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**Testimony by Access Justice Brooklyn before the New York State Senate Standing Committee on Housing, Construction, and Community Development**

**Public Hearing on Deed Theft**

**October 27, 2022**

Good morning and thank you to Senator Kavanagh and the Standing Committee on Housing, Construction, and Community Development for the opportunity to testify today on behalf of Access Justice Brooklyn. My name is Peter S. White II and I am the Supervising Attorney of Access Justice Brooklyn's Homeowner Assistance Program. Access Justice Brooklyn is a not-for-profit civil legal services organization that has served the Brooklyn community for more than 30 years. Our mission is to provide high-quality, pro bono legal services and community education to our neighbors in need. Using the collective talents of our dedicated staff and volunteers, we help ensure a more accessible legal system and equitable Brooklyn.

Established in 2009, Access Justice Brooklyn's Homeowner Assistance Program provides comprehensive direct legal services to Brooklyn homeowners who are facing foreclosure, Department of Buildings violations, property-related scams, and other threats to homeownership. We also conduct community legal education sessions that equip homeowners with the knowledge necessary to identify potential legal issues, protect themselves from scams, and seek help before problems escalate – improving early intervention and, by extension, helping them remain in their homes and communities.

My testimony today will focus on the various deed scams that have adversely impacted our homeowner clients, as well as our proposed recommendations to the Committee to prevent deed scams and strengthen protections for homeowners.

As the Committee is aware, the dramatic increase in Brooklyn home values over the last decade has led to a substantial rise in reported deed theft cases: between July 2014 and February 2022, there were more than 3,350 deed theft complaints made in New York City,<sup>1</sup> more than half of which were in Brooklyn, and reports indicate that this trend has disproportionately targeted Black homeowners.<sup>2</sup> We expect this trend to continue: the end of pandemic-related relief measures, coupled with rising inflation and skyrocketing housing costs, will likely put cost-burdened homeowners at renewed risk of being targeted by predatory scammers that seek to divest them from their valuable homes.

Collectively, these factors illustrate excessive cost burdens for low-income Brooklyn households that complicate homeowners' ability to make mortgage payments. Predatory developers and alleged "investors" use real estate databases, court dockets, and other methods to identify and target these homeowners – especially those who may be unaware of their home's increased value – with deed theft and mortgage scams or with below-market offers which result in the stripping of homeowner equity.

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<sup>1</sup> Chen, Stefanos, Ted Clifford, Camellia Burris, and Anna Watts. "He Runs a New York Real Estate Empire. Did He Steal It?" *The New York Times*. July 24, 2022. <https://www.nytimes.com/2022/07/24/us/deed-theft-ny.html>.

<sup>2</sup> Freytas-tamura, Kimiko De. "Why Black Homeowners in Brooklyn Are Being Victimized by Fraud." *The New York Times*. *The New York Times*, October 21, 2019. <https://www.nytimes.com/2019/10/21/nyregion/deed-theft-brooklyn.html>.



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The most common deed scam scenario occurs when an acquaintance or family member illegally transfers title out of the homeowner's name into the name of another person or entity. The Office of the Attorney General has worked in a diligent manner to address these kinds of deed fraud, and their work has resulted in the restitution of many homeowners' deeds. However, as the mechanisms to combat deed fraud have evolved, so have the tactics of fraudsters. Access Justice Brooklyn continues to see some of the more traditional forged deed and foreclosure rescue scams among our clients, but during the COVID-19 pandemic we noticed that these schemes evolved to take more subtle, ambiguous forms.

One such scheme is the hard money lender scam, which generally occurs when an individual is in foreclosure and in a precarious financial situation. This scam often involves various parties, including an alleged "investor," a family or friend close to the borrower, mortgage brokers, and attorneys. A family member or friend speaks with a homeowner in foreclosure concerning their situation, and this individual then uses her/his influence to persuade the homeowner to speak with a mortgage broker that obtains refinancing products from local lenders. The mortgage broker then advises the homeowner to take out a hard money loan with an alleged "investor" that can provide money right away; however, unbeknownst to the homeowner, the loan terms are onerous. These loans often last one year, have interest rates well over 10%, and contain additional fees, and the monthly loan payments are often much higher than a traditional loan for the same amount. The "investor" also requires the homeowner to transfer the property from her/his name to an LLC. When the homeowner inevitably defaults, given the demanding conditions of the loan, the investor moves to foreclose on the property and obtain it for less than the market value. Since the property is now in the name of an LLC, the homeowner does not have access to defenses based on the Truth in Lending Act or Real Estate Settlement Procedures Act because technically the borrower is now a business, rather than an individual. These cases are ambiguous and therefore difficult to immediately identify as deed theft. Moreover, they are often highly contested and require the skills of an attorney to return the deed to the homeowner.

Through the Homeowner Assistance Program and Protect Our Homes initiative, New York State has already made significant investments in homeowner protection which, given current conditions, will remain necessary to assist homeowners facing foreclosure and emergent property-related scams. To build upon these efforts, Access Justice Brooklyn recommends that the Committee take additional steps to better protect homeowners from scams, such as:

- A dedicated taskforce to study evolving deed-related scams and their prevention and to develop legislative solutions that will better protect New York homeowners, particularly from complex or ambiguous forms of deed theft.
- Increased investment in community legal education focused on deed scam prevention, expanding upon the work of the Protect Our Homes initiative. Building public awareness around deed theft is a critical component of scam prevention, and community education helps homeowners not only recognize potential fraud, but also ensures that they know where to seek assistance so they can obtain help as soon as possible.
- Targeted assistance to homeowners adversely impacted by deed theft

Thank you again to the Committee for the opportunity to testify today: Access Justice Brooklyn appreciates the Committee's attention to this important matter, and we look forward to working in partnership with Committee members, the court system, and other service providers to support and protect Brooklyn homeowners and communities.



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Respectfully submitted,

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