

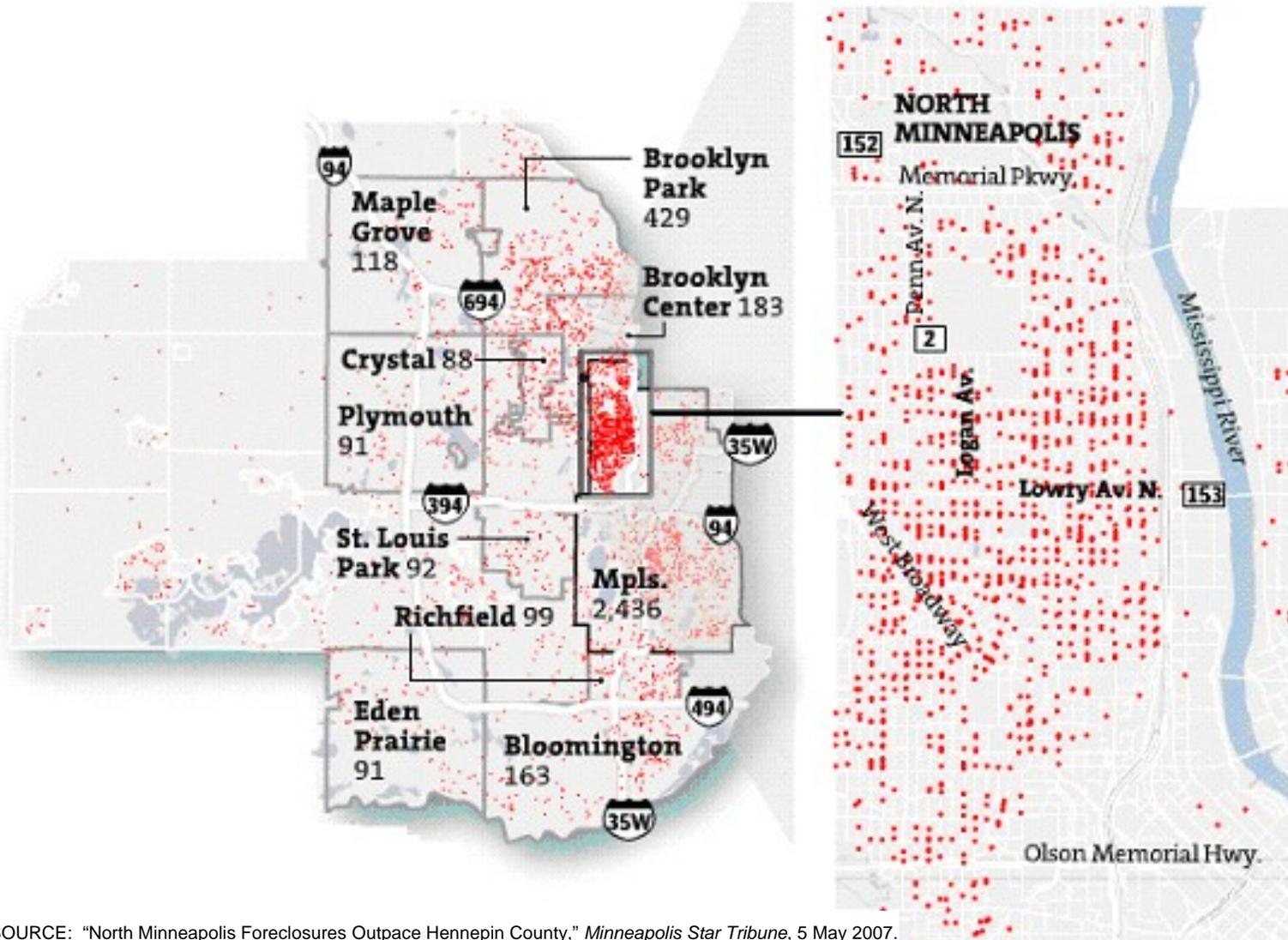
Mortgage Fraud: From Fraud to Foreclosure



Scope of Mortgage Fraud Problem

1. FBI says Minnesota among “top ten” for mortgage fraud
2. Mortgage fraud is a leading driver behind foreclosures
3. Foreclosure harms Minnesota communities – from Northside of Minneapolis to counties throughout the state
4. Foreclosures have led to abandoned properties, break-ins and other nuisance problems

Where is it happening?



SOURCE: "North Minneapolis Foreclosures Outpace Hennepin County," *Minneapolis Star Tribune*, 5 May 2007.

**Much Work Needs to be Done
to Slow Down and Combat
Mortgage Fraud**

HCAO Mortgage Fraud Initiative

- Hennepin County Attorney's Office committed to prosecuting mortgage fraud
- Office has charged 25 individuals and companies – industry insiders such as mortgage brokers, real estate agents, builders, and investors
- Coordinates with federal prosecutors and investigators, state regulators, and the City of Minneapolis to best utilize resources to identify the bad guys and bring them to justice

Statutory Tools for Prosecuting Mortgage Fraud

- Racketeering
- Theft by Swindle
- Identity Theft

Racketeering (Racketeering Influenced and Corrupt Organization - RICO)

- ✓ Prosecution focus on the use of a business by the bad actors to participate in a pattern of criminal activity
- ✓ Pattern of criminal activity = fraudulently obtaining bank loans (mortgages)
- ✓ Minn. Stat. Section 609.901, *et seq.*
- ✓ HCAO has brought first-ever state prosecutions using criminal racketeering statute in mortgage fraud cases
- ✓ First state racketeering conviction obtained for racketeering in mortgage fraud case – *State v. Celeste Skaar* and *State v. New Day Capital, LLC* (sentencing pending testimony against co-defendants)

Theft by Swindle

- Fraudsters swindle banks by falsifying borrower's income, employment, assets and liabilities on loan applications
- Lenders rely on the applications in making loan decisions
- Minn. Stat. Section 609.52, subd. 2(4)

Identity Theft – Minn. Stat. Section 609.527

- Perpetrators use stolen identities (names, social security numbers, dates of birth, driver licenses) to fraudulently obtain mortgages
- Identity theft and racketeering convictions call for prison sentences even for first time offenders

Illustrative Case – *State v. Donald Walthall, et al.*

- Defendants and mortgage brokerage company charged with racketeering scheme - mortgage brokerage firm used for facilitating mortgage fraud
- “Masterminds” recruited straw buyers on promises that buyers would receive cash back at closings and own investment properties
- 24-year old exotic dancer bought 9 properties (loan applications falsified her employment, income, assets and intentions to reside in homes)
- Recruiters promised to make all mortgage payments
- Homes bought at inflated prices; after closings loan proceeds “kicked back” to bad actors
- Bad guys failed to make mortgage payments and properties quickly slid into foreclosure

Warning Signs and Staying Ahead of the Bad Guys

Warning Signs

- Where money flowing freely into market because of “promiscuous” lending and a rising real estate market, bad actors devise ways to steal by:
 - Falsifying loan applications
 - “Flipping” properties on inflated appraisals
 - Recruiting “investors” under promises of large profits

Staying Ahead of the Bad Guys

When the market falls, different criminal schemes come into play:

- Fraudsters strip equity through promises of helping homeowners avoid foreclosure and repair credit histories
- Government funds used to stem foreclosure crisis may bring out fraudsters seeing an opportunity to steal through mortgage refinancing
- “Greying” of population and rise in reverse mortgages will provide new criminal opportunities

Prosecutors Work Together:

- * HCAO prosecutes then shares property list from mortgage scheme with City Attorney to determine Civil Action
- * When HCAO receives guilty verdicts; consider City as victim for purpose of sentencing

“Mortgage Fraud: From Fraud to Foreclosure”

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