



THE COMMUNITY REINVESTMENT ACT: AN UNDERUSED RESOURCE TO REVITALIZE LOW WEALTH NEIGHBORHOODS IN DETROIT

The Community Reinvest Act: A Local Tool to Support Equity-Centered
Community Development in Detroit



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The record of financial institutions in serving the needs of individuals and businesses within low wealth communities has long received considerable scrutiny. Mostly in response to complaints about a lack of service for poor and communities of color, Congress passed the Community Reinvestment Act (CRA) as a potential remedy to this problem. The CRA required the banking regulatory agencies to take steps to encourage financial institutions to serve all segments of their local service area. Importantly, the CRA provides guidelines for regulators to periodically evaluate a lending institution's performance in meeting the financial needs of its community. Out of these evaluations, each institution is assigned a CRA performance rating that is ultimately released to the public.

While institutions that receive poor CRA performance ratings risk adverse publicity and the possible denial or delay of a proposed merger or acquisition, the CRA provides little legislative relief for violations. One tool that banking institutions, in partnership with communities, have found useful to improve their CRA rating is the **CRA agreement**. These agreements typically involve

pledges by a lending institution to extend a certain volume or dollar amount of loans to targeted groups or communities. These loans typically are directed towards segments of a community that traditionally would be viewed as "underserved", most notably lower-income and BIPOC individuals. Since the early 1980's, financial institutions have entered into over 300 CRA agreements, which are typically written in conjunction with community groups and sometimes, government entities.

Since the inception of CRA, through partnerships between communities and financial institutions trillions of dollars of sound investments and loans have fueled the more equitable revitalization of struggling communities for more than four decades. Those who have worked for more equitable reinvestment and fair lending over the past decades are hopeful of the future – but there is good reason to still be skeptical. Over the years, the enforcement effort – which was not aggressive in the first place - has gradually deteriorated, giving an overwhelming



ASTONISHING STILL, DESPITE HISTORIC DISINVESTMENT IN AND SUPPRESSION OF WEALTH-BUILDING OPPORTUNITIES FOR PEOPLE OF COLOR, CRA MAKES NO MENTION OF RACE.

majority of all regulated institutions passing or outstanding grades while many of them continue their predatory practices, often resulting in inequitable community reinvestment policies and practices targeted to the very communities, they are charged to serve.

I. How Did CRA Get its Beginning?

The Community Reinvestment Act grew out of the anti-redlining movement of the 1970s, led by National People's Action. The movement was a uniquely American democratic effort to expand the role of the private banking industry in communities that had been underserved because of their changing racial composition, income levels, or because they were older and lagged behind the growing suburban communities preferred by the banks and savings institutions at that time.

The movement was based on the premise that these underserved communities represented sound opportunities for profitable investments that were being unjustly overlooked. Sometimes these communities were overlooked because of a prejudice about the shifting racial composition of the residents or simply about the age of the communities. In countless ways, these communities were overlooked because the banking industry had failed to develop appropriate products, services, or skills that could open up new markets and revitalize these communities.

Running parallel to and in concert with the **resident-led movement against redlining**, was a **reinvestment movement** seeking to develop private lending programs to reinvest in the communities that historically had been redlined. Thus, the reinvestment movement, anchored in many ways by South Shore Bank, began to gain momentum. While the World Bank and other foreign aid programs were designed to support economic growth in third world economies, these advocates found there was no real program in the United States to support reinvestment by the private financial institutions in the depressed disinvested communities in so many inner-city communities. The reinvestment movement sought to develop the investment, lending, and programmatic capacity and skills necessary to revitalize these disinvested communities.

Following massive civil rights organizing efforts for social and economic justice, Congress enacted the Community Reinvestment Act in 1977 as a direct response to the redlining practice of denying mortgages and financial services to neighborhoods of color which were typically low-income. The Community Reinvestment Act (CRA) required banks to affirmatively meet the credit needs of the communities they serve, including low and moderate-income people. This means that while regulators evaluate banks in terms of their lending, services, and investments to low-and-moderate income areas, the law provides few tools to ensure that banks adequately and specifically serve the credit needs of people of color. In its current form, the CRA does not acknowledge that people of color tend to experience more denials, higher interest rates, and smaller loans than their White counterparts, nor does it attempt to disincentivize this.

II. History of Lenders Excluding BIPOC Market Areas in Detroit

After over forty years, CRA still fails to explicitly recognize that racism and redlining have and continue to drive the wealth gap, and thus cannot truly curb it. The CRA's omission of race as a real factor in lending, and its implicit assumption that low and moderate wealth individuals are all the same, does not establish the expectation that people of color must be served equitably. The question can be rightly asked: if in today's society, you need wealth to create wealth, where does that leave communities of color?

The Federal Reserve Board and Old Kent Bank. Between 1997 and 2001, the Federal Reserve Board had given three "Satisfactory" CRA ratings to Old Kent Bank, at the time considered a major lender in the Detroit metropolitan area. During this period, Old Kent defined its assessment area in terms of several counties and parts of counties that encircled the City of Detroit but excluded the City of Detroit itself. A review of the Public CRA Evaluation reports indicates that the Federal Reserve Board was clearly aware of this exclusion and that it accepted this exclusion of Detroit and evaluated Old Kent based on the service it provided to the predominantly white suburban areas only.

In 2006, the Department Of Justice (DOJ) filed suit against Old Kent for violating the Fair Housing Act and the Equal Credit Opportunity Act. In specifically citing Section 228 of the CRA regulations (Regulation BB), the suit stated that, "Instead of defining its assessment area in accordance with Regulation BB, Old Kent Bank circumscribed its lending area in the Detroit MSA to exclude most of the majority African American neighborhoods by excluding the City of Detroit." The complaint also indicated that "As of March 2000, Old Kent Bank still did not have a single branch in the City of Detroit, where the population is more than 81% African American."

Even if the Federal Reserve ignored the racial composition of Detroit, the regulations require lenders not to exclude low- and moderate- income census tracts from their CRA communities. According to the 2000 census, 93% of the low- and moderate-income tracts in Detroit, are also BIPOC census tracts. Looked at from another perspective, 86% of all the BIPOC census tracts in Detroit are also low- and moderate-income census tracts. Thus, for many years, the Federal Reserve Board had allowed this major Detroit metropolitan area lender to exclude both low- and moderate-income and minority areas from its defined service area.

The DOJ suit cites the pattern of expansion of Old Kent through the opening of branches in the Detroit metropolitan area. The complaint states that, "As of January 1996, Old Kent Bank operated at least 18 branches in the Detroit MSA. Not a single one of these branches was located in the City of Detroit. As of March 2000, Old Kent Bank had expanded its business presence in the Detroit MSA to include a branch network of at least 53 branches, located in every county of the Detroit MSA. Virtually all of Old Kent Bank's branches were located in

predominantly white suburbs.” Opening branches is a privilege that should be granted only to institutions that have satisfied their CRA obligations. By continually allowing Old Kent to expand (and by later allowing the merger of Old Kent and Fifth Third), the Federal Reserve Board was in a sense, rewarding a major lender for engaging in racial redlining.

The DOJ complaint also cited Old Kent for failing to provide equal lending services for both home mortgage and small business loans to the BIPOC areas that were illegally excluded from its CRA lending community. Let us turn, then, to another case in Detroit where there were similar legal findings.

The case of Flagstar Bank, represents that rare exception where there was actual proof of fair lending violations that can be compared to the public comments of the institution’s regulator and to the CRA ratings given to the bank before and after the violations occurred. This case illustrates how even multiple legal findings of discrimination can lead a lender to an “Outstanding” CRA rating. Between February of 1994 and November of 2005, during which time the Office of Thrift Supervision (OTS) gave Flagstar Bank “Satisfactory” and “Outstanding” CRA ratings, this lender was sued several times in federal court for issues related to discrimination in lending. Flagstar, in contrast, was found liable for discrimination at trial or by the court in at least two of these cases.

In 1999, a jury in Detroit found Flagstar liable for discrimination against BIPOC borrowers, and plaintiffs were awarded damages. Later the Sixth Circuit Court of Appeals upheld one of these findings. In 2003, in a national class action suit, a federal court in Indianapolis found a written pricing policy developed by Flagstar management in 2001 so overtly discriminatory that the court ruled against Flagstar on summary judgment. The policy explicitly stated that pricing would be different for BIPOC and non-BIPOC borrowers. It appears that the discriminatory pricing policy was developed and implemented by Flagstar while the OTS was conducting its consumer compliance examination.

III. Community Revitalization Lending Agreements & Other Potential Solutions

Community Reinvestment Act lending and investment agreements benefit communities when an inclusive and representative community coalition negotiates with a bank to reach a binding agreement without government as a party to the agreement. Although it is still an open question in many instances as to how well these agreements are executed, the model for community coalition involvement and negotiation with a local bank is a powerful one that has shown the potential for significant impact. There are many neighborhood development agreement campaign examples that show how communities and lending institutions are working more together to share economic benefits and avoiding displacement of neighborhood residents.



First Merchant Bank

In Detroit, a NCRC affiliated local coalition of CDOs, and grassroots community leaders have been meeting with officials from First Merchants Bank directly to propose that prior to any implementation of a branch plan, there needed to be a process of determining where a branch would be most needed and successful in increasing resident access and participation in identifying reinvestment issues. They proposed a process for how to implement the plan and given the enormous associated tasks, offered to partner with the bank to ensure success. In addition, they offered to help increase visibility for the bank. The group is also offering to play a role in helping to carry out the plan and the research, allowing the data to inform decisions, and to link the proposed new branch to this participatory and data-based process.

In recent years, community advocates have been putting established advocacy tools to new use to bring the voices and needs of underserved communities to the negotiating table with local banks. Community Benefits Agreements (CBAs) — contracts that have traditionally been used to ensure that local real estate development projects create opportunities for local workers and communities — are increasingly being applied to banks to increase access to financial services for disadvantaged communities.

"Banks have an important role to play in our communities, and these community benefits agreements help ensure they fulfill that role for everyone, including low- and moderate-income communities and communities of color," said John Taylor, former president and CEO of the National Community Reinvestment Coalition (NCRC), the driving force behind the recent proliferation of bank CBAs across the country. In this manifestation of CBAs, banks partner with local community organizations to negotiate key services and resources targeted to communities traditionally underserved by banks.

In 2016, NCRC worked with hundreds of local community organizations to negotiate three large merger-related CBAs with Huntington Bank, KeyBank, and Fifth Third Bank. Collectively, these three agreements made \$62.6

billion in lending and investments available to targeted low- and moderate-income communities and communities of color across 23 states, including Michigan.

Access to basic financial products and services — including bank accounts, mortgages, and retirement accounts — is a crucial component of building long-term financial security. Without these

"In Buffalo, New York, we've seen a systematic flight of financial resources within low-income communities and communities of color, especially in the city's east side," said Keily. "East of Main Street there are seven bank branches, but to the west there are over 25, and we see huge racial disparities in who gets mortgages."

services, many families and individuals living paycheck to paycheck must turn to payday lenders and check-cashing centers that impose exorbitant interest rates and fees on those who can least afford it. According to a study conducted in California, payday lenders are nearly eight times as concentrated in primarily African American and Latino neighborhoods compared to White neighborhoods, draining nearly \$247 million in

fees from these communities each year.

On a community level, access to capital to purchase homes, start new businesses, or take on community development projects is a necessary ingredient for spurring economic growth, yet the majority of disinvested communities are still systematically underserved by the banks that could be providing these services. This persistent legacy of disinvestment perpetuates poverty and stymies the kind of growth that could revive local economies. Through the CBA negotiation process, however, communities have increased leverage to hold financial institutions accountable for providing them with the services and resources that will enable them to thrive.

"This process gives community members back their voice and keeps their needs at the forefront of the process" said one resident involved in the CBA negotiation process in Buffalo. As part of negotiations with KeyBank, Western New York Law Center enlisted 100 residents to write about their experiences with financial institutions — testimonials that helped bring lived experience to the data and research presented during CBA meetings. Western New York Law Center is also working to establish CBA agreements with smaller local banks and recently announced a \$101.2 million agreement between the Northwest Savings Bank and Buffalo Niagara Community Reinvestment Coalition (BNCRC), a NCRC community-based coalition member.

SINCE THE PASSAGE OF CRA IN 1977 THROUGH THE FIRST PART OF 2007, LENDERS AND COMMUNITY ORGANIZATIONS HAVE SIGNED OVER 446 CRA AGREEMENTS TOTALING MORE THAN \$4.5 TRILLION IN REINVESTMENT DOLLARS FLOWING TO MINORITY AND LOWER INCOME NEIGHBORHOODS.
NATIONAL COMMUNITY REINVESTMENT COALITION-SEPTEMBER 2007

As these agreements become increasingly popular, more and more banks are recognizing the value of working in concert with community to increase services and facilities in underserved markets. One resident emphasized the power of the process for raising community awareness and empowerment. "This shows us — and the community — what's possible when their voices are heard," he said. "It will be an ongoing process to implement this locally, but we're committed to keeping community members at the forefront of this process."

Investment Connection: A New Federal Reserve Bank Approach to CRA Compliance

Investment Connection is a program that introduces public and private funders in the regions served by the Federal Reserve Bank to proposals from community-based organizations and small businesses that benefit low- and moderate-income, distressed, and underserved communities. Several Federal Reserve Banks across the country, U. S. Virgin Islands, and Puerto Rico, are working to connect community organizations and financial institutions to increase compliance with the Community Reinvestment Act (CRA). The CRA legislation helps ensure that financial institutions lend and make/provide qualified investments and financial services in areas where they receive deposits through branches based on the institution size, capacity, and strategy. Investment Connection—pioneered by the Kansas City Fed and now being replicated in eight of ten Fed Districts—bring together the talent and skills of community development organizations with the expertise of bank consumer affairs examiners.

Investment Connection is a new approach to sharing information about community development needs in all parts of the Federal Reserve System, bringing together community and economic development organizations with financial institutions and others who seek to be responsive to those needs. Based loosely on the “Shark Tank” concept, the process and events provide community development organizations the opportunity to pitch their programs to multiple financial institutions and other funders at one time. Since a successful pilot event in 2017, Federal Reserve Banks (“The Fed”) across eight regions have adopted some kind of Investment, Connection, with numerous events planned across all the banks covered by those regional Federal Reserve institutions.

The process starts several weeks before an Investment Connection event with the release of a request for proposals to community development organizations for projects that are potentially CRA-eligible. Eligible activities include:

- Financial access and empowerment
- Affordable housing
- Workforce development
- Community facilities and services
- Small business development
- Community development finance

The Fed community development and examination staff review the proposals for organizational capacity and CRA compliance eligibility. Selection of presenters is on a first-come, first-served basis for completed proposals that meet capacity and CRA-eligibility criteria.

Simultaneously, the Fed community development staff extend invitations to participate in the Investment Connection event to banks, foundations, government entities and others throughout the region with the capacity to invest, lend or provide services in support of those activities. The goal for Investment Connection is that it becomes a catalyst that leads to more lending to low- and moderate-income families, individuals, small businesses, and small farms; the making of more qualified community development investments; and the sharing of financial expertise to strengthen these communities.

IV. What Should Be Done in Detroit? Observations & Recommendations

One positive result from the incentives provided by the Community Reinvestment Act of 1977 has been for lenders and community groups to reach CRA agreements, which involve pledges to provide prescribed levels of service to targeted neighborhoods. This paper examined why lenders actually seem to change their behavior after entering into CRA agreements. Using data from CRA agreements and HMDA on mortgage lending, we find results that paint a cautiously optimistic picture. Our results suggest that lenders increase their targeted lending when an agreement comes into force and that the increased lending levels very often are retained even after the agreements end. Additional analysis points to

Meeting the credit needs in low-to-moderate, income communities is often challenging for financial institutions because of the small dollar amount of the loan and the credit challenges.

More often than not, first time homebuyers need to attend homebuyers counseling classes to learn the homebuying process, get assistance gathering their documentation and repairing their credit if they have experienced some challenges in the past. Who pays for the homebuying or small business counseling?

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groups and banks across the country. The most used forms of collaboration are known as Community Reinvestment Agreements. These pledges are usually between community development organizations and a bank outlining a multi-year program of lending, investments, and financial services. While the bank provides the loans and investments specified in the agreement, the community group frequently assists the bank in assuring the success of CRA-related products and services and sometimes help in marketing or provide financial counseling and other services.

These joint neighborhood development initiatives, reflected often in CRA agreements and bank community benefits agreements, are comprehensive documents that cover a wide range of loans, investments, and bank services. The attached Infographic A provides a detailed list of CRA agreements across the state of California and lists the banks and community groups signing the agreements. It then illuminates, in depth, how to locate specific innovative affordable

affordable housing development, minority businesses, and technical assistance as key components of effective agreements.

The Community Reinvestment Act (CRA) has encouraged an extraordinary level of collaboration between community

Over the past six years, California Reinvestment Coalition's agreements with banks have resulted in more than \$50 billion invested in California communities.

CRC's approach to bank advocacy is based on clear and transparent research, analysis, and public benchmarks that are accountable to communities of color and low-income communities. These agreements with banks were negotiated with communities and community members at the table and resulted in commitments of between 10-20% of California deposits to be reinvested in local communities.

Their work with banks is guided by the Community Reinvestment Act.

housing, small business, and other products contained in these CRA agreements. The environment for these CRAs was created by a statewide reinvestment campaign by the California Reinvestment Coalition. The campaign's success set the conditions for local community organizations to build partnerships with local banks to fashion community-specific reinvestment agreements.

In Detroit, community-based developers and their allies must continue to push for financial equity and a need to develop clear investment and lending standards that benefit all people.

Recommendation 1: A starting point should be to **collectively define what shared equitable community development outcomes** they will promote through their collaborative efforts. This will help insure, for example, that neighborhood revitalization does not lead to neighborhoods being excessively expensive places to live.. The collective movement for “equity” should also create pathways for upward mobility, that is, how people can acquire assets and wealth over time.

Recommendation 2: **Build on existing national agreements, and existing models, even if it creates tension.** Historically the struggle between banks and community development organizations has been fraught with antagonism—a natural offshoot of the quest to gain greater access to credit and more equitable financial products. In Detroit though, that dynamic can be minimized because the essence of that struggle has been settled in the national policy arena with the various national agreements that have been reached. Collaboration then between CDOs and lenders in Detroit should be a “slam-dunk.” It is simply a matter of how, working collaboratively, can right-minded bankers and CDOs leverage a portion of those resources for Detroit—a win-win situation for all.

Community Reinvestment compliance advocates should band together and as a consortium work more closely with banks and other lenders **to develop more equity-centered agreements** that include programs and products as part of future dollar pledges. At the same time, they can develop programs and loan products that meet the financial services and credit needs in working class and BIPOC communities. Detroit stakeholders can work together to create models for Detroit that build on successful experiences in California, Buffalo and the various Federal Reserve Districts.

Recommendation 3: **Community development stakeholders in Detroit should advocate to strengthen provisions in the CRA to protect Detroiters who are risk of foreclosure and other financial problems.** The Community Reinvestment Act (CRA), originally promulgated to promote banking responsibility and upend financial apartheid, was significantly weakened in its ability to ensure high quality loans in 1999, when the Gramm-Leach-Bliley Act passed giving fair passage to investment and securities firms in the mortgage world. But there are millions of people who have been foreclosed upon, and inner-city residents throughout the city of Detroit and nation that have been regular victims of predatory lending. If people are organized and

follow in the great tradition of other American struggles for equity, they can tilt the scales. Effective social action movements provide a vehicle for bringing together allied interests, uncovering the most blatant abuses of power, and slowly shifting that power and dignity back into the hands of the community. We now have examples where, despite the discomfort that advocacy can engender, successful advocacy campaigns can lead to unprecedented agreements with banks, and equally unprecedented investments in our neighborhoods.