

# As impeachment begins, New York accelerates probes of Trump's property dealings

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9 Feb 2021

As former US President Donald Trump goes to trial this week in the Senate on charges of inciting the January 6 Capitol insurrection, criminal and civil investigations into his businesses are accelerating in New York.



Image source: Reuters/Carlos Barria

Manhattan prosecutors probing Trump's real estate business for possible insurance and tax fraud have stepped up witness interviews in recent months and hired forensic accountants, four people familiar with the criminal probe told Reuters. A separate state attorney general's civil probe into whether the business falsely reported property values got a boost on January 29, when a New York Supreme Court judge ordered the Trump Organization to turn over documents.

A US Supreme Court decision is expected soon on whether Manhattan District Attorney Cyrus R. Vance Jr can obtain eight years of Trump's tax records and other financial information from accounting firm Mazars. Two people familiar with the district attorney's criminal probe expect the court to act this month.

Both the district attorney and the attorney general are focused in part on whether Trump's businesses improperly falsified values on real estate assets to secure tax breaks, loans or other benefits.

Trump's tax returns could provide compelling evidence in the criminal probe if they differ significantly from other financial statements reported by the Trump business, said Daniel Horwitz, a white-collar defense lawyer and former Manhattan prosecutor. But in addition to records, he said, prosecutors will likely need witnesses who could "testify about false documents and why they were falsified".

## Trump Organization denies allegations in court filings

Lawyers for the Trump Organization did not respond to requests for comment. The Trump Organization has denied in court filings that the company falsified property values, and has rejected other allegations being investigated by Manhattan District Attorney Vance and New York State Attorney General Letitia James.

Trump's lawyers have tried to block the disclosure of his tax records by appealing the Manhattan district attorney's request to the US Supreme Court. Lower courts rejected an argument by Trump's attorney that the request amounted to political "harassment". Trump's team has requested a stay of the Supreme Court proceedings. The high court normally acts quickly on such "emergency applications", but Trump's request has been pending since October. Another ruling in favour of the district attorney would clear the way for prosecutors to access the tax and financial records.

The Manhattan district attorney said in an August filing that the office is investigating "possibly extensive and protracted criminal conduct" at the Trump Organization. In a September filing, he said "mountainous" misconduct allegations could justify a grand jury probe into possible tax fraud, insurance fraud and falsifying business records. James' office has filed a civil lawsuit to compel the Trump Organization to produce documents but has not alleged any crimes.

A spokesperson for Vance declined to comment. A spokesman for James' office said the Trump Organization has turned over all the documents that prosecutors sought but declined to comment further on the inquiry.

The investigations face challenges. The Manhattan district attorney may struggle to prove that inaccurate property estimates amount to fraud because the standards for valuing properties vary, legal experts say. Such appraisals are also typically performed by outside parties, potentially putting distance between any controversial valuations and Trump's businesses.

"There's a lot of expertise to hide behind," said Joshua Levine, a former assistant US attorney in the Southern District of New York who now specialises in white-collar criminal and regulatory law in private practice.

## **Probe of New York mansion**

Court records show that the two investigations, while separate, do overlap. Both the district attorney and the attorney general, for instance, are examining how the Trump Organization and its agents assessed the value of Seven Springs, a 212-acre estate north of Manhattan that Trump purchased in 1995. Trump's company has said the century-old, 50,000-square-foot mansion was used as a Trump family retreat.

Trump's ambitions to build a championship golf course there were derailed by local opposition, and he shelved another plan to build luxury homes. But the property did become a vehicle for a tax break, according to property records and court filings. In 2015, he signed a conservation easement - an agreement not to develop the property - covering 158 acres.

The attorney general's office said in a court filing that an appraiser hired by Trump before the conservation agreement set the property's value at \$56.5m and the easement's value at \$21.1m - an amount Trump claimed as an income tax deduction.

The attorney general's office, in an August court filing, said it was investigating whether the assessment was "improperly inflated" to increase the tax benefit. In filings, prosecutors cited emails from Trump Organization representatives to the appraisers arguing for a higher valuation.

The Manhattan district attorney is investigating Trump's handling of the same property. Vance's office in December subpoenaed the three towns that cover parts of the Seven Springs property, seeking tax assessments, financial statements, conservation easements and Trump's development proposals.

Trump has claimed a vastly higher value on Seven Springs in other documents. Trump's former lawyer Michael Cohen, while testifying in a February 2019 congressional hearing, provided a 2012 financial statement from the Trump Organization that valued Seven Springs at \$291m. Cohen testified that the statement intended to portray Trump as richer than he really was to insurance companies - in an effort to secure lower premiums - as well as to journalists.

Cohen also said the Trump Organization provided the statement to Deutsche Bank AG - the company's biggest creditor - during Trump's failed attempt in 2014 to buy the Buffalo Bills, a professional football team. Federal law makes it a crime to provide false statements to banks.

Both the Manhattan district attorney and the state attorney general subpoenaed Deutsche Bank in 2019, according to three bank sources. One attorney general's subpoena sought information on the financing of four Trump Organization property projects and his Buffalo Bills bid. Another, from the district attorney, requested financial statements in support of various loan applications, the sources said. In recent months, Manhattan investigators have spoken to a number of staff at Deutsche Bank, the three sources said.

Deutsche Bank declined to comment.

Both the district attorney and the attorney general are also looking at 40 Wall Street, a Trump Organization skyscraper in Lower Manhattan, according to the state attorney general's court filings and people familiar with Vance's investigation. The attorney general's office is examining financial statements submitted by the Trump Organization to banks in connection with loans for the building, according to court filings.

## **Tax breaks on LA golf course**

The attorney general is looking into additional deals, court documents show, including whether Trump failed to pay taxes on debt that was forgiven in connection to a loan restructuring for the Trump International Hotel & Tower in Chicago. Prosecutors have said in court records that the Trump Organization had refused to produce documents to determine whether it declared that money as income in its tax filings, as usually required by law.

Attorney General James also is also examining another Trump conservation tax break, this one for his Trump National Golf Club near Los Angeles. Trump bought the cliff-top course in 2002, after its 18th hole collapsed into the ocean, and invested heavily to rebuild it.

In December 2014, Trump signed an agreement that granted a conservation easement over 11.5 acres of the course. An appraisal ordered by Trump valued the property at \$107m, setting the easement's value at \$25m, James' office said in court filings. That valuation is high compared to the metrics usually used to value golf properties, real estate experts said.

## **Burden of proof**

For the Manhattan district attorney, proving in court that Trump or other company officials intended to commit a crime will be "particularly hard", said Rebecca Roiphe, a former assistant district attorney in Manhattan who teaches legal ethics and criminal law at New York Law School.

Prosecutors in corporate fraud cases, she said, often rely on a combination of direct evidence - such as incriminating witnesses, video, emails or text messages - and circumstantial evidence, such as tax records or other financial documents. They use such records, she said, often to point out where a company veered from common industry practice.

To look for anomalies among property deals, Vance's office has retained forensic accounting specialists from Washington-

based FTI Consulting Inc, a person familiar with the investigation said. An FTI spokesman declined to comment.

A key challenge for the investigators, Roiphe said, is that industry standards for real estate valuations can be flexible.

“It's kind of common practice that you need to be a little bit loose with valuations,” she said. “So, to say this was done with a purpose - with the intent to defraud - will be challenging.”

*Source: Reuters*

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