



WRITTEN TESTIMONY ON

THE PRACTICE OF DEED THEFT IN NEW YORK STATE

PRESENTED TO:

**THE NEW YORK STATE SENATE STANDING COMMITTEE ON
HOUSING, CONSTRUCTION & COMMUNITY DEVELOPMENT**

PRESENTED BY:

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To Chair Senator Brian Kavanagh and the rest of the Committee, thank you for holding this public hearing on deed theft, one of the most pressing issues facing senior homeowners and homeowners of color in New York State today. My name is Yara Calcaño and I am a Staff Attorney in the Foreclosure Prevention Project at Mobilization for Justice, Inc. (MFJ).

Mobilization for Justice's (MFJ) mission is to achieve justice for all. MFJ prioritizes the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. We provide the highest-quality free, direct civil legal assistance, conduct community education and build partnerships, engage in policy advocacy, and bring impact litigation. We assist more than 14,000 New Yorkers each year, benefitting over 24,000. MFJ launched its Foreclosure Prevention Project in 2008, in the aftermath of the economic recession and foreclosure crisis. A significant majority of our clients are persons of color, including seniors, veterans, persons with mental and physical disabilities and working poor New Yorkers who live paycheck to paycheck.

I. Homeownership and the Racial Wealth Gap

Preserving homeownership in communities of color is a vital component of racial and economic equality. According to 2019 Federal Reserve data, the median net worth of Black households is \$24,100, one-tenth the wealth of white households at \$188,200, while the median net worth of Latinx households lags similarly far behind at \$36,100.¹ This racial wealth gap is the lasting consequence of slavery, segregation, redlining, and institutionalized racism. In the aftermath of the COVID-19 pandemic, which laid bare the same deep-rooted inequities with disproportionately high infection and mortality rates for people of color in New York City and

¹ Board of Governors of the Federal Reserve System, *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances, Accessible Data* (2020), available at <https://www.federalreserve.gov/econres/notes/feds-notes/recent-trends-in-wealth-holding-by-race-and-ethnicity-evidence-from-the-survey-of-consumer-finances-accessible-20170927.htm#figure1>.

across New York State,² New Yorkers of color and seniors continue to face financial challenges not the least of which include deed theft. The State currently faces among the highest unemployment rate in the nation at 4.9% as of August 2022, a rate surpassed by New York City's 6.8%, which includes a whopping 9.5% and 7.1% rate of unemployment in the Bronx and Kings Counties, respectively.³ I highlight the almost 10% unemployment rate in the Bronx because people of color make up over 90% of its population.⁴

Homeownership plays a vital role in mitigating this racial wealth gap. For families of color, a home is usually one's only wealth-accumulating asset and opportunity for intergenerational wealth. Studies have shown that homeownership constitutes 92% of net worth for Black families and 67% for Latinx families in contrast to white families, for whom homeownership represents only 58% of net worth. With such disparities, deed theft and deed fraud scams are particularly harmful in communities of color. More vulnerable still are senior homeowners and homeowners with limited English proficiency, especially in rapidly gentrifying neighborhoods all over the City.

II. Deed Theft Scams

In our practice representing homeowners, MFJ staff deal too often with cases involving deed scams. MFJ has testified on this very issue in the past, pointing out how deed scammers look beyond outright deed forgery and target vulnerable homeowners with evolving creative schemes in response to increased public attention to deed theft.

For example, one of my Queens clients fell victim to a deed theft scam. Ms. Lukeson (pseudonym) owns her property in fee simple after inheriting it from her parents, who purchased

² See New York State Department of Health, *NYS COVID-19 Fatalities Tracker: Fatality Data* (October 2022), available at <https://coronavirus.health.ny.gov/fatalities-0>.

³ New York State Department of Labor, *Labor Market Briefing* (August 2022), available at https://dol.ny.gov/system/files/documents/2022/09/new-york-city_0.pdf.

⁴ *Id.*

the home over 60 years ago. Last year seemingly out of nowhere, an individual unknown to Ms. Lukeson and without any connection to her property conveyed it to a corporation for a profit. That corporation took out a \$363,000 mortgage on the property and later conveyed it to a Delaware-based trust doing business in Minnesota. The individual who fraudulently conveyed Ms. Lukeson's property away was able to do so swiftly by claiming to be her sole heir – even though Ms. Lukeson has not passed any property interest whatsoever onto anyone and is, in fact, very much still alive.

Ms. Lukeson is an African American senior with little wealth other than that which her family built over six decades in the form of her home in Saint Albans, Queens. That asset seemingly vanished because of one bold scammer and an out-of-state trust that invests in properties obtained through fraud. Although there is no question that title to Ms. Lukeson's property was wrongfully taken, she must undertake to bring a quiet title action to reclaim title and cancel the fraudulently obtained mortgage. MFJ is representing Ms. Lukeson in this suit, but litigating these cases is both time and resource intensive. Deed theft cases generally require heavy staffing and a commitment to years of litigation.

Ms. Lukeson's case is just one example of how New York's vulnerable homeowners are wrongfully separated from title to their homes. At MFJ we see new deed theft and equity-stripping schemes continue to emerge. As home values skyrocket in historically Black and brown neighborhoods, scammers reap massive profits by preying on the most vulnerable and distressed homeowners, stealing their property and with it, their main source of wealth.

Without intervention from our elected officials and sufficient resources to combat such scams, MFJ believes that those intent on flipping homes for a profit will continue to adapt and invent new ways of uprooting vulnerable populations from the very communities they have built.

III. Recommendations

The New York State Office of the Attorney General has made admirable efforts to address the systemic issues that yield a space for creative deed theft schemes that plague the State's most vulnerable homeowners. Indeed, the AG's office now runs the state's Homeowner Protection Program known as "HOPP," which provides funding to organizations like MFJ helping homeowners facing foreclosures, predatory lending, abusive mortgage servicing, and scams targeting seniors and people of color. But HOPP remains the only dedicated foreclosure prevention funding source, and there is little other support for vulnerable homeowners. With increased threats to homeownership since the start of the pandemic, MFJ urges the Legislature to continue to dedicate funding to housing counseling and legal services organizations who can help homeowners fight back against these scams and maintain not only their homes but their equity.

Deed theft cases are exceptionally complicated, time intensive, and often appropriately referred to law enforcement agencies equipped with the resources to properly investigate a case. Equipping local non-profit legal services providers like MFJ with the resources necessary to defend and prosecute these actions is an integral component to protecting New York homeowners.

In addition to supporting increased funding legal services, MFJ recommends that the Legislature pass the Consumer and Small Business Protection Act ("CSPA"). CSPA would amend New York State's consumer protection law, General Business Law Section 349, to bring it into parity with state and federal consumer protection standards across the county. It would do so by adding a privately enforceable ban against unfair and abusive business practices. Deed theft schemes, by targeting and extracting wealth from people of color, are inherently unfair and abusive. Banning these practices and providing individuals the power to enforce the law is a necessary step towards racial justice.

Thank you again for the opportunity to provide this written testimony. If you have any questions, please do not hesitate to contact Yara Calcaño at ycalcano@mfjlegal.org.