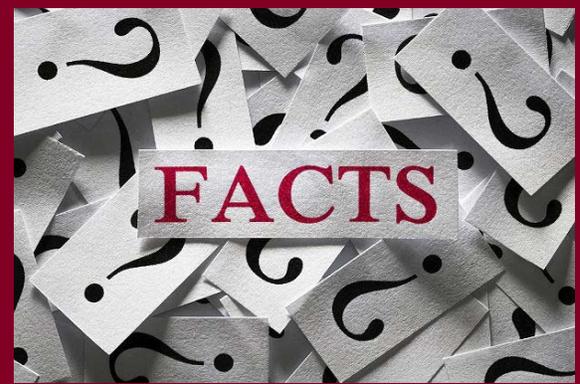




**DIVISION OF INSPECTOR GENERAL**  
Ken Burke, CPA  
Clerk of the Circuit Court and Comptroller  
Pinellas County, Florida



# INVESTIGATION OF REAL ESTATE MANAGEMENT DEED RECORDING



**Hector Collazo Jr. - Inspector General/Chief Audit Executive**

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**REPORT NO. 2018-25**  
**SEPTEMBER 27, 2018**



## Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER  
PINELLAS COUNTY, FLORIDA

Clerk of the County Court  
Recorder of Deeds  
Clerk and Accountant of the Board of County Commissioners  
Custodian of County Funds  
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September 27, 2018

Andrew Pupke, Director  
Real Estate Management Department

The Division of Inspector General's Public Integrity Unit has completed an investigation of the following allegation:

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. **Unfounded.**
- Paid recording fees with a County purchasing card, which violates County Purchasing Policies and Procedures. **Unsubstantiated.**

To determine whether the allegations were substantiated, we reviewed policies, procedures, and appropriate records. We also interviewed staff and other parties, as needed. Our investigation was performed according to the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation.

The recommendations presented in this report may not be all-inclusive of areas where improvement may be needed; however, we believe implementation of the recommendations will strengthen the current internal controls.

We appreciate the full cooperation and assistance of Real Property Division staff and management during our investigation. If you have any questions, please do not hesitate to contact me at 464-8371.

Respectfully Submitted,

Hector Collazo Jr.  
Inspector General/Chief Audit Executive

cc: Ken Burke, CPA, Clerk of the Circuit Court and Comptroller



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# INTRODUCTION

## *Synopsis*

On January 22, 2018, the Inspector General received a complaint alleging that a County Real Estate Management (REM) employee violated the Pinellas County Personnel Rules, Ethics Guide, and Purchasing Card Program Guidelines in connection with the sale of County property. The Complainant alleged the REM employee recorded the deed on behalf of the buyer, requested mandated recording fees be waived, and subsequently paid the recording fees with a County purchasing card. The investigative fieldwork concluded that violation of County Personnel Rules and ethics is unfounded. There was lack of sufficient evidence to support a violation of the County's Purchasing Card Policy; therefore, the allegation is unsubstantiated.

The investigative fieldwork program did identify areas of concerns, which are presented in this report as investigative findings.

## ***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 conclude 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 is insufficient evidence to determine if authorization was given to the Respondent to pay recording fees with the purchasing card. We conclude the second allegation is unsubstantiated.

# INVESTIGATIVE FINDINGS

## ***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 Recommend Management** avoid recording deeds and/or conducting other business activities typically performed by the buyer and/or title agency.

**Management Response:**

**Management Concur.** Management agrees with the Inspector General’s recommendation to avoid recording deeds and/or conducting other business typically performed by the buyer and/or title agency.

## **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 Recommend Management** refrain from using a County purchasing card to pay recording fees for future County property sales.

**Management Response:**

**Management Concurs.** Management agrees with the Inspector General's recommendation to refrain from using a County purchasing card to pay recording fees for future County property sales.



# DIVISION OF INSPECTOR GENERAL

KEN BURKE, CPA  
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& COMPTROLLER  
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