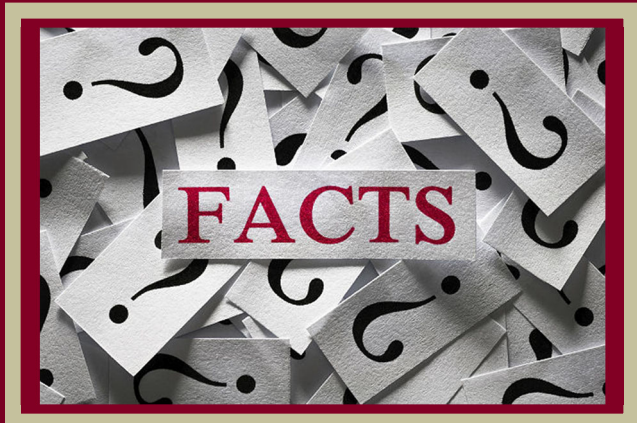




DIVISION OF INSPECTOR GENERAL
Ken Burke, CPA
Clerk of the Circuit Court and Comptroller
Pinellas County, Florida



FOLLOW-UP INVESTIGATION OF REAL ESTATE MANAGEMENT DEED RECORDING

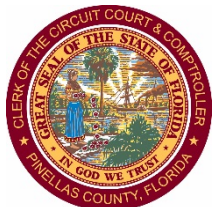


Hector Collazo Jr. – Inspector General/Chief Audit Executive

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REPORT NO. 2019-33
OCTOBER 30, 2019



Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA

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October 30, 2019

Andrew Pupke, Division Director, Facilities and Real Property Division

The Division of Inspector General has conducted a Follow-Up Investigation of Real Estate Management Deed Recording. The objective of our review was to determine the implementation status of our previous recommendations. We obtained the investigative purpose, background information, findings, and recommendations from the original investigative report. We added the status of recommendation implementation to this follow-up investigative report.

Of the two recommendations contained in the original investigative report, we determined that both have been implemented. The status of each recommendation is presented in this follow-up report.

We appreciate the cooperation shown by the staff of the Facilities and Real Property Division during the course of this review.

Respectfully Submitted,

Hector Collazo Jr.
Inspector General/Chief Audit Executive

cc: The Honorable Chairman and Members of the Board of County Commissioners
Barry Burton, County Administrator
Jill Silverboard, Deputy County Administrator and Chief of Staff
Joseph Lauro, Director, Department of Administrative Services
Ken Burke, CPA, Clerk of the Circuit Court and Comptroller



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TABLE OF CONTENTS

INTRODUCTION	4
<i>Scope and Methodology</i>	4
<i>Overall Conclusion</i>	4
<i>Implementation Status Table</i>	5
<i>Background</i>	6
STATUS OF RECOMMENDATIONS	8
1. <i>Management Recorded A Deed On Behalf Of A Buyer.</i>	8
2. <i>Recording Fees Were Paid With A County Purchasing Card.</i>	9

INTRODUCTION

Scope and Methodology

We conducted an investigative follow-up of Real Estate Management Deed Recording. The purpose of our follow-up review was to determine the status of previous recommendations for improvement.

The purpose of the original investigation was to:

1. Determine if a Real Estate Management Department, Real Property Division, employee requested to have mandated recording fees waived, and then subsequently paid the fees with County funds, which violates Pinellas County Personnel Rules.
2. Determine if a Real Estate Management Department, Real Property Division, employee paid recording fees with a County purchasing card, which violates County Purchasing Policies and Procedures.

To determine the current status of our previous recommendations, we surveyed and/or interviewed management to determine the actual actions taken to implement recommendations for improvement. We performed limited testing to verify the implementation of the recommendations for improvement.

Our investigative follow-up was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation and, accordingly, included such tests of records and other investigative procedures, as we considered necessary in the circumstances. Our follow-up testing was performed during the month of October 2019. The original investigative period was June 2017 through September 2018. However, transactions and processes reviewed were not limited by the investigative period.

Overall Conclusion

Of the two recommendations in the original report, we determined that both were implemented. We commend management for implementation of our recommendations.

Implementation Status Table

FIC NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS				
		Implemented	Acceptable Alternative	Partially Implemented	Not Implemented	No Longer Applicable
1	Management Recorded a Deed on Behalf of a Buyer.					
	Avoid recording deeds and/or conducting other business activities typically performed by the buyer and/or title agency.	✓				
2	Recording Fees Were Paid With A County Purchasing Card.					
	Refrain from using a County purchasing card to pay recording fees for future County property sales.	✓				

Background

The Real Estate Management Department is comprised of the following divisions:

- Real Property
- Fleet Management
- Facility Operations
- Building Design & Construction
- Young-Rainey STAR Center



The Real Property Division provides a full range of real estate services listed below:

- Acquisition and sale of property
- Leasing, permits, and licensing of property
- Support to capital projects
- Property management services to leased properties
- Releases and vacations of property rights

Services are provided to all County departments and agencies, the Board of County Commissioners, the Constitutional Officers, and the citizens of Pinellas County.

The disposal of all surplus material, except for rolling stock, is the responsibility of the Real Estate Management Department. Disposal of rolling stock is the responsibility of Fleet Management. The authorization for disposal of surplus property is recorded in the minutes of the Board, as required by Chapter 274, Florida Statutes (F.S.).

Property that cannot be transported to the site of an auction or which has failed to sell at an auction, or property which is otherwise inappropriate for auction sale, may be sold through sealed bids on an individual item or lot basis. The invitation for bids is issued to all persons or firms on the bidder's mailing list. If utilized, the process is managed through the Purchasing Department, as with all other bids.

The objective of the Real Estate Management Department, surplus and disposal of property, is to maximize returns on excess and surplus property by transferring the property or disposing of it through a public auction, sealed bids, posted prices, trade-in, or donation.

The Clerk of the Circuit Court and Comptroller (Clerk) is the County Recorder. The Recording Services Department records, indexes, and archives all of the official records. Official records are instruments that the Clerk is mandated to record in one general series called, "Official Records" as provided for in F.S. 28.222. In addition to recording documents, the Recording

Services Department collects money for documentary stamp taxes, intangible taxes, recording fees, processing marriage applications, performing marriages, and processing passport applications.

On January 22, 2018, the Inspector General (IG) received a complaint that alleged a County Real Estate Management employee (Respondent):

- Requested to have mandated recording fees waived, and then subsequently paid the fees with County funds, which violates Pinellas County Personnel Rules.
- Paid recording fees with a County purchasing card, which violates County Purchasing Policies and Procedures.

The complaint related to County surplus property that was sold on June 28, 2017 (contract date), by the Real Estate Management Department, Real Property Division, using the County's Purchasing bid process.

We reviewed the Pinellas County Personnel Rules, Statement of Ethics, and Ethics Guide, interviewed Real Property Division staff, reviewed the processes used to sell the property, and reviewed applicable records. We concluded the Respondent did not violate Pinellas County Personnel Rules or ethical guidelines; therefore, the first allegation is unfounded.

We reviewed the County's Purchasing Policy and Procedure Manual, reviewed applicable records, and interviewed staff to determine if purchasing card violations existed. The Respondent did not have written authorization from the Real Estate Management Department (REM) Director to support usage of the purchasing card to pay the recording fees.

The Real Property Division staff we interviewed could not recall or confirm if the REM Director authorized the transaction. Based on the information obtained, there was insufficient evidence to determine if authorization was given to the Respondent to pay recording fees with the purchasing card. We concluded the second allegation is unsubstantiated.

STATUS OF RECOMMENDATIONS

This section reports our investigative follow-up on actions taken by management on the recommendations for improvement in our original investigative report of Real Estate Management Deed Recording. The recommendations contained herein are those of the original investigative report, followed by the current status of the recommendations.

1. Management Recorded A Deed On Behalf Of a Buyer.

During a recent County surplus property sale, the Real Property Division, to assist in completing the transaction, recorded the deed in the Clerk's Recording Services Department (Recording Services). Typically, the title agency or buyer will record the deed through Recording Services.

On January 22, 2018, Real Property Division staff visited Recording Services to record the deed. The recording fees were not included in the check amount received from the title company; therefore, Recording Services staff could not complete the transaction. Subsequently, communication between Recording Services staff and Real Property Division staff resulted in the misunderstanding of how the transaction should be completed.

Real Property Division management stated the buyer was out of town, and in order to finalize the closing of the property sale, Real Property Division staff recorded the deed on the buyer's behalf.

Our investigation found there was no conflict of interest during the sale of the County surplus property. However, the appearance of conflicts of interest and/or unethical practices can potentially exist if the County records deeds on behalf of buyers, or uses other practices not considered the normal course of business.

The Pinellas County Purchasing Policy and Procedure Manual, Section 5.0, County Purchasing Ethics, paragraph E., states the following:

"All personnel who have procurement responsibility for Pinellas County shall follow the ethical principles established by the National Institute of Governmental Purchasing (NIGP) Code of Ethics."

The NIGP Code of Ethics states, in part, the following:

"The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by any public sector procurement or materials management organization.

3. Is governed by the highest ideals of honor and integrity in all public and

personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.

4. Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.

5. Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.”

We Recommended Management avoid recording deeds and/or conducting other business activities typically performed by the buyer and/or title agency.

Status:

Implemented. The investigated activity has not since and will not be performed by the County in the future.

2. Recording Fees Were Paid With A County Purchasing Card.

The Real Property Division staff used a County purchasing card to pay for a customer's recording fees. The recording fees were inadvertently omitted during the closing for surplus property sold by the County.

The title agency mailed a check to REM to pay for deed documentary stamps and recording; however, the check amount was not sufficient to record the deed. Recording Services informed the Real Property Division staff that an additional \$18.50 was required to validate the transaction. To ensure the deed would be recorded on the final close date, the Real Property Division staff, through unconfirmed verbal management authorization, paid for the recording fees with a department purchasing card. In addition to the \$18.50 payment for recording fees, a \$0.65 service fee assessed by MyFloridaCounty.com for processing the payment was also paid by the department purchasing card.

The Real Property Division has subsequently collected the \$18.50 recording fee from the buyer; however, the \$0.65 service fee was not reimbursed.

A Real Property Division employee (not the Respondent) sent an email to the title agency stating the County would pay for recording the deed. However, the employee misunderstood the requirement to collect the recording fees from the buyer. Real Property Division staff used a County purchasing card to pay the recording fees in order to finalize the closing of the County surplus property sold.

Purchasing card usage should align with the County's purchasing program goals, and not conflict with other organizational policies and procedures. Purchasing card expenditures should benefit the County and not be used to pay for expenditures other departments typically collect from citizens.

The invitation to bid for the sale of the property, in Section B – Special Conditions, under 15) Terms and Conditions of Sale, states:

"The successful Bidder shall pay for State documentary stamps, recording of deeds and the cost of recording any corrective instruments."

The final executed Real Property Contract for Sale and Purchase states:

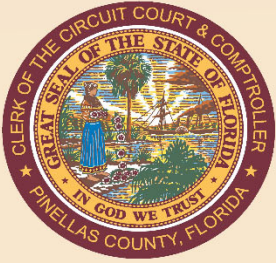
"...BUYER shall pay for any State documentary stamps required to be affixed to the deed, and the cost of recording, together with the cost of recording any corrective instruments, and any such other expenses in the closing of this Contract. Values for recording purposes shall be the PURCHASE PRICE set out herein."

Using a County purchasing card to pay for mandated recording fees conflicts with the Clerk's policies and procedures. The Clerk's Recording Services policies and procedures require staff to collect money for recording fees (service charges) when a deed and/or other instruments are recorded in Official Records. The Clerk's service charges are established and authorized by Florida Statute 28.24. Recording fees paid with a County purchasing card does not have a positive financial impact on the County.

We Recommended Management refrain from using a County purchasing card to pay recording fees for future County property sales.

Status:

Implemented. The investigated activity has not since and will not be performed by the County in the future.



DIVISION OF INSPECTOR GENERAL

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