Frequently Asked Questions

Q: Is this a legal use of the eminent domain law?

A. Yes, we believe it is. Numerous legal experts are confident of its legality and there is precedent for using eminent domain for similar purposes and in a similar manner in the past.

Q: Will this program take people's homes?

A. No. The entire goal of this program is to keep people in their homes. Mortgage loans are often bought and sold many times. In this case, the City will become the owner of the loan for a short period of time, during which it will help the homeowner refinance into a new loan with reduced principal, saving the homeowner thousands of dollars every year.

Q: Is this just another scheme that could in fact leave homeowners worse off?

A. No. We have developed a series of ten core principles that any program must meet to get our support. One of those principles is that no homeowner should be left worse off as a result of the program, and another is that it is a voluntary program. We believe that if the program is designed correctly, only those homeowners who benefit will opt into the program.

Q: Will homeowners be forced or pressured into this program against their will?

A. No. Again, homeowners will have a choice as to whether or not to enter into the program, and will be encouraged to consult a HUD-certified housing counselor before making that decision. Moreover, community members will have many opportunities to engage in this process and voice their opinions to policymakers.

Q: How will the City pay for this program?

A. The City can pay for the program by partnering with private investors who have the capital to acquire the loans and cover the operational and legal costs of the program. The City would be in charge, making all programmatic decisions, but the money would come from these investors.

Q: Are there private investors ready to do this, and how do we know they can be trusted?

A. There is at least one group we know of that is ready to arrange private funding: Mortgage Resolution Partners (www.mortgageresolutionpartners.com). They are already partnering with various cities to explore options to address the underwater crisis. There may be other groups as well. The credentials and history of any potential partners should be explored. In order to get our

support, any private partner must agree to our core principles that include essential homeowner, tenant, community, and taxpayer protections.

Q: Will the private investors make money off of this?

A. Yes. These investors will be able to make money off the difference between the market value of the old mortgage loans and the proceeds of refinancing them (reduced by program costs). This will not cost homeowners or the City anything.

Q: What's the risk for the City?

A. There is a real chance Wall Street banks may sue. Our core principles state that the implementation of the program should not cause taxpayers to incur significant expenses, such as the legal costs of defending the program, and that the program must indemnify taxpayers from legal and financial liabilities. We will not support any program that does not meet these criteria. We are also working with lawyers to assist cities that may face legal challenges.

Q: Won't this create a huge administrative expense for the City?

A. One of our core principles is that the implementation of the program should not cause taxpayers to incur significant expenses. We will not support any program that is not able to abide by this principle. We believe that some potential partners, like MRP, will commit to this.

Q: How will tenants in rental units be affected?

A. Tenants often face eviction after their landlords go into foreclosure. We believe that any program must be designed to maximize the benefit to tenants and minimize tenant displacement. By reducing principal on underwater properties and stabilizing property values, we believe this program will help tenants by making their landlords less likely to default. Furthermore, the foreclosure crisis has driven up the cost of rentals because millions of families who used to own a home have been forced into the rental market. By ebbing the coming tide of foreclosures, this program will also ease pressures on rent prices.

Q: Some realtors say that this will reduce neighboring home values. Is this true?

A. No. The concern stems from the incorrect belief that properties are being sold at below market value and so will factor into the "comps" – what comparable homes are selling for in the area – when the price of other homes is determined. This is not the case. These homes are not in fact being sold. The *loan* is being sold through eminent domain. The house itself will not be going through the sale process. This program will in fact bolster home values since it will reduce the number of foreclosures, thereby preventing further negative impact on area home values.

Q: Will the future cost of credit in our community go up, as the opposition is saying?

A. SIFMA and other Wall Street groups are threatening that future mortgage lending in communities that adopt this program will be more expensive. They claim that having loans taken from investors

using eminent domain creates uncertainty in the market and therefore SIFMA's member are threatening to not buy loans from these communities.

There are several reasons why we believe this is a threat intended to frighten localities out of taking action, rather than a realistic prediction of what would happen:

1) Industry observers point out that there is enough competition in the mortgage market that where there is money to be made there will be lenders ready to make loans, and investors willing to finance them. Trade associations may make threats, but they do not actually control the profit seeking behavior of their members, which are the banks that make and trade loans.

2) As proposed, this program will only be used with loans owned by Private Label Securities (PLS) – pooled loans owned by groups of private investors. This program is not being proposed for any loans owned by Fannie Mae, Freddie Mac, the FHA or the VA. These (quasi) government agencies are *buying or insuring* 90% of new loans being made (different from the many lenders *originating* loans). We trust that our government will not redline our community and refuse to buy or insure future loans.

3) This program is being proposed in response to the current crisis. This use of eminent domain makes sense, and meets the legal bar of a "public purpose," because of the large numbers of homeowners who are deeply underwater. Also, if cities so choose, in an abundance of caution they can impose a sunset on the program, to reassure the financial industry that they do not intend to implement such a program as a normal or even periodic course of business.

Q: Who is against this?

A. The leading group opposing this is the Securities Industry and Financial Markets Association (SIFMA), which is the trade association for the banks, securities firms, and asset managers. SIFMA has threatened to try to prevent loans made in our communities from being traded on the secondary market, making lending in our community more difficult. SIFMA's Chair-Elect is a the Chief Operating Officer of Morgan Stanley and its membership includes the securities units of Bank of America, JPMorgan Chase, Wells Fargo, Citigroup, Goldman Sachs, and AIG. These are the same firms that caused the foreclosure crisis and lobbied to prevent federal relief for homeowners. Now they are trying to stop our communities from taking action at the local level to fix what they broke.

In addition, the FHFA, spurred on by the banks, has recently threatened legal action against Richmond, CA, one of the towns that recently decided to implement this policy. We don't believe that its threats are legitimate.

The finance industry has a long history of drawing on the threat to redline communities when they are opposing a new program or regulation. When our local governments considered policies to

curb predatory lending, we heard these threats. Some states proceeded to pass laws prohibiting certain predatory lending practices, and the cost of credit in those states *did not go up*. Too often, Wall Street's threats succeeded in scaring elected officials, predatory lending went uncurbed, and we ended up with a devastating foreclosure crisis.