



9:30am
3/3/11

SAL QUINTERO
Councilmember, District Five

MEMO

Date: March 3rd, 2011

To: All Council Members

From: Council Member Sal Quintero- *SQ*
District 5

Subject: **Presentation by PICO (Faith-based Organization) that highlights the city-wide issue of home foreclosures and subsequent challenges.**

Council, I've requested a representative from the organization PICO (Pacific Institute for Community Organization) be placed on the agenda to provide a brief presentation on the issue of home foreclosures and the subsequent challenges: increased number of foreclosed homes, impact on families (city-wide) and community blight/decay.

After the presentation, I would like for council to consider formally requesting city staff to draft an ordinance (see attachment A) that helps ameliorate the rate of foreclosures within our city. The ordinance draft would be developed for introduction and subsequent adoption.

Ordinance Draft - "Attachment A"

VERIFICATION: PROOF OF OWNERSHIP OF A LOAN FOR PROPERTIES UPON DEFAULT BY THE TRUSTOR

(A)

Intent and Purpose: The Council of the City of Fresno hereby finds that there is a need for additional transparency and/or accountability in the implementation of foreclosure proceedings. Due to the significant quantity of recent foreclosure proceedings, City of Fresno officials have found it difficult to enforce measures previously adopted with the goal of mitigating blight within the city and maintaining already low homeownership rates. As a result of the sale of mortgage notes from private financial institutions to investors in securitized pools and the subsequent repeated resale of these notes, many homeowners are unaware of the legal owner of their mortgage debt. It is the purpose and intent of the Council of the City of Fresno, through the adoption of this ordinance, to establish rightful ownership of a loan through the demonstration of the debt obligation, at the start of foreclosure proceedings on any property within the City of Fresno after adequate steps toward mediation have been taken and in accordance with state and federal law.

(B)

Scope of Ordinance: This ordinance shall apply to all properties in the City of Fresno upon default of the loan by the homeowner.

(C)

Certification of Ownership: Any trustee and/or beneficiary holding a deed of trust (or loan note) on a property located within the City of Fresno shall demonstrate ownership upon default by the trust prior to recording notice of default with the Fresno County Recorder. Any property found to be in default to the trustee or beneficiary of a deed of trust (or loan note) is deemed to fall within the provisions of this ordinance, upon filing notice of default (with the County's Recorder Office). If the trustee or beneficiary cannot show ownership of a deed of trust and loan note on a property, the homeowner should be granted a loan modification with reasonable terms within 30 days of default.

(D)

Certification Fee: A \$100 processing fee shall be charged at the time of notice of default for any property within the City of Fresno until the parties reach a settlement and a notice of trustee sale is filed with the Fresno County Recorder's office. Upon settlement the trustee is to be returned any fee amount received.

(E)

Verification Process: Proof of ownership of a loan note on a property located in the City of Fresno shall be made in writing to the office of the Fresno County Recorder pursuant to Municipal Civil Code. The trustee or beneficiary shall provide the following information to the Fresno County Recorder or his designee:

(1)

Name, address, and telephone number of the trustee and/or beneficiary

(2)

Address and assessor's parcel number of the property.

(3)

Name, address and telephone number of the homeowner.

(4)

Name, address and telephone number of all known lien holders and/or individuals with ownership interest or other legal interest in the property.

(5)

Show written proof of two successive mortgage notes, the last of these shall show proof of present ownership or the mortgage note pursuant to appropriate local Municipal Civil Code.

(6)

The foreclosing entity shall provide proof of the following pre-foreclosure mediation meetings:

(a)

The date and time of a pre-mediation conciliation conference, including a notarized copy of loan modification options discussed and signed by both the homeowner and the lender (holder of the loan note) and documentation by the homeowner of available resources and a budget plan.

(b)

The date and time of a future mediation proceeding, facilitated by a HUD certified housing counselor and through not for profit housing organizations approved by the City of Fresno Planning Department, falling between the times of notice of default, registered with the Fresno County Recorder, and the Notice of Trustee Sale. These not for profit organizations shall show competence in federal and state foreclosure relief programs including HAMP, the Hardest Hit Fund, principal reduction programs, FHA loss mitigation options and HAFA programs.

(F)

Enforcement: Notwithstanding any other remedies available by law, failure to comply with the provisions of this chapter will result in the trustee and/or beneficiary forfeiting the right to any reimbursement of processing fees.