KEEPING BANKS ACCOUNTABLE TO OUR COMMUNITIES:

Report from a
National Convening on
Local Responsible Banking Ordinances

New York City, November 2011

ASSOCIATION FOR NEIGHBORHOOD AND HOUSING DEVELOPMENT, INC.

NATIONAL COMMUNITY REINVESTMENT COALITION

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ANHD is a membership organization comprising 98 nonprofit neighborhood housing groups. We provide training, technical assistance and advocacy for and on behalf of our members and other nonprofit housing organizations. Our goal is to expand and preserve affordable housing opportunities for low- and moderate-income New Yorkers.

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INTRODUCTION

Since its passage in 1977, the Community Reinvestment Act (CRA) has been a powerful tool used by communities to monitor banks by ensuring that they focus not just on taking deposits, but on reinvesting those dollars as well. As banks have consolidated and grown into super-regional or even national in size, many have become less focused on serving individual markets. This shift has led to a quantitative decrease and qualitative deterioration in their reinvestment activities.

Furthermore, the regulatory apparatus has not responded adequately and has become less able to ensure that banks remain responsive to local credit needs. This reality has provided local policy makers and advocates with little input into, or influence on, bank performance in our communities. This has been the case especially regarding issues related to the economic crisis such as predatory lending, foreclosure prevention and post-foreclosure policies, over-leveraged multi-family residential buildings, and branch closings in low-income neighborhoods, among others.

It is our hope that this report serves as a guidebook for cities pursuing passage of a local responsible banking ordinance or looking to strengthen an existing law.

These trends are troubling to many in the community development industry given that the CRA, by its nature, was designed to encourage banks to help meet the local credit needs of low- and moderate-income borrowers and communities. Communities and large cities alike have felt these changes acutely. New York City, despite being home to many of the nation's banks, has not been immune. As ANHD's "State of Bank Reinvestment in NYC: 2011" report details, there was a 38% reduction in dollars reinvested in the city by 20 large banks despite an 8.6% increase in city deposits over a two year period.

The diminishing effectiveness of the current CRA-enforcement structure and unlikelihood that serious reform and expansion will happen at the federal level in the immediate- to intermediate-term means that cities must think about local approaches. Fortunately, local legislatures have the authority to address this problem by passing "Responsible Banking" ordinances. In fact, Cleveland and Philadelphia enacted ordinances years ago and several cities including New York, Los Angeles, Pittsburgh and Seattle have recently followed in their footsteps.

In fall 2011, ANHD and the National Community Reinvestment Coalition (NCRC) co-hosted a national convening at New York University to learn from those cities that had already enacted ordinances and discuss strategies for building grassroots support for similar strategies in cities across the country. Elected officials, advocates, and community members from twelve cities including Boston, Chicago, Cleveland, Kansas City, Los Angeles, Minneapolis, New York, Philadelphia, Pittsburgh, San Diego, St. Louis, and Washington D.C. participated in the day-long meeting. We were especially honored to be joined by Council Member Richard Alarcon (Los Angeles), Councilor Felix Arroyo (Boston), Council Member Wilson Goode Jr. (Philadelphia), Council Speaker Christine Quinn (New York) and New York City Council Members Brad Lander, Domenic M. Recchia, and Al Vann.

This report summarizes not only the content of the convening, but the best practices and lessons learned by all of these cities related to structuring legislation (Part I), developing a campaign (Part II), and measuring impact (Part III). It is our hope that this report is instructive and serves as a guidebook for all cities pursuing passage of a local responsible banking ordinance or looking to strengthen and expand an existing law.

PART I:
Local Responsible Banking Ordinances - A New Tool

For those cities interested in passing a local ordinance, NCRC has developed model legislation that may prove a useful guide.

As communities struggle due to diminishing access to private and public capital, local ordinances have become an appealing tool to reverse these trends. In fact, local responsible banking ordinances are fundamentally about two things: transparency and leveraging the power of municipal resources to ensure banks meet their reinvestment obligations. To realize these dual goals, responsible banking ordinances typically require the city to request that banks seeking to do business with the city or hold city deposits submit annually a local "CRA plan" to be reviewed by the legislature and an executive-level agency, collect information from banks related to their progress toward meeting the goals detailed in that plan, and conduct an evaluation of what banks are doing to meet the credit needs of low- and moderate-income consumers and communities.

With these core elements, ordinances create an effective public oversight mechanism that actively incentivizes banks that are, or seek to become, depositories of the city's funds to engage in practices that are beneficial to all residents and strengthen their community development efforts. Many cities, recognizing that bank performance and community engagement are linked, also seek to create a formal role for the public in evaluating the banks.

Not surprisingly, most banks do not support these local efforts. Bank opposition seems to be targeted principally at local-level ratings and opportunities for public input. It is not surprising since these pieces are the ones that deal with accountability and present reputational risks. Although it is discouraging that not all banks embrace these goals and have fought the ordinances vigorously, it should be noted that several banks have voiced support for the goals of these ordinances. On the day the New York City Council passed the city's ordinance, Amalgamated Bank posted this message on its website:

"Amalgamated Bank congratulates the New York City Council for passing the Responsible Banking Act. The Council's action is a bold step to defend the principle that the citizens of New York City should have a say in where their money is kept."[1]

It is our belief that with time, banks—as they have in Cleveland and Philadelphia—will accept these ordinances as moderate in approach and modest in scope, and even beneficial to their bottom line because they will be better able to serve their customers and better positioned to receive millions in cheap, municipal deposits.

>> Responsible Banking Ordinance: Who Has It and Who is Seeking It

Up until the past year, only two major cities—Cleveland and Philadelphia—had passed a local Responsible Banking Ordinance. Over the past few months, however, legislatures in four other cities—Pittsburgh, Seattle, Los Angeles, and New York—voted on and passed a local ordinance. The mayors of Los Angeles, Pittsburgh and Seattle signed the bill into law. In New York, the City Council overrode a mayoral veto but a lawsuit initiated by the banking industry may delay the bill's implementation.

1 See: http://amalgamatedbank.wordpress.com/2012/05/17/amalgamated-bank-congratulates-the-new-york-city-council-for-passage-of-the-responsible-banking-act/

2 "National Community Reinvestment Coalition, "How Cities Can Pursue Responsible Banking: Model Local Responsible Banking Ordinance Creates Community Reinvestment Requirements for Depository Institutions," July 2012, Available at www.ncrc.org."

New York's ordinance creates a "Community Investment Advisory Board" to conduct a citywide credit needs assessment...

When reading this report, especially those sections that detail legislative language, it is important to distinguish those cities that have enacted laws and those that have proposed a bill.

For those cities interested in passing a local ordinance, NCRC has developed model legislation that may prove a useful guide when drafting your bill. As a model ordinance, NCRC's bill is the gold standard and includes all of the important components. These include annual data disclosures, a community reinvestment plan, a Reinvestment Review Committee, a prohibition on depositing and investing in institutions practicing predatory lending, an affidavit of intent and a requirement to provide notice of proposed branch closings.[2]

Again, Cleveland and Philadelphia are long standing examples of cities that have successfully passed local responsible banking legislation. The city of Cleveland—the pioneer in local responsible banking legislation—introduced its bill in 1991. Cleveland utilizes its ordinance to negotiate lending and investment commitments from local institutions that seek to do business with Cleveland.

The city of Philadelphia implemented local responsible banking legislation in 2002. Philadelphia's legislation, similar to Cleveland's, requires banks seeking to become eligible depositories for city funds to provide the city of Philadelphia with an annual statement of Community Reinvestment goals. Unlike the city of Cleveland, which negotiates Community Reinvestment Initiatives (CRI) every four years, Philadelphia requires banks to submit their plans on an annual basis.

Pittsburgh took a more incremental approach and employed several non-legislative levers to hold banks accountable before it pursued a local ordinance. Since 2002, the Pittsburgh Unified School District has had a policy of evaluating institutions that rank above satisfactory in their respective CRA exams and ranking those banks based on small business and mortgage lending in Pittsburgh prior to depositing district funds in those institutions. This has been an informal process for the past 10 years. Looking to institutionalize this effective policy for the entire city, the Pittsburgh Community Reinvestment Group (PCRC) led a legislative campaign that resulted in Mayor Ravenstahl signing the bill into law in April 2012. Pittsburgh's incremental approach may prove promising for those municipalities where legislation may not be possible due to a lack of resources or political support.

Seattle successfully passed its version of a local responsible banking ordinance on December 20, 2011. Seattle's legislation is unique and stands apart from the other five cities both in scope and its origins. Seattle's legislation has a narrower scope than the other ordinances and requires the city to do more analysis on foreclosures, yet falls short of requiring banks to submit data. While Seattle may share our goals of transparency and accountability, the bill does not include any reporting, evaluation or public input requirements. Another distinction of the Seattle ordinance is that, similar to Los Angeles, it is the result of a grassroots organizing campaign aligned with the Occupy movement. When the Seattle City Council passed the local ordinance into law, for example, it included safeguards to protect the first amendment rights by "Occupy Seattle" and others.

New York's ordinance, based on transparency and public input, creates a "Community Investment Advisory Board" which would work with the Department of Finance to conduct a citywide credit needs assessment; collect and publish reinvestment data from banks, including their plans on how they will respond to the needs outlined in the assessment; hold local and citywide public hearings to solicit feedback from the community on bank performance; and write an annual report that evaluates bank performance. The public's central role in the process distinguishes New York from other cities.

Los Angeles' proposed local responsible banking ordinance is similar in structure to Philadelphia's and Cleveland's. Like those two cities, Los Angeles's local ordinance requires commercial and investment banks seeking city deposits and/or business related to buying and selling of stocks, bonds, and other securities to submit a statement of community reinvestment goals to a newly established "Responsible Banking Investment Monitoring Program."

It is remarkable that within the few months since the convening, four cities passed their ordinances. This is particularly noteworthy given that so much time had passed since Philadelphia passed its bill and that several cities had been working actively for numerous years on the legislation with mixed results. Several factors, which will be discussed in greater detail during Part II, played a role in propelling this growing movement of municipalities adopting local legislative strategies.

It is remarkable that within the few months since the convening, four cities passed their ordinances.

Several other cities are also pursuing local responsible banking ordinances including Boston, Chicago, Kansas City, Minneapolis, San Diego, and St. Louis. Of these, Boston is the farthest along and has drafted and introduced a local responsible banking ordinance called "Invest in Boston."

As mentioned above, the city of San Diego is actively working on a local initiative and Council President Anthony Young introduced legislation in May 2012. However, what sets the city apart from others is that they have had a voluntary Reinvestment Task Force in place since 1977. The Reinvestment Task Force seats up to 15 members and is co-chaired by a City Council person and a member of the County Board of Supervisors, designated on an annual basis. Appointments to the Reinvestment Task Force are made by the Co-Chairs and include lenders, community housing and economic development agencies, and at-large public members representing other cities and unincorporated areas of the County. The Task Force has forged relations with local institutions and has been somewhat successful in having banks meet their local credit needs. The Reinvestment Task Force has been an integral player in ongoing responsible banking conversations and has been leading the effort to introduce a local responsible ordinance of their own. It should be noted, that even without an enforceable ordinance, the San Diego reinvestment policy, which was adopted in 1991, requests banks to provide small business lending and investments, especially to underserved and low- and moderate-income persons and neighborhoods and this request has been met.

Some of the other cities have drafted legislation and are hoping to introduce soon while others are in the planning stage. Kansas City, like Pittsburgh and San Diego, is taking an incremental approach to introducing a local ordinance. Kansas City recently passed unanimously a resolution which will amend the internal Request For Proposal (RFP) process by requiring the City Manager to consider the following for banking service requests: community investment (i.e. loan modifications), small business loans, affordable home loans, absence of payday lending and investments and the number and locations of branches and services provided by banks seeking city deposits. Kansas City is hopeful that is the first step toward introducing and passing a local responsible banking ordinance in the future. San Francisco and Oakland have also expressed interest in the strategy.

>> Why RBAs Make Sense for Cities

Cities, especially large urban ones like New York and Los Angeles, are huge consumers of financial services. Sophisticated consumers conduct business with those partners that give them the best service at the best price. This is the essence of a Responsible Banking Act: leveraging municipal deposits to make sure banks are deploying their capital in a responsible and responsive way to ensure consumers and communities thrive. However, there is an important distinction in terms of which banks and which activities would be covered by the ordinances. For example, some cities have tailored their local ordinances to cover only those institutions seeking to be eligible depositories for city funds while other ordinances are broader and apply to all banks doing any type of financial services business with the city. Out of nine cities with either enacted or pending ordinances, six cities (66%) have ordinances that cover banks and institutions seeking to be eligible depositories for City funds, while three (33%) cover institutions seeking city banking business. For example, the ordinances in Cleveland, Pittsburgh, Chicago, New York, Boston and Seattle apply to institutions seeking to be eligible depositories for city funds whereas Philadelphia, Los Angeles and Minneapolis cover institutions seeking a wider segment of city banking business.

When deciding which banks and activities should be covered by the New York City ordinance, it became apparent that legal considerations had to be taken into consideration.

There are many factors worth considering when deciding on which institutions to cover when developing your local ordinance. Political and legal issues are among the most pressing. For example, large cities like Chicago, New York and Boston are the headquarters for many national banks. This can either be an advantage or disadvantage. Large banks, despite the efforts of committed CRA staff, are often faceless corporations that are out of touch with the needs of local communities. Elected officials and community members are likely to have had negative personal experiences with one of these mega banks, which underscores the need to require them to have a more local focus. Additionally, elected officials and the community know that large banks have resources—both human and financial—to comply with planning and reporting requirements in a vigorous way so they are less concerned about any burden a local ordinance may pose. On the flip side, they are powerful institutions that employ an army of lobbyists and are wary of any statute that would enhance regulation since it could impact all of their markets.

When deciding which banks and activities should be covered by the New York City ordinance, it became apparent that legal considerations had to be taken into consideration since several earlier laws were overturned by the courts because they were found to infringe on the Mayor's authority to enter into contracts to do the business of the city. Any city with a strong executive branch may confront similar issues. The New York City Council found a creative solution, however. Recognizing that the legislature has authority over the City Banking Commission, which designates eligible depositories, the ordinance was drafted so that only banks seeking to hold city deposits would be affected.

Philadelphia City Council Member Wilson Goode Jr. spoke of a similar yet stronger approach in his city. He said, "In Philadelphia, the City Council used our power to decide which banks can receive city funds to prohibit the City Treasurer from depositing public funds in a bank that does not provide us with goals."

Although the New York City Council and advocates would have preferred for the ordinance to be broader and more robust by disqualifying non-compliant banks, it was decided that a more limited approach would be more beneficial to helping communities and consumers get access to the credit they need, one which could pass into law and survive a possible legal challenge.

Philadelphia, Minneapolis and Los Angeles do not have the same legal issues as New York in terms of mayoral curtailment. Philadelphia Council Member Goode, however, highlighted another legal issue which is why these ordinances must walk a fine line in terms of avoiding state and federal pre-emption issues. He says, "The City Council could only require banks to state their reinvestment goals; we could not stipulate what their goals should be." It must be acknowledged that political support in both the legislative and executive branches is strong in all three cities, which minimizes the risk of a legal challenge. In Los Angeles, for example, Mayor Villaraigosa signed the bill quickly after the council passed it in May 2012. This may have led the city to apply the ordinance to not only commercial banks, but to investment banks[3] as well. No matter the legal or political reasons for structuring a RBA one way or another, the overall goal of every city's responsible banking ordinance remains the same: use taxpayer dollars to encourage banks to become more cooperative partners in meeting the reinvestment needs in their respective cities.

3 Investment banks are defined in the Los Angeles statute as financial institutions that provide underwriting services including the buying and selling of stocks, bonds and other securities and other debt related services.

In order to be effective, local ordinances should have four essential components: a reinvestment plan or statement of community reinvestment goals; a data reporting requirement; a formal evaluation, with ratings if possible, led by government; and a robust mechanism for soliciting public input. Below is a discussion of each element.

Local ordinances should have four components, the first being a reinvestment plan.

COMPONENT 1: REINVESTMENT PLAN

Reinvestment plans, also known as annual statements of community reinvestment goals, are integral components of local responsible banking ordinances. Through mergers and acquisitions, banks have rapidly grown, and in doing so, they have become less rooted in neighborhoods. This has led many national commercial banks to develop community reinvestment statements or pledges that are regional or nationwide in scope and often cover a decade-long period. While these broad institutional reinvestment plans may appear informative, they often lack a focus on individual community credit needs or detailed commitments to specific activities in particular communities.

As banks have shifted toward this one-size-fits-all approach to reinvestment and focused on volume, individual communities and consumers have suffered. In New York City, for example, some communities have seen a wave of branch openings while others remain grossly unbanked, and some residents are well served by off-the-shelf mortgage products while other qualified borrowers have found it impossible to obtain an affordable home purchase loan. It is not hard to understand how this could lead to similar problems when a bank takes an identical approach to meeting the credit needs of communities in, for example, Detroit and San Francisco.

Of the 9 cities with draft ordinances or those seeking to draft a local ordinance, six (66%) have a reinvestment plan requirement. Most reinvestment plans are quantitative and qualitative in scope. Throughout the convening, participants highlighted many benefits to integrating a reinvestment plan into a local ordinance. These include:

- Helping shape lending, investment, and service goals by banks in a defined geographic area;
- Encouraging banks to think intentionally about how their business model and core competencies align with credit needs and opportunities of a particular area or municipality;
- Documenting where banks will focus their resources and activities, which will

provide guidance to the city and community when assessing bank performance and lead to fairer evaluations;
- Fostering regular communication between banks, government and the community.
- Leading to a more coordinated and robust redevelopment strategy.

Bank of America's last plan, which covers 2009, is a comprehensive reinvestment plan and a model that any city pursuing this strategy should ask to be replicated.

While most reinvestment plans require lending, investment and services information, not all plans look the same in terms of content, frequency, and whether or not it has to be approved by the city. The recently enacted Pittsburgh ordinance has the most detail in terms of what a plan should entail. The bills says, "The plan describes current and proposed initiatives within the city of Pittsburgh to address the financial needs of the city, its residents and businesses, including low- to moderate-income and minority residents, and shall include, to the extent offered by the financial institution, qualitative discussion for the following services, products, and areas of activity."

Ten services, products, and areas are further detailed. They include branching, lending, investment, participation in and support for the reinvestment efforts of city, non-profit, and community development financial institutions, and a discussion of how they will match or exceed their peers for these activities. There is also language that says no depository shall be designated as an eligible depository unless it has executed a Community Reinvestment Plan.

Pittsburgh wants current city depositories and any eligible financial institution seeking to become a city depository to submit a Community Reinvestment Plan every two years, which is similar to the requirements in New York City. Other cities require banks to submit plans with greater frequency.

Philadelphia, for example, requires banks and institutions seeking city banking business to submit an annual plan that details their community reinvestment goals including the number of small business loans, home mortgages, home improvement loans, and community development investments to be made within low- and moderate-income neighborhoods. Although the city of Philadelphia does require banks to submit a local reinvestment plan, there are potential limitations to the quantity and quality of data that some banks provide.

Bank of America's last plan, which covers 2009, is a comprehensive, detailed reinvestment plan and a model that any city pursuing this strategy should ask to replicate. Bank of America's plan not only provides future goals but is also reflective of previous years' activities and provides a response to the previous years' assessment by the city. Other institutions' plans however, are shallow and may not lead to more productive activities. This disparity in terms of depth does not happen in Cleveland since the city approves every bank's plan. Interestingly, while Econsult, the outside consultant to the city of Philadelphia, only analyzes data that is publicly available (Branching, Small Business, and HMDA), several banks set goals and report on other reinvestment areas like community development lending and investments, including philanthropy.

Cleveland, which terms its plans "Community Reinvestment Initiatives" (CRI), allows for negotiation of goals every four years. It is important to acknowledge that although CRIs cover a longer term than most cities, Cleveland both negotiates and approves the banks' goals. This practice ensures the banks "do not bid each other down" by offering modest goals.

A few cities, like Boston and Cleveland, have gone further and asked banks to submit information in their reinvestment plans related to the number of minority and female employees in executive positions. Cleveland also requires banks seeking to be eligible depositors of city funds to submit information on an annual basis related to lending disclosure information and an affidavit of intent. In Boston, banks are required to comply with the Boston Jobs and Living Wage ordinance.

In addition, the city of Seattle has employment requirements through the city's race and social justice initiative. Seattle requires the City Council to identify effective approaches to asset building, job training, and providing access to financial services.

Most reinvestment plans do not include opportunities for public input. However, cities pursing this strategy should consider how to require or encourage banks to solicit community input when drafting their local responsible banking ordinance. Instituting a formal role for the community would create opportunities for local stakeholders and elected officials to meet with senior bank staff as well as community development and lending officers to discuss immediate reinvestment needs in their neighborhoods. "Community members have their eyes and ears on the ground and are the most informed about pressing immediate needs. Public input and feedback are crucial to understanding and addressing those reinvestment needs," said Benjamin Dulchin, Executive Director of ANHD.

COMPONENT 2.
DATA REPORTING REQUIREMENT

Local ordinances should have four components, the second being a data reporting requirement.

Reporting is at the heart of any strong responsible banking ordinance. Indeed, the need for more local level data that spans the full range of reinvestment activities is one of the primary reasons that cities pursue this strategy. Since federal and state CRA statutes tend to focus on data at the Metropolitan Statistical Area (MSA) level, most cities require banks to report data at a more local level such as citywide, community district, and/or census tract.

With all of the lending, investment, and services that consumers and communities need from banks to thrive, it would be easy for a city's reporting requirements to grow quite lengthy. Rose Zitiello, Manager of Bank Relations for the city of Cleveland, pointed out the need to be strategic in terms of reporting. She said, "The first step is to ask yourself, 'What type of data does the city want or need to review?' Then it is advisable to craft the report requirements in a broad fashion to capture activities of both large and small banks and to account for changing needs, and make sure you request it in a format that facilitates analysis." To Zitiello's last point about facilitating banks' reporting, cities such as Pittsburgh and Los Angeles will provide a form that banks can fill out.

It is important to acknowledge that cities have taken different approaches when drafting their ordinances related to the level of data specificity. For example, Pittsburgh's ordinance is very prescriptive and defines in great detail the type of information banks are to provide. Philadelphia's ordinance, on the other hand, is fairly vague. Philadelphia used its rulemaking process to define the type of data banks are expected to report and now that the ordinance has been in effect for many years, it is just understood the type of information the city wants.

Most local responsible banking ordinances require banks to report on standard information related to lending, investments and services. For example, every city requires data related to residential lending including home purchase, home improvement, and re-financings. Furthermore, the vast majority require at least some data to be reported across other types of lending such as consumer, community development, commercial and small business lending.

Below is a brief description of other types of lending data required by many cities. For a full list of the data requested by each city, please see Table 1.

>> SMALL BUSINESS LENDING

Small business lending data is a core indicator of the strength and health of a local economy. Not only are small businesses economic engines, they are a huge source of jobs and a vital part of our communities. For these reasons, many cities have put a spotlight on how banks are performing in terms of small business lending.

Community development means those activities related to affordable housing, small business development, economic development, and community facilities.

Philadelphia took the lead on integrating small business lending requirements in its local ordinance. Philadelphia requires institutions seeking city banking business to provide the city, among other lending information, the number and dollar amount of small business loans made to low-and moderate-income neighborhoods.

In Boston, the city is not only interested in the number and dollar amount of small business loans but also requests the actual terms of small business and commercial loans originated during the previous calendar year for the entire city, broken down by census tract, as well as resident-owned businesses and data for minority business enterprises for the entire city and by census tract. Cities like Minneapolis, whose draft ordinances do not require small business lending data, are in the early stages of their campaign. Future drafts may include these requirements or the city may choose to keep the ordinance more narrow to focus on a core need such as foreclosure prevention or to ensure a quicker passage.

>> COMMUNITY DEVELOPMENT LENDING

Similar to its complimentary CRA statutes at the state and federal levels, community development activities are often at the heart of local ordinances. Indeed, all cities reference CRA when defining the term “community development.” Therefore, community development means those activities related to affordable housing, small business development, economic development, and community facilities.

Pittsburgh requires banks to provide the number and dollar amount of community development loans and investments for each of these activities. In New York, one of the principal criteria requests banks to report on its efforts to “provide funding, including construction and permanent loans and investments, for affordable housing and economic development projects in low- and moderate-income communities.”

In addition to lending data, cities are also deeply interested in assessing banks’ track records on trial and permanent mortgage modifications, especially over the past few years, their level and innovativeness of CRA-investment, and their branching patterns.

>> FORECLOSURE PREVENTION/ LOAN MODIFICATION DATA

In light of mass foreclosures sweeping the nation, many local ordinances have included requests for foreclosure and loan modification data from banks. As a matter of fact, every city with the exceptions of Philadelphia and San Diego have explicit language in their ordinances requiring banks to report foreclosure and/or loan modification data. Mostly this data reflects the number of homes a bank has foreclosed on and information related to the universe of mortgages that are eligible for a loan modification or currently in a trial or permanent modification. There is a particular need for this information because currently most modifications happen through the federal Making Homes Affordable Program (HAMP), which only reports data at the state or MSA level.

Only 30% of the ordinances request data on philanthropy. All cities should request both investment and philanthropy data.

Minneapolis has a deep and all encompassing foreclosure data request including loan performance, negative equity, permanent and temporary modifications of distressed loans, and the number of denials of applications for temporary or permanent modifications. Banks seeking to do business with Hennepin County, Minneapolis are required to, among other things, disclose foreclosure prevention and loan performance information (by zip code and race of borrower), including the number and type of permanent modifications of distressed loans, number of completed foreclosures, and goals to improve previous years outcomes by adopting industry best practices for foreclosure prevention.

In the city of Chicago, banks would be required to provide the Commissioner of the Chicago Department of Community Development and the Chicago City Council an inventory and regularly updated reporting every six months, of any real estate owned (REO) properties held by an approved municipal depository by ward. Banks need to demonstrate a commitment to secure or guard any property they possess and for which they have a mortgage or title on record. In Chicago, the overall responsibility for banks is to maintain the safety of a foreclosed property and minimize its impact on the quality of life of neighboring residents and communities.

Again, it is important to distinguish Seattle's ordinance from others. Seattle's ordinance puts the onus on the city, not the banks, and focuses primarily on the city's role in documenting foreclosed homes and foreclosure prevention. For example, the ordinance states that the Office of Housing will work with Seattle-King County Asset Building Collaborative's Foreclosure Prevention Action Team to gather qualitative data on the causes of foreclosures, followed by analysis of foreclosure methods and lender practices.

Given the various ways the recession has impacted communities, it is important to reflect upon your city's most pressing needs. If your city, like most, has been hard hit by the foreclosure crisis, integrating foreclosure prevention reporting measures should be a keystone of your local responsible banking ordinance.

>> CRA - ELIGIBLE INVESTMENT AND PHILANTHROPY

Although a bank's lending activity gets most of the attention in local ordinances, it is equally important to assess to what extent banks are investing in and providing philanthropic support to communities. Six of the ten cities require banks to submit investment data. Only 30% of the ordinances request philanthropy data. All cities should request both investment and philanthropy data as they are important indicators that demonstrate a bank's commitment to develop affordable housing and commercial spaces, engage in neighborhood stabilization efforts, support direct service organizations, and foster local leadership development.

Specifically, investment data related to Low Income Housing Tax Credits and New Market Tax Credits are important as they are often the primary ways cities build new affordable housing and business corridors. While state and federal regulators include a bank's philanthropic activity as part of a bank's investment record, it is important to make it a separate category for a local ordinance. Philanthropic support is not only an important indicator of a bank's charitable giving, it can also be used to assess to what extent banks are supporting community-based, non-profit groups as opposed to larger citywide organizations.

>> BRANCH DATA

Finally, most cities require banks to report on their branch network and branch closings. Six out of 10 cities require branch reporting in their local ordinances. Some cities such as Cleveland, Chicago, Pittsburgh and Boston require banks to include prior notification of branch closures. For example, Cleveland requires banks seeking to be eligible depositories for city funds to provide 120 day notice.

Table 1. Data Reporting Requirements by City

	Philadelphia	Cleveland	Pittsburgh	Los Angeles	New York City*	Boston	Chicago	San Diego	Minneapolis
Residential Lending	x	x	x	x	x	x	x	x	x
Community Development Lending	x	x	x	x	x	x	x	x	
Commercial Lending					x		x	x	x
Small Business Lending	x	x	x	x	x	x		x	
Consumer Lending			x			x	x	x	x
Foreclosure Prevention		x	x	x	x	x	x		x
Investments		x		x	x	x	x	x	
Philanthropy				x	x			x	
Branch Data	x	x	x		x	x	x	x	
Checking & Savings								x	x

*No data reporting is technically required for NYC. However, the Department of Finance will develop rules and regulations based on criteria enumerated in the bill that will encourage banks to submit data related to lending, investment, and services. Seattle was not included in the chart because its ordinance does not require banks to provide the city with any data.

Financial Institutions Covered	Status of Responsible Banking Ordinances	Granularity of Data Reporting	Public Availabilty of Data	Formal Role for Community	
Seeking city banking business	Enacted	City level	Only summary data provided in report.		Philadelphia
Seeking city banking business or providing underwriting services.	Enacted	City level and by census tract	Yes Posted on city's website within 90 days after its filing.		Los Angeles
Seeking to be eligible depositories for city funds	Enacted	City level and by census tract		Yes Reinvestment Review Committee may have a public member. Also, these meetings are open to the public.	Pittsburgh
City requests banks seeking to be eligible depositors to report this data.	Passed by City Council	City, borough, community district and census tract levels	Yes Posted on city's DOF website.	Yes Community Investment Advisory Board and Borough and Citywide public hearings to inform creation of citywide credit needs assessment and annual report regarding bank performance.	New York
Seeking deposits and management of city funds	Enacted	Geographic neighborhoods			Seattle
Seeking to be eligible depositories for city funds	Bill introduced.	City and census tract	Yes	The Municipal Banking and Community Reinvestment Commission will analyze data and information submitted to the Collector-Treasurer by banks hoping to accept city deposits and contracts for banking services. It consists of 6 members appointed by the Mayor, 1 member appointed by City Council President, 3 ex-officio members (some of which may be public representatives). Term is 3 years. Commission meets twice annually.	Boston
Develop partnerships with lenders, community groups and public	Bill introduced.	City level			San Diego
Seeking to be eligible depositories for city funds	Bill introduced.	Ward and city level			Chicago
Seeking Hennepin County Business through the Office of Budget and Finance	Bill introduced.	Data collected by zip code and race of borrower			Hennepin County Minneapolis
	Bill drafted.				Kansas City

	Residential Lending	Community Development Lending	Small Business Lending	Consumer Lending Info	Investments
Philadelphia	Yes Performance and rank of depositories	Yes (Made within LMI neighborhoods)	Yes Performance and ranking of authorized depositories	No	
Los Angeles	Yes- Number, size and type of home purchase and home improvement	Yes Number, size and type	Yes Number, size and type		Yes Number, size and type
Pittsburgh	Yes 1-4 family home purchase loans, refinancing, home Improvement, home equity and multi-family loans, loans to occupant owners of single family housing, and REO properties.	Yes The number and dollar amount of CD loans including loans for affordable housing, small business development, economic development and community reinvestment for the entire city, as defined by the CRA.	Yes Total number and dollar amount of various small business loans originated during the previous calendar year for each census tract within the city	Yes The number and dollar amount of consumer loans for the entire city and for each census tract, in a manner similar to HMDA data, only reported by institutions that choose to collect the relevant data for CRA consideration.	The number and dollar amount of CD investments including investments for affordable housing, small business development, economic development and community reinvestment for the entire city, as defined by the CRA.
New York	City requests banks seeking to be eligible depositors to report this data. Dept. of Finance will develop rules based on criteria enumerated in the bill that will encourage banks to submit data related to lending, investment, services and foreclosed properties.				
Seattle	Banks do not need to provide any data. Ordinance encourages city to research and examine bank activity across several categories, including analysis of number of foreclosures, geographic neighborhoods and lender information on foreclosed properties.				
Boston	Yes Home purchase lending, refinancing, home improvement loans, home equity, multi-family loans, loans to non-occupant owners of single family housing	Yes The number and dollar amount of CD loans including loans for affordable housing, small business development, economic development and community reinvestment.	Yes The total number and dollar amount and terms of various small business loans originated during previous calendar year for each census tract within the city	Yes The number and dollar amount of consumer loans and other lines of credit, including minimum, median, and maximum nominal and effective interest rates applied	Yes The number and dollar amount of CD investments including investments for affordable housing, small business development, economic development and community reinvestment.
San Diego	Yes Affordable single-family and multi-family residential mortgage	Yes New construction and rehab lending and investing	Yes	Yes Consumer lending, checking and deposit services	Yes
Chicago	Yes All lending information to be presented before the City Council				Yes
Hennepin County Minneapolis					
Kansas City					

Philanthropy	Branch Locations and/or Closings	Savings+Checking Account Info	Foreclosure Prevention	
	Yes			Philadelphia
Yes Only for Investment banks that must include a statement of their corporate citizenship criteria within the City.			Yes Info related to participation in city's foreclosure prevention and home loan principal reduction programs.	Los Angeles
	Yes The number of branches, ATMs, and number and dollar amount of deposits for entire city as of June 30th of preceeding year, including location of each branch.		Yes Modifications of distressed loans and type of modification, including interest rate reductions; defaults and delinquencies on home loans, the number of resulting foreclosures, number of evictions filed and the total number of foreclosed (REO) properties. HAMP and other proprietary modification programs.	Pittsburgh
City requests banks seeking to be eligible depositors to report this data.				New York
Banks do not need to provide any data				Seattle
Yes	Yes The number of branches, ATMs and number and dollar amount of deposits for the entire City and for each census tract.		Yes Modifications of distressed loans and type of modification, incl. interest rate reductions; defaults and delinquencies on home loans, the number of resulting foreclosures, number of evictions filed and the total number of foreclosed (REO) properties in the city	Boston
Yes	Yes Including consolidation, mergers and acquisitions	Yes		San Diego
	Yes Provide City with 90 day notice of intent regarding fees, consolidation of branch locations or closures, which is subject to a public hearing.		Yes Provide City Council an inventory and regularly updated reporting of REO properties held by an approved municipal depository, every six months, by ward and their upkeep status.	Chicago
			Yes Loan performance, negative equity, permanent modifications of distressed loans, temporary modifications of distressed loans, denials of applications for temp or perm modifications, number of completed foreclosures, foreclosed (REO), and disposition of REO.	Hennepin County Minneapolis
				Kansas City

	Community Reinvestment Plan	Pledging Commitments (no predatory lending, etc.)	Evaluation of Senior Minority and Female Employment	Report Cards/ Formal Evaluations/ Hearings	Failure to Provide Information
Philadelphia	Yes Banks must submit annual plan addressing needs disclosed in city's disparity studies			On July 1 of each year	No funds shall be deposited if banks don't comply
Los Angeles	Yes A statement of community reinvestment goals including reporting requirements			On July 1 of each year	
Pittsburgh	Yes	Yes Banks must annually detail efforts to have trained loan officers with defined focus on "neighborhood development" finance, cooperate with and support non-profit development organizations	Yes	Yes	No depository shall be designated an eligible depository under this statute unless it has executed a Community Reinvestment Plan
New York	Yes			Yes City will publish an annual report	A significant factor to be considered in evaluation
Seattle			Yes- via the City Council		
Boston	Yes Submitted annually	Yes	Yes- Compliance with Boston Jobs and Living Wage Ordinance	Banks desiring to gain contract banking services are required to disclose activities annually	Institutions previously designated as "eligible" that fail to comply may lose such designation
San Diego				City Treasurer includes selection criteria and takes into consideration banks' San Diego specific community reinvestment programs	
Chicago					Failure will result in loss of municipal depository status
Hennepin County Minneapolis		Yes			
Kansas City					

>> FAILURE TO PROVIDE DATA

Cities with active campaigns, recognizing the importance of obtaining complete and accurate data, have measures in place that incentivize banks to comply. Chicago, Pittsburgh and Boston all have strong language outlining ramifications for non-complying institutions. For example, in Chicago, failure to comply results in termination of an institution's municipal depository status with the city.

New York City's ordinance says the failure of a bank to submit information would be a significant factor in the bank's evaluation. While New York hoped to include a stronger measure, one that would disqualify a bank from holding city deposits for not reporting, mayoral curtailment prevents this provision. Disqualifying provisions are crucial to ensuring that banks and institutions meet local reinvestment needs and should be integral components of an ordinance and in line with best practices.

In addition to what data is reported, it is important to discuss who has access to this information. New York City, Los Angeles, and Pittsburgh—the three most recent cities to pass an ordinance—require all data supplied to the city to be made public. This is a distinction from ordinances in Cleveland and Philadelphia, which only make summary data available to the public. Given that increased transparency is a central goal of these ordinances, this is a positive development and one that will likely become a characteristic of all future ordinances.

In New York, the data would be posted on the Department of Finance's website prior to the public hearings and comment period, so individual citizens and advocates can use the information to participate in an informed way. The timing is very important as it will allow advocates and residents to conduct independent assessments of a bank's performance and submit testimony to the city during the public hearings at both the borough and citywide levels, which would hopefully inform the city's needs assessment and each bank's evaluation.

COMPONENT 3.
A FORMAL EVALUATION

Local ordinances should have four components, the third being a formal evaluation process.

As mentioned above, the availability of local reinvestment data is crucial to the effectiveness of a responsible banking ordinance. Chip Bromley of Organize Ohio reminded the crowd that data alone is insufficient. He said, "The studies by themselves did nothing. It was only when the advocates got them that the city realized it had significant leverage to press the banks and then things started to change."

In other words, to have a truly positive impact, it is imperative that government and local stakeholders examine the data and assess which banks are performing well, which activities are being carried out at a meaningful level, which policies have a locally tailored focus, and which communities have access to credit, among others. For example, most evaluations result in numerical or categorical ratings that allow the public to have a better sense of how banks are performing and how they rank compared to their peer institutions. For this reason alone, the evaluative process can also be a valuable public education tool and opportunity to foster dialogue between the city, the community, and the bank.

For several cities with responsible banking legislation, such as Cleveland, ranking banks and their activities plays a large part of the evaluation process. Cleveland coordinates with the Director of Finance to process and evaluate institutions who wish to receive deposits from the city of Cleveland. The evaluation is based on the bank's service and investment to residents and businesses in Cleveland neighborhoods. Banks seeking to become eligible depositories are evaluated based on the qualitative and quantitative information they provide related to: a) residential lending; b) commercial lending; c) their most recent annual report; and d) a statement with timetables describing current and proposed initiatives, such as loans and services to address credit needs of the city, including low- and moderate-income and minority residents.

The Finance Department's (DOF) summary of its evaluation of the banks based on these criteria and rankings of each lender are compiled in a CRA recommendation report. As part of the evaluation, a bank is scored and ranked based on its actual versus proposed lending and investments, a narrative response provided by the bank to explain its activities, its branch network, and the bank's record of employing minorities and females in executive level positions. Interestingly, the evaluation also discusses which banks currently provide certain services to the city and which institutions the DOF recommends to provide these services going forward based on their rankings.

Under Cleveland's banking program, banks are stronger at meeting the city's credit needs

In Cleveland's 2011 recommendation report, Fifth Third Bank had the highest score of 95, followed by Key Bank with a score of 87. It is no surprise that these two banks ranked the highest among their peers. In 2010, both banks exceeded the proposed goals they had established in 2008. These proposed goals cover the years 2008-2011. Fifth Third Bank exceeded its lending and investment goals by 124% while Key Bank exceeded it established goals by 116%.

It should also be noted and applauded that in addition to Fifth Third and Key Banks commitment, every existing depository bank has met at least 60% of their goals, which means they are on pace to meet their goals. And most of these banks have met 75% or more. Overall, since the inception of Cleveland's banking program, the investment pattern by banks has been reversed and banks are stronger participants in meeting the city's credit needs, as seen through their commitment of reaching and/or exceeding their lending and investment goals.

This report is then sent to the Reinvestment Review Committee. The Committee is made up of eight members including one member of the administration chosen from the Department of Economic Development, one member of the administration chosen from the Department of Community Development, one representative from the citywide bank clearinghouse, two members of City Council and two members of community organizations whose principal purpose is neighborhood development. The Committee then issues a report analyzing and evaluating the information submitted and provides a recommendation to City Council as to which institutions have acted in compliance and should be eligible to hold deposits. For institutions that fail to comply with the terms of the contract, Cleveland will withdraw the city's deposits and terminate the contract with the eligible depository. Cleveland makes the CRA recommendation report and analysis available for public inspection.

Cleveland's recent evaluation, completed in fall 2011, recommended that seven of the nine banks seeking to be eligible depositories be approved. The two banks that were not approved—Wells Fargo and New York Community Bank—were relatively new to the market. This is representative of many of the cities that have conducted evaluations. In Cleveland, Wells Fargo does not have any branches or employees in Cleveland, and New York Community Bank, which acquired Ohio Savings Bank, closed a branch in a LMI neighborhood and failed to make any loans to LMI borrowers. In fact, the city of Cleveland wrote a negative letter to the FDIC concerning New York Community Bank's branch closing, which likely contributed to the bank receiving a "Needs to Improve" on its most recent CRA exam. Both the city's evaluation and its reinvestment review committee argued that the lack of serving the reinvestment needs of the city precluded the banks from being depositories.

This recommendation shows great political courage and highlights the importance of a city that follows up its evaluation with business decisions which only reward high performing banks.

The City of Philadelphia is unique in that they have outsourced the evaluation of bank performance to Econsult, an independent economic consultant. Econsult evaluates the banks' reports and co-authors analytical studies on institutional activity in Philadelphia. Econsult publishes a report on an annual basis and has been doing so since 2007. In 2005 and 2006, NCRC produced the first two reports and established the framework for evaluating banks that Econsult has used and adapted in their subsequent reports.

The evaluation process overseen by Econsult lasts about six months. In September, the Econsult team begins analyzing the bank data, which takes about two months. In December, the report is reviewed by the city and the banks. The report goes into production in January and is published in February. Once the report is released, each Authorized Depository (AD) is required to formally reply to the report.

Econsult's report informs another report produced by the City Treasurer that highlights any reactions and remedies to reported bank data. The Treasurer presents the report to the President of the City Council on July 1 of each year. The City Treasurer then determines, based on supplied bank information, whether or not each bank and institution on the list of potential city depositors has complied with each requirement. If not, the city opts to withdraw all its funds from any bank or institution that has not complied with each requirement. The City of Philadelphia reports are available online.

This rigorous evaluation is possible at only a very modest cost to the city. Lee Huang, Director of Econsult, said, "The study that we conduct costs the city far less than $50,000 a year." While it is true that the New York City ordinance would likely apply to more banks, probably 36 institutions compared to Philadelphia's 13, it seems likely that even a much more robust evaluation infrastructure would not be a significant cost to the city.

Furthermore, as Josh Silver from NCRC, acknowledges, "There are certainly costs to implement an ordinance. However, the benefits far outweigh the costs. The experience of Philadelphia and Cleveland demonstrate that there is more private investment and increased tax revenue from higher property values and economic activity as a result of banks being encouraged to be better partners and increase responsible lending and investing in city neighborhoods."

Of the recent cities to pass an RBA, Pittsburgh's evaluation process is the most rigorous. The City Controller is charged with conducting an evaluation on an annual basis for each financial institution receiving city deposits. The city has developed a straightforward manner for conducting this evaluation. According to the statute, the City Controller shall assign a numerical score between 1 and 5, with 1 being poor performance and 5 being excellent performance, for twelve distinct criteria.

Philadelphia and Cleveland demonstrate that there is more private investment and increased tax revenue and economic activity as a result of banks being encouraged to increase responsible lending and investing in city neighborhoods.

The numerical scores for each of the criteria are averaged together to obtain an overall score of 1 to 5 for each institution. This score will be the institution's "Responsible Banking and Neighborhood Reinvestment Score." A 1- to 5-scoring system is easy to understand and should provide a meaningful distinction between "poor" and "excellent" performing banks.

A draft of the scores awarded for each category as well as the final score shall be submitted as a memo to each financial institution evaluated and each institution is given 30 days to discuss the scores with the Controller. This seems like a fair, reasonable way for the banks to address any concerns with the City's evaluation and something that will ultimately lead to greater legitimacy of the "Responsible Banking and Neighborhood Reinvestment Score." If future laws adopt this approach, the general public should also have the opportunity to offer input on preliminary reports and scores at public hearings and during public comment periods to ensure that city officials are receiving the full perspective on their initial assessment of bank performance.

The Responsible Banking and Neighborhood Reinvestment scores have a clear economic benefit for the banks.

Each bank's score will be one of the factors, together with an analysis of the institution's overall financial health and ranges of services offered to the City, used to determine at what level the City will continue to do business with the financial institution. An institution which receives a score of 3 to 5 shall be deemed a qualified depository, while an institution with receives a score of 1 or 2 will be unqualified.

These scores have a clear economic benefit for the banks. The ordinance states that the Reinvestment Review Committee, which will be discussed further in the next section, may recommend to the City Controller to increase the level of City banking business with banks that score in the top 10%, withdraw City banking business with banks ranking in the bottom 10%, or take other steps, consistent with sound fiscal practice and applicable law, as may be necessary or desirable.

In Los Angeles, although the city will not conduct a formal evaluation of the bank data, the ordinance stipulates that the City Administrative Officer will produce a matrix of the information provided by the financial institutions. The matrix, potentially similar to the one ANHD includes as part of our "State of Bank Reinvestment" report, will provide a compelling visual of how each bank compares to its peers across all activities. Short of a formal evaluation, this is a creative approach that will likely allow the public to draw its own conclusions related to bank performance.

Cleveland, Philadelphia, and Pittsburgh—while establishing unique structures—have all developed a rigorous evaluation. It cannot be overstated how important this is not just for an accurate assessment of performance, but for accountability purposes. In New York, a considerable amount of time was spent discussing the appropriate amount of oversight. For advocates, there was a concern that without enough rigor the system would give way to grade inflation, an issue that has diluted the usefulness of federal and state CRA exams. Given our experience with banks touting their passing CRA grades every time the community raised an issue, it was not difficult for us to imagine a scenario where a potentially inflated grade given by the city would lead to a similar situation. Thus, ratings or scores alone are insufficient; they must be accompanied by a meaningful evaluation based on local data and ideally, public input too. In New York, there will be a robust evaluation that is informed by bank data, especially how it responds to the city needs assessment, and public input which will solicited at hearings and in written testimony, though no formal ratings.

COMPONENT 4. OPPORTUNITIES TO ENGAGE THE COMMUNITY

Local ordinances should have four components, the fourth being a robust mechanism for soliciting public input.

If bank accountability is a campaign goal, community participation should be an integral part of both the reporting and evaluation. Indeed, a large component of many of the current responsible banking ordinances is the creation of a formal role for the public in evaluating the performance of a bank. Interestingly, Cleveland and Philadelphia—the two cities with ordinances already on the books—did not include this in their respective laws.

Regardless, Chip Bromley, Director of Organize Ohio, highlighted that the ordinance provides significant leverage for the public and city of Cleveland to influence the business and policy decisions of banks. He said, “The institutional commitment from the city helps a lot in our efforts to prevent New York Community Bank from closing a branch in an LMI neighborhood. The fact that we have a statute keeps the mayor and the City Council very engaged in these issues and helped bring attention and legitimacy to our concerns.”

The City of New York was intent on including a formal role for the public in its local ordinance. Given the overall goal of NYC’s ordinance is to increase transparency and accountability, local stakeholders felt deeply that there must an opportunity for the public to provide input regarding the performance of banks. For this reason, the city created a “Community Investment Advisory Board” as well as a series of public hearings and an opportunity to submit written comments. The Board is made up of eight members, two of which will be representatives—appointed by the Speaker of the City Council—from the community development / consumer advocate and small business industries.

The Board will be charged with conducting a citywide credit needs assessment every two years. The needs assessment will assess the credit, financial and banking services needs throughout the city with a particular emphasis on low- and moderate-income individuals and communities, by means including but not limited to:

- Convening at least one public hearing in each borough of the city,
- Accepting, reviewing, and considering public comments which describe the nature and extent of such needs,
- Considering the data and information collected by the board.

Also as part of the needs assessment, the board will establish benchmarks, best practices and recommendations for meeting the needs identified in the assessment. To facilitate the board’s activities, data banks report will be made available on the Department of Finance’s (DOF) website prior to the commencement of the public process. DOF must account for how the public’s testimony factored in the city’s assessment.

The board, working with DOF, will also issue an annual report in plain language which addresses how each bank seeking to be a city depository is meeting the needs outlined in the assessment, identifies areas of improvement from past evaluations, identifies any bank’s failure to provide reinvestment data, summarizes written comments that were submitted as part of the public hearings, and summarizes—in tabular format—the data provided by the banks. The report will be published and sent to the City Banking Commission prior to designation and may factor into which banks the Commission designates as eligible to hold deposits.

In addition to the hearings coordinated by the Board and DOF, the City Council has the authority to call oversight and evaluation hearings to determine whether the process is working and if the Commissioner's evaluation is fair and accurate. Pittsburgh has also created a body, the Reinvestment Review Committee (RRC), which includes public involvement. The RRC plays an advisory role with the Director of Finance and is made up of nine members, two of which are members of community-based organizations. One of the two community members must be a representative of a minority-led community organization.

In addition to analysis of lending, investment, services and philanthropy, some cities have included additional considerations in their local ordinances.

If there is no formal role for the public through an advisory committee, public hearing or comment period, local advocates should always look to obtain information from local stakeholders regarding bank reinvestment activities. Some ways to do this are to hold regular council hearings, bank actions, or letter writing campaigns to your local representatives. In addition to providing an "on the ground" assessment of how banks are performing, these actions provide a great opportunity to engage the community and build support for the ordinance.

>> Other Considerations When Drafting Legislation

In addition to analysis of lending, investment, services and philanthropy, some cities have included other requirements or additional considerations in their local ordinances. Much of the time these considerations have been included to respond to a particularly pervasive and acute problem, such as the foreclosure crisis. Other times the consideration has less to do with a particular problem or need, but rather about a process or tactical issue.

PLEDGES

Pledges or affidavits share a similar spirit of encouraging good behavior by the banks. Some cities ask banks to commit to pledges of working with local vendors or pledging to more community reinvestment. The reason for pledges is to encourage responsible lending. While cities would prefer to require or forbid the activities covered by these pledges, several lawsuits have found laws that may impinge on a bank's ability to make business decisions to be illegal.

Half of the cities have pledges or affidavit requirements included in their local responsible banking ordinances. For example, the city of Boston requests banks to make seven pledges, including: (a) community reinvestment, (b) refrain from evicting tenants from foreclosed or distressed residential properties in the city, (c) establish whistle blowing mechanisms that protect employees, (d) make best efforts to abide by state usury laws, (e) not to engage in predatory lending activities, including marketing consumer financial products, consumer loans, commercial loans and residential loans to residents of Boston that cannot reasonably repay those loans without undue hardship, (f) not to discriminate against individuals or groups seeking loans or services, and (g) not to engage in redlining activities against the city and neighborhoods within Boston.

Pittsburgh also requests banks to submit pledges indicating their efforts to have trained loan officers with a clearly defined focus on "neighborhood development" finance, a commitment to affirmatively market and make available banking services throughout the city, a willingness to participate in the financing of publiclysubsidized neighborhood development projects, cooperate with and support non-profit neighborhood development organizations, and commit to safe and sound financial products and investments, adhering to federal and local anti-discrimination laws.

In addition, Cleveland requires banks to pledge to purchase goods and services from local vendors and agree to not engage in predatory lending. Philadelphia and Minneapolis also have pledge or affidavit requirements in their local ordinances.

It should be apparent that there is no single best way to craft a Responsible Banking Act.

STUDENT LOANS

Boston is the only city to require student loan information. Boston requires institutions to also disclose student loan data including the number and dollar amount of student loans.

It should be apparent that there is no one best way to craft a Responsible Banking Act. Its effectiveness is rooted in the fact it can be developed to respond to the particular issues and recognize the unique political and legal realities in a given city. Therefore, when initiating a campaign, it is advisable that the leaders have a clear sense of both their goals and these structural issues.

PART II: Building a Campaign

The road to passing a local responsible banking ordinance is likely long and difficult. In addition to the challenges associated with solidifying political support and community engagement, fierce opposition from the banking industry will be inevitable. Elected officials and advocates interested in pursuing this strategy must have a comprehensive plan for building a campaign that has clear objectives, tactics, resources, and leadership. Margaret Hughes, Executive Director of Brooklyn Congregations United, perfectly summarized the importance of this. She said, “We always approached this campaign as a long-term endeavor and therefore took the time to build consensus and a lasting foundation. We educated the community, engaged in direct action, built support with elected officials and never lost sight of the ultimate goal—more responsive banks.”

The section below covers many of the core components of a successful campaign.

>> Why an Ordinance?

It is not a secret that communities across the country have been devastated by a lack of access to affordable credit. Every participant at the convening had a personal story to share about the real struggle going on back home and the feelings of powerlessness experienced by consumers and communities that are trying to hold onto their homes or small businesses, or build and keep wealth, or protect the fabric of their neighborhood that has become frayed because of diminishing private investments and public services. Councilor Felix Arroyo articulated the many banking needs that drove him to introduce “Invest in Boston,” including stalled development projects, difficulty first-time homebuyers face getting a mortgage, fewer small business loans, and increasing income inequality.

Responsible banking ordinances are about quantifiable commitments a bank makes to a municipality or county; however, they are also about creating a process that fosters greater dialogue between the community, government and the banking industry at a local level. Thus, although local responsible banking ordinances may take place in a specific geographical area, it is important to acknowledge they are also leading to a national movement that is calling for greater transparency, accountability, and investment. Josh Silver, Vice President for Research and Policy at NCRC, reminds us that, "We need local responsible banking ordinances to get CRA and banks focused back on our neighborhoods, and local and state laws create pressure for stronger national laws." Indeed, by passing local ordinances, we are sending a strong message to our federal elected officials and regulatory agencies—both of whom have far greater authority to affect bank behavior—that they need to act.

It is important to highlight when banks have reduced their commitments and become less responsive to the community.

>> What are the Goals of an Ordinance?

Before a campaign can be launched officially, it is important that all stakeholders and particularly community members understand why local ordinances are important and achieve consensus about what they are meant to achieve. If there is disagreement and/or misunderstanding about the ordinance's goals, it will certainly impact the success of the campaign. NYC Council Member Brad Lander succinctly synthesized the goal of responsible banking ordinances. He said, "We must make irresponsible banking hard or impossible, and responsible banking the norm."

Of course, many of the goals are driven by the fact that federal CRA exams do not usually evaluate bank activities at the city- or neighborhood-level. More specifically, a goal of any ordinance should be the establishment of a process that facilitates formal, regular communication between the bank, the city and the community. If the process is thoughtfully and strategically developed, an ordinance will allow local government and the community to:

- Have access to local data on lending, investments, and services;
- Negotiate reinvestment goals and commitments with depository banks;
- Monitor the progress of banks toward meeting the goals and objectives stated in their plans;
- Create partnerships that provide for the exchange of information;
- Evaluate bank performance related to provision of loans, investment and services

Given the goal of encouraging a meaningful and appropriate amount of reinvestment, it is important to highlight when banks have reduced their commitments and become less responsive to the community.

Council Member Al Vann, lead sponsor of New York City's ordinance, said, "This bill is about transparency. We need information. But the spirit of this request is not about confrontation; it is about collaboration."

As Part I detailed, another important, though more abstract goal, is expanding opportunities to organize and engage the community. Bethany Davidson from PCRG said they tried to formalize a seat at the table for community leaders by creating a Reinvestment Review Committee. This idea initially did not generate a lot of support, however, since there is little political will to create more committees. Thus, campaign strategists must always think of fresh, creative ways to get the community involved without raising objections based on limiting bureaucracy.

>> How Should Campaigns Be Structured?

There are many ways to structure a campaign: attack the banks and try to capitalize on the populist anger that is now raging in streets, collaborate with elected officials and government officials to pass a strong bill that may face fierce opposition, or attempt to neutralize opposition by the banking industry by working with them to craft a mutually acceptable bill. While it may be appealing to choose the first approach and assail the banking industry, one must remember the important and potentially positive role banks play in reinvesting in our communities. In New York, we balanced grassroots pressure with a moderate message and bill. We made this decision given the role banks play here in partnering with government agencies to develop affordable housing and fuel community development initiatives. To a certain extent, it seems like most cities currently pursuing a local ordinance are taking a more low-key approach and refraining from vocally attacking the banks in the hope to not generate great opposition.

CRA works best when it is a vehicle for the community to bring banks to the table

In Los Angeles, on the other hand, community support did not propel the ordinance initially. Strong momentum first was generated when the Occupy LA movement took up the bill and started aggressively pushing for its passage. Sarah Brennan said, “We have had a lot of important partners—legal aid, housing groups, faith leaders, and unions—but Occupy LA de-fibrillated the process.” Other less traditional supporters including a community bank, the Latino Business Chamber, and CDFIs have also been key. Finally, Brennan acknowledged that Council Member Alarcon’s got a lot of “non-lefty” credibility from bank stress test firms that debunked banks assertions that they did not have the capacity of providing the required data.

Thus, while either strategy may prove viable, it is imperative to consider the important allies that can serve as a catalyst for moving the bill. Any list of allies must begin and end with the community. As Benjamin Dulchin said, “NYC’s strategy for the responsible banking act was founded on the premise that CRA works best when it is a vehicle for the community to bring banks to the table.”

Boston’s experience over the past three decades underscores the importance of placing the community at the center of a campaign. Tom Callahan echoed the sentiment that public support—from both the community and political leaders—is fundamental to the success of local strategies. Callahan said Boston’s story begins in 1989 when the Federal Reserve Bank published a report that detailed racial disparities. Soon after the Fed report was released, the Mayor issued a “Linked Deposit” Executive Order. The Order, which ties city deposits to bank performance, included a ranking system and resulted in removing $30 million of public funds from an underperforming bank. The Order also changed for the better the way communities interacted with banks.

However, after a decade of better bank performance driven by community activism, a new administration allowed the quality of the report to slip and stopped issuing it altogether in 2008. It was not long before banks began to reduce their reinvestment activities and ties to local communities. Callahan said, “The lesson is we will always need to keep on it, to apply pressure, to be the enforcers of CRA because if the community is not active, any law or policy will fall by the wayside.”

Council Member Richard Alarcon said, “You have got to engage the community. The key to the L.A. ordinance moving is the community. It is because of the community that we will be able to pass this law.”

Another important consideration in terms of developing a campaign is when banks should be brought into the process, if at all. Bethany Davidson from PCRG said she thought it was best to not engage with the banks until a bill is introduced. New York City would agree with this recommendation for two reasons. First, it would not be prudent to tip the banks off so that they could mobilize against the bill before real momentum had a chance to build. Second, it has been our experience that banks will not engage in meaningful discussions until it looks like the legislation has a real chance of moving. Also, Sarah Brennan highlighted a point that all of us have experienced. She said, "Although the pressure from large banks has been the most intense, they will only have private conversations. For public meetings, they send their lobbyists and surrogates like the Chamber of Commerce." If individual institutions will not publicly and forthrightly voice their reservations or objections to a bill, it is questionable if they are trying to engage in a productive fashion.

In terms of message, the fundamental question is how aggressive the language should be.

Bethany Davidson from PCRG said, "You need to plant seeds, create pressure, and be active on all fronts." Pittsburgh started small by putting anti-predatory language in the zoning code and later passing rules through its school board that stated all of the city's active accounts had to be in banks with an overall "outstanding" CRA rating. Although this is a laudable policy, there has to also be strong follow through. Pittsburgh, for example, removed a depository account totaling $80 million from an institution whose CRA rating fell below this threshold.

Finally, although foreclosure may be the predominant issue today, another will probably be the most pressing problem in the future. Therefore, a campaign should push for mechanisms to ensure these policies "stay fresh." These mechanisms can be mandated in the legislation (i.e., public hearings) or informally through the implementation phase. Opportunities for people to get involved on a regular basis seem essential to making this happen and creating effective local strategies.

Indeed, a prolonged, intense effort in Kansas City has generated tremendous infrastructure for ongoing community engagement. Damien Daniels, a Community Organizer at Communities Creating Opportunities, described a recent rally they held with over 1,000 residents—the culmination of a year of conversations, meetings, and events. As mentioned above, this event prompted the City Council to pass a resolution, and built a committed base of community leaders who have now turned their attention to passing a local ordinance.

>> How to Message?

One of the principal reasons why municipalities have been seeking passage of local ordinances is the failure of state and federal regulators to adapt to the changing nature of banking and develop a regulatory structure that holds increasingly large banks accountable to individual consumers and communities. This message should be at the heart of every responsible banking ordinance campaign: our residents and communities need private investment to thrive and banks have not been fulfilling their CRA-mandated obligation to reinvest in areas in which they do business.

In terms of message, the fundamental question is how aggressive the language should be. Since the purpose of responsible banking ordinances is to leverage public deposits and business to encourage better bank performance, it seems logical to create a message around partnership and the best interest of the taxpayers. Council Member Domenic M. Recchia summarized this balance perfectly.

He said, "It is important that taxpayer money is deposited in safe banks. However, when deciding where public funds should be deposited, the city must look at more than the interest rate the bank is providing. New York City is a huge consumer of banking services, which means banks should be responsive to the city's needs. Banks holding city deposits must also be productive partners in providing foreclosure assistance, capital to businesses looking to expand, and access to mainstream financial services for working class communities."

Sarah Ludwig, Co-Director of Neighborhood Economic Development and Advocacy Project (NEDAP), said that municipalities across the country were paying close attention to the NYC ordinance, and that it was vital to set a high bar for the language and content of the bill. ANHD's Benjamin Dulchin agreed and added, "The way we messaged this campaign to the community and the City Council was that banks are essential to the health of New York City. We were able to build support not by attacking banks but rather underscoring their centrality and crafting a bill that would incentivize banks to be more responsive partners."

Cities also need to be prepared to respond to the rhetoric that responsible banking ordinances are "a solution looking for a problem"...

While cities like Pittsburgh and New York have utilized more moderate, collaborative language, other cities have found sharp, vocal criticism was more effective at generating publicity and support for the bill's passage. For example, both Seattle and Los Angeles allied their campaign with the Occupy Movement, which has questioned the ability of the banking industry to ever serve the interests of consumers and communities.

When developing the campaign message, it is crucial to anticipate potential arguments against the bill. In cities across the country, the main objections tend to be its perceived burden on banks and government as well as redundancy and the cost to implement. However, it is illogical for reporting requirements to be both redundant and burdensome to banks. The truth is banks have the ability to use its existing systems to provide the data at a lower geographical area with minimal effort. In terms of the cost, the experience of Cleveland and Philadelphia demonstrate that the ordinances can be administered effectively at a modest cost.

Many in the audience asked questions about how to respond to criticism that these ordinances will discourage banks from wanting to do business with the city? In Philadelphia, the ordinance initially covered eight banks, but now thirteen are eligible to hold city deposits. Similarly, the number of banks seeking to do business with Cleveland has grown over time.

Cities also need to be prepared to respond to the rhetoric that responsible banking ordinances are "a solution looking for a problem" which is how the Massachusetts' Bankers Association characterized the bill. This underscores the need for advocates and elected officials to use whatever information is already publically available and anecdotal information to build a strong case of why banks have not been doing an adequate job.

Council Member Richard Alarcon said, "If New York City passes a responsible banking ordinance, it will send a powerful message to the rest of America: all ships will follow, all ships must rise."

PART III:
Measuring the Impact of a Local Responsible Banking Ordinance

There are many qualitative and quantitative ways to measure the impact of local Responsible Banking Ordinances: have banks better identified local credit needs, do consumers and communities feel better served, have banks increased their participation in government's economic and community development initiatives, does the community have access to bank data, and does this data demonstrate that covered banks perform better compared to their non-covered peers, among others? Depending on a particular stakeholder's perspective and goals, any combination of these metrics is practical. However, possibly the most compelling ways are to compare how banks covered by a local statute compare to non-covered banks as well as how covered banks perform within a city that has an ordinance compared to outside areas like the suburbs and comparable cities.

"The examination of bank performance mandated by the local responsible banking ordinance is completely normalized. Banks have accepted it as a part of doing business with the city."

Lee Huang, Director, Econsult

From an evaluative perspective, given their longevity, it makes sense to look at how ordinances in Philadelphia and Cleveland have altered the banking landscape. Philadelphia's evaluations provide compelling evidence of the effectiveness of the city's ordinance. Based on Econsult's 2009 report, "Examining the Lending Practices of Authorized Depositories for the City of Philadelphia," we know that covered banks in Philadelphia perform better than non-covered institutions across most activities.

For example, for prime home purchase lending, the Econsult team examined thirteen factors to create a composite score for each depository. For each factor, a depository received a score according to how different it was from the average lender in Philadelphia. If the depository was better than average, the score is positive; if it was below average, the score is negative. None of the depositories measured had negative composite scores, suggesting that all performed better than the average home mortgage lender in the city in 2009. More specifically, in aggregate, city depositories made a larger percentage of loans than all lenders to African-American borrowers and to borrowers in minority tracts. This was true of home purchase loans, home refinance loans, and home improvement loans.

In Philadelphia, covered institutions are now responsible for 55% of the lending to small businesses, up from 40% when the ordinance was passed. This demonstrates that covered banks either increased their lending or reduced it at a smaller percentage compared to non-covered institutions. Furthermore, the percentage of loans to small businesses in low- and moderate-income areas is far greater for Philadelphia than for its surroundings counties. Comparing lending in Philadelphia with lending in the suburban counties by income levels and by minority status for businesses with revenues less than $1 million, Philadelphia has a higher performance ratio. Additionally, the rate of lending to small businesses in low- and moderate-income areas is greater for Philadelphia than for the suburban counties combined. For example, 16.9% of loans to small businesses in Philadelphia were in low-income tracts, compared to just 0.4% of loans in the suburbs. Moreover, 35.2% of loans to small businesses in Philadelphia were in moderate-income tracts, whereas it is just 4.4% in the suburbs.

Another important way to measure the impact of an ordinance is how banks have responded to the new reporting requirements. Lee Huang, Director of Econsult, says, "The examination of bank performance mandated by the local responsible banking ordinance is completely normalized. Banks have accepted it as a part of doing business with the city." Again, this is reflected in the steady growth in the number of banks covered by the ordinance: from six banks in 2006 to 13 in 2009.

The city of Cleveland, from 1991 through 2008, has negotiated over $10.1 billion in lending commitments & investments with designated depository banks through its Community Reinvestment Initiative (CRI) Agreements. Cleveland's CRIs are on a four year cycle. The current cycle covers 2008-2011.

Through the first three years of the cycle, six of seven banks have exceeded their reinvestment goals. And two banks—Fifth Third and Key Bank—have already surpassed their four year goals.

Rose Zitiello, the Manager of Bank Relations, will be the first to celebrate how these dollars have had a dramatic impact on the landscape of Cleveland's working class neighborhoods. She will also point out that for an ordinance to be successful, a range of public and private stakeholders must buy in. The Brookings Institute recognized the value of Cleveland's support for its aggressive enforcement of CRA and its significant and positive impact on urban development in a 2003 report.[4]

The report states, "In Cleveland, a multifaceted and overlapping network of CDCs, urban development funds, and foundations fosters a vibrant marketplace for community development projects. Overall, about $2.4 billion flows annually to urban development activities—more than in the other cities. It is also the city with the highest amount of private sector participation. City support for urban development, including a tax abatement program and aggressive enforcement of the Community Reinvestment Act, also exceeds that of the other three. Over time it appears that the level of subsidy in Cleveland has declined, resulting in more bang for the community development buck."

The Cleveland experience reveals that the true benefits of a local responsible banking ordinance may only be realized over the long term. By bringing together the private sector, government, and the community to work on urban development projects, ultimately a more effective and efficient infrastructure has been created that continues to yield dividends.

>> CONCLUSION

How banks meet the banking and financial needs of consumers and communities has been a hot topic lately. Some analysts have predicted that as more transactions happen online, physical branches will become a relic of the past. Regardless of future trends, current bank practices appear to be exacerbating inequality. Bank branches are opening in trendy shopping districts and neighborhoods, and closing in minority and working class ones. There is still much viable banking to do in modest income communities.

Local banking ordinances ensure that all communities have access to banking, which is the lifeline for homeownership, small business development, affordable rental housing, and economic development. Responsible Banking Ordinances may not be the only way to do this. There are tools and strategies for keeping banks rooted in local communities. But, the appeal of these ordinances is only surpassed by their effectiveness.

4 Bogart, William T. "Civic Infrastructure and the Financing of Community Development, Brookings Institution. Report available at: http://www.brookings.edu/reports/2003/05metropolitanpolicy_bogart.aspx

The true benefits of a local responsible banking ordinance may only be realized over the long term…their appeal is only surpassed by their effectiveness.

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