

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE

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February 1, 2016
Start: 1:10 p.m.
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HELD AT: Council Chambers - City Hall

B E F O R E: JULISSA FERRERAS-COPELAND
Chairperson

COUNCIL MEMBERS: Ydanis A. Rodriguez
James G. Van Bramer
Vanessa L. Gibson
Robert E. Cornegy, Jr.
Laurie A. Cumbo
Corey D. Johnson
Mark Levine
I. Daneek Miller
Helen K. Rosenthal
Steven Matteo

A P P E A R A N C E S (CONTINUED)

Jacques Jiha, Commissioner
NYC Department of Finance, DOF

Annette Hill, Assistant Commissioner
Land Records and NYC Register

Joseph Fucito
NYC Sheriff's Department

Caroline Nagy, Policy Manager
Center for New York City Neighborhoods

Belinda Liu, Staff Attorney
MSY Legal Services

Rose Marie Cantanno, Supervising Attorney
Foreclosure Unit
New York Legal Assistance Group

Jenny Eisenberg, Staff Attorney
Foreclosure Prevention Project
South Brooklyn Legal Services
Legal Services of New York City

Stacy Woods, Staff Attorney
Foreclosure Prevention Project
Queens Legal Services

Jenny Braun-Friedman, Staff Attorney
Legal Aid Society

Gloria Sandiford, President
Bedford-Stuyvesant Real Estate Board, Inc.

Andrew Malozemoff, Staff attorney
Consumer Economic Advocacy Unit
Brooklyn Legal Services Corporation A

Thomas De Forage
Retired Teacher

Paula Segal, Attorney
Director of 596 Acres
Community Land Access Advocacy Organization

2 [sound check, pause]

3 CHAIRPERSON FERRERAS-COPELAND: Good
4 afternoon, and welcome to today's hearing on the
5 City's efforts to combat real property deed fraud.
6 I'm Julissa Ferreras-Copeland, and I am the Chair of
7 the Finance Committee. Thank you to everyone for
8 joining us today. Imagine that one day someone
9 knocks on your door, and tells you that you no longer
10 own the home that you grew in, that it was passed
11 down to you --that was passed down to you and your
12 parents. Your first reaction would be shock and
13 disbelief. You know you didn't sell your house, but
14 because of deed fraud, this scenario is becoming too
15 familiar across households in New York City. With
16 our foreclosure crisis and rising property values,
17 has made deed fraud an easier and more lucrative
18 crime to commitment. Today, the committee will hear
19 testimony from the Commissioner of the Department of
20 Finance to learn more about efforts he's taking to
21 combat this growing problem. We will also hear from
22 members of the public and advocates who work with the
23 victims of these crimes. By way of a brief
24 background, deed fraud scams occur when homeownership
25 is fraudulently transferred to a third party. Deed

2 fraud can typically be divided into two categories:
3 Forged deeds and fraudulent transfer deeds. In the
4 case of forged deeds, the scammer will create a fake
5 deed signed as the buyer, and also forge the
6 signature of the homeowner. Cases of fraudulent
7 transferred deeds occur when a property owner signs
8 over a deed to a third party either knowingly or
9 unknowingly under false pretenses. The criminals who
10 perpetuate these frauds typically prey on the city's
11 most vulnerable homeowners, those who are falling
12 behind in their mortgages and facing foreclosure,
13 those who may need--who may have had a death in the
14 family and had property change hands through
15 inheritance, and the elderly. But homeowners should
16 know that anyone can be a victim of these crimes. We
17 have all read the newspaper story detailing the
18 stories of people as varied as the owners of multi--
19 multi-million dollar town homes in Manhattan to
20 elderly homeowners within the rapidly gentrifying
21 neighborhoods of Brooklyn to those hardest hit by
22 foreclosure crisis in Southeast Queens. There are
23 two officers within DOF that have authority over
24 deeds and combating deed fraud. First, the City
25 Registry is responsible for recording and maintaining

2 all official documents including deeds related to
3 transfer of all property in Manhattan, Brooklyn,
4 Queens and the Bronx. In Staten Island this function
5 is carried out by the County Clerk, which is not
6 under DOF's jurisdiction. Second, the Office of the
7 City Sheriff is the investigatory arm of DOF and
8 investigates cases of alleged deed fraud flagged by
9 the City Register. As a peace officer, if the
10 Sheriffs determine that a crime has become---has been
11 committed, he is authorized to make an arrest and
12 refer the case to the District Attorney's Office for
13 prosecution.

14 I commend the Commissioner of DOF for
15 recognizing the need for action on this issue, and
16 taking steps quickly after his appointment to make
17 policy changes to deter fraud. Some of these
18 initiatives include a policy to refer cases to
19 suspicious deed identified by the City Register, to
20 the Sheriff for investigation. A notice of recorded
21 document program, that sends alerts to property
22 owners when a document is recorded against their
23 property. And a change to the real property transfer
24 tax in turn that requires the disclosure of the names
25 of all members of an LLC that buys or sells property.

2 The committee looks forward to learning more details
3 of each of these programs to monitor how effectively
4 they have been, and to hear recommendations of
5 further improvements that can be made to protect the
6 innocent homeowner from deed fraud.

7 Before we hear testimony, I'd like to
8 thank the staff of the Finance Division for the
9 preparation of this hearing, specifically my Chief
10 Counsel Tanisha Edwards, and Assistant Counsel
11 Rebecca Chasen. We will now hear from Jacques Jiha
12 the Commissioner of DOF, Annette Hill, the City
13 Register and Joseph Fucito from New York City
14 Sheriff. You may begin your testimony. Oh, I'm
15 sorry, you have to be sworn in.

16 LEGAL COUNSEL: Do you affirm that your
17 testimony will be truthful to the best of your
18 knowledge, information and belief?

19 COMMISSIONER JIHA: Yes. [coughs] I
20 affirm.

21 LEGAL COUNSEL: Okay.

22 COMMISSIONER JIHA: Well, good afternoon,
23 Chair Ferreras-Copeland, and members of the City
24 Council Committee on Finance. I am Jacques Jiha,
25 Commissioner of the New York City Department of

2 Finance. I am joined today the Sheriff Joseph Fucito
3 and Annette Hill, Assistant Commissioner of Land
4 Records and the City Register, the two people leading
5 our efforts to curb the deed fraud. I want to
6 publicly thank them and their staff for their efforts
7 on behalf of the citizens of this great city. Deed
8 fraud is a very serious crime, and has become more
9 prevalent across the country in recent years
10 especially in places like New York City that have had
11 a booming real estate market. The increased
12 incidents [coughs] of recording fraudulent deeds are
13 of great concern to us because when such a criminal
14 act takes place it results in the theft of what is
15 the largest and most important asset we own, our
16 home. Deed fraud occurs when someone files a
17 transfer of your property without your consent or
18 permission, or when you mistakenly sign over your
19 property to someone else because you are misled or
20 tricked in the transaction. [coughs] Fraudulent
21 deeds are often used to commit other fraudulent
22 activity such as securing mortgages, setting up phony
23 short sales, or renting properties that are in
24 foreclosure. Deed fraud is a crime that targets our
25 most vulnerable citizens, the elderly, minorities and

2 immigrants. Those who may be less savvy about real
3 property transactions. Please rest assured that were
4 committed to combating it with every resource at our
5 disposal.

6 What is the City doing for the property
7 owners? [coughs] The most important step that we
8 can take is to make it more difficult to record
9 fraudulent deeds in the first place. Once a
10 fraudulent deed is recorded, the rightful owner has
11 to spend time and money to prove ownership. Our
12 challenge, however, is that by law the City Register
13 is required to perform the administrative act of
14 recording the deed as long as it is in recordable
15 form meaning it is certified by a public notary. It
16 has a seller's signature, and in certain
17 circumstances a buyer's signature and includes all
18 other required legal documents. There is not much
19 room for us to negotiate the law. This is a
20 challenge from municipalities throughout the country,
21 [coughs] and there are registers like our City
22 Register that are legally obligated to record deeds
23 that meet these basic standards. We have, however,
24 take affirmative steps to collect this fraudulent
25 activity including training our staff to better leave

2 your documents that might be suspected of deed fraud.
3 We have also put in place a number of safeguards the
4 most important of which is the instruction of the
5 Sheriff's Office in the review process. We now
6 automatically inform property owners by mail when a
7 deed is filed against their property, and encourage
8 them to register for our upend notification program
9 to review emails, or text alerts when documents are
10 recorded against their property. The quicker
11 fraudulent activity is detected, the quicker the
12 problem can be resolved. Beyond the Notification
13 Program [coughs] we now request limited liability
14 companies, LLCs, which have been used by some
15 criminals in deed fraud scams to shield their
16 identities to now disclose the names of their members
17 when recording the deed. We have also installed
18 cameras in all our offices where deeds are recorded.
19 After an internal review of our recording process,
20 our staff out of City leases (sic) office quickly
21 learned that of the many types of deeds, quitclaim is
22 most often used with committing deed fraud because it
23 does not guarantee that the grantor owns the title to
24 the property. Our staff now pays closer attention to
25 these documents. Where there's a discrepancy with

the recording, it is automatically referred to the Sheriff's office for a second review where the staff then contacts the respective parties both buyer and seller. If the deed is a original(sic), the Sheriff will work with the filer to fix the defects and the filing will move forward. If however the deed is fraudulent the Sheriff opens an investigation. Examples of other types of deed--of recordings that will trigger an additional review are those with the sale price far below market value. Multiple transfers between LLCs during a short period of time or transfers by people or entities known to have committed or have been suspect of deed fraud in the past. These changes have had significant effects. Since July of 2104 [coughs] when we increased our focus on this issue, 1,133 cases have been referred to the Sheriff's Office. We have closed out 474 cases, completed 134 criminal investigations with the District Attorney's Offices, and we have 525 investigations in various stages of development. We have made 17 arrests related to 28 properties with a market value of \$19 million. Even with these big tools, we are continuously assessing and evaluating our operations to enhance ways to detect in moving

2 forward. These include hiring more deputy Sheriffs
3 and investigators to handle the growing number of
4 cases in looking at technol--how technology can be
5 used to improve detection. In addition to these
6 evasive actions, we are also working with the press
7 and community organizations such as Center for New
8 York City Neighborhoods to raise awareness about deed
9 fraud. In these efforts, we are encouraging New
10 Yorkers to be proactive. Now, with communications we
11 advise property owners to call or walk into the
12 Sheriff's Office right away if there is activity on
13 their property records that is not legitimate. We
14 have included a phone number and the web contact
15 information for the Sheriff's Office on our website
16 at nyc.gov/finance. The chains (sic) of deed fraud
17 are those we suspect fraud. We also reach out to the
18 district attorney in their borough. The first
19 district attorneys have been key partners in these
20 investigations and executions.

21 Administrative changes alone cannot
22 prevent or detect all deep fraud scams. [coughs] As
23 a result, we have introduced legislation in Albany to
24 erect barriers that extend beyond the Department of
25 Finance recording function. Our legislative proposal

2 is based on nationwide best practices and is reported
3 by the National Notary Association. The proposed
4 legislation would require applicants for notary
5 republic, who specialize in estates, deeds, and
6 powers of attorney to submit finger prints during the
7 application process. Public notaries and the
8 Commissioner of Deeds will be required to completed a
9 record--a record of every notary recording involving
10 a certain type of residential party documents. These
11 documents would be submitted to the City Register's
12 Office, the Richmond--Richmond County Clerk or the
13 tele company--insurance company, financial
14 institutions or law firm for which the notary is an
15 employee or an agent. Doing this would provide a
16 record of transactions that could be referenced
17 during a the fraud investigation. [coughs] Follow-
18 up proceedings related to deed fraud, our proposed
19 legislation would require the prosecuting attorney to
20 file a Notice of Pendency against the property in its
21 county within ten calendar days of a criminal
22 complaint. The pendency notice would prevent the
23 property in dispute from further changing hands or
24 having a mortgage taken against it during an inactive
25 court case. Moreover, we propose making fraudulent

2 real property recordings a more serious offense.

3 This legislation will go a long way in reducing the
4 incidents of deed fraud, and we need the Council's
5 support to push this legislative package in Albany.

6 What can people do to protect themselves
7 [coughs] to protect to their property--properties.

8 First, we advise people to review your property
9 records annually for activity. This information is
10 available on our website at nyc.gov/finance through
11 the Automated City Register Information System
12 commonly referred to as ACRIS where you can review
13 property records. We also advise people to register
14 your property with the City Register's Office. We
15 have a program called the Notice of Recorded
16 Documents. Once you register, you will be notified
17 by text or email when there is any activity on your
18 property. It is free and you can register online.
19 Check with the Department of Finance if you stop
20 receiving property tax or water bills or if any of
21 your utility bills suddenly increase. If you own a
22 property in New York City that is not occupied, we
23 recommend that you check it often to make sure it is
24 not illegally occupied. If you are going away for a
25 long period of time, ask someone you trust to check

2 on your property regularly while you are gone. Have
3 your mail collected so that it does not pile up, a
4 signal the house is unoccupied. Be extremely careful
5 of people or organizations that offer you cash to
6 help you with loan modifications or foreclosure
7 prevention. Never turn over your deed or transfer
8 ownership of your home to a mortgage assistance
9 company. Do not sign any property related documents
10 that you do not understand. We encourage people to
11 first consult with a trust attorney before signing
12 any papers. Do not hire a lawyer referred to you by
13 someone who might have a vested interest in your
14 property such as a realtor. From our investigations
15 perpetrators of deed fraud operate as an organized
16 gang. They have their own attorneys, mortgage
17 bankers, notaries, title companies, and real estate
18 brokers. Use the title company that you are vetted
19 for real estate transactions and make sure that the
20 title insurance has deed fraud protection.

21 Now, [coughs] what can you do if you are
22 a victim of deed fraud in the city? First, act
23 quickly. Don't wait or let feelings of embarrassment
24 delay getting help. The more time that passes, the
25 more difficult it may be to regain the legal title

2 because of how quickly the property can be
3 transferred, perhaps multiple times. File a
4 complaint with the New York City Sheriff's Office.
5 It is important that they open a criminal
6 investigation. Hire an attorney to help you regain
7 legal title to your property. Check to see if your
8 current insurance policy covers deed fraud. This
9 could help if you're covering--this could help cover
10 the costs associated with hiring an attorney. If you
11 cannot afford one, contact the New York State
12 Attorney General's Office. They work with partners
13 to provide free assistance to homeowners throughout
14 the state. Their website is AGscamhelp.com (sic). I
15 hope that my testimony today has given you new
16 insight into the seriousness and pervasiveness of
17 deed fraud. As long as--as well as a concrete
18 outline of the measures we have taken to reduce such
19 fraudulent activity. We look forward to working with
20 you on our legislative agenda to secure the tools it
21 needed to combat this serious crime. Thank you for
22 your time. I will now take your questions.

23 CHAIRPERSON FERRERAS-COPELAND: Thank
24 you, Commissioner. We've been joined by Minority
25 Leader Matteo and Council Member Miller.

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2 Commissioner, can you walk us through the process of
3 how a deed is recorded with the City Register?

4 COMMISSIONER JIHA: Well, let me--I have
5 the City Register here with me, and she could give
6 you more detailed knowledge that I can.

7 CHAIRPERSON FERRERAS-COPELAND: Even
8 better.

9 ASSISTANT COMMISSIONER HILL: Okay. Hi,
10 good afternoon. Once the, um, once received, the
11 deed document is reviewed to ensure all paperwork
12 such as the Transfer Tax forms, State Transfer
13 Report, the required recording cover pages are
14 included. The document is then scanned into the
15 Automated City Register System known as ACRIS. The
16 application, ACRIS will flag the document as
17 suspicious if any of the system indicators exist. If
18 the document is not flagged, it will be reviewed and
19 examined to ensure it meets recording standards. If
20 yes it meets the standards, it will be accepted and
21 if payment was made, then get recorded, and become
22 available in the public record. If it's rejected,
23 the submitter of the document will receive an email
24 detail--detailing the reasons for our rejection, and
25 the document will be returned for correction and

2 resubmission. If it is flagged as suspicious, it
3 will then be routed to supervisor and the review unit
4 for additional research and review, and then if
5 possible referred to the Sheriff for additional
6 investigation.

7 CHAIRPERSON FERRERAS-COPELAND: Can you
8 tell me what--what is a flag? When you say you had
9 noted a flag--

10 ASSISTANT COMMISSIONER HILL:
11 [interposing] Right.

12 CHAIRPERSON FERRERAS-COPELAND: What's a
13 flag in your program?

14 ASSISTANT COMMISSIONER HILL: We've
15 implemented several flags within the ACRIS system to
16 highlight the--possibly for when a document is
17 submitted to the office. Um, what happens, the--the--
18 the system will automatically notify the examiner
19 that this might be suspect. And the flags are (1) is
20 if it comes and there's no valid I--EIN, your
21 employee identification number or the Social Security
22 number, associated with the tax return, and there's
23 no recent explanation as to why there is not a valid
24 number. If the internal consideration of the
25 transfer is zero, and there's no other reasons noted

2 on the tax form why it would be a zero consideration.
3 If the total consideration of the transfer is less
4 than the assessed value of the property, if the same
5 person presenting the document is the buyer, and the
6 same person indicated on the documents to have the
7 documents returned to them. If the owner--or the--
8 the owner or the seller is not in ACRIS meaning
9 there's no prior ownership information in ACRIS.
10 ACRIS has a history--49 years of history so we could
11 actually know, you know, a chain of who the property
12 is owned by. And also, that customer who has been
13 flagged in the past for submitting fraudulent
14 documents. Those are the indicators.

15 CHAIRPERSON FERRERAS-COPELAND: So,
16 Commissioner, in your testimony you mentioned
17 including cameras.

18 COMMISSIONER JIHA: Yes, we--we began--

19 CHAIRPERSON FERRERAS-COPELAND: Why?

20 COMMISSIONER JIHA: Because, you know,
21 after a crime is committed then we could go back and
22 who was who, who committed the crime and then, you
23 now.

24 CHAIRPERSON FERRERAS-COPELAND: So that
25 helps the Sheriff?

2 COMMISSIONER JIHA: No, that would help--
3 that helps the--the Sheriff.

4 JOSEPH FUCITO: When we present material
5 to the grand jury, it would be very helpful to have
6 photographic evidence of the person actually leaving
7 a copy of the deed at the City Register's Office. It
8 ties the person to the crime.

9 CHAIRPERSON FERRERAS-COPELAND: Okay, and
10 when you have someone come in--I know that you said
11 fraudulent EIN or Social Security--

12 ASSISTANT COMMISSIONER HILL:
13 [interposing] Uh-huh.

14 CHAIRPERSON FERRERAS-COPELAND: --do you
15 retain identification of people that are coming to
16 you to register? Do you ask for identification?

17 ASSISTANT COMMISSIONER HILL: That is not
18 required by law for us to--to obtain that
19 information. We--we--we--documents would come in in
20 several ways. This comes in electronically meaning
21 there's nobody in front of us. It's uploaded into
22 the system. It could be mailed in or--or actually it
23 could be brought in and dropped in to the office.

24 CHAIRPERSON FERRERAS-COPELAND: So just
25 so that I understand. I know the Commissioner, we

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2 were talking about kind of the values that we have.

3 We've reached a trillion dollars. So I guess that

4 there's a lot of movement in New York City. So on

5 average how many deeds or did--how many of these

6 processes do you see in a year or a month or whatever

7 you know.

8 ASSISTANT COMMISSIONER HILL: I, you--you

9 mean in docs--these in general or--

10 CHAIRPERSON FERRERAS-COPELAND:

11 [interposing] Yes, ma'am.

12 ASSISTANT COMMISSIONER HILL: Okay. So

13 Fiscal Year 15 we recorded 83,256 deeds.

14 CHAIRPERSON FERRERAS-COPELAND: I'm

15 sorry, can you say that again?

16 ASSISTANT COMMISSIONER HILL: Recorded

17 83,256 deed and for our overall recording of

18 documents was 437,000 documents. So that's just the

19 recorded. So we reject about 17% of the documents

20 that comes in.

21 CHAIRPERSON FERRERAS-COPELAND: Seventeen

22 percent of the 4,000 or--?

23 ASSISTANT COMMISSIONER HILL: Yes, 17--

24 17--no, the 4,000 swatch was actually recorded. So

25

2 an additional 17% didn't get recorded. They were
3 rejected.

4 CHAIRPERSON FERRERAS-COPELAND: Okay,
5 when you--when you reference the 17%, I'm trying to
6 understand what--17% of what? Of the 83 or the
7 4,000.

8 ASSISTANT COMMISSIONER HILL: Well, we
9 will--we would--we get more than 400,000 documents.

10 COMMISSIONER JIHA: 400,000 documents,
11 not 4,000.

12 CHAIRPERSON FERRERAS-COPELAND: Oh, oh.

13 ASSISTANT COMMISSIONER HILL: 400,000.
14 I'm sorry.

15 CHAIRPERSON FERRERAS-COPELAND: Okay.

16 ASSISTANT COMMISSIONER HILL: I misspoke.

17 CHAIRPERSON FERRERAS-COPELAND: I was
18 going to say 4,000 seems a little light.

19 COMMISSIONER JIHA: No, 400,000.

20 ASSISTANT COMMISSIONER HILL: 400,000.

21 CHAIRPERSON FERRERAS-COPELAND: 400,000.

22 ASSISTANT COMMISSIONER HILL: Yes.

23 CHAIRPERSON FERRERAS-COPELAND: Okay,
24 that's a big difference.

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2 ASSISTANT COMMISSIONER HILL: Yes.

3 [laughs]

4 CHAIRPERSON FERRERAS-COPELAND: And of
5 the 400,000 it's 17%?

6 ASSISTANT COMMISSIONER HILL: Yeah, about
7 17% gets--gets rejected.

8 CHAIRPERSON FERRERAS-COPELAND: Get
9 rejected.

10 ASSISTANT COMMISSIONER HILL: Uh-huh.

11 CHAIRPERSON FERRERAS-COPELAND: And what
12 happens after someone is rejected? Do you send them
13 the documents? You send them a list? So you could
14 be sending the fraudulent person the list?

15 ASSISTANT COMMISSIONER HILL: Yeah, well,
16 when--when something is rejected, we're required--
17 we're required by law to detail why we cannot record
18 it. So we have to, um, let the person know we're
19 rejecting a document and these are the reasons why we
20 cannot record it. Yes.

21 CHAIRPERSON FERRERAS-COPELAND: Now, this
22 obviously raises a flag on the property--

23 ASSISTANT COMMISSIONER HILL:
24 [interposing] Yes.

25

2 CHAIRPERSON FERRERAS-COPELAND: --right.

3 So if someone tries to do it under another name,
4 another time, and another time, what--what are--what
5 are the tools that you have available? You just keep
6 rejecting it and going through the process or what
7 happened.

8 COMMISSIONER JIHA: And that would be
9 referred to the Sheriff.

10 CHAIRPERSON FERRERAS-COPELAND: That would
11 be referred to a Sheriff for sure.

12 ASSISTANT COMMISSIONER HILL: And we--we--
13 -we also track. If someone--something comes in, we
14 have reports--so if something keeps coming in, the
15 staff is aware that we've gotten this document a few
16 times, and then that's also a flag that we would send
17 it to the Sheriff for additional review.

18 CHAIRPERSON FERRERAS-COPELAND: Okay.

19 Um, so Sheriff, everything is coming to you?

20 JOSEPH FUCITO: Yes.

21 CHAIRPERSON FERRERAS-COPELAND: Once a
22 case is referred to you, can you walk me through the
23 investigation?

24 JOSEPH FUCITO: Sure. Let me give you a
25 little prepared item. So the Sheriff's Office

2 conducts criminal investigations pursuant to County
3 Laws 650 and 901. If the Sheriff determines there's
4 probably cause to make an arrest, the matter is
5 referred for prosecution to the appropriate district
6 attorney. The Sheriff's role in the investigation
7 does not terminate after the referral. The
8 prosecutor will review the material with the
9 Sheriff's detectives to determine if there's enough
10 evidence for a successful prosecution. The DA may
11 request a more detailed interview with witnesses,
12 service of grand jury subpoenas, a review of
13 subpoenaed documents or financial records, and deputy
14 Sheriff, Sheriff detective and Sheriff criminal
15 orders assigned to the case will perform those
16 functions to advance the prosecution. They will work
17 internally or jointly with investigators assigned to
18 the DA. If the prosecutor feels there is sufficient
19 evidence or if a grand jury has indicated the
20 suspect, Sheriff's detectives or deputies are
21 assigned to make the arrest. They will coordinate
22 the arrest with the DA investigative staff.
23 Additional deputies are assigned to handle logistical
24 problems during an arrest such as unattended animals
25 or suspects with health concerns, and all

2 investigations utilize the Sheriff's partnerships in
3 law enforcement with DOI, NYPD, the FBI, IRS and the
4 five district attorney offices. So that's a quick
5 overview. When a case comes to us, we have to look
6 at the 12 or 13 documents that are filed to determine
7 is there any elements of a crime? Because that's all
8 the sheriff can look for. Is there criminal element
9 involved in this transfer. Sometimes these transfers
10 look suspicious but are not. A person--a married
11 woman changed her name so on some tax documents she
12 had her maiden name, and on other tax documents she
13 uses her--her married name. So that's a case that
14 would be closed out because there's no criminal
15 activity involved. When we start seeing evidence of
16 potential criminal activity we try to contact the
17 individuals involved to find out was this a mistake?
18 Do they have an issue with the--the forms that were
19 presented? Did they misread the forms? Did they use
20 an inappropriate Social Security number? Depending
21 on the dialogue that we have with the filing parties,
22 if they provide enough documentation to show that
23 these were legitimate mistakes, then we will refer
24 them back to the Register to--to correct these
25 problems so they can successfully record their deed.

2 If they do not cooperate in the investigation, then
3 we start looking at each of these elements to see if
4 we can prove that there is criminal intent. We--and-
5 -and it is--it is very time consuming because it's 12
6 documents that we have to look at. We want to look
7 at all the parties that are involved in these
8 transactions. Many times the seller is involved or
9 acquiesced to the transfer of the property not
10 realizing that they are, in fact, a victim.
11 Sometimes that transfer occurs after the fact. So
12 there's nothing we can do if they legitimately
13 transferred their property. It's not that we can't
14 fraud. We can and we have made arrests for those
15 type of fraud cases, but it is the most difficult
16 type of case to prove. So we're always looking at
17 the--the individual filing, but from the charts that
18 you'll see, many of the investigations are related to
19 one another. We have a significant overlap in the
20 investigations involving the--the transfer of
21 property in New York City.

22 CHAIRPERSON FERRERAS-COPELAND: So, when
23 you've identified the case. That was actually my
24 next question. So when the victim is someone that
25 has--and I've seen this in my office, someone comes

2 and says, you're going into foreclosure. Sign the
3 house over to me. Then I'll sell the house back to
4 you. The person obviously signed the deed. So what
5 happens in the recording process while you start your
6 investigation?

7 JOSEPH FUCITO: If the--the person signed
8 the deed, and we cannot prove any other type of
9 criminal intent or we can't prove that there was a
10 crime or that the documents that were presented are
11 not false because the person willfully acquiesced to
12 it, then they have the right to have it recorded.
13 That's another type of fraud. That's a civil fraud
14 where a person could seek relief in courts for this
15 transfer. But it--in fact, the person was somehow
16 part--

17 CHAIRPERSON FERRERAS-COPELAND:

18 [interposing] Okay.

19 JOSEPH FUCITO: --of the process, it
20 makes it very difficult if not impossible to prove
21 criminal intent.

22 ASSISTANT COMMISSIONER HILL:

23 [interposing] So what do you do in that case? That's
24 what I'm asking.

2 JOSEPH FUCITO: We--we--we state that
3 there's no--we can't prove crime. That's all the
4 Sheriff can do is if there's criminal activity, the
5 Sheriff will pursue the criminal activity with the
6 end result of trying to make an arrest. For any
7 crime, is the process of--

8 CHAIRPERSON FERRERAS-COPELAND:
9 [interposing] So for like a senior who's, and I guess
10 Commissioner, this speaks to the bigger picture,
11 right.

12 COMMISSIONER JIHA: Yes.

13 CHAIRPERSON FERRERAS-COPELAND: And I
14 understand that you're very limited in your capacity,
15 but for a senior who was just told this, is a victim,
16 and then the Sheriff says well there is no crime
17 here, could you--I--I understand that you can--you
18 can understand how confusing that could be, and why
19 people would probably not continue to engage or call
20 or do any of that. So, you know, how do you foresee
21 this legislation helping you in that case?

22 COMMISSIONER JIHA: Well, this is the
23 challenge that we are- You know, when you have
24 people, you know, who participate in it, and--and as
25 a result, you cannot prove there is a crime been

2 committed. It's--the legislation up there in Albany
3 we don't have anything per se in the legislation to
4 deal with this issue because one you sign, it's
5 basically giving your consent to it. And--and then
6 there would be a number of reasons why buyers and
7 sellers would be-- Most people want to back half of a
8 deal after--after the fact, or sometime they were
9 just tricked into it, which is very often the case.
10 And this is where it ends a tie because we don't have
11 really a lot of tools.

12 CHAIRPERSON FERRERAS-COPELAND:

13 [interposing] So is there any referral or any
14 opportunity for you to refer to the legal services
15 that you had mentioned the--

16 COMMISSIONER JIHA: [interposing] That is
17 a--

18 CHAIRPERSON FERRERAS-COPELAND: --
19 Attorney-General, but--

20 COMMISSIONER JIHA: [interposing] Yeah,
21 we talked with--so we talked with the Attorney-
22 General's Office to see if we could get some help.

23 CHAIRPERSON FERRERAS-COPELAND: And how
24 many of the cases that you have deemed fraudulent
25 that may have been approved by the Sheriff? You may

2 not have this number here? David I'd like to see
3 have you referred to the AG's Office?

4 JOSEPH FUCITO: We--we--always give any
5 person that comes in with a complaint, we refer them
6 to different parties because they need to start
7 moving in the civil forum to recover their property.

8 CHAIRPERSON FERRERAS-COPELAND: And who
9 are these parties? Do you---

10 JOSEPH FUCITO: Any complainant. Let's
11 say a complainant comes in, we go the centers for the
12 neighborhoods in New York. We refer them to the
13 Attorney-General.

14 CHAIRPERSON FERRERAS-COPELAND: Okay.

15 JOSEPH FUCITO: We can't specifically
16 refer them to a law firm, but we--we--

17 CHAIRPERSON FERRERAS-COPELAND:

18 [interposing] No, right, I got you.

19 JOSEPH FUCITO: We--we--we--we refer them
20 that it's so important to start to try to cloud the
21 title on this property so that they don't lose their
22 interest like quickly obtain a notice of pendency to
23 show that there's a cloud over the ownership issues.
24 And that could protect their rights until they can
25 get a court order returning the property to them.

2 CHAIRPERSON FERRERAS-COPELAND: Okay.
3 We've been joined by Council Members Gibson,
4 Rosenthal, and Levine. I have one more question, and
5 then I'm going to come back for a second round
6 because I want to give my colleagues an opportunity
7 to ask their questions. I see that you've brought
8 these charts, and the Sheriff made mention to them.
9 Can you help me understand what types of properties
10 are generally targeted, and it's mostly single family
11 homes, or do you feel that some small multi-family
12 homes or condos are targeted as well?

13 JOSEPH FUCITO: It's everything. It's
14 anything that looks easy to take. That's what most
15 criminals target.

16 CHAIRPERSON FERRERAS-COPELAND: So
17 abandoned.

18 JOSEPH FUCITO: Abandoned or the--the
19 scenarios that we've described where the person was
20 not sophisticated in--in the financial realm, and
21 they took advantage of them. It's anything that's an
22 easy mark. So the easier that you make it for
23 somebody to steal your property, those are the
24 targets that--those are the properties that somebody
25 is going to try to acquire. It's--it's just a matter

2 of what makes it easier? What's the easiest thing to
3 steal? So we're seeing--as you mentioned earlier, we
4 had condominiums in New York County. We have lots
5 of land. It's just a simple lot of land in Brooklyn,
6 because Brooklyn is a developing real estate market.
7 We have homes in Queens, we have homes in Brooklyn.
8 We have townhouses. We have apartment buildings.
9 So, we're--we're seeing all shapes and sizes, the
10 types of fraud going on to acquire real property.

11 CHAIRPERSON FERRERAS-COPELAND: This
12 sounds like the perfect nightmare for a homeowner,
13 and I'm very--I really very much want to work with
14 you, Commissioner and all the parties to make sure
15 that we put this as a legislative priority for us on
16 the state level. We are now going to hear from
17 Minority Leader Matteo followed by Council Member
18 Miller for questioning.

19 COMMISSIONER JIHA: [interposing] Let me--
20 let me make one additional point---

21 CHAIRPERSON FERRERAS-COPELAND:
22 [interposing] Yes.

23 COMMISSIONER JIHA: --that I feel, which
24 is important. When this issue was first brought to
25 our attention in mid-2014, and we realized there was

2 no city agency with jurisdiction over this crime.
3 None. Okay. We basically inserted ourselves into
4 the process because there was nobody, and the
5 complaints were coming to us. So it is very
6 important, that this is something that we find a way
7 to institutionalize.

8 CHAIRPERSON FERRERAS-COPELAND: Thank
9 you, Commissioner, but we need to give you the tools
10 to be able to do something other--

11 COMMISSIONER JIHA: [interposing] Yes,
12 because I--

13 CHAIRPERSON FERRERAS-COPELAND: --than
14 collecting data that can only make things more
15 frustrating. Minority Leader Matteo.

16 MINORITY LEADER MATTEO: Thank you, Madam
17 Chair. So, in Staten Island sometimes a lot of the
18 cases we process is a little bit different, and the
19 Staten Island Clerk is responsible for our documents
20 related to Staten Island. So can you just explain
21 your cooperation and dealings with the Staten Island
22 County Clerk in--in terms of how you are combating
23 deed fraud the--the relationship that you're having
24 in terms of all documents?

2 JOSEPH FUCITO: Well, the County Clerk
3 and the Sheriff have an ancient relationship. The
4 County--the Sheriff must make it returnable as
5 mandates to the County Clerk. So we have a constant
6 dialogue. Involving deed fraud, we had presented to
7 the County Clerk that we are available if they want
8 to refer cases to us. As part of our investigation
9 we will go to the County Clerk's Office, and we will
10 pull up the County Clerk's records to look at the
11 filings. And that's pretty much the interaction that
12 we're having with the County Clerk in Richmond.

13 MINORITY LEADER MATTEO: So, you--you go
14 to them and--and the onus is on them then to contact
15 you?

16 JOSEPH FUCITO: Yes, I--I--he's an
17 independent public officer.

18 MINORITY LEADER MATTEO: And has that
19 worked in the past and--?

20 JOSEPH FUCITO: Yes.

21 MINORITY LEADER MATTEO: And the--and I'm
22 down. I'm certainly not complaining that I only see
23 open--two open cases on Staten Island. Is that they
24 have come to you, or--?

2 JOSEPH FUCITO: These are cases that we
3 believe that they're criminal intent. We have
4 received more, but we--we were able to show that
5 there was no criminal activity involved in these
6 transfers.

7 MINORITY LEADER MATTEO: So, just sort of
8 clarifying what you're saying. So the two that I see
9 here, those--those are the ones with criminal intent?

10 JOSEPH FUCITO: Yes.

11 MINORITY LEADER MATTEO: Then there are
12 others that were--

13 JOSEPH FUCITO: Correct.

14 MINORITY LEADER MATTEO: --a mistake or
15 that they have contacted you to look into or that--?

16 JOSEPH FUCITO: Yes. What--what happens
17 is a person makes a complaint in the County Clerk's
18 Office. They have given the number Sheriff and they
19 say you can contact the Sheriff. He'll investigate
20 it. We've taken complaint calls from individuals,
21 and we've determined they misread their deed. They--
22 let's say they had a--a 90% interest in a piece of
23 property, and the other person sold the 10%. They
24 see the sale, and they automatically assume that they
25 were divested of all their interest, and they were

2 not. So these examples of issues where there's no
3 criminal intent.

4 MINORITY LEADER MATTEO: So just has this
5 been the--has it always been a low number on Staten
6 Island in the past?

7 JOSEPH FUCITO: We've only been doing
8 this since July of 2014, and that's all I can speak
9 to.

10 MINORITY LEADER MATTEO: Before--

11 JOSEPH FUCITO: [interposing] Right.

12 MINORITY LEADER MATTEO: And you have no--
13 -no records of before that

14 JOSEPH FUCITO: We never--we didn't
15 investigate this.

16 MINORITY LEADER MATTEO: Okay. Great.
17 Thank you.

18 CHAIRPERSON FERRERAS-COPELAND: Thank
19 you. Council Member Miller followed by Council
20 Member Rosenthal and we've been joined by Council
21 Member Cumbo.

22 COUNCIL MEMBER MILLER: Thank you, Madam
23 Chair and thank you Commissioner and your team for--
24 for being here. Obviously, this is a--a major issue
25 in Queens, and--and something that we've had a lot of

2 conversation about, and really looking forward to
3 passage of serious legislation, and being able to
4 give you the tools and the resources to be able to--
5 to fight this crime. So one of the things I did want
6 to talk about was--was the staffing and--and the
7 tools and the staff that was available to you
8 currently. What resources are you using to combat
9 this?

10 COMMISSIONER JIHA: Well, initially we
11 had none. Just basically--basically tap into the
12 Sheriff's Office since the Sheriff's Office reports
13 to the Finance Department, but since then, we--we've
14 had--we are about five--

15 JOSEPH FUCITO: [interposing] We had five
16 and we to five more.

17 COMMISSIONER JIHA: We have five. We had
18 five deputy sheriffs, and we have five more coming.
19 But again, we have a growing number of cases, and to
20 the extent that have more resources, the better it
21 will be--will be.

22 COUNCIL MEMBER MILLER: And---and what--
23 what kind of investigative experiences do--does this
24 team have?

2 JOSEPH FUCITO: The head of our Bureau of
3 Criminal Investigation has 27 years investigating all
4 manner of financial crime. Our Deputy Chief has 32
5 years of investigative experience. All of our
6 investigators go through the basic course for police
7 officers, and they're constantly being sent to
8 various training academies throughout the state. And
9 we are actually developing a core of investigators
10 that can handle this type of investigation. I--I--I
11 would say it would be very difficult to find a police
12 agency that has dedicated this much resource to this
13 particular crime.

14 COUNCIL MEMBER MILLER: Well, and what
15 would you say that--what would be your target number
16 of investigators that could do--could adequately
17 address this issue?

18 JOSEPH FUCITO: Well, we were able to
19 clear half with five, you know, investigators, and
20 our new needs gives us five more. And our
21 investigative staff is a combined group. We have
22 deputy sheriffs, investigators and criminal auditors.
23 The auditors are a very important part of this
24 process because they're able to decipher many of the
25

2 financial documents that are required in the
3 transfers.

4 COUNCIL MEMBER MILLER: Is the--does the--
5 -does the district attorney play a role in the
6 investigative portion or only the criminal once and
7 arrest has been made?

8 JOSEPH FUCITO: We work jointly with the
9 district attorney's office. So once an investigation
10 is referred to the DA, the DA may have an
11 investigator assigned to work with us, they may not.
12 It depends on their resources. If the DA wants
13 additional witnesses interviewed, our investigative
14 staff will go out and interview them. If they want
15 an analysis of some of the financial transactions our
16 auditors will provide it. This type of crime is very
17 difficult to explain to a jury. It--it--it's a deep
18 dive, and we need to be able to show a jury in an
19 understandable format what type of crime occurred.
20 And that's why we brought these type of analysis
21 because a visual analysis is very important to a jury
22 to understand what's going on.

23 COUNCIL MEMBER MILLER: So the deed fraud
24 in terms of the criminal activity is--is that
25 standalone, or does it have to--say for instance do

2 they then have to take a second mortgage with the
3 deed? Or, what do you normally seeing, and--and--
4 and, yeah.

5 JOSEPH FUCITO: We noticed that all of
6 these crimes interconnect with other crimes. That's
7 why we have liaisoned with the FBI and the IRS
8 because some things that start as a deed fraud is
9 really a larger form of mortgage fraud.

10 COUNCIL MEMBER MILLER: Right. So and
11 you may not know this, but of the--how many
12 convictions have there been?

13 JOSEPH FUCITO: We--we--we have only made
14 17 arrests in the last year and a half, and none of
15 them have gone to trial yet.

16 COUNCIL MEMBER MILLER: And has the
17 district attorney--do you know that they--have they
18 been involved in any of these cases?

19 JOSEPH FUCITO: They--they all are.
20 There have been 17 arrests, the parties were--

21 COUNCIL MEMBER MILLER: [interposing] So
22 prior to that there was none?

23 JOSEPH FUCITO: I--I can only speak to
24 the investigative portion when the Sheriff's Office
25 became involved.

2 COUNCIL MEMBER MILLER: Okay, so,
3 proactively what do we do moving forward? First, I'm
4 sorry. In tracking this data, are you--are we seeing
5 a specific target audience here? Is it seniors? Is
6 it immigrants? Is it what? Is there some low-
7 hanging fruit--

8 JOSEPH FUCITO: [interposing] Yes.

9 COUNCIL MEMBER MILLER: --that we should
10 be targeting ourselves?

11 JOSEPH FUCITO: Yes, yes. You hit on--
12 you hit the nail on the head. People who are in
13 financial distress are the easies persons to target
14 because they're promised that some how this--they
15 would be relieved of this mortgage, or that they
16 would be able to become rich by becoming a buyer and
17 flipping property. And really, they're being made
18 victims. They're being either defrauded out of their
19 property, or they're being made straw buyers for the
20 furtherance of a--a larger financial scheme.

21 COUNCIL MEMBER MILLER: What--what we've
22 seen, and I also have this--what we've seen in--in my
23 office seniors who have--or were being foreclosed on
24 who--who just say they haven't had a mortgage in 20
25 or 30 years, and--and after further investigation,

2 they had been victims of--of deed fraud. So
3 obviously, you know, we want to get into--so in terms
4 of registering as the preventive measures--measure,
5 and they are not obviously too often computer
6 literate. How do we--how do we then do this? Is
7 this something we can bring into the senior centers
8 and--and kind of do it with a mobile?

9 COMMISSIONER JIHA: Outreach I've seen
10 every time we go out in your district, we basically
11 bring literature and try to talk to people about deed
12 fraud. This is--but this year we are trying to--we
13 are going to create a--a more vigorous campaign okay
14 to educate people. And we also--

15 CHAIRPERSON FERRERAS-COPELAND: [off mic]
16 Come a little close. It's really low here.

17 COMMISSIONER JIHA: Oh, we're also
18 working with the press, and we--again, I would say
19 this year we're working on a more vigorous campaign
20 in terms of outreach to education people about this
21 issue as well. And, it is something which is
22 critical, and we're going to be working with all the
23 district members, all the council members, and go to
24 their districts to do an out--to do outreaches to
25 help to educate people about this challenge as well.

2 COUNCIL MEMBER MILLER: Could--could such
3 data or information be--be included in the tax bills
4 that--that go out--that this--that it--that this is
5 available and when or where it would be available or
6 a number to reach out to?

7 COMMISSIONER JIHA: Yes, we--this is--
8 again, we were talking about it about last week
9 actually as part of campaign--our outreach campaign
10 to ensure to include in all our notices that we send
11 to the public, the picture about deed fraud and how
12 best they could combat it, try to combat it.

13 COUNCIL MEMBER MILLER: Okay, thank you
14 and let me just finally say in those targeted
15 communities that you have seen have you reached out
16 specifically to those members or local electeds who
17 kind of engage in the city what we can collectively
18 do to address this issue?

19 COMMISSIONER JIHA: Yes, we have worked
20 with many members, and to discuss these issues, but I
21 said this year we will do a more vigorous outreach,
22 and we are just trying to get you involved in the
23 process. Because, as I said, we are learning more
24 and more about these--the scams, and as a result, we

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45

2 have learned enough. So we could begin receiving all
3 the information that we have.

4 COUNCIL MEMBER MILLER: Thank you so
5 much, Commissioner.

6 COMMISSIONER JIHA: [off mic] Yes.

7 CHAIRPERSON FERRERAS-COPELAND: Thank
8 you, Council Member. We will now hear from Council
9 Member Rosenthal.

10 COUNCIL MEMBER ROSENTHAL: Commissioner,
11 thank you so much for your work on this, and also
12 thank you for coming to our town hall. It was great
13 to see you there the other night.

14 COMMISSIONER JIHA: Thank you.

15 COUNCIL MEMBER ROSENTHAL: The district
16 really appreciated the support of the Administration,
17 and especially in areas of finance. I'm wondering
18 two things, because unlike Council Member Miller's
19 district, I'm not hearing about it as much in my
20 district office. And I'm wondering if that's because
21 it's under-reported. You know, if it's there and
22 people just don't know. You know, and it's under-
23 reported or sort of what's going on. So given that,
24 I'm wondering if you could answer two questions.
25 One, I like the map. It tells us where there are

2 open cases, but do you also have sort of the data for
3 where there are, I don't know. I mean is there
4 something below an open case where there are, you
5 know, there's evidence that it might be going on? Or
6 does it--is open case the signifier?

7 COMMISSIONER JIHA: The map that you have
8 is mostly about open cases, but I'm sure the Sheriff
9 could talk to you about some of the cases that we
10 have that were not, you know, fraudulent.

11 JOSEPH FUCITO: We--we look at all the--
12 the complaints that come in, and we try to identify
13 is there any level of a crime. And one of the
14 earlier questions was if we could not prove deed
15 fraud, that's it. That's really not it. We look at
16 the entire process, and if we cannot prove deed
17 fraud, we will look to see if we can prove any type
18 of criminal intent. We had one particular case where
19 the party acquiesced to the sale. There was nothing
20 we could prove in regards to the transfer, but the
21 parties who bought the proper performed an illegal
22 eviction. So we arrested the parties for performing
23 an illegal eviction. So we look at all components,
24 and even if we can't prove a certain part--part of

2 it, if we can prove any crime along the path, the
3 Sheriff's Office will act on it.

4 COUNCIL MEMBER ROSENTHAL: Great. Would--
5 -would it be possible for you to cull out that
6 information for my district anyway to see where the--
7 the complaints.

8 JOSEPH FUCITO: We--e believe that we
9 could probably give you the data on complaints, not
10 addresses, but we could do it--

11 COUNCIL MEMBER ROSENTHAL: [interposing]
12 No.

13 JOSEPH FUCITO: --by district--

14 COUNCIL MEMBER ROSENTHAL: [interposing]
15 Yeah.

16 JOSEPH FUCITO: --to some degree where we
17 feel there was a--a--a suspicious transaction.

18 COUNCIL MEMBER ROSENTHAL: Yes, by
19 district. Not by address. I'd appreciate that, and
20 secondly-- So just, right, so just the data for the
21 complaints coming in. Great. And then secondly, do
22 you feel that you have sufficient data system where
23 you can even almost preemptively catch fraud that
24 could be going on where there's some trigger of
25 information that you could be seeing so that it's not

2 complaint driven. But sort of where there's an array
3 of things happening that would trigger there's
4 possible fraud here?

5 JOSEPH FUCITO: Finance is always looking
6 a modeling, and this something that our IT person was
7 discussing with me last meet--last week to see if
8 there's anything that we can predetermine at least
9 areas that would be at a greater risk of deed fraud.

10 COUNCIL MEMBER ROSENTHAL: Yeah, again,
11 driven by my concern that I'm not hearing about it in
12 my district, and maybe there's stuff going on.
13 Because certainly we have a lot of harassment, you
14 know, leading to eviction going on in my district.
15 And I wonder if any of it has to do with that. So
16 thank you very much for your work. I appreciate it.
17 [pause]

18 CHAIRPERSON FERRERAS-COPELAND: Thank you
19 Council Member. We'll have Council Member Levine
20 followed by Council Member Cornegy. We've been
21 joined by my Majority Leader Van Bramer, and Council
22 Member Cornegy.

23 COUNCIL MEMBER LEVINE: Thank you, Madam
24 Chair. Hello, Commissioner. I guess you could say
25 I'm pleased, if that's the right word, that there are

2 relatively few dots in my district in Northern
3 Manhattan. We counted three. Not as bad as some
4 parts of the city. That might be because it's mostly
5 a rental district, but what was interesting is the
6 location of those three dots appear to be in a
7 portion of my district of brownstones. Much of the
8 rest of the district is co-ops and condos, and you
9 may have touched on this briefly, but could you talk
10 about the prevalence of this kind of fraud with condo
11 owners and co-op share owners?

12 COMMISSIONER JIHA: Okay. Well,
13 cooperatives are not real property. You--you--you--
14 did--that--that type of fraud doesn't go on because
15 co-ops are negotiated by shares. So what we're going
16 to be focusing on is the condominiums. We've had
17 cases in New York County with condominiums.
18 Brownstones are a target. We see a lot of
19 brownstones in Brooklyn, and what we see is--the
20 pattern is usually someone dies, and some of these
21 allegations are actually internal family battles.
22 Somebody acquired the property. A family member had
23 died. One family member had decided to take it upon
24 themselves to acquire the property so that they'll
25 record the deed. So we see that with brownstones,

2 but we also see that when someone dies. So it's that
3 vulnerability stage. When that property is
4 vulnerable it becomes target to deed fraud.

5 COUNCIL MEMBER LEVINE: Okay, just to
6 understand on co-ops. As a shareholder you don't
7 actually hold the deed to the building. That's held
8 collectively, but couldn't there be the same kind of
9 fraud for the shares?

10 JOSEPH FUCITO: If you own the shares of
11 the cooperative, you have the shares in your
12 possession. The shares are--are registered to you.
13 I--I don't see that. We have not see evidence of a
14 cooperative fraud in that manner.

15 COUNCIL MEMBER LEVINE: Got it. And I
16 believe you had said earlier that some of these
17 criminals you called them organized. Did you mean to
18 say as an organized crime mafia or some other crime
19 syndicate?

20 JOSEPH FUCITO: Organized crime is a term
21 where criminals act in consort with one another.
22 This is a form or organized crime. It does not
23 involve the traditional model of organized crime, but
24 it involves attorneys, title companies, notaries all
25 acting in some way to further the scheme. So, yes,

2 it's an organized crime, but not in the traditional
3 model that you're thinking of organized crime.

4 COUNCIL MEMBER LEVINE: Most of the
5 criminal activity I presume has to happen in person
6 in New York City, but could there or is there an
7 element that's occurring on line perhaps working it
8 in other countries?

9 JOSEPH FUCITO: We've made arrests for
10 individuals who are perpetrating deed fraud in Nassau
11 County. So if--if the person is in the state we will
12 go to them in the state. So they committed crimes
13 even though they lived out of the city, but they used
14 illegal methods to obtain property in the city. So,
15 yes, it's possible, but our evidence has only shown
16 people as far as Nassau and Westchester County.

17 COUNCIL MEMBER LEVINE: Thank you very
18 much.

19 CHAIRPERSON FERRERAS-COPELAND: Thank
20 you, Council Member. Council Member Cornegy.

21 COUNCIL MEMBER CORNEGY: Thank you, Madam
22 Chair. Good afternoon, Commissioner.

23 COMMISSIONER JIHA: How are you?

24 COUNCIL MEMBER CORNEGY: As always, it's--
25 -it's--it's good to see you, and I really appreciate

2 the work that you do especially the work around early
3 flagging of potential fraud as it relates to deed
4 transfer. In my community what we're facing is not
5 only are we seeing deed theft as it relates to
6 properties that are--that are vulnerable because of
7 finances, but my seniors more than anything else. So
8 I--I don't know what the--I'm not sure what the
9 indicators are, but there is this really--really
10 intricate plot that's being played on the seniors.
11 Also, in my district we have a high number, probably
12 the highest number of properties on the water, and
13 tax lien list. I want to know have you noticed a
14 correlation between that because that's a--that's a--
15 that's a list that's public. If that's one of the
16 places where this phishing is occurring is occurring,
17 because that list is public and it's--and it's
18 published so anybody can go on and see which
19 properties are perhaps in--in--in tax or--or water--
20 have tax or water liens.

21 COMMISSIONER JIHA: I don't know, but we
22 have not basically do that correlation analysis, and
23 it is a good thing probably we should look into as a-

24 -

25

2 COUNCIL MEMBER CORNEGY: [interposing] I
3 certainly would like to work with you on that because
4 that's--preliminarily I'm not a detective.

5 Prelimarity--preliminarily, we're seeing that as a
6 possible indicator for some of the fraud that's
7 being--

8 JOSEPH FUCITO: [interposing] Properties
9 that are in distress are the ones that would be most
10 likely candidates for deed fraud. So having
11 outstanding water bills, bank foreclosures, other
12 types of liens, parties will step out away from it,
13 or parties who are--who are subject to severe
14 financial stress are more willing to grab on to any
15 lifeline that's given to them. And they may, in
16 fact, be part of this process, and you're correct,
17 that's the type of profile that we're seeing with
18 these types of fraud where the individual acquiesces
19 to the sale of their property.

20 COUNCIL MEMBER CORNEGY: And--and then
21 secondly I would like to try to create some type of a
22 protective measure for the seniors because I don't
23 know what the indicators are. Their--their--their
24 properties could be not in foreclosure. They could
25 have been paid for 20 years ago, and now there's an--

2 So you talk about the fraud that takes place where
3 someone basically tries to get something for nothing,
4 and I understand that. But, then now we've got--it's
5 escalated to the all--to the outright just
6 transferring deeds without the person knowing, and
7 being able to do the paperwork. I've seen that at
8 least ten times where someone has gone down to
9 records and actually transferred a deed of senior.
10 And by the time the senior is aware that this has
11 even taken place, they're facing an eviction. And to
12 try to dial that back is almost impossible. So
13 trying to unravel that, somebody who is inactive as a
14 senior. So we've got to create some of a protective
15 measure so almost-- I'm willing to from my office
16 reach out to the seniors in my district because I
17 know who they are because we--we know who they are,
18 senior property owners, and begin to educate. To go
19 out and educate them. We have networks that are
20 committed. Some of them are here that are committed
21 to doing that, but then there's got to be a measure
22 on the city's part that protects those most
23 vulnerable because the most vulnerable to me are not
24 perhaps those who have those indicators that we've
25 already identified, but those who just their deeds

2 are laying dormant. You could see that the property
3 was purchased in 1917 or something like, you know,
4 and--and there's been no transfers. People are just
5 going in, and just taking a shot, a stab in the dark,
6 and transferring those deeds. And I've seen at least
7 three times in my district where by the time the
8 senior knew that it took place, and the only reason
9 they knew it took place is they were in eviction
10 process, and they couldn't--they couldn't fathom how
11 they could possibly enter it. So they didn't try to
12 commit fraud. They didn't try to transfer the
13 property. It's escalated to just outright theft
14 where somebody goes and transfers a deed. So I think
15 that we have to create some kind of a protective
16 measure even before. Some kind of early intervention
17 when we recognize that there's a senior whose in
18 their property who may be ill or not ill, or who just
19 may not be up to the tasking of fending off these
20 kinds of assaults.

21 JOSEPH FUCITO: Well, we'd be very
22 interested in looking at those individual cases that
23 you describe. Those type of transfers are actually
24 one of the easiest ones that we--if we can identify
25 the suspect behind it, that's one of the easier ones

2 for us to make an arrest on. So if someone was to
3 identify that they woke up one morning and their
4 property was transferred, and there's a new party
5 involved, those are one of the easiest ones to
6 investigate, and we would be very willing to do that.
7 As far as outreach, I think Finance is going to do
8 more. We have a strong outreach for SCRIE and DRIE
9 and it would probably be combined with that as well,
10 and we're always working--looking to have
11 partnerships with the City Council on this.

12 COUNCIL MEMBER CORNEGY: Again, you know,
13 I have to offer my office as a--as a place to begin
14 that type of partnership because we have--probably
15 have, if you check statistically, we have probably if
16 I'm not mistaken the highest degree of these types of
17 frauds throughout the city. So, I would be
18 interested in doing whatever is necessary in partner-
19 -in partnership to make sure that we can reduce this
20 if not stop it altogether.

21 ASSISTANT COMMISSIONER HILL: Okay. I
22 just want to say also one of the things we do do in
23 the Registers Office we do look if there's no
24 information, and the deed is like from 1917, that's a
25 trigger, and we will pull it and look at the history.

2 So we really look at the older deeds before just
3 recording it.

4 COUNCIL MEMBER CORNEGY: Well, thank you.
5 I'm glad to know to that because somebody is looking
6 at the older deeds.

7 ASSISTANT COMMISSIONER HILL: Right.

8 COUNCIL MEMBER CORNEGY: So I'm glad that
9 we are as well.

10 ASSISTANT COMMISSIONER HILL: Okay.

11 COUNCIL MEMBER CORNEGY: I--I think what
12 you're going to find is that some--some people from
13 my district will actually testify even more--probably
14 more soundly than I can about what's happening on the
15 ground because I get that in my office. And they've--
16 -now we're providing an opportunity for them to
17 actually let you hear what's going on. So thank you
18 for that.

19 CHAIRPERSON FERRERAS-COPELAND: Thank
20 you, Council Member Cornegy, and Commissioner, as you
21 had mentioned before, we're--we're very--we're
22 looking forward to working with you. I know that
23 this is a new part of your jurisdiction, but as I was
24 speaking to my colleague, we see this as like the new
25 crime, right, the new wave of crime. It's been

2 prevalent for a long time, but if you can help us,
3 and--and this is something you may not be able to
4 answer right now. But from our legislative angle,
5 from what we can do, I know you're going up to the
6 State, but is there anything we can do here
7 legislatively in the Council to help or support your
8 effort?

9 COMMISSIONER JIHA: Definitely. I think
10 that we will come back to you because we always more
11 resources--

12 CHAIRPERSON FERRERAS-COPELAND:
13 [interposing] Excellent.

14 COUNCIL MEMBER --as Annette said before.
15 We also are looking at technology. You know, we're
16 looking at that number of, you know, that number
17 tools that we use to leverage technology, and that
18 also will probably require additional resources,
19 financial resources.

20 CHAIRPERSON FERRERAS-COPELAND: That
21 sounds like a budget ask.

22 COMMISSIONER JIHA: Yeah, and then we
23 would definitely come back to you to-- Again, I will
24 say, you know, it's one of those things if you could
25 model, and you have a predictive model to see like

2 you were saying before, before the act is committed
3 to know exactly where in the pattern of behavior you
4 could identify them, and then prevent, take some
5 preventive measures. You are always better off
6 because at the end of the day, once the ownership,
7 the title is changed, it's--you--the person has to
8 spend resources and time to regain the legal title to
9 the property. And to the extent that we could avoid
10 that, so again, we will come back to you.

11 CHAIRPERSON FERRERAS-COPELAND:

12 Excellent.

13 COMMISSIONER JIHA: We definitely do want
14 to ask.

15 CHAIRPERSON FERRERAS-COPELAND: So we've
16 been joined by Council Member Barron, and I know she
17 has a question. I'm going to ask one question, and
18 we're going to open it up to the council member. DOF
19 recently made changes to their real property transfer
20 tax returns to require disclosure of the names of all
21 LLC members, as you had mentioned in your statement.
22 Rather than just one member, however, according to
23 law the contents of these returns are secrete. How
24 is this change in a tax return helping in combating

2 deed fraud if the names of the LLC members must be
3 kept secret.

4 COMMISSIONER JIHA: I would let the
5 Sheriff talk about it, but from our perspective, this
6 thing is working. Okay, we're getting all the
7 information we need, and I'll let the Sheriff
8 elaborate a little bit more on it. Though for
9 security purposes it may not be able to give you all
10 the details, but we are--I think we believe that it's
11 working.

12 CHAIRPERSON FERRERAS-COPELAND: Okay.

13 JOSEPH FUCITO: So, as I discussed
14 earlier, we look at every aspect of the transfer, and
15 one of the strongest things that we're able to
16 provide is that the individuals did not pay the
17 appropriate tax on these transfers. Almost like the
18 Al Capone syndrome. So, using that, we open a
19 criminal tax case, and look at the entire matter, and
20 then we're eligible to use some of the material
21 that's present on the return.

22 CHAIRPERSON FERRERAS-COPELAND:
23 Excellent. We're going to hear from Council Member
24 Barron, and then I have one more question,
25 Commissioner. Council Member Barron.

2 COUNCIL MEMBER BARRON: Thank you, Madam
3 Chair. I apologize for coming for so late, and I
4 will read your testimony in detail, but I know that
5 if someone wanted to make a copy of my birth
6 certificate that would not be allowed. Is that
7 correct.

8 COMMISSIONER JIHA: [off mic]

9 COUNCIL MEMBER BARRON: Why is it then
10 that someone can get a copy of my mortgage, the deed
11 that has been filed when that would be able to
12 perhaps provide them with an opportunity to commit
13 this fraud that we're talking about. And I do
14 represent most of the 75th Precinct, and as the data
15 that you have presented to us indicates, there is a
16 high concentration of deed fraud. I know a lot of
17 that, however, is people who have been swindled and
18 have not been aware of what--what the documents were
19 that they were signing. But why is it that somebody
20 can make a copy of my deed where they can't get a
21 copy of my birth certificate? And the dangers and
22 what we see are the results of perhaps that happening
23 can really cause quite financial hardship, and loss
24 of property. Which we know in our communities is the
25 way to perhaps amass wealth.

2 ASSISTANT COMMISSIONER HILL: By law
3 anything that's recorded at the City Register's
4 Office is considered public information. So we have
5 to make it available for the public to look at.

6 COUNCIL MEMBER BARRON: Could it be
7 possibly presented, the information without the
8 actual deed itself being copied? Can we give them
9 the information that is contained within the deed in
10 some format other than a copy of the deed?

11 ASSISTANT COMMISSIONER HILL:

12 Unfortunately, we can't--

13 COMMISSIONER JIHA: [interposing] You
14 cannot.

15 ASSISTANT COMMISSIONER HILL: --because
16 if they come in by law and they ask for a copy, we
17 have to give them the actual document.

18 COMMISSIONER JIHA: It's a state law.

19 ASSISTANT COMMISSIONER HILL: It's a
20 state law.

21 COMMISSIONER JIHA: The state law.

22 ASSISTANT COMMISSIONER HILL: It's a
23 state law yes.

24 COUNCIL MEMBER BARRON: So we have to move
25 towards the state because I've got an intro that I

2 want to have that will say you can perhaps get the
3 information, but not an actual copy of the deed
4 itself. Thank you.

5 CHAIRPERSON FERRERAS-COPELAND: Thank
6 you, Council Member Barron. In the--in addition to
7 the criminal penalties for--that someone committing
8 fraud or forgery might face, does the City currently
9 have the authority to impose civil penalties? And if
10 not, do you think civil penalties would be useful in
11 deterring fraud?

12 JOSEPH FUCITO: I--I don't believe that a
13 civil mechanism would be appropriate in this matter.
14 The civil process does allow it. The Sheriff's
15 Office actually is involved in the civil recovery of
16 property. If you obtain a judgment that states that
17 the property was defrauded, and the property needs to
18 be re-conveyed back to you, the law permits the--the
19 judge actually directs the Sheriff to re-convey the
20 property back to the lawful party. And that's me
21 acting in a ministerial role as an officer of the
22 court. I don't have that independent authority to do
23 that on my own, but that's--that's why we keep
24 pushing the people towards if they come in and make
25 this complaint, they have to utilize the court system

2 to release cloud title and ultimately regain title to
3 the property. I don't see a civil penalty acting any
4 way to--to discourage this type of behavior.

5 CHAIRPERSON FERRERAS-COPELAND: Thank
6 you, com--thank you very much, Sheriff. Thank you.
7 I just wanted to say we have pulled together with
8 your team, obviously, a task force on tax liens. It
9 seems that this may be an appropriate time for us to
10 be able to sit with both the advocates, and those
11 that are defending clients, yourselves, as the arm
12 that's now challenged with trying to resolve this
13 issue. And we need to engage in further
14 conversations, and hopefully someone from the agency
15 can remain because we have three panels who are
16 testifying. And, often times it's great to hear from
17 the advocates so that we can better understand some
18 of the challenges that they're facing that could
19 probably help the--that we can resolve it--resolve it
20 a lot easier than we think.

21 COMMISSIONER JIHA: Yes, yes, we--we are--
22 --we are--we will have someone here and staff here to
23 basically take notes of all of the testimonies--

24 CHAIRPERSON FERRERAS-COPELAND:
25 [interposing] Great.

2 COMMISSIONER JIHA: --coming up, and I
3 think it's a good idea to have the task force to
4 basically zero in on this issue. It's a very
5 important issue, and to the extent that we could
6 brainstorm to the more brains we have, you know,
7 brainstorming on this issue, the better off we all
8 are.

9 CHAIRPERSON FERRERAS-COPELAND: Great,
10 great, and I know Council Member Cornegy had an
11 additional question, and then we'll call up the next
12 panel.

13 COUNCIL MEMBER CORNEGY: So--so I'm just
14 curious. I know that the District Attorney
15 especially in Brooklyn has been very active with
16 going after landlords who have--who have committed
17 fraud. I wonder do you think that there could be
18 input from the District Attorney's Office on deed
19 fraud, and how could we go about maybe--maybe working
20 more closely with the DA to get something done.

21 JOSEPH FUCITO: We have a very strong
22 relationship with the Kings County DA and all the
23 district attorneys. I--I spoke with the incoming--
24 actually, the new Staten Island District Attorney to
25 explain what we're doing with regards in deed fraud,

2 and he's very interested. We have a great
3 relationship with the Queens DA since many of the
4 cases actually have cross-prosecution because
5 property--the same individuals stealing property in
6 Queens as well as Brooklyn. So we--we have a strong
7 partnership with the--the various district attorneys
8 offices, and I think they're very willing to work
9 with us on any case that we present with--to them.

10 COUNCIL MEMBER CORNEGY: Thank you.

11 CHAIRPERSON FERRERAS-COPELAND: My only
12 issue with that is I believe that in Queens we have
13 never actually--no one has ever served time for this
14 type of fraud.

15 JOSEPH FUCITO: I can only speak to the
16 cases that we've been working on. We--we've made 17
17 arrests, and as those charts will show, this is as
18 complicated as a tax crime. That's why we're--we're
19 especially suited to investigate this. It's a very
20 complicated type of prosecution, and we have to be
21 able to give the DA all the evidence they need to
22 prove to a jury beyond a reasonable doubt that they
23 person is guilty. It's very difficult and it's very
24 time consuming. So we have to allow our partners

2 with the DA the time to successfully prosecute the
3 case.

4 CHAIRPERSON FERRERAS-COPELAND: Okay.
5 Thank you very much. Thank you for coming to
6 testify. Thank you, Commissioner.

7 COMMISSIONER JIHA: Thank you.

8 CHAIRPERSON FERRERAS-COPELAND: We've
9 been joined by Council Member Rodriguez. We're going
10 to call up the next panel. Belinda Liu of MSY Legal
11 Services; Louise Charles, Caroline Nagy, and Rose
12 Marie Cantanno.

13 [background comments, pause]

14 CHAIRPERSON FERRERAS-COPELAND:
15 Excellent. You may begin your testimony. If I can
16 just make reference, we're going to be putting a
17 three-minute clock. So if you can summarize, that
18 would be great. So we can make sure we hear all of
19 the panels. And again, the Commissioner did--did
20 let--oh, did leave staff behind because I find it
21 very important that the agencies hear your testimony
22 also, and you may begin in whichever order you'd
23 like.

24 CAROLINE NAGY: All right. Good
25 afternoon. My name is Caroline Nagy, and I'm the

2 Policy Manager at the Center for New York City
3 Neighborhoods. Thank you, Chair Ferreras, and all
4 the other members of the Committee for holding
5 today's hearing. So the Center for New York City
6 Neighborhoods is a non-profit that promotes and
7 protects affordable homeownerships in New York so
8 that middle and working class families are able to
9 build strong thriving communities. We get--we
10 administer a network of foreclosure prevention,
11 housing counseling and legal services providers
12 throughout New York City, and we receive funding
13 support from the New York City HPD, City Council, and
14 the Office of Attorney General along with many other
15 public and private funders. At the Center we're
16 always monitoring and responding to emerging threats
17 to homeowners, and unfortunately, we are seeing an
18 alarming increase in deed theft scams that target
19 homeowners at risk of foreclosure. Like many scam
20 artists, they present themselves as offering home
21 saving solutions to families desperate for a way out
22 of foreclosure, but end up taking their homes out
23 from under them. In my--in my testimony I have some
24 descriptions of types of deed theft scams, but we
25 have a lot of centers and network partners who

2 directly represent clients, and they can tell you
3 more about some of the specifics. So I wanted to
4 skip ahead to the foreclosure crisis because this is
5 really at--what we understand is the root of a lot of
6 the issues driving today's deed theft scam increases.
7 And so, really what we're seeing is a pretty
8 explosive combination of rapidly increasing home
9 values with tens of thousands of New Yorkers
10 struggling to avoid foreclosure. So this is tied
11 both to foreclosure crisis, which is still very much
12 happening in New York City. Even though it may not
13 be in the headlines, it's a major factor that is very
14 prevalent in a lot of communities combined with in
15 some of these same communities, very quickly rising
16 home values that come together to make targets out of
17 some of our most vulnerable homeowners. And
18 specifically elderly homeowners, and community--
19 homeowners of color, and this is sort of similar to,
20 you know, the impacts of the foreclosure crisis in
21 general. A lot of the people who were victimized by
22 the foreclosure crisis are also victimized by deed
23 theft scams. So, for example, just to show you, we
24 have a chart on page 3 that shows the proportion of
25 New York homeowners. Eighty percent of--well, let's

1 see, I'll go--I'll do the other way. Eight percent
2 of New York homeowners are African-American, yet
3 African-Americans represent about 30% of complaints,
4 so complaint scams. So you can see this is a very
5 strong disproportionate impact here in New York City
6 as well as statewide. So in terms of
7 recommendations, we partnered with the New York
8 [bell] with the New York State Attorney General's
9 Office to get the word out about scams and also make
10 sure that homeowners know where they can find free
11 trustworthy help with their mortgages. The good news
12 is that there's high quality housing counseling and
13 foreclosure prevention legal services available free
14 of charge to all New Yorkers through the Attorney
15 General Eric Schneiderman's Homeowner Protection
16 Program for which the center serves as an anchor
17 partner, and homeowners can access these services
18 through 311 or by calling the Homeowner Protection
19 Program Hotline directly. While we're proud of the
20 resources that we have for homeowners, there's much
21 more that's needed and requires the efforts of all of
22 us to combat deed theft. And so, my first
23 recommendation is about increasing enforcement. We
24 really need to see more people go to jail over this
25

2 issue, and this is, you know, not from the Department
3 of Finance, and the County DAs. But, you know, we'd
4 like to see more enforcement at all levels including,
5 you know, the federal. There are also things that
6 are--there are also laws that pretty much everyone
7 operating in this field is in violation of. So, for
8 example, New York City Consumer Affairs Law requires
9 that all distressed property consultant, which is
10 like the technical name for people who seek out
11 homeowners in foreclosure to provide services.
12 They're all required to have certain disclosures in
13 all of their communications with homeowners and their
14 advertisements, and none of them do. So these are
15 pretty open violations that could be, you know,
16 addressed maybe in a concerted enforcement on the
17 part of New York City. Also, we would like to
18 partner with the City Council and, you know, anyone--
19 everyone else here today to get the word out about
20 scams. No homeowner should have to navigate the
21 foreclosure process alone, and the best way for
22 homeowners to avoid scams is to get connected to help
23 they can trust. These services are here. We
24 created--I'm working with the Office of the Attorney
25 General on website called AGscamhelp.com to educate

2 homeowners, and we do lots of outreach. We'd love to
3 partner with you on that. We'd like to see enhanced
4 property tracking and ACRIS mechanisms for preventing
5 fraud. Yes, all right. And more resources for
6 victims of deed theft in terms of their civil cases,
7 homeowner anti-harassment legislation and
8 strengthening efforts for LOC (sic) transparency.
9 Thank you.

10 BELINDA LIU: [off mic] My name is
11 Belinda Liu. I'm a staff attorney--Sorry.

12 CHAIRPERSON FERRERAS-COPELAND: Thank
13 you.

14 BELINDA LIU: [on mic] How do I turn this
15 on? Oh, here we go. Good afternoon. My name is
16 Belinda Liu. I'm a staff attorney at MSY Legal
17 Services. Thank you, Madam Chair and the entire
18 committee for holding this hearing today.
19 Unfortunately, efforts to sell property for New York
20 City homeowners are not limited to the deed theft
21 scams we are focused on today. I'm here with one of
22 our clients, Ms. Alyse Charles. She's right there.
23 She's a resident of Council District 35. With Ms.
24 Charles' permission, I'd like to share her personal
25 experience with the new type of scam, contract buying

2 scam. Ms. Charles is 79 years old, but she is one of
3 my toughest clients, a mother of seven and
4 grandmother of 20 she from Haiti to the United States
5 almost 40 years ago. Like so many immigrants, she
6 came to the United States with hope of searching for
7 a better life. After working and saving for 20
8 years, Ms. Charles realized the American dream when
9 she bought her home in Crown Heights. Like most
10 minority homeowners, her home is her only asset.
11 Unfortunately, as resilient as she is, Ms. Charles
12 speaks limited English, and lives on a fixed income
13 now that she is retired. Her vulnerabilities and the
14 increasing value of her home make Ms. Charles a prime
15 target for real estate scammers. In 2014, Ms.
16 Charles received a sudden call from an unknown
17 assistance agency informing her that she was entitled
18 to government assistance. The agency picked her--
19 picked her up at her house, and drove her to an
20 office building where she was convinced to sign
21 documents in order to receive a check. Ms. Charles,
22 who again, speaks very limited English had no idea
23 she was signing a contract to sell her hard earned
24 house for less than one-fifth of the market value.
25 As you know, what happened to Ms. Charles is not

2 unusual. Many homeowners have been victimized by
3 this very scam, and the individuals responsible have
4 been arrested. But the actors we feel are getting
5 more creative. Two limited liability companies have
6 attempted to enforce the contract of sale against Ms.
7 Charles in court. We believe she's the victim of a
8 new type of scam, as I said, the contract buying
9 scam. When a fraudulent deed transfer does not go
10 through, the buyer tries to enforce the contract of
11 sale in court to obtain a judgment that'll--will
12 affect--ultimately effectuate a deed transfer. In
13 other words, the scammers are seeking to legitimize
14 their deed transfers through the court. Fortunately,
15 we believe we will be able--we will be able to help Ms.
16 Charles dismiss the case that's against her, but we
17 fear that similar homeowners will remain at risk of
18 losing their homes to these new scams. Our written
19 testimony lays out preliminary recommendations for
20 combating real estate fraud. For instance, the city
21 must unveil the bad actors behind these limited
22 liability companies by forcing LLCs to disclose their
23 members, and beneficial owners not just to DOF, but
24 to the public. The City should also strengthen
25 systems that are already in place by DOF's Recorded

2 Document Alert System by ensuring homeowners
3 especially limited English speaking homeowners know
4 that the tool is available to them. Finally, the
5 City must focus on substantial outreach, and
6 homeowner--homeowner education in communities of
7 color and non-English speaking communities. Scammers
8 artfully [bell] target these communities with
9 advertizing for their native languages. We must match
10 those efforts and make sure we are the first contact
11 for these distressed homeowners. Housing counseling
12 and legal services organizations provide some of this
13 education and outreach, but currently sources are
14 limited. Again, more details about these issues and
15 MSY's work are included in our written testimony.
16 Thank you very much again for holding this hearing,
17 and for your commitment to fighting real estate fraud
18 against New York City homeowners.

19 CHAIRPERSON FERRERAS-COPELAND: Thank you
20 very much. We've been joined by Council Member
21 Johnson, and you may begin your testimony.

22 ROSE MARIE CANTANNO: Good afternoon
23 again. I would like everyone here to thank you for
24 putting the light on this issues, which has been ever
25 growing. As someone who practiced real estate law

2 for 12 years before doing this work, and I know run
3 the Foreclosure Unit at the New York Legal Assistance
4 Group. I'm amazed at the different types and
5 complexities of deed theft scams that have evolved.
6 One which I don't think has been mentioned yet is
7 that we're seeing what was a little bit of a strange
8 twist is what I like to call the short sale deed
9 theft plot. So we have individuals who after a lot
10 of soul searching and it's a very difficult decision
11 for them. They decide they just can't keep the home
12 for whatever reason whether it's that they owe too
13 much money on it or the upkeep. They don't want the
14 home any more. So what they'll do is they will try
15 to find their own buyers, and often what will happen
16 you will have these scammers who will come to the
17 house, and say don't worry. I will take care of
18 everything for you. The problem is they can't just
19 their house because they owe \$500,000 on a house now
20 worth \$250,000. So it's an open door. So I'm going
21 to give you an example of an elderly couple that came
22 to us in the Bronx. We had a woman come to us. She
23 was 87 years old. She came in. She said that she
24 was in shock because she had been served a
25 foreclosure summons and complaint and she sold her

2 house two years ago. He husband had been diagnosed
3 with dementia, and they just knew they were not going
4 to be able to keep up the payments, the upkeep. So
5 after living there for 30 years, they decided that
6 the best thing they could do is try to do what they
7 considered to be the responsible thing, sell the
8 home. They called one of the many people who they
9 got flyers constantly in their mailbox for, and he
10 came to the house. He said that he went to the same
11 church as them. He said that he could take care of
12 everything. He would get the paperwork for them. He
13 would bring them back and forth. He would get them
14 an attorney. He would do all the leg work for them.
15 All they had to do was trust him, and they did. It
16 never dawned on them that somebody would try to steal
17 their house from them. The time came a couple of
18 weeks later they get a call. They said the closing
19 is tomorrow. We're picking you up at 9:00 a.m. She
20 was like, I didn't sign any contracts or anything
21 like that. How can I be going to a closing, and he
22 was no, no we told you don't worry about it. Those
23 blank forms you signed for us, they--they took care
24 of everything. They went there. It appeared to be
25 a closing, ones they had used when they refied the

2 home. They signed the deed, they signed all the
3 paperwork. There was somebody there supposedly from
4 the title company that was going to take care of
5 paying off all their old mortgages. They left. They
6 moved. They rent an apartment. They thought that
7 this was all behind them. Two years later they get a
8 summons and complaint that they are being sued in
9 foreclosure because at that closing, no purchase
10 price was ever paid for that home. The mortgage was
11 never paid. The scammers simply put tenants in the
12 apartment--in the house, collected rent for two
13 years, and then once the bank started to foreclose,
14 they just disappear. The tenants have all sorts of
15 issues because as you might imagine a scammer is not
16 exactly a legitimate landlord, and it's just, and
17 that's just one example of, you know, all the
18 different machinations that they seem to be taking
19 [bell] with these scams.

20 CHAIRPERSON FERRERAS-COPELAND: Thank you
21 so much for your testimony, and I--I got to tell you
22 the narratives we hear certain cases in our district
23 offices, but what you go through everyday is exactly
24 what we need and the tools. And as the Commissioner
25 committed to, we're going to try to do a working

2 group or task force, and we'd like to engage with you
3 on this. You know, he's obviously just beginning to
4 hit the surface of the iceberg, and--and you have all
5 lived this everyday. So I thank you very much for
6 your testimony, and thank you for coming today.

7 ROSE MARIE CANTANNO: Thank you.

8 BELINDA LIU: Thank you.

9 CHAIRPERSON FERRERAS-COPELAND: We'll
10 call up the next panel. Jenny Eisenberg from the
11 Legal Services of New York, and Stacy Woods from
12 Queens Legal Services, Jenny Braun-Friedman of the
13 Legal Aid Society, and Marissa Seorant--Solaro, and
14 Adam Miller. (sic) [background comments, pause] I
15 just want to acknowledge that everyone that's
16 testified after the Commissioner is a woman.
17 [laughter] And we're trying to solve something. (sic)
18 I'm just saying Council Member Cornegy. [laughter]
19 You may begin in whatever you--order you prefer, and
20 again a reminder we're going to be on a three-minute
21 clock.

22 Okay.

23 CHAIRPERSON FERRERAS-COPELAND: So, if
24 you can summarize your testimony. Thank you.

2 JENNY EISENBERG: Okay. I don't know who
3 I am. [laughs] Well, good afternoon. Since my
4 name was called first, I will start even though I'm
5 in the middle of the table. I'm Jenny Eisenberg.
6 I'm a staff attorney at the Foreclosure Prevention
7 Project at South Brooklyn Legal Services, which is
8 one of the neighborhood offices of Legal Services of
9 New York City. Just as a background--and thank you
10 very much for having our testimony, and taking the
11 time to listen to us. As a quick background, Legal
12 Services of New York is the nation's largest provider
13 of free legal services to the poor, and specifically
14 with respect to foreclosure prevention. We are the
15 oldest and largest foreclosure prevention provider of
16 legal services in New York. We have over 40
17 attorneys and paralegals. We've helped over 10,000
18 families since 2009. So we are--we believe uniquely
19 situation to speak to this issue. In my particular
20 office at South Brooklyn, we are currently litigate--
21 litigating a number of deed theft cases. So what I'd
22 like to do is because Madam Chair, your report is
23 incredible, and it really offers an outstanding kind
24 of anatomy of the issue. I'm going to skip over some
25 of that, and talk about what it's like for us as

2 attorneys representing these clients, and doing this
3 litigation because I can say it is incredibly
4 complicated. We--what we're seeing is these are
5 scammers who are targeting communities of color.
6 They are targeting low-income homeowners. They are
7 targeting disabled people, seniors, immigrants,
8 people with limited English proficiency, and what
9 we're trying our best to do is take these incredibly
10 messy cases and shoehorn them into existing law, and
11 it is hard. They are resource intensive cases. We
12 have discovered in the course of our investigation
13 that it's not just about deed fraud. It's also about
14 creative--these scammers are using very creative
15 tactics such as filing phony liens against properties
16 that also serve to encumber and cloud title to the
17 properties. Something that the Sheriff mentioned is
18 the limitation of the Criminal Code and their ability
19 to enforce when a person has actually participated in
20 a transaction. One thing we want to flag is maybe
21 that's true, but a phony lien against a property is
22 itself a crime regardless of a person's knowing
23 participation in a transaction. So that's something
24 that we really wanted to flag. Another thing that we
25 want to flag as people litigating these cases is that

2 we are going into Housing Court to stop evictions.
3 We're going into Supreme Court to seek preliminary
4 injunction. When we're getting preliminary
5 injunctions, we're being forced by judges to have our
6 clients put up thousands of dollars in--in injunction
7 bonds. These are low-income homeowners who have no
8 money to pay their mortgages let alone post \$5,000 to
9 \$10,000 to basically buy an injunction to stop a
10 fraudulent eviction. So I say that because since we
11 are doing our best to litigate these cases, and we
12 are hoping that agencies and your offices will
13 continue to refer clients to us. On the ground it is
14 challenging and we really need as much outreach--
15 Council Members, you're in your communities. You are
16 able to reach people that we can't. We're doing our
17 best to partner with--we have a senior initiative
18 going on with the Public Advocate. We're going to be
19 having a series of deed theft outreach events all
20 around Brooklyn. That's great. We're not going to
21 reach everybody, and we're asking--the outreach that
22 agencies are able to do is great, but it's not
23 enough, and there are ways that you as council member
24 and we as legal services advocates have of talking to
25 people and getting them to understand that shame and

2 stigma aside, it is really, really important not to
3 engage in these transactions. So we're asking aside
4 from the outreach, aside from the support as much as
5 we can to just keep--keep the word going, and keep
6 the message out there because this is a very
7 systematic effort by very savvy scammers to acquire
8 properties in communities that really need to
9 maintain that source as well. Thank you.

10 STACY WOODS: Thank you for the
11 opportunity to testify about this problem. I'm a
12 staff attorney in the Foreclosure Prevention Project
13 at Queens Legal Services, and we are located in
14 Southeast Queens, specifically in Jamaica. I've been
15 doing foreclosure prevention for several years, and
16 have become very used to advising distressed property
17 owners about legitimate ways to deal with their
18 problems. You cannot imagine our dismay when
19 recently we started seeing clients coming in not with
20 foreclosure complaints, but with stories of
21 harassment and threatened evictions from properties
22 that they once owned, and sometimes from properties
23 they thought that they still owned. Madam Chair
24 described this as the perfect nightmare for a
25 homeowner, and she hit the nail on the head. At our

2 office now we're grappling with how to address these
3 problems because no sooner do we get a handle on one
4 case than another case comes in, and we know that
5 there are so many more cases out there. We simply
6 cannot handle it without support and without
7 strengthened enforcement from the City. I just want
8 to highlight one particular case that we had to show
9 you--one of the permutations on the problem. We had
10 an elderly client come in who was seeking a loan
11 modification. He went to an outfit that was
12 literally in our back yard on Hillside Avenue in
13 Southeast Queens. They told him they would help him
14 with the modification. They told him what he had to
15 do was a short sale. He interpreted short as meaning
16 it was only going to be a short period of time when
17 the property would be transferred to someone else,
18 and then it would go back to him. Further,
19 complicating the matter, the property was transferred
20 to an LLC whose name was the same name as the
21 property. So that gave him this other indication
22 that this was a safe process. One thing I think that
23 hasn't been mentioned is the property was deeded
24 over, and the--the LLC owners satisfied the mortgage
25 on the property. So now we find ourselves in a

2 situation where the homeowner has brought an action
3 in the Supreme Court, and the--the fraudsters have
4 come back and said well look, you're off the hook for
5 this huge mortgage. You obviously intended to do
6 this, or you benefitted from it somehow. And I'm--
7 I'm--as an office, we are really having a hard time
8 trying to navigate these cases. That's---that's the
9 posture that several cases are in right now, and we
10 know we're only going to see more. So thank you
11 again for the opportunity to--to be heard.

12 JENNY BRAUN-FRIEDMAN: [coughs] Good
13 afternoon. My name is Jenny Braun-Friedman and I'm
14 staff attorney at the Legal Aid Society. I also
15 thank the Committee for the opportunity to testify on
16 this important issue. I'm just going to sort of jump
17 in. I think we all know that foreclosure rescue
18 scams are not something that its--that's new, but
19 they're--they are taking on increasingly new forms.
20 And I think with increasing frequency our office has
21 seen homeowners who are aggressively solicited
22 through telephone, mail and in-person solicitation
23 with false promises to modify the homeowner's
24 mortgage, assist with the short sale, and in--in some
25 way manage to--manages to trick the homeowner into

2 signing over a deed transferring their property to
3 the scammer. We recently successfully litigated a
4 case where an unknown corporation who never
5 interacted with our clients literally stole their
6 title through forgery. We've also seen short sale
7 scams where brokers harass and bully homeowners and
8 convince them they have to vacate their homes in
9 order to proceed with the sale. [coughs] And as
10 testified by my colleague, we've seen increasing use
11 of the city register to record contracts of sale and
12 UCC-1 use as means of encumbering properties and
13 making it that much more difficult for homeowners to
14 work with anyone but the scammer. So we have a, you
15 know, a few recommendations that we would make. One
16 would be really strong anti-solicit--solicitation
17 efforts that would include the legislation and
18 potentially expanded use of the cease and desists
19 phones (sic) coupled with enforcement. So that we
20 can prevent scammers from reaching these vulnerable
21 homeowners in the first place. As others have said,
22 we also feel that additional expanded outreach in
23 education is--is a critical need. Something like
24 large scale publicity on television, radio and
25 newspaper advertisements by trusted community leaders

2 and institutions would be essential to counter the
3 advertisements and solicitations of the scammers.
4 [coughs] We also commend the Department of Finance's
5 use of the--the Notice of Recorded Document program
6 as a vital first step to alerting homeowners of
7 potential fraud. But we would encourage the
8 Department of Finance to further promote and
9 advertise so that vulnerable homeowners--homeowners
10 who are most at risk are made aware of this--this
11 important deterrents. (sic) And then, I would just
12 lastly say that I think as others have said, strong
13 enforcement coupled with publicity of the law
14 enforcement actions is another deterrent for this
15 trend to continue. Thank you.

16 CHAIRPERSON FERRERAS-COPELAND: Thank you
17 very much for your testimony. You may begin. [bell]

18 MARISSA SOLARO: Thank you for doing this
19 program addressing this issue. I am nothing like my
20 colleagues so I apologize. I'm a sole practitioner,
21 not a homeowner. I have consulted SBLs on numerous
22 occasions because their professionals are very
23 knowledgeable about foreclosure defense, and it is
24 something that I do as well as dealing with deed
25 fraud. I don't advertise. I work out of my home,

2 and yet somehow between six to eight of these cases
3 have landed in my lap. Unlike these attorneys, I
4 would address an issue that I believe Mr. Cornegy was
5 addressing earlier, which is the fact that--and let's
6 just call all of these--lump all the classes of
7 persons, minorities, elderly, disabled into one and
8 call them persons under disability because
9 essentially that's what they are. They are under
10 disability for one reason or another. That makes
11 them susceptible to these various people who take
12 advantage of them. The majority of the exploiters in
13 my cases were, in fact, mom and pop real estate
14 professionals known in the neighborhood having local
15 offices or finders for mom and pop real estate
16 professionals or investors who are savvy with these
17 scams, and get paid to go out into the community and
18 find targets. In my cases, all the symptoms that
19 were discussed here today were present. There's the
20 existence of unpaid tax liens, a real red flag.
21 Anybody--anybody anywhere can call DOF and get
22 information about tax liens and then go and approach
23 a homeowner and try to pull some kind of scam. The
24 other issue that pops up that makes them public
25 targets is that their property may be in a--already

2 in a tax foreclosure or a mortgage foreclosure. The
3 less obvious thing is where the property is in
4 disrepair or abandoned, there's reported criminal
5 activity at the property going on from time to time.
6 Or, the elderly or disabled occupier of the building
7 is known to neighbor--people in the neighborhood or
8 tenants of that person as needing help, being in
9 financial distress, having no family to assist. I
10 want to address the very important point that nobody
11 has addressed here, which is that in the majority of
12 my cases APS has been involved. In some way or
13 another getting called out there. People have
14 pleaded please get this person help. Please get this
15 person help. The problem is it's from the city's
16 point of view, HRA, DSS. Medicaid seems to be some
17 kind of obstacle. So there's an issue with we can't
18 help a private homeowner because they have money.
19 They can go--they can go get someone to represent
20 them. They may not have the capacity and the
21 wherewithal to do it, but they're presumed to have
22 the assets to do it with. That's false. The other
23 issue is that even when APS does get involved, they
24 don't have a branch of their agency [bell] that's
25 sophisticated enough to deal with the issue of what I

2 call asset cases, having a background in bankruptcy.
3 In the asset cases the house is the asset. It's the
4 only asset most of the time, but APS isn't counting
5 pennies. APS isn't looking at bank statements. APS
6 isn't conducting investigations, and in my first
7 case, APS came there was a psychiatric evaluation.
8 And he said well she looks fine. She's well taken
9 care of, but nobody killed the cash cow. So, it was
10 inconclusive as to whether she was being financially
11 exploited. This is one of the things that underlie a
12 lot of the se deed transactions. There's a
13 neighboring real estate professional who's buddied up
14 to some person, cozied up to them and a couple of
15 years later they've got title to the house and nobody
16 knows what happened. The other thing is that the
17 guardianships system where APS is involved it's often
18 slow to respond and address the needs. If there is a
19 way that HRA and DSS can get out there to these
20 people that it can be made available to these
21 residents that there are resources to help them
22 through APS to deal with their financial distress as
23 well or to refer them to the legal services, then I
24 think that would efficient in avoiding or preventing.
25 Because there was someone that was talking about

2 preventing the deed fraud. The way you do it is to
3 get a homeowner the resources, and I think DSS and
4 HRA play a role. In my little handout here, I have
5 six different examples of distressed homeowners in
6 three different boroughs and, you know, I--I would
7 just ask rather than recite a narrative, which is
8 very effective that maybe the committee see them.
9 (sic)

10 CHAIRPERSON FERRERAS-COPELAND: Thank you
11 and our sergeant-at-arms will pick that up so that we
12 can have copies of that. Thank you so much for your
13 testimony. I know Council Member Cornegy has a
14 question, but as you were talking about trusted
15 representatives, I'm think we probably should do a
16 better job also engaging clergy. Because often
17 times, they see the struggle--you know, people--
18 people won't go to APS or they don't know about the
19 agencies, but they'll definitely go to a pastor or a
20 priest, and--and try to get assistance in that way.
21 So clergy is probably something that we should be
22 engaging. Council Member Cornegy.

23 COUNCIL MEMBER CORNEGY: Thank you, Madam
24 Chair. So, [coughs] one of the things that I see--
25 First of all, thank you all for your work on the

2 ground. And it seems like from the narrative and
3 from the anecdotal stories that you're giving, this
4 should be clear cut, and that we should be parading a
5 whole bunch of people to prison. However, since
6 there's not this--there doesn't seem to be one clear
7 cut way that this is happening. It's so--you know,
8 there's so many variables to each, it makes it
9 incredibly--incredibly difficult. I just think that
10 we have to be way more diligent in--in going after--
11 going after this. This to me--the chair mentioned
12 that this is like the--the--the new--the new crime of
13 the future, and--and it is a big cash cow. But one
14 thing I will mention though is what we've created
15 potentially with Medicaid and those kinds of things
16 is the possibility for fraud where you're telling
17 homeowners even if they're in a declining year,
18 they're on fixed incomes. That because they have an
19 asset, which is a property, which is what we teach
20 that we're supposed to have, you can't access certain
21 services. Therein lies an opportunity for potential
22 fraud that leads to those kind of things. So I think
23 we have to address this at its core, and this core is
24 I've seen families try to be creative in getting the
25 services that their--that their family members need

2 and losing valuable assets because of that. So that
3 seems to be one loophole that we've got to address
4 that you can actually be house rich and cash poor,
5 and it create a vacuum so large that you wind up
6 losing valuable assets. So, you know, we were told
7 as a family personally that if we wanted anything
8 for--for my grandmother we were going to have to
9 either sell the property or transfer the property,
10 and it created a panic within us. Thank God, you
11 know, not one of us--we had to put all our brains
12 together to--to--to do that. And everybody doesn't
13 have those resources, and I see people getting stuck
14 in this vacuum. And that's created by the
15 bureaucracy that we have potentially around Medicaid
16 and assistance for seniors and all those kinds of
17 things. So I think one of the things that I've got
18 to do, and we've got to do as a committee is go back
19 and address that because therein lies some of the
20 problems, but thank you for that testimony and
21 clearly pointing that out.

22 CHAIRPERSON FERRERAS-COPELAND: Thank you
23 very much. Thank you for coming to testify today.
24 We're going to call up our final panel. Gloria
25 Sandiford of Bedford-Stuyvesant Real Estate Board;

2 Andrew Malozemoff I'm sorry if I didn't pronounce
3 it--Malozemoff from the Brooklyn Legal Services
4 Corporation; Thomas De Farge, Maple Street Community
5 Gardens; and Paula Segal, of 596 Acres or Maple
6 Street Community Gardens. Hi. I think you know
7 these people.

8 COUNCIL MEMBER CORNEGY: Yeah, we spend a
9 lot of time with them. [laughs]

10 CHAIRPERSON FERRERAS-COPELAND: Yeah, I
11 thought so. Thank you again. I'm going to remind
12 you that if you can summarize your testimony within
13 three minutes. The clock is behind us. You may
14 begin in whatever order you think appropriate.

15 GLORIA SANDIFORD: Okay. Good afternoon
16 everyone and thank you for having us here. My name
17 is Gloria Sandiford and I am the President of the
18 Bedford-Stuyvesant Real Estate Board, Incorporated.
19 The organization has been around for--since 1937, and
20 was organized to help protect people of color in the
21 communities where housing has always been a challenge
22 to purchase and to maintain. As President of the
23 Board and--I'm sorry, President of the organization
24 and a real estate professional for the past 20 years,
25 I--I want to make a clear distinction that I am a

2 broker and not an investor, and I think that people
3 get those two confused. And investor is not seeking
4 to protect or get an owner or a seller the highest
5 and best price. They are seeking to do quite the
6 opposite, to sell them or steal their properties from
7 them for the lowest possible price or for zero. So
8 that is not my goal, or a professional broker's goal.
9 As a member of the SRB we are held to a much standard
10 of ethics than--than that. So I just want to make
11 that distinction. I am here testifying because as a
12 broker and a--and an active person the community, I
13 see all too often the deed theft situations. And I--
14 I want to talk about one in particular that's very
15 dear to my heart, which happened on Jefferson Avenue.
16 It was my neighbor, and I knew she was having some
17 problems, and the name of the woman is Ms. Zella
18 (sp?) Campbell, and she actually was having some
19 serious problems. She had had a stroke, and as the
20 president of my block association, I approached her
21 family to see if I could be of assistance. I knew
22 she was becoming vulnerable because the trash in
23 front of her house was piling up. It was difficult
24 to get past her family for several months, but when I
25 finally did and physically observed the conditions

2 and the situation that was happening, I tried to
3 reach out to Social Services to get someone to come
4 in and--and work with her because she was disabled
5 after the stroke. And, two or three weeks after my
6 going in, I was unable to get back in touch with her.
7 Again, I was being blocked by the family.
8 Unfortunately, she got caught up in a scam where I
9 guess out of her desperation in the middle of the
10 night, she called an 800 number she'd seen on
11 television 1-800 or something Your House is a Dump,
12 and these guys scammed her totally out of her house
13 saying that they gave her \$48,000. She says she
14 never received it. Ms. Zella was left with the
15 mortgage [bell] on that house as well as all the
16 other bills that go along with that house, and she
17 moved to an illegal apartment, basement apartment
18 with no heat in Canarsie, disabled and destitute.
19 And I believe that South Brooklyn is working on that
20 case for her, but I know it's with the Attorney
21 General now I believe and, you know, since that time,
22 2014, her house is just sitting there locked up, and
23 she's-- God knows where she is because she was told
24 she had to move from that illegal apartment, which
25 was--turned out to be an illegal apartment. So, I

2 mean this is just one story. Obviously, this one is-
3 -is very--hit home for me because I--I did reach out
4 to her, and unfortunately they were more convincing
5 or--or quicker than I was and got her to sign over
6 her paperwork, which she did not really understand
7 she was signing away her house for nothing. So, I
8 would--I would love to see something done about this,
9 and I'm joining Mr. Cornegy's Task Force, Housing
10 Task Force to help ensure that. Thank you.

11 ANDREW MALOZEMOFF: Good afternoon.
12 Thank you for having me. I'm Andrew Malozemoff. I'm
13 a staff attorney in the Consumer Economic Advocacy
14 Unit at Brooklyn Legal Services Corporation A.
15 Established in 1968, Brooklyn Legal Services
16 Corporation A has provided high quality civil legal
17 services to low-income individuals, families,
18 community groups and non-profit organizations in
19 Brooklyn. Due to the nature of services that the
20 program provides, our community impact has broadened
21 scope and extends throughout New York City. The
22 program advocates in foreclosure prevention, consumer
23 bankruptcy, and other issues regarding consumer debt.
24 I have the privilege of being part of a dynamic and
25 dedicated team. On behalf of our organization and

2 the clients that we serve, I want to take this
3 opportunity to thank the Council for its support
4 through the Center for New York City Neighborhoods
5 Senior Initiative, which enable our unit to deliver
6 foreclosure prevention and bankruptcy services to
7 this vulnerable population. In the time afford to
8 me, I would like to provide the Council with a sense
9 of what prosecuting a deed theft case is like for a
10 small non-profit legal services provider. Brooklyn
11 Legal Services Corporation A has prosecuted several
12 of these cases over the years, and we usually find
13 that the first reaction is disbelief. A typical deed
14 theft case comes into the office as a landlord and
15 tenant matter where the client is facing a holdover,
16 and all we can do is buy a bit of time for the family
17 to vacate, and the client will say, you know, we used
18 to own this house. These cases involve people who
19 are engaged to act as straw borrowers, people who
20 applied for credit after a fraudulently induced
21 transfer of a deed. Other cases include one where we
22 represented a blind woman who had the same property
23 stolen by a false deed not once, but twice. After
24 much litigation, we were able to obtain compensation
25 for her equal to what she would have obtained if she

2 had sold the property, which was left to her by her
3 father. We are grateful to the Council for the
4 support they will provide us through the Senior
5 Initiative and we are on the lookout for appropriate
6 cases. Given the rapidly escalating value of New
7 York City real estate, the inducement to steal equity
8 from our clients is only increasing. However, we can
9 only ask that the Council require that their law
10 enforcement officers make deed theft a priority. Our
11 officers find themselves--out offices--I'm sorry--
12 find themselves stretched thin in prosecuting these
13 cases, which require years of intense advocacy and
14 investigation. However, we find that the funding
15 provided most frequently is exhausted before the
16 advocacy is completed. The Senior Initiative is a
17 very positive step in this direction, and we look
18 forward to other efforts to assure that our
19 community's equity remains with the residents who
20 have earned it. Thank you.

21 THOMAS DE FORAGE: Good afternoon, and
22 thank you for hearing my testimony. I'm Thomas De
23 Forage. I'm a retired teacher living in Prospect
24 Lefferts Gardens Brooklyn, and I'm a member of the
25 Maple Street Community Garden. The Maple Street

2 Community Garden was founded in 2012 on Maple Street.
3 It was founded originally as a cleanup effort by the
4 Block Association on a lot that had been left vacant
5 and become a dangerous eyesore for nine years. They
6 clean out every--all of the car parts and
7 construction debris that had been left in that space,
8 and decided to turn it into an organic garden
9 collectively managed in order to grow vegetables for
10 the community, and not just individual beds. It is
11 open to all, and we do community get-togethers. I
12 think it's not saying too much to say that it
13 functions in that neighborhood as a kind of a park
14 because seniors come and sit there on a Sunday
15 afternoon. Parents bring their kids there. Dog
16 owners bring their dogs there. It isn't just
17 gardening. It's also for recreation and relaxation.
18 I joined in 2014, which was the first full year of
19 it's operation, the first full harvest that it made.
20 When they started--when the garden started a
21 composting program, and I was bringing my food scraps
22 and then they needed volunteers to turn the compost,
23 and so that became my upper body workout for a while.
24 It still is, in fact. About a month or two after I
25 first got engaged with the garden, two individuals

2 showed up alleging to be the owners of the garden,
3 and tried to throw us off, and came back a week later
4 with a crew of men who began to dismantle the plant
5 beds. Fortunately, an alert neighbor called the cops
6 who were not satisfied with the paperwork that these
7 men had with them, and sent them about their
8 business. They then initiated and about two court--
9 two different cases, one an eviction case against us
10 in Landlord Tenant Court. And, also silently, and
11 maybe a little earlier than that, a quiet title
12 motion in Supreme Court. They did that without
13 actually informing anybody who might possibly have h
14 ad a claim to that property that they were doing.
15 And so, it was their way of getting a judge in the
16 Supreme Court to rubber stamp their ownership of the-
17 -of the property. The deed that they had filed in
18 2003 when they first acquired the property was
19 almost--it was quite obviously fraudulent for several
20 reasons. The--the property had been owned by a
21 couple for Guyana, Oscar and Jermaine Curtain (sp?).
22 They had both died without leaving a will, and the
23 property was vacant for a while. These men filed a
24 deed signed by two people [bell] with the name of
25 Curtain, and we have done research on the Curtains,

2 and with a trained genealogist, an heir locator, and
3 neither of those people exists. Additionally, they
4 assigned to one of them a Social Security number that
5 is not that person's--is not actually associated with
6 that name in the official records. Beyond that, the
7 notary stamp lacked a seal. The signa--notary
8 signature was illegible, and the city in which the
9 deed--the deed was notarized was Worcester,
10 Massachusetts with notary, presumably from Worcester,
11 Massachusetts had misspelled adding an H. [laughter]
12 None of this raised red flags. Of course, this was
13 before July 2014. So the Sheriff's Office was not at
14 that point as vigilant as it is now, but none of that
15 raised any red--red flags. There was not back
16 checking about it at all. Since then we have been in
17 court and we have been doing political efforts to
18 try--we--we have had to do this extremely arduous
19 effort of essentially have the property condemned by
20 eminent domain. We are through the state--we are in
21 Council District 40, and we went to see Council
22 Member Eugene about it. He wasn't able to undertake
23 to do that. Senator Hamilton and Assembly Richardson
24 have introduce bills in Albany to make a state park
25 in the city, transfer it to--I mean under the

2 administration of the Parks Department with us
3 running it, which is as you can imagine a laborious
4 and cumbersome way of solving the problem that could
5 have been solved many years earlier. Thank you very
6 much.

7 PAULA SEGAL: Thank you so much, Tom.
8 I'm Paula Segal. [pause] Hi, I'm Paula Segal. I'm
9 the attorney on all of those cases that Tom just
10 described for the Maple Street Community Garden, and
11 I'm also the Director of 596 Acres. We are in New
12 York City's Community Land Access Advocacy
13 Organization. And Tom just did a wonderful job of
14 telling the story of the Maple Street Community
15 Garden. What you guys have in front of you is the
16 Decision from the Supreme Court, which actually is a
17 preliminary injunction against any construction on
18 the site. The deed thieves have filed permits there
19 aiming to build a 17-unit building. They've filed
20 all--the filed anything they could file. They
21 recently filed a zoning lot description for no
22 particular reason other than it seems to give them a
23 chance to say hey we're the owners here. But we have
24 a preliminary injunction, and the judge does a great
25 job of running through the facts of the case, and

2 telling the story, which really begins back in 2003.
3 So you have that in front of you. The cover note is
4 a note from the guardian who was appointed--appointed
5 ad litem to represent the estate where he explains
6 these gardeners interest and the state interests are
7 the same and the deed that Tom referred to is at the
8 back. I'm going to spend the rest of my time just
9 giving a little bit of a global look at the impact of
10 deed theft and the tax lien sale actually on
11 communities and on neighborhoods. And I really thank
12 you for making the time to look at these really
13 complicated issues really deeply. Because as we
14 heard today, these are issues that impact law
15 enforcement. They impact homeowners. They impact
16 our agencies that are in place to protect the elderly
17 and the vulnerable people of New York City, and they
18 impact neighborhoods. As Council Member Cornegy
19 rightly pointed out, the list of tax liens that is
20 sold every year is a place where one can look for
21 properties that seem to have vulnerable or absentee
22 owners. But the fact that City is selling the debt
23 against those properties instead of keeping the debt,
24 and enforcing it and recycling those properties of
25 community assets, is the real problem. When an owner

2 dies without an estate, when someone gives up on a
3 business, and moves away, when a property becomes no
4 longer a functional community asset, and the former
5 owner stops paying taxes, the reasonable thing, which
6 is that the community gets to reincorporate that
7 asset and use it for something new, does not happen
8 in New York City. What happens instead is the debt
9 that then accrues through the public, the unpaid
10 taxes, gets sold to private for profit speculators
11 who gets to earn 18% interest compounded daily on the
12 debt notes they purchase. We see--in Council Member
13 Cornegy's district we see one such debt that was for
14 \$3,200 that has resulted in a referee sale post-tax
15 lien [bell] foreclosure that was for \$365,000, and
16 now the buyer has the property listed for \$690,000.
17 That started with an unpaid tax bill that was \$3,000.
18 The City is missing an opportunity to purchase--to
19 create assets, but it's also leaving neighborhoods
20 like the neighborhood Tom lives in vulnerable.
21 Where there are vacant and abandoned properties, we
22 see deed theft. We see people who come and prey on
23 those properties, and what that means for
24 neighborhoods is that those properties remain vacant,
25 abandoned full of junk cars and washing machines and

2 syringes and guns, and these the things that people
3 find in vacant lots that they choose to transform
4 with their own hands. It leaves communities with no
5 choice, but to become the developers of their own
6 neighborhoods, and to become developers that have to
7 really take huge risks with their own time and their
8 own love and their own relationships in their
9 neighborhood like the folks at Maple Street have.
10 There's no reason for us to be leaving communities in
11 this position. The other thing I just want to flag,
12 thank you so much for shining a spotlight here that
13 everything that we've heard about from the
14 administration is active from July 2014 going
15 forward. As we all know, our neighborhoods have
16 history. Property transactions go back in ACRIS 49
17 years. As we heard from the Commissioner, they
18 certainly go back hundreds of years, and deed theft
19 goes back as long, and we've had a hot real estate
20 market for a lot longer than July 2014. I haven't
21 heard anything from the Administration that would
22 address the Maple Street Community Garden case or
23 thousands of cases like it where the fraudulent
24 activity happened before July 2014. And I'm just
25 curious what we're going to do about that.

2 CHAIRPERSON FERRERAS-COPELAND: So we can
3 follow up. Thank you all for your testimony. We
4 currently are hosting a task force in the City
5 Council specifically to address and to bring reform
6 to the tax lien sales. So we're sitting with DEP,
7 HPD, DOF and the Mayor's Office, and Council Member
8 Cornegy is also a member of that task force. And as
9 I made mention to the Commissioner and he committed
10 to publicly, that we are going to have to kind of
11 pivot at some point, and begin the conversation on
12 deed fraud, and see how we can perhaps unfold that
13 into the task force either creating a separate one or
14 making-- Because, you know, one feeds into the other,
15 and we got a great presentation from CNYC just last
16 week on also the challenges and the opportunities
17 that we have to bring reform to the tax lien sale.
18 So we hear you. I thank you for sharing your story.
19 I know that it was--became very prominent in the New
20 York Times article. We can't tell you enough how
21 much--often times, you know, in these hearings we'll
22 hear the policy, we'll hear perhaps even legislation
23 that we can enact, but when we hear the stories. And
24 when you come and you testify, it really does help us
25 as council members. So I can urge New Yorkers to

2 come out for those that are watching this hearing to
3 understand that they--that this is not a lost
4 opportunity. That they still can get help. There's
5 great people that are willing to help, and that, you
6 know, unfortunately a lot of vulnerable people are
7 falling victims. I know someone else earlier said
8 that we're a community that makes us disabled. I
9 like to think vulnerable is probably that we're just
10 vulnerable, and--and that American dream of owning a
11 home is unfortunately becoming a really big obstacle
12 for many people to--to overcome unfortunately. So I
13 thank you very much for coming to testify. Council
14 Member Cornegy, I don't know you want to share
15 something.

16 COUNCIL MEMBER CORNEGY: I--I just want
17 to say thank you and thank you Madam Chair. I need
18 you to know and everybody listening to know that we
19 as council members are inextricably tied to these
20 things that are going on in our districts. We're not
21 separate from them and, you know, it's not enough to
22 say that they--obviously they're very painful to
23 hear, but I'm proud to be a part of a body that has
24 formulated a taskforce with the express--with the
25 express purpose of changing the direction of these

2 things. So, it hurts, but there--we are working hard
3 to change and stem this tide and then change the
4 direction of--of not only deed fraud, but the
5 transfer of our green spaces and those kind of
6 things. So stay tuned.

7 CHAIRPERSON FERRERAS-COPELAND: And for
8 those of you that were here from the agency, this is
9 a great opportunity if you need any contacts from the
10 organizations to follow up. I know the Sheriff's
11 Office, DOF, the--the City Register herself is here.
12 So this is a good opportunity. I'm sure many of you
13 can use contacts. Again, thank you so much for
14 coming to testify today. I'm going to call this
15 hearing to a close. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date February 17, 2016