

City Council Committee on Finance

The City's Efforts to Combat Real Property

Deed Fraud

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Good afternoon, Chair Ferreras-Copeland and members of the City Council Committee on Finance. I am Jacques Jiha, Commissioner of the New York City Department of Finance. I am joined today by Sheriff Joseph Fucito and Annette Hill, Assistant Commissioner of Land Records and the City Register — the two people leading our efforts to curb 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 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 were misled or tricked in a transaction. Counterfeit 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 we are committed to combating it with every resource at our disposal.

What is the City doing to protect property owners?

The most important step 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, 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 — 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 for municipalities throughout the country — their registrars, like our City Register, are legally obligated to record deeds that meet these basic standards.

We have, however, taken affirmative steps to curtail this fraudulent activity, including training our staff to better review documents that might be suspected of fraud. We have also put in place a number of safeguards — the most important of which is the insertion 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 opt-in notification program to receive 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, we now request limited liability companies (LLCs) — which have been used by some criminals in deed-fraud scams to shield their identities — to disclose the names of their members when recording a deed. We have also installed cameras in all our offices where deeds are recorded.

After an internal review of our recording process, our staff at the City Register’s Office quickly learned that of the many types of deeds, Quitclaim is most often used when 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.

When there is a discrepancy with the recording, it is automatically referred to the Sheriff’s Office for a second review, where his staff then contacts the respective parties — both buyer and seller. If the deed is legitimate, 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 recordings that would trigger an additional review are those with a 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 suspected of deed fraud in the past.

These changes have had significant effects. Since July 2014, 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 district attorney 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 breakthroughs, we are continuously assessing and evaluating our operations to enhance ways to detect and prevent fraud. These include hiring more deputy sheriffs and investigators to handle the growing number of cases and looking at how technology can be used to improve detection.

In addition to these administrative 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. In our 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 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 the district attorney in their borough. The five district attorneys have been key partners in these investigations and prosecutions.

Administrative changes alone cannot prevent or detect all deed-fraud scams. As a result, we have introduced legislation in Albany to erect barriers that extend beyond the Department of Finance's recording function. Our legislative proposal is based on nationwide best practices and is supported by the National Notary Association. The proposed legislation would require applicants for notary public who specialize in estates, deeds and powers of attorney to submit fingerprints during the application process. Public notaries and the Commissioner of Deeds would be required to complete a record of every notary public's recordings involving certain types of residential property documents. These documents would be submitted to the City Register's Office, the Richmond County Clerk or to the title insurance company, financial institution or law firms for which the notary is an employee or an agent. Doing this would provide a record of transactions that could be referenced during a deed-fraud investigation.

For legal 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 10 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 active

court case. Moreover, we proposed 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 their properties?

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

What can you do if you are a victim of deed fraud?

- 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'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 my testimony today has given you new insight into the seriousness and pervasiveness of deed fraud 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 needed to combat this serious crime.

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