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Lender scooped up dozens of houses using fishy tactics



JAD SLEIMAN / DAILY NEWS STAFF This house on Camac Street in Logan is one property involved in Prime Funding's empire.

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In 2006, Ndubuisi Okoro took out a mortgage with Prime Funding, a private lender in Montgomery County, to buy a house in East Germantown in hopes of fixing it up and flipping it for a healthy resale. Along the way, he started to miss payments.

Suddenly, without foreclosure proceedings - or even a phone call - Okoro lost the property.

"They said it was something I signed in the beginning," said Okoro, a Nigerian immigrant.

He wasn't alone. In the last decade, dozens of small-time rehabbers like Okoro have lost tens of thousands of dollars to Prime Funding on homes in some of Philly's poorest neighborhoods.

They all appear to have fallen prey to a unique lending hustle that enabled the company to amass a small empire of subpar housing in a completely legal Wild West of quick real-estate funds and even faster losses, leaving low-income renters with housing horror stories.

Based in North Wales, the three-person company used a deceptively simple, unorthodox bundling of deed and mortgage paperwork to gobble up nearly 50 houses in North and Southwest Philadelphia, documents show. Real-estate lawyers say that the transactions likely would disintegrate in court.

Prime Funding is among hundreds of so-called "hard-money lenders" in the U.S. that offer funds to borrowers who don't qualify for traditional bank loans.

Even within this fast-and-loose arena of lending, Prime's approach sets it apart from the pack. Benny Kass, a Washington, D.C.-based real-estate lawyer and expert on private lending, likened the firm to "loan sharks."

And once the properties went to Prime, some current and former tenants say, the living conditions were anything but.

'Going to your uncle'

Although hard-money lenders behave like banks - assigning mortgages and determining interest - they don't have to play by the same rules, because they deal mostly with investors instead of families. And they remain far from oversight.

"Basically, it's like going to your uncle and asking for a loan," said Philly native Michael Corbett, an expert with Trulia, an online residential real-estate site.

City property records show that Prime Funding acquired properties by having borrowers sign a document called a deed-in-lieu-of-foreclosure on the same day they signed their mortgages. Prime filed the mortgages immediately, but kept the signed deeds.

The deed agreements work as a clean break between the lender and the borrower: One gets the house, the other is released from the debt. Typically, borrowers already deep in default request deeds-in-lieu-of-foreclosure, and lenders usually agree only if a home's value has skyrocketed and a resale looks quick and easy.

But with the signed documents in hand at the outset, Prime had the authority to quickly and cheaply grab a property as soon as the first payment was missed.

Deeds executed by Prime reviewed by the *Daily News* had signatures of the borrower and a Prime officer dated an average of two years before the city time stamp was applied.

In total, Prime assigned more than \$3 million in mortgages that came with deeds-in-lieu signed the same day, with the average worth \$60,000. All that money is bound to transactions that may stand only until challenged.

"These deeds are no good," said Stuart Ebby, a University of Pennsylvania law lecturer and longtime real-estate lawyer.

He said that a court likely would invalidate many of the deeds-in-lieu that Prime had borrowers sign in advance, because they cut off borrowers from the value of their homes.

For instance, houses could have gone to foreclosure sale instead of straight to Prime on a deed-in-lieu express.

If borrowers don't have the money or the expertise to go to court, the properties simply stay with Prime, said Ebby.

None of the 50 deed transactions reviewed by the *Daily News* were challenged in court.

In Strawberry Mansion

Three years after Okoro's dispiriting experience, a similar fate befell another small-time house rehabber named Kirby Ames, who had made a similar deal with Prime to buy a Strawberry Mansion rowhouse.

Ames, of Lansdowne, Delaware County, said that he dropped a \$10,000 down payment on the house and signed a mortgage with Prime to cover the rest. Like at least 49 other borrowers, he signed a deed-in-lieu-of-foreclosure on the same day, city records show.

"They would hold [the document] over my head when I started missing payments, saying, 'Look, you signed this thing,'" he said.

Property records show that Prime filed the document with the city in July 2010. Ames said that he already had fixed up the house by then.

In Okoro's case, a relative noticed that his property was locked up, he said, and the lock represented the sum total of Prime's communication.

Two Philly real-estate lawyers who inspected Prime's signed deeds-in-lieu said that the documents would not absolve borrowers from debt.

Okoro's East Germantown property ended up with Whittco Inc., a Carbon County holding company owned by Prime Funding's president, Kyle K. Whittaker.

"If they don't sell it, and they don't pay me, I have no choice but to execute the deed-in-lieu," Whittaker said of borrowers, in a telephone interview. He added that his firm did so only as a last resort.

Whittaker was unable to name any other firm that has borrowers sign deeds-in-lieu in advance of default. In fact, none of the 27 other private lenders operating in Philly whose transactions were reviewed by the *Daily News* acquired houses in this way.

"The problem with foreclosure is, assuming it goes perfect, it could take more than a year," Whittaker said. "The deed-in-lieu short-circuits that process."

Renters move in after the properties go to Whittco, according to a former Whittco contractor who asked not to be identified.

Prime Funding "would call me and say, 'Turn off the electricity, turn off the water, because these guys [tenants] aren't paying their rent,'" he said.

Mice in the walls

Okoro's East Germantown property ended up being rented out to a mother, her newborn and about 30 mice that nested in the walls, said the former employee.

"Did these mice wear name tags?" asked Whittaker, responding to a *Daily News* inquiry. "How did she know she wasn't seeing the same one?"

A Prime home on Camac Street, between Ruscomb Street and Lindley Avenue, in Logan, was free of vermin - but its basement was full of feces earlier this year, a former tenant said.

"It was disgusting; we all lost weight because none of us could eat in the house," said the former tenant, Michelle Miller, a special-needs teacher who shared the home with an adult roommate and five children.

Sewage began to flow through the basement in March, right after she moved in, she said. In May, Prime finally stopped the sewage. The next month, as a sweltering summer set in, the water stopped running.

The house had an unpaid water bill of \$11,000, Miller said she discovered. "We can't not have the water on," she said. "We had five kids in the house."

The former contractor said that Prime had him jump the city water mains instead of paying the bill. Miller said that she and her roommate refused to steal water and moved out, leaving behind thousands of dollars in deposits. She now lives in Illinois.

Whittaker said that he wasn't sure which of his two employees was in charge of upkeep at the 12 houses his firm rents out. He also said that claiming houses from borrowers is bad business.

Records show that Prime Funding's busiest year for deeds-in-lieu was 2009, when the firm scooped up 19 houses.

That was the year its vice president was featured in an *Inquirer* report about older men seeking expensive plastic surgery. He spent at least \$6,500 on a tummy tuck and calf implants.

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