

12G - REAL ESTATE PROSECUTION FUND

Operational Summary

Description:

Pursuant to Section 27388 of the California Government Code, Fund 12G was established in April 2009 for deposit of a \$3 fee for the recording of certain real estate instruments by the County Clerk-Recorder. In 2012, Government Code Section 27388 was amended to include additional specific documents and the Clerk-Recorder began collection on those instruments in January of 2013.

The Real Estate Prosecution Fund, authorized and required by the statute, provides a necessary and valuable source of

At a Glance:

Total FY 2020-2021 Current Modified Budget:	2,010,000
Total FY 2020-2021 Actual Expenditure + Encumbrance:	2,009,325
Total Final FY 2021-2022:	2,210,500
Percent of County General Fund:	N/A
Total Employees:	0.00

funding for investigating and prosecuting real estate fraud crimes. Funds are required to be used exclusively to fund investigation and prosecution of real estate fraud crimes. The amendment to the statute in 2012 also authorized County Board of Supervisors to increase the recording fee up to \$10 per statutory document.

FY 2020-21 Key Project Accomplishments:

The Orange County District Attorney's (OCDA) Real Estate Fraud Prosecution Unit continues to successfully investigate and prosecute real estate fraud crimes in Orange County. The OCDA provides a central location for victims to report real estate fraud in Orange County through a link on the OCDA website and through a Real Estate Fraud Hotline. In FY 2020-21 to date, 87 reports of fraud were received. As a result of these reports, 32 investigations have been opened and are active, and 12 new cases have been filed. Two cases have been resolved during this fiscal year. The following are some of the complex real estate fraud cases prosecuted in Orange County during FY 2020-21:

- **People v. Barker:** James Barker ran a scam based out of Newport Beach in which he presented himself to victims as a lawyer who could negotiate loan modifications. Once Barker, who was not a lawyer, had obtained the large fees and payments from his victims, he would cut off communication. Barker was able to steal approximately \$170,000 from a dozen victims. The Defendant pled guilty to all charges in the case and is currently awaiting sentencing in April of 2021.
- **People v. Centeno, et al:** Five defendants were convicted as a result of running a predatory loan modification company based in the City of Orange. The company defrauded over two dozen victims of approximately \$390,000. The company routinely charged thousands of dollars in illegal up-front fees and additionally tricked victims into sending money to the "Foreclosure Prevention Department." Victims believed their money was going to departments at the banks that owned their mortgages. It was really going into the pockets of the defendants. Defendants were to be sentenced in August of 2020, and a restitution hearing is scheduled for May of 2021.
- **People v. Trinh:** Defendant Robert Trinh was a door-to-door salesman/contractor who targeted the elderly, offering "HERO Loans" in which a homeowner can pay for energy efficient upgrades with the equity in their home. Defendant signed his elderly victims up for expensive "upgrades" but never actually installed the promised upgrades like attic insulation, water delivery systems, and energy efficient windows. Victims were left with increased property taxes and sub-standard or non-existent "upgrades". The Defendant was held to answer on all counts in September of 2019 and the Defendant is awaiting trial.

- **People v. Portillo:** The defendant, a former real estate professional whose license had been revoked in 2006, continued to hold herself out as a real estate professional and approached a hard-money lender with whom she'd previously worked. She claimed to be acting on behalf of some relatives in order to obtain hard money loans on their properties, when she did not in fact have their consent. She then had the loan proceeds wired to herself. In order to facilitate the fraud, she used the names and personal identifying information of her relatives on the loan and escrow paperwork, and further altered and/or forged notary acknowledgments on various documents. The defendant pled guilty in March of 2021, and a restitution hearing is set for June of 2021.
- **People v. Preciado:** The defendant, a real estate agent, owned AE Trust, which handled her broker-controlled escrows. When victims made offers, they would send her their earnest money deposits. But when the deal fell through, the defendant would not return their deposits. In some instances, defendant took deposits on properties that were not even for sale. In total, the defendant victimized at least 50 people for over \$555,800 in total loss. On September 27, 2019, the Defendant was held to answer on 49 felony counts at the preliminary hearing, and a trial date will be set in the near future.
- **People v. Phan, Phan & Nguyen:** This case was investigated from the ground up by the OCDA investigators and civilian investigators and involves a sophisticated real estate conspiracy in which three Defendants used an escrow company owned and operated by one of them to perpetuate their fraud. The three started obtaining loans and diverting monies out of other escrows to cover these deals and to purchase other properties for themselves. At a minimum, a total of at least 10 properties were involved with an estimated loss of approximately \$20 million. Conditional examinations of several elderly victims and witnesses are scheduled to take place in April of 2021.

Budget Summary

Final Budget History:

Sources and Uses	FY 2019-2020	FY 2020-2021	FY 2020-2021	FY 2021-2022 ⁽¹⁾	Change from FY 2020-2021	
	Actual Exp/Rev	Budget ⁽¹⁾ As of 6/30/21	Actual Exp/Rev As of 6/30/21		Budget Amount	Percent
Beginning Fund Balance - Unassigned	0	0	0	0	0	0.0
Total Revenues	1,711,953	2,010,000	2,659,324	2,210,500	200,500	10.0
Total Expenditures/Encumbrances	1,415,340	2,010,000	2,009,325	2,210,500	200,500	10.0
Prior Year Encumbrance Cancellations	0	0	0	0	0	0.0
Inc/(Dec) to Obligated Fund Balances	296,612	0	649,999	0	0	0.0
Ending Fund Balance - Unassigned	0	0	0	0	0	0.0

(1) The above totals may not match FY 2020-21 Current Modified Budget and FY 2021-22 Final Budget totals included in "At a Glance" due to inclusion of increases in Obligated Fund Balances.

Columns may not total correctly due to rounding.

Detailed budget by expense category and by activity is presented for agency: Real Estate Prosecution Fund in the Appendix on page A130

Highlights and Key Trends:

- Loan modification mills based in Orange County continue to defraud hundreds of homeowners throughout the country. Most of these loan modification mills generate illegal upfront fees from distressed victim homeowners. Furthermore, financial exploitation of seniors is a trend which will require an increased emphasis in both investigation and prosecution in the area of real estate fraud. The OCDA continues to work with the Orange County Clerk-Recorder to alert homeowners to any potentially fraudulent changes in the title of their homes and to report suspicious recorded documents, such as those recorded by Sovereign Citizens to cloud title, directly to the OCDA for review. OCDA and the Clerk-Recorder collaborated to update the courtesy notices sent to homeowners of changes to their property's title to include the OCDA's new Real Estate Fraud Hotline number and OCDA's web link to report real estate fraud.
- OCDA continues to conduct all real estate investigations internally, relying on both sworn and non-sworn investigative personnel. In fact, over three-quarters of the cases filed in the unit are originated with and investigated by OCDA investigators. Furthermore, since many cases that are investigated do not result in a criminal prosecution, the number of criminal cases filed or convictions obtained does not fully capture the scope of OCDA's efforts in the area of real estate fraud enforcement. Additionally, OCDA investigators and legal staff will continue to do training and outreach to the real estate industry and outside law enforcement agencies in order to maximize law enforcement efforts to fight real estate fraud.
- Effective April 1, 2021, the Board approved the extension of the \$3 recording fee on certain specified real estate instruments for a three-year period from April 1, 2021, to March 31, 2024, to provide a continued funding source to investigate, prosecute and deter real estate fraud crimes pursuant to Section 27388 of the California Government Code.

12G - Real Estate Prosecution Fund

Summary of Final Budget by Revenue and Expense Category:

Revenues/Appropriations	FY 2019-2020	FY 2020-2021	FY 2020-2021	FY 2021-2022	Change from FY 2020-2021	
	Actual Exp/Rev	Budget As of 6/30/21	Actual Exp/Rev As of 6/30/21	Final Budget	Budget Amount	Percent
Revenue from Use of Money and Property Category	\$ 9,018	\$ 10,000	\$ 8,443	\$ 10,500	\$ 500	5.0%
Charges For Services Category	1,702,935	2,000,000	2,650,881	2,200,000	200,000	10.0
Fund Balance Unassigned	0	0	0	0	0	0.0
Total Revenues	1,711,953	2,010,000	2,659,324	2,210,500	200,500	10.0
Services & Supplies Category	282	1,280	605	800	(480)	(37.5)
Other Financing Uses Category	1,415,058	2,008,720	2,008,720	1,320,000	(688,720)	(34.3)
Special Items Category	0	0	0	889,700	889,700	0.0
Obligated Fund Balances	296,612	0	649,999	0	0	0.0
Total Requirements	1,711,952	2,010,000	2,659,324	2,210,500	200,500	10.0
Beginning Fund Balance - Unassigned	0	0	0	0	0	0.0
Current Year Revenue	1,711,953	2,010,000	2,659,324	2,210,500	200,500	10.0
Current Year Expenses	(1,415,340)	(2,010,000)	(2,009,325)	(2,210,500)	(200,500)	10.0
Prior Year Expenses	0	0	0	0	0	0.0
Decrease/(Increase) Reserve for Encumbrances	0	0	0	0	0	0.0
Decrease/(Increase) to Obligated Fund Balances	(296,612)	0	(649,999)	0	0	0.0
Ending Fund Balance - Unassigned	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%

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