



Written Testimony
submitted by the
Office of Kings County District Attorney Eric Gonzalez

Joint Hearing to Examine the Crisis Facing Homeowners in Brooklyn
March 15, 2019

Kings County District Attorney Eric Gonzalez is deeply committed to protecting homeowners in Brooklyn. He understands that rising home prices, the result of the gentrification of many of our Brooklyn neighborhoods, make Brooklynites more vulnerable to real estate scams. We have heard too many heartbreaking stories of homeowners, often elderly people who have occupied their homes for many years and raised families there, losing their homes to such scams. For many working families and retirees, their home is their largest investment. Real estate fraud can therefore have devastating financial consequences, costing victims virtually their entire life savings.

District Attorney Gonzalez has made it a priority to protect Brooklyn residents from these types of schemes, and to hold real estate scammers accountable. Our office has a Real Estate Fraud Unit that investigates and prosecutes fraud related to real property, including deed fraud, mortgage fraud and foreclosure rescue schemes. Some examples of cases we have investigated and prosecuted are:

- Just this week a scammer who preyed on his 84-year old neighbor, stealing title to her home, was sentenced to 3-9 years in state prison. The defendant created a trust, of which he was the beneficiary, and filed false documents to transfer ownership of the three-family house—valued at \$445,000—to the trust.
- In November 2018, a former New York City police officer was sentenced to six months in jail and five years' probation for transferring the title from a neglected three-family house in Bedford-Stuyvesant to herself. The defendant, who was an NYPD officer at the time, executed a deed that falsely stated that she bought the property from the nephew of the deceased homeowner. The scheme unraveled when the nephew was approached by an

actual potential buyer in 2014.

- In a 2017 joint investigation with the State Attorney General's Office, nine individuals were variously charged with money laundering, mortgage fraud, grand larceny, conspiracy, and other charges related to their participation in a scheme to defraud mortgage lenders that spanned two boroughs and resulted in more than \$1 million in ill-gotten mortgage loans. Four defendants used sham corporations to acquire title to four properties in Brooklyn and Queens, and then conspired with five other defendants to obtain mortgages to "buy" the properties in manufactured resales. The defendants concealed the fact that the buyers couldn't afford the homes by submitting fraudulent mortgage applications showing grossly inflated incomes from fake jobs, bank accounts with fabricated balances and other false information. All nine defendants pled guilty, and the ring-leader was sentenced in 2018 to 2-6 years in prison.

The District Attorney's Office has also been made aware of a number of concerns surrounding the Department of Housing Preservation and Development's Third Party Transfer program, and we are taking those concerns very seriously.

Our office is here today to warn our borough's homeowners and give them some advice on how to protect their homes from scammers. First, a little information on how these scams tend to work: As we all know, real estate values are rising in Brooklyn while incomes are not keeping pace. Unaffordable mortgages, either for initial purchases or for refinancing, have stretched people's budgets to the breaking point at the same time that the city has stepped up enforcement of municipal liens like unpaid taxes and water bills. These competing pressures result in people missing mortgage payments, which can lead to defaults and eventually, foreclosures. Those foreclosures can drag out seemingly endlessly, creating uncertainty and desperation.

Scammers posing as "mortgage modifier" firms exploit this uncertainty and desperation. A very common scam is what is known as the "mortgage rescue scam" where the owner is induced to sign over their deed on a pretense that the deed transfer is necessary to "work things out with the bank." In truth it is never the case that transferring a deed will help the homeowner with a default. The owner/borrower must retain title in order to have options such as a short sale or a re-financing of the debt.

These scams succeed, however, because the process of foreclosing has become so onerous that banks are sometimes willing to negotiate with the person who "bought the deed" simply to resolve the bad debt and to get the property off the bank's books. Mortgage rescue scammers rarely sign written agreements with homeowners, which makes it difficult to prove what exactly the "deed buyer" agreed to do. Homeowners need to be aware that once they accept money from a mortgage rescue scammer and sign over the deed, criminally prosecuting the scammer becomes very difficult.

Before entering into any such transaction, we urge residents to do their due diligence. Research the "mortgage modifier" firm and obtain expert advice. Never sign anything unless you have conferred with someone else, preferably a lawyer, about what you are signing.

Our Office has also prosecuted cases where scammers impersonating deceased owners have succeeded in selling homes. We have had other cases where the owner died, leaving multiple heirs, and someone who calls themselves an “investor” pays one of the heirs for a deed to that heir’s share of the house. This makes that “investor” a co-owner with the other heirs and they can actually seek a court order to sell the house.

Heirs can prevent these scams by settling the deceased family member’s estate in Surrogate’s Court without delay.

Other points for homeowners to remember include:

- Always do some investigation of anyone who approaches you about anything concerning your home. Don’t be rushed into signing anything and be suspicious of anyone who demands an up-front fee.
- Consult with a lawyer or a certified housing counselor before signing any agreement for foreclosure rescue services. To find counselors approved by the U.S. Department of Housing and Urban Development (HUD) in your local area, call 1-800-569-4287 or visit www.hud.gov.
- Don’t agree to anything affecting your property without getting everything in writing, and keep copies of everything you sign.
- Don’t agree to any deal that you don’t really understand, and never sign a document you don’t understand. Always seek advice from a lawyer or an approved counselor.
- Look at your deed to be familiar with what it looks like. Don’t sign another deed unless you are actually selling your property.
- Never sign blank documents.

If you have questions or feel that you have been the victim of a scam, contact the DA’s Action Center at (718)250-2340.

