

FILE NO.

RESOLUTION NO.

1 [Support for Homeowner State and Federal Measures to Protect Homeowners and  
2 Suspension of Foreclosure Activities in San Francisco.]

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4 **Resolution supporting the California Homeowner Bill of Rights, urging City and County**  
5 **officials and departments to protect homeowners from unlawful foreclosures, and**  
6 **urging City contractors, and all mortgage and banking institutions, especially San**  
7 **Francisco-based Wells Fargo to suspend foreclosure activities and related auctions**  
8 **and evictions until State and Federal measures to protect homeowners from unfair and**  
9 **unlawful practices and provisions for principal reductions are in place.**

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11 WHEREAS, The United States Department of Justice (DOJ) recently entered into a  
12 \$26 billion settlement agreement with five major banks, including San Francisco-based Wells  
13 Fargo, over findings of misconduct in foreclosure activities serving as a first step towards  
14 ensuring broader investigation, due process, principal reduction, and more comprehensive  
15 restitution for borrowers who have lost their homes unjustly; and

16 WHEREAS, In light of mounting investigations into alleged malfeasance by banking  
17 institutions and mortgage and trustee companies, state legislators have introduced a package  
18 of bills known as the California Homeowner Bill of Rights, as encompassed in Senate Bills  
19 1470, 1471, 1472, and 1473, to help protect homeowners from unlawful foreclosure actions  
20 and ensure due process and accountability from the mortgage industry; and,

21 WHEREAS, Despite the DOJ settlement, and mounting evidence of nefarious banking  
22 and mortgage industry practices, and filing of legislative measures to protect homeowners and  
23 tenants, there is still no immediate protection and relief for millions of homeowners whose  
24 struggling to pay their mortgage, homes are underwater, or currently facing foreclosure ; and,

25 WHEREAS, Many of these foreclosures can be attributed to predatory banking

FILE NO.

RESOLUTION NO.

1 practices that disproportionately targetted racial and ethnic minority communities, especially  
2 working-class African-Americans and Latinos, and San Francisco-bas; and,

3 WHEREAS, A September 2011 report entitled “Wall Street Wrecking Ball: What  
4 Foreclosures Are Costing San Francisco Neighborhoods” by the Alliance of Californians for  
5 Community Empowerment [“ACCE”] and the California Reinvestment Coalition [“CRC”] of the  
6 ReFund California Coalition, estimated that between 2008 and the end of 2012, over 12,410  
7 San Franciscans will have lost their homes to foreclosures; and,

8 WHEREAS, Over half of the foreclosures (6,279) occurred in San Francisco’s  
9 predominantly African American and Latino communities of the Excelsior, Lakeview, and  
10 Oceanview in District 11; Bayview and Visitacion Valley in District 10; and the Mission and  
11 Bernal communities of District 9; and,

12 WHEREAS, In the third quarter of 2011, the real estate data firm Zillow found that over  
13 18 percent of San Francisco homes were underwater –with their homes worth less than the  
14 value of its mortgage – severely impacting the stability of the local economy; and,

15 WHEREAS, The City and County of San Francisco Assessor-Recorder independent  
16 report entitled “Foreclosure in California: A Crisis of Compliance”, [“the Report”] released in  
17 February 2012, provided an audit of 382 foreclosures, a statistically significant sample of  
18 homes that went through foreclosure in San Francisco during the period of January 2009  
19 through October 2011; and,

20 WHEREAS, The Report revealed that 84 percent of the foreclosures sampled had at  
21 least one clear violation of law such as substitutions executed by an entity other than the  
22 beneficiary, false claims of beneficiary status, and back-dated documents; and,

23 WHEREAS, According to the Report, mortgage companies perpetuate 82 percent of  
24 fraudulent practices, including fabricating documents, submitting them as evidence to  
25

FILE NO.

RESOLUTION NO.

1 foreclose on homeowners; back-dating documents, and robo-signing - using fake signatures  
2 to accelerate foreclosure documents; and,

3 WHEREAS, The non-judicial foreclosure process in the City and County of San  
4 Francisco has been compromised by recorded documents that do not meet due process and  
5 chain of title standards and that based on the Report, our City and County departments have  
6 no choice but to rely on recorded foreclosure documents that are legally insufficient; and,

7 WHEREAS, A recent CRC survey of 75 Housing and Urban Development certified  
8 housing counselors found clear evidence of Dual-Tracking a process where borrowers are in  
9 working with their banks on a loan modification, but, at the same time, they are also tracked  
10 for foreclosure and, in some cases, have their home sold from under them; and,

11 WHEREAS, A recent survey of 260 consumer attorneys by the National Association of  
12 Consumer Advocates, the National Association of Consumer Bankruptcy Attorneys, and the  
13 National Consumer Law Center found that 90% of the respondents report representing a  
14 homeowner placed in foreclosure while awaiting while awaiting a Government Sponsored  
15 Enterprise (GSE) loan and/or Home Affordable Modification Program (HAMP) loan; and,

16 WHEREAS, California State Attorney General Kamala Harris has been a leader on  
17 holding major banks accountable for unlawful foreclosure practices and on February 27, 2012,  
18 asked for a suspension of foreclosures on loans controlled by Fannie Mae and Freddie Mac  
19 and has made similar requests of the major banks pending an investigation and proposals for  
20 principal reduction; and,

21 WHEREAS, According to the Inside Mortgage Finance, in February 2012, Wells Fargo  
22 officially became the largest mortgage provider in the country at the end of 2011, with \$1.82  
23 trillion in mortgage servicing and a 17.7 percent share of the total market; and,

24 WHEREAS, In July 2011, The Federal Reserve Board assessed an \$85 million civil  
25 money penalty against Wells Fargo & Company of San Francisco, the largest assessed in a

FILE NO.

RESOLUTION NO.

1 consumer-protection enforcement action to address alleged steering of borrowers to high-  
2 cost, subprime loans; now, therefore, be it

3 RESOLVED, That the Board of Supervisors urges all City and County officials and  
4 contractors of the City and County of San Francisco, including but not limited to, the offices of  
5 the Mayor, the Assessor-Recorder, the City Attorney, the District Attorney, and the Sheriff, to  
6 take proactive steps and measures to ensure that the City and County of San Francisco  
7 prevents and protects its resident from illegal foreclosures, auctions, and evictions; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to direct the  
9 City lobbyists in Washington D.C. to support efforts towards principal reduction modifications  
10 and our City lobbyists in the California State Capitol to prioritize support for the California  
11 Homeowner Bill of Rights State Bills, as encompassed in Senate Bills 1470, 1471, 1472,  
12 1473; to urge lawmakers to modify the effective dates so that they expeditiously take effect  
13 upon passage; and to proactively advocate for the following legislation to retain the following  
14 provisions:

15 SB 1470: Foreclosure Reduction Act of 2012 – Allow for the translation of notices into  
16 the six most spoken languages in California and provide for adequate time for a borrower to  
17 evaluate loan modification offers and consult a housing counselor;

18 SB 1471: Due Process Reform Legislation – Require creditors to provide a single point  
19 of contact to borrowers in the foreclosure process who will be responsible for providing an  
20 accurate account and other information related to the foreclosure and loss mitigation efforts,  
21 and also authorize borrowers to challenge the unlawful commencement of a foreclosure  
22 process in court;

23 SB 1472: Blight Prevention Legislation – Ensure that receivership powers should be  
24 tied to enabling low income households to occupy the property, and partnerships with qualified  
25 nonprofits should be encouraged;

1 SB 1473: Tenant Protection Legislation – Clarify that local ordinances may provide  
2 additional and greater protection against eviction; and be it

3 FURTHER RESOLVED, That the Board of Supervisors supports nearly 100  
4 organizations and calls on our representatives in Washington DC to urge Edward DeMarco,  
5 Acting Director of the Federal Housing and Finance Agency (FHFA), to suspend all  
6 foreclosure activities until such time FHFA has in place policies to:

7 Reduce Principal – Allow Fannie Mae and Freddie Mac to offer loan modifications  
8 containing principal reduction down to market value, at least where this passes the net  
9 present value test, which will often be the case;

10 Stop Dual-Tracking – Prevent Fannie Mae and Freddie Mac servicers from continuing  
11 the foreclosure process while borrowers are negotiating for a loan modification;

12 Offer Tenants Long-Term Leases – Require Fannie Mae and Freddie Mac to offer  
13 tenants residing in foreclosed properties the option of a two-year lease if they wish to remain  
14 in their homes; and be it

15 FURTHER RESOLVED, That the Board of Supervisors urges all banks, especially our  
16 City banking partners Bank of America, Union Bank, and, especially, Wells Fargo, the locally  
17 based bank giant to immediately suspend foreclosure activities and evictions until a full  
18 investigation of irregularities and legal violations is conducted; and until state and federal  
19 reforms to protect homeowners from unfair and unlawful practices and a pathway to due  
20 process and principal reduction are in place.

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