

File No. 120286

RESOLUTION NO.

1 [Support for State and Federal Measures to Protect Homeowners and Suspension of
2 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 to suspend**
7 **foreclosure activities and related auctions and evictions until State and Federal**
8 **measures to protect homeowners from unfair and unlawful practices and provisions for**
9 **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

1 practices that disproportionately targeted racial and ethnic minority communities, especially
2 working-class African-Americans and Latinos; 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

1 foreclosure on homeowners; back-dating documents, and robo-signing – using fake
2 signatures 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
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 out 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 respondents report representing a
14 homeowner placed in foreclosure while awaiting a Government Sponsored Enterprise (GSE)
15 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; now, therefore, be it

21 RESOLVED, That the Board of Supervisors urges all City and County officials and
22 contractors of the City and County of San Francisco, including but not limited to, the offices of
23 the Mayor, the Assessor-Recorder, the City Attorney, the District Attorney, and the Sheriff, to
24 take proactive steps and measures to ensure that the City and County of San Francisco
25 prevents and protects its resident form illegal foreclosures, auctions, and evictions; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors requests the Controller to
2 conduct a follow up audit to the Assessor-Recorder independent report entitled “Foreclosure
3 in California: A Crisis of Compliance”; and,

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

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

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

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

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

24 FURTHER RESOLVED, That the Board of Supervisors supports nearly 100
25 organizations and calls on our representatives in Washington DC to urge Edward DeMarco,

1 Acting Director of the Federal Housing and Finance Agency (FHFA), to suspend all
2 foreclosure activities until such time FHFA has in place policies to:

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

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

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

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