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BROOKLYN REGIONAL OFFICE

**Testimony Before the Joint Hearing  
to Examine the Crisis Facing Homeowners in Brooklyn**

Good Afternoon, Senator Montgomery, Borough President Adams, Assembly Member Wright and distinguished committee members. Thank you for the opportunity to address your committees today. My name is Michael Barbosa. I am the Assistant Attorney General In Charge of the Brooklyn Regional Office at the Office of New York State Attorney General Letitia James. The Brooklyn Regional Office helps residents of Kings and Queens Counties to address consumer complaints while also conducting affirmative litigation and public advocacy.

Attorney General James acts as the “People’s Lawyer,” serving as chief guardian of the legal rights of the residents of the State of New York. This includes protecting civil and consumer rights, defending labor laws, the environment, and investors, and much more. The OAG also investigates and prosecutes violations of state law, defends the State in litigation, enforces regulations, recoups State funds, proposes legislation, and provides legal opinions.

The Attorney General has broad authority under section 63(12) of the Executive Law to subpoena any business in New York that engages in persistent illegal conduct, under local, state or federal law and initiate civil prosecutions to protect consumers and obtain restitution for victims. Civil investigations and lawsuits under section 63(12) of the Executive Law allow the Attorney General to launch an expedited civil proceeding in court to halt the illegal conduct and/or obtain restitution for victims. In addition to litigating, the Attorney General’s Office mediates thousands of complaints each year from individual consumers. A large percentage of these complaints are resolved satisfactorily through the mediation process.

**Brooklyn Homeowners in Crisis**

More than ten years after the foreclosure crisis, homeowners in Brooklyn continue to face many challenges. Although records show that home prices have steadily increased in Brooklyn, the rate of home ownership for Black and Latino households continues to decrease. Foreclosure filings in Brooklyn also remain high. The epidemic of fraud continues to effect homeowners as it takes on many forms. We have learned that fraudsters target single-family homes and small residential buildings. Many of these homes have remained in the same family for over a half-century and have significantly increased in value over the years. Often the owners are elderly or widowed; the properties accumulate liens in the form of unpaid real property taxes and/or water and sewer charges. With the stroke of a pen, homes have been transferred from victims who are

the most vulnerable – the elderly, the financially disadvantaged, the medically infirm and those uneducated on the process. To combat this problem, we continue to work with our law enforcement partners, elected officials and advocates for new solutions to these challenging problems.

In 2012, the OAG established the Homeowner Protection Program (HOPP). HOPP is a network of over 85 housing counseling and legal services organizations across the state that provide free help to homeowners in foreclosure as well as funds for resources to advise homeowners how to avoid foreclosure scams. In addition, [www.homeownerhelpny.com](http://www.homeownerhelpny.com) is a website the OAG created which helps homeowners determine whether a company has been vetted by a government agency and urges homeowners at risk of foreclosure to work with a qualified agency within HOPP. HOPP is currently on the seventh year of funding, in total the OAG directed \$136 million from settlements with various financial institutions over foreclosure abuses. In December 2016, our office also launched the Foreclosure Rescue Scam Prevention Initiative – a grant program focused on enhancing outreach, education, and referral services for homeowners at risk of fraudulent foreclosure rescue schemes. Our HOPP anchor partner is the Center for New York City Neighborhoods, which runs this Attorney General’s consumer education initiative. Since 2012, HOPP has provided free, high-quality assistance to nearly 11,000 Brooklyn residents and more than 98,000 New Yorkers overall to help avoid foreclosure of their homes.

The New York State Mortgage Assistance Program (MAP) provides a 0% interest mortgage loans to eligible New York homeowners at risk of foreclosure, to help them pay off debts that are barriers to mortgage modifications. To date, MAP has assisted 1220 families with loans.

### **Criminal Deed Theft**

On Jan 8, 2019, our office announced the sentencing of a woman (Marilyn Sanchez), for filing two fraudulent deeds and supporting documents containing forged signatures with the New York City Register’s Office. The defendant was convicted on two counts of Grand Larceny in the Second Degree, and sentenced to 60 days in jail, followed by five years of probation. The Defendant was also required, as part of her plea deal, to execute paperwork returning the stolen properties back to the lawful owners.

Our investigation revealed that in November 2016, the defendant illegally transferred ownership of a home (477 Christopher Avenue) in Brownsville and (271 East 32<sup>nd</sup> Street) in East Flatbush by recording a deed and five supporting documents containing the forged signatures of the lawful owners with the New York City Register’s Office. In both instances, the owners never signed the deed nor the supporting documents and they never gave Sanchez, or anyone else, permission to sign on their behalf.

These cases represented a common pattern where the lawful owner had died and the home had been vacant, boarded up and neglected for many years. The decedent’s heirs were unaware or did not know how to acquire the abandoned property. The fraudster then opened up

this vacant home and make some minor unregulated repairs to the property before renting it out to tenants.

We have a number of deed theft investigations currently ongoing. Not surprising, most of our deed theft complaints and investigations are in Brooklyn. In fact, more deed theft complaints come from Brooklyn than the other four boroughs combined and seem to occur in the neighborhoods of Bedford Stuyvesant, Crown Heights, Flatbush, and Brownsville.

We have an additional deed theft prosecution in which one of the properties involved is in Brownsville Brooklyn.

### **Civil Deed Theft**

In October 2018, the Attorney General's Syracuse Regional Office obtained a judgment against a company and its owners for falsely advertising as real estate and property management professionals and engaging in repeated and persistent fraudulent conduct. The Onondaga County Supreme Court found that the respondents used deception, misrepresentation, concealment, false pretense or promises, and unconscionable contractual provisions to trick several New York homeowners into turning over ownership of their homes to the company. The court order permanently banned these individuals from owning or operating any real estate or real estate investment business in New York State and required them to pay nearly \$100,000 in victim restitution, civil penalties, and costs.

### **Recommendations**

The OAG recommends that the Joint Committee on the Crisis Facing Brooklyn Homeowners consider supporting several reforms that we believe would strengthen the protections for vulnerable homeowners in Brooklyn.

The Homeowner Equity Theft Prevention Act is a New York State law passed in 2006 and designed to strengthen homeowner protections and combat frauds against homeowners, needs to be updated to reflect the changing time and frauds. There is currently bill (A.1408 (Weinstein/S.6171 (Hamilton)), pending to amend the real property law (RPL 265-a; RPL 265-b), the civil practice law and rules (CPLR 6312), and the criminal procedure law (CPL 420.45).

The first proposed amendment broaden the types of transactions covered by the law and extends the right of rescission for homeowner unwittingly transferring their deed from five days to fourteen days. The second amendment narrows the types of attorneys excluded from coverage to only those lawyers who are representing homeowners pursuant to a retainer agreement and who have entered an appearance on behalf of the homeowner. The law also would exempt homeowners from being required to post a bond in efforts to seek preliminary injunctions to stop a deed transfer. Last, the final revisions to the New York Criminal Procedure Law provides new authority for the District Attorney or Attorney General who prosecutes the case and receives a criminal conviction to file a motion in Supreme Court to void the property transfer. Currently,

homeowner victims need to hire an attorney to obtain this type of relief. By amending these provisions, the bill addresses some solutions to combat the evolving deed theft and foreclosure frauds.

These are merely a few preliminary suggestions that we believe would help distressed Brooklyn Homeowners. We are happy to work with the Joint Committee to develop more suggestions that deal with use of Limited Liability Companies as a cover for the frauds and the prevalence of Notary Public Fraud into specific legislative proposals.

Also, please continue to tell victims to report complaints by calling the Attorney General's hotline at 1-800-771-7755 or accessing our website at:

**[www.ag.ny.gov/consumer-frauds/Filing-a-Consumer-Complaint](http://www.ag.ny.gov/consumer-frauds/Filing-a-Consumer-Complaint)**

Thank you. I am happy to answer questions.