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“HOW DID THIS HAPPEN TO ME?”:
THE UGLY TRUTH ABOUT REAL ESTATE SCAMS

by VALERIE URIBE

Since 2007, real estate fraud has increased as a result of the ongoing mortgage meltdown affecting renters and homeowners alike. Real estate scams have increased as more and more homeowners face foreclosure. In their disparity, homeowners have been lured by fake promises and guarantees made by fraudulent mortgage companies.

The most common real estate scam affecting renters involves real estate owners leasing mortgage defaulted properties out to unsuspecting renters.

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homeowners, the most common real estate scam involves fraudulent mortgage rescue companies tempting desperate homeowners with false promises of immediate debt relief and cash.\textsuperscript{5}

Due to the increase in real estate fraud, renters and homeowners should now proceed with extra caution when buying or renting property. “If a company is making guarantees you should be wary,” states Veronica Spicer, Illinois Assistant Attorney General and supervisor of the mortgage litigation unit.\textsuperscript{6}

"One word is desparate,” says Spicer, when asked to describe the types of individuals who fall for these scams.\textsuperscript{7}

\textbf{ONE RENTER’S STORY}

Some struggling homeowners facing foreclosure have tried to scam renters. Owners of rental buildings and houses lease the properties out to unsuspecting renters, collect security deposits and rent and disappear when the foreclosure process formally begins.\textsuperscript{8}

Data from around the country demonstrates that the displacement of renters due to foreclosure is widespread.\textsuperscript{9} For example, the Woodstock Institute found that in Chicago 35 percent of foreclosure filings were comprised of two to six unit rental buildings.\textsuperscript{10}
Tenants in rental housing on the verge of foreclosure face the costs and disruption of having to find a new apartment and move, often with little notice. Some tenants may not recover their security deposits either.

“I was completely surprised,” states Laura Nuñez, a renter who nearly fell victim to a real estate scam involving an owner who knew its property would soon enter foreclosure and was in default on its mortgage payments.

“I was looking for a house to rent for me and my kids. I was so excited when I found this house that was affordable and had more bedrooms than the apartment I was currently renting.”

Laura’s daughter, Darlene Nuñez, worked for an attorney at the time and had him look over the proposed lease before her mother signed the paperwork. “The yellow flag went up when the attorney noticed that the landlord was a mortgage trust company, so he had me conduct a chain of title search,” says Darlene.

The yellow warning flag turned to red when Darlene found a Notice of Default in the chain of title. “The property was foreclosed on a previous owner and the mortgage trust company recently bought this property, but apparently failed to make any payments on it.”

Darlene then filed a report with the Los Angeles County District Attorney’s Office Bureau of Investigation for the Major Fraud Division. Neither Darlene nor Laura knows what happened with their filed report.

REAL ESTATE SCAMS AFFECTING HOMEOWNERS IN ILLINOIS

Not only are renters such as Laura Nuñez affected by scams, but homeowners also risk losing their homes to scammers. The most common real estate scam affecting homeowners is the foreclosure rescue scam.

“I review five to six consumer reports every day, and about half of those are mortgage foreclosure scams,” states Spicer. “The Attorney General’s Office could sue a new company every day if they wanted to,” Spicer adds.

In this type of scam, financial consultants contact homeowners whose properties are in foreclosure. The consultant frequently tells the homeowner that he...
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or she will help the homeowners escape foreclosure for a small fee. The company then takes the money but makes no affirmative steps to assist the homeowner.

Brenda Grauer, an Illinois Assistant Attorney General, states, “When people need help with their mortgages they turn to these mortgage vested companies. The companies take their money and do not do any work on the loan.”

In order to remedy the problem in Illinois, the legislature recently passed the Mortgage Rescue Fraud Act (Act), providing that companies must complete the work they promise to do prior to receiving money for their services from homeowners. “It is like going to see the doctor. You see the doctor first, he helps you, and then you pay him later,” states Grauer.

However, the Act did not come in time to assist all homeowners. One of the most devastating cases Grauer recently encountered involves a fraudulent mortgage foreclosure company that scammed Coleamer Hodges, a 43-year-old blind woman, out of her South Side home.

“[Ms. Hodges] lived in this house her entire life and only had three payments left before the house was paid off,” says Grauer. At that point, Hodges turned to Platinum Investment Group to help refinance her mortgage.

Representatives of Platinum coaxed her to sign paperwork that she believed was a refinancing deal. Platinum then transferred her home to a “straw buyer”; an individual, either innocent or working in conjunction with a fraudulent mortgage company, who makes a profit by participating in the mortgage scheme.

Shortly thereafter, Ms. Hodges received a bill for rent, demanding that she pay $1,300 if she wanted to stay in her home. Hodges is currently fighting to keep her residence, and her attorney is attempting to negotiate with the bank.

THE ATTORNEYS WHO FIGHT THESE SCAMS

Many Illinois attorneys are actively working to keep homeowners in their homes. For example, Legal Assistance of Metropolitan Chicago’s Home Ownership Preservation Project has litigated approximately 100 of these cases.
“To know the cases is to hate them,” says Daniel Lindsey, the supervising attorney for the project, when commenting on how these cases can extend for months, draining both labor and monetary resources.41

The Illinois Attorney General’s Office has also been working diligently on these scam cases. In late 2008, the Attorney General’s Office created a cease and desist project focusing on stopping these companies from continuing their fraudulent practices.42

The Attorney General sent letters and copies of the Act to mortgage vested companies to inform them that they were likely in violation of the Act. The letter demanded the companies to refund the money back to their clients and to stop conducting business in the state of Illinois.44

“As of December 2008, we sent letters to approximately 350 companies,” Spicer states.45 Spicer adds that about 50 percent of the time the company returned the money to the consumer.46 In addition to these letters, the Attorney General’s Office has sued 31 mortgage companies.47

CONCLUSION

In this real estate economy, caution and awareness may help renters and homeowners avoid scams. “Don’t be reactive; be proactive,” says Lindsey, “if you are a homeowner and in trouble with your mortgage, you are a magnet for predators.”48 Increased awareness of real estate fraud will likely decrease the occurrence of scams against renters and homeowners alike.49

NOTES

2 Id.
5 O’Donnell & Planer, supra note 1.
6 Spicer, supra note 3.
7 Id.
8 Breen & Glashauser, supra note 4, at 6.
9 Id. at 9.
10 Id.
11 Id.
12 Id.
13 Telephone Interview with Laura Nuñez, Renter, in Chi., Ill. (Feb. 27, 2010).
14 Laura Nuñez’s name was changed to protect her identity.
15 Breen & Glashauser, supra note 4, at 6.
16 Telephone Interview with Laura Nuñez, supra note 13.
17 Darlene Nuñez’s name was changed to protect her identity.
18 Telephone Interview with Darlene Nuñez, Renter, in Chi. Ill. (Feb. 27, 2010).
19 Id.
20 Id.
21 Id.
22 Id.
23 Id.
24 O’Donnell & Planer, supra note 1, at 55.
25 Interview with Veronica Spicer, supra note 3.
26 Id.
27 Sandra R. Klein, USTP Initiative Bankruptcy-Related Mortgage and Real Estate Fraud, 28-6 ABIJ 18, 18 (2009).
28 Id.
29 Id.
31 Id.
32 Id.
34 Telephone Interview with Grauer, supra note 30.
35 News Release, supra note 33.
36 Id.
37 O’Donnell & Planer, supra note 1.
38 News Release, supra note 33.
39 Id.
41 Id.
42 Interview with Veronica Spicer, supra note 3.
43 Id.
44 Id.
45 Id.
46 Id.
47 Id.
48 Telephone Interview with Daniel Lindsey, supra note 40.
49 O’Donnell & Planer, supra note 1, at 54.