

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: District Attorney *SA*

BOARD AGENDA # B-12

Urgent Routine
CEO Concurs with Recommendation YES NO
(Information Attached)

AGENDA DATE July 1, 2008

4/5 Vote Required YES NO

SUBJECT:

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report covering Fiscal Year 06-07 (July 1, 2006 to June 30, 2007) for Purposes of Fiscal Data, but the 2007 Calendar Year for Purposes of Case Reports.

STAFF RECOMMENDATIONS:

1. Accept report of District Attorney regarding Real Estate Fraud Prosecution Trust Fund pursuant to California Government Code section 27388, sub-sections (d)(1) and (d)(2).
2. Approve the continuation of this program and current funding levels in the 2008-2009 Fiscal Year with any changes considered as part of the Proposed Budget adoption.

FISCAL IMPACT:

The 2007-2008 Final Budget included funding for this program in the amount of \$270,000 in appropriations and estimated revenue received from a fee charged for certain real estate documents filed within the County. These funds must be used solely for the purpose of investigation and prosecution of real estate fraud. Supplemental funding was approved by the Board to cover funding shortfalls created by the real estate market slow down.

BOARD ACTION AS FOLLOWS:

No. 2008-515

On motion of Supervisor DeMartini, Seconded by Supervisor Grover
and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

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DISCUSSION:

In June 2005, pursuant to Senate Bill 537 (California Government Code section 27388), the Board of Supervisors approved a \$2.00 surcharge for the recording of specific documents related to real estate in order to fund the County's Real Estate Fraud Prosecution Trust Fund. This is the funding source for the District Attorney's Real Estate Fraud Unit, which began on January 2nd, 2006. The unit investigates and prosecutes real estate fraud cases in order to deter and punish those who commit real estate related fraud, and to help obtain restitution for victims.

In 2006, the unit received 42 complaints. In 2007, the number jumped to 111 cases of reported fraud. Of those 111 cases, 24 had insufficient evidence to prosecute, 11 were found to be civil rather than criminal cases and one was referred to the Federal Bureau of Investigation for prosecution by federal agencies. Eleven criminal cases have been filed and are currently engaged in the procedural court process. Of those eleven cases, four are multi-defendant actions. The remaining 74 complaints are in the investigative phase. Twenty-four of those remaining 74 have not yet been assigned to an investigator.

This report is provided pursuant to California Government Code section 27388, sub-sections (d) (1) & (d) (2).

Implementation

Although the number of reported cases has almost tripled, the Real Estate Fraud Unit still consists of 3 Positions: 1 attorney, 1 full time investigator and 1 part time investigator. At this time, the unit is still the county's primary leading investigative unit for real estate related fraud cases. Further, this unit has participated in the development of a Northern California Real Estate Fraud Task Force which includes multiple jurisdictions and federal agencies.

This unit works closely with those who assist and investigate crimes against the elderly, such as Adult Protective Services, the Stanislaus Elder Abuse Prevention Alliance (SEAPA) and Catholic Charities. The unit has focused on education in the community, placing great emphasis on educating elders, real estate agents and brokers, as well as title industry and mortgage professionals. In addition, this unit provides advice and assistance to local law enforcement agencies.

It is the goal of the unit to reduce and deter real estate fraud through education and outreach and thereby help prevent our citizens from being victimized. Once a crime is detected, defendants will be vigorously prosecuted.

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Statistics and other relevant information regarding the unit in the Calendar Year of January 2007 to January 2008 will follow.

(Criminal charges are only allegations and defendants are presumed Innocent, unless proven guilty beyond a reasonable doubt.)

- 1) **Ashlock, Lonnie** **05-DA-030 (1219435/1101283)**
Buhler, Ronald
Walls, Wilma Sue
CHARGES FILED: Civil Code Section 1695; Penal Code Sections 487, 532, 470

The defendants effectively defrauded seven homeowners of the title to their property in an equity foreclosure buyout scheme. Defendants also used a notary who aided and abetted and directly benefitted from this scheme. Several of the same victims have ongoing civil cases which have been stayed pending the outcome of this criminal matter. We were not able to file on two additional victims since they are now deceased. Since the filing of these cases in 2005, six more victims were identified and additional charges were filed in 2007. The two cases were then consolidated for trial. Defendants Ashlock and Buhler pled to six felonies each and agreed to pay restitution to all victims. Defendant Walls pled to a misdemeanor Notary Fraud.

- 2) **Rohit, Aminesh** **06-DA-0210 (1213168)**
Rohit, Reena
CHARGES FILED: Penal Code Sections 487, 470 (d)

Defendants are the victim's son and daughter-in-law. Son allegedly forged Grant Deed to father's property, had his wife notarize it, and then obtained financing. Mr. Rohit pled to the felony and his wife to a misdemeanor for time served. The victim did not want to testify against his son.

- 3) **Nolan, David** **07-DA -0183 (1226480)**
CHARGES FILED: Penal Code Section 487, 532(a), 470 (d)

Case Dismissed - 4/11/08 Defendant deceased

Defendant allegedly changed title on his 92-year-old mother's home, opened several credit cards in her name, and then ran up the balance on those cards. Victim has undergone a Conditional Examination in order to preserve her testimony.

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- 4) **Huber, Jason** **07-DA-63 (1226483)**
Huber, Angie
Vermuelen, Dirk
CHARGES FILED: Penal Code Section 487, 532(a), 470 (d)

Defendants Jason Huber and Angie Huber allegedly forged Angie Huber's parents' names on a Grant Deed and recorded the forged document. Vermuelen notarized the forgery. Vermuelen pled for notary violation and has agreed to testify against the other defendants. Jason and Angie Huber were held to answer and a jury trial is scheduled for June 17, 2008.

- 5) **Havens, Tony** **07-DA-0012 (1223885)**
CHARGES FILED: Penal Code Section 487

Defendant allegedly defrauded victim out of \$120,000 in a real estate investment scheme. Law and Motion hearing set for June 23, 2008, Jury Trial set for September 9, 2008.

- 6) **Ruiz, Jose** **07-DA- 0315 (1228807)**
CHARGES FILED: Penal Code Section 487, 532(a), 470 (d)

Defendant assumed the identity and social security number of victim also named Jose Ruiz and obtained financing on real property. Strangely enough, he made all the payments on the loan and actually improved the victim's credit rating. Defendant pled to a felony for 150 days and restitution.

- 7) **Yates, Noah** **06-DA-262 (1219416)**
Braun, Eric
Robinson, Jearod
Wallick, Doug
Abell, Darin
Abell, Dawna
Rodriguez, Arnold
Heytz, Brian
Ayhens, Nicholas
Ayhens, Elizabeth
CHARGES FILED: Penal Code Section 487, 532(a), 532A, 470 (d)

Defendants allegedly engaged in a very elaborate and complicated mortgage fraud scheme on three subject properties. The scam involved using straw buyers to obtain financing on the three properties and then filing false and forged documents to eliminate the prior interest or Deed of Trust, then new financing would be obtained on the same property. The estimated losses are several million dollars and all the subject properties are currently in foreclosure. The case is set for Preliminary Hearing 3/18/08 and is expected to last several weeks. As of 6/13/08, Preliminary Hearing is still in progress.

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- 8) **Naeem, Asghar** (1241254)
CHARGES FILED: Penal Code Section 115, 487, 532(a)

Defendant allegedly forged a grant deed to his father's tire shop to himself. Preliminary Pretrial is set for 7/28/08, and a Preliminary Hearing is set for 8/21/08.

- 9) **Machado, Diolinda** 07-DA-0214 (1242043)
Faustino, Susan
CHARGES FILED: PC 487, 115, 368, 532(a)

Defendant Machado allegedly forged her 85-year-old mother's name on several loan applications and over-encumbered her mother's house. She also is alleged to have forged her name on several car loans. Faustino was the loan agent and notary who is alleged to have allowed these forgeries to occur. A Preliminary Pretrial is set for 6/30/08.

Fiscal Impact:

This is a calendar year report with the exception of the financial information which is based on the fiscal year. It is hoped that we will move to a fiscal year report for all purposes in the future. These figures are based on the '06 - '07 fiscal year which is July 1, 2006 through June 30, 2007:

Mandatory:	No
Source of Funding:	Government Code Section 27388
Funding Match Required:	None
Impact on Other Departments:	Clerk/Recorder

Summary of Revenue/Costs: (7/1/2006 - 6/30/2007)

Revenue:	\$184,058.00
Retained Earnings/Fund Balance	\$ 53,825.00
Revenue to Clerk/Recorder	\$ 9,685.00
Direct Costs:	\$254,832.00

Indirect - Department	-0-
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Indirect - County (Clerk/Recorder)	\$ 9,685.00
Total Costs:	\$264,517.00
Net Costs to Department	(\$ 16,949.00)

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CURRENT BUDGET PROJECTIONS:

FY 2007-08 Budget Projection for District Attorney BU#17760023210				
	Adopted Budget	Adjusted Budget	Projected Budget	Estimate (Savings/Deficit)
Appropriations	270,000	320,000	320,000	-0-
Revenue	184,000	144,000	108,064	<35,936>
Net Cost	86,000	176,000	211,936	<35,936>

Presentations:

2007 Presentations and Number of Attendees:

- First Baptist Church in Turlock (40)
- Turlock Kiwanis (60)
- Modesto Lions 500 (36)
- Riverbank Rotary (40)
- SEAPA Turlock (25)
- SEAPA Oakdale (25)
- SEAPA Riverbank (25)
- SAFE Banking Seminar (300)
- PMZ Annual Training at the State Theatre (300)
- Prudential (60)
- Coldwell Bankers Vinson Chase (40)
- Chicago Title Company (40)
- Century 21 Turlock (40)
- Century 21 Modesto (75)
- Century 21 Oakdale (50)
- Oakdale Board of Realtors (75)
- Central Valley Realtors Association (120)
- Central Valley Mortgage Association (100)
- Legal Secretaries Association (30)
- Television Public Broadcast, KAZY TV 14
- Modesto Police Department - (300)
- El Concilio with a Spanish Interpreter (30)
- Foreclosure Prevention Board (50)
- Modesto Bee Real Estate Fraud Forum Panel Member (75)

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Conclusions:

It has been a challenging year, but the need for an active investigations and prosecution effort to deal with Real Estate Fraud has become increasingly evident. One specific goal for the coming year will be the development of a courtesy notice that would be sent to owners of record upon the filing of any change of ownership. This type of notification has proven effective in other counties to help alert homeowners at an early stage to potential fraud issues.

The Real Estate Fraud Unit will work to increase the public awareness of fraud schemes that seem to be ever present in our society. The unit has developed close rapport with other Real Estate Fraud Units around the state and will continue to network on fraud schemes and the sharing of information to enhance our ability to detect and prosecute offenders.

The unit will also work to create a community-based advisory group of individuals that can volunteer their expertise in assisting the unit in identifying fraud. Professionals will be sought out in the Real Estate industry. Their expertise will be extremely valuable to the Fraud Unit in understanding industry standards and practices.

POLICY ISSUE:

Acceptance of this report pursuant to Government Code Section 27388, subdivisions (d)(1) and (d)(2) will demonstrate that Stanislaus County is acting in compliance with the statutory provisions authorizing the formation and use of the Real Estate Trust Fund. The efforts of the personnel in this unit support the Board's priorities of Promoting a Safe Community and Efficient Delivery of Public Services.

STAFFING IMPACT:

The Real Estate Fraud Program currently has a full-time Attorney V and a Criminal Investigator II position authorized and a part-time Investigator. These positions would continue to be authorized for the duration of this Program.