

FORM APPROVED COM. COUNSEL
BY: *Robert M. Pepper, Jr.* 1/14/09 DATE

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

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FROM: District Attorney and Assessor-County Clerk-Recorder

SUBMITTAL DATE:
January 9, 2009

SUBJECT: Resolution No. 2009-025 Authorization to Increase to \$3.00 for the Real Estate Fraud Prosecution Trust Fund

RECOMMENDED MOTION: That the Board of Supervisors:
Approve Resolution No. 2009-025 authorizing an increase in the Real Estate Fraud Prosecution Trust Fund fee from \$2.00 to \$3.00 effective January 1, 2009 and expand the existing definition of "real estate instrument" to include three additional instruments subject to this fee.

BACKGROUND:

On October 27, 1998 the Board adopted Resolution No. 98-310 which authorized imposition of a \$2.00 fee for certain documents recorded with the Assessor-County Clerk-Recorder. These fees were placed in the Real Estate Fraud Prosecution Trust Fund with the fees to be distributed to the District Attorney to investigate and prosecute real estate fraud.

The Riverside County District Attorney's Office currently devotes two deputy district attorneys, four senior investigators, a paralegal and an investigative technician for the investigation and prosecution of Real Estate Fraud in Riverside County.

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Kelly P. Keenan
Kelly P. Keenan, Assistant District Attorney
for Rod Pacheco, District Attorney

Larry W. Ward
Larry W. Ward, Assessor-County Clerk-Recorder

**FINANCIAL
DATA**

Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
Annual Net County Cost:	\$ 0	For Fiscal Year:	2008-2009

SOURCE OF FUNDS: Real Estate Fraud Prosecution Trust Fund Fee

Positions To Be Deleted Per A-30	☐
Requires 4/5 Vote	☐

C.E.O. RECOMMENDATION:

APPROVE

BY: *Steve P. Schubert*
Steve P. Schubert

County Executive Office Signature

Dept R. m.:
Per Exec. Ofc.:
Consent
Policy

In the past fiscal year, the District Attorney's Office Real Estate Fraud Unit was able to bring sophisticated criminals to justice and secure restitution for victims of real estate fraud. In the case of the *People v. Abel Gotti* (aka Abel Galvez) and *Efrain Vega* (RIF129149; RIF127739), the defendants employed a scheme to defraud Riverside County landowners of their property. The properties consisted of twenty-five (25) undeveloped parcels situated in Perris, Murrieta, and Menifee. The collective value of all properties exceeded \$23 million. The defendants perpetrated the scheme by offering forged grant deeds on the 25 properties to the Riverside County Recorder's Office. The grant deeds fraudulently transferred ownership of the victims' properties to various straw buyers including a 63 year old unemployed salesman, a 32 year old parolee at large, and an 83 year old ailing man. The defendants were sentenced to prison and all 25 properties were restored to the victims.

In the case of the *People v. Oneyda Redeemer Marks* (RIF126830), the defendant purchased multiple single family residences in Corona through identity theft while working as an unlicensed mortgage broker. The defendant created two new identities for herself using real social security numbers of innocent victims with strong credit in order to purchase the homes. She was able to purchase four homes for herself and her family before she was apprehended. She subsequently received a prison sentence. Over \$123,000 in restitution was obtained in that case.

With the slowdown in the housing market and the financial crisis, real estate fraud investigations are expected to increase in Riverside County. The increase in foreclosures in Riverside County has led to a proliferation of unscrupulous people violating foreclosure consultant laws. Vulnerable homeowners are increasingly relying on the services of foreclosure consultants who advise the homeowner. Foreclosure consultants represent that they can assist homeowners who have defaulted on obligations secured by their residences. These foreclosure consultants, however, often charge high fees and make false promises, but perform no service or essentially a worthless service causing homeowners to lose their homes.

Additionally, during the time period between the commencement of foreclosure proceedings and the scheduled foreclosure sale date, homeowners in financial distress, especially the poor, elderly, and financially unsophisticated, are vulnerable to the importunities of equity purchasers who induce homeowners to sell their homes for a small fraction of their fair market values through the use of schemes which often involve oral and written misrepresentations, deceit, intimidation, and other unreasonable commercial practices. The enforcement of the criminal statutes that outlaw these unscrupulous activities is necessary to promote public welfare. Compliance with these laws will ensure that each homeowner is provided with information necessary to make an informed and intelligent decision regarding the sale of his or her home to an equity purchaser; safeguard the public against deceit and financial hardship; insure, foster, and encourage fair dealing in the sale and purchase of homes in foreclosure; protect against misleading representations resulting in unfair contract terms; and preserve and protect home equities of homeowners in Riverside County.

Moreover, three additional real estate instruments are now subject to the Real Estate Fraud Prosecution Trust Fund fee: Notice of Rescission of Declaration of Default, Notice of Trustee Sale and Substitution of Trustee.

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Lastly, the reporting requirements have changed to the Board of Supervisors in assessing the District Attorney's effectiveness combating real estate fraud using these funds. An annual report to both the Board of Supervisors and the State Legislative Analyst's Office is due by or on September 1st following the end of the full fiscal year. The report for the county's most current full fiscal year must be submitted to the Legislative Analyst's Office before funds can be spent.

The resolution has been reviewed and approved by County Counsel as to form.

3 RESOLUTION NO. 2009-025

4 Resolution of the Board of Supervisors of the County of Riverside

5 Authorizing Increase in Recording Fee, Expansion of Existing Definition of "Real Estate Instrument"

6 Pertaining to the Real Estate Fraud Prosecution Trust Fund

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8 WHEREAS, real estate fraud continues to represent a significant problem in Riverside County,
9 causing irreparable harm such as the loss of life savings or retirement funds to hundreds of Riverside
10 County residents and resulting in an aggregate loss of millions of dollars;

11 WHEREAS, the intent of this fee increase to be placed on the Board agenda is to have an impact
12 on real estate fraud involving the largest number of victims and to the extent possible, an emphasis should
13 be placed on fraud against individuals whose residences are in danger of, or are in, foreclosure as defined
14 under subdivision (b) of Section 1695.1 of the Civil Code;

15 WHEREAS, due to current economic conditions having a negative fiscal impact on local
16 governments' normal sources of revenue, such as sales tax and property taxes and the inability of local
17 governments to rely on these sources of revenue having a detrimental impact on local government's
18 ability to provide services at a level constituents have come to expect;

19 WHEREAS, there has been no adjustment in this fee for ten years to compensate for the
20 increasing cost of living;

21 WHEREAS, the state legislature amending of Government Code 27388 allows local governments
22 to continue providing services to safeguard citizens vulnerable to real estate fraud schemes;

23 WHEREAS, Government Code 27388, authorizes a fee of up to \$3.00 to be imposed on the
24 recording of specified real estate instruments, papers, and notices, provided the Board of Supervisors
25 adopts a resolution authorizing the fee; now therefore

26 BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of Riverside,
27 State of California, in regular session assembled on _____, 2009, that effective
28 January 1, 2009, the recording fee collected by the County Recorder's Office on behalf of the Real Estate

1 Fraud Prosecution Trust Fund shall be increased from \$2.00 to \$3.00 on the following documents:
2 assignment of deed of trust, assignment of mortgage, assignment of mortgage/deed of trust, deed of trust,
3 extension of deed of trust, modification of a deed of trust, notice of default, reconveyance, release of deed
4 of trust, release of obligation of deed of trust, request for notice, subordinated deed of trust, and any of the
5 above titles being re-recorded. In addition, the \$3.00 fee will be collected on the following document
6 titles: notice of rescission of declaration of default, notice of trustee sale, and substitution of trustee; and

7 WHEREAS previously resolved and determined, investigation of real estate fraud is done
8 exclusively by the District Attorney in Riverside County and, in accordance with Government Code
9 27388, the funds in the Real Estate Fraud Prosecution Trust Fund shall be distributed to the Riverside
10 County District Attorney's Office, subject to review as provided in subdivisions (d) and (e) of the
11 Government Code section 27388.

12 IT IS FURTHER RESOLVED AND ORDERED that a copy of the resolution shall be transmitted
13 to the District Attorney, the Assessor-County Clerk-Recorder, and the Auditor-Controller.
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