

Implementation of a Real Estate Fraud Prosecution Unit



Description of the Problem

- Real estate fraud / growing concern nationally
- Victims of real estate fraud and predatory lending in our County most often seniors / people with limited English abilities.
- Victims lost thousands of dollars to unethical / unlicensed “real estate professionals,” “mortgage sales associates,” and others.

Foreclosure Trends in our Community

- # homeowners in our County behind in house payments has quadrupled over past two years
- April 2007 on top 10 list of highest-volume months since 1989 / notices of default and trustees' deeds = when lender forecloses and takes ownership
- Up to 1,700 homes may go into default this year / up to 450 properties taken by lenders

The Loans Behind the Foreclosures

- As # of foreclosures grow, have taken a closer look at the loans that were made
- On analysis the conclusion = many of these loans should never have been made
- During community outreach in planning this proposal, the District Attorney's Office has received many complaints re unethical, unfair and unlawful business practices related to such loans.

Current Staffing Level

- Currently, no centralized real estate fraud prevention, investigation and prosecution program S B County
- Historically, the D A has handled few real estate fraud cases
- Economic crimes labor intensive, need specialized expertise / intense preparation prior to filing charges
- Insufficient funding available to effectively investigate and prosecute each case where fraud suspected

Prevention Plan

- Community outreach is critical
- Focused investigative programs
- Designed to reach those most likely to be victimized
- Emphasis
 - non-English speaking community
 - elderly community
 - fraud against individuals whose residences are in danger of, or are in, foreclosure

California Government Code section 27388

- Senate Bill 537, signed into law by the Governor on October 15, 1995
- The intent of the Legislature was to have an impact on real estate fraud involving the largest number of victims
- Establishes a \$2.00 recording fee
- Funds used to deter, investigate and prosecute real estate fraud crimes

Collection of Fee

- County Clerk-Recorder-Assessor will collect this \$2.00 fee at the time of recording
- Estimated to generate \$90,000 in fiscal year 07-08
- Up to 10% can be used to fund the costs the County Clerk-Recorder-Assessor incurs
- The balance to be utilized by the District Attorney to finance a Criminal Investigator dedicated to the investigation of real estate fraud

Recommended Actions

- Create Real Estate Fraud Designation
- Adopt resolution to increase by \$2 the fee paid at the time certain real estate instruments are recorded
- Authorize establishment of the Real Estate Fraud Prosecution Committee to distribute funds
- Adopt a Budget Revision in the amount of \$81,000 in the District Attorney's budget to add a Criminal Investigator position