Item #: 25

Mover: CARPENTER

Prepared by: Brian Kuhn
County Attorney

Seconder: FORD

Approved by: Brian Kuhn
County Attorney

RESOLUTION AUTHORIZING THE COUNTY OF SHELBY TO PARTICIPATE WITH THE CITY OF MEMPHIS AND/OR THE STATE OF TENNESSEE IN PURSUING LITIGATION TARGETED AT MORTGAGE LENDING INSTITUTIONS WHO HAVE PARTICIPATED IN UNLAWFUL, IRRESPONSIBLE, UNFAIR, DECEPTIVE, AND DISCRIMINATORY LENDING PRACTICES WHICH HAVE RESULTED IN DISPROPORTIONABLY HIGH RATE OF FORECLOSURES IN THE ETHNIC MINORITY NEIGHBORHOODS OF MEMPHIS AND SHELBY COUNTY. SPONSORED BY COMMISSIONER J. W. GIBSON, II.

WHEREAS, There exists a disproportionably high rate of foreclosures in Shelby County, inclusive of its larger Memphis ethnic minority communities that were caused substantially by financial institutions unlawful, irresponsible, unfair, deceptive, and discriminatory lending practices; and

WHEREAS, This disproportionably high rate of foreclosures has caused substantial and irreparable damage to these neighborhoods and has caused direct and continuing financial harm to the County of Shelby, inclusive of the City of Memphis and the County of Shelby; and

WHEREAS, This harm to Shelby County, inclusive of the City of Memphis, consists of but is not limited to the loss of tax revenues, the potential effect of loss of credit ratings for the governments, increased costs relevant to vacant houses such as fire, police, code enforcement and demolition issues, and increased cost in social services for displaced families; and

WHEREAS, Other local governments in the United States have filed suit against these predatory lenders such as in Baltimore, Maryland and San Diego, California; and

WHEREAS, In several similar lawsuits settlements were obtained which resulted in substantial damages being paid to the local governments; and

WHEREAS, The cost of pursuing such litigation for the local governments is expected to be the cost of expert witness fees and other expenses in a range of around $250,000.00; and

WHEREAS, The County of Shelby is interested in sharing the aforementioned costs with the City of Memphis up to a maximum amount of $125,000.00; and

WHEREAS, The City of Memphis and the County of Shelby and/or the State of Tennessee would draw from other resources available for the costs of this litigation such as the Memphis Fair Housing Center, In Kind Services of the City and County or the Attorney General's office, contingency fee private attorneys, or Fair Housing Center Grants, etc.; and

WHEREAS, The Attorney General of the State of Tennessee has been requested to join in this litigation; and

WHEREAS, The County desires to proceed with all steps necessary to bring about such litigation in conjunction with the City of Memphis and the State of Tennessee should they desire to join in the litigation.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the County Mayor and

County Attorney are hereby authorized to pursue the filing and/or participating in litigation of any form against any and all applicable predatory lenders in the Memphis and Shelby County area that have committed unlawful, irresponsible, unfair, deceptive, and/or discriminatory lending practices that have resulted in disproportionably high rate of foreclosures in the Memphis and Shelby County ethnic minority neighborhoods, and has caused substantial and irreparable damage to these neighborhoods.

BE IT FURTHER RESOLVED, That the complaint should seek a declaratory judgment and injunctive relief of all types including stopping foreclosures, as well as damages to local governments relative to these predatory lending practices in Memphis and Shelby County.

BE IT FURTHER RESOLVED, That the County Attorney's office is required to provide a copy of the complaint to the County Commission for approval prior to filing same.

BE IT FURTHER RESOLVED, That the County is willing to pay up to one-half of the costs and expenses of said litigation up to a maximum amount of $125,000.00 and to participate with in kind services from the County Attorney's office in the formulation and prosecuting of such litigation.

BE IT FURTHER RESOLVED, That the County Attorney's office is authorized to pay for the costs of this litigation out of its outside professional fee line item and that as incurred funds will be transferred to this line item for this purpose by the administration from any and all available sources as approved by the County Commission, if necessary.

BE IT FURTHER RESOLVED, That the County Attorney's office should report back to the County Commission on a routine and regular basis as to any and all progress relative to this litigation.

BOARD OF COUNTY COMMISSIONERS SHELBY CO., TENN. AGRICULTURE COMMERCE

A C Wharton, Jr., County Mayor

Date: 12/26/08

ATTEST:

Clerk of County Commission

ADOPTED: DECEMBER 22, 2008