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Eminent Domain For Underwater Mortgages

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What is an underwater mortgage?



- **Amount due under principal loan exceeds fair market value of the property**



Where are we seeing this?

- **Arizona (many see as the epicenter)**
- **California**
- **Nevada**
- **Florida**
- **Chicago**
- **Detroit**
- **Suffolk County, New York**



What are some of the numbers?

- **Almost 22 percent of homeowner mortgages are underwater**
- **Many current mortgages are underwater**



- **The worse the condition of the loan, the higher the number**
- **Of non-current mortgages, over 50 percent are underwater**
- **The number is almost 70 percent for loans in foreclosure**



What does this mean for lenders?

- **Is foreclosure the answer?**
 - **Some banks say yes, get the property, take the loss, move on**
- **Other banks, work with the borrower**



What does this mean for borrowers?

- **Lenders, primary or others, are loathe to refinance or extend any form of credit**
- **the stigma of foreclosure is fading**
- **the time it takes to complete a foreclosure, even uncontested, is taking much longer**
- **courts are invariably pro-borrower (mediation programs)**
- **delay, delay, delay**



- **Is there a solution?**
- **Eminent Domain**



- **Idea has been proposed to use eminent domain to take control of these mortgages**
- **Specifically, mortgages not guaranteed by the federal government**

Benefits

Micro level

- homeowners remain homeowners
- homeowners get a new loan at a better rate

Macro level

- some see as a remedy for urban blight
- empty homes are targets for vandalism
- revitalization of towns and cities
- Putting people back in their homes will raise property values



Who is leading the way?

Mortgage Resolution Partners, San Francisco, CA

- **MRP's idea: Using eminent domain, have a municipality buy the mortgages and then set homeowner up with a new loan at a lower rate.**



- **Radical idea!**
- **Unlawful?**
- **Let's look at Kelo and beyond**