

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
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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

[sound check, pause]

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

fraud can typically be divided into two categories:

Forged deeds and fraudulent transfer deeds. In the

case of forged deeds, the scammer will create a fake

deed signed as the buyer, and also forge the

signature of the homeowner. Cases of fraudulent

transferred deeds occur when a property owner signs

over a deed to a third party either knowingly or

unknowingly under false pretenses. The criminals who

perpetuate these frauds typically prey on the city's

most vulnerable homeowners, those who are falling

behind in their mortgages and facing foreclosure,

those who may need--who may have had a death in the

family and had property change hands through

inheritance, and the elderly. But homeowners should

know that anyone can be a victim of these crimes. We

have all read the newspaper story detailing the

stories of people as varied as the owners of multi--

multi-million dollar town homes in Manhattan to

elderly homeowners within the rapidly gentrifying

neighborhoods of Brooklyn to those hardest hit by

foreclosure crisis in Southeast Queens. There are

two officers within DOF that have authority over

deeds and combating deed fraud. First, the City

Registry is responsible for recording and maintaining

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

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

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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

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

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

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

your documents that might be suspected of deed fraud.

We have also put in place a number of safeguards the

most important of which is the instruction of the

Sheriff's Office in the review process. We now

automatically inform property owners by mail when a

deed is filed against their property, and encourage

them to register for our upend notification program

to review emails, or text alerts when documents are

recorded against their property. The quicker

fraudulent activity is detected, the quicker the

problem can be resolved. Beyond the Notification

Program [coughs] we now request limited liability

companies, LLCs, which have been used by some

criminals in deed fraud scams to shield their

identities to now disclose the names of their members

when recording the deed. We have also installed

cameras in all our offices where deeds are recorded.

After an internal review of our recording process,

our staff out of City leases (sic) office quickly

learned that of the many types of deeds, quitclaim is

most often used with committing deed fraud because it

does not guarantee that the grantor owns the title to

the property. Our staff now pays closer attention to

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

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

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

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

real property recordings a more serious offense.

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

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

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND: Thank you, Commissioner. We've been joined by Minority 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

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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

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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?

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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

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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

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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

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

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

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND:
[interposing] Okay.

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

ASSISTANT COMMISSIONER HILL:
[interposing] So what do you do in that case? That's what I'm asking.

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

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

COMMISSIONER JIHA: Yes.

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

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

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

CHAIRPERSON FERRERAS-COPELAND:

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

COMMISSIONER JIHA: [interposing] That is

a--

CHAIRPERSON FERRERAS-COPELAND: --

Attorney-General, but--

COMMISSIONER JIHA: [interposing] Yeah,

we talked with--so we talked with the Attorney-General's Office to see if we could get some help.

CHAIRPERSON FERRERAS-COPELAND: And how

many of the cases that you have deemed fraudulent that may have been approved by the Sheriff? You may

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND: Okay.

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

CHAIRPERSON FERRERAS-COPELAND:
[interposing] No, right, I got you.

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

CHAIRPERSON FERRERAS-COPELAND: Okay.

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

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

CHAIRPERSON FERRERAS-COPELAND: So abandoned.

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND:
[interposing] Yes.

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

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

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

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

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

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

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

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

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

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

JOSEPH FUCITO: Yes.

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

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

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

JOSEPH FUCITO: Yes.

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

JOSEPH FUCITO: Correct.

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

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

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

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

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

MINORITY LEADER MATTEO: Before--

JOSEPH FUCITO: [interposing] Right.

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

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

MINORITY LEADER MATTEO: Okay. Great. Thank you.

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

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

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

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

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

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

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

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

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

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

financial documents that are required in the transfers.

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

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

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

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

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

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

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

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

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

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

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

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

JOSEPH FUCITO: [interposing] Yes.

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

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

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

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

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

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

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

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

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

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

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

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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

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

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

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

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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

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

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

COUNCIL MEMBER ROSENTHAL: Yeah, again, driven by my concern that I'm not hearing about it in my district, and maybe there's stuff going on.

Because certainly we have a lot of harassment, you know, leading to eviction going on in my district. And I wonder if any of it has to do with that. So thank you very much for your work. I appreciate it.
[pause]

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

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

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

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

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

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

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

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

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

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

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

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

COUNCIL MEMBER LEVINE: Thank you very much.

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

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

COMMISSIONER JIHA: How are you?

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

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

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

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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--

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

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

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

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

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

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

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

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

ASSISTANT COMMISSIONER HILL: Right.

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

ASSISTANT COMMISSIONER HILL: Okay.

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND:
[interposing] Excellent.

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND:

Excellent.

COMMISSIONER JIHA: We definitely do want to ask.

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

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

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

CHAIRPERSON FERRERAS-COPELAND: Okay.

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

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

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

COMMISSIONER JIHA: [off mic]

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

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

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

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND:
[interposing] Great.

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

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

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

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

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

COUNCIL MEMBER CORNEGY: Thank you.

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

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

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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

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

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

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

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

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

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

CHAIRPERSON FERRERAS-COPELAND: Thank you.

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

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

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

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

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

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

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

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

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

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

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

ROSE MARIE CANTANNO: Thank you.

BELINDA LIU: Thank you.

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

Okay.

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

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

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

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

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

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

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

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

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

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

and institutions would be essential to counter the advertisements and solicitations of the scammers.

[coughs] We also commend the Department of Finance's use of the--the Notice of Recorded Document program as a vital first step to alerting homeowners of potential fraud. But we would encourage the Department of Finance to further promote and advertise so that vulnerable homeowners--homeowners who are most at risk are made aware of this--this important deterrents. (sic) And then, I would just lastly say that I think as others have said, strong enforcement coupled with publicity of the law enforcement actions is another deterrent for this trend to continue. Thank you.

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

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

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

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

call asset cases, having a background in bankruptcy.

In the asset cases the house is the asset. It's the

only asset most of the time, but APS isn't counting

pennies. APS isn't looking at bank statements. APS

isn't conducting investigations, and in my first

case, APS came there was a psychiatric evaluation.

And he said well she looks fine. She's well taken

care of, but nobody killed the cash cow. So, it was

inconclusive as to whether she was being financially

exploited. This is one of the things that underlie a

lot of the se deed transactions. There's a

neighboring real estate professional who's buddied up

to some person, cozied up to them and a couple of

years later they've got title to the house and nobody

knows what happened. The other thing is that the

guardianships system where APS is involved it's often

slow to respond and address the needs. If there is a

way that HRA and DSS can get out there to these

people that it can be made available to these

residents that there are resources to help them

through APS to deal with their financial distress as

well or to refer them to the legal services, then I

think that would efficient in avoiding or preventing.

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

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

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

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

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

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

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

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

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

and the situation that was happening, I tried to reach out to Social Services to get someone to come in and--and work with her because she was disabled after the stroke. And, two or three weeks after my going in, I was unable to get back in touch with her. Again, I was being blocked by the family.

Unfortunately, she got caught up in a scam where I guess out of her desperation in the middle of the night, she called an 800 number she'd seen on television 1-800 or something Your House is a Dump, and these guys scammed her totally out of her house saying that they gave her \$48,000. She says she never received it. Ms. Zella was left with the mortgage [bell] on that house as well as all the other bills that go along with that house, and she moved to an illegal apartment, basement apartment with no heat in Canarsie, disabled and destitute.

And I believe that South Brooklyn is working on that case for her, but I know it's with the Attorney General now I believe and, you know, since that time, 2014, her house is just sitting there locked up, and she's-- God knows where she is because she was told she had to move from that illegal apartment, which was--turned out to be an illegal apartment. So, I

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

ANDREW MALOZEMOFF: Good afternoon.

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

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

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

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

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

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

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

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

PAULA SEGAL: Thank you so much, Tom.

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

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

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

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

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

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

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

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

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

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