



Board Agenda Item 21

DATE: September 1, 2020

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney

SUBJECT: Annual Report of the Real Estate Fraud Prosecution Program

RECOMMENDED ACTION(S):

Receive and file annual report of the Real Estate Fraud Prosecution program pursuant to California Government Code Section 27388.

This report will summarize the activities of the Office of the District Attorney's Real Estate Fraud Prosecution program from July 1, 2019 through June 30, 2020. This item is countywide.

ALTERNATIVE ACTION(S):

There are no viable options available.

FISCAL IMPACT:

There is no increase in Net County Cost associated with this action. The Real Estate Fraud Prosecution program is funded with recording fees, which fund 100% of the direct costs as well as a portion of indirect costs associated with this program. During FY 2019-20, the Unit expended a total of \$803,849.10 which included personnel costs, operating expenses and overhead allocations. Revenue in the amount of \$944,194.24 was collected from the filing fees and interest earned, all of which was placed in the Unit's Special Revenue Fund which had a FY 2019-20 year-end balance of \$977,807.87 after the final accounting.

DISCUSSION:

This report is prepared for the purposes of compliance with Government Code Section 27388 (d). This report will summarize the activities of the Office of the District Attorney's Real Estate Fraud Prosecution program from July 1, 2019 through June 30, 2020.

The monies collected pursuant to Government Code Section 27388 fund the District Attorney's Real Estate Fraud Prosecution Unit which is comprised of five positions for FY 2019-20: one deputy district attorney, three senior DA investigators and one paralegal. These personnel are fully funded by the recording fees and devote 100 percent of their time to activities associated with the investigation and prosecution of real estate fraud crimes.

For FY 2019-20, the Real Estate Fraud Unit received 25 cases for review from members of the community, local businesses and other agencies regarding possible real estate fraud. Cases for review include referral forms received from the public, reports from governmental agencies as well as cases submitted for criminal filings by law enforcement agencies. The DA Real Estate Fraud investigators are currently conducting 19 active investigations. This number includes continuing investigations from prior years as well as new and

pending court cases.

Criminal charges were filed in 2 new cases, resulting in a current total of 23 active court cases including court cases from prior years. In FY 2019-20, one case was closed, and \$1,204,374.50 was ordered in restitution.

Serious criminal schemes detected and investigated during FY 2019-20 included the following:

- Forgery
- Identity theft
- Grand theft
- Filing forged or false documents
- Altered documents
- Foreclosure/loan modifications scheme
- Elder Abuse

General Overview of Real Estate Fraud Cases:

Typically, real estate fraud cases involve extensive investigation and the gathering of numerous documents from various sources. These complex investigations can take anywhere from three months to three years or more to investigate and prosecute to conclusion. Investigations require interviewing victims, witnesses, mortgage and title/escrow companies, and more. Most investigations require search warrants for documents and/or bank records.

An example of a conviction from FY 2019-20:

The defendant was a licensed real estate broker with his own company. Several hard money lenders or investors made real estate loans brokered by defendant to borrowers who did not qualify for traditional mortgage home loans. The loans were serviced or managed by the defendant. In some instances, the defendant did not record investors' interests through Deeds of Trust as security for the loans. In other instances, the defendant would receive the loan funds to be given to the borrower but keep all or a portion of it; this occurred especially with construction loans.

The defendant also serviced or managed the loans, but did not forward the loan payments to the investors as required. In several instances, borrowers had paid off their loans through the defendant, but the investors never received the funds.

The defendant used some of the victims' money for personal gains, such as purchasing a sports car and other high-end items, drugs and gambling.

CAO ANALYST:

Samantha Buck