



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** District Attorney  
**Department No.:** 021  
**For Agenda Of:** September 10, 2024  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Director John T. Savrnoch, District Attorney, (805) 568-2308  
Contact Info Kelly Duncan, Assistant District Attorney, (805) 568-2369  
**SUBJECT:** Real Estate Fraud Prosecution Program Fiscal Year 2023-24 Annual Report

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**County Counsel Concurrence**

As to form: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** N/A

**Recommended Actions:**

That the Board of Supervisors:

- a) Receive and file the Real Estate Fraud Prosecution Program Fiscal Year 2023-2024 Annual Report.
- b) Determine that the above recommended actions are not the approval of a project that is subject to environmental review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(4), finding that the project is a creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

**Summary Text:**

In August 2007, the Board of Supervisors authorized the District Attorney's Office to implement the provisions of California Government Code section 27388, which established a recording fee to fund a Real Estate Fraud Prosecution Program in order to deter, investigate and prosecute real estate fraud crimes. The goal of the program is to reduce the victimization of vulnerable residents who are less knowledgeable about the complexities of real estate transactions. Pursuant to this code, the District Attorney's Office has prepared the Fiscal Year 2023-2024 Annual Report (Attachment A) of the program's activities and funding.

**Background:**

In September 2007, the County Clerk-Recorder-Assessor began collecting a Board-approved \$2 recording fee when certain real estate instruments, paper, or notices were recorded. The Clerk-Recorder-Assessor retains 10% of the funds collected for administrative costs. 100% of the remaining balance is utilized by the District Attorney's Office to finance salary and benefit costs dedicated to the investigation and prosecution of real estate fraud. In 2009, Senate Bill 1396 amended Section 27388 to authorize a fee increase from \$2 to \$3, and also added additional documents to the definition of "real estate instrument" for purposes of fee collection. The Board subsequently approved a fee increase from \$2 to \$3 in 2010.

In 2012, the California State Legislature determined that the statutory fee allotment of \$3 was inadequate. Senate Bill 1342 was approved in July 2012 to amend section 27388 to authorize a fee of up to \$10 for the recording of real state instruments, in order to provide a consistent source of funding for an effective law enforcement response to the real estate fraud epidemic in California. The legislation also expanded the list of "real estate instruments" that are subject to the fee. In October 2013, the Board approved a fee increase from \$3 to \$10 in order to expand the investigation and prosecution of real estate fraud crime. The program now includes staff time for a 1.0 FTE Deputy District Attorney and 0.3 FTE District Attorney Investigator.

**Performance Measures:**

The District Attorney's Real Estate Fraud team is working on establishing metrics to evaluate the efficiency of the program. In addition to the program statistics provided in Attachment A, the following metrics will be reported in future Annual Reports beginning in FY 2025-26:

1. Community Outreach/Training - the number of community outreach events and trainings provided to outside agencies with a target of at least (3) per year
2. Dispositions- percentage of convictions for cases filed.
3. Restitution/Recovery – amount of recorded losses on cases opened for investigation (including specifying those amounts that are associated with filed cases and convicted cases), and the amount of restitution provided to victims in convicted cases

**Fiscal and Facilities Impacts:**

In Fiscal Year 2023-24, the total cost to administer the Real Estate Fraud Prosecution Program was \$410,047.57. This included Salaries and Employee Benefits for a Deputy District Attorney, District Attorney Investigator, and Legal Office Professional, as well as operating expenses for legal reference materials and expert case review.

Revenue to support the program is provided by document fees collected throughout the fiscal year. Total document fees collected by the District Attorney's Office during Fiscal Year 2023-24 totaled \$197,946. This represents a 66% decrease from the total document fees collected by the District Attorney's Office during the prior fiscal year, which totaled \$299,878 in Fiscal Year 2022-23. Due to the reduction in fees, \$167,000 of District Attorney Prop 172 allocation and \$45,000 in fund balance was used to cover the total program costs in FY 2023-24. Due to the average number of real estate transactions dropping exponentially over the last three years, the District Attorney's Office anticipates that revenues are likely to remain at or below Fiscal Year 2023-24 levels for the near future.

The Real Estate Fraud fund balance is \$452,322 as of June 30, 2024. Fund balances are designated for use in future years in order to offset the costs of program staff who will deter, investigate, and prosecute real estate fraud crimes. The District Attorney's Office plans to use available restricted fund balance to cover costs of the Real Estate Fraud Prosecution Program through Fiscal Year 2024-25. If revenues do not improve by Fiscal Year 2025-26, then the Office will likely need to propose service level reductions in Fiscal Year 2026-27.

**Fiscal Analysis:**

<b><u>Funding Sources</u></b>	<b><u>FY 2023-24</u></b>	<b><u>Annualized</u></b>	<b><u>Total One-Time</u></b>
	<b><u>Cost:</u></b>	<b><u>On-going Cost:</u></b>	<b><u>Project Cost</u></b>
Prop 172	\$ 167,192.96		
State			
Federal			
Fees	\$ 197,946.00		
Other - Real Estate Fund Balance	\$ 44,908.61		
<b>Total</b>	<b>\$ 410,047.57</b>	<b>\$ -</b>	<b>\$ -</b>

**Attachments:**

Attachment A: Real Estate Fraud Prosecution Program Fiscal Year 2023-24 Annual Report

**Authored By:**

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