

## **Testimony of Michael Baker to the Senate Standing Committee on Housing, Construction and Community Development Regarding Deed Theft**

My name is Michael Baker. My family owned a property in Brownsville for nearly sixty years, located at 435 Herzl Street. This was our family home. My father bought it in 1963, when I was two years old. I lived there for my whole life, and my family had paid off the mortgage. In 2018, the title of our home was stolen from us through a deed theft scam. In July of this year, my family and I were evicted from our home. My family is scattered. I have spent nights in the streets, on park benches. My family's wealth, accumulated over nearly sixty years of hard work and sacrifice, has been taken from me. I may have lost valuable possessions that were left in our home after we were evicted.

I have not had the opportunity to tell my story, and am grateful for the chance to speak with you today.

### **Loss of our Home to a Deed Theft Scam**

My father was the owner of the home until he passed away in 2014. After his death, while taking care of his estate, I learned our home had unpaid property taxes of approximately \$40,000. I was afraid that I would lose our home to a property tax foreclosure. To pay off the back-due property taxes, I sought financing from banks, but they turned me away because I did not have a credit history. An acquaintance connected me to a real estate investor that promised to help me save my property. I was told to transfer the property to an LLC, which would take out a mortgage and give me money to pay off the tax liens. I would be made a principal of the LLC, and when my credit improved (the real estate investor also promised me credit repair services), I could get financing of my own and the LLC would transfer the property back to me.

At a closing in June 2018, I was made to sign a contract of sale transferring my home to the LLC. There was also an agreement where the LLC agreed to transfer my home back to me, but the parties did not give me a copy of it. The tax liens were paid off, and I was able to make some repairs to the property in order to rent out two units. As agreed, I sent in monthly payments to the LLC for its mortgage payments.

A few months later, I was told that the lender had “rescinded the loan,” the transaction had fallen through, and that I had lost my home. The very next day, I received an eviction notice from a new company that I had never heard of. I was in complete shock. I could not believe it. I contacted the attorney that was listed as the seller’s attorney in the contract of sale for help. He claimed he did not know about the agreement to transfer the property back to me, and recommended I work with another attorney, whom he was close with.

### **Failed Quiet Title Action & Eviction**

This attorney charged me \$15,000 and started a quiet title action against several of the initial scammers in Kings County Supreme Court, and represented me in a holdover action filed by the company that had sent me the eviction notice.

However, unbeknownst to me, the complaint in the quiet title action stated that the company claiming ownership did not know of the initial fraud. The company had apparently bought the property from the LLC and filed its deed only days before the quiet title action was filed. The attorney kept me in the dark about the progress of the quiet title action, until she told me that my action had been dismissed against the company that was trying to evict me, as well as against the lender that had given the company the loan to buy the property from the LLC. She did not explain to me what happened in the case, but she filed an appeal, and demanded \$30,000 to handle the appeal of the court’s decision dismissing my claim against the company claiming ownership. I could not afford the fee, so she

withdrew as my attorney from the quiet title action, the appeal, and the holdover action. After the pandemic moratorium expired, the holdover action moved forward, and the company issued a notice of eviction. We were evicted on July 6.

I looked for a private attorney to take my case, and spoke with several. Most did not want to take my case or did not believe I could undo the damage to my case and recover my title. Those that were willing to take my case wanted over \$20,000 as a retainer and said there was likely no chance I could get my home's title back.

As several attorneys explained to me, the company that claimed ownership of my home – and the lender that had given it the funds to purchase my home from the LLC—had claimed that it did not know anything about the fraud by the LLC. I could not believe this could be the case. At the time the company supposedly bought my property, my family and I were living in the house. I was in the process of making repairs to the house. How could the company claim not to know about me? According to the attorneys I spoke to, the company had said it just looked at the public records, and since nothing raised a red flag, the court had decided that it had no knowledge of the fraud. The fact that the complaint filed by my former attorney said that the company did not have knowledge of the fraud also undermined my claims. No attorney wanted to take the case because of the complexity and the legal knot that had been tied.

I was referred to Brooklyn Legal Services, who has been helping me move my case forward on my own. They have provided me with valuable guidance and advice at no cost. I am grateful for their assistance so far. But I believe our state can do better to protect homeowners from deed theft scams. One thing I do not understand or agree with is how a company could claim to not know of the fraud when I was openly living in the property—even the most cursory property inspection would have revealed that—and the property's public records reflected my family's long-term ownership.

## Conclusion

Had I known that free legal services through the HOPP network were available to help me when I sought to address the tax arrears on my home, I would not have turned to someone like the real estate operator and been led into this scam that stole my family's home from me.

I am heartbroken by how my home was taken from us, and by how the legal system has failed to protect my rights. It does not seem right.

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Thank you.

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