



**Jesse Arreguín**  
Councilmember, District 4

## **REVISED AGENDA MATERIAL**

**Meeting Date:** December 3, 2013

**Item Number:** # 32

**Item Description:** Supporting City of Richmond's Home Loan Principle Reduction Program

**Submitted by:** Councilmember Jesse Arreguín

The subject and recommendation of the item has been revised to remove references to directing the City Manager to analyze the feasibility and potential liability of joining Richmond's Joint Powers Authority. Instead the item simply talks about the devastating effects of foreclosures on local communities and thanks Richmond for taking the bold step of implementing its Home Loan Principle Reduction program to keep people in their homes.

The text of the resolution has also been revised to take out any references to exploring joining a JPA with Richmond or implementing a program similar to Richmond's in the City of Berkeley.



**Jesse Arreguín**  
Councilmember, District 4

**REVISED**  
**ACTION CALENDAR**  
December 3, 2013

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Resolution Supporting City of Richmond's Home Loan Principle Reduction Program

**RECOMMENDATION:**

Adopt a Resolution: 1) recognizing the devastating effects of foreclosures on local ~~C~~ommunities; and 2) supporting the City of Richmond's CARES program to reduce loan principle reduction to keep homeowners at risk of foreclosure in their homes. ~~;~~ 3)  
~~directing the City Manager to provide an analysis of Richmond's program and the legal and financial implications of joining a Joint Powers Authority with the City of Richmond to implement the Richmond CARES program in Berkeley.~~

**BACKGROUND:**

In response to the devastating effect that the foreclosure crisis ~~has had~~ on the City of Richmond, earlier this year the Richmond City Council voted to enter into an agreement with Mortgage Resolution Partners to develop a program to assist Richmond in reducing the impact of the mortgage crisis by advising the city on the acquisition of mortgage loans through eminent domain.

As part of the agreement with Mortgage Resolution Partners (MRP), Richmond implemented a program in which distressed properties were identified and letters were sent to mortgage holders offering to purchase the mortgages, as well as informing mortgage holders that the city may use its authority under eminent domain to acquire the mortgages. Since the implementation of the Richmond CARES program some banks have responded ~~to by~~ not only negotiating ~~an~~ reduction of loan principal but some banks they have also sued the City of Richmond ~~to stop over~~ its program. The City has not decided at this time ~~decided~~ to use eminent domain to acquire loans and renegotiate loan principal.

~~At the advice of their advisors to assist in legal strategy as well as negotiation with banks, the Richmond City Council on September 10, 2013 discussed creating a Joint Powers Authority with interested cities. In September I met with Patrick Lynch the City of Richmond's Housing Director about the Richmond CARES program, during we discussed the idea of Berkeley and other cities joining a JPA.~~

~~Forming a JPA allows the program to grow over time, handle more loans from more cities, and create an economy of scale for the coordination of legal strategy and defense of the program.~~

~~According to the September 10, 2013 item from Richmond Mayor Gayle McLaughlin a JPA would more specifically:~~

~~*“The JPA can cover large geographic area and large numbers of underwater loans.  
-The JPA can handle any necessary litigation with the same legal counsel and strategy  
-The JPA can negotiate for all of the targeted underwater loans within the member cities and can prepare consistent resolutions of necessity for any eminent domain acquisition (if any occur).  
-The JPA can present a unified front of many cities against the trade associations and banks that seek to block local action to resolve the crisis.  
-The JPA can be set up to exclude member cities' liability for any “debts, liabilities and obligations” of the JPA.”*~~

~~One of the issues that Richmond has been dealing with in implementing Richmond CARES is the legal liability due to lawsuits from banks and whether Mortgage Resolution Partners will indemnify Richmond. This has been a big factor in the Richmond City Council not deciding to go ahead with invoking eminent domain.~~

The San Francisco Board of Supervisors adopted a resolution supporting the city of Richmond's loan principal reduction program and its efforts to prevent foreclosures<sup>s</sup>, and expressed its intention to study whether it should implement a similar program. The Oakland City Council ~~is also~~ on November 19, 2013 adopted a similar resolution supporting Richmond's foreclosure prevention program but not directing its staff to study implementing a similar program in Oakland at this time due to concern about liability. ~~currently considering two resolutions about implementing a foreclosure prevention program similar to Richmond CARES.~~

~~Prior to considering joining a JPA with the City of Richmond to implement the Richmond CARES program in our city, we need to consider the feasibility as well as the legal and~~

~~financial liabilities to our city. This item requests an analysis so we can have that conversation. It also~~This resolution expresses our appreciation to Richmond for their ~~ir~~ bold and courageous step of working to prevent foreclosures and keep people in their homes.

The City of Berkeley has previously adopted policy positions on the issue of foreclosure prevention, including a December 11, 2007 resolution recommending policies to address foreclosures in the City of Berkeley, and sending letters last year to the County Recorder and County Sherriff asking that they hold off on evictions due to foreclosures, and to explore the use of eminent domain and other legal strategies to prevent foreclosures.

~~The Berkeley City Council could at a future point, if it so chooses, direct staff to either analyze the feasibility and potential liability of implementing a similar program or joining the City of Richmond's proposed Joint Powers Authority. However this item has been revised to remove language requesting that the city investigate such a program for Berkeley.~~

#### FINANCIAL IMPLICATIONS:

~~None. Unknown. Some staff time in several City departments will be necessary to analyze the Richmond CARES program and provide the City Council with a report on the feasibility and legal and financial implications of joining a Joint Powers Authority with the City of Richmond for the purposes of implementing the Richmond CARES program in the City of Berkeley.~~

#### CONTACT PERSON:

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#### ATTACHMENTS:

- ~~1. September 10, 2013 Memo to Richmond City Council from Richmond Mayor Gayle McLaughlin~~
- 2.1. Pamphlet Information on Richmond CARES program
- 3.2. December 11, 2007 City Council Resolution on Strategies to Prevent Foreclosures in the City of Berkeley
- 4.3. July 24, 2012 item on sending letters to County Recorder and Sherriff on legal strategies to prevent foreclosures

RESOLUTION NO.

RECOGNIZING THE DEVESTATING EFFECTS OF THE FORECLOSURE CRISIS ON LOCAL COMMUNITIES, AND SUPPORTING THE CITY OF RICHMOND'S STRATEGY OF LOAN PRINCIPLE REDUCTION TO HELP HOME OWNERS AT RISK OF FORECLOSURE ~~TO REMAIN IN THEIR HOMES, AND DIRECTING THE CITY MANAGER TO STUDY THE FEASIBILITY AND LEGAL IMPLICATIONS OF JOINING A JOINT POWERS AUTHORITY WITH THE CITY OF RICHMOND FOR THE PURPOSES OF IMPLEMENTING THE RICHMOND CARES PROGRAM~~

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

WHEREAS, over the last five years, the City of Berkeley has also been negatively affected by the foreclosure crisis, which has resulted in properties being foreclosed harming homeowners and renters, and resulting in vacant and blighted properties which attract trespassers and foster and enable criminal activities which negatively impact the surrounding neighborhood; and

WHEREAS, ~~defaulted and foreclosed~~ properties also contribute to the decline of property values in neighborhoods and impose additional financial burdens on neighbors, prospective purchasers and the business community in Berkeley; and

WHEREAS, the City of Richmond, California was particularly hit hard by the foreclosure crisis, where roughly half of all homeowners with mortgages in the City are underwater, meaning the homeowner owes more on his 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 current market values and then refinance the new loans with reduced principal in order to bring mortgages in line with current market values; and

WHEREAS, the City of Richmond is offering to purchase loans at fair market value, but also may also consider using eminent domain to acquire loans if its offers are not accepted; 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, since the implementation of the Richmond CARES loan principal reduction program in April this year, banks have responded with both approving loan modifications of underwater mortgages, as well as suing the City of Richmond to stop its ~~Richmond CARES~~ program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it 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 neighborhoods; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley 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 AND FINALLY RESOLVED that the Council hereby requests that the City Manager provide information to the City Council on the number of homeowners in Berkeley currently at risk of foreclosure in the City of Berkeley, as well as the number of foreclosures in Berkeley over the last five years.; 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 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; and~~

~~BE IT FURTHER RESOLVED that the Council of the City of Berkeley expresses its interest in exploring participating in a Joint Powers Authority with the City of Richmond and any other interested communities for the purpose of implementing the Richmond~~

~~CARES loan principal reduction program, and directs the City Manager to develop a report on the feasibility of joining the program and the legal and financial implications associated with joining a JPA with Richmond for the purposes of implementing the program in the City of Berkeley. This Resolution does not imply that the City is joining a Joint Powers Authority with Richmond, and prior to any decision being made; the City Council will review information on the feasibility of joining the program, as well as the legal and financial implications.~~