



Beware of the con



County suffers an epidemic of real estate fraud

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(Jacie Landeros / Union-Tribune) -



Irene Lynch, 14, peered through the back window of the two-bedroom home her family lost to foreclosure last year. (Peggy Peattie / Union-Tribune)



Francisco Lynch surveyed the overgrown frontyard of the Logan Heights home he lost to an alleged foreclosure fraud scheme. (Peggy Peattie / Union-Tribune)

DANGER SIGNALS

The San Diego County District Attorney's Office offers several tips to protect homeowners from potential real estate fraud. They are:

- Avoid doing business with individuals or companies that call themselves mortgage or foreclosure consultants without thoroughly researching their credentials. And do not pay money up front for foreclosure and loan-modification assistance that you can either do yourself or you can get for free by going to a nonprofit certified by the federal housing department.
- Be wary of promises like “We'll save your credit,” “We'll pay the closing costs,” or “If you sign the house over to us, the foreclosure will be recorded against us.”
- Be extremely cautious of those who contact or advertise to people whose homes are listed for foreclosure. That includes anyone who sends flyers or solicits door to door.
- Do not sign a quitclaim deed or any other document that transfers the property to another person or trust without first consulting an independent attorney.
- Never make verbal agreements. Never sign blank pages where information can be added later. Never sign anything you do not understand.
- Never sign a contract or other documents under pressure. Be especially wary of offers to take over ownership of your home as part of a deal that allows you to rent your home and then buy it back after a few years.

Eight months have passed since Francisco Lynch and his family were evicted from the modest two-bedroom home they purchased six years ago, yet their attachment to the home endures. On occasion, they'll drive by to check on the vacant house, where trash is piling up in the yard and the grass has turned brown.

Lynch admits he made a costly mistake when he turned in desperation to a program that promised to save his home from foreclosure by placing it in a federal “land grant.” Instead, he says, he was duped into forking over \$10,000 in cash and the deed to the home he bought for \$264,000.

His only solace, Lynch says, is that the operators of the foreclosure-rescue scheme are now awaiting trial after being indicted earlier this year by a grand jury on more than 150 felony counts that ensnared some 400 homeowners.

Residential real estate in San Diego County may have lost nearly half its value in the current downturn, but that hasn't stopped clever opportunists from finding ways to part distressed homeowners like Lynch from their money and their property.

Local law enforcement agencies are especially busy these days investigating growing volumes of complaints alleging fraud. The District Attorney's Office, FBI and California attorney general all have investigators and prosecutors dedicated to real estate-related fraud.

Boom or bust, real estate is ripe fodder for scams, be it skimming equity from the homes of unsuspecting owners or charging bogus fees for promising to rescue cash-strapped borrowers from foreclosure.

“It was a big lesson for me because I was the one who most wanted to do it. My wife had doubts,” said Lynch, a golf club builder whose family of four currently rents a small two-bedroom house in Logan Heights. “You know what, I don't trust nobody no more.”

Lynch is hardly alone in his misery. Last year, the San Diego District Attorney's Office opened 204 investigations into potential real estate fraud and filed 20 cases accounting for more than \$74 million in victim losses.

Nationwide, the FBI has seen an explosion in mortgage-fraud cases, with more than 1,800 current investigations – more than double the quantity in 2006.

And the federal Department of Housing and Urban Development is so troubled by the rise in fraudulent activity that it has issued a warning to homeowners in California, Nevada and Arizona about “scammers and con artists trying to loot families of their bank accounts with phony promises to avoid foreclosure.”

“We've seen an increase in the number of complaints being made to our office, but there has also been an increase in the complexity of them,” said Michael Groch, head of the San Diego district attorney's economic crimes division. “That's a measure of there being more defendants and victims in the cases we've been seeing in the last year and a half to two years. And it's also because the targets the criminals are choosing have changed from lending institutions to individuals.”

His office has three prosecutors, four investigators and three paralegals dedicated to real estate fraud.

Alex Garcia, a former Chula Vista police officer who is now supervising investigator for the district attorney's real estate fraud division, says he is overwhelmed by the current caseload.

“I've worked homicide, gangs, the Mexican mafia, and by far, this is the busiest I've been in my life,” he said. “I'd take a triple homicide over the caseload I have now. We have stacks and stacks of cases.

“In one case alone, I did 12 search warrants.”

Depending on the state of the market, real estate fraud can take many forms. During the high-flying days of the boom, when housing prices were appreciating at double-digit rates, the more typical victims were the lenders.

In one type of scheme, the scam artist would purchase a home at market value and, using a fraudulent appraisal, resell it to an unwitting buyer for an artificially inflated price and pocket the difference, according to prosecutors with the District Attorney's Office.

“I have a case I wrapped up last October in which the head guy was buying property in the names of victims whose profiles he obtained through identity theft,” said Deputy District Attorney Steve Robinson, who previously oversaw the real estate division.

“He'd inflate the value and then sell the property to another identity theft victim, sometimes more than once. He worked in cahoots with an escrow officer and a notary. He was arrested in January of 2008, but he started his gig in 2005.”

As the housing slump deepened and lenders reacted by sharply tightening credit, the opportunity for equity skimming vanished, and a new type of fraud took its place – the foreclosure-rescue scam.

There are a variety of ways struggling homeowners are defrauded. But most commonly, they're asked to pay a high fee up front for getting help in modifying their loan or postponing foreclosure. That help never comes.

Alternatively, they're told to transfer ownership of their home to the con artist, who collects rent from them and assures them that later on they can buy back the home.

In reality, the perpetrator of the scam never contacts the homeowner's mortgage lender, who ultimately repossesses the home and evicts the owner.

“The con gets six months rent out of a house, and it costs him nothing,” Robinson said. “If he can do that four times, he's making more money than you and me.”

While such offers of help may seem like an obvious scam to the ordinary person, they represent a last resort for stressed-out households looking for any way they can to hold onto the family home.

“These folks are between a rock and a hard place,” Robinson said. “They're trying to find a solution and here comes someone who presents a solution. It's easy to say you wouldn't do this, but hindsight is a beautiful thing.”

Victims of such scams admit as much. Eurnelia de la Torre, like Francisco Lynch, was ultimately evicted from her home after putting her faith in the so-called “land grant” scheme that allegedly defrauded victims of \$1.6 million. The Encanto home she purchased in 2006 for \$415,000 is currently listed for \$115,000.

“Out of desperation, we wanted to believe them,” de la Torre admitted under questioning during the grand jury hearing.

While real estate fraud cases can be especially complex to investigate and unravel for law enforcement agencies, the straightforward laws regulating foreclosure consultants make it easier for prosecutors to prove their cases, noted Groch.

For instance, individuals or companies who offer to help homeowners avoid foreclosure or assist them in modifying their loans cannot charge an advance fee under state law.

The regulation applies to homeowners who already have defaulted on their mortgages. In addition, any contractual arrangements between the homeowner and the foreclosure consultant must be in writing and include a notice of cancellation.

“Like the D.A. and the Department of Justice, we're concerned that foreclosure consultants and others are taking advantage of consumers already at risk of losing their homes, so we use our regulatory authority to go after bad actors,” said Ben Diehl, a deputy attorney general.

“We might do it, the FBI might do it, there's no hard and fast rule. If you are a scam artist engaging in misconduct, any number of regulatory authorities will come knocking on your door.”

Law enforcement and housing agencies stress that homeowners in financial trouble do not have to pay for services that are offered for free by a number of nonprofit organizations.

The San Diego-based Housing Opportunities Collaborative, a coalition of 45 HUD-approved member organizations, began stepping up its educational programs in mid-2007 in the wake of the foreclosure crisis. Regular clinics allow homeowners to meet with counselors, as well as volunteer attorneys, to discuss issues such as the foreclosure process, real estate violations and bankruptcy.

“A lot of these (foreclosure rescue) companies are preying on people who think there is no free lunch in this world,” said Appaswamy “Vino” Pajanor, executive director of the collaborative. “Fannie Mae will work with the nonprofits more easily than with a for-profit agent.

Pajanor recalled a workshop held in Barrio Logan, where one of the attendees was a former real estate agent who had spent \$3,500 to prevent his home from going to foreclosure and now was facing a trustee sale.

“This was an educated person,” Pajanor said. “When hard times hit you, you become gullible.”

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