

## **FlashReport - CAMPBELL: California's Eminent Domain Heist**

**Posted by Congressman John Campbell**

It will not surprise anyone reading this that serious problems persist in the housing sector. Many solutions have been proposed, including several pieces of legislation I have introduced in Congress, to help homeowners, completely reform our housing finance system and fix the housing crisis. Most of the proposals out there are focused on struggling homeowners trying to make the next payment and are about the greater good of the country. However, you may or may not be surprised that a couple of California cities have decided to not waste a good crisis, to paraphrase the now infamous axiom, realizing there is a lot of cash to be made off underwater homeowners.

In an astonishingly expansive and untenable interpretation of eminent domain authority, several local governments, notably San Bernardino, have proposed plans to override private property rights through a scheme that is specifically designed to make money for over-leveraged cities. This scheme is being sold as assistance for hurting homeowners, but it is purely a ploy to use federal tax dollars to seized distressed home loans and force unconventional, yet profitable loan modifications.

However, not only will cities and counties benefit from this wealth redistribution plot, private consulting firms and vulture hedge funds purporting to be experts on eminent domain have partnered with local governments in order to profit from this abuse of power, as well. For example, In San Bernardino's case, San Francisco-based Mortgage Resolution Partners (MRP) is the "philanthropic" entity poised to "assist" all of these struggling homeowners. Even more egregiously, the underwriter for the unpaid principal balance in their scheme will not be private financiers, as proponents for the eminent domain plan claim, but the American taxpayer.

So, how would this work? Here's a quick scenario: Under the MRP proposal, and under the program being considered by the San Bernardino Joint Powers Authority (JPA), the JPA would pay investors 85% of the underlying home's current appraised value after the loan has been seized. The loss on that will be borne by the original investor in the loan, which is likely you, a

taxpayer, through your retirement account. This loss could be very substantial, even running into the billions of dollars. The JPA would then set the unpaid principal balance of that loan to 95% of the underlying home's current appraised value. The 10% difference, or spread, is used to line the pockets of overleveraged cities, crony consultants, and predatory hedge funds. And, adding insult to injury, these entities would then immediately sell the same loan back to you, guaranteed by the FHA.

This is wrong, this is abusive, and I believe this is unlawful. Therefore, I have introduced H.R. 6397, The Defending American Taxpayers from Abusive Government Takings Act, which would stop reckless city and county governments from enacting profiteering schemes that seek to cash in on the plight of underwater homeowners through the arbitrary seizure of private home loans. The Defending American Taxpayers from Abusive Government Takings Act will preserve and uphold the rule of law, protect the taxpayer from abusive crony capitalism, and defend against misguided wealth redistribution conspiracies.

While the legality of a city or county's use of eminent domain for this purpose is tenuous and yet to be determined, it is equally unclear if Fannie Mae and Freddie Mac would be guaranteeing or purchasing loans modified through these programs. It is also unclear if non-qualified borrowers will have their modified mortgages held in portfolios or securitized. Additionally, the unsubstantiated nature of these eminent domain programs presents significant risks of corruption, theft, waste and abuse of power. For example, by the terms of the program, it would appear to be in a city's financial interest to appraise the properties underlying seized mortgages as low as possible in order to increase their potential profit. Most assuredly, these programs will dramatically hurt the markets they are employed in as they will virtually destroy private lending in these cities and counties for years to come.

There is no question that we need to take steps to assist American homeowners in distress, but these steps must not undermine rule of law, must not engage in deleterious and abusive practices, must protect the American taxpayer, and must not further degrade the housing market. The eminent domain programs in question are atrocious, corruptive, irresponsible and unconstitutional. We do need to fix the housing sector, but it must be done in a way that does not break the law and does not enrich undeserving, politically-connected entities in cities and counties with unsustainable budget deficits.