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TO: Oakland City Council CED Committee
ATTN: Larry Reid, Chair
FROM: Council Member Rebecca Kaplan
DATE: November 12, 2013

RE: Resolution recognizing the devastating effect of the foreclosure crisis on local communities, appreciating the City of Richmond's leadership in efforts to assist homeowners at risk of foreclosure to remain in their homes, and, asking the City Attorney to provide the Oakland City Council with a legal analysis of the Richmond strategy and legal implications of acting similarly.

OVERVIEW

Since 2006, home prices across the country have plummeted with homeowners having lost more than \$6 trillion in household wealth. There are Americans who now owe more on their mortgages than their homes are worth. 5 million Americans have lost their homes, and more than 11 million American Families, 20% of all homeowners with mortgages, are still underwater. And California cities bore a disproportionate share of foreclosures.

The City of Richmond was particularly hard hit with homes prices dropping 58% since the 2007 peak. This has resulted in a loss of millions of dollars in property tax revenues to the city with drastic staff and service cuts. The impact on the city budget is further exacerbated by the blight and criminal activities that come along with a large portfolio of abandoned foreclosed buildings. It is estimated that 12,000 houses, half of all the homeowners with mortgages in the city, are underwater (Mortgage exceeds value).

On April 2, 2013 the City of Richmond entered into an advisory agreement with Mortgage Resolution Partners to advise on ways to assist the agency in reducing the impact of the mortgage crisis in Richmond. Among the strategies to be examined was the acquisition of mortgage loans to restructure or refinance the loans and thereby preserving home ownership, restoring homeowner equity and stabilizing the communities housing market and economy by allowing homeowners to remain in their homes. Among the strategies, if necessary, was the possible use of eminent domain, as part of the Richmond CARES, Local Principal Reduction program.

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On September 10, 2013 the Richmond City Council approved moving forward in the development of the program and the creation of a Joint Powers Authority (JPA). At this time, NOV 12 2013

the city is in program development, no loans have been acquired by the city. There is no ability to analyze the outcome of the particular tactic of using eminent domain, nor the larger strategy of principal reduction.

The use of eminent domain powers to purchase underwater mortgages at their current market value and resell them to homeowners at the modified price was a legal strategy initially formulated by Cornell University law professor Robert Hockett.

According to the New York Times, several other cities are considering the use of eminent domain as a strategy to help homeowners stay in their homes by making their mortgages more affordable including Newark, New Jersey; North Las Vegas, Nevada; and Seattle Washington.

The use of eminent domain is not a primary strategy for addressing the foreclosure crisis. It is one of a variety of tools that might be used to assist homeowners and cities that are struggling to recover. The City of Oakland's foreclosure situation and housing market is different than Richmond and this strategy may not be appropriate for Oakland. At the same time, we are interested to hear of a strategy that turns eminent domain on its head. in which it is being used as a tool, not to displace existing residents or businesses for development but to protect existing occupants and assist them in staying in their homes.

For the purposes of discussion I have invited Patrick Lynch, Director of Housing for the City of Richmond to present the City of Richmond's housing program and how it came to this particular strategy and some of the challenges related to it.

I encourage the council to approve this resolution appreciating the City of Richmond for their leadership, and asking the City Attorney to provide the Oakland City Council with a legal analysis of the Richmond strategy and legal implications of acting similarly.

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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

introduced by Councilmembers Kaplan

Resolution recognizing the devastating effect of the foreclosure crisis on local communities, appreciating the City of Richmond's leadership in efforts to assist homeowners at risk of foreclosure to remain in their homes, and, asking the City Attorney to provide the Oakland City Council with a legal analysis of the Richmond strategy and legal implications of acting similarly.

WHEREAS, The financial crisis has devastated local communities as nine million Americans have lost their jobs, 10 million families have owed more on their mortgages than their homes are worth, and state and local governments have faced crippling budget crises; and

WHEREAS, over 12,000 households in Oakland have been displaced as a result of mortgage foreclosure between 2007 and September 2013, with 1 in 14 households losing their home to foreclosure and 1 in 7 households at risk of foreclosure; and

WHEREAS, defaulted and foreclosed properties throughout the city continue to significantly impact our neighborhoods by attracting trespassers and transient occupants that foster and enable criminal activities including theft, vandalism, prostitution and the sale and use of narcotics and other controlled substances; and

WHEREAS defaulted and foreclosed properties throughout the city continue to be a significant and unnecessary discourager to economic development and contributor to the decline of property values in neighborhoods; and

WHEREAS defaulted and foreclosed properties impose additional financial burdens on neighbors, prospective purchasers and the business community in Oakland; and

WHEREAS, The City of Richmond, California was particularly hard hit by the foreclosure crisis, where roughly half of all homeowners with mortgages in the City are underwater, meaning the homeowner owes more on his or her mortgage than the home is worth; and

WHEREAS, Homeowners who are severely underwater on their mortgages are 150% to 200% more likely to default on their mortgages; and

WHEREAS, The foreclosure prevention efforts that have been implemented thus far at the local, state, or federal levels have failed to adequately address the crisis; and

WHEREAS, The City of Richmond is boldly advancing a Local Principal Reduction program to acquire underwater mortgages in private label securities at their

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current market values and then refinance the new loans with reduced principal in order to bring the mortgages in line with current market values; and

WHEREAS, The City of Richmond is offering to purchase the loans at fair market value, but may consider using eminent domain to acquire the loans if its offers are not accepted; and

WHEREAS, The City of Richmond would pay fair market value to the investors of the underwater mortgages even if it used eminent domain to acquire them; and

WHEREAS, The City of Richmond's use of eminent domain to acquire underwater mortgages would serve the public purpose of preventing blight and preserving the community and tax base; and

WHEREAS, Wall Street banks and the financial industry's leadership have chosen to threaten the City of Richmond and other cities who are working on this Innovative program with retribution if they move forward with their plans in an effort to bully local communities into backing off from utilizing the legal mechanisms at their disposal to address the crisis and to prevent further devastation, now, therefore, be it

RESOLVED, That the City Council of the City of Oakland stands united with the Mayor and City Councilmembers of Richmond and any other city or community that attempts to utilize methods at their disposal as they work to save homes and save neighborhoods; and be it

FURTHER RESOLVED, That the Oakland City Council calls on Wall Street banks, the Securities Industry and Financial Markets Association (SIFMA), and the Federal Housing Finance Administration which oversees Fannie Mae and Freddie Mac, to stop threatening communities with reprisals and litigation and instead work with them to negotiate principal reduction for underwater mortgages to current market values in order to stop the housing crisis, strengthen local economies and help keep families in their homes; and, be it

FURTHER RESOLVED, That the Council recognizes the impacts and historic misuse of the power of eminent domain used as part of federal urban renewal efforts has had in Oakland and before any policy change or administrative action which encourages the use of eminent domain for properties undergoing foreclosure is implemented the Council will hold a hearing to consider this policy or action.

FURTHER RESOLVED, that as a first step towards exploring the potential applicability of the Richmond strategy to Oakland, the City Council asks the City Attorney to provide the Oakland City Council with a legal analysis of the Richmond strategy and legal implications of acting similarly.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, MCELHANEY, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

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