

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

DEPT: District Attorney BA

BOARD AGENDA # *B-9

Urgent Routine

AGENDA DATE June 29, 2010

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2009-2010.

STAFF RECOMMENDATIONS:

1. Accept the report of the District Attorney's Office 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 2010-2011 Fiscal Year.

FISCAL IMPACT:

The 2010-2011 Proposed Budget includes funding for the Real Estate Fraud Prosecution program in the amount of \$366,135 in appropriations and estimated revenue. Revenue of \$186,000 is estimated from a fee charged for certain real estate documents filed within the County and \$180,135 is to be contributed from the County General Fund. These funds must be used solely for the purpose of investigation and prosecution of real estate fraud. In January 2009, the Board of Supervisors approved to increase the fee charged from \$2 to \$3. This increase in revenue has allowed the unit to maintain service levels without the full use of the \$197,951 2009-2010 county match funds. Continued on page 2

BOARD ACTION AS FOLLOWS:

No. 2010-416

On motion of Supervisor Chiesa, Seconded by Supervisor O'Brien

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2009-2010.

FISCAL IMPACT CONT:

It is anticipated the unit will be able to return some of the match funds to the County at fiscal year end 2009-2010.

DISCUSSION:

Stanislaus County continues to be at the heart of the real estate crisis. Housing prices continue to tumble and there seems to be no end in sight to the problem. The cause of a substantial portion of this problem is fraud. Initially, many homes were obtained using fraudulent income statements, inflated appraisals, straw buyers and other methods of obtaining loans that the homeowner ultimately could not afford. This resulted in an overly inflated market that eventually collapsed under its own weight.

Following the collapse of the market, "foreclosure specialists" appeared who promised to save houses by stopping the foreclosure process and renegotiating the mortgage for the consumer. Most of these "foreclosure specialists" were scam artists who took up-front money from unsuspecting homeowners and then performed no work for them. Once the homeowners realized it was a scam, their house payments were just that much further behind and they were in a much worse position than they were before. Legislation was passed that made it illegal to take "up front" fees for these services. The Real Estate Fraud Unit immediately launched an undercover operation and confirmed that all known "foreclosure specialists" in Stanislaus County had stopped this practice.

Most recently, potential "buyers" and "sellers" are attempting to manipulate the market and drive housing prices down further so that houses can be purchased at a discount for investment purposes. The real estate fraud unit is working with the California Department of Real Estate to investigate these practices and determine on a case by case basis those cases that involve fraudulent activity.

Most real estate fraud cases are extremely complex and require a great deal of investigative effort, prosecutorial preparation, and expertise to adequately prosecute. Many of these cases involve multiple jurisdictions, multiple victims and multiple defendants. They require the review of thousands of pages of bank statements and real estate documents. Many cases include victims from outside the area who were victimized by defendants in Stanislaus County and defendants from outside the county who victimized Stanislaus County residents.

The Real Estate Fraud Unit is currently staffed with one prosecutor and two investigators. The unit is the primary investigative unit for real estate related fraud cases in Stanislaus County. The members of the unit work closely with other state and federal investigative and prosecution authorities. The unit's staff are members of the Northern California Mortgage Fraud Task Force and the FBI's San Joaquin Valley Mortgage Fraud Task Force. These task forces include both state and federal agencies. It is the goal of the Real Estate Fraud Unit to educate the public in order to help prevent real estate fraud and to vigorously prosecute those who commit these crimes.

DISCUSSION CONT:

General Statistics

The Real Estate Fraud Unit entered 2009-2010 fiscal year with sixty-four (64) ongoing investigations. During this fiscal year, the unit received an additional thirty one (31) referrals some of which are now active investigations. Investigations differ from referrals in that they are defined as any case in which the District Attorney's Office conducts an initial criminal investigation, or follows up on another agency's criminal investigation and which it is believed will lead to criminal charges being filed. Several new felony cases have been filed based on these new referrals and several extremely large cases of fraud have been uncovered and are still under joint local/federal investigation.

Case Highlights

08-DA-0105

The defendants were both employed by the mortgage division of a large bank. They have both been charged with multiple counts of forgery, grand theft, and filing false financial statements. They are accused of creating false payroll records and other financial documents in order to help their customers qualify for loans that they would not have otherwise been able to qualify for, resulting in commissions, to which they were not entitled, being paid to the defendants. These defendants both entered felony pleas and were sentenced.

08-DA-325

The defendant solicited approximately thirty-two (32) victims to invest two-million-seven-hundred-thousand dollars (\$2,700,000.00) with him to purchase and develop real estate projects. The defendant used the money for personal gain and furnished victims fictitious documents to give the appearance their investments were secured by real estate. This was a ponzi scheme that eventually collapsed. This defendant was sentenced to 5 years 8 months in state prison and ordered to pay restitution.

08-DA-349

The defendant told approximately thirty (30) investors in approximately ten (10) eastern and southern states that he could facilitate platform trade loans ranging into the billions of dollars. Each developer requested twenty million to two-hundred million dollars (\$20,000,000.00 to \$200,000,000.00) to develop commercial projects such as high rise buildings, golf courses, country clubs, and boat marinas in the Florida area. The defendant told investors he required advance fees for property appraisals. The defendant used the developers' money for his personal gain. The defendant told developers that their loans had been approved by several different hard-money lenders. The defendant then told the investors the hard-money lenders withdrew their loan commitments but he was going to obtain new loans from an international banking association. The defendant created this "banking association" and created emails and other documents to convince developers of its legitimacy. This defendant is currently sentenced to prison for 5 years 4 months for frauds he previously committed in this county. This case is being prosecuted in conjunction with the federal mortgage fraud task force.

Approval of the Real Estate Fraud Prosecution Trust Fund Annual Report Covering Fiscal Year 2009-2010.

DISCUSSION CONT:

09-DA-0168

The defendant was involved in a mortgage fraud elimination scheme that also involved bankruptcy fraud. This case involves several thousand victims in several counties in California. The scheme involves people in default being contacted and told they can avoid foreclosure by executing grant deed transfers to the defendant. The defendant claims that he will in turn buy their mortgage and resell it for 22% of its value. The defendant further claims that he will then sell the mortgage to an investor who will in turn resell the loan back to the homeowner at 75 to 92 % of the current market value of the home. None of the claims by the defendant are true and the homeowner not only continues in foreclosure, they lose the fees paid to the defendant for his "services." This case is being prosecuted in conjunction with the federal mortgage fraud task force.

Caveat: All suspects are presumed innocent until proven guilty in a court of law.

POLICY ISSUE:

Acceptance of this annual 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 Unit currently has a full-time Attorney V and Criminal Investigator II positions and a part-time Criminal Investigator authorized. These positions would continue to be authorized for the duration of this program.

CONTACT:

W.R. McKenzie, Senior Deputy District Attorney, (209) 525-5550