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18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO DIVISION**

21 WELLS FARGO BANK, NATIONAL
 22 ASSOCIATION, as Trustee, *et al.*,
 23 Plaintiffs,
 24
 25 v.
 26 CITY OF RICHMOND, CALIFORNIA, a
 municipality, and MORTGAGE
 27 RESOLUTION PARTNERS LLC,
 28 Defendants.

Case No. CV-13-3663-CRB

**DECLARATION OF WILLIAM LINDSAY
 IN SUPPORT OF OPPOSITION TO
 PRELIMINARY INJUNCTION**

Date: September 13, 2013
 Time: 10:00 a.m.
 Judge: Honorable Charles R. Breyer

1 **DECLARATION OF WILLIAM LINDSAY**

2 William A. Lindsay does hereby declare:

3 1. I am the City Manager of the City of Richmond, California.

4 2. I have been Richmond's City Manager since 2005. I previously served as City
5 Manager of Orinda, California, for about 10 years and before that I served in finance and
6 administrative positions for other East Bay cities. I have an undergraduate degree in economics
7 from Yale University and a Masters in Business Administration from UC Berkeley's Haas School
8 of Business.

9 3. As explained below, the collapse of the housing market in recent years left the
10 City of Richmond with a very serious problem because many residences are encumbered by
11 mortgage debt that is so much higher than the value of the underlying property. This is a problem
12 not just for the individual homeowners but for the entire City because foreclosures and abandoned
13 properties drain City services and depress housing prices. In turn, this depresses property tax
14 revenues and leads to further cuts in City services. As a realistic matter, this problem is not going
15 to be solved in cities like Richmond without action by government.

16 4. The City has been exploring possible solutions, including purchasing mortgage
17 loans itself as part of a public program to write down principal and reduce the number of
18 foreclosures, potentially using the City's eminent domain powers if necessary. The City is still
19 examining options, and the City Council has not considered whether to adopt a resolution of
20 necessity to authorize the use of eminent domain authority to acquire mortgage loans.

21 5. Richmond is a diverse, working-class city. The median household income is
22 approximately \$54,500. The population of the city is approximately 104,000, of which
23 approximately 40% are Hispanic, 25% African-American, 17% White, and 13% Asian. As of June
24 2013, Richmond's unemployment rate was approximately 11.9%, considerably higher than the
25 statewide unemployment rate.

26 6. The collapse of the housing market was very severe in Richmond and many
27 homes are worth less than half of their value at the peak of the market. By way of example, Zillow
28 reports that the median sale price of homes in Richmond peaked in January 2006 at \$456,000. By

1 March 2011 the median sale price was \$140,000. There has been some recovery since the low
2 point – Zillow reports the median sale price today is approximately \$217,000 – but prices today are
3 still far lower than when many Richmond residents purchased or refinanced their homes.

4 7. As a result of the huge drop in housing prices, many Richmond residents are
5 underwater on their mortgage debt, with home values that are far lower than the principal balance
6 of their mortgages. According to the City’s research, Richmond has one of the worst situations in
7 the country, with approximately 51% of homeowners underwater on mortgage debt. The problem
8 is widespread throughout all parts of the city. As of December 2012, in zip code 94801, about 51%
9 of homeowners were underwater; in zip code 94804, about 52% were underwater; and in zip code
10 94806, 53% were underwater. The problem is even worse for Richmond residents whose
11 mortgages are part of so-called private label securitizations. As of June 2013, of the 2,400
12 mortgages in zip codes including Richmond that are held in private label securitizations,
13 approximately 67% are underwater.

14 8. In addition to the high concentration of underwater homeowners, the magnitude
15 of the negative-equity situation is much greater in Richmond than in most other places. The
16 average underwater homeowner in Richmond owes approximately 45% more on his/her mortgage
17 than his/her house is currently worth.

18 9. This situation has resulted in a large number of foreclosures in Richmond. Over
19 the last three years, there have been approximately 2,000 foreclosures in Richmond and 16% of
20 homeowners with a mortgage in Richmond have suffered a foreclosure. By comparison, the
21 California foreclosure rate over the last three years has been approximately 6%, which is itself
22 higher than the national average. Our research shows that a large percentage of the underwater
23 mortgages in the City, especially those in private label securitizations, will ultimately wind up in
24 foreclosure without some solution from government.

25 10. This crisis has harmed the City of Richmond and its residents in numerous
26 ways. Not only have residents lost their homes and been forced to relocate, but there have also
27 been serious collateral consequences.

28

1 11. The high number of underwater homeowners, and the resulting high number of
2 foreclosures, has hurt property values for all Richmond residents. As noted above, property values
3 in Richmond, as measured by the sale price of homes, are today less than half of what they were
4 just seven years ago.

5 12. Declining property values have also had a catastrophic impact on Richmond's
6 tax base. In 2007, the City's property tax revenues were \$48,453,000 and, in 2012, they were
7 \$41,419,000, a decline of more than 14.5%.

8 13. In turn, declining tax revenue has hindered the City's ability to provide services
9 for its residents. In the fiscal year ending June 30, 2009, the City had approximately 950 people on
10 its staff; for the current fiscal year, that number has been reduced to 786.

11 14. Foreclosures have also led to problems associated with vacant homes. In
12 Richmond, vacancies have led to neighborhood blight as homes are not maintained, yards are
13 overtaken by growth, and they become a target for illegal garbage dumping. Vacant homes are
14 also an attractive and dangerous nuisance to children, a place for rodents to nest, shelter for
15 criminal activity, and significant fire hazards. Finally, vacant homes demoralize neighbors and
16 discourage potential homeowners from moving into Richmond. Although the city does not know
17 exactly how many homes are currently vacant, there are certainly hundreds, and the problem has
18 gotten significantly worse because of the foreclosure crisis.

19 15. Rankings by Morgan Quitno Press have placed Richmond as the 12th most
20 dangerous city in the United States in 2011 based on FBI crime data. As a result, the City has
21 made reduction in crime of paramount importance in all of its services. Well-documented studies
22 (see George L. Kelling and Catherine M. Coles, Fixing Broken Windows), have established a
23 strong link between the condition of urban environment and the rate of crime. In particular, the
24 data-supported "broken window theory" states that maintaining and monitoring urban
25 environments in a well-ordered condition may stop further vandalism and escalation into more
26 serious crime.

27 16. The problems caused by foreclosures and vacant homes have diverted public
28 services that would otherwise be applied elsewhere. Richmond's Code Enforcement Division of

1 the Police Department has been required to spend time and money addressing blight caused by
2 vacancies. In 2010, the City hauled 295 tons of trash off of private property, a large portion of
3 which was from vacant homes. In addition, police and fire services have been forced to increase
4 their attention to neighborhoods that have suffered higher rates of foreclosures and vacancies.

5 17. In response to this crisis, Richmond is exploring options to deal with the
6 problems caused by high numbers of underwater homeowners and foreclosures. Richmond has
7 retained an advisor, Mortgage Resolution Partners (“MRP”), to aid in this process. Richmond is
8 also working with community groups and other cities.

9 18. One of the policy solutions Richmond is considering is acquiring the underwater
10 loans itself, so the City can use them in a program to write down principal, refinance the loans, and
11 thereby keep homeowners in their homes, avoid foreclosures, and stabilize the local housing
12 market.

13 19. On or about July 31, 2013, I sent letters to the trustees and servicers of many
14 privatization securitization trusts holding the mortgage loans of underwater Richmond homeowners
15 offering to purchase the loans for their appraised fair market value, subject to the approval of the
16 City Council. A true and correct copy of one of these letters is attached as Exhibit A. (The letters
17 included exhibits that listed the loans the City was offering to purchase and the appraised value of
18 the loan.) The letters included an informational brochure about the California eminent domain
19 law, a true and correct copy of which is attached as Exhibit B.

20 20. The City is looking for a counterparty with which to negotiate about the
21 purchase of the underwater mortgage loans, and the City is open to negotiating about the price and
22 all other terms. Our analysis is that there are solutions that would make economic sense for both
23 the City and the investors in the trusts that hold these mortgage loans.

24 21. The City’s offers to purchase the loans were based on an independent, outside
25 appraisal of the loans’ fair market value. In my letters, I invited the trustees and servicers to
26 contact me if they had other information for an appraiser to consider and offered to discuss the City
27 paying for a mutually acceptable appraiser to conduct a new appraisal. As stated above, the City is
28 willing to negotiate on price and other terms.

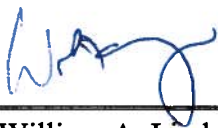
1 22. If it is not possible to reach a negotiated solution to acquire underwater
2 mortgage loans, the City may consider the use of its eminent domain authority to acquire all or
3 some of the loans for their fair market value. If the City were to determine that no public purpose
4 would be served by condemning certain loans identified in the offer letters, no such action will be
5 taken with respect to those loans. Any eminent domain action would require the City Council to
6 consider and adopt a resolution of necessity after a public hearing. At the current time, no such
7 resolution of necessity is on the City Council agenda.

8 23. I understand that the plaintiffs in this case are contending that the City intends
9 to use its eminent domain power to aid specific individual parties or for the purpose of making a
10 profit for private investors. This is untrue. To my knowledge, no Richmond official involved in
11 the decision to send the offer letters to plaintiffs was aware of the identities of the homeowners
12 whose loans were included in the offers, and the City is interested in acquiring groups of loans, not
13 loans of specific homeowners. The City also is not committed to working with a specific group of
14 investors to refinance the loans and would consider financing proposals from any source, including
15 from the investors in the relevant private label securitizations. The City also is open to solutions
16 that do not involve the use of eminent domain authority and has had discussions with mortgage
17 service institutions and investment industry representatives encouraging them to assist the City
18 with such a solution.

19 24. I have been a public servant for many years, and my interest in finding a
20 solution to underwater mortgage problem in Richmond is in serving the needs of the City and its
21 residents. I am not going to recommend any plan to the City Council for its consideration unless I
22 believe that the plan has been fully vetted and is in the City's best interests.

23 I declare under penalty of perjury under the laws of the United States that the foregoing is
24 true and correct. Executed this 22nd day of August 2013 in Richmond, California.

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William A. Lindsay