



County of Fresno

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Legislation Text

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DATE: September 27, 2016

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney-Public Administrator

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, 2015 through June 30, 2016.

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 2015-16, the Unit expended a total of \$689,872.15 which included personnel costs, operating expenses and overhead allocations. Revenue in the sum of \$1,095,874.33 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 2015-16 year-end balance of \$521,809.66 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, 2015 through June 30, 2016.

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 2015-16: one deputy district attorney, three senior DA investigators and one secretary. 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 2015-16, the Real Estate Fraud Unit received 24 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 and governmental agencies as well as cases submitted for criminal filings by law enforcement agencies. Currently, there are 71 active investigations being conducted by the DA Real Estate Fraud investigators. This number includes continuing investigations from prior years as well as pending court cases.

Criminal charges were filed in 4 new cases, resulting in a current total of 32 active court cases including court cases from prior years. There were 19 convictions in FY 2015-16 with \$41,311.15 ordered in restitution. The Real Estate Fraud Unit collects all restitution ordered for defendants placed on probation and closely monitors the status of payments. At the end of FY 2015-16, a total of \$13,235 in restitution was collected.

Serious criminal schemes detected and investigated during FY 2015-16 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 and witnesses from mortgage and title/escrow companies. Most investigations require search warrants for documents and/or bank records.

An example of a conviction from FY 2015-16:

A defendant recorded two quitclaim deeds on four properties in which she had no interest purporting to transfer them from herself to her trust as well as one Affidavit of Death of Trustee. Such deeds are known as “wild” deeds because they are not in the chain of title and appear out of nowhere. Defendant’s actions “clouded” the title impacting the homeowners’ ability to sell, transfer or otherwise dispose of their property. Defendant pled to three counts of filing a false/forged deed and one count identity theft. She was sentenced to 365 days in custody, five years’ probation, and ordered to pay \$21,497.10 in restitution. The three recorded documents were declared void by the Court and the court orders were recorded in order to clear the titles on the properties.

CAO ANALYST:

Jeannie Z. Figueroa