



**Testimony Before the City Council Committee on Finance:  
The City's Efforts to Combat Real Property Deed Fraud**

**February 1, 2016**

Good afternoon. My name is Caroline Nagy, and I am the Policy Manager at the Center for NYC Neighborhoods. I would like to thank Chair Ferreras and the members of the Finance Committee for holding today's hearing on the important topic of deed fraud.

**About the Center for NYC Neighborhoods**

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners, the Center meets the diverse needs of homeowners throughout New York State by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 40,000 homeowners. We have provided approximately \$33 million in direct grants to community--based partners, and we have been able to leverage this funding to oversee another \$30 million in indirect funding support. Major funding sources for this work include the New York City Department of Housing Preservation and Development, the New York City Council, and the Office of the Attorney General, along with other public and private funders.

**Deed Theft: A Growing Threat for Vulnerable New York City Homeowners**

At the Center, we are always monitoring and responding to emerging threats to homeowners. Unfortunately, we are currently seeing an alarming increase in deed theft scams targeting homeowners at risk of foreclosure. Like many scammers, they present themselves as offering home-saving solutions to families desperate for a way out of foreclosure, but end up taking their homes out from under them.

Deed theft scams are a form of foreclosure rescue scam that involve the fraudulent transfer of ownership of a home to a third party. Sometimes homeowners are tricked into signing over their deed, believing they are signing some other type of legal document. For example, according to the FBI, defendants in the recent Launch Development LLC case misled homeowners into signing blank documents that they were told were mortgage modifications, when in fact, the documents were used to transfer the title to their homes.<sup>1</sup> In other cases, the homeowner may be aware that they are signing over title to their home, but are promised the transfer will be temporary as they seek a refinancing, modification, or second mortgage. After signing over title to the home, the homeowner will typically

---

<sup>1</sup> Press release: Three Men Charged in Manhattan Federal Court in Multi-Million-Dollar Scheme to Deceive Homeowners into Selling Their Homes. May 21, 2015.  
<https://www.fbi.gov/newyork/press-releases/2015/three-men-charged-in-manhattan-federal-court-in-multi-million-dollar-scheme-to-deceive-homeowners-into-selling-their-homes>

make “lease” payments to the scammer until the scammer moves to evict them in housing court and takes possession of the home, usually to sell at a profit.

### **Deed Theft Scams and the Foreclosure Crisis**

The rise of deed theft in New York City is fueled by the explosive combination of rapidly increasing home values with tens of thousands of New Yorkers struggling to avoid foreclosure. Today, tens of thousands of New York City families are in foreclosure, while many more struggle to make monthly mortgage payments. The negative impacts of the foreclosure crisis are felt citywide, but are seen particularly in communities of color, which were disproportionately targeted and harmed by the predatory lending that caused the financial crisis.<sup>2</sup> Nationally, half of the collective wealth of African--American families was lost during the Great Recession as a result of the dominant role of home equity in their total net worth and the prevalence of predatory high--risk loans in communities of color. Likewise, the Latino community lost an astounding 67% of its total wealth during the housing collapse.<sup>3</sup>

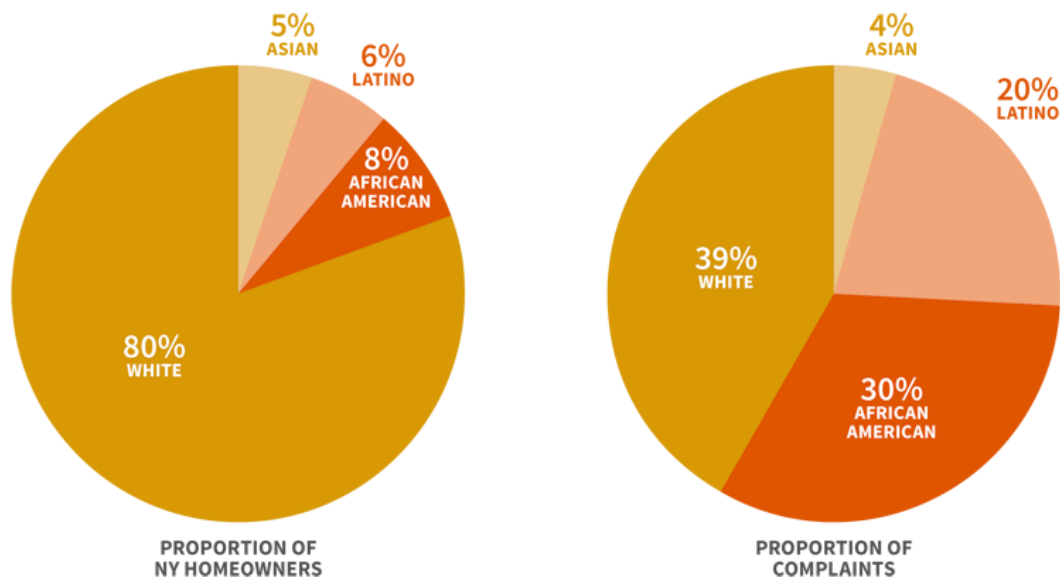
The foreclosure crisis has created a second wave of foreclosure rescue fraud. This cottage industry of groups offering foreclosure rescue services under false pretenses feeds on the desperation and confusion of homeowners, who have often been unable to reach a resolution with their banks on their own, and who do not know where to go for help. In fact, many foreclosure rescue scams today involve the same bad actors who once marketed these risky mortgage products to vulnerable communities. Once the market for originating predatory mortgages dried up, many former mortgage brokers simply stayed in the same neighborhoods and re-established themselves as supposed “foreclosure experts.”

Similar to the fallout from the foreclosure crisis, foreclosure rescue scams, including deed theft, disproportionately harm homeowners of color. As you can see in the below chart, minority homeowners are much more likely to have been scammed compared to white homeowners in New York.

---

<sup>2</sup> Center for Responsible Lending, *Lost Ground*, 2011: Disparities in Mortgage Lending and Foreclosures, at 3. Available at <http://www.responsiblelending.org/mortgage-lending/research-analysis/LostGround-2011.pdf>. See also National Community Reinvestment Coalition, *The Broken Credit System: Discrimination and Unequal Access to Affordable Loans by Race and Age*, 2003. Available at: [http://www.omm.com/omm\\_distribution/newsletters/client\\_alert\\_financial\\_services/pdf/ncrcdiscrimstudy.pdf](http://www.omm.com/omm_distribution/newsletters/client_alert_financial_services/pdf/ncrcdiscrimstudy.pdf); Center for Responsible Lending, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*, 2006. Available at: <http://www.responsiblelending.org/mortgagelending/research-analysis/unfair-lending-the-effect-of-race-and-ethnicity-on-the-price-of-subprime-mortgages.html>.

<sup>3</sup> Institute on Assets and Social Policy, Brandeis University, *The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide*, 2013, at 4. Available at <http://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf>.



**Racial Disparity of Scam Victims, by Scams Reported to the National Loan Modification Scam Database**

**Recommendations:**

At the Center for NYC Neighborhoods, combatting deed theft is a major priority. We have partnered with the New York State Attorney General’s Office to get the word out about scams and make sure homeowners know where to find free, trustworthy help with their mortgages.

The good news is that there are high-quality housing counseling and foreclosure prevention legal services available free-of-charge to all New Yorkers through Attorney General Eric Schneiderman’s Homeowner Protection Program, for which the Center serves as the New York City Anchor Partner. Homeowners can access these services through 311 or by calling the Attorney General’s Homeowner Protection Program Hotline at 855-HOME-456. In New York City, the Attorney General funds 31 community-based organizations that provide free housing counseling and legal services throughout the five boroughs.

While we’re proud of the strong network of resources available for homeowners, it will take the work of all of us to eradicate deed theft and other forms of foreclosure rescue scams. We respectfully submit the following recommendations:

### **1. Increase enforcement actions against scammers:**

We applaud recent prosecutions of deed theft scammers, including the Launch Development case, which have successfully brought criminals to justice while promoting public awareness of scams.<sup>4</sup> It is essential to continue these actions at all levels of enforcement, from County District Attorney Offices, to the New York State Attorney General's Office, to the Department of Justice at the federal level.

We would also like to see greater enforcement of existing law restricting the activities of "distressed property consultants," who provide services to homeowners seeking to avoid foreclosure. Distressed property consultants are heavily regulated at the Federal, City, and State level, and must adhere to strict disclosure requirements and a prohibition on upfront payments, among other requirements.<sup>5</sup> For example, New York City Consumer Affairs law requires that all distressed property consultant advertisements in New York City contain a prominent disclosure statement, yet almost none of them do.

### **2. Partner with us in getting the word out about scams:**

No homeowner should have to navigate the foreclosure process alone. The best way for homeowners to avoid scams is to get connected to help they can trust. Unfortunately, too many homeowners in need do not know where to turn for trustworthy help with their mortgage, and fall prey to scammers, who advertise openly, appear legitimate, and target vulnerable homeowners.

Under the leadership of the Office of the Attorney General, we created AGScamHelp.com to educate homeowners about scams and steer them to legitimate, trustworthy sources of help. Through a multipronged consumer education outreach campaign, we have placed ads on buses, on billboards, in newspapers, and online; presented at community events; and mailed educational materials to over 400 organizations across the state, as well as monthly notices to homeowners at risk of foreclosure. We are pleased with the results of our initial consumer outreach campaign, but there is more to be done and we'd like to continue partnering with council members and community-based organizations on homeowner outreach, including: events, messages to constituents, door-to-door outreach, and more.

### **3. Enhance property tracking and ACRIS mechanisms for preventing fraud:**

We applaud the Department of Finance and the New York City Sheriff for taking measures to combat fraudulent deed recordings. These measures are a great first step, and we recommend building on them by exploring further measures, such as increasing the identification and verification requirements for filing deeds, contracts of sale, or liens, as well as additional requirements for filers hiding behind the

---

<sup>4</sup> Recent deed theft prosecutions include the indictment of an NYPD officer accused of stealing a brownstone in Bedford-Stuyvesant by Brooklyn District Attorney Ken Thompson, following an investigation by New York City Sheriff Joseph Fucito, and the federal prosecution of several individuals associated with Homeowner Assistance Services of New York (also known as "Launch Development LLC") by US Attorney Preet Bharara. See <http://www.brooklynnda.org/2015/10/19/new-york-city-police-officer-indicted-for-stealing-townhouse-allegedly-transferred-title-to-bedford-stuyvesant-property-to-herself/> and <https://www.fbi.gov/newyork/press-releases/2015/three-men-charged-in-manhattan-federal-court-in-multi-million-dollar-scheme-to-deceive-homeowners-into-selling-their-homes>.

<sup>5</sup> See 7 N.Y. RPP, § 265-b, 3-a. and 28 12 C.F.R. § 1015.5. For more information on relevant law, see the Center for NYC Neighborhoods' 2014 report, Who Can You Trust? Available at: [www.cnycn.org/scams](http://www.cnycn.org/scams).

protections of Limited Liability Corporations (LLCs), specifically the complete disclosure of all beneficial owners.

**4. Provide resources to represent victims of deed theft and other forms of foreclosure rescue scams:**

While the Attorney General’s Homeowner Protection Program funds legal representation of homeowners in their foreclosure cases, there is only limited funding currently dedicated to supporting civil litigation on behalf of homeowners who have been victimized by scammers and are seeking to restore their title or get their money back. These efforts require significant resources on the part of legal services providers, as they often require a lengthy judicial process. This is especially true for victims of deed theft. Additional funding could create a litigation fund that would support cases citywide.

**5. Investigate Homeowner Anti-Harassment legislation:**

Homeowners in foreclosure often experience repeated visits at their home from foreclosure rescue scammers, who obtain their address through public court records. We are interested in exploring the creation of a “do not solicit” registry for homeowners that would levy fines against violators as part of a broader strategy to combat homeowner displacement.

**6. Support efforts to strengthen LLC transparency:**

As documented in the recent front-page New York Times article on deed theft, deed theft scammers sometimes take advantage of the anonymity provided by the LLC corporate structure to avoid detection.<sup>6</sup> When a deed has wrongly been transferred to an anonymous LLC, homeowners and their advocates have no way of determining who is behind the deed transfer. This creates major challenges for seeking redress and allow repeat offenders to avoid detection. Even if a homeowner successfully sues the LLC in court, it is quite likely they will be unable to collect on their judgment, as the scammers will move on to hide behind another LLC--and take their assets with them.

We support the de Blasio administration’s efforts to ensure that the members of LLCs are disclosed when conducting real estate transactions, and look forward to working with City Council and the Administration to bring substantial reforms at the state level.

---

Thank you for the opportunity to testify today, and for your commitment to fighting deed theft. We look forward to working with you to advance the recommendations made here.

---

<sup>6</sup> Stephanie Saul, Real Estate Shell Companies Scheme to Defraud Owners Out of Their Homes, New York Times, Nov. 7, 2015. <http://www.nytimes.com/2015/11/08/nyregion/real-estate-shell-companies-scheme-to-defraud-owners-out-of-their-homes.html>