



Department of Finance

City Council Committee on Finance

Intro 1673: Reporting on the Notice of Recorded Document
Program

Testimony of Joseph Fucito,
Sheriff of the City of New York
New York City Department of Finance

October 18, 2017

Good afternoon Chair Ferreras-Copeland and members of the Committee on Finance. I am Sheriff Joe Fucito. I am joined by Annette Hill, Assistant Commissioner for Land Records and the City Register.

The Department of Finance is working aggressively to combat deed fraud because when the criminal succeeds, people lose what may be their largest asset: their homes.

What is Deed Fraud?

Deed fraud is a very serious crime. It happens when someone transfers your property out from under you without your consent or permission, or when you sign over your property to someone else, by mistake, because you were misled or tricked in a transaction. Those deeds are then used to commit other fraudulent activities, such as securing mortgages, setting up phony short sales, and 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. There are higher incidences of deed fraud in gentrifying communities, which is why DOF has held Town Halls focused solely on deed fraud in their neighborhoods. We are committed to combating it with every resource that we have.

What is the City doing to protect people?

The most important step is to make it harder to present fraudulent deeds for recording in the first place. Once a fraudulent deed is recorded, the rightful owner has to spend time and money to prove ownership. Our challenge, is that by law, the City Register is required to perform the ministerial act of recording a deed as long as it is in recordable form, meaning: It is certified by a public notary; it has a seller's signature and a buyer's signature under certain circumstances, and includes all other required legal documents. There is not much room for us to negotiate the law. This is a challenge for municipalities throughout the country — the job of the City Register is to record documents, and they have a legal obligation to do so.

The Sheriff's Office has played an integral role in our efforts curtail deed fraud. Our Deputy Sheriffs are trained to better detect forged and fraudulent documents and put the Sheriff's Office in the review process. We also automatically inform property owners by mail when a deed is filed against their property and encourage them to register for our opt-in notification program, where we send emails or text alerts when documents are recorded against their property. The quicker someone catches fraudulent activity, the quicker the problem can be resolved.

Examples of types of recordings that would trigger an additional review are those with a sale price far below market value, multiple transfers between LLCs in a short period of time, or transfers by people or entities known to have committed or have been suspected of deed fraud in the past.

These changes have had real effect. Since July 2014, when we increased our focus on this issue, more than 1,973 cases have been referred to the Sheriff's Office. We have closed out 1,119 cases; we have completed 96 criminal investigations with District Attorney Offices, and have 236 ongoing investigations. We have made 37 arrests for 54 properties that have a total market value of approximately \$40 million. We are continuously assessing and evaluating our operations to enhance ways to detect fraud. We are hiring more Deputy Sheriffs to handle the growing number of cases, and looking at how technology can be used to improve detection.

In these efforts, we are encouraging New Yorkers to be proactive. In our communications, we tell them: If there is activity on your property records that is not legitimate, please call or walk into the Sheriff's Office and file a complaint. We have included a phone number and web contact information for the Sheriff's Office on our website at NYC.GOV/Finance. Victims of deed fraud or those who suspect fraud may also reach out to any of the five district attorneys, they are our partners to catch the professional deed fraud rings that usually include lawyers and banks.

What can people do to protect their properties?

We need everyone's involvement, including the public's cooperation, to prevent deed fraud.

Here are some measures the public can take to protect themselves:

- Review your property records annually for activity. This information is available on our website through the Automated City Register Information System, commonly referred to as ACRIS, where you can view property records. <http://www1.nyc.gov/site/finance/taxes/acris.page>
- Register your property with the City Register's Office. We have a program called the Notice of Recorded Document. Once you register, you will be notified by text or email when there is any activity on your property. It's free and you can register online. <http://www1.nyc.gov/site/finance/taxes/deed-fraud-program-faq.page>
- Check with the Department of Finance if you stop receiving property tax and 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 house regularly while you're gone. Have them collect your mail so that it does not pile up — a signal the house is unoccupied.
- Be very 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 trusted attorney before signing 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 like a gang: they have their own attorneys, mortgage bankers, notaries, title companies and real estate brokers.

- Use a title company that you have vetted for real estate transactions, and make sure your title insurance has deed-fraud protection.

One of the ways people can help keep count of activity taking place with their properties is through registering with the NYC Department of Finance’s Notice of Recorded Document (NRD) Program. Currently, roughly 45% of registrations are by city government offices. However, here is a breakdown of participants not affiliated with city government.

Borough	Total Registrations	Active Registrations	Total Opting Out
Manhattan	8,560	8,360	200
Bronx	5,313	5,275	38
Brooklyn	19,163	18,940	223
Queens	13,083	12,989	94
Staten Island	3,189	3,172	17
TOTAL	49,308	48,736	572

Intro 1673

The City supports this legislation to require DOF to establish and maintain a system that would allow individuals to register to receive notifications by email or text message whenever any document affecting an ownership interest in real property is recorded with the City Register or the Office of the Richmond County Clerk. DOF will be able to provide quartley reports on the utilization of the system, including the number of registrants, the number of individuals contacting DOF regarding suspected fraudulent recording.

However the City has two concerns: 1) the reporting requirement of information about referrals made to the City Sheriff related to suspect fraudulent recording and 2) reporting requirement for Richmond County Clerk. The City is concerned that providing detailed information about a case too early in the process may jeopardize an ongoing criminal investigation. Instead, the City suggests a friendly amendment to provide numbers of cases aggregated by each county’s office that are referred for investigation. Additionally, the City is concerned about reporting on the Richmond County Clerk, as they maintain their own systems. Instead, the City suggests requesting the Richmond County Clerk to provide DOF

on a quarterly basis the same data. In doing so, DOF will be able to deliver one report, quarterly, representing all five boroughs. Finally, we would like to know if there is a preference on the reporting based on a fiscal year or calendar year.

We are hopeful we can work with Council to resolve what we see as two issues to implementation.

We would now like to take this opportunity to remind people what they can do if they suspect they are a victim of deed fraud.

- First, act quickly. Do not be embarrassed or wait to get 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. Please call (718) 707-2100. It's important that they open a criminal investigation.
- Hire an attorney to help you regain legal title to your property.
- Check to see if your title-insurance policy covers deed fraud; this could help cover the cost associated with hiring an attorney. If you can't afford one, contact the New York State Attorney General Office. They work with partners to provide free assistance to homeowners throughout the state. Their website is AGScamHelp.com.

I hope that the testimony today has given you a concrete outline of the measures we have in place to deter and to detect fraud.

Thank you for your time. I will now take questions.

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MAS Comments for the New York City Council, Committee on Finance regarding Introduction No. 1673 of 2017 in relation to the notification and recording of certain real estate instruments through the Automated City Register Information System (ACRIS)

October 18, 2017

Position

The Municipal Art Society of New York (MAS) has a number of recommendations we urge the City to include in Introduction No. 1673. If amended consist with our recommendations, we would support the proposal. The bill must apply to all document types pertaining to the transfer of development rights and zoning lot mergers as a means of increasing transparency and accountability for non-discretionary land use actions. In addition to the proposed notification system, the legislation should also require a quarterly, downloadable digital publication that discloses key real estate information from relevant document types. Finally, the legislation must require improvements to the functionality of the existing online platform, including better searching, filtering, and previewing capabilities.

Background

Introduction No. 1673, introduced by Council Members Rosenthal and Ferreras-Copeland, seeks to codify the Department of Finance (DOF)'s Automated City Register Information System (ACRIS) Notice of Recorded Document Program by requiring that the DOF establish and maintain a system that would allow users to register to receive notifications by email or text message whenever any document (as determined by the Finance Commissioner) affecting an ownership interest in real property is recorded with the City Register or the Office of the Richmond County Clerk.

Recommendations

As identified in our updated Accidental Skyline report, released last Monday, we recognize the importance of improving online resources by making data standardized, comprehensive, and accessible. Therefore, while we fully support improvements to the notification system for ACRIS, we feel the proposed legislation needs to adopt the following recommendations to significantly advance the existing usefulness of the platform to the public and effectively increase transparency with regard to the transfer of development rights.

1. Documents Types Pertaining to Development Rights

Zoning lot mergers and development rights transfers are one of the primary mechanisms developers use to build significantly larger buildings and avoid the scrutiny of the City's public review processes. Unfortunately, the City lacks a platform that provides clear and accessible information about non-discretionary actions such as zoning lot mergers and other property transactions not subject to CEQR and ULURP. In its current form, the legislation omits these important actions.

As such, the bill should be amended to specifically include documents that record zoning lot mergers; the transfer or acquisition of development rights; zoning lot development agreements (ZLDAs); easement agreements; air rights, or any other similar action pertaining to development rights.

2. Notification Systems

In the interest of increasing transparency to the fullest extent practicable, we recommend that the City be required to submit physical and digital notifications to the local Community Board and Council Member whenever document types pertaining to developments rights are recorded in the Office of the City Register or at the Department of Finance.

In addition, given that air right assemblages are often created over the course of many years or even decades, the Department of Buildings (DOB) must be required to issue a second type of notification whenever building applications that exploit any form of transferable development rights are submitted to DOB.

3. Quarterly Publications and Integration with other Datasets

The bill must require the DOB to publish at quarterly intervals a list of the aforementioned document types pertaining to development rights. The database should be made available to the public in formats that allow analysis and integration with other existing property datasets such as *PLUTO* (land use dataset compiled by the Department of City Planning).

These publications must be made available through the City's open data portal in the following formats: CSV, Excel, and/or shapefiles that facilitate geospatial analysis. The datasets must include the City Register File Number, the total number of square feet being transferred, the borough and block-lot numbers of the properties involved, and the dates when these actions were executed.

4. Improving functionality of the existing platform

Although property records and financial documents are posted on ACRIS, navigating the site can be a cumbersome exercise for most users. The document type section of the platform does not allow users to filter documents based on date ranges longer than 31 days and lacks the capacity to allow users to search documents relevant to a specific geographic area smaller than the borough level. Finally, ACRIS does not display vital real estate transaction information without forcing the user to read complex and cumbersome documents that sometimes number in the hundreds of pages.

The bill must improve functionality of the existing ACRIS platform, including searching capabilities that allow for a broader range of dates, such as years or even decades; allowing users to filter document types based on geographies defined by Community Boards and Council Districts; and display the total number of square feet being transferred and the borough and block-lot numbers of the properties involved as a preview in the search results section.

We believe that with the inclusion of our recommendations, Introduction No. 1673 will yield effective improvements to ACRIS that will greatly increase transparency and accountability, and provide the public with a user-friendly portal to critical information about development in the city.

Thank you for providing the opportunity to comment on this important issue.

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THE CITY OF NEW YORK**

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in favor in opposition

with recommendations Date: 10/18/2017

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Name: MARCEL NEGRET

Address: 488 MADISON AVE SUITE 1900

I represent: MUNICIPAL ART SOCIETY (MAS)

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