

# EXHIBIT G



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MRP Blog

*Statement from MRP on ASF's Latest Threatening Letter: Shooting from the Hip on the Facts, Law, and Wise Policy*

Press Room

Fact or Fiction

The American Securitization Forum (ASF) has sent yet another extraordinary letter aimed at intimidating municipalities out of doing right by their citizens. It is accordingly not surprising that its factual claims, as well as its legal and policy arguments, are characteristically 'shoot first, ask real questions later' in character.

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*False Factual Claims*

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First, ASF once again gets the facts wrong. MRP does not determine which loans a local government might purchase. The municipality, and only the municipality, determines which loans to purchase, based on its own public purposes. Nor will any municipality 'flip' loans; it will allow borrowers to pay a reduced principal amount in order to extinguish their underwater loans.

Second, ASF's view of the 'right' loans to purchase to solve a local problem is irrelevant. If a municipality finds that purchasing and refinancing current, deeply underwater loans held in private label trusts is a rational way to mitigate the crisis then it is within its legal authority, as it always has been, to do so. As long as the municipality's proposal is rationally related to the purpose of mitigating the crisis then U.S. Supreme Court precedent will respect the government's decision. No community is bound to take any particular subset of loans under the proposed plan.

A municipality's decision on this score would be, for its part, perfectly rational - indeed compelling. Contrary to the ASF's claims that current underwater loans are unlikely to default, Amherst Securities has reviewed a typical pool of current underwater loans from San Bernardino County and estimated that a significant majority of them are reperforming loans which, under Amherst's own independent analysis, have a 55% likelihood of default. Even loans that have always been performing have a nearly 50% propensity to default. It is sensible for a local government to purchase and refinance severely underwater loans as soon as possible before they default, even when it is impossible to predict precisely which ones will default.

The ASF letter urges the local government to condemn defaulted loans, but that is only because they would like to create greater profits for existing investors rather than achieve the local government's goals. The investors would like to receive all of the profits from loans before they default and rely on the local government to purchase and deal with loans after they default. As we have seen too often already, the ASF would like to privatize profit and socialize loss. It is quite within the government's discretion - indeed it is a very good idea - to focus on successfully preventing default rather than trying to clean up after a default has occurred.

Similarly, ASF's views on other issues like valuation methodologies, property tax effects and procedural technicalities in the application of eminent domain are irrelevant. Each local government will consider and determine these issues on its own, as is well within its legal discretion as reviewed by the courts for rationality. MRP expects that these issues will not impede local governmental action. For example, default and foreclosure sales create greater and longer lasting property tax costs to the local community than refinancing at reduced principal balance.

*Spurious Legal 'Arguments'*

As for its legal arguments, the ASF first mischaracterizes the nature and purpose of San Bernardino's use of eminent domain authority, as noted above, then rests its 'constitutional' takings

argument on that false premise. There is no doubt what ever that preventing mass urban blight and preserving local property and revenue constitutes a legitimate public purpose - especially under the *Kelo* standard.

ASF also raises a spurious dormant commerce clause claim. San Bernardino's plan does not in any way 'interfere' with interstate commerce, but actually promotes it. It does so by rendering marketable what are currently unmarketable assets - namely, underwater loans that current dysfunctional contracts prevent securitization trusts from modifying or selling in the interest of millions of scattered bondholders.

ASF's situs argument concerning the location of the debt obligations is likewise spurious, ignoring altogether as it does the domiciles of the debtors - which all are in San Bernardino.

ASF's argument that purchasing mortgage loans by eminent domain would violate the Contract Clause is particularly frivolous. The U.S. Supreme Court has explicitly considered and unanimously rejected this argument, stating that "the Contract Clause has never been thought to protect against the exercise of the power of eminent domain." See *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229 (1984) note 6.

Finally, ASF's simply bizarre suggestion that 'each Member of the JPA jointly and severally, will be liable for attorneys' fees, in addition to any other damage caused by pre-condemnation activity' not only is completely unfounded as a legal matter as to warrant an inference of bad faith or gross incompetence but also reveals more starkly than do its other falsehoods the actual purpose of its letter. That is to terrorize local government officials out of exercising their governmental functions.

#### *Specious Policy 'Arguments'*

As for ASF's policy arguments, these are all depressingly familiar and absurd. The damage to credit markets with which we still live has already occurred, thanks to profligate and predatory lending during the bubble years. Lending remains currently cautious in consequence, and will remain morbidly so until property prices stabilize. The latter stabilization will not occur until underwater mortgage loans are massively written down in a manner that maximizes their expected values. That is (a) what portfolio loan holders do, (b) what private label securitization trusts are contractually prevented from doing, and (c) what San Bernardino's use of eminent domain at last enables them to do.

In short, San Bernardino's plan restores markets' capacity to do what they do best - properly price debt - in a realm in which they are currently unable to do that. There could not be a more market-friendly solution to the underwater securitized mortgage loan problem, and ASF's frivolous arguments are accordingly no more than special pleading from special interests devoid of any concern for bondholders, homeowners, or the local, state, and national economies.