



FAIRFIELD POLICE DEPARTMENT

“Electronic Bulletin”

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Dealing with Squatters

Current trends are for squatters to occupy a property for four types of criminal activity: Rent Skimming, cash for keys, rent free living, and removal of fixtures. Squatters will also occupy vacant property by claiming “Adverse Possession”. The following will be a quick overview of the types of squatting and a possible solution to deal with the different types of squatters.

Rent Skimming

Rent skimming is defined by Civil Code sec 890, and can be done in two ways:

1. Renting a residential property and not using the rent proceeds to pay any mortgage or lien on the property within the first year after acquiring the property.
2. Renting a residential property without the owner’s permission – having taken over the property by a false claim of title, trespass, or any unauthorized means.

Penal code section 602.9 makes it a misdemeanor to claim ownership or take possession of a residence for the purpose of renting it without the owner’s permission. This section also prohibits causing another person to be in a residence for the purpose of renting it without the owner’s permission.

Possible resolution:

Identify true owner of property through title document and property tax bill. Once true ownership is established the person who unlawfully rented the property is subject to arrest pursuant to PC 602.9. Obtain copies of any and all rental documentation or paperwork. Give a true unknowing renter a reasonable amount of time to vacate the property.

Cash for Keys

In this scheme, a squatter will find an abandoned property, change the locks and move in. The squatter knows that eventually the true owner or an agent for the bank will come to inspect the property in preparation for a foreclosure sale. Rather than going through the time consuming eviction process the agents will get the authority from the bank to offer the squatter money to voluntarily vacate the property without damage.

Penal Code Section 518 defines extortion as the “Obtaining of property from another with his consent... induced by a wrongful use of force or fear, or under color of official light.

Penal code section 519 defines fear induced by threat as “Fear, such as will constitute extortion may be induced by a threat either:

1. To do unlawful injury to the person or property of the individual threatened or of a third person,
2. To accuse the individual threatened, or any relative of his, or member of his family, of any crime,
3. To expose or to impute to him or them any deformity, disgrace or crime,
4. To expose any secret effecting him or them

DA’s position that occupying the property and refusing to leave causes fear of illegal “injury to the property” in that the property owner has lost the ability to use his or her property.

Possible resolution:

Identify true owner of property through title document and property tax bill. If there is any threat to harm person or property in exchange for money the threatening party is subject to arrest for extortion. Explain to occupier of property they are subject to arrest for extortion if applicable; give a reasonable amount of time for subject to collect belongings and leave the property.

Rent Free Living

Some squatters are not looking to make money. They're simply moving into a vacant home until the original owner or neighbors make enough noise to scare them out.

Possible Resolution:

Identify true owner of property through title document and property tax bill. Advise the subject to leave, give a reasonable amount of time to grab their belongings and leave. If they fail to leave arrest the subject for trespassing.

Fixture removal

Squatters will sometimes break into abandoned house and remove fixtures.

Under Penal Code Section 487b, it is a felony to remove over \$250 worth of fixtures to convert it to personal use.

Possible Resolution:

Identify true owner of property through title document and property tax bill. Advise the subject to leave, give a reasonable amount of time to grab their belongings and leave. Attempt to recover any stolen fixtures. If they fail to leave arrest the subject for trespassing.

Squatters Rights by Adverse Possession

A squatter may tell you that he has claimed a property by adverse possession. Adverse possession is a legal concept that dates back centuries to old English legal tradition, where farmers and peasants (squatter) would live on and cultivate land owned by feudal lords. English law dictated that if a squatter continued to act as the owner of a piece of land and the feudal lord did nothing to stop him, after a certain number of years, the squatter would get legal title of the land.

In order for a squatter to acquire title from the true owner by adverse possession, he must do three things for **five** continuous years.

1. Protect the property by an enclosure
2. Use and improve the property as necessary
3. **Pay all property tax**

A squatter **DOES NOT** have owner's consent to occupy the property. If there is no consent the occupant of the property is subject to arrest for criminal trespass.

If you respond to a trespass call and find someone living there, you will want to ask the occupant if he is the owner of the property. If he says yes, you should attempt to confirm it. Ask to see title documents proving he is the owner. A utility bill or a cable bill will **NOT** suffice. Anyone can turn on a utility.

Ask for a copy of the Property Tax Bill and Title Documents to verify ownership.

No Quitclaim Deed or Grant Deeds will prove ownership or possession without more. These documents can be submitted to the Records Office and Assessors Office without actually purchasing the property.

Possible Resolution:

Identify true owner of property through title document and property tax bill. Ask the occupant the following questions during your investigation:

Have you lived at the property for five continuous years?

Have they maintained the property?

Are the property taxes paid? Who paid them? – Request proof, returned checks or receipts

Ask if the owner consented to them occupying the property. If they are claiming to be in adverse possession then the owner has not consented. The owner **must not** consent for an Adverse Possession to occur. **Therefore, the squatter will either have to admit he has no consent if he is claiming adverse possession** - this statement will help develop probable cause to arrest for the trespass.

Contact the Real Estate Fraud unit at the District Attorney's Office with any additional questions.

These cases may take a while for the true owner to provide the proper documentation to show ownership. If possible speak with the owner prior to contacting the squatter or tenant. If the squatter and tenant speak there may be a verbal agreement in place. That conversation may turn the situation into a civil matter.

If the squatter is arrested from the residence the owner is still responsible for the belongings of the arrested. Do not advise the owner to throw out the items.

DDA Laura Undlin from the Real Estate Fraud unit has said that she would be willing to answer questions regarding this matter. She and Investigators with the District Attorney's Office have access to County Databases that will assist in determining ownership of property if needed. Investigators Jerry Sanchez and Sonny Ash work with the Real Estate Fraud unit and would be able to assist with questions as they arise. Forward all cases involving squatters to DDA Undlin for review.

Additional Crimes

Some additional crimes that can be associated with squatters are:

PC 518 – Extortion

PC 459 – Burglary

PC 530.5 – ID Theft

PC 470 – Forgery

PC 115 – Filing a false or forged document

PC 602.5 – Trespass

PC 602 (k), (m), or (o) - Trespass

Author: Detective Fok

Source: Solano DDA Laura Undlin

Reviewed by: Lt Hurlbut, Major Crimes

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