. On p. 6 you waive the condition of distribution to charity of any surplus of the late payment fees. This is agreeing to consider it interest because all finance wholesaler take it as interest, and the difference between the cost and the fee is large.
Duty of cooperation:
The text requires the buyer to cooperate even in ""documents that reflect interest rate."" The seller should have taken this responsibility and cleared its contract with government authorities so that it is accepted without putting the burden on the buyer to do that.

The mortgage document:
I can't give a final opinion without the mortgage document because it may contain other clauses that may be controversial too. that you did not give me. Please mail it to me at: 10232 Bellehurst Ave. Westminster CA 92683.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Question on La Riba Financing
From: Moeen
Sent: Thursday, August 11, 2005
Question
Assalam u alaikum Dr. Monzer Kahf,
Our Masjid in ……, California is planning to purchase a building for masjid purposes. One of the avenues that we are exploring is to finance a portion of this project through La Riba. I wanted to ask you about your opinion about La Riba. Is it a Halal option? Could you perhaps recommend us an institution that can provide us with Halal financing or maybe help us in designing Sharia compliant loan contract that we can take to an institution like La Riba and ask them to finance the project on the terms of this contract. Any help from you in this matter will be greatly appreciated.
jazak Allahu khairan wassalamu alaikum
Moeen
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Moeen,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
You are my neighbor. I live close to Garden Grove Mosque.
I do not give opinions about person/companies. I can tell you the criteria that you need to apply: two tests: 1) The contract must not say "loan" and "interest" any contract that is based on loan/interest is not permissible, no matter what the propaganda flyers say, what matter is the text of the contract that stand in court. 2) The contract must be approved by respected specialized expert in Islamic finance, any Imam or Shari'ah specialist is not sufficient, very often he may not be given all the info.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buy property directly from bank

From: SHAHIRA
Sent: Thursday, June 09, 2005

Question

besmellah alrahman alraheem
I'm thinking of buying property that is owned by bank while the bank will finance it in a standard mortgage is that Halal investment? thank you

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Shahira,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
By regulations, banks can't sell you houses on installment basis. They have to sell and give a loan on it. (In contrast: you may buy from an other person and assume the mortgage loan on the house; this is much closer to installment buy because you pay a down payment and assume a monthly payment of so much). This is much closer to a normal loan that is not permissible unless for a need and lack of Islamic financing, according to the now famous Fatwa on conventional mortgage for Muslims in America
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Conventional Mortgage and Buying a House

From: Ali through Islam on Line
Sent: Tuesday, June 07, 2005

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I'm married with 3 children and live in the UK. Till now we've been renting a place to live. In a few months inshaAllah I'm moving job to London, where house rents are very expensive. We are planning to buy a house as based on our review the monthly rent would be higher than the mortgage monthly payment. We've been looking at Islamic mortgages and found that they require at least 10% deposit that we can't afford. With this situation, i.e. the inability to pay the required deposit, would it be accepted by Shari'a for us to get a conventional mortgage? Please advise me. Jazakumullah khayran for your advice and answer. Wassalam
Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ali,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
If you can't fulfill the conditions of the Islamic financing for buying a home for your family, you are in a situation where Islamic financing is not available to you, then it is apparent that the Fatwa for Muslims who live in the West applies to you and you may choose to take the route of conventional mortgage.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Questions on masjid finance
From: Jeff
Sent: Tuesday, May 24, 2005
Question
Dear Br. Dr. Monzer:
Assalamu Aleikum wa Rahmatulahi wa Barakatuhu.
We are in the process of raising money to build a new masjid in San Diego. We started out wanting to do all the finances in a Shari'ah compliant way but are having difficulty with this. I wanted to get your views on a couple of questions and your knowledge, if any, about how other masjids have handled these situations.
1) We have a very limited time in which to complete the purchase of a desired piece of land. The only potentially Shari-ah-compliant lender is LARIBA, but they can't do our deal because of its size. We are also trying to convince the seller to do Shari'ah-compliant financing. And we are trying to raise the entire purchase price in time to purchase the property. If all of these options fail and we are only able to raise a portion of the purchase price in the next 1-2 months, we have two options: a) drop the idea and try to raise all the money we need and look for another piece of property later, or b) get a conventional mortgage loan and pay it off as fast as possible. The downside to option (a) is that it is very difficult to motivate donors when we don't have a specific piece of property in mind, and it may therefore be a very long time (many years) before we have such an opportunity again. The downside of option (b) is that we would temporarily have to pay riba, according to my understanding. Can we justify option (b) based on necessity or the lesser of two evils, or not? We are saving this potential option only as a last resort. Second, what do we do with our money while we are saving it? We could put it into an interest-free bank account. Some make the argument that if it is ok for a Muslim to put money into an interest-bearing account and donate the interest to charity, should we do that, and if so, who should we give it to? Or should we just put all of our money into an interest-free account? These are questions for which I have certain opinions but there is a diversity of opinion among our group here on this. What is your view if I may ask, on these issues, and what have you seen other US mosques do in these circumstances?
Best Regards,
My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Jeff,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1. From the actuality point of view there are mosques who were built/purchased on interest-based mortgages and even in the sixties and seventies of the past centuries some were foreclosed! in the nineties there was a mosque bought on interest in southern California and a fatwa issued by some ignorant Shaikh in the area that prayers in it are not permissible. That is incorrect, those who contract interest are sinful but those who pray are rewarded! I firmly do not go for this option.
2. If it is in the judgment of the committee that money can be raised, and you certainly need more than 1-2 month for it, you may go ahead and contract the land purchase. and then go for short term interest-free personal loans form members while money is is been raised if it could not be raised on time.
3. If while applying this alternative some unforeseen things happened that forced you to borrow some interest-based cash, you may then go for it under necessity.
4. The principle is: it is not a necessity to have an owned mosque or a big nice one, and there is no necessity to go for conventional mortgage to get a mosque. The only necessity is the case of unforeseen while good interest-free financial planning is done. By the way once you buy the land you may apply for help from IDB in Jeddah for the educational or community service part of the project, they usually give some 300-500 thousand provided the organization has matching funds of its own.
5. If in the judgment of the committee funds can't be raised within a reasonable time, then go for option a; that is, delay the whole project.
6. Funds that are waiting for a relatively long term should not be left in current account. At present the best option is to deposit them in the Muslim communities fund at NAIT that is invested in permissible stocks and making some 5-7% annually or in the Dow Jones Islamic Market Indexed Fund that is making better than that. The first is practically, though not spoken, guaranteed because NAIT give back the money on demand to the associations and in the past years 2000-2003 swallowed all losses itself. If you place them in interest-bearing account with bank, do not publicize it to your members because many of them wouldn't understand it.
7. If you happen to place funds in interest-bearing account you should add the accrued interest to the Zakah fund in your mosque and distribute it accordingly, do not add it to the mosque money simply because the mosque is the owner/depositor.

I hope I answered all your questions!
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a House from Bank Mortgages

From: through Islam on Line
Sent: Sunday, May 22, 2005
Name of Questioner SHOAIB country of Residence Canada

Question

Hi, I need little help. I am thinking about buying house one of my friend told me that I can busy house from Bank (mortgage) which I am not but he decided to buy house from his name through bank because he already took so many mortgages and he told me that he will take mortgage from his name from the bank in Canada and what I have to pay him only house price no interest or mortgages to HIM not the BANK. So is this right to do or not. Please advise. I know I cant take mortgages and I know very well about mortgages circumstances here and here after in front of Allah and I told him too. But he doesn't get it. Any way, please advice me is this right that ""if he buy the house from the Bank (mortgages) to his name but I am paying him rent to him only the house price."" that it. Thanks'

Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Shoaib,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Does it mean that he is going to pay the interest for you? I don/t think so.
It is permissible if he bought a house for say 200,000 and with the bank interest the total amount of payments over 20 years becomes 350,000, then you buy from him the house for the amount of 350,000 payable on 175 month at the rate of 2000 a month. This transaction is permissible for you while it is Haram for him and he gets the sin of it without any benefit from it! It is permissible for you although you know that he did that for you. One last thing, if you make such a transaction be careful to protect your rights fully because the bank does not usually allow transferring the property to your name.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Interest Free Mortgages

From: Shazia through through Islam on Line
Sent: Wednesday, May 04, 2005

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
My question for today is about the interest free mortgages which the Islamic banks in Britain are allowing Muslim to get these mortgages are these mortgages Halal or are they Haram becoz in my view they have only changed the name of interest into the

name of ajarh other wise they are charging the same rate as the bank of England please explain it in detail becoz I want a mortgage that is Islamic if such thing exist wassalm .
Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Shazia,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Mortgages offered by Islamic banks are permissible according to Shari'ah. Financing is permissible in Islam while interest is prohibited. Interest is an increment in a loan. Financing may be done on the basis of a sale contract or Ijarah contract. In Ijarah the financier owns the property and collect rentals on the part it owns while also offers to sell its share in the property on installments to the occupant. There is nothing forbidden in this, especially when the contract itself is reviewed by respected Shari'ah experts as what Islamic banks usually do. The same thing about sale financing which is usually called Murabahah. The bank purchases with you the property and sells you its share in it on installments at a higher price. This sale with a higher price is permissible as it is included in the implication of the text of the Qur'an itself (2:279).
You need to notice that the Shari'ah prohibits increments in loans but does not prohibit financing itself. Therefore, once financing is done by means of sale and Ijarah, it becomes permissible. The problem arises from similarities of both approaches in house financing. But to understand the purpose of the prohibition, you really need to look at cases of dissimilarities such as debts rescheduling or debts discounting.
For more details I suggest that you take a look at other Fatwas on through Islam on Line and on my own website www.kahf.net
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a Plot on Down Payment

From: Mehtab through through Islam on Line
Sent: Monday, April 11, 2005

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I would like to inquire about a form of property business that is practiced currently in my country. There are different housing schemes that offer plots to people on installment basis. When you apply you pay a down payment and then submit installment till the completion of the total amount. Normally a file is given to the applicant certifying the right of the applicant to a plot in the housing scheme at the time of payment of down payment. Now what is happening is that people are selling these files (the right to a plot) to others at margin (as property rates are constantly increasing)

before submitting the complete installments of the plots. The buyer then submits the installments and takes possession of the plot or sells his right to someone else. And the cycle goes on. Kindly tell me if this type of transaction is Halal or not. JazakAllah
Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mehtab,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
If this handing over of a file represents giving possession the second sale is permissible and correct. Sale on a down payment and a series of installments or a future one payment is permissible in Shari'ah and ownership of the sold real estate property is transferred at the time of contract by giving a title to the plot to the purchaser. Any further sale after possession is permissible. The new buyer can also sell again upon having the title of the file if it represents a title.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Profit from the sale of a house

From: Mehdi
Sent: Saturday, April 09, 2005

Question

Assalamou Aleikoum Wa Rahmatu Allah, Dear Dr. Kahf:
Two years ago, I entered into a transaction with my boss to buy a house through him using the form of Ijara Mountahia Bi Al Tamlek. Shortly after I moved into the house, he became greedy and I decided to end the agreement and unfortunately bought the house from him using 100% mortgage financing.
I recently sold the house and made around $65,000 of profit. How much of this money is Halal, knowing that:

1. I have lived in the property for two years and made payment to the bank to cover only and only the interest portion of the loan
2. I have paid homeowner insurance, property, school and sewer taxes
3. Made improvement to the house in the amount of $20,000

I would appreciate an answer with a very clear daleel. If the source of the money is a mortgage is all the profit Haram? Does the ayat 279 of Surat Al Baqara apply to this situation knowing that the initial invested capital was $0 but that later on I paid almost $30,000 between mortgage payments (interest only - no principal paid), insurance, taxes and home improvements?
If the profit from the sale is Haram, can I use to pay for my parents debt (for another Riba loan). Jazakoum Allah Khairoun

Mehdi

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mehdi,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
It is apparent that the increment (profit) you got was caused by the rise in the price of the house. This would have happened regardless of the interest-based loan you got. There is no doubt that indulging in interest is prohibited and one of the most grave sins in Shari'ah but the increment in the house price (of course unless you got the house in accordance with the exception that is based on necessity or quasi necessity) is not caused by the loan!
If the increment cannot be attributed to the loan, and you owned the house whose price increased this increment is yours only according to Shari'ah.
What is needed is to have a pledge between you and God to repent and avoid any thing that is prohibited, to make charity as much as you can and to remember the Saying of our beloved Prophet, pbuh, that "charity puts out the anger of the Lord."
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

From: Mehdi

Question

Assalamou Aleikoum Wa Rahmatu Allah:
Baraka AllaH fikoum. Jazakoum Allah Khairoun for your answer.
I do not mean to argue but just to clarify:
If I did not get the mortgage, I would have not bought the house and thus would not have made the profit. If the source of the profit is Haram, isn't the profit also Haram?
Please help me make the best decision that will please Allah.

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mehdi,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
You are right, but notice the source of the profit is the house, not the loan. Taking an interest-based loan (under no necessity) is not permissible, it is sinful but the gain did not come from the loan, it came from the house. Had you used the loan to give loans on interest, the gain would be Haram. There is a cloud of doubt, no question about it, as you used Haram money to make a permissible transaction (buying a house and selling it)

that produced a profit. The consistent solution is to make repentance, Istighfar and charity.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Interest Loan to Buy a House in Morocco
From: Talbi through through Islam on Line
Sent: Sunday, March 13, 2005
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
Dear Brother, I am a Moroccan citizen; my salary is $1300 US. The rent is around 390$. I pay for my studies $100 US per month. Additionally, I pay a monthly $120 US in household electrical appliance. Knowing that neither there is an Islamic Bank nor sale with "AJAL" or leasing in Morocco, I would like to ask if it is HALAL to contract an interest bank loan (granted by my company with 6%) to buy a house given that the monthly payment of the loan is the same as the rent (390-$440 US). The difference is that the house will be mine, GOD WILLING, in 15 years. From a stability perspective, one would prefer to live in his own house without the risk of being obliged to move whenever the owner wants his house back. JazakomoLLAHO khayran.
Jazakum Allahu Khairan for your constant help
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Talbi,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I know this is a serious problem and I know that there must be a solution I receive many questions from Morocco similar to yours. But I see that this solution must come from Muslims in Morocco. In Morocco, leasing companies exist and practicing car and similar machines leases. Why don't you have an addition of house lease financing? It requires courage and a collective work. Why don't you start a house financing cooperative? if every Muslim in Morocco feels that since we don't have Islamic financing, it is ok then to go to Riba-based banks, who is going to create Islamic banks, leasing companies and house financing cooperatives?
This is why the Fatwa for all Muslim majority countries is that creating Islamic financial institutions is a collective obligation and the lack of them does not give any excuse to go a la Riba. Riba is Haram and one of the worst sins a Muslim may ever commit.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,

Dr. Monzer Kahf

SUBJECT: brokerage in mortgage, raising rates on customers, etc.

From: Zack

Sent: Monday, February 14, 2005

Question

Assalamualeikum

I live in the USA and I work as a mortgage broker. Basically clients contact me to shop for a mortgage for them. I have about 50 banks that I work with and once I find the bank that's going to give the client the best rate I put the package together includes what the call Broker contract that has interest rate my signature and the client's signature, good faith estimates, etc. then I receive a commitment from the bank and once we fullfill all the stipulations we can close on the loan at the title company. my job requires me to search for a bank that gives the best rate. The way I get paid is by charging a fee usually a percentage of the loan amount that gets wrapped up into the loan and somtimes if we ask the bank to increase the interest rate with a 1% the bank pays us extra money. is what I am doing Halal or Haram having said that I live in the usa and I deal with non Muslims. jazakallahou khayra

Zouhair

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Zuhair,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

There are 2 points in your question. One, the job itself: advising on which is a better deal for a customer is permissible but handling the loan papers is included in the Wrath of God that the Prophet, pbuh, mentioned "the Wrath of God is on the taker of Riba, its payer, its writer and its two witnesses." This makes this kind of work non-permissible in my opinion regardless of the faith of the persons you serve and the location of the job. Riba itself is unjust (Zulm) and handling its contract is cursed. And, two: asking the bank to add a percentage to the loan and increase your fees. This is absolutely forbidden because it represents a betrayal of confidence (Khyanat al Amanah) that is the worst form of cheating. The Prophet, pbuh, ordained "fulfill the trust and do not betray [even one] who betrays you."

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

From: Zuhair

Question

Assalamualeikum warahmato llahi wa barakatuhu

I would like to follow up on the question I asked yesterday for clarification as making a decision on this matter will affect my life tremendously.
I thought increasing the mortgage's rate so we can get paid extra money from the bank would be considered as (Baye3 BilMou3ayana) because clients can shop around for themselves as there are plenty of mortgage brokers in town. It's up to the clients to agree to what I have to offer them otherwise if they think that they can get a better deal somewhere else they can definitely go for it at no cost to them and they know that. Please correct me if I am wrong.
I also would like to clarify that the final documents and contracts that the bank draw for the client to sign don't have my name or my company's name and I don't sign or witness them. Basically I facilitate the process of the loan as sometimes can be very complicated. Now, the initial contract and documents I make the client sign are basically to show the client on behalf of the bank what kind of deal they are getting and to show the bank on behalf of the client that the customer is interested so they can initiate the process of the loan. Please elaborate as this decision will make me get rid of my company and start from scratch. Jazaak allahu ahsanaljazae

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Zuhair,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
If it is understood to persons who deal with you that you are not working on their behalf as their broker to find the best deal, it is then permissible to ask the bank to increase its charge and give you more, but if the understanding of your business is that you are the broker of the loan seeker, such an act makes a form of cheating. My earlier Fatwa is based on this assumption. You can think of it this way: are you an independent businessman or do you take any commission from the loan seeker? if you do not take any commission from him/her and you act as completely independent I assume that the seeker knows that your income comes from what the bank gives you. There is no cheating in this case.
The second point depends on the extent of your contribution to the loan contract. Filling an application and sending it is part of the loan contract process and application and information attached to it make normally part of the loan documents. But giving information alone is not.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Selling a House Bought Through Mortgage
From: A questioner through Islam on Line
Sent: Sunday, January 16, 2005

Question

Subject: Selling a House Bought Through Mortgage

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

I bought a house last year in Canada. I found out that the interest I am paying on the house mortgage is Haram (Riba). I went and started to ask scholars and Imams and currently I am more lost than before. There is a Fatwa for Al Qaradawi on IslamOnline saying that it is Halal for people living in Canada, USA and Europe because there is no Islamic banks and other scholars on Islam on line said that whatever the reason, it is Haram. Knowing that a Muslim should take care of his wealth. If I go and rent, I will be loosing money and there will be absolutely no benefit to me or my family. In the same time, as it is known in Canada that the house owner can easily give me 2 months to evacuate if he wants the house or even if he didn't like my behavior (having Muslim friends and so on). My case is as follows: Islamic banking started in Canada a while ago but they are asking for 25% down payment which is impossible for 90% of the Muslims in Canada to afford it. If we take an average house or condo, we are talking about $200,000, which will make the down payment around $50,000. How am I supposed to have this amount. I use to rent and pay around $1350 a month. When I bought my condo, I started to pay $1800 and that is because there is condo fees and tax. The condo mortgage payment for the bank is only $1280. If I want to break my mortgage and sell the condo to avoid Riba (as per some scholars), then it will cost me $15,000 (4.5% for the broker who will sell it and a penalty for the bank for early break of the mortgage). I don't have this money so I have to take it from my line of credit where I will pay interest again until I finish the amount I took from the line of credit. By the way, when I purchased the condo, I payed 5% down payment and if I sell it it now, I will also loose the 5% payment. I need to know to which scholar I have to listen. The scholars are really divided on this subject and I don't know whom to follow. It is not that I don't trust the scholars, of course not. I thank all of them for the efforts they for the Umma. I still need to know what is my next step. Sell or no. I am really desperate. I go to pray and this subject is always in my head. Please I ask you to give a definite answer. Please don't send me links to what scholars said. I gave you my situation and would like to know what I should do. Please be as specific to my case as possible. BAraka Allah Fikom

Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. ,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Your question has really no answer! You seem to know every thing on the subject and you leave me nothing to add. In Fact, it is only you who can make the kind of judgment you ask other people (scholars) to do for you. Just go deep in your heart and make a decision. Scholars can only give you their opinion and you have to choose from them, you must know that a part of the Ijtihad (making effort to find the exact Shari'ah ruling) is yours to undertake. Take it with understanding and courage. I personally argue with

those who find it permissible to take conventional (Riba-based) mortgage for Muslims under conditions similar to yours. But after all, there is the other opinion too! my advice is not going to wipe out the other opinion. One thing more, since you mentioned it, I find it almost impossible to have an excuse to allow interest to generate on credit cards, if you know you cannot pay during the grace period do not charge your credit card. This is the condition for permissibility of using a credit card for us in North America.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2004

Subject: Shari`ah-based Housing Products with HSBC Bank
From: Islam on line
Sent: Thursday, December 09, 2004
Name of Questioner Hussain
Question
Asalaamu Alaykum Respected Scholars, I have 2 questions which I hope you could answer for me. 1). My wife and I purchased a house over 2 years ago with a bank loan which includes Interest. I am InShaAllah searching for a Shari'ah compliant product (such as Amanah with HSBC bank). First can you advise if you know whether this product is Shari'ah compliant? 2). If for some reason it is not possible to transfer my Mortgage to this Amanah scheme and I have the debt outstanding, then can I go to Hajj next year InShaAllah if I meet my monthly payments and can I pay for my Mum to go to Hajj with me? May Allah (SWT) bless you for this advice. Please pray for me that I am relieved of this burden as soon as possible.
Jazakum Allahu Khairan for your constant help
Yours,
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Hussain,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
1. HSBC Amanah has its own Shari'ah board that includes respected scholars. I then assume that their Islamic financing contracts are must have been reviewed by these scholars and you can deal with this branch of HSBC without any worry.
2. If you have an interest based loan still on you it is better to pay the loan than going for Hajj because by keeping the loan you continue being under the Haram practice. This is of course with the exception that you took the housing loan under

circumstances of need that are referred to in the Fatwa about buying homes with interest for Muslims who live in the Western countries. The exception applies if the conditions of an Islamic contract (such as what is offered by HSBC Amanah are difficult for you to meet or much more expensive than others. while under an interest-based loan you are not required to make Hajj (you are considered as not having financial means for it) because the first priority to use your savings would be to rid yourself of the Riba.

3. On the other hand, if you decide to go for Hajj and pay for your mother too while under a Riba loan,, your Hajj will InShaAllah be acceptable because the rule is that the sin of an action does not stand in the way of another action.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Interest Loan from my own Money for housing
From: Islam on line
Sent: Wednesday, December 08, 2004

Question

In an attempt to solve the problem of buying a house with mortgage, I am trying to benefit from some provisions in the US laws by taking a loan from my own retirement funds kept by the company I work for. The loan has to be then re-paid with interest within a certain amount of time. I understand that a loan with interest is Riba', but what is the Fatwa if the loan is from my own money & coming back to me?

Jazakum Allahu Khairan for your constant help
Yours,

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. M,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

A loan from your own retirement account that requires you to pay it back to your own retirement account is not considered a Riba-based loan. Riba is defined in Shari'ah as between persons only.

Even if the tax laws and retirement systems call it a loan with interest, it is not really a loan and the increment you deposit in your account is not interest from the Shari'ah point of view. What you are doing is a good practice that we always advice our brothers and sisters in the US to do as a way to avoid Riba in buying homes.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,

Dr. Monzer Kahf

Subject: How to Buy a House through interest-free Mortgage

From: Islam on line

Sent: Wednesday, December 08, 2004

Name of Questioner Farooq country of Residence Pakistan

Question

I am currently living in UK. I am interested in buying the house but do not want to get interest based mortgage. Few banks here including one leading UK bank are offering finance which they claim to be in accordance with Islam. For example, Mudarabah based. They ask you to select a house and then bank purchase the house and ask the person to buy it a higher rate from bank but pay the money in 20-25 year (in installment, they divide the installments in to rent and money towards purchase of house). If one compares it with interest based mortgage, it appears that its the same thing but given an other name. do you think such a mortgage would in accordance with Islamic laws. thanks for time and help

Jazakum Allahu Khairan for your constant help

Yours,

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Farooq,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

There are two ways to buy homes without interest. one is Murabahah and one is buying together and the bank rent you, the latter is called purchase lease. Both are permissible in Shari'ah and there are several differences between these two ways and Riba both on legal and practical grounds although they may appear similar. The only thing that is important to check is to be sure that the contract offered by a conventional bank has been reviewed by a knowledgeable Shari'ah specialist.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: mortgage insurance

From: Jaafar

Sent: Friday, November 12, 2004

Question from Canada:

Assalamu Alaikum:

I have a question about Mortgage Insurance where the consumer pays a small portion to cover the balance of their home. In the event of a death or disability, the mortgage is then discharged so that the family owns the house outright. Of course this insurance is

only valid as long as the mortgage balance is owing. Thus, it is not a guaranteed payout like whole life or universal life insurance, which I know is HARAM for sure. Your opinion on this and other matters will be essential in making this product come to fruition.
Jazzak'Allah for helping us
Wassalaam,
Jaafer
P.S. I have actually tried to ask a question on ASKIMAM.com and I have seen that you have given some answers. However, it always seems that the session is closed for submissions when I log in. The two areas that I am inquiring about are very important for all Muslims living in Canada because these two registered investment funds are heavily used to fund retirement and education of children, respectively:
1) Many Canadians have investments held in Registered Retirement Savings Plans (This is a plan in Canada that are akin to locked-in IRA's so the government allows the funds to grow in the plan tax-free until retirement). I have been told by a very reliable brother and friend whose father-in-law is a Director for Dalla Al Baraka in Riyadh that no zakat is payable on this account because the funds are locked-in and thus you do not have to pay zakat while the money is in the plan. However, you do have to pay zakat on the amount initially when it is put in because it was cash and then you have to pay zakat on the amount that you take out in retirement because again it is cash.
These plans are akin to pension plans or social security and I don't know anyone who pays zakat on these.
2) RESP (Registered Education Savings Plans). There is also another type of registered plan, which is the same as the one aforementioned that is used for education for children. People put money in and then it grows tax-free until the child(ren) go to University/College. Again, the same rationale makes sense that ZAKAT is paid on the initial amount as it goes in because that was idle cash but inside the plan, it is supposed to be locked and earmarked for a later funding of education so I would think that no Zakat is payable until the funds are taken out.
If you can answer these directly or perhaps put them through ASKIMAM.COM as everyone in Canada will benefit from the answer.
Jazzak'Allah,
Jaafer

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Jaafer,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Here I'm answering the two questions in the footnote.
1. I do not agree with both the Fatwa given by the person in Riyadh and I do not also agree with the rationale of your comment. The reason is: a. It is unfortunate that there are many people who rush to giving Fatwa without having complete knowledge of what is the issue and very often without knowing the Shari'ah rules. These two funds have more than being ""locked in"" You can choose investment, depository, you can borrow

from them, you can also withdraw subject to penalty and tax and more important they are VOLUNTARY, you choose to put the money. Social security is the US and to my knowledge in most countries, is compulsory; what you contribute is a tax and what you are given as pension is a new income. Second, Zakah on cash is not on the income but on the wealth. This means that when you put money in the fund (say from one's monthly income) you are not subject to Zakah, Zakah is due on savings (left over) at the end of a lunar year that began on the day your savings reached Nisab for the first time. Hence there is no Zakah on what you deposit in the fund and no Zakah on what you withdraw (assuming you withdraw it as a pension to live on or for the child to pay educational expenses)
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Hajj with Money Earned Through Mortgage
From: Islam on line
Sent: Wednesday, November 10, 2004 9:16 AM
Name of Questioner Muhammad
Question
Dear Sir, AOA I would like to know that can I perform Umrah or hajj with money I get through mortgaging my property with a bank based on Murabahah agreement.
Jazakum Allahu Khairan for your constant help
Yours,
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.Mohammad,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Murabahah with Islamic banks does not give you money. It gives commodities only. For you house Murabahah financing gives you building materials to build your house or it purchase the house itself for you. It does not give you money. what is then the thing your want to use for Hajj?
If you abuse the Murabahah, and the bank gives you money and does not care whether you buy goods or not it becomes Riba that is prohibited and then you cannot use this money to go for Hajj because it is prohibited to take Riba loan to go for Hajj or for any other reason. Please tell me clearly what do you want to do so I can be able to give you a definite answer.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,

Dr. Monzer Kahf

Subject: getting money for Hajj by adding to mortgage

From: Mimi

Sent: Monday, November 08, 2004

Question

Assalmo Alikom:

Ramadan Mobarak , and my Allah (SWT) BLESS YOU AND YOURS.

I am divorced women, with two grown children. I am working and look after myself financially. I would like to go this year for hajj.

Unfortunately I do not have any money saved. I just make enough

to cover my expenses. But I have some equity in my apartment.

Can I borrow money against my apartment, added to my mortgage?

Or can I look for some one to lend me money without interest?

I would like to go to Hajj before I get more sick. Please let me know if what I am thinking is Halal.

Gazak Allah Khirn,

sr. Mimi

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sister Mimi ,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Although you may not be required to go for Hajj, it is permissible to borrow against your property for the Hajj expenses provided you fulfill two conditions: 1) the borrowing is without any interest; and, 2) you can pay it when due, either from your regular income or from liquidating the property you own

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying Homes through Mortgage

From: Islam on line

Sent: Sunday, October 31, 2004

Name of Questioner Basil country of Residence Canada

Question

Al-Salamu `alaykum. I need your fatwa of buying homes through mortgage. I have three houses and one apartment (Total four) all of them under mortgage. The mortgage was with a major Canadian bank. I live in one of them with my wife, and the other one my retired parents live in it (I take care of my parents). The third house and the apartment are now rented and they are paying their mortgage for them self, even more, they

paying part of my house mortgage and my parent's mortgage, And now I'm thinking to bay a land as investment and put it under mortgage with the four houses .. I looked into Halal financing which is not readily available. And what is available I cannot afford. Do I have to sell the houses and the apartment? Or what should I do. Somebody told me that what I'm doing right now is Haram and its Haram wealth. I wanted to check with you. Please let me know whether what I'm doing right now is Halal or Haram. Jazakom alah kheer

Notes

1-The 3 houses and apartment still under the mortgage (I don't own them)

2-The porpoise of baying the land is for investments. We can sell the land after few years and make money out of it.

3-My brother in law wants to share me the land by splitting the mortgage payments

Jazakum Allahu Khairan for your constant help

Yours,

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br.Basil,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Interest is the most common kind of Riba. Riba is prohibited in Islam. God says in the Qur'an ""and Allah made sale permissible and prohibited Riba"" God also threatens a war from God and His Messenger to those who do not quit even remaining remnants of Riba, please read Verses 276 to 280 of Surah 2.

Taking mortgage for a house, a land for any purpose is certainly prohibited in Islam. There are certain necessities though that our Shari'ah recognizes. These include a house to live in, the size and value of it depends on the needs of the family. This means that while a personal residence for you and your parents may fall under such necessities, apartments for investment and land for investment do not. Find some other investment that does not make you fall under the prohibition of Riba. Or use the money to pay for the present mortgages and rid yourself of the Wrath of Riba. The Prophet, pbuh, said that the Wrath of God is on the taker, the giver, the writer and the two witnesses of Riba.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Re: Taking a Loan to Buy a House

From: Islam on line

Sent: Tuesday, December 21, 2004

Question

Please try to read the comment sent to one the answer you have given and respond to him:
Here is the original question and answer:
Question
Assalamualaikum Wr Wb Dear Respected Scholars, For Eg, In Singapore if you want to buy a house with 5 rooms, it can cost around 415K. Even though my family is small now, I'm planning to get a bigger house because so that in the future I don't have to keep changing my house. So for that amount, no one will be able to pay this amount in full cash unless the person is a millionaire. The housing board usually gives us a loan for 10, 20, 30 years etc. The more the years you prefer, the more interest you pay. Generally when people are getting low salary or when they don't want that much of burden which is to pay the full amount at one shot, they tend to go for the 30 years installment period. In this case, it is permissible for us to give the interest? Pls shed some light from the Quran and Sunnah to back your sayings. Thank You.
My Answer
Wa `alaykum As-Salamu wa Rahmatullahi wa Barakatuh.
In the Name of Allah, Most Gracious, Most Merciful.
All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.
Dear questioner, we would like to thank you for the great confidence you place in us, and we implore Allah Almighty to help us serve His cause and render our work for His Sake. May Allah reward you abundantly for your interest in knowing the teachings of your religion, Islam!
In his response to your question, Dr. Monzer Kahf, a prominent economist and counselor states:
"Dear Br. Muhammad
Muslims in Singapore are a large minority to the extent that qualifies them to create Islamic financing institutions. This makes such establishment a religious obligation on the persons who are able among them. Permitting such large minorities to take interest-based house financing has a big negative effect on their ability to create such institutions.
You, in Singapore cannot be treated like small and financially weak Muslim minorities in other countries. Interest is prohibited in the Qur'an and Sunnah in clear terms and any exception has to have circumstances of necessities or quasi necessities."
If you are still in need of more information, don't hesitate to contact us. Do keep in touch. May Allah guide us all to the straight path!
Allah Almighty knows best.

Name of Questioner Muhammad
Question
Assalamualaikum Wr Wb Kind Attention : Dr. Monzer Kahf - Economist and Counsellor States Dear Scholar, Pls refer to your fatwa Id : 1LL6M5 dated 1/12/2004 and titled Taking A Loan To Buy A House. I do agree that we Muslims in Singapore are a large minority to the extent that qualify us to create Islamic Financing Institutions but as far as I'm aware of there is no one who has created these kind of Institutions so this makes us

necessary to take loan from the Housing Board. The rich plate of the Muslims does have the ability to create but it has not been done or I don't know whether the government has set any tough criteria. In this case the middle and the lower class are a kind of being "" forced "" to take the loan as I've said a house can cost up till around 220K - 415K ranging from the infrastructure of the house. We do have the Islamic Muslim Council Of Singapore (MUIS) but even them , I doubt that they offer this kind of loans to Muslims to purchase the house from the Housing Board. In your fatwa, you have mentioned Quasi Necessities. May I know the meaning of it? I believe I've made it clear to you the situation in Singapore. This brings me to another question. The question is as follows "" In Singapore to buy a car is very costly. For instance, it can cost up to 65K - 120K for good compactable car. No one would be able to pay this total amount at once in cash unless the person has a good savings, wages Etc. The only way out is to pay in installments and in installments they have a certain interest rate. Is it permissible for me to pay the installments with interest? And to purchase the car is a necessary. For instance. For the family, for business purposes, traveling purposes Etc "" Since I'm presently studying at overseas, I'm not fully aware of the changes going on in my country so if you're aware that there are some Islamic Financing Institutions. Kindly let me know.

Awaiting your earliest response, Thanking You With Regards,

Muhd Feroz

Jazakum Allah kairn

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Muhammad,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

The point is exactly what you noticed. It become your personal responsibility to mobilize people and resources to create such institutions and to negotiate with the housing board to give Muslim families home financing on Ijarah basis that is compatible with 'Shari'ah.

Same applies on cars. You need to know that it becomes a personal religious obligations on anyone who can help mobilize human and financial resources to create Islamic financial institutions for housing and for cars and other business.

in some 20% minority and a geographically small country you can't tell me it is difficult to create such institutions or to negotiate with the authorities, banks and other finance providing institutions to have them offer Islamic contracts to the lucrative market of the Muslim community. Some exceptions may apply to small and poor minorities but certainly not to the Singaporean Muslim minority! Please remember that for any collective obligation, all persons who can help are sinful until what is needed is actually done.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,
Dr. Monzer Kahf

Subject: Buying a House through Bank Interest--- Comment
From: Islam on line
Sent: Sunday, October 24, 2004
Name of Questioner Ahmed country of Residence Canada
Question
Dear brothers, Salamou Alikoum, I read several Fatawa on your site allowing buying a house through the bank (Interest) in non-Islamic countries. I have 2 questions regarding this Fatawa. 1)If you need a 4-bedroom house – for example- you can buy something for $200000, $250000, 300000 or more, it depends on the location, how big the house and many other factors. Now, in your Fatawa one of the bases used to allow buying a house is the "necessity" of the Muslim. Does the necessity means that I only buy a house that meets my minimum needs or I can buy some thing more luxuries? If I bought an expensive house will that be "Haram"? 2) After buying the house, we have to pay a fixed amount to the bank monthly, what if after paying this amount to the bank I was able to save some money, or I got some bonus or overtime from work, can I save this extra money or am I obligated to pay every extra penny to the bank to minimize the interest?
Jazakum Allahu Khairan for your constant help
Yours,
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ahmed,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
The Fatwa aims that Muslims should conduct a normal life, accumulate equity, have decent neighborhood and schooling, etc. Of course, if your normal comfort is satisfied by a three bedroom, taking five bedroom house would be extravagant. Also if you income level and people you associate with warrant a 300,000 house taking half a million house would also be too much.
For payment, it is also meant in the Fatwa that you pay any extra funds you acquire toward reducing the interest without exposing your self to penalties of early retirement of the loan if there is any in the contract. This also taken in a reasonable way, with wisdom; all of us need some money cash for emergency and unexpected spending.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House with Interest-based Mortgage
From: Islam on line

Sent: Wednesday, October 20, 2004
Name of Questioner Akhtar country of Residence United Kingdom

Question

Asalaamu alay kum ya sheikh, Is it permissible for one to buy a house on interest based mortgages even though has the option to rent from private land lord and local authority. Jazak Allhu khairun Masalaam
Akhtar
Jazakum Allahu Khairan for your constant help

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Akhtar,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Yes, if the circumstances of the Fatwa in this regard apply to the person. Availability of rent does not annul the need for buying.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Husband's Interest-based mortgage and Hajj

From: Islam on line
Sent: Tuesday, October 12, 2004
Name of Questioner NOREEN country of Origin United Kingdom

Question

My husband had a mortgage prior to our marriage. It is interest based and I have tried unsuccessfully to get him to convert to a Halal one but without success. He has other loans as well that he wants to consolidate into one payment. I tried Islamic Banks of Britain but they are yet to set up their services. Can my husband carry on with his interest based mortgage which I know is Haram until such time we can find something suitable. What if we can't find something suitable to our needs I.e. consolidate his mortgage and his other debts into one debt. I am worried for him in this matter. I tried giving him my savings money which is not much in order to reduce his debts but he refused it. How can I plan to go to Hajj if he is so heavily indebted now? Please help. I am quite sad over this matter
Jazakum Allahu Khairan for your constant help
Yours,

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Noreen,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
Your going to Hajj from your own savings is unrelated to the finance of your husband. He is responsible, in this life and in the life after, for his debts and for the interest-based transactions. A house for own residence mortgage may be excused on the ground on the known Fatwa on this matter (it is based on needs that are upgraded to the level of necessities because they apply to a great number of people); but having other interest-based transactions and debts may not be permissible at all and it is one of the most grave sins as the Qur'an tells (2: 279). You need to keep advising him on putting a total end to any interest-based transaction and then start handing the existing debts as fast as he can.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Mortgages and Purchasing Houses
From: Islam on line
Sent: Thursday, September 30, 2004
Name of Questioner Shahrul country of Residence Malaysia
Question
I have read most of your fatwa regarding mortgages which involves usuries. My specific question in my case is:- I am currently a practicing doctor in the UK. I am here for my training to become a specialist. It will involve probably next 3-4 years on the line. My intention is to go back to my own country whenever my training has ended. Unfortunately in Northern Ireland, the law is not provided for Islamic banking to be applicable at present. Am I able to make loans to purchase a house even though the house is not going to be permanent (as I plan to return home as soon as I finish my training).I am planning to sell back the house once my training ended. IS the fatwa only available for people who intend to stay abroad forever? Jazakallah
Jazakum Allahu Khairan for your constant help
Yours,
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Shahrul,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
permanency or long term is not one of the conditions of Fatwa. It is your personal and family circumstances that matter. If your circumstances are such that you need a house for any of he several considerations that are mentioned in the Fatwa including tax saving and building equity, etc. you may buy according to the Fatwa as long as Islamic financing approaches are not available to you.
Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: working as a mortgage consultant
From: Lamis
Sent: Saturday, September 25, 2004
Question
Dear Dr Kahf,
I am a Muslim mortgage consultant who only promotes Shari'ah compliant products in a non-Muslim country. I have been approached by a colleague who promotes both Conventional interest loans and shari'ah compliant products to use my office facilities (space, fax…) and share the office expenses. Is it permissible for me to allow him to conduct business in my office thru that arrangement?
He suggested that I become his partner (arrangement has not been finalized yet). My role would be to look after the Shari'ah compliant products only while he deals with other kinds of conventional loans. Is that acceptable? What would be the best arrangement to avoid any Shubhah?
Jazakom Allah Khayran
Lamis
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Lamis,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
to rent the other person a space and facilities is permissible because you are getting a rent for your office space and equipments/services (for services it becomes a price not rent) and she/he is free to do what one may like to do (sending faxes, using computer, making phone calls and sitting at a desk) thing that normal people do. Notice that the content of these things is her problem not yours as long as you are a renter.
On the other hand, partnership is a different story because in partnership each partner acts on behalf of herself and her partner at the same time. In partnership you become an actor (though by delegation) of interest-based mortgages that your partner (who is your attorney in fact from the point of view of Shari'ah in regards to all transactions of the partnership). In Fiqh the issue of creating a partnership with non-Muslims is disputed on this same ground. Those who see it forbidden argue that the partner my do thing prohibited in Shari'ah on behalf of the partnership. And those who see it permissible put the condition that the Muslim partner must make it clear in the contract that no act that violates the Shari'ah may be undertaken by the partner.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam

Sincerely,
Dr. Monzer Kahf

My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Lamis,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
This is perfectly all right regardless of her faith or believes and regardless of her other businesses and practices.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

From: Lamis
Sent: Wednesday, September 29, 2004 1:22 AM
To: Monzer Kahf
Dear Dr Kahf,
Thank you very much for your answer. Just a quick follow up question: If I were to propose to my colleague for both of us to set up a new company or any other legal entity to overlook our activities, dealing only in Shari'ah compliant products, consequently, I do not get involved in her other activities and our business association (partnership) is only limited to the Shari'ah compliant products. Do you see that as a better option for me?
Jazak Allah Khayran
Lamis
My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Lamis,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
to rent the other person a space and facilities is permissible because you are getting a rent for your office space and equipments/services (for services it becomes a price not rent) and she/he is free to do what one may like to do (sending faxes, using computer, making phone calls and sitting at a desk) thing that normal people do. Notice that the content of these things is her problem not yours as long as you are a renter.
On the other hand, partnership is a different story because in partnership each partner acts on behalf of herself and her partner at the same time. In partnership you become an actor (though by delegation) of interest-based mortgages that your partner (who is

your attorney in fact from the point of view of Shari'ah in regards to all transactions of the partnership). In Fiqh the issue of creating a partnership with non-Muslims is disputed on this same ground. Those who see it forbidden argue that the partner my do thing prohibited in Shari'ah on behalf of the partnership. And those who sees it permissible put the condition that the Muslim partner must make it clear in the contract that no act that violates the Shari'ah may be undertaken by the partner.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying a House Which Is Originally Bought from a Bank

From: Islam on line

Sent: Wednesday, September 01, 2004

Name of Questioner fathi country of Residence Palestine

Question

I have a dilemma. I have a friend who is a real estate agent and he wants to sell me a home without interest which is ok but I would like to know if it is ok for me to buy it from him, he bought it from the bank and I will buy it from him but is it considered his if he still owes the bank? Can he sell a home interest free if he still makes payments to the bank? Is he considered the owner, is it Batel the contract between him and I? is it ok to buy a house that has a lien because the bank holds the property papers till you finish payments

Jazakum Allahu Khairan for your constant help

Yours,

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Fathi

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I am not familiar with the legal system in Palestine with regard to the availability of assuming (taking charge of the payment of) a loan. From a Shari'ah point of view, once your friend bought the house he becomes its owner regardless of the lien and the amount of debt that is still outstanding (the same principles exist in the American laws). Accordingly, he certainly can sell to you and you have nothing to do with the interest transaction that he made. You can buy the house on installment, with a cash advance (no harm if it is set to be exactly equal to the value of net worth in the house) and installments (also no harm if they are set to exactly, equal his installment to the bank that actually include principal and interest) AS LONG AS THE CONTRACT BETWEEN YOU AND YOUR FRIEND IS MADE AS A SALE FOR A PRICE THAT CONSISTS OF THE ADVANCE PAYMENT PLUS THE TOTAL FACE VALUES OF INSTALLMENTS). In fact, you can even go one step further: to make payment, on his behalf, directly to the bank, or even to

legally, assume charge of the installments to the bank as long as they are part of your sale price (in contrast to being a loan plus interest). Assumption of these payments in this case is equal to Hawalah of a debt from Shari'ah point of view which is permissible.
Lastly, it is permissible to buy a house under a lien, as long as you accept it. And it is permissible to buy a house from a person who purchased it on a Riba-based loan.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Getting a House Loan
From: Islam on line
Sent: Thursday, August 26, 2004
country of Residence Oman
Question
Please advise on following transaction: our employer company provided us
a housing loan with following details: 1-a staff apply for a loan in his name and by mutual agreement between bank and the company , the latter to pay all interest as long as staff working with the employer, once he leave the company then he has to complete the loan with any balance interest.? 2-what if the employer has the WHOLE deal with the bank and staff gets the loan free of interest on the condition that once he leaves the company , the later will mortgage the property to the bank and the bank will take care of the deal according to their rules with Riba. Please advice on above in absence of any Islamic bank. And how to make the deal Halal.
Jazakum Allahu Khairan for your constant help
Yours,
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa
Ashabihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
This transaction is interesting. It can be made compatible with
Shari'ah, from the point of view of the employee, under the following format:
1) The employer makes a Riba-based or any other contract with the bank to buy the house.
2) A second sale contract is to be done between the employer and the employee, after the house is owned and actually received by the employer (this is done by handing the key and can be just five minutes after the first one, in the same sitting) for any price (that may be equal to the principal only if the company with pay any interest to the bank, alternatively it can be for the total amount of the price plus the amount of

interest). In this contract when the employee leaves the company, he will be obliged to pay all the remainder to the company.
3) If the house is to be constructed, it can be made a four party contract, including the builder.
4) There are other format to achieve the same objective too. But remember that under all formats of contracts you will need to consult a Shari'ah expert for the specific language and conditions of the contract.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: mortgage for tax shelter
From: Osama
Sent: Saturday, August 21, 2004
Salam,
My name is Osama and I listened to your seminar last weekend in . . . . , which was very informative and enlightening. I know you were talking with Dr. . . . . about sending him a copy of a similar contract you had put together for buying a house using the Murabahah concept. If you do not mind I would like a copy of that and any other boiler plate contracts such as an example of the Leasing purchase contract if you have any available. You can email them to me and I will share it with Dr. . . . .
Thanks again for the great program and InShaAllah you will be rewared for your hard work and dedication to this sometimes controversial matter. If you are unable to email then my home address is:
Osama
My Answer
Dear Br. Osama
Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
As promised here is the info about the approval of the US Comptroller of currency/Administrator of National Banks about Murabahah and leasing. These are public records you can get their texts from the Internet.
For Murabaha:
Comptroller of the Currency
Administrator of National Banks
Interpretive letter No. 867
November 1999
12 U.S.C. 24(7)
12 U.S.C. 29
Dated June 1, 1999
For Leasing:
Comptroller of the Currency
Administrator of National Banks

Interpretive letter No. 806
December 1997
12 U.S.C. 24(7)
12 U.S.C. 371
Dated October 17, 1997
Please share it with Dr. Nahhas
Wassalam
Sincerely,
Monzer Kahf

From: Osama
Salam
Thanks for the info. I gave the interpretive letter to my banker on Friday. I just spoke with her and she said they would not be able to do the Murabahah because it is not one of the standard forms they get from Freddie MAC and Fannie May. I asked if we could do some sort of addendum to their standard contracts to include key aspects of Murabahah. This was also not a possibility. Therefore, I would appreciate your assistance as to the next step or how I should approach this matter. She also asked me if this contract had been done with any banks in the southeast. I really was not sure. However, I mentioned this form of contract had been done on the west coast. I really appreciate all the help thus far but I am a little confused as to what exactly I should do in order to make this work from the Islamic perspective.
Thanks again and I hope to hear from you soon InShaAllah.
My Answer
Dear Br. Osama
Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I understand your dilemma! These small branch bankers only follow the standard forms provided to them by their headquarters. They don't know how to deviate from them. But they take the effort only if they feel that the transaction has a market and they can benefit from it!
For residential financing you need to press them to contact Freddie Mac and Fanny Mae because they both accept the Murabahah and the lease based contracts. Of course these two wholesalers will not provide your banker with forms to use but once a bank develop its forms they accept them. They do from Guidance financial and several other players in the market today. YOUR BANKER NEEDS TO CONTACT THESE WHOLESALERS AND DEVELOP MURABAHAH/LEASING BASED FORMS.
For nonresidential, forms are not sticky. Bankers always structure them according to the need of business. As long as these transactions are acceptable to the Banking Supervisory Authority (as shown in the interpretive letters) any bank can structure a business contract accordingly. They hate to do because it is off standard, they need to learn it; but if the business is attractive to them they will certainly do it. In brief, it need pressure from the community and its financially strong members.
Wassalam
Sincerely,

Monzer Kahf

From: Osama

Salam,

I had a question about interest only payments. If you were going to buy a property and plan to sell it in a couple of years; is it permissible to do interest only if it is an investment and all the interest is tax deductible-acts as a tax-shelter. I'm not really sure if this is ok or not since the interest is not paid but just taken out of taxes.

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Osama

Interest is forbidden in Shari'ah and it is not Okay to make any interest-based transaction. If some one feels that this form of tax deduction is extremely important for him, I can't tell him it is Halal or Haram because necessities invoke relaxation of prohibitions and God is going to judge him, not me! God knows best whether it is really a necessity or not.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying a Home through a Bank

From: Islam on line

Sent: Monday, August 09, 2004

Name of Questioner Ahmed country of Residence Canada

Question

Dear Brothers, Salamou Alikoum.. I read through many of the Fatawa published on your web site regarding buying a home through a bank in foreign countries, but I still unable to come to a clear conclusion if it's allowed or not. I want to present my situation and if you please tell me is it allowed or not for me to buy a house through a mortgage. I live in Canada, and we have ISNA and other Islamic institution offer forms of Islamic way to finance the houses, but I'll be unable to buy through them because they ask for big down payment and other conditions that will be very hard for me to meet. I make a very good income right now -AlhamdouLelah- and I can afford apartment rental in a very decent neighborhood. The rent is high but still I can afford it. The main motives behind the idea of buying a house are: 1) The sense of stability, where I have my own home, and can do whatever I like with it. 2) Right now I can afford the rent, but years from now when I retire I won't have enough money to pay rent in such good neighborhood 3) It's a way to save money for the future, so if one day I decided to go back to my home country I can sell the house and use the money there. Giving all this information am I

allowed to buy the house or not? I'll appreciate if I can get a clear answer in the form or ""yes or no""
Jazakum Allahu Khairan for your constant help
Yours

My Answer,
Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Ahmed
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh
There is only one person who can give you a yes or no answer: YOU
But knowing the conditions of the Housing Cooperative in Canada, and with the points you mentioned add to them that I have children, if I were in your place I would take a mortgage and try to make early payments even with some squeezing on my expenses, in order to get rid of the mortgage the fastest way.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Purchasing Cars and homes through Commercial Loan Banks
From: Islam on line
Sent: Wednesday, August 04, 2004
Name of Questioner Iqbal country of Residence Australia
Question
Car and home loans Dear respected scholars Asalaamu alaikum In Australia, most members of the Muslim community are purchasing cars and homes through commercial bank loans and mortgages. This is justified in two ways: - one has no option in a Western country which does not have Islamic banking - and hence you need to borrow to be able to acquire a car and a home. - the interest prohibited refers to excessive interest over and above an accepatble rate (usurious rate). Interest at or below the average is acceptable. Please comment on the above - especially the notion of interest and riba in Islam. Also, please comment on what Riba encompasses (interest, excessive profiteering, etc). Wasalaam
Jazakum Allahu Khairan for your constant help
Yours,
My Answer,
Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Iqbal
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Interest is the most common kind of Riba, no doubt about it. It is the kind of Riba that is prohibited in the Qur'an and Sunnah and it is the kind that we usually mean when we say Riba (without any qualification or adjective). It is called in the Fiqh literature ""Riba al duyun"" or ""Riba al Qurud"" [Riba of debts or Riba of loans].

This kind of Riba is defined, in Shari'ah, as an increment stipulated in a loan contractor in a debt rescheduling (for the time difference between giving the loan and repaying it or for delaying a debt to a further due date). Kindly, notice that there is no reference to low or high rates. Therefore, a low rate of interest is equally prohibited. Of course, high rate is double evil because it is Riba and it is exploitative too. The Prophet, pbuh, made a reference to ""an atom of Riba"" is some of his Sayings. Riba is one of the most grave sin according to our religion; it is the sin about which God said that a war is declared from God and His Messenger on those who do not quit dealing with it. The prophet, pbuh, said that the Wrath of God is on the taker, the giver, the writer and the two witnesses and in some other Saying he, pbuh, said: they are all equal (in the sin).

Any prohibition may have certain necessity circumstances that call for relaxation. This applies to Riba and to many other prohibitions. Of course, a necessity must always be given its right weight since it is God, the Most Knowledgeable, is the One who is going to screen our truthfulness, and no body else. I can see a quasi necessity in buying homes in some countries like the USA and Canada, but I hardly find it for buying cars because the affordable used car market reduced such necessities to a minimum.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Subject: A QUESTION ABOUT FORECLOSURE

From: Fakher

Sent: Tuesday, July 20, 2004

Question

AslaaMuAlikum Dr. Monzer,

My case briefly:

I am currently Alhamdullilah living in a house that I got thru a private "Murabahah deal" from one of the brother in Austin few years ago. I am planning to INVEST (not a need or must) in a bigger house if I can find a pure Islamic way to finance it. So I have no such Dharoura (must) to buy a new house. But, I would like to buy a bigger one since the real estate market is down and I want to kind of invest my savings in a bigger property.

I have been in contact with Lariba institute (www.lariba.com) who uses the lease method and told me they offer a 100% Islamic mortgage. Are you familiar with their financial method? is there any loop holes or down sides with it?.

Do you know of any other Islamic institutes in the US you can recommend?

Please advice.

Jazaka Allahu Khair

Fakher.

My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa
'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Fakher
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
I refrain from giving a Fatwa about specific entities but I can give you the clue or test and you make your own judgment. There are two tests that will indicate whether a company offers Shari'ah compatible contracts: 1) the text of the contract, not
the propaganda materials or the verbalization, must state that this financing is not interest based, is not a loan but some other form of financing such as lease/ purchase, installment sale and any other contract that is susceptible to being Shari'ah compatible. It the contract says loan and interest, it is loan and interest no matter what the verbalization about it or its propaganda advertisements may be; and 2) even if the contract does not mention loan or interest, it must have been reviewed by a Shari'ah knowledgeable and trustworthy scholar because even other contracts may actually have violations in Shari'ah from the angle of Riba and from other angles too.
Please apply these two tests to whatever you are offered by any company and do not go for names only because names very often do not represent the reality.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

From: Fakher
Sent: Thursday, July 22, 2004
To: Monzer Kahf
Dear Dr. Monzer,
Jazaka Allahu Khair for the prompt and quick answer. I really understand your concern about making comments about any specific entity. I really appreciate the straight forward and logical answer. I will use the logic below to the contract that Lariba offers and see if it is compliant. Also, as you mentioned, to be on the safe side, I will make sure this contract has been reviewed by some well known Shari'ah scholars. Would you be interested to the review the contact if I get you a copy of it?
Regards
fakher.
My Answer
Dear Br. Fakher
Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
Thank you for your letter,
But no, I am not interested. I already knew their contract.
Wassalam

Sincerely,
Monzer Kahf

From: Fakher
Sent: Monday, August 23, 2004 7:48 PM
Question
I am sorry for coming back to you with more questions. Actually, I was going to get your opinion about foreclosures. If we buy the house directly from the bank as foreclosure, is that considered Shari'ah compliant? Any conditions to make it compliant you can provide will be really appreciated.
Regards
Fakher.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa
Ashabihi Ajma'in
Dear Br. Fakher
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
1) Buying foreclosures is permissible because houses on foreclosure are there in implementation of the right of creditors
2) If you buy a foreclosed house from a bank (the creditor) on installments whereby the contractual price is the total of the installments, this kind of contract is permissible. On the other hand, if the contractual price is a giving amount and the contract mentions that above it an amount of interest is added to make the sale on installments, the contract is then Riba-based.
3) There is another format that is sometimes available that may be permissible, if the language is proper: buy for a given amount paid in cash plus assuming the payment of installments (that consisted originally from principals plus interest) whereby the contractual price is the total of the cash payment and the installments.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a house with conventional mortgage in Morocco
From: karim
Sent: Thursday, July 15, 2004
Question
Dear Dr. Monzer Kahf,
I would like to thank you warmly and sincerely for the help and support you offer millions of Muslims throughout the world. My poor training in Islamic teachings has always made me seek the advice of others whom God has enlightened, knowing that

there is an Afterworld and that I am going to be judged for each single act good or bad. I have an issue that has long caused me so much anxiety. I write to you in the hope that you help me, may God grant you good health and happy life. My name is Karim, I am married since 2000, I teach English at the university Hassan II Casablanca, my wife teaches English at a secondary school. We both live in Casablanca (a huge and ugly city) far from home in the north of the country. We have, by the standard of the country, a respectable salary together, but we pay high rent and spend a lot of money in the taxis, especially my wife who has to travel 90 kms a day 6 times a week in a big taxi among other passengers, which personally angers me knowing that sometime she could ride among men at the back. She wears a scarf and dresses respectably, but she doesn't feel comfortable. We thought a loan from the bank will not cost us as much, and will save us so many worries. We also want to get our own house, we pay high rent and live in a very populous and dirty district. We made our calculations and found that we could apply for a loan supported by the Government at 4.5/ interest rate, and get our own clean and new house. But these prospects I fear may run against God's teachings, that's why I have sought your email address in the hope you enlighten me and guide me towards the right path. I have outlined all the details but if there is anything I have to clarify, please let me know.

I know I have taken much of your valuable time.

""Jazaka Allaho Anni Kola Khair""

Assalamo alaikom

Karim

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Karim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I really sympathize with you and I feel that Muslims in Morocco, Syria and similar countries that are prevented from having Islamic banking by government action are deprived from some of their basic human rights "" to practice their religion the way the desire.""

The Fatwa as it stands is that necessity call for relaxation of a prohibition. We know that Riba is forbidden and interest is no doubt the most common form of Riba. We also know that conditions of hardship call for relaxation of a prohibition only to the extent of removing the hardship.

If you feel that the present situation is giving you too much trouble take the subsidized loan only if your best judgment is that it will really remove the hardship you are currently in.

The other suggestion, did you try establishing a house financing cooperative, with other people in similar situation? How about personal borrowing from family and friends? If you decide to go for a loan, you should do your best to live on thrift and save as much as you can in order to rid yourself of the Riba in the shortest possible time.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: House finance in Morroco
From: karim
Sent: Thursday, July 15, 2004
Question
Dear Dr. Monzer Kahf,
I would like to thank you warmly and sicerely for the help and support you offer millions of Muslims throughout the world. My poor training in Islamic teachings has always made me seek the advice of others whom God has enlightened, knowing that there is an Afterworld and that I am going to be judged for each single act good or bad. I have an issue that has long caused me so much anxiety. I write to you in the hope that you help me, may God grant you good health and happy life. My name is Karim, I am married since 2000, I teach English at the university Hassan II Casablanca, my wife teaches English at a secondary school. We both live in casablanca(a huge and ugly city) far from home in the north of the country. We have, by the standard of the country, a respectable salary together, but we pay high rent and spend a lot of money in the taxis, especially my wife who has to travel 90 kms a a day 6 times a week in a big taxi among other passengers, which personally angers me knowi ng that sometime she could ride among men at the back. She wears a scarf and dresses respectably, but she doesn't feel comfortable. We thought a loan from the bank will not cost us as much, and will save us so many worries. We also want to get our own house, we pay high rent and live in a very populous and dirty district. We made our calculations and found that we could apply for a loan supported by the Government at 4.5/ interest rate, and get our own clean and new house. But these prospects I fear may run against God's teachings, that's why I have sought your email address in the hope you enlighten me and guide me towards the right path. I have outlined all the details but if there is anything I have to clarify, please let me know. I know I have taken much of your valuable time.
Jazaka Allaho Ani Kola Khair. Assalamo alaikom
karim
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Karim
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
I really sympathize with you and I feel that Muslims in Morocco, Syria and similar countries that are prevented from having Islamic banking by government action are deprived from some of their basic human rights "to practice their religion the way the desire."

The Fatwa as it stands is that necessity call for relaxation of a prohibition. We know that Riba is forbidden and interest is no doubt the most common form of Riba. We also know that conditions of hardship call for relaxation of a prohibition only to the extent of removing the hardship.
If you feel that the present situation is giving you too much trouble take the subsidized loan only if your best judgment is that it will really remove the hardship you are currently in.
The other suggestion, did you try establishing a house financing cooperative, with other people in similar situation? How about personal borrowing from family and friends? If you decide to go for a loan, you should do your best to live on thrift and save as much as you can in order to rid yourself of the Riba in the shortest possible time.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: A Problem with a Father Buying a House on Interest
From: Islam on line
Sent: Saturday, July 10, 2004
Name of Questioner country of Residence United Kingdom
Question
Assalamalaikum wa rahmatullahi wa barakatuhu Recently my father bought a house to rent in my name with a mortgage with interest. I had protested against this but I was ignored and given the guilt trip by my family, 'Why can't you keep your father happy?', 'It's for your future?'. I don't wish to have a penny of the rent or the house. My family refused to take out an Islamic mortgage claiming interest is still involved but termed differently plus it's more expensive. In fact my father wishes to transfer the current mortgage to a cheaper one so he will not transfer it to an Islamic mortgage. I reluctantly agreed and signed the papers. Although I don't pay towards the house or receive any profit the money is processed through my bank account. I'm not at all happy with my family's actions. It's been really upsetting me and I feel as if I failed as a Muslimah. I've been repenting and crying. Whenever I see my father I feel so much disappointed in my heart and I sometimes feel ashamed that I'm his daughter. He really has let me down. He has always provided me financially but that is far as his fatherly duty has gone. I haven't been guided along the right path just the evil Pakistani culture. I don't wish to be a part of my family anymore. They ignore Islamic advice I give them. They make Halal into Haram and Haram into Halal. I know I shouldn't feel negatively about my family but they have made me indulge in Haram and I'm finding it very hard to love them and forgive them. At the same time I have caused Allah to be displeased in me.
Jazakum Allahu Khairan for your constant help
Yours,
My Answer,
Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Sr.
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh
Just take it a little easy please and have some patience. I fully agree with your feeling that you are let down by your family and very often our local culture, be it Arabic, Pakistani, Persian or what not, is given more weight than our faith and religion. This is part of the test.... Don't you want to succeed in the test?
It is sinful to take an interest-based loan unless by necessity or matters treated in Shari'ah the same way as necessities. But in this case, you should keep advising gently your father, some day he will listen and accept. Meanwhile you get the reward and you get the equity in the house too while the guilt is not yours. Isn't our mission to help those of us who need to know more and realize and internalize the importance of obeying God, the Almighty? A day will come when your father will come to realize it and do the right thing InShaAllah. Be assured, Sister, that may of us have sailed through the same struggle in their life and be assured that in the final analysis only what is good will remain and last. Just be patient and keep learning and kindly advising.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Houses through mortgages for two wives
From: Islam on line
Sent: Tuesday, July 06, 2004
Name of Questioner Fatima
Education Post Graduate
Question
I read in this side that Muslims can buy houses only for purpose of living through mortgage or by interest so if the man have tow wife can he buy tow houses through the previous mentioned means for each one of them as Darura ? is the wife should refuse to enter in a house by interest & will she punished if she live with her husband in this sort of houses ? I really do not want to be involve in Riba although this the only mean for her to have a house there .
Jazakum Allahu Khairan for your constant help
Yours,
My Answer,
Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Sr. Fatima,
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Yes, the same principle applies to the residence of the second wife. Aren't we talking about two families? If the house if purchased for living on interest basis provided there is no accessible Islamic financing for the same, there will be no sin InShaAllah because it is out of quasi-necessity or necessity. The wife will not be committing the sin of Riba in living in such a house InShaAllah.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Taking a Loan from a Bank to Buy a House
From: Islam on line
Sent: Tuesday, June 29, 2004
Name of Questioner Amatullah country of Residence Morocco
Question
as-salaamo alaikom, may Allah reward you for your help, my question is it Halal in our Deen to take a loan from the bank to buy a house to let a poor brother or sister live in. May Allah reward you with the best, as-salaamo alaikom.
Notes
I live in the U.S for more than 3 years
Jazakum Allahu Khairan for your constant help
Yours,
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Amatullah
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Taking interest-based loans from banks or any other institutions to buy a house for residence or for investment is not permissible in our Shari'ah because this is a Riba-based transaction that is clearly prohibited in the Qur'an and in the Sunnah.
However, for Muslims who live in non Muslim countries who cannot establish their own financing institutions and housing cooperatives and who need houses as residences the prohibition is relaxed on the ground of avoiding hardship because God want us to avoid the hardship. This Fatwa must not be extended to Muslim countries because in the Muslim land there must be ways that Muslims must invent together to avoid Riba-based transactions and they are required to do that.Their number and financial abilities do not warrant relaxation of the prohibition.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House with Riba in Morocco

From: Islam on line

Sent: Thursday, June 17, 2004

Name of Questioner ANWAR country of Residence Morocco

Question

Assalam oulaikoum wa rahmatou allah I live in Morocco which is a Islamic country but unfortunately there's no Islamic bank. Actually I live in a renting house with my wife and my 2 children. I've heard very opposite Fatawa on bying a house using Riba banking, and I really want to know which fatwa I have to follow knowing that the amount of the rent is equivalent to 30% of my monthly wage. Please advise jazakoumou allah khairan. Assalamou alaikoum wa rahmatou allah.

Jazakum Allahu Khairan for your constant help

Yours,

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Anwar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Muslims in Muslims countries that have no Islamic banks are required to establish one or more. If they failed they are required to establish other institutions/ organizations to provide house financing (and financing for other needs too) without interest. They are not excused form this obligation. Therefore the exception that may apply to Muslims in non-Muslim countries does not apply in this case and a Fatwa (as in the case of the Fatwa for Muslims in non-Muslim countries who need to buy houses) is by definition a special case very often based on exceptional situations that must not be extended to other cases.

My dear Brother you need to create a housing cooperative or any similar organization that help you even if you do not have Islamic banks. Resorting to interest-based loans is not excused in the Muslim countries.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Taking a Loan from the Bank

From: Islam on line

Sent: Wednesday, June 16, 2004

Name of Questioner Abbas country of Residence Canada

Question

I am not working as I could not find work. I have a business with my wife in the basement of my home and the other in the school. We are threatened to be kicked out

of school at any time as the new principal doesn't like to have a day care in the school. also it is quite difficult to operate as last week we were going to lose a child as the building is open at all time. Being in a locked building for safety in our work is the most important factor in submitting our service. The different location is for different age group. I have most of the money to buy a building but the rest is not. Can I take a loan from the bank and consider it as the rent for the center. Put in consideration we live in Canada and life for Muslim or their children are not easy to depend on one age group will not work easy in the market specially we are Muslim and my wife and daughter are covered so the people whom we service or whom they require service realize right away, some like it and some not and leave. This is why we can not afford closing any of the age groups as one serves the other and we try to hire Muslim people who have difficulty to find jobs too. To have a loan from the bank to complete the full amount we have, and pay it back as soon as possible is it wrong. This amount can be considered as rent and we can claim it in our taxes as expenses. Please help us.
Jazakum Allahu Khairan for your constant help
Yours,

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Abbas
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Interest-based loans are not permissible in our Religion as interest is Riba; it cannot be ""considered as a rent."" In Canada you have the Islamic Housing Cooperative that you may use its help to finance the remaining amount. Try it first and if you failed try to get with you any friend as personal investor on the basis of Musharakah for a limited period. There is another Islamic financing company in Toronto area that you may like to consider. I am sure there are other means to solve this issue especially that the Muslim community in Canada is very large.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Alternatives to Buy a House in NA

From: Islam on line
Sent: Wednesday, June 09, 2004
Name of Questioner Syed country of Residence Bangladesh

Question

Dear scholars, as-salamu `alaykum. I'm a Muslim, living in USA, and need to buy a house. I am aware that Islam forbids usury. I am also aware that Shari'ah allows relaxing the prohibition if there are no other alternatives available to the person and there is a real need for the residence because of family, children, safety areas, etc. Buying a house has

become a necessity for me. I have tried hard to get a loan Islamic way. I have found two institutions (American Finance House, LARIBA, website: www.lariba.com & the other Guardian Financial) which claim that there loans are Shari'ah based. If I get loan from any of them I have to pay at least $200 more/month compared to if I avail conventional interest based loans. By paying $200 more/month, I will not be able to save almost any money. All my relatives and friends are of the opinion that these types of so-called ""Islamic loans"" are worse because it is charging a lot more in excess and hence putting me in financial difficulty instead of alleviating it. In this situation, is it OK to buy a house using interest-based loan or should I still go with the Shari'ah-based loans? Jazakum Allah Khayran.

Jazakum Allahu Khairan for your constant help

Yours

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Syed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

My reply has two folds: 1) you have to test any claim of being Islamic and be sure whether the claim is truthful. Tow points must be looked at: a) whether the documents of the company give you a loan or purchase/lease agreement. They may give a loan contract and yet say it is not a loan this is contradiction; and b) whether the contract offered to you has been subjected to Shari'ah scrutinization by any well known Shari'ah scholars.

2) If a true Islamic contract (that fulfils the above two tests) is above the market level, you must consider it as non-existing and act accordingly. But are you sure that these two companies are both above the market. One of them at least claims, to my knowledge, that it is competitive! Please if you find both above the market let me know the exact numbers each offers and their way of giving financing!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: buying house in Uk on interest loan

From: Islam on line

Sent: Wednesday, June 09, 2004

Name of Questioner Ashraf country of Residence United Kingdom

Question

I lived in UK for almost 10 years, I bought a house in Hull /UK using I in Dec.1999 and I heard that sheikh Yousuf Qaradawi allowed Muslims that time to take loan [I],and my plan was to stay for long time in UK, now I have changed my mind and I'm selling the house and there will be a profit of about 80 to me 90000 pounds so my question is this

money Halal or Haram, my plan is give Zakah on this [Ribh or profit]unless you see it is all Haram.
Notes
The house originally I bought it for 70000stirling now I am selling it for 150000 my net Ribh/profit 80000 to 90000 pounds after paying back the loan.
Jazakum Allahu Khairan for your constant help
Yours,

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Asharaf
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The capital gain you make is yours Halal InShaAllah, you made your purchase on the basis what was then best available and according to your then needs; you did not InShaAllah do any wrong in buying it and the gain is an increment in your property.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Buying Investment Properties on Mortgage

Subject: Taking a Mortgage on a Rental Property
From: Islam on line
Sent: Monday, June 07, 2004
Name of Questioner Tarek country of Residence Canada

Question

Assalamu Alaykum. In Islam, is it permitted to have a mortgage on a rental property other than your own home, in order to build equity and have a second income to better provide for your family? And is it allowed to have money invested in registered retirement savings plans (RRSP),or registered educational savings plans(RESP)which provides funds for children's post secondary education. Thank you.
Notes
I have the opportunity to invest in rental property with help from a Muslim brother, but the majority of the purchase price would have to come from a bank.
Jazakum Allahu Khairan for your constant help
Yours

My Answer,

Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Tarek
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

for the RRSP and the RESP you have the Islamic housing cooperative of Canada that you can invest with, it is approved for these plans and it gives a reasonable return. With the presence of the IHC (whose offices are in Mississauga) it is difficult to accept any claim that Muslims in Canada do not have safe and rewarding depository for their retirement plans. Accordingly it is not permissible to invest funds in these plans on interest basis.

With regard to financing rental property, interest is forbidden and there is not sufficient justification that invokes a relaxation of this prohibition. There are many opportunities for investment that are consistent with the Islamic Shari'ah and there are today finance providers in Canada and the US that provide financing in modes compatible with the Shari'ah.

Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Buying Membership in Housing Society

Subject: Buying Membership in Housing Society
From: Islam on line
Sent: Thursday, June 03, 2004
Name of Questioner Muhammad country of Residence Pakistan

Question

Respectable Sir, Assalam O Alaikum Wa Rahmatullahi Wa Barakaatuh ""A housing society/scheme was formed in 1987 in my office. All the employees were given an opportunity to bye its membership. The cost of membership was Rs.125-1000. Few weeks back the society acquired some land and asked the member to deposit their dues. Society has tow kind of members' regular employees and non-employees. The cost of land for regular employees is 185000 and for non-employees are 235000. Instead of paying their due, the regular members of society start selling their membership to some private inverters/property dealers by taking some amount (I.e. Rs. 15000-50000). The investors are using the name of > regular member for their own benefit. I want to seek your kind guidance whether the regular members can sell their membership by taking big amount of money and can a man sell a thing/plot, which is not in his possession as yet. Please guide me in accordance with Quran and Sunnah. A detail reply is required in this mater."" Thank. Muhammad Saud Akhtar
Jazakum Allahu Khairan for your constant help
Yours

My Answer,

Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Muhammad
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Selling the membership is not permissible because it is personal and not subject to sale. It is like the right of authorship in writing it cannot be sold because writings cannot be attributed to other than their real authors. But once a right to acquire a lot of land or an apartment in a building is assigned to a member, this member can sell this right for any price because it is now a financial right that can have a market value. It become like the right of an employee to buy shares from the company, once it is materialize it can be sold even before purchasing the land or the share.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House with a Loan/Mortgage
From: sami
Sent: Thursday, June 03, 2004
Question
Assalamu Alaikum, Dear Scholar, I am living in the US. With my income it is not possible to buy a house without a loan. Different views about the Islamic financing organizations are making me confused. Many practicing Muslim are compromising to the mortgage system. Could you please explain the options a Muslim like my self has in this country.
Jazakum Allahu Khairan for your constant help
Yours
My Answer,
Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Sami
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh
The principle is to find Islamic financing for your residence and other purchases. There are several companies that offer such financing in the US today especially for residences. If a family needs a residence and Islamic financing is not available one may take conventional financing on the grounds of necessities and needs that apply to a large group of people. This is the essence of the Fatwa of the Second International Conference on Fiqh that was held in Detroit in 1999.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House on Interest
From: Islam on line
Sent: Monday, May 31, 2004

Name of Questioner Karam country of Residence Egypt

Question

My question is that I have a necessity to take a loan on interest to be able build a house gathering my widowed aged mother, sister who are living alone in a separate and my family together. Mother refused my frequent requests to come and live with me in my apartment as she is so sensitive and wants to feel free in her own house. She is diabetic and hypertensive and I fear that something bad may happen to her while staying alone most of the time, So, I believed the best solution is to build a house of two stories to make her come and live under my care and at the same time, in a separate apartment. I don't have the full price for a piece of land only 2/3 after buying my wife's jewelry and I can't help but getting a loan from an Islamic or other bank to complete the price and obtain my dream for mother to come and live with me or closer in order to look after her as I should be. Is this case considered a necessity to take a loan on interest or is there any other means to find an Islamic bank to achieve this dream? May Allah grant you His Blessing for illuminating our way in this regard.

Notes

I did my best to avoid this way and am still trying but my mother is getting older and should keep her in my care and as close as possible. She is still refusing my frequent requests and I should find a solution. Thanks

Jazakum Allahu Khairan for your constant help

Yours

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Karam

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Your excellent intention can be InShaAllah realized by resorting to an Islamic bank in Egypt to partially finance the purchase of the land and the materials needed for building on Murabahah or Istisna' basis. Interest is the most common form of Riba and it is forbidden in the Qur'an and the Sunnah.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Subject: Buying a House on Mortgage

From: Islam on line

Sent: Saturday, May 29, 2004

Name of Questioner Farhan country of Residence United Kingdom

Question

Asalamualaikum Dear respected Ulema. May Allah reward you for all your hard work for the Deen. My question is regarding my father. He purchased a house on Mortgage

(Riba) about 25 years ago. At the time he was ignorant of the rulings in Islam, with regards to this. Alhamdulillah, since I and my sister have been practicing Islam properly for the last 3 years, we have managed to show my father that it was actually Haram. Alhamdulillah he now accepts his mistake and wants to sell, pay off the bank and buy another property in cash. But I feel the money made from the house is Haram. What is your stance on this. Is this money Haram, or can my father use it to buy another house?? He is not a very wealthy man, so the only option for him, if it is Haram would be to rent a house, but as we have a younger brother and my sister is not married, the size of the house would demand a large rent, which would be difficult for my father to pay. Jazakallah khair.

Jazakum Allahu Khairan for your constant help

Yours

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Farhan

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

The price differential in the house is not caused by the Riba but by the market conditions. While it is true that generally it is Not permissible to take an interest-based mortgage for buying a house you father in fact paid interest rather than gained interest. Watever the house is worth today is his and no body's else. He may pocket the price differential and use it for what ever purpose he wants because it is his.

On the other hand, buying a house to live in if your family needs it is an essential need for every Muslim family that lives in the West. Therefore if there are no Islamically compatible financing it is not forbidden for Muslims who live under such circumstances to resort to interest based financing to fulfill this basic need in application to the rules of necessities according to the well known Fatwa of the Second International Conference on Fiqh held in Detroit 1999. You father may have not done a wrong decision to begin with. If his net proceeds from the existing house is sufficient to buy him a new house, he should go ahead and replace the house in order to do away with the interest obligation he is under at the present.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Subject: Selling the House Bought on Mortgage

From: Islam on line

Sent: Saturday, May 22, 2004

Name of Questioner Rachid country of Residence Belgium

Question

Assalamou alaykoum wa rahmatoullah wa barakatouh, Bismillahi arrahmani arrahim. I bought a house through a mortgage, under the conditions of necessity as explained by one of your scholar (wallahou 'alim). I've got two questions relating to that purchase. Question 1: Do I have the right to use a part of this house to set up a business? When buying it, my intention was not to do so but now I see a business opportunity. Question 2: What about selling the house in a few years? It is more a general question that I ask here. What shall people who bought their house through a mortgage do, if they need to sell the house. Do they have first to repay the whole loan, before thinking of selling it, do they have the right to gain money on the sale or should they only get back the cost ?
Jazakoumoullah wa khairan
Jazakum Allahu Khairan for your constant help
Yours

My Answer,

Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Rachid
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh
Once you purchased the house it becomes yours and as long as when you bought it you did that within the limit and spirit of the Fatwa, your action is InShaAllah permissible. The house becomes yours and if your circumstances change you do whatever you think is best for you. This means you can make a business in part of the house, rent it or sell it and whatever price differential and/or revenues are yours Halal InShaAllah. It is obvious that at the time of concluding the sale the lender will have to get the balance of the loan back and you take any residual whether it is more or less than the total amount you accumulated as equity.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Disabled Buying a House on Interest
From: Islam on line
Sent: Tuesday, May 18, 2004
Name of Questioner Yasin

Question

Assalamu'alaykum ! Dear scholar, I want to ask you a question which is very important to me. I'm a disabled person and my parents had been divorced at my small age. So I have been raised by my grand parents. Grand father had passed away. Now I need to own a house in which I will live in the future InShaAllah. I have been offered a low price house by my working place. It's a rare opportunity for me to buy it. But I lack the money to pay for it at the moment. what I want to ask you is that, is there a possibility of being permissible to borrow money from a Riba-based bank, as there are no Islamic banks

here in China ? That way, I may return the money to the bank on installments. If I don't buy the low price house, I will be in a difficult situation once the chance is gone. Furthermore, if my grand mother passes away and the children of her divide their shares, I will face a fact that I can't find a place to live in. I hope you will be able to give me a detailed answer to my question. Please note that I have tried hard to borrow money from other brothers, but none of them can afford to lend me that money.
Jazakum Allahu Khairan for your constant help
Yours

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Yasin
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The Shari'ah was sent down from Allah to make live easier for the human race individually and collectively; it was not sent to make it more difficult. Allah decrees in the Qur'an that He did make in this religion hardships and difficulties, See for instance 22:78 and other similar Verses, I believe that the Fatwa of the Second International Fiqh Conference in North America about housing applies to countries like China, in both parts of it, although Muslims in China, especially those who are able among them, must recognize the urge to establish Islamic banking in China.
Consequently, according to this Fatwa you may buy a house on interest-based mortgage as long as there is a need for it and there is no Islamically compatible financing contract available to you.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying income property on mortgage
From: Islam on line
Sent: Sunday, May 16, 2004
Name of Questioner Adnan

Question

I am a 60 year old retired Muslim living in Canada. My question is: Is it acceptable in Islam to take two bank mortgages to buy two houses (other than my own residence) to be rented to collect rental income and pay back the mortgage from the rental income and use the rest to cover up for my living expenses? Thank you and God bless you.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Adnan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Riba is prohibited in the Qur'an and the Sunnah. It is one of the most grave sins as it is the only sin that invokes a war from God and His Messenger, as it is mentioned in the Qur'an (2: 279). The Fatwa that is based on need to residences is an exception not a rule and it is only relevant to buying a residence as it is based on needs for place to live in. I am sure there are other kinds of investments that you can use your down payment to increase your income.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: giving one's name to take interest mortgage
From: Islam on line
Sent: Thursday, May 13, 2004
Name of Questioner weli country of Residence United Kingdom
Question
salaamu caleykum brothers I am living in a council flat, that is a property owned and run by the government. I applied to buy the property from the local council, in the UK there is something called (right to buy) scheme which you get 38% (38000) discount of the market value of the property. I applied the scheme last year and was accepted to buy it. BUT, I cannot get a mortgage as it's Haram, the other option is to sell the property to someone else on my behalf, who in most cases pays cash to purchase the property on my name (as the rules of the council), this is my option of (Halal nature) and I get half of the discount for example (19000 pounds), rather than the full 38000. My question is that the investors money is tied up into another property which is for sale at present time. Therefore, CAN THE INVESTOR APPLY MORGAGE IN MY NAME WHILE THE OTHER HOUSE IS TO BE SOLD????? I don't have the option of waiting because my deadline for buying the property is due in the near future. I get my percentage cash in advance, that is before the mortgage is applied in my name, and I won't get any other money after that. thank u
Jazakum Allahu Khairan for your constant help
Yours
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Weli
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The question is what do you need, the house to live in or the money? If you need the house to live in with your family, the Fatwa is that you may go for a conventional mortgage if there is no Islamic financing available to you.

If you just want the money to use this windfall opportunity, you are still entitle to what you want but you may not use a Riba-based route for it. If the investor only uses your name and you set the papers correctly that are really reflective of this (it is his loan and his responsibility, etc.) I don't see it forbidden to go ahead with this kind of transaction because it is he who is making the loan and paying for it.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: House Loans in India
From: Zaujat through Islam on line
Sent: Thursday, April 29, 2004
Question
assalamualikum, I had asked a question earlier on taking house loans, to reduce income tax. I was answered to check whether there are any Islamic banks which provide house loans, I was also given the name of Amanath bank, to check for housing loans. I was also asked to write back if I needed more help. I finally, got the chance again, alhamdulliah. Sir, Amanath bank, un fortunately deals in interest. So, do you have knowledge of any Halal housing loans schemes here in India? Your answer will very appreciated. jazakALLAH. pls do not make my question in public.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Zaujat
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Please check again. You may be wrong on saying that Amanath Bank deals with interest. You must remember that Islamic finance is not a free finance, it is using different contracts, some of them may appear similar to interest, instead of using a loan contract. To the best of my knowledge this bank has a Shari'ah board of advisers and does not use any interest-based contracts.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Purchasing a Home through a Bank Mortgage
From: ahmad
Sent: Thursday, April 29, 2004
Name of Questioner hashemin country of Residence Canada
Question

I plan insha'Allah is to perform hajj this year. I do not own a home and I do not have all the case to purchase outright. There are no Islamic banks here in the West. Can I purchase a home through a bank mortgage? Also I am presently staying at my son's home but he is not practicing Islam. He sells Halal foods in his restaurant but also sells beer and rents out part of the business to party goers. Is it Haram for me to stay in his home? I make Du'a everyday for him to change and practice Islam but he is not changing. Please, help me

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Hashemin
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I pray to Allah to give guidance to your son. Living with him is permissible, but keep advising him to quit selling beer.

In Canada there is the Islamic Housing Cooperative that helps Muslims buying houses with Islamic contracts. Its offices are with the offices of ISNA-Canada in Mississauga.

It is certainly better to deal with it than with banks. If you cannot meet its requirement and you need to buy a house, you may go for conventional house financing according to the Fatwa of the Second International Conference on Fiqh in North America that was held in Detroit, 1999. But my question to you as a mother living with her son and his family is: do you really need to buy a house? Your staying with your son's family would help advising him, teaching the children, improving their Islamic practices and way of doing thing and helping the community at large, would it not?

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: FW: RE: Fatwa on buying houses on interest
From: feisal
Sent: Wednesday, April 21, 2004
To: Monzer@Kahf.com

Assalamu alaikum Dr. Kahf. How are you? My name is Feisal Rahall and I am a friend of Tariq Deeb's, who forwarded your address to me. I would like to ask you a couple of questions if you wouldn't mind. I recently came back from Hajj and I find myself being extremely cautious regarding everything, especially the matters of financing. I always hear of many different Fatawa concerning these situations.

In the case of Mutual Funds, many scholars have deemed them acceptable. There are many Muslims who invest in these funds as a tax shelter to avoid paying higher taxes to the federal government. My question for you, is it better to put the money in a straight

RRSP fund that gives me a fixed interest rate, then I take the interest made and give it away to a charity?
Also, as I mentioned before, there are many Fatawa regarding such things as car loans and mortgages. Is it permissible for a Muslim to lease or take a loan out on a new vehicle even though he or she has the money to pay for it? I have heard it is okay as long as it is a fixed interest rate over a fixed term agreed upon by both parties. I would really appreciate any wisdom you could offer me on these specific questions. JazakALLAH Kheir for
your time and may ALLAH (SWT) reward your contributions.
Feisal

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Feisal
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
I am not aware about the many Fatwa that you mentioned.

1- Mutual funds are treated the same way as stocks because what you buy in mutual funds is in fact units in a company that is managed by someone for given fees and its assets are the stocks it holds and trade. You cannot say that mutual funds are Halal or Haram without knowing the assets they hold. If the majority of these assets are Haram, holding units in the fund become Haram too. The OIC Fiqh Academy discussed the matter of stocks in one of its sessions and its resolution is as follows:

I- Stocks of companies that deal only in Halal products and Halal transactions are permissible, example: stocks of Islamic banks or any company that does not deal in interest and other prohibited products or contracts;

2- Stocks of companies whose main business is prohibited are prohibited even if the company makes some permissible activities, example: conventional banks in spite of the fact that many of them give charities and spend on community services that are certainly Halal. These stocks are Haram to buy, hold and sell because by holding them you become partner and the actions of the management is done in your name and on your behalf, as if you did them.

3- Stocks of companies whose main line of business is permissible, like computer or furniture production but they deal with certain prohibitions such as getting interest-based loans or depositing on funds on interest or having a small subsidiary that does that. The principle is that these companies are also Haram because a little or peripheral Haram is as forbidden as a lot of it.

Here a group of scholars dissents. They argue that at this time and under the wold circumstance such a prohibition creates a great hardship for many Muslims who cannot invest their own savings directly. In application of the Shari'ah rules that hardship always calls for relaxation the continue that there must be certain criteria to determine the degree of tolerance of such stocks (that obviously represent the great majority of stocks). They came up with certain standards that aim at containing the forbidden transactions within a restricted limit: income from interest and other prohibited matters

must not exceed 5% of the total income of the company, its assets used in interest and other prohibited matters must not exceed one third of total assets, it must not depend on interest-based borrowing for more than one third of its total assets. Additionally a cleansing criteria must be applied whereby one must estimate the percentage of the Haram in the company one invests in its stocks, both dividends and capital gain and give away to Muslim charity the same percentage of the return one get at the end pf the period.

These criteria are easy to apply because companies are required to issue this ifno. Dow Jones Company used them and issued what is known as the D J Islamic market index. And some companies bought the right to use it and established Islamic market funds. Search for them on the internet.

To come back to the Mutual funds. Mutual funds that satisfy these criteria are permissible with the cleansing requirement. You need to do your homework if you want to invest in funds other than the Islamic funds.

2- I suppose the RRSP is the Canadian retirement funds, if it is not please correct me and explain: No, it is not better to invest in interest and give it to charity because there are outlets that are Halal. Interest given to charity is not considered Sadaqah; it is only cleansing and it is InShaAllah rewarded as such; but if you invest in Halal and still give from it is certainly rewarded at much higher rate, up to 700 times and more. The Islamic Housing Cooperative of Canada is authorized as an RRSP outlet, and you can invest in it the RRSP and it is Halal!

3- I am sorry not to be aware of the MANY Fatawa that interest for car and others is ok! To the best I know interest is Riba and it is Haram in the Qur'an and Sunnah whether it is for a car, a house, or any other purchase. It is one of the worst sins a Muslim may ever do as it is the only sin that provokes a war from God and His Messenger (the Qur'an, 2:279). True, under necessity a relaxation is incurred but a necessity cannot be expanded to what is not necessary.

4- There is a strong argument for buying a house to reside in for Muslims living in the West for several consideration that include decency of the area, schooling, building equity, tax saving, etc, although these are not necessities in the strict sense but since they apply to most or all Muslims in the West they are treated like necessities under the rule that when a thing that is needed (but below necessity) applies to a large number of people it is then treat as if it is a necessity; it is called in Fiqh ""Hajah 'Ammah."" I don't think it applies to buying cars in America unless in very very special individual cases

5- I don't know of any Muslim who says it is permissible in Shari'ah to take a loan with FIXED or variable interest. In fact Riba is defined as any increment in a loan. It is certainly Haram and big Haram.

6- Leasing is permissible for cars and other things provided the lease agreement does not contain other violations of Shari'ah. And one must look for such other violations in lease contracts. It does not matter if the lease is done with a bank that deals with interest or with an Islamic company that does not deal with interest.

Please do not hesitate to contact me for any other question and give my Salam to Tariq, in the meanwhile try to make some homeword on the internet, start with the word Islamic financing or look at my website especially the item Fatawa, it is www.Kahf.net

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

From: feisal
Sent: Monday, April 26, 2004 9:00 AM
Al Salam Alikom wa Rahmat Allah Wa Brakatoh,
How are you and how is you family?
You'll find attached the reply of ""Dar El Ifta El Masria"" regarding the interest and the lone for houses or cars or any valuable thing.
I hope that this Fatwa will ease our live in Canada.
Best regards
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Feisal
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Ired the Fatwa. This is an old opinion that is disputed on the ground of what is Dar al Harb. Are you living in Canada as a Dar Harb?
The Fatwa for houses that came from the second international Fiqh conference held in Detroit in the Fall of 1999, and headed by Shaikh al Qaradawi mentions that we may resort to interest mortgage in North America for families who need housing provided there are no Islamic alternatives. I DO NOT GO ALONG WITH THE FATWA OF THE MUFTI YOU SENT ME and I accept the reasonable Fatwa that founds it on the need and I don't see a need for a car (because there are other means to obtain a car and one is normally not in need to buy an expensive new car) except in very rare cases.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House through Mortgage
From: Islam on line
Sent: Tuesday, April 13, 2004
Name of Questioner Yasir country of Residence Saudi Arabia
Question
Assalam O Alaikum, I am working here in Saudi Arabia. I have collected some money and now want to build my own house out there in Pakistan. I don't have enough money right now to straight away buy the house. I have two options: 1. Get funding from any bank and pay back the bank's monthly payment. The bank's interest rate is 8.5% on the

remaining amount. so it will become very easy for me to be the owner of the house. (Everything is crystal clear and I don't think there is any chance to conflict between me and the bank). 2. Wait for the time till I'll have the money to straight away buy the house which is very difficult. What I must adopt? Choice 1 or 2? JazakAllah o Khairan, Yasir.

Notes

I am actually very much concerned because I have read about the Sood or Riba that its not permissible in Islam. But I see it that it will be very difficult for me to be a property owner. what should I do?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Yasir

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You missed other options by limiting your thinking to only an interest-based loan or not buying now.

In Pakistan, you have other options: 1) you can borrow from friends and family; 2) the Pakistan House finance Corporation, to the best of my knowledge, works on the basis of rent/purchase or Murabahah; 3) there are several Islamic banks in Pakistan that can supply the material for building on Murabahah, or financing for buying a house on Murabahah or rent purchase; 4) you can also agree with a friend on buying together and you rent/purchase his/her share through time.

INTEREST-BASED LOANS ARE HARAM FOR HOUSES AND OTHER WISE, THIS INTEREST IS RIBA that is prohibited in the Qur'an with the strongest statement that goes as far as being in a war against God and His Messenger. Please read the verses in surah Number 2 (al Baqarah) 273 to 279.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Taking Loan to buy a House in Palestine

From: Islam on line

Sent: Tuesday, April 06, 2004

Name of Questioner Tahsin country of Residence Palestine

Question

assalalamo alaikum I work, but I can't save enough money to build or buy a house, so I pay a high rent monthly. Is it Halal or not to take a loan from the bank to buy a house and pay payments to the bank instead of rent? Thank you

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Tahsin
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The Fatwa is that in all Muslim countries, including Palestine, Muslims are required to establish Islamic banks, companies and cooperative to satisfy their financing needs, especially for housing. Therefore, there must be no exception from the prohibition of Riba because there are many Muslims around and you can create such organizations together. Additionally Palestine has at least one Islamic bank, and also the Branch of Amman Cairo Bank has an Islamic department.
Please try to find a solution to your personal case and to similar cases of other Muslims around you through the existing facilities or by creating new cooperatives and companies. The prohibition of Riba came in the Qur'an with the strongest pronouncement ever, a declaration of war from God and His Messenger on those who do not quit dealing in Riba. We do not need such a war in Palestine, do we?
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House from a Bank
From: Islam on line
Sent: Tuesday, April 06, 2004
Name of Questioner Talal country of Residence Saudi Arabia
Question
al-salamo aleekoum wa rahmatoul allah wa barakatouh if I want to purchase an apartment in Canada and I cannot pay the whole money in one time, so the only way is to deal with the bank who will purchase this apartment from the owner then the will sell it to me(I will pay to the bank a monthly amount of money over a period of years after which the apartment will be mine) is it reeba ? and if it is Riba I am in a foreign country like Canada in which I am finishing my post-graduate education, is it allowed ?
Notes
the alternative way of purchasing an apartment is to rent one but at the end I will pay on monthly basis, but if I will pay to the bank monthly to own the apartment at the end so that I can sell it when I am leaving I will not loose my money because it is an investment which I need when I will be back to country with god welling. Thanks
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Talal
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

First you should study the economics of buying and renting, when you are in a place for a short time, a few years only, it may be more economical to rent than to buy in many instances.
Second, there are also other opportunity to buy residences in Canada including the Islamic housing cooperative whose main office is in Mississauga.
And third, if you can get a contract with a bank as you described it: the bank buys the house for cash and you then buy it from the bank on installments for a higher price, this is permissible in principle. But there may be many conditions that are not permissible in the contract. Please send me a proposal of a contract that you want to make with the bank on this principle and I will study it and give you my opinion on it. Of course, if you make this deal with an Islamic bank that has it own Shari'ah advisory Board, do not then worry; go ahead and accept this contract because its Shari'ah Board must have studied and approved it. Beware, there are companies that claim Islamic but do not have any Shari'ah experts who study their contracts.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House through a Loan Taken by a Non-Muslim Mother
From: Islam on line
Sent: Saturday, April 03, 2004
Name of Questioner Tabari country of Residence United States
Question
As Salaam Alaikum, My question concerns the use of interest. I am entering the business of real estate and I am planning on buying houses through my mother's name. My mother is not Muslim and she was going to take out loans for the houses, then we would rent the houses out and make profit from the rent that is paid to us. I was concerned about the use of interest here in that, obviously Riba is Haram for us (Muslims), is it Haram to have someone who is not Muslim enter into an agreement of interest for you? I asked a learned person whose opinion I trust and he said that as long as the money that I (the Muslim) make is not from the interest loan...but from the rent being paid...then that income was Halal. I would like have a second opinion of that issue. Secondly...for some reason it doesn't feel right to have my mother involved in interest whether she is Muslim or not. She is coming closer to Islam and I hope that she becomes Muslim soon. And I said to myself that if she becomes Muslim then I would sell all the real estate we have and start another business. So I only mention that latter part to illustrate that this issues has really been bothering me. But I trust this service and trust that Allah will provide the proper answer as I double check my endeavours through your fatawa. Shukran jazeelan.
My Answer,
Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Tabari
Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh
If you got an opinion from a person whom you trust, you are better avoid being confused with another opinion. But I think that the person whom you trusted did not get all the info and he/she gave you an incomplete opinion.
it seems from your question that you are entering into some form of partnership with your mother, even if gives away her share of the profit to you. In partnerships between Muslims and non Muslims, the Shari'ah requires that the partnership requires a condition that the non-Muslim partner must not take any interest-based transaction on behalf of the partnership. I think this transaction is not permitted in this form.
If your mother takes a loan and transfers to you her equity in the house as a gift provided that you make payment for the remainder of her obligations (remaining installments), for you it becomes permissible because as you were told the rent is permissible in Shari'ah.
Regarding the second piece of info that you gave, I pray to Allah to give guidance to your mother so she will be among those who enter Jennah. With this prospect, I advise that you may consider starting some other business from now, do not wait until she reverts.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Islamic loan for Housing
From: Hijazi
Sent: Friday, April 02, 2004
Question
AL SALAM ALUKUM DR. KAHF.
I would like to buy a home in the U.S.A. in the islamic way.
I spoke with a Muslim agent in Houston to get islamic mortgage loan.
He told that he can get me a lease loan from the bank without showing any interest term in the loan (only leasing terms).
However, my understanding is that the leasing amount is based on an interest rate the bank will figure out. But the contract loan will be written as a lease and not interest.
My question is this considered an Islamic loan or not. Is this acceptable in islam or not.
Your answer is very important to me, and based on your answer I will make a decision to buy home or not. Thank You, Wa Al Salam Alukum
My Answer,
Bismi Allahi al Rahmani al Rahim,
Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,
Dear Br. Hijazi

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh
Lease is permissible even if the rate of the rent is set so that it equals the prevalent interest rate. What matters is the contract and the responsibilities/ownership it represents.
A lease cannot be described as a "lease loan" because in a lease the lessor is an owner of the property and an owner is entitled for rent if she sells the usufruct of the property.
You need to read carefully the contract because in some lease contracts the ownership and the offer to sell the property may not be written carefully enough to reflect the Islamic requirement.
Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house using Islamic Banks
From: Samir
Sent: Monday, March 15, 2004
Question
I am writing to you for an advice to buy a house through two known Islamic banks here in North America: Lariba and financial Guidance. Lariba is based on the concept of "Lease to purchase" and Financial Guidance is based on ""Musharakah"". Have you heard about these two Islamic banks? If so, do you know if their business is HALAL or not? For example, Financial Guidance their contract to a conventional bank which interest based.
Thanks for your help.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Samir
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
I am sorry brother that I do not give Fatwa on individual persons or companies.
What you need to know is not what they tell you but what contract they offer you and whether such contract is studied and reviewed by trusted Shari'ah Scholars. If you check that you will know the difference on your own self.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House on Mortgage in North America
From: Islam on line

Sent: Monday, January 26, 2004
Name of Questioner hassan Country Canada

Question:

Does Shari'ah allow Muslims of North America to mortgage A house if Interest free Housing Finance is not available

Notes

I am Canadian Muslim living in GTA (Greater Toronto Area) InShaAllah I like to buy a house The minimum price for house/townhouse in GTA In a decent neighborhood is $250,000.0 Currently mortgage companies in Canada are offering Very low mortgage rate for zero down or only 5% down (i.e. approx. 10,000 of cash for 250,000.0 house) and with current mortgage rate of 5% 1200 to 1400 of monthly payment are required for $250,000.0 house Cheaper than rent for these type of houses which is around 2000.0 for 1200 to 1400 a family of four can only rent an apartment in average neighborhood where crime rate is high. The only Interest free Housing Finance Available in Canada - the Islamic Co-operative Housing Corporation Ltd. (ICHC) require a investment of Around $100,000.0 for a 250,000.0 house The interest free option is almost impossible for Middle class Muslim family, With cost of houses rising 15 to 20 % annually What options Muslims of GTA have Should they spend all there life in an apartment? Where quality of life is poor and crime rate is increasing! Does Shari'ah allow them to mortgage A house under these conditions?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

For the considerations you mentioned in your question, the Fatwa of the Second International Fiqh Conference held in Detroit, fall 1999 came. Yes, under the circumstances you mentioned it is permissible to purchase on interest for people who cannot deal with the available non interest financing.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Purchasing a House Through Mortgage

From: Islam on line

Sent: Sunday, January 25, 2004

Name of Questioner Luqman Country U K

Question:

Assalam Alaikum. I am currently working in Dublin, Ireland. Here in Ireland their is no Islamic financial institutions I know of and I'm not eligible for housing schemes provided by the govt. due to the level of my salary. House rent in Dublin is quite high and both

Muslim schools are situated in the capital which I'll like my children to attend InShaAllah, but not possible at the moment because I live outskirt of Dublin. I want to know if it's allowed in Islam to purchase a house through mortgage out of 'necessity'. Or what options do I have considering my current situation. Maasalam

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Luqman
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Yes, It is permissible InShaAllah for consideration of schooling, building equity, avoiding high rent, etc. as long as there are no Islamically compatible contracts available to you for house financing. There is a Fatwa in this regards from the Islamic Shari'ah council of Europe and the Second International Fiqh Conference in America (Detroit fall of 1999).
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Mortgage Transactions
From: Islam on line
Sent: Tuesday, January 20, 2004
Name of Questioner Asad Country U K

Question:

Salam respected scholar, I recently read your answer to Riba based transactions. I would like to expand on that and ask whether there are any exceptions to Shari'ah law when considering mortgage transactions. I apologize if you have answered this before but I have a mortgage where I pay interest only every month.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Asad
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The Shari'ah as a universal law for humanity has within itself principles that deal with all circumstances. One of the rules of Shari'ah is: There must be exceptions from any prohibition under circumstances of necessity if it happens that a given prohibition under such circumstances damages or inhibits any of the basic objectives for which God sent the Shari'ah, these are: protecting life, religion, mind, property and posterity.
Another rule is: any prohibition may also be relaxed if it makes it difficult to normally promote and protect any of these five objectives provided this hardship affect a mass of persons not only a few (for only a few hardship may be tolerated and they can be helped by the community.

According to these rules the Second International Fiqh Conference held in Detroit and the European Fiqh and Fatwa Council resolved that for Muslims who live in the West, buying houses on interest-based mortgages may be permissible under the following two conditions:

1- There is a genuine need (less than necessity) to protect any of the five objectives with regard to the buyer,

2- There are no other means from Muslim finance companies or from others but on the basis of contracts permissible in Shari'ah.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Islamic Home Financing schemes

From: Islam on line

Sent: Tuesday, January 06, 2004

Name of questioner

Question:

Assalam O Alaikum Wa Rahmatullahi Wa Barakatuh, This question is regarding Islamic Home Financing schemes that are available in the US these days. Different companies are using different methodologies including Murabahah, Musharakah and others to provide home financing services to Muslims in US. However, the actual investment is not coming directly from these Islamic financial institutions. Instead of going into the specifics of the issue, I have a very simple question. If there are 3 parties involved in a business transaction, say A, B and C. A is the source of the money, B is the party who is acting as an agent who will provide all services for home buying and would do a contract with C, and C is the client. In this transaction, C has no direct relationship with A because C would only deal with B. Now if there is a Shari'ah-based contract between B and C and C somehow knows that the contract between B and A is not Shari'ah based and involves Riba: 1) Would that be a concern for party C? 2) Is it obligatory for party C to know what is the source of money that B is getting from A to do this business deal? 3) In case if the dealing between B and A is not Shari'ah based, does that invalidate the dealing between B and C while C has no direct contract with A? I would appreciate for any help on this, inSha'Allah. This question is important for many brothers and sisters in US who are willing to buy homes in US but hesitant because of this issue. May Allah (SWT) reward you for any help extended. Wassalam

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Sajid

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Before I answer your question I like you to please note that your description of the transaction of house financing in America is not accurate. In house financing (Islamic and otherwise) there is a transaction between two parties only, not three as you thought, the company and you. If the contract between these two parties is compatible with the Shari'ah, that is all what matters. The confusion rightly came from the fact that financing in America has also a wholesale market. In this wholesale market providers of finance turn to big investors, like Fanny Mae and Freddie Mac in house financing, and reassign the contract to them, or sell them the contract. But notice the provider of finance, with whom you contract, is not an agent of Freddie Mac or Fanny Mae.

Now the answer: if the contract between you and the provider is compatible with the Shari'ah, that all what matters to you. In fact, it does not matter at all whether the provider is a Muslim company or not, a company owned by Muslim may offer you an interest-based contract and by the same token a conventional company or bank may offer you a contract that is compatible with Shari'ah. What matters is the contract itself what does it say and what is in it.

Additionally, it is not of your business what the provider does on its own, if it assigns (sell) the contract to a third party or not is not of your business at all. Don't you notice that when you rent (permissible contract) you do not question where does the landlord get the money for building? is it not normally and in almost in all cases in America that the finance came from banks on interest? If the finance provider is a company owned by Muslims, or that invite Muslims to invest in it by depositing funds in it then it is the responsibility of the owners and investors to be sure that all transactions of the company, with you and with wholesalers, are compatible with Shari'ah.

If the contract is based on buying the house with you, each one owns what he/it pays for, and then renting (leasing you the part of the house that is owned by the company; this kind of contract can be assigned in Shari'ah because it amounts to selling its share in the house to a third party which is absolutely permissible at any price they agree on.

But if the contract creates a debt (as in Murabahah) a Muslim may not sell it for any amount that is different from the face value. This means that no one would buy it for the face value and wait for 30 years to get it money back! In other words, discounting a future debt is not permissible in Shari'ah. However, once again if the provider is not Muslim she/he can do any thing with the debt she/he has on you and it is not of your business or concern, Islamically, to question her/his actions.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2003

Subject: Can I Buy a House with the Contribution of an Islamic Bank?From: Islam on line

Sent: Monday, December 15, 2003

To: monzer@kahf.net

Name of Questioner Hassan Country Australia

Question:

I have 2 questions related to the system adopted by Islamic banks in Qatar to enable people to purchase homes. I will use an example to illustrate my understanding of the system. I want to buy a house worth $100,000, and can afford paying $20,000 cash. The Islamic bank will then make up the difference ($80,000) to the seller. So, the seller of the house will get my $20,000 in addition to $80,000 from the bank. The Islamic bank will then ask me to pay $10,000 per year for 10 years. Therefore, the bank will ask me to pay $100,000 for the $80,000 that was paid to the seller of the house. This is considered by Islamic scholars not to be same as paying interest, because no cash changed hands. Further, the bank will not charge any interest if I miss paying any installment, but the bank makes it impossible for me to miss a payment by taking a guarantor to the loan, which would be liable for any installment if, for any reason, I am unable to make it. My FIRST QUESTION is if my understanding is correct. If this is correct, it does not look like any different to another bank “not Islamic”. In Australia for example, I can ask a bank to contribute $80,000 as per the above example, and ask the bank to fix an installment for a set number of years, say 10 years. The Australian bank will then use some sort of a projection method to calculate a payment plan and arrive at an annual repayment. This annual repayment may end up being $10,000 x 10 years, which is exactly the same as the payment of the Islamic bank. My SECOND QUESTION if this method with a non-Islamic bank is not Haram? Please note that: (1) There are no Islamic banks in Australia (2) The cost of borrowing money from the bank this way and repaying it will most likely be to my advantage InShaAllah due to the expected increase in the land value that outweighs the cost of getting the bank involved (3) I checked on your website and found conflicting opinions from scholars on this issue Thank you and Gazak Allah Khair. Salam Alaikum

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you think that Islamic Bank will give you money because its depositors love you as their brother in Islam, your expectations will certainly fail! Islamic banks are there to make money for their depositors and share holders. they use Islamically permissible contracts instead of interest-based contracts, and no they are not similar. you are incorrect in seeing them similar.

Actually, your description of the Islamic contract of Murabahah is perfect. This is the way Islamic bank does it and this is the way it should be done in accordance with Shari'ah. the bank buys the property cash for 80 and sells it to you installments for 100.

and takes collaterals and guarantees to secure these installments (debts). Do you see the element of purchase and sale to help you only and to make money in this help that is to help you not out of personal love to you but to make money through buy and sell? Do you see any thing wrong in buy and sell?
Interest in prohibited and the unbelievers of Makkah noticed certain similarity, which is true as I and you see it too, between deferred-payment sale and interest loan, and the Qur'an, marvelously, did not deny the similarity! did not say: you guys are stupid! how come you say sale is just like Riba. Instead the Qur'an said but sale is permissible and Riba is prohibited. In Fact deferred sale can't be prohibited because there is a need for financing. But whence you accept Riba, you will have to accept discounting and rediscounting and pile up huge wealth of debts in the society, layer above layer until what probably they explode in a financial crisis! In sale you cannot pile up debts, you can take collaterals and guarantees to assure payment.
I am sure that Islam on line web is full of explanations of this idea, I did many answers to similar questions myself. Please read it carefully. It is clear, not confused!
For a question on house financing for Muslims in Australia, please either consults the web for answers which I made more than once or rephrase your question and sends it again.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Shari'ah submission
From: Ibrahim
Sent: Tuesday, December 02, 2003
Question:
As Salam Alaikum, Dr. Kahf,
Jaza-kalla-khairun for your previous email. Here is something that may interesting to you. FSCO is the regulator in Ontario.
Salam,
Ibrahim
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ibrahim
Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
I think your consultant does not get the point. Giving security is permissible and has no problem from Shari'ah point of view.
I certainly need more details about this "vendor take back mortgage" what is it? How it works? Give me a detailed example. The way I understand it is the following: 1) a Muslim buyer gets self financing from the vendor (the contractor who built the house)

so that the price of the house is inflated by the amount of interest wanted as a return [if this contract is done as principal plus interest it is not permissible but if it is done as higher sale price, it is permissible]. 2) vendor turns back to the CU and sells it these future monthly payments at a discounted price which is presumably the principal of the financing [this transaction does not mean anything to the Muslim buyer because she/he has nothing to do with it. But if the CU is Muslim, it cannot do that because it is a sale of future debt for a present value that is less that its face value, it is not permissible being interest, if the credit union is not Muslim this is none of our concern]. In this case we do not need a Muslim credit union. All we need is the vendor to accept the contract be written without interest (although the future payments are calculated on the basis of interest) and the Ottawa Credit Union to cover the vendor.
Please correct me if I am wrong and give me details to discuss.
Also do we have to hang up on Credit Unions, why not approach banks with our lease/purchase and our Murabahah sale?
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

From: Geoffrey
Date: Tue, 2 Dec 2003
I had a long conversation with --------- at FSCO this afternoon. FSCO has NOT received any submission from any other group on the issue of Shari'ah compliant mortgages. However, John also noted that FSCO is not likely to even entertain the submission of any concept that would involve the Credit Union becoming owner of the residential properties. In his opinion, the very low limit on the real estate holdings a credit union can have [Regulation 76/95, s. 66(2): "The total book value of all investments by the credit union and its investments in improved real estate in Canada must not exceed 10 per cent of the credit union's regulatory capital and deposits."] makes the concept impractical for a credit union if it wishes to make more than a few Shari'ah "loans". The value of each home financed in this fashion would have be considered part of the credit union's portfolio of investments in improved real estate.
On the other hand, ------ seemed interested in my alternative concept of having the credit union purchase, as an investment, at a discount [to arrive at the full price the vendor wanted on closing anyway], a vendor take back mortgage for the balance of the purchase price [inflated to include imputed "return" for the deferred payments]. The credit union would not receive interest, but it would retain profit from the difference between the discounted price it paid for the stream of payments under the mortgage and the present value of those payments over time. He thinks this could be workable. I did not receive from you a definitive answer as to why this approach might not be acceptable to your Shari'ah scholars, but I speculate that some of your Shari'ah scholars take the position that it is not acceptable for a Muslim to give security for his payment obligations. The vendor take back mortgage would indeed involve the purchaser giving

security. Please advise if this is the case, or if this is not a consensus opinion among your scholars.
It seems to me that I would be wasting your time and money proceeding with the submission as originally contemplated if the alternative is ultimately acceptable to your scholars.
Geoffrey

Subject: House Mortgage
From: Amr
Sent: Sunday, November 23, 2003
Assalamu Alaikum wa Rahmatu Allah wa Barakatuh
Question:
Dear Dr Kahf
It gives me a great deal of pleasure to be contacting you in person and I hope you will have the time to read and respond to my message.
I am an Egyptian doctor living in the Scotland. I have been there since 1999 and for the last 4 years I have been renting a flat in order to avoid mortgages, however it is getting too small for the family and the neighborhood is not that good. Renting a good sized house in a good neighborhood would be very expensive and will put me in an obvious financial disadvantage.
I am aware of the fatwa of European Council for Fatwa and Research in this respect. However there are 2 points I would like to clear from you:
1. Does the fatwa apply if my actual presence in the Scotland is in itself not a necessity as I can return back to Egypt at any time. Taking in consideration that my presence in Scotland is of great scientific, clinical and financial advantages and that we as a family are fully practicing Islam without any restrictions and that our return to Egypt is obviously disadvantageous.
2. With my income in the UK I can rent a house in a good place but this will take up most of my salary, I will not be able to have any significant savings, and I will not feel secure.
Dear Sir, in view of the Fatwa of the European Council for Fatwa and Research and taking in consideration the 2 points I detailed above, can you please give me your opinion if I can buy a house using mortgage (there is no Islamic finance services covering Scotland where I live).
Jazakum Allah Khair and Eid Moubarak
Dr Amr
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Dr. Amr
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
The two points you raised are quite legitimate and should really be taken into consideration. Kindly notice, however, that the Fatwa is not based on necessity. The rule of necessity is well known in Shari'ah; it covers cases of extreme damage or destruction

to any of the five things for their protection and promotion religion itself was sent down from Havens. These five things are: life, faith, mind, posterity (or human reproduction and future generations) and wealth.

The Fatwa is based on what is called in Shari'ah "a global or general need" with needs being a degree less severe that necessities. The argument is as follows: when a need applies to a large population (or universe) it should then be treated in a way that is similar to necessities with respect to relaxation of prohibition. (While it is forbidden to take even a small quantity of alcohol, and suppose all cold medicine includes alcohol, that much alcohol that is in medicines is permissible although treating cold is not really a necessity, it is only a temporary relief while the body overcomes the virus, simply because cold patients have a need to get some relief and such a need normally applies to the whole universe of cold patients). It is obvious that there will be many people who can bear the difficulty of sneezing, little temperature and throat pain. But the criteria for relaxing the prohibition are: as a group, or universe, cold patients normally reduce a lot of the pain and inconvenience by taking this medicine.

In other words, it is not the necessity that matters here but the very disadvantages that you mentioned, in regard to income/expenses/ saving, feeling of insecurity, neighborhood quality, residential stability, quality of schooling, services and utilities, building personal equity/wealth, professional and scientific benefits, etc. I mean to say this Fatwa seems to exactly applies to you case, that you may be an ideal example of the large group of Muslims (the Fatwa universe) for whom it was needed. Our religion came to reduce restrictions and eliminate hardship "and he (the Prophet) releases them from their heavy burdens and from the yokes (iron collar types of restrictions) that were (imposed) on them." [the Qur'an 7: 157].

I would add that if I were in your place I would go ahead and purchase a house.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: House Mortgage

From: Houzaifa

Sent: Monday, November 17, 2003

Question:

Salam Alaikum Br. Monzer,

I attended your Zakah presentation at the MCA couple of weeks ago. I was checking your home page, then noticed your Fatwa link about Mortgages. I read most of your Q&A about this subject, and I'd to tell you about my situation and seeking a help from you InShaAllah.

I bought a house 2 yrs ago with a finance with a regular bank. At the beginning I didn't have too much regret about it because all I can afford is 10% and everyone was saying Islamic banks are not Halal anyway. Now, I'm I really not satisfied and I'd like to do one of the followings:

1- Sell my house and forget about the whole thing.
2- Refinance with an Islamic bank.
3- Sell my house then buy a house as a property from a bank or an organization.
As far as #2. I'm reading about lariba & guidance. Lariba is expensive, and I think guidance is little-bit cheaper but still not 100% Halal? Is that true? Is guidance 100% Halal or not? People are telling me that It's not 100% Halal, but still even if I deal with them I'll get rid of Riba, but only deal with non-Shari'ah issues like late penalty. If I deal with them, Am I not committing Riba sin anymore?
As far as #3, how exactly does it work with a property that's owned by a bank. If I buy a house that's owned by bank of America, does that mean I can buy it with payments to be total than the price, but not to get a loan from them? Is in it the same for both, logically?
Please reply with any comments you have about points 1, 2, & 3.
JAK,
Houzaifa

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Houzaifa
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
I like to put for your kind consideration the idea of Islamic financing how it is done by some company and then provoke your thinking about it and solicit your judgment. I'm sure you realize that while it is interest-free Islamic financing is not cost free. If you find a company that prepared a home financing contract with the help, inspection and complete approval of very knowledgeable scholars like Shaikh Taqi Osmani and Shaikh Abd al Sattar Abu Ghuddah, what would be the basis of any claim that such contracts " are not Halal anyway" and how much reliability would you give to such a statement? Compare this contract and the people who contributed to its making with another company that tells you we use the same contract of conventional banks but between us "it is Islamic"!
I certainly do not want to adopt any given company and disavow another. But I like you to make your own judgment. . . By the way a late penalty is permissible if it covers the expenses triggered by delinquent payments, it is not permitted when it disguises interest for the time of delay. Notice that a late penalty is needed as a deterrence too.
If you can refinance with a company that has a contract that is subjected to Shari'ah inspection by reputable Scholars you should go for it unless the cost is kind of tough for you.
Buying from conventional banks directly may hardly be an option because the normal practice of such sales is a cash price plus interest-based loan. Yes, if you can have the sale contract written in such a way that the total amount of installments is the sale price, this contract becomes permissible and you can buy on it from a bank directly. To my knowledge, some private owners (owner financing) may accept to have such a contract but not banks.

Selling the house and forgetting about it is always an option, but doesn't you family need a residence? And does it give you stability and reasonable comfort to buy compared with renting?

It seems to me that under the circumstances, the first best would be to go for refinancing with an Islamic company, after you are satisfied with the contract they offer and who approves of it form Shari'ah point of view. If the cost does not warrant such a transfer and your family need the house stay with the present arrangement in view of the well known Fatwa on the subject until more Islamic companies come in the field and their cost becomes competitive. In the mean while if you find an opportunity to buy on an installment contract from any bank, company or individual you should take it.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Hajj, Credit Cards, Mortgage etc…

From: Islam on line

Sent: Sunday, November 16, 2003

Question:

Name of Questioner shahla Country U S

Assalamu Alaikum wa Rahmatu ALLAH ,dear fadeelat alsheekh MONZER KAHF; me and my husband planning to go to hajj this year with Allah's help, the situation for us with some credit card companies, that we borrowed money from them in the past to recover our loss in the stock market, and we couldn't pay all of it back because we lost all of there money and ours, we still have our salary and we are paying most of the debt by paying 30% or 50% of the money we took from them, some took us to court, and after that we ended up settling with them, too. we regret what happen and we ask SUBHANAHU WA TAA"LA to forgive us, this debt could take years to settle, "several cards " and its lots to handle, we are asking Allah's forgiveness. I feel we need to go to hajj and ask ALLAH for his rahma, we did tawba , Alhamdu lelah, if we do go will it be accepted ?and will it be right hajj! or should we wait? We have the money for hajj ,but the Dain is still .

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. shahla

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you made settlements wit hall the credit card companies and have now a schedule of payment to go by, it is okay to go for Hajj, but if these are unsettled debts that still accumulate interest, you should start paying these interest-bearing debts before you spend on the Hajj trip because you are not called upon to make Hajj as long as you are

under interest-generating debts or under due debts even if they do not carry interest. Going to Hajj while under debts that are not due yet is permissible.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Taking a Mortgage for Needs then Giving the House as a Waqf
From: Ashraf
Sent: Thursday, November 06, 2003
Question:
Alamo Alaikum Dr Kahf,
I am graduate from The institute of preacher, Ministry of Awqaf, Egypt.
I have read Dr. al Qaradawi's fatwa regarding buying houses on mortgage and attended your sessions at IMO conference 2003.
As I understand from Dr. Qaradawi fatwa, buying a house on mortgage is consider to be permissible in order to give the community the opportunity to own houses and strength the community financially.
As you mention in your lectures , we have to have an Awqaf to support the community in North America.
Since I do not feel comfortable with buying house on mortgage, if it is only in order to own the house.
So that I am thinking to buy a house on mortgage and live in it, till Insha Allah I pay it completely off and then put in it as Awqaf when me and my family do not need to live in it. (With that I will be at ease that I have fulfilled Dr. Qaradawi reasoning in his fatwa; strength the community financially)
I would like to hear your advice and some information regarding how to put the house as a Awqaf without any conflict with the Islamic Law of inheritance.
Jazak Allah Khairan We Ramadan Mubarak, May Allah bless you and your family for your effort.
I pray to Allah accept from us all and guide us to the straight path.
Ashraf
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ashraf
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
You are, MaShaAllah, a very kind and considered person. This is the true ethics of righteous persons, you may disagree with a Fatwa or not feel comfortable with it but you still respect it and find it useful as long as it comes from a trustworthy 'Alem.
Your intention is very commended, to enrich the community. And your question is very relevant.

In fact some people, even in the past such as al Qadi Shurayh thought that Awqaf contradicts inheritance. But this is a result of a fine confusion and it is incorrect. There is almost unanimity that Awqaf does not violate inheritance.
The fine point here is that creating a Waqf is one of the actions taken by persons who are alive and fully incapacitated to take financial actions and to enter into transactions. The principle in this regard is very expressed by Fuqaha' that "people have absolute authority over what they own." Inheritance if only after death, it is a distribution decreed by God, Ta'ala.
In Application, creating a Waqf through a last will is only valid with the limit of the one third that is permitted within the Wasiyyah. On the other hand creating a Waqf and actually transferring the title of ownership to the, say Islamic center and including a condition that you keep the right to use the property for a given period of time or until death is disposition by persons who are authorized over what they own, it is permissible.
When you want to cross that bridge, you may ask me for a suggested form that I prepared for this kind of Waqf: Waqf with a condition to benefit from the house until death and even by children after death.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House on Mortgage: Follow Up
From: Islam on line
Sent: Tuesday, October 21, 2003 3:42 AM
To: monzer@kahf.net
Name of Questioner houssam Country Australia
Question:
salam Alaikum, my question towards shiekh Yousef Qaradawi is that around 2 years ago their was a fatwa given saying that it was permissible to buy a home using interest from a bank as long as we live in it, now your fatwa has changed much since that time....2 years ago we bought a house and are still currently living in it. What is your fatwa for our situation. (can you please give us your response in the laky language) thank you Salamu Alaikum wa ra7matulaahi wa Barakatuh
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.Houssam
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
I am not aware that our Ustath Shaikh Yusuf al Qaradawi has changed his Fatwa on the issue of Muslims who live in the West when they buy homes for their own residence. If

you want his opinion in Arabic, you have to write him in Arabic his website is: http://www.qaradawi.net .
The Fatwa on the issue is: Muslims, living in the West, who need to buy houses to live in must first try to establish Islamic financing institutions and companies to fulfill their needs in accordance with the Shari'ah; this is a Fard Kifayah on those who are able among them. If this does not exist, the second alternative is to deal with conventional finance providers on the basis of contracts that are compatible with Shari'ah, and the last resort after exhausting these two potentialities is to buy on conventional mortgage with the intention to make the least involvement with interest and to pay it as soon as possible.
If you bought under the conditions of the Fatwa and you intend to clear your involvement with interest as quick as you can, there is no sin InShaAllah.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Paying Earned Interest for the Mortgage
From: Islam on line
Sent: Thursday, September 11, 2003
Name of Questioner Shaukat Country Canada
Question:
Can I pay the "interest part" of the mortgage from the interest that I got from the bank on my fixed deposit account? This indirectly fulfills the requirement that "I did not take any interest from the bank for the money that is in my account. Also I do not pay any interest for the loan I take". In other words I do not profit from the Riba system. I stay neutral. I give them back their impure money. The interest money does not touch me. Would be grateful if you can comment. Jazakumullah
Notes
I have a few millions in bank - the amount I received as retirement benefit. This amount was lying in bank (I cannot keep it at home, or do I want to loose it by making an unwise investment). The interest on this amount in three years is considerable - almost nearing a million. I want to buy a house. The only way I can afford now is through mortgage system, and it will require me to pay interest. By paying back the interest part of the mortgage from the interest I accumulated, I can keep the sum total of interest received and paid by me as zero. Hence as far as I am concerned neither did I take interest nor did I give any.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Shaukat
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

May God give more and more health, wealth and wisdom.
No, your argument does not hold on several grounds (by the way it is very wise of you not to use your money in risky investment). Interest you accumulate from your deposits is not yours because your interest-based deposit contract is invalid in Shari'ah and whatever it generates does not become your property. WHO OWNS IT THEN? The fact is: from Shari'ah point of view it is still owned by the entity that paid it to you (the bank). But notice since it came to you through a contract that is permissible according to the law of the land and because the bank is an interest based entity that will use this money to make more of the evil contracts and transactions you do not return it to the bank. It is treated like any property that has no known owner, it must be given to the poor an needy and to serve the general interests of the Muslim community. You cannot dispose of it to your own benefit, to discharge of an obligation you freely contract, though it is forbidden in the Shari'ah.
If you freely enters into a Shari'ah-prohibited contract you are required to fulfill it and you also carry (I hate to say it)the sin of your action. The Qur'an considers Riba contracts as one of the literally worst sins that may ever be committed, a sin that calls for a war from God and His Messenger (2:279). The prophet considers it as one of the seven gravest sins and he said "the wrath of God is on the person who takes it, the one who gives it, the writer and the two witnesses." You cannot justify entering into a prohibited mortgage if you have millions in the bank, either use some of them to buy your home or borrow from them (i., e., from yourself even if the regulations require you to pay interest to your own retirement account, this is permissible because you own this account alone). Besides it is financially wrong because you pay 6% or more on the mortgage and you receive 1% or so on the deposits.
I may suggest to you some safe investment of your money also, put it in an Islamic bank in your country if it has one or in a country that is financially open to non-residents to have bank accounts.
Avoidance of taking and giving Riba is required from every Muslim to the best she/he can and countering a Riba by entering in more Riba contracts is against the rational limits and certainly in violation of the Shari'ah rules and principles.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Buying a House on Mortgage in Muslim-Minority Countries
From: Islam on line
Sent: Tuesday, September 02, 2003
Name of Questioner Syed Country India
Question:
In India we do not have Islamic Banks of financing scheme. Can we take bank loan to purchase a house. The objective of going for loan on interest through bank is: 1. The rent that we pay can be paid in installment towards the loan 2. There is income tax

benefit from govt. on the taxes that we pay (which is huge for a middle class salaried person) 3.The company where I am working has tied up with housing loan company and they are offering to the employees(us) Please suggest whether I can take a loan from Bank, Insurance company (LIC of India - Which does not pay interest but bonus to its members)or and financial institution. Thanks.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Syed
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
India is similar to the Western countries from the point of view of purchasing residences by Muslim families being a general need that is to be treated as necessity and therefore relaxing the prohibition of interest on house mortgage EXCEPT FOR TWO IMPORTANT DIFFERENCES THAT AFFECT THE Shari'ah RULING:
1 - Muslims in India are settled for centuries and they have families' and friend's support. This does not exist for the immigrant in the US who are mostly cut off this kind of support; and
2 - There are Islamic financial institutions in India, the Amanath Islamic Bank that has several branches and the several Islamic housing cooperative. the large community enables them to establish small scale house financing cooperatives too,
These two differences have a great bearing on the issue. I think that unless in the rare cases where families, friends and communities are dysfunctional and in areas of India where there are no branches of the Islamic bank and no house financing cooperatives or if their charges are higher than the market BUYING HOUSES ON INTEREST IS NOT PERMISSIBLE IN FOR MUSLIMS INDIA.
I didn't understand your reference to insurance companies in the question. Please if you have any question on the mentioned insurance company send it to Islam on line and give details.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: **Buying a House in California**
From: Islam on line
Sent: Monday, September 01, 2003
Name of Questioner Hani

Question:

Assalamu Alaikum, I am a young Muslim man living in the United States, and I'm trying to the best of my ability to live my life according to Islam. Lately, I've been looking into buying a house. I know that the ruling for taking bank loans is that they are permissible only if there is no other Islamic alternative. However, there is an Islamic financial lending

company based in California (I'm not going to name names) that offers loan, but if under their program I will end up paying 1.5 to 2 times what I would pay under a regular bank loan. So what is a Muslim supposed to do in such a situation, when Islamic institutions don't make it feasible, and income is limited?

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Hani
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

The Fatwa on the exceptional permissibility of using interest-based mortgage for buying a residence of Muslims in America is conditional of the lack of compatible Islamic financing. If an Islamic company charges more to the extent that makes it non-competitive with others, you consider it as non existing. "Islamic financial institutions are supposed to give you at comparable rates or at lower rates to encourage people to avoid Riba, not to abuse the market and exercise certain monopolistic powers on Muslims who want to abide by the rules of their religion.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: mortgage financing
From: Islam on line
Sent: Tuesday, August 26, 2003
To: Monzer Kahf
Subject: Signing an Interest-based Contract?
Name of Questioner JUNAID country U S

Question:

Assalamu Alaikum My question is regarding to mortgage loan. As far as I know giving interest and as well as any agreement based on interest is completely prohibited in our religion. Then how come there are so many Muslim are doing this? Is it allowed in our religion to sign any contact based on interest in some circumstances?? Allah hafiz.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. JUNAID
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

Interest prohibited, no doubt about that. the Prohibition applies to giving, taking, writing its contract or even being a witness to it as the Prophet, pbuh, informed us.

You must know that circumstances of necessities may relax any prohibition. This is a principle that is established clearly in the Qur'an itself too.

What other people do may be under necessity circumstances or not, God is the only One who judge them and their circumstances and who knows what is exactly inside their hearts.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Shari'ah compliant Islamic financed housing.
From: Dawodu
Sent: Sunday, August 24, 2003
Question:
Assalam A Alaikum,
I will appreciate your feed back with respect to the above named subject. Dr. Siddiqui mentioned that you are well versed in this subject. Having studied the home financing models of Lariba and Guidance financial group. I will appreciate if you could provide an answer to the following question:
1.Are they Shari'ah compliant?
2. Amongst both contracts, which one could be considered close to Shari'ah? I am close to getting a house financed through Lariba in Houston by Insha Allah end of the month.
May Almighty Allah(SWT) bless the Holy Prophet Muhammad(SAW), all Prophets(AS) and all of us.(Amin). May Almighty Allah(SWT) also continue to increase you in knowledge.
Maa Salaam.....
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Dawodu
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
Thank you for writing me. You seemed in a Hurry when you called on Friday and it took you two days to write.
house purchase financing in accordance with Shari'ah may take the form of Murabahah or lease/sale contracts.
In Murabahah financing the company buys the house you designate and negotiate with the seller on cash basis and after signing the sale contract and handing over the check and receiving the keys, while still in the closing sitting, sells the house to you on installment basis for the original price plus the profit increment that was agreed upon between you (which is the rate of increment you negotiate with the company). This transaction is made in the form of a contract that normally takes some 8-10 pages.
In lease sale financing the company and you together buy the house you designate on cash basis, you become an owner of a percentage of the house that is equal to the percentage of the down payment to total cost (price plus closing cost) and the company

becomes an owner of the rest of the house (=the percentage of the amount it paid to the total cost). Then the company leases to you its share of the house for an agreed upon monthly rent and at the same time it offers you and you accept to buy the company's share of the house for its cost on installments over the period of the lease. This contract is also about 8-10 pages.

In both cases the schedule of equal monthly payments (installments in Murabahah - and rent plus partial purchase in the case of lease/sale) will appear similar and similar to amortization schedule in the interest-based transaction. But such similarity must not deceive you.

Guidance Financial offers the second form of financing that is after you buy the property together it leases/sells to you its share. The contract they offer has been reviewed by a respected group of scholars.

You need to check the written contract offered by Lariba regardless of what they say verbally. If the contract they offer is the same form used by interest-based bank it is then an interest-based loan like any other bank, even if they claim otherwise. If it is a Murabahah or buy together and lease/sale it is most likely in accordance with the Shari'ah. To the best of my knowledge Lariba does not have any scholars who reviews whatever transactions they make.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

From: Abdulai

Wa Alaikum Wa Salaam,

Thank you for your prompt response. I meant to write to you earlier. I saw your name advertised for a Lariba symposium in 2002. I was using Monzer @ instead of Monzer @ . Alhamdulillah I am able to get through to you.

As per your suggestion on the Lariba contract, I have not seen the full contract but I have seen one page from a friend who purchased his home through them. But I think they use the standard Mortgage forms for their other transactions.

I can fax a copy to you.

I talked with Dr Abdur-Rahman Yahya and he said that the transaction is Shari'ah-compliant and that I am on his neck.

My current situation is that I plan to close Insha Allah on Friday with Lariba.

However I think I feel more comfortably with Guidance Financial because of their scholars and the fatwa on their website. But they are not yet operational in Texas where I intend to make this purchase. My plan is Insha Allah once they become operational I plan to contact them. It may have to cost me more(per closing cost) going to Guidance.

I hope I am making the correct decision. I will appreciate any advice you can offer.

I pray that Almighty Allah(SWT) forgives me for any error I may make by doing this transaction with Lariba and I hope that Almighty Allah(SWT) forgives us all too.(Amin)

Maa Salaam.....Abdulai

Subject: Mortgage

From: farook

Sent: Friday, August 08, 2003

Question:

Assalam Alaikum Dr. Monzer Kahf:

I am in financial problems, and have been for quite a while. I have to pay very high rent 950/mth which exhausts most of my funds. I have a wife and two young children. It is very difficult for us to get by, and I have to purchase many items on credit card. I can't maintain a full-time job because of my health. Therefore, I would like to know if it is permissible for me to take mortgage with interest to purchase a home. My father-in-law is willing to help us with a large portion of down payment. I live in Toronto, Canada.

Also, is there any Du'a for removal of financial difficulty, and acquiring wealth. Your response will be appreciative.

Jazakullah

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Farook

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

You know your situation better, if taking an interest-based mortgage relieves you from hardship and inconvenience, keeping in mind the unavailability of Shari'ah compatible house financing, you may take it. But there is no excuse to buy on the credit card if you know that you cannot pay its balances during the no interest grace period. You simply do not buy on credit cards! You know there are agencies that extend some help for necessities, especially food and medicines.

There are a few authentic Sayings that give Du'a in such cased please consult the books of the Daily and Nightly Du'a. Some of these are: "Allahumma Inni A'uthu Bika mina al Hammi wa al Hazan, . . . Wa A 'uthu Bika min Ghalabati al Daini wa Qahri al Rijal," Allahumm Inni A'uthu Bika mina al Kufri wa al Faqr wa A'uthu Bika min "athabi al Qabr," Allahumma Wassi' li fi Dari, Allahumma Wassi' li fi Rizqi," etc.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: A new Islamic finance company

From: Hassan

Sent: Sunday, August 03, 2003

Question:

Assalamu Alaikum Dear Dr Kahf,

Alhamdulillah, a new Islamic finance company has emerged in Australia. It relies on mortgage securitization as its source of funding to provide the Muslim community with home finance through Islamic Finance instruments

I would appreciate your opinion on:

The permissibility of financing homes through the offered Ijara wa Iqtina'a product as **well as the lawfulness of my earnings if I was to promote, mediate in and facilitate this** product to other Muslims.

A brief background:

* Median House Prices in most capital cities have soared e.g. in Melbourne $325K and Sydney $420 K (where 90% of the Muslim population reside)
* The affordability rate for purchasing houses in Australia is at its lowest for the past 13 years
* High housing costs forced the Federal Government to call in the Productivity Commission to investigate hurdles facing struggling first-home buyers (August 2, 2003).
* The only other option available to the Australian Muslims is a co-op with limited resources; max finance $160K per applicant, min deposit 20%, and waiting period between 12 to 18 months.

The product in question is the Ijarah wa Iqtina'a

Technique and features of the product:

* Upon the approval of the finance application, the customer selects the property.
* Pursuant to an Agency Deed between the customer and the financier, the customer purchases the property on behalf of the financier.
* The financier then leases it back to the Customer for an agreed period (30 years)
* The Customer's monthly installments (comprising of buy back of the financier's equity and rent components) progressively form an increase in his/her equity in the property so by the end of the 30 year contract the customer attains 100% equity for which the financier offers the option to the customer to buy the property for $1.00
* The Certificate of Title is in the Customer's name.
* Rent rate is discounted on an annual basis to reflect ongoing occupancy costs
* Any asset appreciation realized on subsequent sale of the property is entirely for the customer.
* The financier interest is only in the full lease payment and other contractual obligations disclosed to the member at the outset.

I apologize for the long question and I am looking forward to receiving your answer at your earliest convenience.

Wassalam,

Hassan

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Hassan

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

It is very delightful news to hear about a serious concern to provide house financing compatible with the Shari'ah to Muslim consumers in Australia.
If you are asking me in your personal capacity I'm certainly glad to answer you and spend any time to give you any amount of info I know that may be of benefit to your. The same I do with Islamic non-profit organizations. If you are asking on behalf of the company that offers this new financing, I then charge for my time because it is a profit making that should pay for what it gets. (This is presently the source of revenue for my consulting business).
Your personal part of the question, it is permissible to work in this kind of company or with it on promotion/commission basis. Just be sure that the customer holds the title certificate partly for her/himself and partly on behalf of the finance provider. In the States this can be done by virtue of the Mutual contract and special forms like a "quit claim."
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Taking a Mortgage to Give Money to Son
From: mimi
Sent: Wednesday, July 02, 2003
Question:
Aslamo Alaikum Wa Rahmatu Allah Wa Barakatuh:
Dear Dr. Kahf:
I would like to know how can get a mortgage (borrow) money against my home according the Islamic Shari'ah
to pay my mortgage from the bank. what is the Halal
Loan.
Thank You and Gazak Allah Khairan.
sr. Mimi
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Mimi
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
You know Sister, at your age it is very much unadvisable to refinance your home if it is already paid for. you may refinance to get lower rate and I don't advice to get more money out of it.
the company that is called Guidance Financial in the USA (I don't think it operates in Canada) has a contract of refinancing that is acceptable in Shari'ah. the idea is as follows: they buy the house from you and they rent it back to you with a promise to sell you. Actually they do not rent all of it because you have equity in it so after the house is

appraised, and your share in its equity becomes known they pay to the previous lender the balance of its loan and buy a share in the house from you at the amount they pay plus cost then they rent you this part with a promise to sell. the final outcome will be that you pay a monthly payment, similar to what you pay now but at a lower rate (which is the objective of refinancing) so that the payment will be lesser than the present payment and this transaction is accepted in Shari'ah. It is usually recommended for those persons who have interest-based financing on their homes.
Do you have such an Islamic finance company in Canada? to my knowledge there is none.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: **Buying a House with Mortgage**
From: Islam on line
Sent: Tuesday, June 17, 2003
Name of Questioner hussam Country U K
Question:
ahmatu ahmatu. We are a family of two me and my wife who live in London, and a baby is coming on October, I bought a flat last year with a mortgage, this flat consist of one good size bedroom the other is a box room (very small room) which contains 2 computers, we did not planned for the pregnancy, but my wife is pregnant now. We are thinking to sell this flat and buy a house, we already find a house in a good price for our budget, we are trying to sell our flat but its not selling, could we let it out for this year and buy another one with a mortgage as well, till we could sell the flat (the rent of the flat will just be for baying its mortgage no profit) and for limited time till we find some one to buy. The house we find is perfect for our budget and we will not be able to buy another one if we miss this one. Jazaka 343ahmat anna alf Khair wa 343ahmatu343 343ahmatu wa 343ahmatu Allah wa Barakatuh
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. hussam
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
If you need the new house for your expanding family with the new comer, for which you should be very thankful To God, perhaps you should have planned it to begin with, the answer is yes you may buy the house you need. keeping the flat and renting it until it sells in the market is obviously the only solution if you could not sell it now. The general rule is that whenever any one of us has to go for an interest-based transaction one has to minimize one's involvement with interest as much as possible, it terms of period,

amount and rate. This implies that when you sell the flat the Islamic advice would be to use your equity it to reduce the mortgage on your house.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Buying a House Through Mortgage
From: Fatwa-team@islam-online.net
Sent: Thursday, June 12, 2003
Name of Questioner noha Country U S
Question:
al salam wa Alaikum brother I live in united states of America. we want to buy a house through mortgage. it is cheaper to buy a house than renting an apartment. when you rent an apartment the rent increases every year, also if you have three children they tell you to move to three bedroom apartments, which is more expensive and we can not afford it. when you buy a town house , the mortgage is about $1300 which we can afford it. I agree with Shaikh al Qaradawi and Dr. Abdullah Shahata, they say buying a house through mortgage is Halal and the dallil is " al dorariat tabih al mahzorat" what do you think, please replay Jazakum Allah Khair from Noha
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. nova
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
The Second International Fiqh Conference in North America that was held in Detroit in the Fall of 1999 addressed this issue and resolved that: Muslim families who live in the West for considerations of fining suitable living quarters, building equities, schooling for children, social and neighborhood appropriateness, security and safety, tax and financial matters, etc. May go for conventional mortgage provided they are not able to establish or have Islamic companies that provide Islamically permitted financing contracts or have Islamic contract with non Muslim finance providers.
Of course there are people who do not agree with this opinion, but I share this opinion with many Muslim scholars.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Hajj & Mortgage
From: Islam on line

Sent: Monday, May 26, 2003
Name of Questioner Maheema Country U K

Question:

Assalamu Alaikum. My question relates to the system of Interest. My parents purchased a house in my name but I do not pay the mortgage, they do. I would like to go on Hajj next year but I am not sure whether I am eligible to perform Hajj due to the Interest being paid under my name. I have read that u can not perform hajj if u has debts. Please can u tell me what my position is Islamically. Jazak Allah Khairan

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Maheema
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

The house purchased in your name may have been purchased out of need and in application of the known Fatwa that excludes cased of needs from the prohibition. Besides, houses purchased on mortgage are normally paid for over an extended period of time. the idea of the Fatwa is to avoid undue pressure on Muslims who live in Non-Muslim countries.

This means that a house purchased according to this Fatwa is to be paid from future income while the purchasers take full charge of conducting normal life and expenses. You certainly may, and probably should, consider helping your parent in making extra payment on the house so that you all can get rid of the interest the soonest possible, but the fact that a house still has future payments to be don (even under conventional mortgage does not prevent you or your parents from going for Hajj. Debts that take priority over Hajj are due debts not future debts for which future income is considered.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Mortgage from a British Bank

From: Islam on line
Sent: Wednesday, April 30, 2003
Name of Questioner Elsadeg Country U K

Question:

Assalamu Alaikum brothers and sisters. I live in the UK, and work as a hospital doctor. I want to buy a house. I heard about the fatwa from sheik Al Qaradawi , who said its permitted to buy house with the mortgage (interest) Currently in the UK there is Islamic bank called AHLI BANK in London (Kuwaiti in origin) They buy the house and then they either sell it to you in a higher price (Murabahah) or they rented to you (Ijara). They are much more expensive than the conventional banks. I would like to know is this Halal?

People think that the Islamic banks are doing the same thing but they give it different name. I am really confused WHAT SHALL I DO?
Notes
Since the Fatwa is their Is it ok to take mortgage from British bank or agency.?
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Elsadeg
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
If this bank you have that calls itself Islamic has a Shari'ah adviser(s) or board that consist of known names in the field of Financial Fiqh, it is no doubt Islamic because these scholars would see to it that banks follows the Shari'ah rules.
It is true however that there are similarities between Riba and permitted financing. Even the Qur'an did not deny such similarities that the Makkan disbelievers mentioned (2: 279) But the Qur'an added that 'God made sale permissible and Riba forbidden" inspite of these similarities because there are differences too that warrant the variation in the Shari'ah ruling. For instance Riba can be given for undisclosed reasons whereas deferred-payment sale can only apply to a commodity (car, house, refrigerator, etc); one is a loan contract the other is a sale contract; etc.
Now, if the Islamic bank sells you the same service at a higher price than conventional banks it means it is exploiting your religiosity. This is certainly forbidden. Islamic banks must be competitive and must sell the financing service at competitive prices, otherwise the Fatwa of resorting to conventional mortgage applies because such an exploitative bank is treated as it never exists.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Fixed Interest Mortgage
From: Islam on line
Sent: Sunday, April 20, 2003
Name of Questioner zain Country U K
Question:
salaam is a fixed interest mortgage which involves fixed monthly payments for a fixed time Halal. salaam
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. zain
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

Interest-based mortgage is prohibited because interest is Riba that is prohibited in the Qur'an and the Sunnah with the strongest terms that include announcing a "war" from God and His Messenger and the "wrath" of God on those who deal with Riba. It doesn't make a difference whether interest is fixed, variable or determined on the basis of other factors as long as it is an increment in a loan.

Of course every rule has exceptions that deal with cases of necessities and overwhelming needs. Those Muslims who have necessities or overwhelming needs may take loans on interest basis to the extent that removes the hardship only.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Dealing with Banks and Buying Shares and Stocks

From: Islam on line

Sent: Monday, April 14, 2003

Name of Questioner Mona Country Canada

Question:

Al Salamu Alaikum, I'd like to know if dealing with the bank is Haram. In Canada, dealing with banks is in all aspects of life. Having a retirement saving plan, taking a loan to pay for a car or to start a business. Paying a mortgage to buy a house, using credit card to buy every day's needs. All these dealings are associated with interest. If dealing in interest is Haram, what's the option? I can't just put the money I earn at home and worry that it'll be stolen. No one carries money in his/her pocket or keeps it at home. I asked the Imam in the mosque & he gave me a vague answer. Please I need to have a practical solution for this matter. I believe that bank system here is much better than in my home country in Egypt. If a man wants to get married & buy a house he has to work all his life to manage to do that. Some people can't even do it. While here anyone who wants to do the same thing can go & do it tomorrow. Bank system facilitates life here in so many ways. You can start a business of course if you satisfy certain criteria as having a good credit history among other things. Also I'd like to know if buying shares, bonds or stocks is Halal. Jazakoum Allah

Notes

I know that in Egypt there are so many people who can't find jobs, can't start business, can't get married & can't buy every day's needs. It doesn't really matter how educated they are. Obviously that leads to so many social problems as : adultery, zawag orfy(which is a major problem now in Egypt), stealing & killing. Now I'm not saying we don't have this in Canada but at least, if you don't have enough money, you're not doomed for the rest of your life to stay so. You can take a loan & start a business or take a loan and be a partner in a company or buy stocks or shares. I appreciate your prompt reply. Thank you

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Mona
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.
First, please relax and have patience; it seems you are either new in Canada or new in dealing with banks! you have rushed too many things together and brushed them with one phrase: "dealing with banks." as alternative of putting your money at home and wait for a thief to come and grab them! That is why probably you got a vague answer from the Imam or you thought of it as vague at least. Please take the following few points and think about them and if you have any further question please send them without any hesitation. You can consult the Fatwa band at Islam on line or my website at www.kahf.net for further info on this matter:
1)- Interest is certainly forbidden in Shari'ah. The Qur'an (2: 279) used the strongest ever warning with regard to this prohibition by declaring a war from God and his Messenger on those who keep dealing with Riba. Riba is any increment stipulated in a loan contract. a loan is giving money with the condition of returning it in the future. This is exactly what is meant by the word Riba that is mentioned in the Qur'an. For this the word interest is used in our current language.
2)- Banks, in Canada as well as in Egypt, offer several services, some of them are interest-based and some are not. instead of keeping your money at home you can open a current account which is not interest-based, pay your bills, by checks or electronically, get your income deposited in this account either directly or by making a trip to the bank's nearest office. All these services are interest-free.
3)- Getting loans from banks in Canada and from banks in Egypt is forbidden (Haram) because they only give loans that are loaded with interest; certainly the only exception is the case of necessity.
4)- Having credit cards (i.e., signing their contract that include a clause that if you don't pay within the grace period you have to pay interest) and using them are both permissible provided you do not expose yourself to invoking the interest clause. This means you can use them to pay bills and pay within the grace period. withdrawing cash makes interest to begin accumulate from the day of withdrawal (i.e., it does not have a grace period) and delaying full payment until after the due date, both, trigger interest. This means that if you cannot guarantee to yourself complete fulfillment of these two conditions it become forbidden to use credit cards. You know by the way that credit cards charge you a very high interest rate!
5)- Buying a residence with interest-based financing may be permissible under the case of necessity. There are two conditions here too: the family must be in need for a house in consideration to its size, its need to build equity and get settled, close to good schools, etc. and there must be no other alternatives available for financing through Islamically permissible contracts such as a 'lease to own' contract.
6)- Saving accounts and other interest-based transactions with banks, in Canada and in Egypt, are certainly forbidden in our religion and one must not resort to them unless under the necessity rule. In application of the necessity rule one must keep in mind the she is the final judge in determining what is necessary and what is not but such a

decision is going to be scrutinized by the Most Knowing Who cannot be cheated or fooled!

7)- Banks, in Canada and in Egypt, give you the umbrella when it is not rainy, they never give you an umbrella when you needed it most. Try to get any kind of loan (to start a business, for a car, for a house or to go gamble in Las Vegas) for a person who is not financially strong! It will never be given and such a person may ends up with the homeless that fill the streets of all big cities in the USA, Canada and to a lesser extent in Egypt only because of the strength of family ties.

8)- Egypt has many social and economic maladies, no doubts about that but its illnesses are not cause by the lack of Canadian or at least Canadian-style banks there. It has plenty of them and only two Islamic banks! Both time and the subject of this Fatwa are not the best space to dwell on these maladies that both you and I know many of their causes anyway.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a housing project with interest in the USA

From: Islam on line

Date: March 08, 2003

Name of Questioner Rajeeyah Country US

Question

Assalamu Alaikum wa Rahmatullah wa Barakatuh. I am trying to establish and Islamic community and would like to purchase houses and housing units to provide my Muslim brothers and sisters adequate low cost housing. Purchasing the property will involve Riba. My plan is to buy the property on interest and pay off the loan within 2-3 years time. Is this permissible being that it is to help other Muslims feasible Allah?????

Notes: I am also trying to do the same with in the Business area. Muslim owned Muslim run businesses.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Rajeeyah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Ends do not justify the means. Riba is prohibited and you can't use it as a means to build an Islamic community.

On the other hand if, on individual basis, each Muslim family needs to purchase a residence and has no means to buy one via Islamically acceptable contracts, it may resort to conventional interest-based mortgage. In such a case if a group of families on whom these conditions apply pool their resources together to buy or build a subdivision of their own it becomes permissible on the basis of the exception of necessities.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in the USA

From: Islam on line

Date: March 07, 2003

Name of Questioner RuQayyah CountryU S

Question

As Salaam Alaikum: Is there any difference in interest (Riba) from the bank and buying a home or car?

Notes: Because I live with my Mother and younger brother and we pay 600 dollars a month for a 1 bedroom apartment. And there are homes around our city for 520 dollars a month including interest for 4 bedrooms house. Is that Haram to pay interest for a home? And about the car I am a student and I have to ride public transportation because if I pay payment on a car which is $320 for a month including interest I was told it would be Riba and that's Haram. Can you help me understand better about Riba. Jazakallah Khairan Sorry for the long Notes. Best Regards

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. RuQayyah
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Interest practiced by banks and other persons Is Riba. Riba is prohibited in the Qur'an and the Sunnah with most strong statements that include announcing a war from God and His Messenger on those who do not quit Riba (Verse 2: 279) and placing the wrath of God on the parties of a Riba contract, its writer and its two witnesses (an authentic Saying of the Prophet Muhammad, pbuh, reported by Muslim. This prohibition certainly applies to all Muslims, in all countries, and for all their transactions regardless of the objective of the loan or the religion of the other party to the contract.

Riba is defined in Shari'ah as any stipulated increment in a loan, even if its amount or rate is not determined at the time of the contract.

However, our religion is woven on making things easier and simpler and on removing and preventing hardships. Consequently, there are exceptions to any prohibition. these exceptions are based on the rule of necessity and removing hardship which is mentioned twelve times in the Qur'an (e.g., 5: 6 and 22: 78) and nay times in the Sayings of the prophet, pbuh.

In the Second International Fiqh Conference held in Detroit in the Fall of 1999, the issue of house financing was discussed. and here is a summary of its resolution: for considerations of savings, building home equity, tax reduction, neighborhood decency and safety, availability of quality schooling for children and other similar considerations

and if there are no Islamic financial institutions that provide house financing in accordance with Shari'ah nor Shari'ah compatible contracts with conventional institutions, Muslims who need housing may resort to conventional interest-based mortgages to finance buying their residences.
This exception does not apply to financing cars for more than one reason, there are alternative transportation, as you do, there are not pressing needs to finance a car by either live without it or buy a used car at a small price, and there are other options to obtain a car like leasing which is permissible and one of the basic Islamically acceptable alternative of interest-based financing (Islamic financing is not just giving loans without charge, because no body is going to give her/his money like that. It is using alternative contracts that are not interest-based such as leasing, equity participation and deferred-payment sale at a higher price.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: **Buying a house in Jordan**
From: Islam on line
Date: February 24, 2003
Name: Hiba
Question
in the name of God Dear sir; Thank you very much for this opportunity, i need to ask if it is Halal to take a loan from a bank to buy a house for the family, knowing that me and my husband work and we live in a rental house, if we don't take a loan we will never be able to buy a house since we pay rent . . If we take a loan we will be paying almost the same amount as rent for the installment. Awaiting your answer. Thanks and Jazakum Allah Kheir
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Hiba
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If you are in Jordan, there are two Islamic banks you should try to deal with them and find a good way to finance your residence in Jordan. Besides in the Muslim countries there are families and friends that may help and always help. You know Riba is forbidden and a house loan from a conventional bank is Riba-based.
If you live in non-Muslim countries that have no Islamic banks, the matter is different. That doesn't mean that the prohibition doesn't exist any more. No, the prohibition is as is no differences between countries and places. But because there is a great deal of hardship for Muslim families who live in the West in finding suitable housing without

mortgages and there are very few, and only recently, institutions that offer Islamically acceptable contracts, the prohibition is circumstantially relaxed. If you live in the West and your family need the housing for reasons that include, but not limited to: children education, tax considerations, equity building consideration, neighborhood security, safety and services, etc., and you don't find, at competitive cost, Islamic contracts for financing your house, you may then use conventional mortgage.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in Canada

From: Islam on line

Date: February 24, 2003

Name of Questioner Saleem Country. Canada

Question

We bought a house here in Calgary, Canada and being a Muslim and to avoid interest problem we got financing from Islamic CO-OP, out in Toronto. But in the first year we find out that Islamic CO-OP is just using Islam, trying to cheat all the times, lying, no service, very unprofessional, charging more than twice then other financial institutions and treating the peoples in very bad manner and also we got few threats from them guys and we end up buying our house from CO-OP through a bank and now we have mortgage from bank. I end up loosing about 20,000$can, which I paid them as a rent in one year and plus lots of troubles with Islamic CO-OP. Now I am paying about half of the amount that I was paying to Islamic CO-OP and peace of mind. So my question, is it right or wrong to have mortgage from bank having a very bad experience with Islamic CO-OP. Thanks

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Saleem

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

It is very unfortunate that you had bad experience with the Islamic Housing Co-operative of Canada, I know many Canadian Muslims who have excellent and rewarding experiences with it!

However, If the available Islamic house financing institution charges more that the market rates or has conditions that are difficult to match a Muslim family in North America who needs housing through financing is permitted to resort to conventional mortgage through conventional institutions, because higher cost or difficult conditions makes the Islamic institution as if non-existing.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage in the USA

From: Islam on line
Date: February 03, 2003
Name of Questioner Eihab Country Sudan

Question

Assalamu Alaikum I just wanted to know weather it's forbidden or legal to buy a house through a loan from the bank, keeping in mind that we can not afford buying a house in cash, and in case of buying it, we will have to pay interest to the bank. And also could it be used as a business in the future (renting the house to some other people as a source of income to my family). Thank you and my Allah reward you all.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Eihab
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa that is adopted in the resolution of the Second International Fiqh conference in North America held in Detroit in the Fall of 1999 and chaired by his eminence Shaikh Yusuf Al-Qaradawi can be summarized in the following:

Muslims in North America are required by the Islamic Shari'ah to establish financial institutions that provide them with needed financing for their business in accordance with Shari'ah. This is a Fardh Kifayyah on all Muslims in North America (a collective obligation that makes all capable remembers sinful unless and until some of them fulfill it).

Until such institutions are established, Muslims may seek financing from conventional financing institutions that accept to make a contractual relationship on bases acceptable in Shari'ah such as lease purchase or Murabahah. Until that is done Muslims who need to purchase houses for their own residence may resort to interest based mortgage financing as long as such housing is needed taken into consideration the factors of equity and family security, neighborhood safety and decency, the tax deduction/rental factor, availability of rent especially if the family is large, school quality and etc.

families/Persons who need houses for any combination of these factors and for them whatever Islamic financing that exists is either not available or expensive and non-competitive (either because of the required 20% down payment, the rate they charge or any other reason) may still resort to conventional mortgage.

Obviously each person/family has its own evaluation of the different factors that may permit resorting to conventional mortgage. It is a matter that rests between a person and God, He knows best whether this need is real or not; and no human has the right to question the sincerely or the heart of others and point to them " ha ha they got conventional mortgage!"

For your second question, whence a house is bought, a change of plan that may happen later does not affect the permissibility. Also buying a residence and getting part of it assigned for supportive income to pay for the mortgage is no difference in my opinion.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in the USA from builders
From: Islam on line
Date: January 26, 2003
Question
The question is about buying a home in USA from companies that provide both Homes and financial Services (Mortgage). Is it permissible to get a home mortgage from those companies which sells you the house and provide the home buyer with a mortgage also?. There is third-party involvement such as banks. Some people say it is Halal since these companies owns the properties (lands, houses, etc) and they sell it to you by providing the consumer with their own Mortgage.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If the company's contract is such that it sells the property, a house, on installments for a price that is above the cash price, the contract is permissible, even if the contract itself says that these installments are calculated on the basis of so and so rate of interest. And it doesn't matter to you if the company assigns the contract to some other party like a bank.
but if the contract says that the price is say 200 000 and the company id giving a loan at certain rate of interest to pay for it, this is Riba, the same as if the loan were from a third party.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on mortgage in Canada
From: Sister Nuzhat
Date: January 20, 2003
Question

I hope you remember me. We met during ISNA Conference. I was also the coordinator of one of the programs during the conference. Well, after all I am your sister in Islam and I have a question which is a great concern of many Muslims in our Community.

Q. Are we allowed to take Mortgage for buying our first house here in Canada. I am trying through Islamic Housing society, Canada to get loan free of interest. They provide loan up to C$140,000 only the rest we have to come up our selves. We have to keep that rest of the amount for six months in their account. Even after six months if our turn to get loan doesn't come, then we have to wait until the turn comes and our money will remain with them. Till we pay off the loan money our property will be in their possession and they will charge us rent to may monthly to them. The rent is their income. When we buy shares from them they pay us provident which we pay them back to reduce the capital loan. At the time when we pay off all the loan and take occupancy of the house we have to buy one G class share which is 10% of the difference in value of the property from present value minus the time when loan was taken.(the difference could be 200-300, 000) In this way they are charging more than the banks, they are taking rent which the bank calls interest where as the interest of the bank is much low. Bank gives us any amount we need to purchase the house. to buy from theses people we have to collect the remaining balance for example C$400, 000 is the price of the property. They pay 140,000. Therefore we have to collect C$260,000 our self and till we collect this amount and wait for six months we have to live in a rented house.

We have been living in Canada since more than 5 years in a rented house and paying C$1130 + electricity per month as we are a big family of six family members. You can imagine how much we have paid to our Land lord in five years and six months.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Yes, I do remember you very well and thank you for writing.

This issue is as you noticed a very serious one and very often only those who live it repeatedly can understand it. I can say almost every body who lives in the Muslim countries or come from there is extremely aloof from it.

On the one hand Riba is no doubt forbidden; it is one of the worst sins a Muslim may ever commit, One of the few "Sin Major" as the words of the Prophet, pbuh, can be translated.

On the other hand, Muslims who live in the West do not have to submit to such a level of sufferance as you described and I know of many more sever cases. What is the solution? You may find certain 'half" scholars or less who would argue: no solution Riba is forbidden, go back where you came from and live with family and neighbors! But there are scholars who argue that there must always be a solution to all Muslims wherever they may live and under all circumstances. There is no doubt that any solution shall be a second best to which we do not resort unless all possibilities of the first best are exhausted. The rule is known in Shari'ah and is clear in the text of the Qur'an and

the Sunnah, that is the rule of necessity. In principle, the rule of necessity states that if adherence to a prohibition under certain circumstances cause damage or harm to any of the five thing (called fundamentals: life, religion, mind, posterity and property) for whose protection and promotion the Shari'ah was sent down, the prohibition must be relaxed in as much as needed to remove the damage or to avoid such a damage or harm.

Further, this rules has a sub-rule that: a need that covers too many people or a class of people (such as painters who cannot clean their hands completely when ever they make Wudu'), must then be treated the same way as if it were a necessity. Muslims who live in the Western countries are not destined to suffer nor are they required to give up building equity and wealth, reducing taxes, if it applies (I understand you don't have it in Canada), living in a good, decent and safe neighborhood, have good schooling for their children, have the dignity of being a homeowner, not move around from an apartment to another because the complex does not accept children, etc. All these are important considerations that the Shari'ah does not call on us to neglect. These and the similar are the factors behind the Fatwa that came in a resolution of the Second International Fiqh Conference in North America held in Detroit in the Fall 1999, and chaired by Shaikh al Qaradawi. It was also the opinion of the late Shaikh Mustafa al Zarka (died 1999): Muslims can buy their own residences on the basis of Riba-based mortgage if there are no Islamic institutions that can provide financing, under similar conditions and prices, or at least Shari'ah approved contracts with conventional financial institutions. Obviously implicit in the Fatwa that they buy houses as much as removes the inconvenience.

Applying this rule, many scholars believe that

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying on mortgage or renting in UK

From: Islam on line

Date: January 15, 2003

Name of Questioner Hasib Country U K

Question

What is the Islamic view on the western mortgage. I only ask because this is such a contradictory subject as a portion of the people will say Halal & another will say Haram. Please note that bearing in mind the price of renting property can, depending on your location in the world, often be higher than paying off a mortgage, not to mention the family that needs to be supported also. Is it therefore Halal in certain circumstances & Haram in others?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Hasib

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The word mortgage means a lien. it can be practiced with any transaction. it is an innocent word!

housing mortgage as practiced by conventional banks and financiers in the Western countries today is a transaction consisting of buying a house and getting an interest-based loan to finance the payment to the seller with a lien placed on the property and equal installment payments for a number of month. each installment has two components interest on the balance of the loan and partial payment of its principal.

You notice that it is based on interest. Interest on any and all kinds of loans is Riba. Riba is clearly and indisputably prohibited in the Qur'an and the Sunnah. Would any Muslim Scholar dare claiming it is Halal? up till this point nothing is controversial at all.

Any thing that is prohibited is exposed to circumstances of necessities that relax a prohibition up to the size of the necessity. This rule applies to all and every prohibition with only one exception that is murder. There can't be any circumstances that necessitates a person to murder another person, even force and compulsion because there no life that is more precious than another life in Shari'ah consideration. All other prohibitions are subject to the rule of necessity. This is not controversial too. It is based on clear-cut texts in the Qur'an and the Sunnah.

What is necessity? studies (from the time of Shafi'i to Ghazali to Ibn 'Abd al Salam to Shatibi to recently Ibn 'Ashur and many others) based on surveying all the Shari'ah rulings indicate that there are five major thins Shari'ah was sent down to preserve and promote, Scholars call them "the five fundamentals" they are: life, religion, mind posterity and property. there is no preferential order between them because it always depends on circumstances and strength of required action (or abstention). For instance shaking hands between non close relatives makes and females is prohibited but hurting the feelings of another Muslim is more prohibited, then you shake hand with a person from the other gender who extends hand for shaking to avoid hurting the feelings; and drinking liquor out of extreme and harmful thirst coupled with lack with other permissible liquids becomes permissible while drinking the same to avoid hurting the feeling of the other person is not.

Additionally there are differences between personal necessities and necessities that touch a group of people. For instance, one can live in an apartment in a big city today without drinking water reaching home in pipes; inconvenient as it is, this person can go out and fetch for drinking water every time one needs it; but it is a great difficulty to the extent that it is really a necessity for a whole neighborhood to live without drinking water reaching homes in pipes! Consequently we have the sub rule of necessities that states: what is mere inconvenience for one person may be treated as a necessity if it touches a whole class of persons. Still no differences on this point too!

Who estimates necessities and group conveniences? Here where the differences arise! a very respected group of Scholars at different setting, writings and collective discussion of the issue concluded that the prohibition of buying homes on conventional mortgage when other alternatives are not available or more costly is relaxed because of such

inconveniences that take the level of necessities because they touch all Muslim communities who live in the West.
Yet, there are also other scholars who disagree, and they have the right to their own opinion. I stand with the first group!
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Refinancing to reduce the interest on mortgage
From: Islam on line
Date: January 13, 2003
Name of Questioner Country. US
Question
Assalamu Alaykum wa Rahmatu Allah wa Barakatuh. After reading from several Islamic sources that it was permissible, and praying istakhara, my wife and I purchased a house 2 years ago with a 30 year mortgage. Al-hamdulillah in the first year we were able to pay-off 5 years of the mortgage. We are now in the process of re-financing at a lower interest rate and for 15 years with the intention of paying off the debt as quickly as possible. Despite this we still have the question about whether this is permissible, Islamically?
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If you live in the USA, there are now companies that offer Islamic house financing in most states. if any of these companies offer you comparable rates for refinancing you should not go to conventional financing institutions. Beside what you did is the right thing when one of us resort, out of need, to conventional house financing we have to make our best to get rid of it ASAP both in terms of length of the period and in terms of the amount of interest we pay (by getting lower rate). May God help and bless you and all of us too.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Sending mother to Hajj while under mortgage
From: Islam on line
Date: January 10, 2003

Name of Questioner Mohamed Country USA

Question

Assalamu Alaikum Dear Counsel, 2 years ago I promised to pay for my mom's Hajj. Due to logistics she did not make it to go. I have lost my job, my house when I divorced my Ex non Muslim wife. I was without job for 1 year. I financed new house here in the US. I am working hard sending extra money to pay it off so I can be free of the debt. My mom is currently visiting the US and she desires to go to the Hajj. I am in the dilemma, because I wanted to send her but I am afraid from adding more sins to my current house riba financing. My Mom is 66 years old and she will not understand my point of view. I am afraid to upset her. Could you please advise if I want be sinning by sending her hajj while I am still in debt? Jazakomo Allah Khairan! Assalamu Alaikum.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Mohamed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you bought the house on interest-based mortgage and you need it for any of the **reasons that make a Shari'ah acceptable excuse, there is not sin InShaAllah in buying it** even with interest.

Hence, if you can send your mother for Hajj, from your contingency money or loans without interest, even by using credit cards for the tickets and other non-cash withdrawals, that you can pay before the end of the grace period so that you will not be involved in interest on the cards, go ahead and send her. Pleasing her, especially at this age is extremely important and obligated by God. Ta'ala. But do not send her with money borrowed on interest and explain it to her because Riba taken without a Shari'ah accepted reason is one of the worst sins a Muslim may commit.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying houses directly from builders

From: Mufeeda

Date: January 10, 2003

Question

As-Salamu Alaykum! Would you please give us an answer to the following question in regard to mortgage.

Is buying a home from a company (USA) that "provides both Home Services (houses), Financial Services (mortgage) allowed in Islam?

The question is about buying houses from companies that specialized in " building and related services:

Home Building, Home Services, Financial Services, Contracting and Construction Services, Investment Real Estate" is
permissible in Islam?
In other words, buying a home from a company that provides both houses and the mortgages. "No banks are involved and owned fully by the same people"
Some might say this kind of trade/transaction is allowed since:
1- That company owns the property and they sell it to consumer through their own mortgage
2- There is not third-party (bank) involved,
3- The buyer dose not pay interest on the money but rather on the house purchased
Jazakallahu Khairan
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Mufeeda
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
I am sorry for the delayed answer because I was out of the country last week.
If this transaction is done on the basis of installment sale with this company directly, it is permissible even if you know that the company gets its financing from banks because this is not of your business as far as the contract between you and the company is concerned. Installment sale is like this: although we know that the cash price if the house is 300,000 you buy it for 800,000 payable on installments for 360 month, on the rate of 2222.22 every month. It is permissible to have mortgage (lien) on the house for the amount of the debt
If the contract says that the house is sold for 300000 and a loan is given by the company for the amount ant an interest rate of so much and the total become 800000, that is interest (Riba). This is not like installment sale.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Advising persons under interest-based mortgage
From: Islam on line
Date: January 03, 2003
Name of Questioner Khwaja Country Canada
Question
Assalamu Alaikum, May Allah bless you your efforts and time. I have an opportunity to improve my financial situation by getting involved with Primerica a Financial Services company. I have 7 kids, wife doesn't work, can not work, going in debt very fast, my landlord has asked me to leave the apartment because he wants to sell it, mortgage is Haram, no one would give me a rental property because of family size, only way is to

make enough money to buy a house in cash. In this financial service business we advice people on how to reduce debt by offering better products which includes loans and insurance policies with lower interest rates. I can build my own business and make very good money in commission at the same time helping families get rid of or reduce their debt. In a regular job I will never have enough to make ends meet and I will pay more and more interest until I go bankrupt. This society is not for single earner families. I avoided credit based on Riba for 4 years after I came here but finally the system caught up with me. I hate it but I am stuck init. I have a full time job that pays half of my expenses the other half is increasing by debt monthly. I have tried to get a second job and every other thing and I don't get a response from anyone. Is this business Halal or it is Haram for me to do this business to rid myself of Riba forever. Once I have paid my debt and bought a house I would do some trading business without any involvement of Riba. I won't be taking Riba but i will be advising families on how to reduce it which is good in itself. I desperately need your advice on this one I would appreciate if you do not publicize my letter so openly because community will immediately know it is me, I am a well know College Professor and actively involved in community and Da'wa activities.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Khwaja
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Advising persons, who are already under interest-based contractual obligations on how to reduce their interest is not bad at all; it is rather good, more good if these persons are Muslims because you would helping them reduce their involvement in sin. You must not write or sign the new reduced-interest contracts, because it is Forbidden. Also helping people in insurance is permissible as most kinds of insurance are permissible and several contractual forms of life insurance are also non-interest based. I am afraid you may be expecting rather too much from this proposed new venture and it may end up not giving you what you expect.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2002

SUBJECT: Working as a loan Officer in Real estates
From: Tawfiq
Date: December 28, 2002

Question

I currently live in the US, and was thinking of getting a job in Real Estate as a "Loan Officer.

Below, please find a description of what the job consists of:

1. We call on homeowners who may be interested in refinancing their home at lower interest rates.

Hence, the way I look at it (and I maybe wrong) is as follows:

Since I have no control over completely removing interest (the bank is the lender) I at least try to help people pay less interest on their current mortgage and save them money, where applicable. So in the case above we often get customers a lower rate on the mortgage they're carrying.

2. In the current economic situation (people being laid off...) folks often find themselves in dire need for cash. So by refinancing their home, (even if it is at the same rate as they currently have, some banks would actually provide them with 10K or 20K liquid cash, given that they refinance their home with that bank). Note again, I'm not trying to paint a "nice&clean" picture of what a loan officer does. I'm rather offering details of what he/she really ends-up doing. In this case, although we don't always succeed in getting a lower rate for the customer, we often end-up helping him/her get their hands on some cash, so they can survive the tough economic conditions.

Please advise of the "legitimacy" (Halal or Haram) of this job, as it pertains to the Islamic Shari'ah.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Tawfiq

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I believe that deriving your income from this kind of job is not permissible in Shari'ah. The main thing a loan officer makes is to help people get financing/refinancing regardless of their real needs and circumstances. Getting them some cash, that is very often spent on less than necessary items and circumstance for which the prohibition of borrowing with Riba is relaxed, is also forbidden in the

If you confine your job to helping Muslims only (because non Muslims don't consider it evil) reduce the evil of interest they are under, in a very truthful an honest manner (take in contrast the case of adding too many points and costs to principal for a slight difference in the rate where the finance officer would actually be drowning the homeowner under more interest-based debts) this may be permissible. Even in this case, I think that such an action must be offered free only on a benevolence basis in order to close the possibility of abuse and mixture or conflict of interests and intentions.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Working as a real estate agent in Singapore

From: Islam on line

Date: December 25, 2002

Name of Questioner Ina Country Singapore

Question

Assalamu Alaykum, I live in Singapore and work as a Real Estate agent selling government homes to my customers who are 99% Muslims (20 % of Singapore population of 4.5million). By January of 2003 the government will let the Banks to take over and have people finance through them. Meaning carrying a mortgage just like they do in USA and other parts of the world. For Muslims, they will not have any other choice but to carry mortgage if they want to own houses. MY QUESTION IS, IS IT OK FOR ME TO CONTINUE WORKING IN THIS BUSINESS TO KEEP SERVING THE MUSLIMS? THIS IS THE ONLY WORK I KNOW HOW TO EARN INCOME. LET ME MAKE IT CLEAR THAT MY INCOME COMES AS A COMMISSION PAID TO ME BY THE SELLER OR THE BUYER. NEVER FROM THE BANK. AND IF WE MUSLIMS STOP SERVING OUR COMMUNITY, THEY WILL BE SERVED BY THE CHINSE OR INDIANS. PLEASE REPLY. JAZAKULLAH KHAYR

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Ina

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

For you to continue, as a real estate agent on commissions, helping people Muslims and others buy houses is certainly permissible because you are not part of the mortgage contract at all, even if you advise your buyer on what mortgage is cheaper for them, as long as you are not a part of the interest-based agreement.

But it seems to me that the matter is bigger than your own work, it is the whole community that needs help avoiding a sin that is described in the Qur'an and Sunnah as one of the worst and most grievous. You said in your questions mortgage like in the USA, BUT IN THE USA WE HAVE NOW OPTIONS THAT ARE PERMISSIBLE IN SHARI'AH, such as lease-to-own contracts and Murabahah contracts. You seem to me in a position where you can help the whole community by introducing these contracts for the Muslim community in Singapore.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in France

From: Islam on line

Date: December 25, 2002

Name of Questioner BUE Country France

Question

Is it possible for me and my wife to borrow money from bank with interest to buy a house or a flat for living, not for investment (because of the high level of rents)?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. BUE

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You know that interest is forbidden in the Shari'ah. it is forbidden for all purposes and under all circumstances. It is in fact one of the worst sins a Muslim may ever commit coupled with a wrath from God and His Messenger, pbuh.

Yet, the Qur'an itself deals with cases of necessities and hardships as good reasons to relax any prohibition, especially when the hardship affect a large group of people, Muslim minority community who live within an interest-ridden economy. We must remember that The Shari'ah has no intention to keep such Muslims poor and deprived from owning their own residences. Accordingly the by-now- famous Fatwa came about after careful study of the situation of Muslims who live within a non Muslim majority. These Muslims need to own residences for a multiplicity of reasons, all of them are important from the Shari'ah point of view: to find decent area for living and raising children, to find adequate facilities such as good schooling, security services and good public utilities, to become owner instead of continuing to pay rent, to build personal equity in their residences, to reduce income taxes, etc.

Considering these elements, the Fatwa first call on such Muslim community to establish financial institutions that provide financing compatible with the Shari'ah, to seek Shari'ah-acceptable contracts from conventional financial institutions and lastly to take conventional mortgages until the other two options are made available.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying properties with interest

From: Islam on line

Date: December 21, 2002

Name of Questioner Assadullah Country Afghan

Question

Dear brothers and sisters, Assalamu Alaikum wa Rahmatullah, As you are aware many Muslims, using bank money and paying mortgages with interest, are buying houses, businesses and even mosques. Please let me know if there is a toast Fatwa in this regard.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Assadullah
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Riba is forbidden in the Qur'an and interest is Riba. God pledged to preserve the Qur'an pure of any change, one then can be assured that the basic rule of Shari'ah will not be changed by any person or any events. One of the rules of Shari'ah is that necessities affect a relaxation of a given prohibition to the extent that a prohibition hinders the proper fulfillment of a necessity at its minimum level. What individual Muslims and non Muslims do does not change the rules of Shari'ah.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Continue paying interest-based mortgage or walk out of the house?
From: Islam on line
Date: December 17, 2002
Question
ASSALAMU ALAIKUM. I AM A 34 YEAR OLD WITH A 10 YEAR OLD CHILD. AT PRESENT I'M LIVING IN THE HOME THAT I PURCHASED WITH MY EX-HUSBAND. AT THE TIME OF PURCHASE I DID NOT HAVE THE FULL KNOWLEDGE OF THE RIBA AS I HAVE KNOW. DURING THE DIVORCE THE HOUSE WAS AWARDED TO ME AND MY SON AND MY EX-WAS HELD RESPONSIBLE FOR THE SECOND MORTAGED HE TOOK OUT ON THE HOUSE FOR REPAIRS AND HE CHOOSE TO USE IT FOR HIS OWN PERSONAL USE. WE TOOK OUT THE MORTAGE FOR 72 THOUSAND DOLLARS FOR THE HOUSE AND IN TURN MY EX-TOOK OUT ANOTHER LOAN ON TOP OF THAT FOR 25 THOUSAND DOLLARS FOR REPAIR OF THE HOME WHICH NO REPAIRS WERE DONE ON IT. THIS ACTION ALONG WITH OTHER ACTIONS LED TO OUR DIVORCE. THE JUDGE AWARDED ME THE HOUSE TO ME AND MY SON AND THE 25THOUSAND DOLLAR LOAN TO MY EX-HUSBAND. NOW THAT I KNOW BETTER ABOUT THE REBA I WANT TO KNOW WHAT I SHOULD DO AS, MY EX-HUSBAND HAS WENT THROUGH BANKRUPTSY AND THE LOAN HE TOOK OUT ON THE HOUSE IS ADDED TO THE HOUSE AS A LIEN ON IT. THE HOUSE IS NOT WORTH THE PRICE THAT IT HAS ON IT. WHAT DO I DO GO THROUGH BANKRUPTSY OR JUST WALK AWAY FROM IT. OR SHOULD I JUST KEEP PAYING FOR IT AS RIGHT NOW I'M UNEMPLOYED AND HAVE NO WHERE TO GO. PLEASE ADVISE ME AS TO WHAT STEPS I SHOULD TAKE TO RELEIVE ME OF THIS RIBA. AS SALAAM ALIAKUM
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Based on the information you gave in your question, the first thing you do now is to straighten your source of income in a way that allows you to sustain your living, with your son, reasonably. Once you have sufficient income stipend (even if it were from welfare and or Zakah from the Muslim community, you then find a decent place to live in with your son.

Riba is certainly forbidden in Shari'ah and interest on mortgage is Riba. But we must remember that any prohibited matter may be tolerated under necessities. It seems to me that what matters at this stage is the bankruptcy more than the interest. According to Shari'ah, you can file for bankruptcy based on true and honest inability to pay your debts, especially that the added loan on the house is not yours anyway.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying an apartment in Belgium

From: Islam on line

Date: December 02, 2002

Name of Questioner Rajae Country Belgium

Question

Assalamu Alaikum, I'm 22 years old and I'm married. We are living in Belgium and it is very difficult to keep your religion but we try to make the best. I and my husband like to buy our own house. So we can educate ours children at the Islam way like separate rooms. For this moment we work both. But here in Belgium we don't have any way to rent money without Riba. We are compulsory to rent money from a bank with Riba. And we can't afford us that we well rent all us live in a little apartment. Can you ask that question if it's possible to Shaikh Qaradawi or that some one else will respond to me with a lot of security and believes. I hope that you will answer me because you are my last hope whether Islam gives us the permission to rent money to buy a simple house without luxury. Because the life now it isn't the life before. I hope that you will answer me as soon as possible? InShaAllah.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Rajae

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Buying residence by Muslims who live in non Muslim countries is governed buy the same Shari'ah rules that must always be taken all together.

There is no doubt that Riba is forbidden, and the banking interest is the same Riba as prohibited in the Qur'an and the Sunnah.

Besides, we also know that the rule of necessities relax any prohibition, but its application must always be based on existence of necessities as defined in the Islamic

Law. The general objectives of Shari'ah, as sent by God, Subhanahu wa Ta'ala, are to protect and promote five things that are essential to every and all human beings. These five things are: life, religion, mind, posterity and property. If any of these is exposed to a major harm and a prohibition stands in the way of avoiding or removing this harm such a prohibition must be relaxed. By the same token, matters that make the performance and/or promotion of any of these five basic things difficult and/or expose them to a harm that is not major do not call for relaxation of a prohibition because a little harm can be born and some difficulty can be carried out. bearing difficulties is part of life itself and performing all religious obligations and satisfying all human needs require certain effort and cost.

But there is another point that must also be considered. That is when hardship, difficulties and harms affect too many persons, though they are still bearable. Hardship, difficulties and harm must also be removed or avoided because the Shari'ah was not sent down to make people, en mass, suffer. Sufferance itself is not an objective; rather, removal of sufferance is an objective.

So we have on hand the rule of necessity and the rule of hardship (less than necessity) that is inflicted on a large number, or a class of people. Both rules call for relaxation of prohibition.

I am very sorry for this abstract introduction that I feel is necessary to explain the Shari'ah position on this issue.

There is no doubt that having a shelter is a necessity, but buying it, in contrast with renting, is another matter; it is not a necessity. On the other hand the hardship you mentioned actually affects every Muslim family that lives in the Western countries. This makes the treatment of such hardship take the same route as the treatment of necessities. On these grounds the Fatwa came, after studying this issue, in the Second International Fiqh Conference of North America, held in Detroit, Fall 1999.

This Fatwa is summarized as follows:

1) Muslims in the Western Hemisphere must make serious collective effort to create Islamic financial institutions that provide them with necessary finance in accordance with the rules of Shari'ah;

2) Until that is done, they must, individually and collectively try to get contracts that are compatible with Shari'ah from conventional institutions;

3) Under situations where both alternatives are not available, Muslims, who need to buy housing, for a variety of needs that include neighborhood, security, safety, ownership and building equity, raising children and education, etc., may resort to conventional mortgage from conventional banks that work on the basis of interest.

You should study your own circumstances and see if this Fatwa applies to your case. If your need to buy a house is real, though not life threatening, you can go ahead and apply this Fatwa.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a bigger house on mortgage in the UK

From: Islam on line

Date: November 21, 2002

Name of Questioner amer Country Ireland

Question

living in U K I bought a house (took mortgage from a building society) now I am going to buy another bigger house and sell old house and take a mortgage and close old mortgage as you know banks and building society charge interests, is it still Halal if I borrow the money and buy new bigger house and sell smaller house.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. amer

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Riba (=interest) is certainly prohibited and it is one of the most grave sins in accordance with the standards of Shari'ah. The Fatwa of permissibility of interest-based mortgage as a last resort after exhausting other means of financing is based on the need that applies to a large number of Muslims. This implies that resorting to conventional mortgage is limited by the need of the person and her/his family. If one needs a large house , so let it be but if one does not need it the Fatwa does not apply!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house

From: Islam on line

Date: October 07, 2002

Name of Questioner Thouraya

Question

I live with my husband in us we live in rent apartment we are planning to bay a house we have 20% Cash money for the price of this house. Now we pay about 800$ monthly as rent if we buy this house we will pay about 1000$ monthly about 700$ as interest and 300$ as part of the price of the house my question: Is there any fatwa about that, I heard there is fatwa about that I need to know this fatwa and all conditionals

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Thouraya

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

There is a Fatwa as follows:
Muslim families in North America, if they need houses for their residence in consideration of difficulties in finding suitable rental residences, equity and tax and saving matters, neighborhood decency, public services and security, children schooling, etc, have to do the following:
First, they have to establish institutions that provide financing in accordance with the Shari'ah,
Second, if that is difficult or there are no such institutions, they have to make concerted efforts to have financing contracts that are compatible with the Shari'ah with conventional institutions and banks,
Third, they can resort to conventional mortgage if the first two options turn out to be futile.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in Canada
From: Islam on line
Date: September 30, 2002
Name of Questioner Nasreddin Country Canada
Question
Assalamu Alaykum I have read the Fatwa by the European council (headed by Shaikh Qaradawi) about buying a house by mortgage. But I am not really sure if I can take it in my case or not: 1- I am now living in Toronto Canada in a rental house, and I pay high rental which consumes large portion of my income. And I am thinking of buying a house by mortgage. But its a matter of comfort or convenience, I cant claim it is extreme "Darura". (Its because mortgage is less that the rental cost, and it will help me save some money and I will end up with owning a house, better that keep paying for rental that puts pressure on my life. 2- I don't have the total price available in cash; but I have some other properties in my home country which I don't want to sell. 3- There is a few Islamic financing associations in the area but they have a long waiting list that needs long time and of more important, they have a maximum limit for there share, which when added to the amount, will not be enough to buy the house. So I can't make it with Islamic institutions. My Questions are: 1- Do you think I am eligible to use mortgage according to this Fatwa. 2- Is this is a kind of Fatwa that we call "Rokhsa" that if we take it is no sin and if leave it we will be from " Ahl Azeema". 2- Also; how can we justify the word "Darura" or " Haja" mentioned in the Fatwa. Jazakom Allah Khair Nasreddin
Notes: I would appreciate a prompt response, Jazakom Allah Khair
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Nasreddin
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Necessity is a thing that when it lacks it causes harm to any of the basic thing Shari'ah aims to protect and promote: life, religion, mind, posterity and property. Lack of need create hardship and difficulty.
Please notice that one of the objectives of Shari'ah is to protect and promote property. it is not a shame to do so!
The Fatwa is based on needs that affect a large number of people, Muslims in the West or in non-Muslim countries. They all have similar needs for housing and similar difficulties of finding other means for Islamic financing.
the Issue of Rukhsa and Azimah is irrelevant here because the prohibition is known and the argument for exceptions is clear and within the limits of Shari'ah, you may accept it or not, it is up to you.
One last thing which is probably what you want and what you are not going to get. You are the only person who can determine your own needs and necessities. but remember four things: 1) no Mufti can know your needs better that you, 2) God is Most Knowing and He cannot be cheated, 3) promoting one's economic welfare is a virtue, it is not a sin or shame, and 4) the Fatwa is not necessity-based.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Renting part of a house purchased on mortgage
From: Islam on line
Date: September 25, 2002
Name of Questioner Nasreddin Country Canada
Question
Following to my question about mortgage that I sent 2 days ago which is still awaiting for reply; I would like to add the following: If it is ok for me to buy a house by mortgage, is it also fine if I rent part of it (the basement) which will help cover part of the mortgage.?
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Nasreddin
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If you buy a house that is suitable to you and within your needs that removes hardship, then you decided to rent a part of it, this is permissible InShaAllah.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabbi al 'Alamin
Wassalam

Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a land for a house on Riba in India

From: Islam on line

Date: August 21, 2002 9:10 AM

Name of Questioner maleeka Country India

Question

Assalamu Alaikum! Is it permissible to take loan from banks / financial institutions/ housing development board/ for purchasing land and constructing a house wherein interest is involved? Thank You.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. maleeka

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Here is my answer to a similar question:

Mortgage, the way it is practiced in America is forbidden in Islamic Shari'ah. Mortgage financing is based on interest and interest is the same as Riba that is forbidden in the Qur'an. Allah (swt) described it in the Qur'an as one of the worse sins that a Muslim may do. Continuing the Riba practice by a Muslims may invoke a declaration of war from Allah and His messenger (Surah 2, verse 279).

However there is also the rule of necessity that is established in the Qur'an too. According to this rule, any prohibited matter may become permissible if it is necessary to save life, protect religion, protect mind and posterity (chastity/descendents), or property. If a conventional mortgage is essential to any of these necessities it may be exceptionally permissible according to the rule of necessity.

The Second International Fiqh Conference in North America that was held in Detroit in the Fall of 1999 discussed this issue and considered that there are quasi necessities (which are treated as necessities because many people normally have them). These include good schooling for children, neighborhood safety and decency, public utilities and services in the area, family future financial security and the consideration of building equity, tax deduction and adequacy of income, and etc. The resolution of the conference was as follows:

1- Muslims in North America are required to establish their own financial institutions that can provide financing via contract that are compatible with Islamic law. Those who are capable to establish such institutions are all sinful until some of them at least succeed in doing so.

2-Until such institutions are established sufficiently to cover all of the financing needs of the community, Muslims must seek financing from conventional banks in accordance with contracts compatible with Shari'ah such as lease/purchase and installment sale.

3-Whenever non of the above is possible, those families who need housing, keeping in mind the considerations mentioned above, may resort to conventional mortgage financing under the rule of necessity although it is interest based.
Wa Allahu A'lam
Wa Alhamdu li Allahi Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage in the USA
From: Islam on line
Date: August 21, 2002
Name of Questioner Nedal Country USA
Question
Assalamu Alaikum, My question is about buying house by mortgage. I want to explain how these financial transactions happen in the US. The bank buys the house from the seller, then I make fixed payments every month to the bank based on contract between me and the bank after they buy the house from the seller. So I know how much I am paying for the house by the end of the mortgage period. And I gain ownership gradually with every payment I make. If the loan is made this way, wouldn't be Taqseet (installments) or Bay' Ajal (deferred payments)? It is true that the payment is based on an interest rate that is why it is considered Riba by many scholars. If you rule this unlawful, what should I do, do I have to sell the house? I know there were Fatwas about Muslims living in non Muslim countries and they're in need for housing, I asked about these when I bought the house, but now I feel that I need to get more decisive opinion about that. I just want to note also that in my area rent is high, that it cost less to buy than rent? Would this constitute a need? Jazakum Allah Khairan and please help me to find the best way to please Allah and stay away from Haram in this matter.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Nedal
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Thank you for the explanation of how mortgage is done in the USA. But are you sure this is the way? If this is exactly the way the sale contract you make between you and the bank is an insatllment sale contract. Installment sale contracts are permissible even at a higher price than cash price and even if the difference is calculated on a rate exastly equal to the prevailing interest rate.
To the best of my knowledge, mortgage in the USA is done as follows: you search for a house and make an offer, then you apply for a loan and make an initial borrowing contract with the bank. Then at the closing the bank pays to the owner and his creditors the amount of the loan you contracted, on your behalf, and you pay your share, the down payment and you sign the final borrowing agreement with the bank and the bank

places a lien (mortgage) on the property and hand you a list of the installments you pay throughout the period of the loan, each installment consists of partial principal payment and interest due for the month on the whole amount. Your indebtedness declines as you pay principal, with it the monthly amount of interest declines too and the monthly payment of principal increases. The transaction consists of a cash sale contract between you and the seller and a loan contract between you and the bank. THIS IS CLEAR RIBA AS PROHIBITED IN THE QUR'AN. Please notice how the wrong decription of the transaction may cause a misleading Fatwa!

No one can clear your conscious for you except you. You know the Fatwa on mortgage for Muslims in America. It is based on needs that are treated like necessities because they affect too many peoples. The needs are namy folds, they include equity and family future security, rent/tax deduction and financial consideration, quality of neighborhood and schoolingThis, leanliness from crime and other safety consideration, etc… The Shari'ah analysis is clear and correct. It is you who can apply it to your own needs and people differ in evaluating these different considerations and in the degree of their tolerence of adversities and hardship. The principle is removing hardship because this religion is based on sensibility to hardship keeping in mind that such a matter is between you and God Who knows every thing and Who is Watchful on everything.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on mortgage to be near Islamic school

From: Islam on line

Date: August 20, 2002

Name of Questioner hala Country Canada

Question

Assalamu Alaikum I'm new in Canada, living in Mississauga which is full of mosques, Islamic schools and big Muslim community. I have some money so I can buy house without bank mortgage but it will be too far from this Islamic community. Or else I can buy a house here with bank mortgage and raising my children in Islamic schools, having Muslim friends and going to Gomaa (Friday) Salah. What should I choose? gazakom Allah

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. hala

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you have sufficient money to buy a house without interest in an area suitable for your family, then buy it, don't go for interest payment and make some extra driving for schooling. Also try to get a help from the Islamic Housing Cooperative of Canada near

you. You may also try to negotiate a puchase with the seller at a large downpayment and smaller amount left for quick installments, most sellers give some financing, you can even incorporate the amount of interest they ask for on the future installment into the price itself.
Wa Allahu A'lam
Wa Alhamdu li Allahi Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a property on mortgage to save one's business
From: Islam on line
Date: August 17, 2002
Name of Questioner Muzaffar Country USA

Question

Assalamu Alaikum WW, I have a question about mortgage. A friend of my mine owned a restaurant business and he is paying $1300 rent. Now the owner of the property wants to sell the property and my friend is afraid that who ever is going to buy the property will increase the rent. So he has decided to buy the property himself. The problem is that the only option he has to get the loan is thru a mortgage company. And if he buys the property he will end paying between $800 and $1000. He read it somewhere that a Muslim should not be losing money like this. Now my question to you is it permissible to buy the property (paying interest) in this situation because he will end up paying less than the rent? Jazakum-Allah-e Kahir.
Notes: I know you guys have lots of questions to answer, I would greatly appreciate it if you can answer this sooner.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Muzaffar
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
You know interest is forbidden and it provokes a war declared from God and His Messenger on those who continue dealing with it.
Necessities that may relaxe this prohibition include the protection of one's wealth and propeerties (notice that protection is different from promotion). If your friend believes that buying the property saves his restaurant business, and he has no means to get Islamic financing or to make a lease/purchase contract with the owner or a leasing company, this purchase on conventional mortgage may be InShaAllah permissible.
Wa Allahu A'lam
Wa Alhamdu li Allahi Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in UK

From: Islam on line

Date: August 17, 2002 6:41 AM

Name of Questioner Mohammad Country UK

Question

Assalamu Alaikum. My family has a mortgage on our house as we have no other means of purchasing it in the UK. We pay interest to the bank on this loan. I had an idea to put my money in a savings account; and then to use the interest gained on the savings to pay towards the interest charged on the mortgage. The end result would still mean we pay more interest to the bank than we receive from them, but it would ease the burden. Would it be permissible to this? Jazakallah.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Mohammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

No, this is not permissible. Interest accrued to your saving account in a conventional bank is not yours because interest is forbidden in Shari'ah and the interest clause, in the saving account contract that generates it, is invalid. This interest you have to give away to Muslim charity because you must not return it to the bank (that amounts to helping it do more interest contracts). The interest your family contracted is a legal obligation on them they have to fulfill, if they made the housing contract out of need to do it it may not be sinfull, God Willing.

The easier solution, and you save more on interest, is to use your money and earning to pay parts of the principal on the house of your parents, even if it were a loan to your parent, that they will pay it back to you after they finish payment on the house. This way you would be helping them reduce the amount of interest they will end up paying and reduce the time frame too.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying an apartment in Belgium

From: Islam on line

Date: August 14, 2002

Name of Questioner Hakim

Question

Salam We are a Muslim family living in Brussels, Belgium. We work and live in this country since few years. We plan to spend the rest of our lives in this country. Currently we rent an apartment. We would like to buy a house in Belgium by paying it through

installments. We would like to know whether it is licit in Islam to buy a house through this type of transaction, which requires paying interest on the price of the house. Moreover we do not own a house in any other country. Looking forward to your wise answer. Thank you Salam

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Hakim
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Here is my answer to a similar question from North America, I think it help answering your own question:
The Fatwa that is adopted in the resolution of the Second International Fiqh conference in North America held in Detroit in the Fall of 1999 and chaired by his eminence Shaikh Yusuf Al-Qaradawi can be summarized in the following:
Muslims in North America are required by the Islamic Shari'ah to establish financial institutions that provide them with needed financing for their business in accordance with Shari'ah. This is a Fardh Kifayyah on all Muslims in North America (a collective obligation that makes all capable remembers sinful unless and until some of them fulfill it).
Until such institutions are established, Muslims may seek financing from conventional financing institutions that accept to make a contractual relationship on bases acceptable in Shari'ah such as lease purchase or Murabahah. Until that is done Muslims who need to purchase housing for their own residence may resort to interest based mortgage financing as long as such housing is needed taken into consideration the factors of equity and family security, neighborhood safety and decency, the tax deduction/rental factor, availability of rent especially if the family is large, school quality and etc.
families/Persons who need housing for any combination of these factors and for them whatever Islamic financing that exists is either not available or expensive and non competitive (either because of the required 20% down payment or any other reason) may still resort to conventional mortgage.
Br. Hakim,
Are the same factors applicable in Brussels, as they are in the USA? that you should know and tell me. Also, the weight and importance of each of the above mentioned consideration is something that can be determined by the concertned persons only, no Mufti can determine for you what is needed… but we must always remember that God is most wachful and most knowledgeable.
Wa Allahu A'lam
Wa Alhamdu li Allahi Rabbi al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Setting an interest-free mortgage company

From: Islam on line
Date: May 23, 2002
Name of Questioner Zia Country U K

Question

Assalamu Alaikum, I have been thinking to set-up a company where I can provide Interest Free Mortgages to Muslim Ummah. I have spoken to some people and they tell me it will only work if you buy a house for the lender and then rent it to the lender until he pays up the whole loan. Obviously I need to look into the future value of the property and also I would like to make money so I can help other people. Could you please guide me, how this type of system can work in the West so I can start something quickly. I know there are so many needy people out there and I would like to help them.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Zia
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

That is a very good project. It needs a lot of liquidity though. You can follow either of two forms of contracts. 1) Murabahah contract. Here the client ask you to buy a selected house for a know price and promises you that after you buy it she/he will buy it from you on installments at a higher price. There are many details in the contract that you really need to consult a lawyer in the UK and an expert in Shari'ah to prepare the contract unless you have the format that is used by some other Islamic banks and they authorize you to use it. Your profit is the price differential. In this contract you own a promissory note (a debt) and you have to hold it until maturity of all installments you cannot discount it at a finance provider or a band because discounting of debts is forbidden in Shari'ah. 2) a Long lease contract with an open offer to buy certain number of shares of the house along with every rent payment. In this case the house remains in your name and the rent declines in proportion to shares purchased. In the kind of contract you can sell the contract to finance providers or institutional investors because it is a property that you own. Your profit with be the amount of rent. You certainly need a lawyer and a Shari'ah expert to prepare it too.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house inAustralia

From: Islam on line
Date: May 23, 2002
Name of Questioner Ammar Country Australia

Question

I am a Muslim Alhamdu li Allah, living in Australia. I have asked a few Muslim sheiks here in my area in regards to borrowing money from the bank for my first house. There

seems to be great debate as to whether this is permissible or not in Islam. Recently, a fatwa was issued, stating something on the lines that people in foreign countries with no Islamic law are permitted to purchase their first house with interest. So is this the case or not. Please confirm for me this situation.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Ammar
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa is as follows: if a Muslim living in non Muslim countries needs a residence because of the size of family, social and financial reasons etc., and there were no Islamic institutions that offer financing in accordance with Shari'[ah and she/he could not find any other way to get it financed as through an Islamically permitted contract with a conventional bank, she/he can take a conventional (Riba-based) mortgage as a last resort because Allah wants difficulties and hardships always removed.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in France

From: Islam on line
Date: May 21, 2002
Name of Questioner n Country France

Question

To Youssef Qardawi only please, We live in a small town in France. We have been living in a 3 bedroom house (3 children and 2 adults) which we pay (rent) 1200 francs a month. Recently we bought a land in France and we want to build a house: the thing is we don't have enough money: the only way seems to be to take a mortgage because mostly of its advantage: when you pay your mortgage like a rent the council helps you (like housing benefit). What I would like to know if to take a mortgage in my situation is Haram or not? Thanks

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. N.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

First, I am not Dr. Al Qaradawi, and to get it to him personally you may have to make your question in Arabic. I may be able to give you a similar answer to his, at least based on my understanding of his opinion.

Your case is similar to many Muslim families who live in the West. There are advantages and avoidance of hardships in owning one's own residence. These include: financial,

social, schooling, adequate home comfort, safety and security, government and especially municipal services, asset or equity building, neighborhood and peers and associates, etc. Each one of these factors and all of them together make a Hajah that applies to many Muslims to the extent that it is to be treated like a necessity from the point of view or relaxing the prohibition of Riba in case there are no other alternatives such as Islamic banks, house finance cooperatives, Islamically accepted contracts with conventional banks, etc. If that is the case and you think that your situation is included in removal of hardship and accrual of benefits is substantial, the Fatwa is that under such circumstances it is permissible to take interest-based loan or mortgage from conventional banks. One important thing: you and your husband are the only people who have to analyze your situation and make this decision.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Criteria of necessity to buy a house on interest

From: dialogue@islam-online.net

Date: May 11, 2002

Name of Questioner Country U S

Question

Assalamu Alaikum, I read about the fatwa of buying home through mortgage and the key of that fatwa is two things Islamic solution unavailable and necessity for home buying. My question is what are the criteria of necessity? Who can set the situation of necessity? Jazakum Allah Khair

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Samira

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You are right in pointing out the two points, but I have to amend the second one a little before giving my answer: 1) lack of contracts acceptable to Shari'ah, this can be tested objectively that is non availability of such contracts that provide the same service at the same cost. 2) a Hajah (not a necessity) that affects large group of people or the whole community. A Hajah is a degree less than necessity. Necessity is a thing without which damage may occur to one of the five things for whom nourishment and promotion the Shari'ah is went. These are, not in sequence: life, reason religion, posterity and property. its example is mentioned in the Qur'an (16: 106) a person threatened with death, and he knew it is serious because his father was just killed for the same reason, and forced to deny faith and curse the Prophet Muhammad. On the other hand lack of a Hajah does mat hurt but it makes the achievement of the objective difficult in a way that creates hardship for people. A Hajah fulfills an objective less than a necessity but more than just making things simply better. it is something that is essentially better without it

fulfillment of the objective of the Shari'ah becomes substantially difficult, keeping in mind that every obligation in Shari'ah (as in any other system except anarchy, notice here we are discussing in terms of pure human rationale) implies a certain cost or effort, a Hajah is beyond that level of cost or effort, it is a matter of hardship or very crucial benefit. Now your answer:

A Hajah (and the same applies on necessities to a lesser extent because necessities are more extreme) can only be determined or assessed by the concerned person herslf, no body else, only the concerned persons knows for sure her needs, what creates hardship for her, what is essential and what is not. One must realize that one is dealing with God Who knows best and knows all, i. e., things that are inside our souls and things in outside. The assessment of Hajat (plural of Hajah) differ from one person to another, this is correct and natural. For instance, some person value safety more than money, while another sees it the other way.

The second part of your question is about what Hajat are in the issue of house financing under the American law. Hajat that are mentioned is the discussion of the Fatwa on house financing are of the following kind, examples only not inclusive: neighborhood safety, decency, cleanliness of drugs and crime, good schools, availability of rental housing with comparative cost, availability of housing for large family, closeness to Muslim and/or non-Muslim peers, the tax effect and the final cost, building equity, etc.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: buying a House in Canada where the Islamic Housing Cooperative has difficult uncompetitive conditions

From: Islam on line

Date: May 05, 2002

Name of Questioner Iman Country Canada

Question

Assalamu Alaikum, I'm asking you for a help, will it be Halal for us to borrow money from a normal bank, even thou we have found an Islamic Cooperative, which we feel is not the one what will help us to move in to our own place this summer or near future???

Notes: I need a help in deciding to do the correct thing. I (with my family) and my sister in Islam (with her husband) want to buy a triplex or 4 plex here in Montreal, Canada. We had been searching for an Islamic House Cooperative, and finally we found one, but to our disappointment, we found out, that there is a big waiting list (minimum a 1 year long), we would have to give 20% up front and buy a membership of 2000$, plus we would be allowed to buy only a small house for maximum 120 000, or big for 200 000 but we would have to give instead of 20 % 90 000$, what is impossible. Plus, we would pay now, and when our turn would come, they will notify us 4 months ahead to look for a house. They are going to take for them selves amount which ever they would calculate as an average rent for an apartment big as the house, (meaning rooms). I had a real hard

time to find out what is Islamic in that. If I do think that in a normal bank it is much better deal, and I will be able to have a house now. I have 2 children and we are growing out of our apartment. We will have to move and we find it is much better for us to pay for our own place, then to give it to someone else. And we find that the best way how to get a house for us, is to invest into a plex and use this money to buy our own house.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Iman
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If there is a financial institution that offers house financing on contracts accepted in Shari'ah, but it asks for higher prices or unfavorable conditions, such as more down payment that one can't afford, you base your decision as if such an alternative is not available. Hence, if a family needs housing it may go for conventional mortgage in accordance with the Fatwa of the Islamic Shari'ah council of Europe and the opinion of the Second International Fiqh Conference of North America held in Detroit, Fall 1999.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying a flat in UK

From: Islam on line
Date: May 05, 2002
Name of Questioner Muhammad Country U K

Question

Assalamu Alaikum. I am presently resident in the UK. I am planning to buy a flat for residence InShaAllah. I found out that there is Bank of Kuwait offering Murabahah or Ijarah system as alternatives to interest based mortgage in the UK. Because I would like to pay back my debt as soon as possible InShaAllah, the Murabahah system is not suitable for me, but the Ijara system is. Unfortunately, the terms given by them are less favorable. Besides, I also found that they charge more, so I actually end up paying much more for borrowing the money to them, than if I took out a mortgage from one of the high street based mortgage companies. I would like to pose my question to the European council of Shari'ah, if possible please, whose previous fatwa on Mortgage I have read in the fatwa bank. Under the circumstances, I would like to know, would it be possible for me to take out a mortgage from one of the high street mortgage companies? Zajakumulllah. Allah hafez

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Muhammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The Fatwa of the European Shari'ah Council and the Fatwa of the second International Conference on Fiqh in North America, that are almost identical, implies that any institution that offers Islamic alternatives for house financing, such as Murabahah and Ijarah wa Iqtina' (lease/ purchase) must offer it at competitive prices and conditions, they must not charge for the religiosity of the Muslim customer, and if such unfavorable conditions are imposed by an institution that offers mortgage, compatible with the Shari'ah you can't count it in comparison, on other word, incomparable disfavored cost and conditions make such an alternative not available and the Fatwa that those who need housing may resort to conventional mortgages applies. I do not believe that a costly or unfavorable alternative may be considered a viable alternative to conventional mortgage and therefore it is discarded as if it does not exist.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying house in the USA
From: Islam on line
Date: May 02, 2002
Name of Questioner khalid Country USA
Question
I am a married person living with my wife and 1 child. I have been in USA for five years, living in apartments and paying rents. Now I am thinking to buy a house for me and my family. I do not have resources to buy the house on cash. The Islamic institutions that provide funding here in TEXAS have a waiting period of 2 years plus I have to deposit 10,000 for 2 years to qualify. The other company requires 30 to 40% down payment and closing of loan in 7 to 10 years. I have read on your site that according to Shaikh Qaradawi Muslims can buy houses on MORTGAGE in US if they cannot buy it on cash or from Islamic finance institutions. I would like to confirm this (BUYING A HOUSE ON MORTGAGE) in my situation.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. khalid
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The opinion of Shaikh al Qaradawi is exactly as you stated and it is only for those who need to buy houses. This came in the resolution of the Second International Fiqh Conference in North America held in Detroit in the Fall of 1999. In application if Islamic finance institutions are not providing similar facilities one can go to conventional mortgage. Similar facilities must be at the same rate, so Muslim must not be charged more because they are religious, and those who can afford a large down payment must

go to an Islamic institution that requires it but those who cannot can use the conventional services.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Using earned interest in partial payment of price of purchased house
From: Islam on line
Date: April 30, 2002
Name of Questioner
Question
Assalamu Alaikum. Please advise me on the following. I have purchased a home with my savings and did not engage in mortgage. However, I accrued interest in my savings account and I did not separate the interest from the money I purchased my home with. To my understanding partaking in Riba is declaring a war against Allah. How do I repent? Barak'Allah O'fik.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
What you said is quite correct and InShaAllah your question itself marks the beginning of repentance. Continue with asking for forgiveness from God in your prayers and at the end of each prayer, calculate the amount of interest you got on your savings, and distribute it to Muslim Charities, best thing at this time those charities that distribute aid to Muslims in Palestine and Gujarat/ India.
The point is that according to Shari'ah this interest your earned on savings is not yours, you never own an increment from a Riba based deposits with banks or other deposetees and you need to preserve your own money and assets clean from being mixed with the Forbidden money and you must not return it to the bank because you then would be helping it make more Riba transactions besides making fool of you.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Working as a mortgage broker
From: Islam on line
Date: April 16, 2002
Name of Questioner Malik Country US
Question

Assalamu Alaikum wa Rahmatullahi wa Barakatuh!!! I am a recent revert to Islam. Recently, I have begun working as a Mortgage Broker, (finding loans for home buyers) I don't work directly for the lenders however I get paid based on the amount of interest the lender will receive. My concern is that I am committing Riba but I'm not sure since I don't get any of the interest. Can you advise me, brother. Jazakallah Khair.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Malik
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Riba (interest) is forbidden in Islam and it is a very grave sin that calls for a war to be declared from Allah and His Messenger on those who insist on dealing with it (Verse 2: 279). As usual, any thing that is prohibited in The Qur'an is explained by the Prophet Muhammad, pbuh, and is always surrounded by circles of precautionary prohibitions. The Prophet, in an authentic saying reported by Muslim, put the wrath of Allah on the taker, the giver, the writer (of contract) and the two witnesses of Riba transactions.

The rules of Shari'ah always do not expand on prohibitions. If your job is only to advise home buyer on the best mortgage they can get and you don't fill in applications, witness contracts, etc. and you get commission from lender, even if it is calculated on the basis of the amount of interest they get, your work and income would be Halal InShaAllah.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on mortgage in Morocco

From: Islam on line
Date: April 05, 2002
Name of Questioner azhar Country Morocco

Question

I live in morocco and there is no Islamic bank. Can I buy a house with interest procedure. Thank you very much

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. azhar
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I believe that Muslims in the Muslim lands that have no Islamic banks should be able to manage the house financing through collective and cooperative means rather than resorting to interest-based financing. The same applies to other financing needs in business and industry.

I don't see away in which Muslims can relax the major prohibitions in the Qur'an and Sunnah because they don't take positive actions in helping themselves and creating the institutions and companies they need, even with lack of legal permission to found Islamic banks. There are still many other forms of organizations, institutions and companies that are permissible. And there are other forms of non-interest contracts that can be made, even with conventional banks.

Make house financing cooperative, borrow from family and friends, make lease financing with a conventional bank, establish a lease financing company for housing, etc. But always remember that interest is one of the worst sins the Qur'an attacks and intends to abolish from the whole Society, A war is declared from Allah and His Messenger on those who deal with interest (al Baqara: 279) and the Prophet, pbuh, says that taking it and giving it are equal in the degree of sin and both earn the wrath (La'nah) of God.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on interest in Pakistan

From: Islam on line

Date: March 27, 2002

Name of Questioner khalid Country Pakistan

Question

I am interested in buying a house and for this I have to finance it thru a bank. As we all know banks charge interest on the loan they provide and as Muslims we have to stay away from interest. So could you guide me if I am right in my understanding that we have to stay away from any kind of interest? Jazak Allah.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. khalid

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Yes, Dear Brother, you are fully right. Interest is one of the most grave sins in Islam; it is associated with believing in partnership with Gad and it is the only sin on those who do it Allah, Ta'ala, declared a war from Him and His Messenger, The Qur'an Verse 2:279.

To my knowledge, Pakistan has several Islamic banks, private and public. It also has a house financing public company that uses Islamic contracts. Why dealing with interest for housing in Pakistan?

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Renting versus mortgage

From: Islam on line

Date: March 27, 2002 8:13 PM

Name of Questioner Toor Country USA

Question

Assalamu Alaikum: My question may already be one that has been hashed and rehashed through the years, but here I go anyway. It is regarding rent versus mortgage. What is the opinion on paying rent, say $1500 on an apartment, or a lesser amount for a larger house on mortgage? I ask because friends and family have made the comment, "It may be Haram to pay so much in rent and not even own anything while you can have a mortgage and have your monthly payments go towards something". Assume that at the present moment, no interest-free banking system exists in the area. It's rent vs. interest-based mortgage.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Toor

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Fatwa of the second international conference on Fiqh in North America, that was honored by the presence of Shaikh al Qaradawi, considers the Hajah that applies to a large segment of Muslims, like the Muslim community in the West, or in the USA, similar to necessity in its effects on relaxing the prohibition of Riba provided there are no other means as is the case in the USA. Several Hajat, needs, were mentioned that include neighborhood, security, schooling social environment, taxes and building equities.

The point is that each one of us assigns different values to each of these needs, and no one has a right to assign or determined other peoples needs for them. It is your own heart and what you are going to tell God on the Day of Judgment, Your valuation of different needs is what determines whether you pay rent or take a Riba-based mortgage under the above mentioned circumstances.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Going for Hajj while under mortgage debts

From: Islam on line

Date: March 25, 2002 6:00 PM

Name of Questioner Arezki Country U K

Question

Assalamu Alaykum, Previously, I had already asked whether is OK for me to perform HAJJ while I am still paying for my MORTGAGE repayment. Many thanks to the Sheikh who said it was OK, as long as I am able to repay it quite comfortably at ease. The thing is, I forgot to mention that I purchased this current house, I had already taken out a

Mortgage for a two bedroom house before I got married, which I sold three years ago in order to buy a slightly bigger one-which I now have and the new mortgage repayments are not substantially expensive(very affordable). Just to inform you the reason why I sold the first house and consequently bought the other one which is slightly bigger is because I am now married and I have a son and a daughter. InShaAllah I am planning a bigger family. A friend of mine told me that I had committed a sin. According to him, when I bought the first house it was sort of like a necessity. But since I sold it in order to buy a slightly bigger one it is a sin. I only want to know whether I still can perform Hajj next year InShaAllah while I still have a small Mortgage to pay? Please answer me at your earliest convenience as this matter concerns me rather immensely. Jazakum ALLAH.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Arezki
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

When you buy on interest-based mortgage you should pay it off as soon as you can without disrupting your normal pace of life. Going for Hajj while having a mortgage is a matter you decide on, keeping in mind that Hajj is an Islamic obligation that fall within the normal life and needs of a Muslim person.

If you buy more, or bigger, of housing than you need under normal circumstances, it may become outside the limit of exceptional permissibility. But remember people don't buy a house every year or every time they get a new child. The prophet, pbuh, said about bedding that one for you, one for wife (and similar for other members of the family) and one for a guest, what is beyond that is extravagant (Israf) that you don't need; and one of the Prayers of the Prophet, pbuh, used to be: and make my residence larger. InShaAllah your new house is within the permissible limits especially that you are planning for a large family.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on interest in Canada

From: Islam on line
Date: March 25, 2002 4:53 PM
Name of Questioner nimr Country Canada

Question

borrowing money from bank to complete a down payment to buy a house to live in with my family ,and a house to invest its rent (I DID BOTH ,A HOUSE TO LIVE IN 1994 WHEN I IMMIGRATE TO CANADA .AND THE SECOND HOUSE IN 1999 SO AS TO SPEND ON THE COST OF LIVING AS I did not work since 1991]the only source of spending is what I

SAVED before 1991 .I have to pay mortgages, insurance on my houses, my car property taxes ,electricity ,gas for heating and eating etc. etc. etc. I do not drink or smoke
Notes: it is very important to know the various opinions in this matter and in case your fatwa is this Haram. What I have to do in this situation. I MEAN I already borrow twice and I am planning to borrow money to buy another house [InShaAllah] for the same reason and I am looking forward to buy another house [InShaAllah]so each of my four children inherited a house] you know it is easy to borrow money from bank]may ALLAH the ALMIGHTY ,bless you and us Ameen

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. nimr
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If you are asking about interest-based mortgage, it is Haram. Shari'ah does not allow interest for housing or for any other purpose. Taking interest and paying it are both Haram and the Prophet, pbuh, put the wrath of God on the person who takes and the one who pays it and the one who writes it too.
Any prohibition is relaxed in case of necessities and strong needs. Needs may sometimes but not all the times apply to the house you reside in, it does not apply to other houses you bought or you want to buy.
You better make Istighfar, and a lot of it, we all need a lot of Istighfar anyway and discontinue dealing in what Allah Ta'ala prohibited.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Taking an interest-based loan to help paying an interest mortgage

From: Islam on line
Date: March 25, 2002 5:00 PM
Name of Questioner Uk

Question

Salam, I am a student and I am studying at university. I have taken out a loan from a loans company and I will be charged interest in terms of inflation. I am using this money in order to help pay for my dads mortgage, the interest on the mortgage is quite a lot, am I doing wrong Islamically, please explain and give references, thanks

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. uk
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Taking interest based mortgage is Haram unless out of necessity or substantial needs. The best way to deal with an interest-based mortgage, when it exists, is to either negotiate taking it out or pay it as fast as one can. If you are substituting an interest based loan by another with the intention that the new one is faster to pay because it has lower rate, that must be a good action, rewarded by Gad, God willing. There are no Verses or Ahadith about this point but there is the general rule that if one happens to make a sin try to get out of it as fast as you can.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying an apartment in France
From: Islam on line
Date: March 21, 2002 5:43 PM
Name of Questioner Maryam Country France
Question
Assalamu Alaykum I would be grateful if you could answer three questions: 1) We are presently renting an apartment and now my husband would like to buy a house on credit instead of renting the apartment. Is it Islamically acceptable? 2) When we are having lunch or dinner my husband does not want our sons to speak. What is Islam's position on this point? 3) I converted to Islam 8 years ago and I was a musician (just for leisure). Can I continue playing music? Thank you so much for your help. God bless you.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Maryam
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Sister, please resend your questions on Music and dinner, preferably separately, so they can be addressed to specialists.
The settled Fatwa is that if there are needs for to buy a house and no Islamic financing or financing from conventional institutions but according to Islamically acceptable contracts, such as lease/purchase, then it is permissible to get a Riba-based (interest) mortgage loan from a conventional lending institution. Needs are of the kind: difficulties in getting rented residence because of number of children, size of residence needed, safety, security, financial losses including tax reduction and loss of potential equities, quality of neighborhood and of schooling, etc.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

-SUBJECT: Buying a house in UK

From: Islam on line
Date: March 17, 2002 12:19 PM
Name of Questioner Mustafa Country UK

Question

Assalamu Alaikum. I live in UK and I want to buy a house. The Islamic banks are asking for higher deposits which I can not afford. Can I take a mortgage? Assalamu-Alaikum

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mustafa
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
If Islamic banks do not offer competitive transactions to conventional banks, it means they are not providing the same service, as if they do not exist! The Fatwa does not mean that Muslims have to submit to a monopolistic treatment by Islamic financial institutions. Hence, if other conditions of the Fatwa about house financing through conventional mortgage are satisfied, yes, you may take a conventional mortgage.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Who determines the need of a family for a house?

From: Islam on line
Date: March 17, 2002 12:11 PM
Name of Questioner emad C Country USA

Question

Assalamu Alaikum, I read Dr Qaradawi's fatwa about taking a loan with interest based on necessity. Living in the expensive California state with a family of two kids and a high rent, does this qualify me for buying a house through the US banks? JAK, -emad

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. emad
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
The Fatwa about mortgage of the Second International Conference on Fiqh in North America, Detroit Fall 1999, attended by Shaikh al Qaradawi and others has three conditions for conventional mortgage: 1) Muslim are called on to establish institutions that provide Islamic financing for housing; 2) if this is not available, they have to try to obtain Islamically compatible contract of financing from conventional financing institutions; 3) if this is not available, those who have needs, caused by size of family,

neighborhood, crime rate, schooling and education, financial and other considerations may take conventional mortgages as a last resort.
It is you, Dear brother, who will estimate your needs and value them, for some people the financial element may highly be valued for some others the educational one. etc. It is your own conscience that can decide about your needs, and you have to ask your own heart, keeping in That Allah Ta'ala knows even the very minute sentiments and feelings. No body else can answer this question. I know California that is where I live.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in Canada
From: Islam on line
Date: March 14, 2002 8:07 PM
Name of Questioner Country Canada
Question
Assalamu Alaikum. We are a family of four with two kids living in a rented apartment in Toronto Canada. We always dream to have our own house. The financial institutions help to mortgage the house. That is the most common way to own a house in North America. I have read various Fatwas from Islam Online and other sites. Some scholars do not permit the mortgage at all but some do permit under certain conditions. I don't know where do stand while living in a rented apartment. Please explain whether I can go for mortgage to own a house or not.
My Answer:
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
You said you've read several Fatwas on Islam on line, so you know the answer.... Many thing in life are not so clear in black and white and many thing in life you will find several opinions about. You have to make up your mind on your own self and consult your own heart. There is no other way. I go along with the opinion of the Second Fiqh International Conference in North America. It was attended by Shaikh al Qaradawi, This opinion is also supported by the late Shaikh Zarka: A need that affects many people is treated like a necessity with regard to relaxation of a prohibition. There are needs like quality housing, quality neighborhood, lower crime areas, better schooling, saving on taxes and equity, etc. they all together make, in the opinion of the Conference a strong case for relaxation. Keep in mind that first Muslim must try to build institutions that provide Islamically compatible financing at similar cost, and second try to get Islamically compatible contracts from conventional mortgage companies. and relaxation of the prohibition is the last resort.
Wa Allahu A'lam

Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Islamic instruments of house financing

From: Islam on line

Date: March 14, 2002

Question

I am OMER

Assalamu alaykum

I submitted this question in the live Islamic economics fatwa session on Islam Online and was advised to send it to this e-mail address, thank you for your concern and may Allah rewards you.

I have a few questions about two of the Islamic financial instruments that are used for financing houses:

1- Ijara wa Iqtina (Lease to Purchase)

This is the method most Islamic financial institutions in North America are using to finance houses, In this contract, as I understand it, the buyer is committed to buy the house at the end of the lease period.

Q1: Should he/she buy it at the original selling price or at the market value of the house at the end of the lease period?

Q2: How is the monthly payment (lease/rent) calculated? Should it be the same as the market value of rent of a similar property?

Q3: During the lease period, who is responsible of the expenses? (Tax, maintenance, insurance, ….etc)

Q4: Who is responsible of the expenses associated with the buying process? (Lawyer, house inspecting, land transfer taxes…etc)

2- Murabahah (Cost-Plus Financing), Bai Muajjal (Deferred Payment Contract)

Q5: What is the difference between these two systems?

Q6: How is the profit calculated?

Q7: Is this method Halal in the case of a third party (Bank, Financial Institution, investor,) Buying the property for the sole purpose of reselling it to a client at a higher price on installments? The intention here is to make a fixed guaranteed profit, and there is no risk, as the client already promised to buy?

Q8: Is there any difference when applying these two methods in financing a commercial property, a residential property, a car, or an appliance for example?

May Allah rewards you

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Omar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

In brief,

A1: sale can be at any price, be it the cost price or any other. There must be one promise to sell, i. e., open offer from the financing institution any shares the buyer want at a given price. This offer is binding on the institution , this is matched with an acceptance when the buyer pay any amount on the account of purchasing the house. at the payment a contract is actually concluded to buy the share she/he is paying for. Rent is always due of the part remaining on the ownership of the F. I.
A2: It can be any consensually agreed amount of rent, even that which equal prevailing rate of interest. It has to be fixes for the whole duration of the contract.and known at the beginning of each period, it must not deviate much from the market but it doesn't have to match it.
A3: expenses, insurance taxes and major maintenance are the responsibility of owner, miner maintenance may be, by customary practices on the lessee. It means must be shared in proportion of ownership. However, any the above mentioned, if it is known before the beginning of a rental period, or the whole duration of lease for one period lease they can be charged to lessee as part of the rent because the rent can be anything that is known.
A4: by proportion of ownership, but the question is irrelevant because such expenses can always be added to price charged to buyer and then he will be charged more rental!
A5: mechanisms of implementing Murabahah and rent/buy may be similar but legalities are different. Basically, lessor owns real estate and the FI can sell it. i. e., sell its contract say to Freddie Mac. Murabaha creates debts that, according to Shari'ah can only be transferred (sold) at face value.
A6: Anyway, it doesn't matter, even at prevailing rate of interest!
A7: Yes, it is Halal in spite of your emphasis on intention and fixed and no risk. The FI buys and owns even for one second, there is risk, if you own you can sell and at any profit. It looks close to interest but it has major difference interest is on loan, not on buying a thing. Interest can be on rescheduling, discounting, sale of debt, or for general purposes as no reason has to be mentioned; this can only be for commodity, a house being sols. The difference is substantial enough to make one permissible the other not. Look at Verse 2: 275.
A8: No difference. Murabahah can also be applied on consumable goods. raw materials, etc.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: who determines a person's need?
From: Islam on line
Date: March 11, 2002 8:58 PM
Name of Questioner Hassan Country U K
Question
I am referring to my question raised a couple of weeks ago and your answer to it by Mufti Dr. Monzer Kahf with reference 5M8CK7. I first want to thank you very much for

the effort you are making to guide us through this darkness. However, I would like to comment on the answer I have been given by the mufti. Firstly, I think he got the perception that I am grabbing an opportunity from the way I put my question because I said I am planning to go and work in Saudi Arabia and I don't want to loose the house. Secondly, he asked me if it is a necessity or an overwhelming need and he further added that I should act within my limit and borrow without Riba. I would like to mention that I haven't got any other house anywhere in the world and I have approached all the Islamic institutions here in the UK, like "Manzil Bank IIBU" and some other countries including Saudi Arabia for a loan or any other Islamic form of mortgage, Murabahah or Ijara but unfortunately I couldn't get any, and I don't think I could get any money anywhere without having to pay some form of interest. So, I would be most obliged if you could review your fatwa under the additional information I have provided and forward me the answer as urgently as possible. Again many thanks and Assalamu Hassan

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Hassan
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Thank you Brother for the explanation. The point is that you are the only one who determines your need, I can't do that for you bit I only give humble general guidelines. Still I don't see any pressing need or any need for a house in Britain while you live in Saudi. A pressing need that may effect relaxation of a forbidden act of the kind of contracting on Riba basis is something like you could not rent because of the number of children, rental areas have bad schooling or high crime rates, substantial financial loss that seriously affects you, etc. Now if you live in Saudi and you are going to be renting there, what is pressing for purchasing a house in Britain? It is not a matter of the opportunity you grab, and it is good to grab opportunities, using Shari'ah permitted contracts. Further, owning a house is not a value in itself, so what if you don't own a house anywhere in the world? you will InShaAllah own a house, without interest from your savings in the new job and you will also own a farm in Sudan and many other things, you don't need to hurry to the extent that you fall in the swamp of Riba. Again, estimation of one's need can only be decided by the person and all other view are only to help make a conscious decision. Ask your own heart inspire of any Fatwa you get from all others.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on interest in Pakistan
From: Islam on line
Date: March 07, 2002 9:37 PM

Name of Questioner Omar Country Pakistan

Question

Currently I am looking for a house to buy. Since it is virtually impossible to have the full price of the house in cash, and mortgages involve interest, what would you recommend I do in order to properly pursue this objective? I am not even sure if this type of interest (mortgage) is acceptable in Islam or not, although my inclination is that it's not. I have also inquired about Islamic Banks, but it is hard to find reliable information about them so far. Thank you much, Assalamu Alaikum, Omar

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Omar
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

To the best of my knowledge, there are several private sector Islamic banks in Pakistan, in fact, I believe all banks follow the Shari'ah principle if the last ruling (1999) of the Pakistan Supreme Court has been implemented. Moreover, the Pakistan house Investment Corporation offers several form of Shari'ah compatible contract for house purchase.

Accordingly I find no reason for going to interest-based mortgage. Interest is obviously Haram for housing as well as for any other deals. I find no reasons for necessities in most Muslim countries, especially Pakistan.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: PERSONAL LEASE/PURCHASE

From: Islam on line
Date: March 07, 2002
Name of Questioner Mohammed

Question

Is this Riba? My brother would like to buy a house. I would like to help and invest at the same time. I plan to buy the house for him and charge him a reasonable rent. Each month he will be paying me the rent and extra money until he pays the price of the house. In other words, his ownership of the house increases every month (and my share of the rent decreases) until the price of the house is paid to me. My questions are: is this permissible? If yes, are there circumstances under which it becomes Riba? Jazakom Allah Khayran

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mohammed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Please remember first that we don't give you any legal opinion, and both myself and Islam on line do not claim any legal expertise not we present ourselves as legal advisers. and we deny any liability resulting from any use or abuse of our purely Shari'ah opinions. You did not mention your country of residence but we are sure that all countries have legal professionals and we advise you to consult your own legal adviser before you take any action, THE FOLLOWING IS NOT A LEGAL ADVISE.
The essence of this transaction is permissible in Shari'ah. From Shari'ah point of view, it can be implemented as follows: Step 1) search together for the house and make the purchase in your name. Step 2) make a written promise that you will be willing to sell him the house for certain amount (e. g., the cost of purchase), but each time he gives you a payment you will sell him a portion of the house in the proportion of the payment. And at the same time, agree on a periodic rental amount, and rent him your share of the house for a percentage of that rental amount equal to the percentage of your share to the house. Step 3) in implementation of the promise in step 2, whenever he gives you a payment you sell him a proportional share of the house. Step 4) whence payments are complete, transfer title of the property to your brother. If there are substantial costs for closing and you want to avoid double closing, make the house in his name from the beginning but make an agreement between you that you appoint him as your agent to buy the house in his name but for you and that he acknowledge that the house is yours etc.... (must be completely legal. This power of attorney can be supported by a lien you record on the title of the house without having your name appear as owner on the title, then whence payments are completed you give him a quitclaim.
It becomes interest if you give him the amount as a loan and charge return on it. It becomes similar to interest, i. e., prohibited if instead of the promise, you sell him the house on installments and again charge rent, because if you sell on installment he becomes owner of the full house at the time of installment contract, and the rent you get becomes Haram because it is for a property you don't own.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying first home in Australia
From: Islam on line
Date: March 04, 2002 6:05 PM
Name of Questioner Country Australia
Question
Hi, I'm a 22 year old Muslim female and I have a question on Usury. I have a lot of Muslim friends who are buying there first homes and investing in banks and so forth so they can make some more money. From my understanding and what I have read in the Qur'an, it says you can't go into anything that's involved with interest (Riba) as it represents that you are declaring war against god? How would a person so concerned

about this get a loan without doing anything that is going to make them feel like they have committed a Haram act. I did get loans in the past but this is all before I found out about the whole usury thing. Now I don't want to get a loan at all as I know it's against our religion. But this however is causing friction between my partner as he wants to get a house and pay it off and says that's the only way we can do it as how are we ever going to afford to pay cash. I know what he is trying to say, but it's so hard as I don't want to do anything wrong by Islam if I can avoid it and do it another way. Have you got any suggestions on what one should do? Do you get a loan and pay it off or do you NOT succumb to societies luxuries? Are there other alternatives that someone can do? I don't want to be declaring war against Allah, and i will do anything to make sure that I don't do that. Thank you in advance.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi Ajma'in
Dear Sister,
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

May Allah Ta'ala bless and reward you and increase your Iman more and more. You are right that Riba is one of the worst sins a Muslim person may ever commit. It is War declared by God and His Messenger on the person who deals in Riba (by the way not by the person on Allah). Whatever one put in Riba seeking increase, it will not increase form the point of view of Allah Ta'ala. And Muslims must always be advised and reminded not to indulge in any Riba transactions. If it happened that they need to deal with non-Islamic banks, As the case in Australia, whatever interest that accrues must be given for general Muslim charity, not as a Sadaqah but as act to keep one's money clean and pure.

There may be cases of necessity for housing and other matters in which some Muslims may be excused in getting Riba-based mortgage if there are needs or quasi needs that may relax the prohibition, because Shari'ah does not impose hardship on Muslims nor on others.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Getting an interest-based mortgage

From: Islam on line
Date: March 04, 2002
Name of Questioner

Question

Hi, I'm a 22 year old Muslim female and I have a question on Usury. I have a lot of Muslim friends who are buying there first homes and investing in banks and so forth so they can make some more money. From my understanding and what I have read in the Qur'an, it says you can't go into anything that's involved with interest (Riba) as it

represents that you are declaring war against god? How would a person so concerned about this get a loan without doing anything that is going to make them feel like they have committed a Haram act. I did get loans in the past but this is all before I found out about the whole usury thing. Now I don't want to get a loan at all as I know it's against our religion. But this however is causing friction between my partner as he wants to get a house and pay it off and says that's the only way we can do it as how are we ever going to afford to pay cash. I know what he is trying to say, but it's so hard as I don't want to do anything wrong by Islam if I can avoid it and do it another way. Have you got any suggestions on what one should do? Do you get a loan and pay it off or do you NOT succumb to societies luxuries? Are there other alternatives that someone can do? I don't want to be declaring war against Allah, and I will do anything to make sure that I don't do that. Thank you in advance.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi Ajma'in
Dear Sr.
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

May Allah Ta'ala bless and reward you and increase your Iman more and more. You are right that Riba is one of the worst sins a Muslim person may ever commit. It is War declared by God and His Messenger on the person who deal in Riba (by the way not by the person on Allah). Whatever one put in Riba seeking increase, it will not increase form the point of view of Allah Ta'ala. And Muslims must always be advised and reminded not to indulge in any Riba transactions. If it happened that they need to deal with non-Islamic banks, As the case in Australia, whatever interest that accrues must be given for general Muslim charity, not as a Sadaqah but as act to keep one's money clean and pure.

There may be cases of necessity for housing and other matters in which some Muslims may be excused in getting Riba-based mortgage if there are needs or quasi needs that may relax the prohibition, because Shari'ah does not impose hardship on Muslims nor on others.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT Late fees and penalties

From Islam on line
Date: 2/21/2002
Name of Questioner amal Country Ireland

Question

In a buy-in-installments/lease agreement, would a late fee, or a breach of contract penalty fee, be considered Riba? For example, if I miss a payment one month, I would

be charged 10 euro for not fulfilling my side of the contract for that particular month, and the lease would be extended one more month.

My Answer:

Dear Sr. Amal

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Late fees are permissible provided they are within a reasonable range that does not hide interest. 10 Euro looks very reasonable because a delay on installment payment creates considerable amount of hassle and cost for the finance provider.

Breach of contract fee is also permissible as long as it is within the expected actual cost of foreclosure and finding alternative use for the funds. Usually preset contractual penalties are too harsh to the extent that they do not represent actual cost. Any substantial deviation from actual cost fall in the area of unbalanced contractual obligations that are not permissible in Shari'ah.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT Buying a house to grab an opportunity

From Islam on line

Date: 2/16/2002 Country U K

Question:

Assalamu Alaikum, I am currently living in the UK and I am planning to go and work in Saudi Arabia in the near future but before I go there I want to buy the house I am living in because if I don't buy it I will loose it and this house has been given to us from the council for ever to live in it as long as I am in the UK and I pay a relatively small rent compared to the market price as long as I am employed and because I might come back to live in the UK in the future InShaAllah I don't want to loose it given the fact that I will get it with a relatively cheaper price than the market price because it is a council property. My question is: am I allowed to take a loan from the bank to buy this house or not? Many thanks. Hassan

My Answer:

Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

You want to buy this house to grab an opportunity do you see a necessity or an overwhelming need in that? If you need the house for your family regardless of having a good opportunity and do not find other means to finance it, you may take an interest-based mortgage.

Act within your limit and borrow without Riba, you don't seem to have a pressing need to indulge in one of the most gross sins Allah' Ta'ala defined in the Qur'an.

Wa Allahu A'lam

Wassalam

Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in Europe

From: Islam on line

Date: Feb 10, 2002

Name of Questioner omar Country Belgium

Question

ASALAMOUALAIKOUM, I know that RIBA is HARAM, but in European countries, Imams said that you can for example buy a house with RIBA for personal use that means when you buy a house, you can not rent a part of your house (apartment)... JAZAKALLAH.

My Answer

In the Name of God the Most compassion the Most Merciful

May All Praise and Thanks be to God, the Almighty, The Lord of the Worlds and Peace and Prayers be on His Messenger the Prophet Muhammad and all his Companions and Followers

Dear Br. Omar

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh

Riba is Haram and buying houses with Riba based loan is also Haram. Every forbidden act or contract may have certain circumstances that make it permissible such as necessities like matters of life and death. There are circumstances that are less severe that necessities but because they affect many people in certain area, they also relax the prohibition because Shari'ah is based on avoiding hardship and similar conditions. The fatwa is as follows: for Muslims living in Non-Muslim countries if they need housing and it is difficult for them to acquire them by means of contracts compatible with Shari'ah, it is then permissible to acquire needed housing via a Riba-based mortgage.

Wa Allah A'lam

Wassalam

Sincerely,

Monzer Kahf

From: Islam on line

Date: 2/8/2002

Name of Questioner Hisham Country Canada

Question

Al Salam Alaikum: This is a brother living in Canada. I have a question that most Muslims in non-Muslim countries have trouble with. I have been married for two and a half years. My dream with my wife is to own a house, through Halal ways (mainly paying cash for the house). Since we got married, we've been saving every penny we can. My wife worked with me and we both saved our incomes to buy a house, a place that we can call our own to finally as Palestinians in origin, to own anything. So, now we thought that we can actually buy a house in Halal (cash, no mortgages or interests, or Riba), every penny is from our hard work, time and health. However, when we started looking for the place and house, we only realized that the house prices have gone up by almost

20%. So we are back to square zero. According to what's happening in North America nowadays, the prices will not go down, if they don't go up they will stay the same. To save the extra money on the house price, we need another year or two (if they didn't keep going up). We tried to look for Halal ways other than cash but none seemed to work. Here in North America they don't do Halal financing, and if we want to go to an Islamic company, they first make sure that the economy is doing well and that they will definitely make money (we already contacted them a million times, but they keep ignoring our calls). We feel that we are paying too much for rent (we currently rent a very small apartment, one bedroom only, and we are expecting to have our first baby in the next three months). We are squeezed in this little apartment, and when the baby arrives, it will only be worse. I already had to convince my wife that we can only buy a little bed for the baby, but we can't buy him anything else, since there is no room for anything else (the bed, we have to squeeze it beside ours somehow). She is patient and understanding, and wants everything in Halal, but I feel that my hands are tied and I can't do anything. I only need that extra 20% of the house price and I can buy her and my baby a nice new home. Believe me, I'm going for the cheapest and smallest house, nothing exaggerated, but I still can't even afford that. So many people told me to go for a mortgage from the bank, but I keep refusing. But finally I decided to talk to you through this e-mail to tell me what you think. I'm waiting for your reply with patience, and I hope you understand my situation. If you feel you need more details, feel free to contact me through this e-mail address, or even I can call you by phone if you wish. Thank you for your time, and waiting for your reply. Al Salam Alaikum, Hisham.

My Answer:

Dear Br. Hisham

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

May Allah, Ta'ala, give you the blessing and reward for your keenness to act within the limits of Shari'ah.

The Fatwa on mortgage of the Second International Fiqh Conference, Detroit Fall 1999 made conventional mortgage conditional on needs (that are one degree less than necessities) and lack of other means. I suggest that you try other means before you go to conventional mortgage. As a young person you are among the luckiest Muslim because you were able to save some 80% of the price of the house you want, thanks God, while most others are not able to come with the 20% that is needed to get a loan!

I suggest that you try what is called in the US "land contract" that is to negotiate paying 80% cash and the 20% on 12 monthly installments. Many sellers accept such deals, it is permissible even if they add to the price an amount equal to the interest on this balance> Example: if the balance is 20,000 and you maid the deal at 104,000 of which 80 is paid cash and 24,000 (= 20 + 8%X20 on 12 monthly installments) this is still permissible from Shari'ah point of view.

Also have you tried to get the balance financed by the Housing Cooperative of Canada, located in the same offices of ISNA Canada in Toronto, I know that they find in such short term financing good opportunity to use their temporarily excessive cash. They usually go with you on buying and renting you their share with selling it to you on

installment. Also do not rule out the potentials of personal loans from friends and colleagues, you can always divide the amount on several friends, don't tell me it is not possible, I know in many cases it is possible, put some effort in it

Finally, the estimation of need is left to you alone. No one can tell you that you are in need to buy through conventional mortgage except yourself. If all other means failed and you know it within you that you need to buy now, go for conventional mortgage, the Fatwa and the Opinions of Imam Abu Hanifah and the Maliketes support it.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a residence in Sidney by a person living in Indonesia

From: dialogue@islam-online.net

Date: 2/6/2002

Name of Questioner Alvin Country Indonesia

Question

In the Name of Allah, Most Gracious, Most Merciful. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger. Dear Brother in Islam, I wish to ask a few questions: 1. I want to buy a house in Sydney, but all the banks in Australia are involved with charging interest on the term of the loan. My question is, is it considered Riba in Islam if I buy a house and paying interests for 25 years? 2. What are Islam's views on the stock market? I am interested in investing in financial markets, but wish to find out more from Islam's perspective. I thank you for the answers. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

My Answer:

Dear Br. Alvin

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - The quick answer: yes it is Riba, no doubt about it. Riba is certainly Haram and a very gross sin. The Shari'ah rules call for relaxation of prohibition if there are pressing needs, are therein your personal situation being living in Indonesia. I personally don't know your family size nor circumstances of neighborhoods Sidney and other conditions of rent/buy Houses in Australia?

2 - Also the quick answer is according to reasonably acceptable opinion it is permissible to invest in stocks of companies whose main line of business is permissible and do not have much of activities in forbidden areas such as interest-based transactions. The matter in stocks is that owning a stock makes you a co-owner of the company and whatever the management does is done on your behalf by virtue of delegation of authority, in other words it is as if you made these transactions. Yet little relaxation is due because of the common hardship especially on small investors a blanket prohibition creates.

Wa Allahu A'lam

Wassalam

Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house in US

Sent 1/25/2002

From: dialogue@islam-online.net

Name of Questioner Ammar Country USA

Question

Assalamu Alaikum Wa Rahmatullah Wa Barakatuh.. I'm living in the USA and I have noticed a significant number of Muslims who are buying houses through non-Islamic banks and with interest claiming that's OK based on Dr. Yusuf ‘s Al-Qaradawi (may Allah protect him) fatwa. Although they have no knowledge what so ever with his fatwa, only heard some one did so and some one else said I heard it's OK with no further details about the fatwa. Now my question is what's Dr. Yusuf Al-Qaradawi fatwa about buying a house through non-Islamic banks here in America with interest (in details please)? Were there any restrictions/conditions in it? Is it valid till this moment, since it's been out for two years by now? And what do you think about those people who I described above whom takes fatwa's by listening to the others without verifying the source and valid Islamic proof? Thanks a lot for your attention to this question which it really confuse me and I’m afraid to get involved in al Riba path and be a loser in this Duniya and hereafter. Jazakum Allah Khair.

My Answer:

Dear Br. Ammar

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Let me please begin with the second question. It is permissible to take a brief or summarized Fatwa from a person who is trusted by you without getting all the details, as long as she/he gives it and you get it accurate. What matters is to get it accurately with all its conditions and circumstances because a Fatwa is always circumstantial; it is not a general rule. This is one reason it is important for the writer of Fatwa to know the circumstances of the questioner.

The Fatwa of Shaikh Qaradawi, that I know its details is the one that came in the resolutions of the second International Fiqh Conference in North America, Detroit, Fall 1999. It wasn't his alone; it was a consensus of a good number of Fuqaha, although some attendees did not accept it as it was a majority decision.

I am not going to quote verbatim, but since I participated in this conference and its discussion and gave a paper on the subject I feel I can give the exact version: Muslims in North America (May be in all non Muslim countries, at least those that have tax incentive for house purchase) have a multiplicity of needs to buy their own residences. these include: quality of schooling that is better in owned residential neighborhood than in rental areas; security and safety and level of major crimes; settlement and establishment, people feel settled when they own, it is a good feeling and it is recognized in Shari'ah, the tax incentive to the extent that under most circumstances one would be better off buying than renting, even you may end up paying less monthly

amount, while increasing your equity (who can dare saying that Muslims are required to sacrifice their financial well being)? The availability of rental especially for families with large number of children, etc. All such needs (that are certainly less than necessities, one perhaps can manage without purchasing but there is a good amount of hardships of different kinds and forms) when they apply to a large number of people such as a neighborhood or a community, or members of a profession, etc., they are called general or public need [Hajah 'Ammah]. And a Hajah 'Ammah is treated in Shari'ah the same way necessities are treated, i.e., they relax a stumbling prohibition.

Certainly a Hajah 'Ammah does not exist if there are alternatives. Therefore the Fatwa emphasized that Muslims in North America Must first try creating suitable financial institutions, second must try with conventional institutions to formulate contracts compatible with Shari'ah, and when both fail or are insufficient they may go for conventional mortgage.

The Resolution (Fatwa) obviously did not (and cannot) put limits or levels on the need of each kind. This is apparently left to each individual between her/him and God. No one can tell you this is not a need for you because you are so and so, but it is need for someone else. Each person is more knowledgeable of her/his own need and remember that you will face Allah, Ta'ala with you excuse, if it is not valid you fail there.

In the last minute, and to get consensus (from the Hawkish) reference to the opinion of Abu Hanifah and the opinion of the Malikites was deleted and the argument was based only on the Hajah 'Ammah. But I think it is illuminating to understand this opinion. It depends on a rule that is unanimously agreed upon by all Fuqaha at all ages and in all schools, a basic rule of Shari'ah: Shari'ah is applicable only to Muslims as non-Muslims are called on to accept the basic pillars of faith before applying Shari'ah to them, and Shari'ah rulings are meant to achieve the Shari'ah objectives in relationships between people. Shari'ah aims at protecting the properties of all people who live under its rule, Muslims and non Muslims alike. The ruling on Riba is that it is unjust [Zulm] (the Qur'an, II: 279) and Shari'ah protects properties of all those who are under its laws from such injustice. But does that apply to people who live under other laws, especially laws that do not see it unjust? Both Shari'ah and any international legal relations do not allow Shari'ah, being a law, to interfere with other people in their lands. This is what Abu Hanifah calls "non-Muslim properties in non-Muslim land do not have Shari'ah protection [Hurmah] (and until this point all Fuqaha agree with him). Abu Hanifah and the Malikites apply this rule on Riba saying that "you can take Riba from non-Muslim in non-Muslim lands because there is no protection bestowed on that property." But you cannot take it without their consent in an agreement and you cannot take by doing an immoral act such as steeling or looting. The late Zarka argued that What Abu Hanifah meant by permitting taking it is to do what is more beneficial to the Muslim, hence if giving it through mortgage is more beneficial in the ultimate analysis, because of the equity and the tax relief, Abu Hanifah opinion still applied. Zarqa did not make any reference to the Malikites' opinion, which is the same, but Qaradawi and Monzer Kahf, each acting alone referred to it. Qaradawi quoted al Muqaddimat and Kahf quoted al Bayan wa al Tahsil, both by Abu al Walid Ibn Rushd (the grandfather)

Wa Allahu A'lam

Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: should we sacrifice and pay rent?
From: dialogue@islam-online.net
Date: From a Life Fatwa Session, Feb 5,2002. at 2:00 pm EST
Name Dino

Question:

Assalamu Alaikum,
Dear Dr,
If it's ok to buy a property on interest based mortgage, in what situation is Riba Haram?
Shouldn't we not take Riba or at least discourage Riba; as our sacrifice in this life (by paying rent instead of buying etc) will be compensated by ALLAH in the next life?
What do you think? Thank you.

My Answer:

Wa `Alaykum As-Salam Wa Rahmatullah Wa Barakatuh.
In the Name of Allah, Most Gracious, Most Merciful.
All praise and thanks are due to Allah and peace and blessings be upon His Messenger.
Dear Dino:
Avoiding Riba completely is certainly the best solution. For involvement in Riba is the most serious sin because war from Allah and His Messenger is declared against those who undertake Riba transaction (the Qur'an in Surah 2, verse 279).
But Muslims like all other human beings have variant degrees of tolerance of hardships and one of the major objectives of Shari'ah is to remove hardships from the lives of women and men Muslims and non-Muslims alike. That is why necessities and general needs (needs in Shari'ah are lesser then necessities) are treated as circumstances where prohibitions are relaxed. We can make a general description of such general needs that relax the prohibition of Riba and permit Riba based mortgage transactions, but the application of such circumstances remain individual and thus place the burden of responsibility for such allowances on the individual who chooses to take them.
The Shari'ah came to promote and protect life, virtue (religion), mind and reason, family lineage, and property; any hardships affecting any of these aims calls for the relaxation of prohibitions especially when these hardships influence a large number of Muslims such as the Muslims community in America. These relaxation policies are not dependent on a life and death situation, but merely on difficulties posed to any of these five basic aims mentioned above.
The conclusion is: for certain people taking the difficult task of renting rather then building assets may be more rewarded by Allah, while for some others, taking a Riba based mortgage under circumstances that call for the relaxation of the prohibition may be more rewarded by Allah.
Almighty Allah knows best.
Monzer Kahf

SUBJECT: What if the Islamic financing is more expensive?

From: dialogue@islam-online.net

Date: 1/8/2002

To: abuasood@hotmail.com

Name of Questioner Mohammad Country ordan

Question

GENERAL, SHORT: Someone may say that Riba was prohibited to prevent usurping of the poor by the rich. If the claimed "Islamic" solutions to home financing are much more expensive than mortgage, wouldn't that be against the wisdom of prohibiting Riba? 2. MORE SPECIFIC, LONG: What is your opinion in purchasing a home via: a) An "Islamic" financing system. For example, as explained in http://www.lariba.com/financing/home-mail.shtm#OVERVIEW: b) Another "Islamic" system if you deem the above site "un-Islamic". If you know specific web sites that you recommend, please suggest. c) Regular mortgage if it was much cheaper than all the "Islamic" alternatives.

My Answer:

Dear Br. Mohammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Your assumption is partially correct, among other objectives, Riba aims at preventing exploitation of the poor by the rich. The Basic and General objective of the prohibition of Riba is to bring Balanced (you may call it justice) in exchange contracts. A Riba-based contract is imbalance because one party gives the other an amount and takes it back larger with no service or goods sold. Riba assumes that the borrower makes money using the loan given to her/him and Shari'ah does not accept to found exchange contracts on assumed goods or services one party may get from other sources. This means that Riba is prohibited even if the poor, rather than the rich, exploits the other. Riba is prohibited as an economic system because the contract itself is imbalanced. The best who expressed this was the late Shaikh Muhammad Abu Zahra in his booklet "Tahrim al Riba Tanzim Iqtisadi" [The prohibition of Riba is as an economic system].

Obviously exploitation of the poor is also forbidden, whether by means of a Riba contract or by any other contract. Further, the prohibition of Riba does not give approval for those persons and institutions that provide non-Riba financing to charge higher rates for their services. Charging higher rates by companies that provide Islamically compatible financing is a form of selling religiosity to persons and is certainly not acceptable. You may like to consider also that the cost of some of such companies may be higher than those who provide Rib-based home purchase financing. This may not be caused only by managerial inefficiency, which may not be the case sometimes at least. It may be caused by economies of scale that they are small and riba companies are big that the latter can give lower price.

You may also realize that it will be unfair to give Fatwa about what some businesses do. I WILL NOT GIVE AN OPINION ABOUT ANY COMPANY IN THE FIELD AND WILL NOT LOOK AT ITS WEBSITE NOR WILL I SUGGEST ANY OTHER SPECIFIC COMPANY.

For you second (long) question, the Fatwa of the Fiqh conference held in Detroit, fall 1999, consider non availability of Islamically compatible financing as a condition for

resorting to conventional mortgages. Existence of Islamic financing at a substantially higher is equal to lack of it, because when we compare we have to compare equivalent things not transactions that have substantial differences. If Islamically compatible financing is offered at a substantially higher cost, not only those who exploit Muslim home buyers are sinful, but conventional mortgage may be resorted to provided other conditions of that Fatwa are satisfied.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2001

SUBJECT: Buying mortgaged debts at discount
From: Muab
Date: 12/31/2001
Question
Assalamu Alaikum Wa Rahmatullahi Wa Barakatuh
Dearest Shaikh Monzer,
My name is Musab and I write to you from Tampa, Florida. InShaAllah you receive this letter and you and your family are all in good health and Iman.
Recently, I was introduced to a type of business venture to which I was highly doubtful of. I wasn't sure whether this kind of business is Haram or not. I asked the question to Ammu Saleh and he told me to ask you due to his lack of Islamic knowledge in this topic. Here is the situation and my questions to you.
Many individuals in America wish to purchase homes but do not wish to ask the bank for a loan. Their reasons may differ, mainly because they know the bank will not approve them. What they do instead is go directly to the home owner and try to work out a deal.
So instead of having a public bank mortgage, the buyer has a private mortgage. The seller of the house contracts the sale the same way the bank does, mainly applying interest to the sale and taking an initial down payment. After sometime, the seller of the house may wish to sell his private mortgage for instant cash. He will take his personal mortgage paper and put it for sale through some ad. This is where I am doubtful and need help in.
Question 1: Is it Haram to buy these mortgages with the intent of selling them? Let me be specific. There are companies out right now which are interested in buying personal mortgages. This is where I fit in the picture. What I do is go and make an offer price to the holder of a mortgage, say for $10000. If the owner decides to accept, what I would do is go and ask this company if they are interested in buying a private mortgage. If I give the company the details of the payments involved on the mortgage (ex: 100 payments of $500/month for the next 5 years) and they accept they offer me $15000.

What I do then is buy the private mortgage with the $15000 the company provides me, I give them the mortgage paper, give the seller their $10000 and in the end, I keep $5000. It's that quick and that easy to do. Specifically, is it Haram for me to be the middle man for this company and seller of the mortgage, even if I don't use any of my money?
My second question is: what makes a mortgage contract Haram? If I decided to buy the mortgage, what conditions would I have to change within the contract with the buyer of the house so that the mortgage could be Halal?
These are the questions that I am uncertain of the answer. I know you are busy. Jazakallahu Khairan for taking the time to read this email. Could you kindly enlighten me with what Allah SWT has blessed you with? Jazakallahu Khairan. Was Salamu Sincerely, Musab

My Answer:

Dear Br. Musab
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
The problem with conventional mortgages is that they are interest-based. Interest is forbidden as you know. It is the same thing that is called Riba in the Qur'an and it is one of the worst sins from the point of view of Shari'ah. As you know, a conventional house mortgage goes as follows: A prospective buyer finds a suitable house, negotiate price with seller, and negotiate financing arrangement with a bank or a financier. The agreement, finalized at the closing contains a down payment paid by purchaser, rest of the price is paid by financier to seller, incidental cost and charges are settled, amount paid by financier makes a loan to buyer with repayment on installments including interest, this debt is supported by a lien on the property.
Please notice that this transaction created a debt in the amount of principal, payable with interest at a certain schedule over a given number of moths/years. This is the Haram element in mortgage.
The prohibition of interest is a strong prohibition and the rule taught by the Prophet Muhammad, pbuh, requires that Whatever is prohibited must, all, be avoided "and what I ordain you not to do, avoid it?" Hence all forms of interest are prohibited, so are all contracts in which interest is an element.
One of the applications of interest is discounting. Discounting is in fact reversed interest, i.e., paying cash (present value) a future debt after deducting from the nominal amount of the debt the deducted interest.
Another form of interest is selling a future debt at a present (cash) amount that is smaller than the nominal value of the future debt, (notice that this is the same as discounting).
(Note: There are two permissible transactions that are sometimes confused with discounting. The first is reducing the amount of a future debt if it is paid cash. This is usually called cash discount. It is permissible with two conditions 1- the transaction must be only between the debtor and creditor, e.g., you can't take the promissory note to a bank and take its present value cash, and there must be no prior agreement on discounting. This first transaction is called in Shari'ah al Wadhi'ah. The second permissible transaction is buying mature unpaid debts, not debts with future maturity,

for less than their nominal values. These are usually weak and doubtful debts, instead of sending them to a collection agency and paying it for its services, the creditor may sell such debts to the agency at say half or third their face value. The condition here is that the due payment dates of such debts must have passed).

Your first question falls under discounting of future debts through a third party, who is you if you work on your own and make two discounting transactions one with the seller of future debt and the other with the banker or financier who pays you the 15000 for the debt you own. (The same prohibition applies if you work on commission basis to either seller or financier, then there would be one transaction and you are its middleman).

The answer to your second question is that there is nothing that makes a conventional mortgage permissible. In conventional mortgages, interest is a basic ingredient. And its only cure is to eliminate all interest and come down to the principal alone. From Shari'ah point of view only the principal is due to the creditor, regardless of the payment date. Obviously this cure is not acceptable to the creditor.

Furthermore, according to Shari'ah, it is Haram to buy/sell a future debt for lesser than its face (nominal) value. Buying a mortgage, as you described it is dealing in Riba. Actually the buyer is taking part, big or small, of the interest that was charged by the seller of the mortgaged when he/she sold the house.

(Note: there are other ways of buying houses on installments without interest, one of them is close to what you described, i.e., to have personal financing from the seller [notice that I did not call it mortgage though it has mortgage but its mortgage is not conventional]. the parties calculate the amount of increment they want to add because of the postponement of payments and inflate the house price by that amount. For instance a 100,000 house is sold at 300,000 with down payment of 10,000 and monthly installments over 30 years. Actually the increment is 200,000, it equals the amount of interest the seller wants for financing. But it is called price. In other words, Shari'ah permits inflating the price if the payment is agreed to be deferred to certain predetermined dates in the future with a mortgage lien marked on the property's records).

Once more, even the debt that results from this permissible transaction cannot be discounted or sold at lesser than its face, though future, value. And any such sale is Riba and prohibited.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Using equity built through a conventional mortgage

From: dialogue@islam-online.net

Date: 12/24/2001

Name of Questioner

Question

Assalamu Alaikum, here is the situation: 2 years ago I financed a house with interest. I recently found out that I can go through the Islamic bank. The Islamic bank requires 20% down of the value of the house. Can I use my equity that I earned for the time I lived there to use it for my deposit? Or I have to sell it because it's Riba? Or can you advise me of what I should do? Thank you. Was Salamu Alaykum

My Answer:

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

What you have done is already done. If you have no valid reason for taking an interest base mortgage you need to make sincere repentance with a renewed pledge that you do not repeat such a prohibited act. Allah Ta'ala is most forgiving and Most Compassionate. He calls on us, all, to always seek his forgiveness.

Whether you have a valid excuse to take such a forbidden contract or not, it is always better to revert to Islamically permitted contracts of financing.

Now, what you paid as principal in the real estate you own, whether as down payment or increments (as part of the monthly payment you are making) or increase in the market value of the property, IS ALL YOURS and you certainly CAN USE IT for paying the 20% needed for your new contract. You don't have to sell the house and buy another one because you bought it with interest. This is not remedy FOR INTEREST YOU PAID. Its remedy is repentance and Istighfar, and may Allah for you and us all for all our sins and mistakes.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Rationale for the Fatwa on Mortgage

From: fiqh@fiqhcouncil.org

Date: 12/13/2001

Question

Dear Dr. Monzer,

Assalamu Alaikum

It seems to be that a lot of Muslims are keen to know more about Zakah rulings, especially in the blessed month of Ramadan. We have received to following two questions, somehow they are related to the ones that you have answered before:

1. What is the current resolution on getting the mortgage loan which is interest and is not allowed in Islam, according to my understanding, under any circumstances?
2. Is Zakah due on land purchased, on cash basis of course, to build your own home on it in the future like in two to three years or more for that matter.

Blessed Eid

My Answer:

Dear Br.

Assalamu Alaykum WA Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Please accept my Salam and greeting for the blessed final days of Ramadan and the coming Eid to you and to the Fiqh Council of North America (although you did not reveal your name)!

1 - With regard to the first question about mortgage, there is no doubt that Riba is forbidden and it is considered in Shari'ah one of the worst sins that provokes a declared war on the sinner from Allah, Ta'ala and from His messenger. There is no doubt too that interest as practice in banks is Riba.

The matter comes from one angle only that is whether there may be circumstances that render a prohibited matter tolerable, or permitted. Necessities do that because our religion is based on removal of hardship (Raf' al Haraj). The rule of necessity applies when there are strong reasons to believe that, under the existing circumstances, abiding by a given rule of prohibition results in essential damage to any of the five basic things for whose protection and for whose promotion Allah Ta'ala sent down the Shari'ah, namely: life, religion, mind, posterity, and property. One degree below necessity is al Hajah (you may translate it as need and removal of difficulties). This is where an action is not really essential to safeguard a basic thing but it is very important for it. In other words, not taking such an action results in substantial difficulties that are, though bearable, harsh and hard to live with. When a Hajah affects the whole society, or a class of persons such as physicians, construction workers, nursing mothers, high school students, married people with children living in certain area or country, etc., such a Hajah become a Hajah 'Ammah (a universal need) because it, generally, applies to all members of that group. A Hajah 'Ammah is treated in Shari'ah in a way similar to necessity, i.e., it is upgraded to the level of necessity in its effect on prohibited matters.

This Hajah 'Ammah is a basis for relaxing the prohibition of Riba in the case of residence home mortgage.

There is another basis too. It relates to the geographical scope of the law and it is interesting to know and appreciate. It is the stand of a great 'Alem of the caliber of Abu Hanifah and Ibn Rushd (the grand father, who is the most prominent Malikite of all ages). Their argument is that the prohibition of Riba is one of these matters that came in Shari'ah to protect the property of contractors in any exchange contract, so that the obligations of the two parties in an exchange contract would be equivalent to each other. This balance in contract is one of the essential features, call it condition in all exchange contract permitted in Shari'ah. Riba is different of, say, dishonesty or Zina (adultry/fornication) as the latter is kinds of moral decay whose prohibition is intrinsic. If the purpose of the prohibition of Riba is to protect properties of the parties in a contract, this does not apply outside the geographical scope of the Islamic law, Shari'ah, i.e., outside Muslim countries. This is an important rule in international law that was well understood by these great scholars. It results in a ruling that the Shari'ah is not required to protect the property of a contractor outside the Muslim land, which means that while a Muslim is religiously required to protect her/his own property anywhere, the Islamic law does not need to protect the other party's property outside the Muslim land, i.e., you can take Riba from the other contractors in this case but you must not give it to him because this benefits you and does not waste your property. The late

Shaikh Zarka adds that this argument for taking not giving is based on what is to the benefit of the Muslim in a contract, but if it become more beneficial to her/him to pay interest, as is the case in mortgage with the tax and ownership advantages in comparison with renting, then the argument of Abu Hanifah applies to mortgage as its final sum ends up more beneficial to the Muslim's property. In the Resolution of the First International Fiqh Conference held in Detroit, fall 1999, reference to this argument was skipped in the final draft only. Notice that this argument centers on the financial advantages alone which is in general one of the five matters that need protection and promotion.

On the other hand, there is the classical argument that does not take the circumstances in North America as applicable to the Hajah 'Ammah, though the premises that necessity and Hajah 'Ammah as foundation for relaxing a prohibition are not denied. When faced with the needs of American Muslims, some of those who oppose this resolution said "then you guys must migrate to Muslim countries!" not realizing that many of us have no other home than North America and many have actually escaped the Muslim countries because of multiplicity of reasons, not the least of them are economic ooprtunities and political harassment.

Most important than all the above is that we Muslims in North America must expend all effort we can for establishing financing contracts compatible with Shari'ah, especially within the main stream of the financing industry by developing contracts, compatible with Shari'ah while the fit, at the same time, the American law and the requirement of main stream financing institutions.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Mortgage and Riba

From: dialogue@islam-online.net

Date: 12/5/2001

Name of Questioner Ziad Country Jordan

Question

Assalamu Alaykum: would you please send me some information on the basic differences between mortgage and Riba and on the right way in Islam to do mortgage. May Allah bless you. Salam.

My Answer:

Dear Br. Ziad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The International Webster New Encyclopedic dictionary defines mortgage as a conditional transfer of a property to a creditor as security for repayment of money. in practice of home purchase financing in the united states, mortgage means getting finance form a bank, conventionally on the basis of interest and recording a lien, normally, on the same house to the benefit of the bank until full payment of the amount

financed and interest accrued is done. Normally payments are made equal and monthly, so that each installment consists of the interest due on the balance from last month and a portion redeemed of the principal financed.
Riba in Arabic language is increase or increment. Riba is defined in Shari'ah as an increment in an exchange contract that has no Shari'ah recognized counterpart. The OIC Fiqh Academy of Jeddah and the Research Academy of al Azhar in Cairo and the overwhelming majority of Muslim Scholars ruled that interest that appears in banking transactions is the same Riba that is forbidden in the Qur'an.
Finally, Islamic financing may have liens on any property as a security for repayment of the money financed, i.e., it may have mortgage, in the language meaning, without being based on interest (Riba).
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: House purchase in Canada
From: dialogue@islam-online.net
Date: 12/5/2001
name of questioner shakeel Country Canada
question
I am in Canada, I have a rented house since, 5 years, and the rents are going up every day, we always have dispute with wife, regarding house, as I have performed Hajj, and I do not want to get interested, by which my life has come to stand still.. As I was in Saudi, and never saw interest as here, in Canada, so I wanted the answer, I checked with many people but no one is able to help out with a perfect answer, about mortgage, and how to get out of it, and I visited many web sites, but it is very, difficult to come to conclusions.. Why don't the Muslims scholars, in north America, say one things so that every one knows what to do, instead, only they give, in a confusing directions, as I see there are many new people in Canada, and they are getting trapped, in the depth trap.. I would like to know why the.. Muslims scholars don't define the life, in the world more clearly, so that it will help people to know more, and. they get answer. How can the parents, answer the children? Kindly email me about this.. Thank u
Notes: Since question: how to solve the problem of mortgagee, in North America. Give one answer, not many, and give answer which can keep things moving, and we solve the problems,
My Answer:
Dear Br. shakeel
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
You are asking someone else to do the job you must do yourself, and since inside yourself you don't want to do it you find it difficult and you don't want to face it. This is in my opinion exactly your dilemma!

The Fatwa is as clear as 1, 2, 3. 1)- interest is Haram and any contract, including conventional mortgage given in North America, in which interest is basic is also Haram; 2)- Muslims in North America must create institutions that provide financing services through contracts compatible with the Islamic Shari'ah; and 3)- cases of needs that encompasses many people or necessities allow for relaxation of prohibition. Be they any combination of security and decency of neighborhood, schooling, availability of rental housing, financial affordability, etc. Of course, needs and necessities can only be determined by the concerned person. No one can determine somebody else's needs and necessities.

Finally, In Toronto there exist an Islamic Cooperative Housing Corporation that helps providing house financing in ways compatible with the Shari'ah.

BTW, most banks in Saudi Arabia are interest-based banks, I wonder how you didn't see it!

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Necessities again

From: dialogue@islam-online.net

Date: 12/2/2001

Name of questioner Country Syria

Question:

My question is regarding what you call necessity of getting a mortgage in the US for buying a home. We are a family of three. We can continue rent a house or an apartment but that is starting to drain our financial resources. Also, we would like to have house with larger space because of increasing need for space and better living conditions. Is any of the above two conditions considered necessity in Shaikh Qaradawi Fatwa for getting a mortgage? The definition of necessity was not made clear. Some Shaikhs consider the above two conditions necessity other Shaikhs considered the necessity is when you will end up in the street or loose a life. Also notice that I check Islamic banking in the us and found them very expensive compared to the traditional US mortgage. To me Islamic banking is not affordable at this time. Salam Alaikum;

My Answer:

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The Fatwa of Shaikh Qaradawi, as included in the resolutions of the first international Fiqh Conference held in Detroit, fall 1999, does not mention necessity (Darurah). The Fatwa is based on general need (Hajah 'Ammah) that is treated similar to necessities in Shari'ah. a Hajah is less pressing than a Darurah. Darurah relates to basic protection, or avoiding massive destruction to any of life, religion, mind, wealth and posterity, those basic matters for whose protection and whose promotion Shari'ah itself is given by God, the Almighty. This Hajah 'Ammah is of those family for whom matters that include

availability of housing at reasonably affordable cost, schooling, safety/security, decency of environment, finance, etc., all together make renting a hardship compared with buying through conventional mortgage. This Hajah 'Ammah is left undefined simply because people put different value-weights of different components. You cannot make a definition that applies to all. But it is important to keep in mind that Allah, Ta'ala is most knowledgeable as Abu Dharr al Gifari put it (wa l'lam anna al Naqida Basir). Make your own judgment on what removes hardship from your living and the life of your family, and be ready to answer Allah Ta'ala with the choice you made. Don't ask for a shaikh's opinion to lean on! It doesn't answer on your behalf on that Day!

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: necessity to buy a house in Egypt

From: dialogue@islam-online.net

Date: 10/18/2001

Question

Salamu Alaykum. How are you doing? Hope you're enjoying Allah's Blessings.

Here is a question about interest and Riba:

1. With respect to "Necessity Requiring Exceptions" and housing, why would t be necessary for someone in Canada to own a house but not in Egypt?

2. I have always been taught that the intent is as important as, if not more than, the action. I do not see how this would be different for Interest or Riba. If you make money off of lending money to someone (without providing any other service with the exception of risk) regardless of the method, is it not Haram? Tamir

My Answer:

Dear Br. Tamir

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1- Necessities don't have boundaries, but they are circumstantial. I can't speak about the situation in Canada regarding necessity of certain Muslim families to buy residence. The matter in the USA for Muslim families is as follows: usually Muslim families are large, with several children and it is very often very difficult to find rental residence that provide reasonable decency, safety, suitable schools, and appropriate general environment; add to it the tax reduction as a result of buying. This is caused in the USA by many historical and economic factors, and this is the kind of necessity that we have at a time that there are no Islamic financial institutions that provide financing compatible with Shari'ah. In Egypt, the normal case to have certain facilities from friends, families, and Islamic financial institutions; besides, renting is available for large families and there is no tax effect.

2- The way you expressed the idea of intention indicates that you may like to review this concept. Intention is certainly a necessary condition for accepting any deed by the Almighty God, but it is not sufficient. The other and completing condition is that any

deed or action MUST ALSO BE IN COMPLETE COMPATIBILITY WITH SHARI'AH. Hence, intention is not a substitution of implementing Shari'ah. Shari'ah prohibits interest (Riba) as clearly as one can think of, in both the Qur'an and the Sunnah. This prohibition does not include, by any means, eliminating any compensation on financing and does not imply that money will be available for any person to grab. In other words, financing in accordance with Shari'ah must take routes other than lending for increment (which is the definition of interest/Riba). And if you find certain similarity between lending for increment and certain permissible forms of financing, it is because both are modes of financing. This is like the similarity between aspects of the relation between husband and wife and the relation between adulterers. Such similarities do not indicate any bad intention on the part of a person who gets married to satisfy a person's sex drive. As a matter of fact there is an indication of good intention because such a person selects to give/take financing in accordance with Shari'ah rather than on the basis of interest-bearing lending.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on installments

From: dialogue@islam-online.net

Date: 8/22/2001

Name of Questioner mohamed Country Sudan

Question:

Assalamu Alaikum. If I want to buy a home suing my credit card, and to avoid (REBA), I made the bank to buy the home. Then, I made a separate contract-with the bank-to sell me the home on basis of monthly rates or bills I pay-to the bank until I complete the price for which the bank has sold me the home (regardless of the price with which the bank had bought the home). According to Shari'ah, is that Halal or Haram.

My Answer:

Dear Br. Mohamed Ibrahim:

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The way you described the financing with a Bank, the bank buys the house cash and via a second sale contract made after the bank becomes owner you buy the same at a higher price and with installments, is permissible in Shari'ah and called Bay' al Murabahah. This is a financing consisting of two sale contracts, each of them fulfills all of its legal conditions and people are free to contract such contracts with their own wills and consents. The price increment earned by the financier is a profit that resulted from selling a commodity at a price higher than its cost. This profit differs from interest as the latter is an increment on a loan. Notice that in the operation the way it is described, the financier bought and owned a commodity or property, an owner becomes responsible for all that affects an owned object including all risks owners have. In a loan contract the

debtor guarantees the lender the full amount of the loan and the lender does not carry the risk associated with holding cash on hand because she gave the cash to the debtor.
Wa Allahu A'lam,
wa al Hamdu li Allah Rabb al 'Alamin,
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying on interest may cost less than renting

From: dialogue@islam-online.net
Date: 8/2/2001
Name of Questioner Mohammed Country UK

Question:

Assalamu Alaikum I am a professional working in London. The situation with regards to housing is that it is more expensive to rent than to make mortgage payments. Many brothers have come to me saying there are Fatwas which allow you to take mortgage. I have still not taken one though. There is now the Kuwait bank in London which claims to offer a Halal method of purchasing your own home, - do you know about this? In what exact circumstances is one permitted to take a mortgage and what are the conditions? Until recently I viewed Muslims taking mortgages to save on rent as having love for the Duniya. However, one brother said to me that he will not always be young and will need a place to live in his old age. (Tying the camel?) If the method of financing your home purchase is Halal from the Kuwait bank for example, then would you recommend renting or buying? What are the conditions? And if you buy a home you have a debt, can you go for Hajj? In the UK you have to take out compulsory life insurance cover which pays your mortgage if you die. Is this allowable or is it doing one Haram to cover another?

My Answer:

Dear Br. Mohammed Atif Raja
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
If the United Kuwait bank of London offers the same Manzil program it used to offer in America, through its now closed branch in New York, the program is compatible with Shari'ah, it is OK.
On the other hand the Fatwa is clear, that if one needs a house, for a multiplicity of reasons, including security and safety, family size, old age plans, schooling, etc. (and there is only one person who can decide this need, that is you and you are questioned only by Allah who cannot be deceived, no one else has any right to question your intention or your Shari'ah abiding attitude) and there are no Islamically compatible alternatives offered by Muslim or non-Muslim institutions, one may take the conventional mortgage and try to rid him/herself of it as quickly as possible.
Insurance is a controversial subject, and there are respectable scholars who see it permissible as it provides real service and the amount of Gharar involved is tolerable when you include the actuarial consideration.

Having deferred debts, as in case of mortgage, whether conventional or Islamic, does not affect the ability condition for making Hajj because these debts relate to future income not present asset at the time of Hajj trip.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Rationale of the Fatwa on buying houses
From: From a live Fatwa Session on Islam on line, June 20, 2001
Abdul-Haqq Country Egypt
Question
As'salaamu'alaykum respected Sheikh,
Could you please clarify the points of the fatwa issued by Dr.Yusuf Qaradawi on Mortgage? Jazka'Allahu'khairan
My Answer
The fatwa I am aware of Sheikh Qaradawi on mortgage is the one that came through the first international Fiqh conference held in Detroit, MI in the fall of 1999. This Fatwa is based on the situation of housing and house purchasing in America. In brief, it takes into consideration the need for residences for Muslim family in America, the lack of sufficient institutions that provide non interest based financing, the schooling environment and security consideration when selecting in America, and difficulties in finding decent rental residences especially for families with several children. With these considerations the Fatwa says that if no other means can be secured for purchasing a house for residence for Muslim families in America, Muslims may take the interest-based mortgage for buying there own residences. The Fatwa takes into consideration the opinion of Imam Abu Hanifah, with regard to transactions in non-Muslim countries with non-Muslims, this opinion is also shared by the Maliki school as explained by Ibn Rush in al Bayan wa al Tahseel and Al Mukadimat, although this opinion is not mentioned in the text of the Fatwa itself.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying homes in Canada
From: dialogue@islam-online.net
Date: 5/11/2001
Name of Questioner Mel Country Canada
Question:
Greetings. I'd like to ask 2 questions, & thank you in advance for your answers. 1) Is tattoo for females on an unexposed body part allowed/permitted or not. 2) Some people asked you a question about Mortgage with a non-Muslim bank, due to the lack of any Muslim banks where they reside. Your answers were yes, but at the same time

no. This is confusing to me. If my rent is $810/m & I can actually buy an apartment & pay this amount as mortgage, can I do that? Thanks again for your reply.

My Answer:

Dear Sr. Mel Abdel-Aziz

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - You better address your first question once more so it can be sent to a specialist, my specialization is in the area of finance, economics, Zakah, Waqf, inheritance and trusts.

However, Tattoos are, to the best of my knowledge prohibited whether in a part of the body that is exposed or not, because they are the same "Washm" Arabs used to do and the Prophet, pbuh, categorically prohibited it and mentioned that it bring the curse of Allah.

2 - I don't think I've ever given an answer of yes and no to a mortgage question, please be sure about it and send me to previous answer to review it.

Anyway the Interest-based mortgage in the West is very much discussed in The Resolutions of the First International Fiqh Conference in North America (Detroit, October 1999). The opinion (of relaxing the prohibition to families who have no other alternative) is based on extent of family pressing needs, schools, safety and security, and social environment. It did not give appreciation to the net financial outcome of interest-based mortgage versus renting.

According to this resolution, net financial outcome alone is not sufficient to bear any relaxation of the prohibition of Riba as it is apparent in this kind or Riba-based mortgage transaction.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: buying and renting part of it

From: dialogue@islam-online.net

Date: 5/11/2001

Name of Questioner Adnan Country UK

Question:

Assalamu Alaikum, If a person rents a room here (UK) he has to pay say 200 pounds per month. On the other hand if he buys a house (on mortgage), and rent a part of it, he will safe the money. He can get rent nearly 400 pounds and if his mortgage is 400 pounds as well. Then he himself be living free, thus saving 200 pounds. His intention of buying a house is not really to buy a house but to safe money only. Is it allowed to do this? adnan

My Answer:

Dear Br. Adnan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The opinion of the First International Fiqh Conference in North America (Detroit, October 1999) is based on need of family, schools, safety and security, and social

environment. It did not give appreciation to the net financial outcome. According to this resolution, net financial outcome alone is not sufficient to bear any relaxation of the prohibition of Riba as it is apparent in this kind or Riba-based mortgage transaction.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a flat in France and renting it
From: dialogue@islam-online.net
Date: 5/1/2001
Name of Questioner youssef Country France
Question:
Salam Alaykum, I have bought a one bedroom flat with a bank credit
which has got interest. The thing is that I don't live in this flat. I have one person who pays me the rent that allows me to pay the credit. In fifteen years, I would have finished paying the credit InShaAllah and I will have my own flat without having paid a lot of money. Some friends told me that there is nothing Haram with that and others told me I should ask some Shaikh or imam concerning the Riba question. I hope you will be able to give me an answer if this investment is Halal or Haram. I have done this to allow my children or myself when I will be older to have a better salary which is the rent. Salem Alaykum
My Answer:
Dear Br. Youssef
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
The fatwa that exists now (That came in the resolutions of the First International Fiqh Conference of North America, held in Oct. 1999 in Detroit USA) is restricted to families who need residence especially with children and problems of schooling, security etc. To my knowledge there is no unrestricted Fatwa in which the purpose of buying a flat, with interest loan, is for increasing one's wealth and future income. Riba is prohibited and bank interest is exactly the same prohibited riba.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: The Fatwa on home financing in Western countries
From: dialogue@islam-online.net
Date:
dated 5/1/2001
Name of Questioner Muhammad Country Pakistan
Question:
Assalamu Alaykum, I need all the information that I can get on the Fatwa

that allows Home financing for Muslim in a non-Islamic state where Islamic Financial Methods are not adopted. Wassalam Alaykum Muhammad

My Answer:

Dear Br. Muhammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The written resolutions of the first international Fiqh Conference in North America and of the Islamic Council of Europe must be obtained from the SSANA and ICE respectively. Also there is a discussion of the same over several pages of the Book Fatawa of Shaikh Mustafa al Zarqa (Arabic). It is published in 1999 shortly before the late great Shaikh died.

However, all these are not general Fatawa for "buying homes in non-Muslim countries. They are for specific conditions in North America and in Europe. The essence of these Fatawa is: If you have family, and face problems of finding rental residence and of good schooling and acceptable level of security and safety and there are no other institutions that provide financing by means of contracts that are permissible in Shari'ah, then it becomes a general Hajah that calls for relaxation of the prohibition.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house in Sri Lanka while living in UAE

From: dialogue@islam-online.net

Date: 4/24/2001

Name of Questioner mohamed Country U A E

Question:

I am referring to the question ref. WDACB5. I am staying in UAE last three and half years with my wife and my son (Five years old). We are expecting second baby in October 1. I am a quantity surveyor and from a village in Sri Lanka. There is no any English medium school and jobs for my profession in my home town. My wife has an own home there. But I do not have any home or land there. I am a diabetic patient also. Age - 32. In Dubai my son is studying in English medium. In future if I had to return to Sri Lanka, I do not have a place to stay except my home town. Considering my job and education of my son, I am planning to buy a house in Colombo. The available finance source is bank only. In this situation please advise me whether I can take a loan or not. Wassalam. Mohamed Ihsanullah

My Answer:

Dear Br. Mohamed Ihsanullah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

This question was answered before as you referred to the answer in your letter. InShaAllah you will be cured from diabetics and your son, and the coming one will have excellent education, and you must seek that for them, Yet your situation does not seem

to me to fall under the Fatwa that came from the First Fiqh conference in North America because of the following:

1- In Sri Lanka there are many Muslims and I am sure you guys can cooperate to help establish a suitable financial institution for house financing; 2- apparently you can sell the property of your home town to buy in Colombo; 3- you don't have an urgent need as you live now in UAE, not in Colombo, probably, you buy now there and you end up renting it because you are not there; 4- your son is too young to have education in a foreign language, why not having his education in your home tongue or in Arabic at the most, the language of his religion and worship, he shall have a lot of time to learn English later; 5- isn't true that rent is available in Colombo, why not renting when you need to leave the UAE and go back home? AS YOU DESCRIBED IT, I DO NOT SEE ANY KIND OF A PRESSING NEED.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a Muslim Youth Center on interest

From: dialogue@islam-online.net

Date: 3/26/2001

Name of Questioner Abu Country Canada

Question:

We have bought a Muslim Youth Centre because our youth are getting involved in Gangs, alcohol, murder, selling drugs and many other major un-Islamic practices. Many of our Muslims who are in prison are there for murder, rape, theft etc. Recently, a 14 year old Muslim boy committed suicide. Another 19 year old was shot twice in the head by the gang he was involved with and recently one of them was found dead in his car. This is only the tip of the iceberg. So there are tremendous problems in our community with youths. Some of us have taken the step to purchase a place, a YOUTH CENTER, a safe haven facility, where these youths can come to and do things that will keep them away from all these Haram activities. We have paid about $50,000.00 and still owe $200,000.00 on this property which is due to be repaid by June 2001 to the original non-Muslim owner. We have made every possible effort to raise this money to repay the owner. We have sent application letters to Islamic banks, we have approached many Muslim organizations to assist us, we have approached many businesses to help us, we have approached individuals; we have even sent someone to Dubai. All these efforts were made to acquire this $200,000.00. Our last resort is to go to the local financial institution to acquire this money. If we do not come up with this money by June 1st, 2001, we will lose the property and Allah forbid, also lose another generation of Muslims youths. There is a brother who has connections with a local bank and is willing to take us to obtain an open interest bearing mortgage from the bank which can be paid off as quickly as possible as we do fundraising dinners to raise the money. In this critical and desperate situation would this allow us to go to this financial institution??

My Answer:

Dear Br. Abu
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
The tragedy you described of some of our youth is heart breaking, it is the same picture everywhere in North American, we all are sitting on a volcano and we pretend things are all right.
I have no doubt that a youth center with an effective program may be more important than even a mosque. It certainly has priority over schools because many Muslims cannot afford school tuitions. a well managed youth center in North America is the kind of necessity that makes it permissible to go for Riba-based mortgage if you find no other solutions.
Allah, Ta'ala, says "And he who fears Allah, He makes away out for him" I don't think you have exhausted other possible solutions. Try more rigorous local fund raising and borrowing from the community members, try the Housing Cooperative in Toronto and try NAIT in Chicago. May Allah be with you.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying an apartment in the USA
From: dialogue@islam-online.net
Date: 3/13/2001
Name of Questioner Sarah Country USA

Question:

I live in Virginia, in the United States of America. I recently got married, and I and my husband need a place to live. He is the only one that is working and has to pay for my college. He makes about 40,000 dollars a year. We cannot afford to pay cash for an apartment. If we rent, then we will never save enough money to have the cash to later buy the apartment. Is there any way that we can mortgage the apartment?

My Answer:

Dear Sr. Sarah
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
No sister, I have a great doubt that your case make it to the level that you really need to buy a house on Riba-based Mortgage. Look for the institutions that give financing in accordance with Shari'ah. Riba is the worst of prohibited thing and it calls for a war from Allah and His Messenger to the persons who indulge in Riba. The Fatwa of the First Fiqh conference in North America, Sept 1999, was that if some family having large number of children is in need for housing, and they find no other sources for financing they may go for Riba-based mortgage, with those kind of needs. You are not in that category, are you?
Renting is not really that bad, it may be advisable sometime, especially if it is difficult for you to take charge of maintenance.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: buying a house on interest
From: dialogue@islam-online.net
Date: 3/8/2001
Name of Questioner Ahmed Country Canada
Question:
Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh, What the Shari'ah says about taking mortgage on a fix interest and fix term and try to pay-off the loan within that time frame? May Allah reward you for helping Muslims. Ahmed
My Answer:
Dear Br. Ahmed
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.
Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.
Interest-based mortgage is forbidden because interest is exactly Riba and Riba is forbidden in Shari'ah. Riba is in fact one of the worst sins a Muslim may ever make, it call for a war from Allah and His messenger As the Qur'an mentions (2:279). Certainly there are cases that have great excuses to the extent that makes a prohibited thing allowable such as emergencies to save life, etc. This rule of necessity applies to all prohibited matters including Riba.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Buying a house on interest in Morocco
From: dialogue@islam-online.net
Date: 3/7/2001
Name of Questioner reem Country Morocco
Question:
In the name of GOD the most merciful, the most gracious. Al Salam Alaykum wa Rahmatullah wa Barakatuh. Thank you for giving me a time to read my letter and please if you could answer my following question: In Morocco, the couple can not buy a house in a few years or saving; because the prices are too high .for sure we can not take a loan from the bank because of the interest. But my husband and i are renting a house with about $500, and we can not save money with this rent price. However, my husband company suggests for him to buy a house from them, actually; they will buy us a house, and they will sell it for us. The problem is that they will sell it to us with 30% percent plus the house price. For example, if the house is costing $100000, they will buy it with this amount and sell it to us about $130000, and we will return the amount monthly among 10 years. furthermore, the amount will be divided on 10 years, each month we

will pay for them $400 (the house price) + $400 (the amortization of the house) Simply is it Halal or Haram thank you very much for reading my message and I'm looking forward to your answer thank you again; Mme Reem

My Answer:

Dear Sr. Reem,

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

I know that the Family name you carry is descendant from the Prophet Muhammad, pbuh. So InShaAllah your commitment to abide by the Shari'ah is also a reflection of this Glorious and Noble origin.

According to the way you described the transaction, it is perfectly Halal. Here are the details:

The Murabahah contract is when some party buys something and tells another: here is my cost (in your figures 100,000) and I like a profit of so much on it (30,000) with given conditions of time schedule of payment. The difference in price between the cash contract and the installment contract is permissible. It is Halal for the company and Halal for you to pay it. The condition in Murabahah is that the second sale contract (to you) must be done after the first is concluded and the house is received by the company.

If the company buys the house for say 100,000 and gets from you 30% over its cost (which is permissible to include not only the price but also any cost of registration of title or broker's fees, etc.) with 10 years installment, it is in fact giving you a privileged rate which is less than 6%, you know bank rates are higher. So you are InShaAllah getting a Halal purchase and a good deal too. By the way your number of 400 being the monthly increment above the 1000, is incorrect, because if you divide the additional 30% over the example of a price of 100,000, the monthly simple installment will be 1250, in other words the addition is 250 (= 30 000/120 months).

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Prayers on property bought with interest

From: dialogue@islam-online.net

Date: 3/2/2001

Name of Questioner: Mujeeb

Question:

In USA lots of Muslim bought there home on Mortgage i.e., they are paying interest every month on their properties. My Question: is it o.k. to pray on the property (house) which is bought on Mortgage? Please let me know. Thanks.

My Answer:

Dear Br. Mujeeb

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Yes, it is permissible to pray in a house or a place purchased on mortgage because there is nothing in Shari'ah that prohibit that, and a prohibition you need an evidence. The Qur'an says "wa la taziru waziratun wizra 'ukhra" that implies that one must not mixed things together. A person who unjustifiably bought on Riba basis has his own sin and that sin does not cover the place or the land because it is obtained in a correct sale contract. Financing a contract is something different that a sale contract. By virtue of a sale contract a house or a real estate becomes owned by the purchaser, and by a Riba-based financing contract a person commits a sin if he/she has no justification accepted in Shari'ah.

Further, who said that every contracts persons make are forbidden outright without knowing their excuses and justifications, and a Muslim must always avoid being accusative of the action of his Muslim brothers and sisters, better search for excuses for them, you don't know their circumstances and you are not the judge on their hearts. Our role is ONLY TO EXPLAIN what is right and what is wrong and we leave it to their conscience to take their own decisions. Allah knows that which we do not know.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Buying a house on interest mortgage in a Muslim country

From: dialogue@islam-online.net

Date: 3/2/2001

Name of Questioner Muslima Country Morocco

Question:

Assalamu Alaykum. We are very happy to have you by our sides. May Allah reward you for everything. Please I want to know if I have the right to take a loan from A bank (which means with Riba) in order to buy an apartment. I'm married and I have 2 kids. There are no banks in morocco offering a free loan so the alternative is either to rent or to live with parents. This last solution isn't suitable for us. And concerning renting, we see it like money wasting especially that the amount we'd pay each month while renting is higher than the one in the case of buying. I've heard that this loan could be taken if there is a need (darura). Is our case considered as a darura? And could we take the loan? Please advise us and jazakumu Allahu 'anna khayran.

My Answer:

Dear Sr. Muslima

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

I don't see your case as a Darura that renders permissible such a horribly forbidden thing like Riba. Riba instigates a War declared in the Qur'an from Allah and his Messenger. It is a lot worse than almost all other sins. A Muslim family like yours who lives in its own land, among parents, relatives and friends must find a better way than indulging in Riba to purchase a home which itself is necessary. If you fail in utilizing all these resources that you have then it is you to blame. Please Sister, try to be creative

and Allah shall certainly help you. Create a cooperative for housing, find several relatives and friends who can lend you small amount each, find a builder who can sell you on installments, even t a price that is higher than paying all cash, find a partner who can buy with you and you her/him rent for their share until you can buy it from them. In a Muslim country you should be able to find a way because there are many people around who have similar needs and they have to work together. Our inability to work together is something we have to change and we can change, allh will help.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

SUBJECT: Rationale for the prohibition of interest financing of houses
From: dialogue@islam-online.net
Date: 1/27/2001
Name of Questioner
Question
Salaam, Why is it Haram to have a mortgage? What alternative would you suggest to people wishing to own there own place? There are no Islamic banks so in such a situation why can we not take a mortgage? I personally see renting as "dead money," at the end of the day what you're paying for is not yours. What is your opinion?
My Answer
Dear Br./Sr. (who did not give name)
Assalamu Alaykum wa Rahmatu Allah Wa Barakatuh
My Answer: Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah
Mortgage is forbidden because it is based on Riba (interest) and interest is unjust. It gives one party a secured future income in exchange for an expected benefit the other party in the contract gets from the loan. Such a benefit may materialize or not, depending on future circumstances. This in of exchange contract does not give its two parties equal treatment. You give a guaranteed return to one and you do not know what the other will get.. ...This is why Reba is prohibited and the Qur'an calls it getting the properties of others with no reason (akl amwal al nas bi al batil)..
Rent/lease is not like that. In a rent contract you give a given amount of money for a service that is well known and well defined, say of a house for a given period. It is true this service happens in the future, and you do not know what happens in future! that is why the Rent contract in Shari'ah, and in the law too, allows that if you could not get the service for a reason related to the owner of the house, e.g., did not give the key, or the characteristics of the property, e.g., a wall fell down without aggression from the tenant, you get deduction on the rent for the amount of service you were not allowed to receive. There are also reasons for such a reduction besides these examples that require more details outside this brief answer. That makes rent fair and riba contract not fair.

Further, it is not correct to claim that what you pay for rent is "dead money" ! it is what you pay for what you get, provided no fraud, deception or extortion was in the relationship.
That is why when a good group of Ulama met in Nov. 1999 in Detroit, they did not say that mortgage is OK, but they said it forbidden because it is riba based, but Shari'ah allows to relax the prohibition if there are no other alternatives available to the person and there is a real need for the residence because of family, children, safety areas, etc.
Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

FATAWA MORTGAGE, HOUSE FINANCING 2000

SUBJECT: We live in a house purchased on interest before conversion to Islam?
From: Islam Online
Date: 12/7/2000
Question
You pose an interesting question an apartment you bought on mortgage before converting to Islam, now it is rented and it pays for itself and you could not find affordable Islamically acceptable refinancing.
My Answer
Dear questioner:
As salamu alaikum,
My answer: I like to refer to two points. One the opinion of the First Fiqh Conference in the US and Canada, held in Detroit, Nov 1999. its summary is that for people who live in non-Muslim countries and are in need to buy a residence because of difficulty in finding suitable rentable, convenient schooling, size of family, etc., and cannot afford cash payment, it is permissible to recourse to mortgage if there was no other alternative.
This does not apply to your case because now the apartment is rented, but let us suppose a person bought a residence under this Fiqh opinion and later the circumstances changed and the residence ended up rented. What does this person do? Applying the rules of Shari'ah, you should make all reasonable effort to get rid of this contract as soon as possible without sacrificing your equity in the property and this is exactly what you tried to do. I see one thing that still can be done if you think you are not going to be in need for the apartment to use as a residence once more in the future: to sell the property as soon as possible again without rushing into a sale that makes you loose on its market value. And here where the second point comes . . .
There is a general rule of Shari'ah that whenever action is needed to be done, we are required to do it as much as we can with only bearable cost because we are called on to protect our five major things: life, religion, mind, posterity and property.

And it you think you are going to need it again for residence the temporary rental does not affect you
This means that until you make the right decision on this apartment you need to feel comfortable with your own conscious as long as you are trying to get rid of the Riba as much as you can
Wa Allahu A'lam
Monzer Kahf

SUBJECT: Buying a house in America
From: scitech@islam-online.net
Date: 10/25/2000
Your question:
I want to know what the point of view of Islamic Shari'ah about buying a house in USA with mortgage. If it is Halal please let me know what the reasons? God bless you all.
Dear Br. Elidrissi,
Assalamu Alaikum,
If you are from Elidrissi of Morocco, you must be a descendant of the Prophet Muhammad, PBUH.
My answer:
Alhamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah.
Buying a house on mortgage in America is a Riba-based transaction, and Riba is forbidden in Shari'ah. This is the answer to your question.
There are cases, well defined in Shari'ah in which a forbidden action may be done without sin, e.g., under necessities. Similar to necessities are avoidance of hardship for a large number of Muslims under similar circumstance. This is in application of the rule "a Hajah when it involves too many people, is treated as a necessity. Under such conditions an action that is otherwise prohibited may be done without sin InShaAllah.
Wa Allahu A'lam,
sincerely,
Monzer Kahf

SUBJECT: Bank funding of house purchase on Murabahah basis
From: Sami in Canada
Date: 10/12/2000
Your question is about bank funding of house purchase.
Dear Br. Sami
Assalamu Alaikum,
I first thank you for your letter and its warm sentiments, I value it very much.
By the way are you from the Haddad who is related to Mrs. Fathi Yagan of Lebanon, once her brother or nephew was living in Ottawa and I met him several times.
My response:
The bank funding you mentioned is exactly the same bank mortgage, do you see any difference? You know that banks and mortgage companies give fixed and variable interest mortgages to borrower.

Can you make the following deal with the bank, especially you are paying high down payment: and I am putting it in a form of articles of the same contract (pl. excuse the unspecialized wording):

Article One: you request the bank to buy this house with you for the amount of say $200,000, each will buy one half and pay for it cash and you promise to buy out the bank for say 150,000, payable on fully detailed installments (due date and amount of each)

Article Two: the bank accepts your offer and proceed with the purchase and asks the lawyer to make the title of the whole house in your name, one half as owner and the second half on behalf of the bank, and the bank puts a first lean on the whole house to guarantee that you do not make any transaction that jeopardize the banks interest.

Article Three: ha bank sells you the other half for the total figure amount of the installments with same details as above, and by virtue of this article the bank is going to transfer the ownership of its half to you once you sign the contract, by a separate letter addressed to you at least one minute after the closing. This is in exchange for the debt created on you of the amount of 150,000. These installments may be made in the form of promissory notes if the bank prefers it.

These are the basic points to make the contract a Murabahah one and remember the last letter must be made after closing, i.e., after the bank becomes the legal owner of one half of the house. The creation of the debt and signing the promissory notes can be done when you sign the contract with the bank, i.e., before closing.

The bank may like to add clauses for the cases of default and delinquency which may include interest, I suggest to permit that as long as your intention is to pay on time and you know you are required to do that even if you take suitable insurance policy that covers payments in case of unemployment, disability or death.

I heard that the essence of this Murabahah contract is known to the banking Federal Regulator in the US.

If this could not be done and if you really need the house for family and children reasons, you may like to use the fatwa of the Shari'ah Scholars Association of North America in its Second Fiqh Conference held last Nov. in Detroit. The essence of it is that in case of needs and lack of availability of other contracts that are Shari'ah acceptable, people living in non Muslim societies may buy their residence house on mortgage, but not commercial properties and not without needs.

Sincerely you brother

Monzer Kahf

SUBJECT: Car and house purchase with conventional loans

From: scitech@islam-online.net

Date: 10/4/2000

Your question is about car and house purchased on the basis of Riba, what to do?

Dear Brother Saqib

Assalamu Alaikum,

My Answer:

al Hamdu li Allah wa al Salatu ala Rasuli Allah,

If you live in America, Europe or any other country as a Muslim minority, and if you need the house for residence in such a case where there is big inconvenience for you to rent for any reason if family, neighborhood, school, children, etc. Then the opinion of the SSANA in its Second International Fiqh Conference in America may apply to you that it is permissible under the circumstance of big inconvenience to buy a house on interest basis if you could not manage to buy with the help of Islamic financial institutions or goodly loans from individuals. The same thing applies on the car that you dearly need for going to work, school, shopping and other needs.

under all such cases keep seeking Allah's forgiveness and keep trying paying the principal of the loan with any money you can lawfully get in order to rid yourself of the Riba as soon as you can,

wa Allahu A'lam

Monzer Kahf