



AGENDA ____ September 26, 2017

September 13, 2017

Honorable Board of Supervisors
County of Alameda
1221 Oak Street, Suite 536
Oakland, CA 94612

**SUBJECT: RECEIVE AND REVIEW DISTRICT ATTORNEY'S ANNUAL REPORT
ON REAL ESTATE FRAUD PROSECUTIONS**

Dear Board Members:

RECOMMENDATION:

Receive and review the District Attorney's annual report on Real Estate Fraud prosecutions pursuant to California Government Code Section 27388.

DISCUSSION/SUMMARY

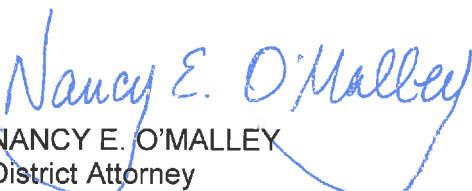
California Government Code Section 27388 et seq. provides that the county board of supervisors shall annually review the effectiveness of the district attorney in deterring, investigating, and prosecuting real estate fraud crimes based upon information provided by the district attorney in an annual report.

The District Attorney hereby submits its annual report on real estate fraud prosecutions for FY16-17 and requests the Board receive and review that report.

FINANCING

This request will not impact net County cost in FY 2017-2018 or in subsequent years.

Sincerely,


NANCY E. O'MALLEY
District Attorney

Report by the Alameda County District Attorney
Real Estate Fraud Prosecution Trust Fund
July 1, 2016 – June 30, 2017 (FY 2016-17)

Introduction

This report is made pursuant to Government Code § 27388(d), and is provided to the Alameda County Board of Supervisors to highlight the work of the District Attorney’s Real Estate Fraud Unit for Fiscal Year 2016-17 (hereinafter “FY 2016-17”). This report also serves as a reapplication for funds from the Real Estate Fraud Prosecution Trust Fund for FY 2017-18 pursuant to Government Code §27388(c)(4).

Narrative Summary

The Alameda County District Attorney’s Office Real Estate Fraud Unit (hereinafter “The Unit”) is devoted to the investigation and prosecution of real estate fraud. The Unit has been in continual operation for more than 13 years. The Unit currently consists of seven full-time employees: two Deputy District Attorneys; one paralegal; two D.A. Inspectors whose sole duty is to actively investigate cases involving real estate fraud; one forensic accountant and one victim advocate. Additionally, the Unit employs a part-time annuitant attorney who works 50% time on real estate fraud cases.

In FY 2016-17, the District Attorney claimed \$1,121,716 against the Real Estate Fraud Prosecution Trust to cover the operating expenses of the Unit, including the salary and benefits of the eight Unit employees outlined above.

In FY 2016-17, the Unit opened 50 new investigations. The Unit carried over 70 active investigations from FY 2015-16. Thus, the total number of active real estate fraud investigations handled by the Unit in FY 2016-17 was 120.

The Unit filed five (5) new criminal cases in FY16-17. With 26 charged criminal cases from FY 2015-16, the total number of charged real estate fraud cases prosecuted by the Unit in FY 2016-17 was 31.

In FY 2016-17, the Unit provided direct assistance to 173 victims of real estate fraud in charged cases.

Referral, Investigation & Prosecution of Real Estate Fraud

The Unit aggressively manages its resources to deter, investigate, and prosecute real estate fraud crimes.

The Unit is a “vertical” prosecution unit, meaning it handles all cases from initial referral, through investigation, to charging and ultimately prosecution of a criminal case. This structure allows the Unit to best serve victims of real estate fraud in these highly complex cases. Each case involves a team including a prosecutor, a sworn investigator, a victim advocate and, where appropriate, a forensic accountant/examiner. A paralegal was recently added to the Unit to help with overall case management and organization.

A typical real estate fraud case can involve hundreds of hours to investigate, research and prosecute, and involve thousands of pages of discovery per case.

The cycle of a real estate fraud investigation takes the following steps:

- 1) **Referral:** This is the initial complaint made by a homeowner, company, or other law enforcement agency asking the Unit to investigate a case of suspected real estate fraud. These referrals are reviewed by either a Deputy District Attorney or by a DA Inspector to determine whether probable cause exists to believe a crime may have been committed thereby warranting a full investigation and possible prosecution. All DA Inspectors are sworn California peace officers with years of investigative experience.

In FY 2016-17, the Unit received 50 case referrals involving 102 suspects.

- 2) **Investigation:** All complaints received into the Unit are investigated. First, a member of the Unit will review a complaint and determine what level of investigation is required. Some complaints will be closed fairly quickly, if it can be determined for example that the alleged conduct does not constitute a crime or unfair practice.

Many cases, however, are assigned to a DA Inspector for further follow up and investigation. This stage of the investigation involves interviewing victims, gathering evidence via search warrants, and reviewing evidence to determine whether a crime was committed.

In FY 2016-17, the Unit actively investigated 50 cases involving 102 suspects. Carryover investigations from the previous fiscal year included 70 active investigations for a total of 120 investigations.

- 3) **Charging:** Following a full investigation, a case is submitted to one of the Unit's two Deputy District Attorneys to review for the filing of a criminal complaint. The Deputy District Attorney determines what charges, if any, to bring against a suspect, creates the criminal complaint and files this with the court, thereby initiating a new criminal case.

In FY 2016-17, the Unit charged five (5) new criminal cases. At the beginning of FY 2016-17, the Unit had 26 charged cases that carried over from FY 2015-16. Therefore, during FY 2016-17, the Unit actively prosecuted 31 charged cases in the Alameda County courts.

- 4) **Prosecution & Conviction:** Once criminal charges are filed, the Deputy District Attorney works closely with the other members of the Unit to aggressively prosecute the case in court. Once a case enters the prosecution phase, it can often take months or even years to resolve, due to the complex nature of these cases.

During FY 2016-17, the Unit obtained 10 criminal convictions. These numbers are down from the previous year due to an increase in the number of high profile, complex cases taken on by the Unit this year. See “**Illustrative Cases**” section, below, for further details.

- 5) **Victim Support:** Keeping victims apprised of the status of their case, and helping them to obtain relief in the form of restitution, protective orders, and other remedies, is an integral part of the Unit’s duties.

In FY 2016-17, the Unit provided direct assistance to 173 victims of real estate fraud in charged cases.

- 6) **Restitution:** Making victims whole through restitution is a priority for the District Attorney’s office. After conviction, the Unit continues to be involved in the case, obtaining restitution orders on behalf of victims and monitoring repayment by the defendants through regular progress reports.

In FY 2016-17, the total aggregate monetary loss ordered by the Courts on behalf of victims was \$723,494.59.

A summary of the numbers stated above are displayed in the following chart, in accordance with Government Code § 27388(c)(3):

	Carryover from FY 2015-16	Added FY 2016-17	Total FY 2016-17
Number of Real Estate Fraud Cases Filed	26	5	31
Number of Active Real Estate Fraud Investigations	70	50	120
Number of Victims Involved in the Cases Filed	83	90	173
Total Aggregate Restitution Ordered to Victims	\$N/A ¹	\$723,494.59	\$723,494.59

Factors Driving Real Estate Fraud In Alameda County

¹ There is no carryover of restitution ordered to victims, because this report tallies up all claimed monetary loss by victims for all cases handled in FY 2016-17, regardless of when the case came into the Unit.

The general economy remains strong in Alameda County. This has led to an increase in “service fraud” – which is defined as fraud committed by con artists offering home repair, home refinance, or home improvement services and then defrauding the victim of money and/or title to the home.

The strong housing market in the Bay Area also means less affordable housing in the area, which in turn produces an increasing number of cases involving rental fraud, as potential renters succumb to false promises by con artists of affordable rents in any number of bogus schemes.

Finally, elder fraud continues to remain a problem. As more and more baby boomers enter retirement, many homeowners who have accumulated substantial home equity are targeted with refinance scams and/or forged deeds that seek to strip the equity from the home.

Illustrative Cases

Listed below is a small sample of the cases handled by the Unit during the past fiscal year.

People v. Michael Scott Beal **Alameda County Superior Court Docket #612587A-D**

The Real Estate Fraud Unit convicted retired Hayward Police Sergeant Michael Beal of multiple felony counts for stealing over \$400,000 from a mentally ill victim, and forging real estate documents.



Defendant Beal befriended victim Nancy Joe after arresting Joe for prostitution while he was a Hayward Police Officer. Suffering from mental illness including schizophrenia, Ms. Joe was tricked by defendant Beal into giving up over \$400,000 in personal savings in a fake real estate scam which involved the forgery and filing of documents under the name of a local Century 21 real estate office.

Following a jury trial that lasted over two months, the Unit convicted defendant Beal of multiple felony counts. Defendant Beal was sentenced to two years in state prison and ordered to pay restitution to victim Joe, including the sale of his own home to pay restitution.

People v. Eric Gravel

Alameda County Superior Court Docket #HG16828159

Defendant Eric Gravel is a licensed attorney who was posting the following sign all over fences, telephone poles, and freeway medians throughout Alameda County:



An investigation into the signs found that Mr. Gravel was pitching bankruptcy as a means for homeowners to avoid foreclosure. The signs were found to be illegal for being posted in public right-of-ways, not having the identifying information of Mr. Gravel's law practice, and were potentially misleading and deceptive to consumers.

In a stipulated settlement, Mr. Gravel agreed to pay a civil fine, remove all the signs from Alameda County, and refund retainer fees to Alameda County homeowners who had hired him to stop their foreclosures through bankruptcy filings.

This action led to the prevention of possibly dozen of victims of bankruptcy fraud and other false public recordings.

People v. Mario Juarez
Alameda County Superior Court Docket #615177

Defendant Juarez was a licensed real estate agent hired by victim Cabrera to rent out his property in Oakland. Defendant Juarez rented the property to a second victim, Burch, but ask for an unauthorized “security deposit” of \$21,000. Defendant Juarez pocketed the \$21,000 for his own use, but was caught when victim Cabrera and victim Burch discovered the “security deposit” was unauthorized.

Defendant Juarez was ultimately convicted and ordered to pay \$23,000 in restitution to victim Burch.

“Ghost Ship Warehouse”
People v. Max Harris & Derick Almena
Alameda County Superior Court Docket #17-CR-017349AB

On December 2, 2016, a devastating fire broke out at a warehouse located on 31st Avenue in Oakland, CA. The fire at the “Ghost Ship Warehouse” killed 36 people who were attending an illegal music event on the second floor.



Ghost Ship Warehouse in Oakland, CA

The day after the fire, the Alameda County District Attorney’s Real Estate Fraud Unit took over primary investigation into whether criminal liability existed in the death of the 36 victims. Due to unique issues of law regarding landlord/tenant law, local planning and building ordinances, and state building codes, the real estate unit was well-prepared to handle this complex investigation in a thorough and objective manner. The investigation included going through documents recorded with the Alameda County Recorder to establish ownership and control of the warehouse on the night of the fire.

After a six-month investigation, the Alameda County District Attorney’s Office filed charges of involuntary manslaughter against master tenants Derick Almena, and property manager Max Harris. The investigation is ongoing and the prosecution is currently pending in the Alameda County Superior Court. The Real Estate Fraud Unit continues to handle day-today management of the case.

Accounting of Funds

As required under Government Code § 27388(c)(4), the following accounting of funds is provided in this report:

Fiscal Year 2016-17

Amount of Funds Received and Expended

Beginning Trust Fund Balance:	\$7,137,328
<u>Real Estate Document Fees Collected:</u>	\$2,681,888
<i>Total Program Revenue:</i>	\$9,819,216

FY 2016-17

<u><i>Total Program Expenses:</i></u>	\$1,121,716
<i>Ending Fund Balance:</i>	\$8,697,500