

**TO THE COUNCIL OF THE  
CITY OF LOS ANGELES**

Your **JOBS AND BUSINESS DEVELOPMENT COMMITTEE**

**reports as follows:**

JOBS AND BUSINESS DEVELOPMENT COMMITTEE REPORT relative to the potential divestiture of all deposits in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts.

Recommendations for Council action:

1. REQUEST the City Attorney to PREPARE and PRESENT an Ordinance within 45 days, summarized below and detailed in the December 14, 2009 Chief Legislative Analyst (CLA) report as attached to the Council File, to incorporate the following provisions into the City's Standard Provisions for City Contracts:
  - a. All banks and financial institutions that provide banking and financial services to the City shall be required to annually provide to the City Treasurer a statement of community reinvestment goals to include information on: the number, size and type of small business loans; home mortgages; home improvement loans; and community development loans and investments within the City of Los Angeles, consistent with State law and in accordance with the requirements of the Community Reinvestment Act (12 CF Part 25) and with said Statements to also include the number and location of branches, ATM machines, loan production offices, and/or other service delivery systems.
  - b. The City Treasurer shall have the authority to restrict or terminate financial relationships with those institutions that fail to comply with these new reporting requirements, in a manner consistent with federal, state, and local laws.
  - c. All banks and financial institutions that provide banking and financial services to the City shall notify the City at least 90 days prior to closing any bank branches within the City of Los Angeles.
  - d. No contracts for financial or banking services shall be awarded to any bank or financial institution that has exhibited a pattern of discriminatory or other illegal credit practices, or has committed past criminal or civil violations that have resulted in significant harm to the City of Los Angeles' financial interests.
  - e. Financial Institutions reporting on home mortgage loans shall include summary information on:
    - i. The number and type of fixed-rate, 30 year loans.
    - ii. The number and type of loan modifications approved to prevent mortgage foreclosure, including the number of permanent modifications.
    - iii. Detailed information on the number of rate- and principal-reduction actions taken in modifications.

- iv. Certification that the bank or financial institution allows unemployed borrowers to qualify for loan modifications based on unemployment insurance and forbearance for at least six months, and/or allows tenants to continue to rent the property until it is sold.
2. DIRECT the City Treasurer to include in the next Request for Proposals./Request for Qualifications (RFP/RFQ) for banking services a provision that would provide additional bid preference, consistent with current law, to those respondents that provide evidence of active community investment practices beyond traditional banking services.
3. REQUEST that the Board of Commissioners of the Los Angeles City Employees' Retirement System (LACERS), the Los Angeles Department of Water and Power (LADWP), the Police and Fire Pensions Board and the City Treasurer, establish an investment floor by committing that at least 25% of the City's portfolio will be invested in financial institutions that provide evidence of active community investment practices in businesses and residences within the City of Los Angeles, or that support socially responsible activities such as green technology, low/moderate income housing, and community redevelopment, to be achieved in a manner consistent with the fiduciary responsibilities established in federal, state, and local law.
4. DIRECT the CLA and City Administrative Officer (CAO) to establish a new set of standards for the City's banking relationships utilizing a "report card" methodology similar to that utilized by the City of Philadelphia, as detailed in City of Philadelphia Code Section 19-201, and to include elements as detailed in the report card submitted in Committee on February 23, 2010 by Council District 7 staff and attached to the Council File.
5. DIRECT the City Treasurer to establish a system of annual review for financial institutions to include a community reinvestment score for each financial institution; DIRECT the City Treasurer to publish said annual reviews and scores and present them to Council on an annual basis; DIRECT the Office of the Treasurer to rank order each financial institution in order of community responsibility with contracting preference in contracting to be given to financial institutions that perform in the top two deciles and potential divestiture for financial institutions at the bottom of the list; and AFFIRM that reporting relationships will favor banks that reinvest in, and are responsive to, the City of Los Angeles.
6. INSTRUCT the CAO and City Treasurer to attempt to renegotiate current swap deals with relevant financial institutions and if they are unwilling to renegotiate, then those financial institutions should be excluded from any future business with the City of Los Angeles and further INSTRUCT the CAO and City Treasurer to review all swap deals and report back to Council in regard to the legal and financial implications prior to any exclusionary action being taken within 30 days.
7. REQUEST the pension systems for the LADWP, Los Angeles Police Department, Los Angeles Fire Department, and LACERS to develop the same sort of analytical tools, as detailed above in Recommendation Nos. 2-5, for the review of financial institutions.

Fiscal Impact Statement: Neither the CAO nor the CLA has completed a financial analysis of this report.

Community Impact Statement Submitted: None submitted.

## SUMMARY

On August 12, 2009, Council referred this matter to the Jobs and Business Development Committee. Subsequently, on September 8, 2009, your Committee considered a Motion (Alarcón - Garcetti - Reyes - Hahn - Parks) relative to the potential divestiture of all deposits in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts. According to the Motion, the perception that homeowners losing their homes due to foreclosures are only those with bad credit or of low income is no longer accurate. The crisis is affecting communities at all levels, but working class communities are the most severely affected, as they were often explicitly targeted and preyed upon by lenders and brokers offering unconventional loans and financing options.

As local, state, and federal governments work on resolving the current foreclosure crisis, one of the key factors that must be addressed is the modification of loans that are "upside-down." These loans must be modified to the current market value of the home, not the original loan amount, so that homeowners facing foreclosure receive true relief from the burden of the loans they were unjustly pushed into by aggressive lenders and brokers. Currently, there is active pressure on financial institutions to modify loans for homeowners susceptible to foreclosure by reducing the principal to the current market value. Many financial institutions are not inclined to do this, particularly with no financial incentive.

Finally, the Motion calls for the following actions:

- a. Instructing the CAO and CLA to report within 30 days on the potential divestiture of all deposits in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts that include temporary moratoriums on foreclosures, renegotiation of mortgage principles to reflect current values, and good faith negotiations with mortgages.
- b. Encouraging a similar divestiture by the City's partner retirement programs - Los Angeles City Employees' Retirement System, the Water and Power Employees' Retirement Program, Los Angeles Police Protective League and the United Firefighters of Los Angeles City.

After further consideration and having provided an opportunity for public comment, the Committee moved to continue this matter pending the submission of a report in response to the above Motion.

Subsequently, this matter was considered on October 13, 2009 and December 15, 2009 and in each instance, after consideration and having provided an opportunity for public comment, the Committee moved to continue this matter.

On February 23, 2010, the Committee Chair considered a December 14, 2009 CLA report in response to the above Motion. According to the CLA, on September 8, 2009, the author of the above Motion significantly broadened the intent of the proposed investment restrictions beyond divestment. Specifically, Committee instructed the CLA to develop a modified policy that encourages the use of the City's investment portfolio to spur local economic development, and to support responsible investment' of the City's assets in companies that uphold socially responsible practices that do not harm the public good. Additionally, the CLA was instructed not to focus on the

issue of compliance/non-compliance with foreclosure prevention efforts; rather the CLA and CAO were instructed to expand the analysis to begin creating a local version of the Federal "Community Reinvestment Act" by establishing a set of standards for both City deposits and, as appropriate, for the City's investment practices. Finally, those standards should encourage community lending and discourage investments in companies that do not adhere to socially responsible practices, including, but not limited to, failure to cooperate with foreclosure prevention efforts.

The CLA then that that the Federal Community Reinvestment Act (CRA) was enacted in 1977 and was designed to encourage financial institutions to improve lending and banking services across the local communities that they serve, and eliminate any forms of alleged "redlining" that discriminates in loans made to individuals and businesses from low and moderate-income neighborhoods. Under this program, all banks that receive FDIC insurance are evaluated by various Federal banking agencies to determine performance based on a variety of assessment factors (a detailed listing of these assessment factors are detailed in Attachment 1 of the December 14, 2009 CLA report and is attached to the Council File). Banks are rated pursuant to a five-tiered CRA rating system ranging from "Outstanding" to "Substantial Noncompliance."

However, the CLA noted that the CRA does not contain penalties for non-compliance, although CRA ratings are considered in the case of mergers or acquisitions involving financial institutions. Additionally, it has been proposed that a local version of the CRA evaluation program be developed for financial institutions that provide financial or investment services to the City. However, not only would this likely be an extensive undertaking at a time of severe financial and personnel constraints, the value of such an evaluation mechanism is unclear. For example, seven of the eleven financial institutions currently used by the City have "Outstanding" CRA ratings, including the two entities with the largest share of the City's deposits (Wachovia and Bank of America). Additionally, creating a similar system to measure local efforts of banks and financial institutions based on CRA-type criteria would likely duplicate much of the work already being done by the Federal government.

After further consideration and having provided an opportunity for public comment, the Committee moved to recommend adopting the recommendations as contained in the December 14, 2010 CLA report as amended and detailed above in Recommendation Nos. 1-7. This matter is now submitted to Council for its consideration.

Respectfully submitted,

JOBS AND BUSINESS DEVELOPMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
ALARCÓN:	YES
KREKORIAN:	ABSENT
PARKS:	YES

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