



**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 23, 2016  
**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(s) Joyce E. Dudley, District Attorney, 568-2308  
Contact Info: Kelly Scott, Chief Deputy District Attorney, 568-2309  
**SUBJECT:** Fiscal Year 2015 - 2016 Real Estate Fraud Prosecution Program 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:

Receive and file the Fiscal Year 2015 - 2016 Real Estate Fraud Prosecution Program Annual Report.

**Summary Text:**

In August 2007, the Board of Supervisors authorized the Office of 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 less knowledgeable about the complexities of real estate transactions. Pursuant to this code, the Office of the District Attorney has prepared the Fiscal Year 2015 - 2016 Annual Report of the program's activities and funding.

**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. 100% of the remaining balance is utilized by the Office of 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 a fee increase 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 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 and hire additional staff, including a full-time Deputy District Attorney and legal support staff to work in conjunction with the existing full-time DA Investigator.

#### **Fiscal and Facilities Impacts:**

In Fiscal Year 2015 – 2016, the total cost to administer the Real Estate Fraud Prosecution Program was \$566,862. This included salaries and benefits for a Deputy District Attorney, Investigator, Legal Support staff, and operating expenses for training, travel and legal reference materials. Revenue to support the program is provided by document fees collected during the fiscal year, and Real Estate Fraud fund balance. Document fees collected during the fiscal year by the District Attorney totaled \$527,535. The department used an additional \$39,327 from the Real Estate Fraud fund balance to cover the remaining program expenses.

The Fiscal Year 2015 - 2016 Real Estate Fraud fund balance is \$78,096. 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.

Document fee collections in the last six months of the fiscal year averaged \$41,084 per month, and are estimated to bring \$493,008 annually. This amount, in addition to Real Estate Fraud fund balance, will cover the costs of the Real Estate Fraud Prosecution Program in Fiscal Year 2016 - 2017.

#### **Fiscal Analysis:**

<u>Funding Sources</u>	<u>FY 15/16 Cost:</u>	<u>Annualized</u>	<u>Total One-</u>
		<u>On-going</u>	<u>Time</u>
General Fund			
State			
Federal			
Fees	\$ 527,535.00		
Other - Real Estate Fund Balance	\$ 39,327.00		
Total	\$ 566,862.00	\$ -	\$ -

#### **Attachments:**

Attachment A: Fiscal Year 2015 - 2016 Real Estate Fraud Prosecution Program Annual Report

#### **Authored By:**

Nicole Acosta, Department Business Specialist