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TitleTRACK

Real property crimes target distressed homes, homeowners

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For some the "American Dream" is all about homeownership. Owning a home offers a sense of security and accomplishment. The dream of homeownership, combined with the current economic climate, increases the susceptibility of some homeowners to real estate fraud schemes.

Most real property crimes target distressed properties and homeowners — those in need of a solution to a desperate problem and who often are already in the pre-foreclosure/foreclosure stages. In many real estate crimes and fraud cases the homeowner does not realize they are a victim until it's too late.

Real estate fraud and property crimes — or at least the reporting of these crimes — are on the rise. There are many factors leading to the rise in mortgage fraud — a weak economy, high unemployment, underwater mortgages and rising foreclosures, to name a few. The large number of distressed homeowners and properties has given criminals a whole new angle on real property crimes. And while criminals are always adapting to the market and the latest trends, heightened awareness and vigilance has increased the detection, reporting and prosecution of real estate crimes.

How are property owners victimized? Owners might have their property stolen from them, suffer damage to their credit, find title to their home impaired and incur large legal fees in attempts to undo the damage. The elderly and those who are delinquent on their mortgage payments are the most susceptible to mortgage fraud, but anyone can find themselves a victim. The following are several examples of fraud schemes that are used to divest homeowners of their property or steal home equity.

Loan fraud/identity theft

Loan fraud and identity theft are most commonly thought of when we hear the term mortgage fraud. Personal information is obtained and a fraudulent loan application is submitted in the victim's name. Once the loan closes, the thief steals the loan proceeds.

Alternatively, a thief could assume the identity of a homeowner and deed their property, in most cases a distressed and vacant property, to an unsuspecting third party. Once the house has sold and the funds are transferred the fraudulent seller disappears. The transfer takes place without the homeowner's knowledge and they find the title to their house transferred to a third party who believes they are now the owner. Both the homeowner and the buyer are victims of the fraud. These scenarios most often take advantage of distressed and vacant property, which is not subject to a mortgage and is owned free and clear.

Foreclosure "rescue"

"Rescue" companies target homeowners facing foreclosure by offering a temporary transfer of title and promising to stop the foreclosure process. They offer a rent-to-buy scenario — the homeowner leases the property during the temporary transfer period and the rescue company agrees to transfer title back to the homeowner after all rent payments are made. Unfortunately, the "rescuer" never pays off the homeowner's mortgage and now that they hold title to the property they are able to deed the property to a third party, stealing the equity from the homeowner.

In order to sell the property to a third party, the rescuer files a fraudulent satisfaction of the current mortgage so they appear to transfer clean title to the new buyer. Not only does the homeowner no longer hold title to their home, but they are still obligated on their mortgage loan and the foreclosure process moves forward. Additionally, the new buyer has lost their investment in what they thought was their new home.

Loan modification scams

Consumers must also be vigilant when choosing a mortgage modification company. Some modification companies require homeowners to pay upfront fees for negotiating a loan modification, short sale or deed in lieu with their current mortgage company. These unscrupulous companies advise homeowners to stop paying their mortgage so they will have funds to pay the upfront

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fees; or they advise the homeowner to make their mortgage payment to the modification company rather than to their lender.

In some scams, once the homeowner pays the upfront fees, and possibly several months of mortgage payments, they find out that the supposed modification company never negotiated on their behalf. In fact, the fraudulent modification company closes up shop to avoid detection.

Avoiding real estate frauds

The above examples are only a small sampling of real estate fraud schemes being committed across the country. How do homeowners protect themselves? The best way to avoid a real estate scam is to be careful, skeptical and do your research. If something sounds too good to be true — it probably is. The Consumer Financial Protection Bureau and the Department of Justice offer the following suggestions to avoid fraud:

- Never pay fees upfront for a mortgage modification — this is illegal.
- Only your mortgage servicer can grant a loan modification, deed in lieu or short sale — it is best to deal with them directly.
- Beware of any company that tells you to stop making your mortgage payment and not contact your mortgage holder directly.
- Never transfer title to your property or make mortgage payments to someone other than your mortgage holder.
- Beware of names and logos that might try and convince the consumer of a government affiliation.

Real estate professionals — including attorneys, title agents, lending professionals and real estate agents — must now, more than ever, scrutinize each transaction and use their instincts to determine if there is possible fraudulent activity. It is easy for homeowners to believe that what is being presented to them will save them from financial ruin, however the consequences are often greater than they could begin to realize.

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