



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: August 19, 2014
Placement: Administrative
Estimated Tme:
Continued Item:
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Dept Head: Joyce E. Dudley, District Attorney, x 2308
Contact Info: Kelly Scott, Chief Deputy District Attorney, x 7632

SUBJECT: Real Estate Fraud Prosecution Program FY 2013-14 Annual Report

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

It is recommended that the Board of Supervisors receive and file the Fiscal Year 2013-14 Real Estate Fraud Prosecution Program Annual Report.

Summary Text:

In August 2007, the Board of Supervisors authorized the District Attorney 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 unsophisticated in the complexities of real estate transactions. Pursuant to the Code, the District Attorney is providing the annual report of the program's activities and funding to the Board.

Background:

In September 2007, the County Clerk-Recorder-Assessor began collecting the 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, with 100% of the balance utilized by the District Attorney 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 an increase of the fee from \$2 to \$3 in January 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 our state. The legislation also expanded the list of “real estate instruments” that are subject to the fee.

In October 2013, the Board approved an increase of the fee from \$3 to \$10 in order to expand the investigation and prosecution of real estate fraud crime and hire additional staff, including a full time Deputy District Attorney to work in conjunction with the existing full time DA Investigator.

Fiscal and Facilities Impacts:

Document fees collected by the District Attorney in FY 2013-14 totaled \$262,476. This funding offset the salary and benefit cost of a 1.0 full time investigator at \$169,255, and funding of \$89,300 was designated as restricted fund balance for use in future years to offset the costs of program staff who will deter, investigate, and prosecute real estate fraud crimes. The remainder covered expenses related to training and travel. The Real Estate Fraud total fund balance is \$117,422.

Current document fee collections are averaging approximately \$35,000 per month, which is an estimated \$420,000 in yearly collections. This will cover the costs of a fully expanded unit in FY 2014-15, including the existing full time investigator and new full time Deputy District Attorney who started in July 2014. Remaining funding will cover the costs of training and travel, Legal Office Professional staff assigned to the unit, and Victim Witness Advocate costs as necessary.

Attachments:

FY 2013-14 Real Estate Fraud Prosecution Program Annual Report

Authored by: Kimbra McCarthy, DA Director of Administration