



Community Reinvestment Act Advocacy

Bradford Reid

Buffalo Housing Court Policy

UB Law School

Professor Magavern

Executive Summary

The Community Reinvestment Act obligates federally insured depository institutions to meet the credit needs of low and moderate income communities in a manner that is commensurate with sound lending practices. The CRA itself is fairly successful, but with the rise of non-bank lenders and subprime loan products, it has become apparent that the CRA needs to be revised to include regulations that govern independent mortgage lenders. This will make it easier to track and object to predatory lending practices in low and moderate income neighborhoods.

Four federal regulatory agencies monitor banks and conduct periodic examinations to assess how well banks are meeting the credit needs of low to moderate income communities. In order to enforce the CRA, advocates can object in writing to a bank's proposed merger with another bank or to a proposed bank branch closing in a particular neighborhood. Regulators can deny a bank's application to merge or alter its branch activity based on the bank's CRA score.

CRA advocates can also work proactively with banks and local government to maximize the impact of CRA-related community development lending. While some other cities take a centralized approach to cultivating CRA lending, in Buffalo, CRA advocacy is scattered amongst various organizations and neighborhoods. By combining efforts across neighborhood boundaries, Buffalo's non-profit housing advocacy organizations could create a coalition to better leverage public and private dollars, including local government Community Development

Block Grant funds. This would make CRA projects more attractive to banks by removing some of the associated risks and barriers to CRA lending.

I. The Community Reinvestment Act

The Community Reinvestment Actⁱ statement of purpose says, simply:

- a. The Congress finds that--
 1. regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;
 2. the convenience and needs of communities include the need for credit services as well as deposit services; and
 3. regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.
- b. It is the purpose of this chapter to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

The Community Reinvestment Act (CRA) was enacted by Congress in 1977 to combat redlining, the practice of taking deposits from low-income communities but not lending to those same communities.ⁱⁱ Compliance with the Act is enforced by a federal regulation and covered lending institutions are graded on a scale of, “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Non-Compliance.”ⁱⁱⁱ Regulators look at thirteen criteria in evaluating lenders, including, “Extent of lending in the bank’s service area; service area description; geographic distribution of the bank’s loans; branch services, openings and closings; evidence of discrimination and illegal credit practices; practices intended to discourage credit applications;

participation in community development projects; the bank’s ability to meet community credit needs; other relevant factors.”^{iv}

Typically, banks fulfill their CRA obligation to “meet community credit needs” by offering such retail consumer products as home mortgages, small business loans, construction loans for affordable housing projects, and individual development account matched savings programs. Banks can also provide support for homebuyer financial education programs^v or participate in loan pooling and the purchase of affordable housing tax credits in various low to moderate income housing projects.^{vi} Banks may fulfill CRA obligations by providing grant support to agencies that engage in this work and technical assistance, such as serving on non-profit organization boards.^{vii}

There are four different regulatory agencies that perform the CRA examinations. The Federal Reserve regulates state-chartered banks that are members of the Federal Reserve System and bank holding companies. The Federal Deposit Insurance Corporation regulates insured state banks that are not members of the Federal Reserve System. The Office of the Comptroller of the Currency regulates national banks. Finally, the Office of Thrift Supervision regulates FDIC-insured savings and loans.^{viii}

There are different CRA evaluation criteria for different types of banks. Generally, there are four categories of banks that are subject to the CRA requirements. They are:

I. Large Banks

Institutions with assets greater than \$1.03 billion are classified as “large banks.” They are subject to a three-part test, with each part being weighted and contributing to an overall score:

1. **Lending test** – the percentage of loans made to low- and moderate-income individuals/communities.

2. **Investment test** – the number and type of investments made in low- to moderate-income areas. This can include grants to community organizations working in low- to moderate-income areas, as well as investing directly in projects and financial education programs.

3. **Services test** – the number and type of services made available to low/mod income communities, including branch openings and closings, product availability, financial education, and technical support local organizations.

II. Intermediate Small Banks

Intermediate Small Banks have assets ranging between \$258 million and \$1.03 billion. They are subject to two different tests, both of which they must pass:^x

1. **Small Bank Lending test** - 1) “Reasonable” loan-to-deposit ratio; 2) Percentage of loans in the bank’s assessment area; 3) Distribution of loans to individuals/businesses/farms of different income levels and sizes; 4) Record of responses to written complaints about its lending practices; 5) Geographic distribution of loans.

2. **Community Development test** – the amount and responsiveness of community development lending, investment and services.

III. Small Banks

Institutions with assets below \$258 million are considered “Small Banks” for the purposes of the CRA examination. Small banks are graded on the Small Bank Lending test outlined above, but not the Community Development test.^{xi}

IV. Wholesale or Limited Purpose Banks

“A wholesale bank is a bank that is not in the business of extending home mortgage, small business, small farm or consumer loans to retail customers. A limited purpose bank is a bank that offers only a narrow product line to a regional market or broader market.”^{xii} These banks are evaluated based on their community development loans, investments or services; their innovativeness and complexity; and the bank’s responsiveness to community development needs.^{xiii}

The CRA has come under fire recently from some who argue that it was a cause of the subprime mortgage meltdown.^{xiv} However, in an analysis of the 2006 Home Mortgage Disclosure Act data from the fifteen largest Metropolitan Statistical Areas in the United States, Warren Traiger reaches the opposite conclusion – that rather than being encouraged to engage in risky behavior by the Community Reinvestment Act, the CRA banks, defined as “banks originating loans in their...CRA assessment areas,”^{xv} “were substantially less likely than other lenders to make the kind of risky home purchase loans that helped fuel the foreclosure crisis.”^{xvi} Traiger also concludes that “CRA banks were more than twice as likely as other lenders to retain originated loans in their portfolio; and ... [f]oreclosure rates were lower in MSAs with greater concentrations of bank branches.”^{xvii}

These findings are particularly relevant to CRA advocacy efforts. In 2007, Federal Reserve Chairman Bernanke noted that “originators who sell loans may have less incentive to undertake careful underwriting than if they kept the loans. Moreover, for some originators, fees tied to loan volume made loan sales a higher priority than loan quality.”^{xviii} Because banks are invested in serving those neighborhoods where they are physically located, they are more likely to pay attention to the quality of loans they offer and, as a result, make fewer loans that are destined to foreclose.^{xix} Thus, since the CRA actually encourages banks to open more branches in low-income neighborhoods, it does not logically follow that the CRA encouraged the risky lending in those neighborhoods. Rather, the CRA had the opposite effect – regulated banks kept more of their original loans, and thus had more incentive to see that those loans were sound. The CRA thus acts as a disincentive to risky lending in low-income neighborhoods. Furthermore, if foreclosures are lowest in areas with the highest concentration of bank branches, communities have good reason to object to bank branch closings in their neighborhoods.^{xx} In terms of advocacy, this information would allow community groups to focus their efforts on the idea that partnering with banks is mutually beneficial, not merely government mandated.

This is not to say, however, that the CRA is beyond reproach (just that it is not the cause of the subprime lending crisis). For instance, there is a legitimate question of policy regarding how well the CRA exam criteria actually challenge banks to live up to the stated goals of the CRA itself. As of 2007, 98.4% of all regulated banks passed their CRA exams, up from 90% in 1990.^{xxi} Meanwhile, 21% of American households remain “unbanked” – that is, they have no ongoing relationship with bank services of any kind – and bank branch concentration remains

higher in low-density suburban areas than in higher-density urban areas.^{xxii} This alone is evidence that there is a disconnect between the obligations of banks under the Community Reinvestment Act, the way regulators examine these banks, and the needs of citizens in low and moderate-income communities. In one particularly egregious example of this disconnect, in 2006, the Department of Justice prosecuted Old Kent Bank for violations of the Fair Housing Act and the Equal Credit Opportunity Act. The Dept. of Justice alleged that Old Kent bank completely excluded the City of Detroit from its lending area. The bank had eighteen branches in the predominantly white Detroit suburbs, but no branches located within the predominantly black City of Detroit proper. Despite this, the Federal Reserve gave the bank a passing CRA score and approved its branch location and expansion activities.^{xxiii}

This situation is a good example of how examiners have significant discretion within the evaluation criteria. On top of that, banks can define their own assessment areas based on a “reasonableness” standard. CRA examiners can evaluate those self-imposed boundaries, however, and correct them if they choose.^{xxiv} But there is enough room in the evaluation system to allow something like the Old Kent Bank scenario to happen. Of even more concern are the many less flagrant examples of similar disinvestment tactics remain under the radar where regulators use their discretion to allow banks to comply with their obligations under the law while not truly fulfilling the spirit of the CRA.

Furthermore, in 2000, the Gramm-Leach-Bliley Act allowed financial institutions to merge with insurance companies, security lenders, and mortgage underwriting companies without amending the CRA to include this new lending activity. Because of this, loans offered

by bank-affiliated mortgage companies are not subject to CRA requirements.^{xxv} Even when changes are proposed, they often fail to adequately address the depth and scope of the problem of predatory lending.^{xxvi}

II. National Problem, Local Advocacy

A. Local Banks and CRA Requirements

Locally, most banks fare well on their CRA exams, regardless of the regulatory institution that conducts the exam. For example:

1. Federal Reserve:^{xxvii}

a. M&T – Outstanding; May 12, 2008.^{xxviii}

b. HSBC – Outstanding; February 24, 2003.^{xxix}

2. Federal Deposit Insurance Corporation:^{xxx}

a. Greater Buffalo Savings Bank – Outstanding; July 1, 2007.^{xxxi}

b. Bank of Akron – Satisfactory; August 3, 2009.^{xxxii}

3. Office of the Comptroller of the Currency:^{xxxiii}

a. Evans National Bank – Satisfactory; June 12, 2006.^{xxxiv}

4. Office of Thrift Supervision:^{xxxv}

a. First Niagara – Satisfactory; March 12, 2007^{xxxvi}

In another example of the “disconnect” between CRA theory and practice, Deutsche Bank (not a local bank), despite its activities in the City of Buffalo, received a score of “Outstanding” from the Federal Reserve on December 1, 2008.^{xxxvii} Deutsche Bank was tested under the “Wholesale/Limited Purpose” exam method.^{xxxviii} So, though Deutsche Bank is currently being sued for abandoning properties in under-capitalized, blighted neighborhoods in the City of Buffalo, its CRA scores are “outstanding.” This could be because they have moved the mortgages they hold to a subsidiary that is not subject to CRA requirements, or simply because their actions in contributing to blight are not a factor in CRA evaluations. Deutsche Bank may very well do what is it required to do under the CRA. They may do good things with their community development dollars elsewhere. But, their actions in Buffalo are directly contrary to the purpose and intent of the CRA. In fact, the HUD Neighborhood Stabilization Program would allow the bank to donate these foreclosed houses to community groups that do property acquisition and rehabilitation for rehab and resale to low to moderate income homebuyers , contributing to the bank’s CRA score.^{xxxix} But, of course, since Deutsche already has the best score possible, it has no incentive to take the titles to any of the houses and then donate them to non-profits. However, the CRA could be used against Deutsche simply by pointing out, in a letter to the bank and/or regulators, the blighting influence the bank is having within the City of Buffalo. That would make the issue a matter of public record to be considered next time the bank’s CRA activity is examined.

B. Local Advocacy

A recent study by the Western New York Law Center concluded that, while there have been some general Community Reinvestment Act activities going on in Western New York, there is a lack of forceful, sustainable CRA advocacy in our community. More specifically, the report cited the high rate of predatory loans in the Western New York market combined with a lack of: 1) a comprehensive reinvestment plan on the part of local municipalities; 2) coordination of bank resources, information and education among local non-profits and advocacy groups; and 3) creative financing strategies, such as loan pools, for community development projects.^{xi} However, when organizations work together to support CRA objectives, the results in Buffalo are clearly positive. For instance, Michael Clarke, executive Director of Local Initiatives Support Corporation – Buffalo, points to HomeFront, which counsels low-and moderate-income home buyers and partners with local banks and the City of Buffalo to help low-and-moderate income families purchase homes.^{xii} Of the one-thousand families who purchased homes with the assistance of HomeFront, only seven of them ended up in foreclosure as of November 1, 2008.

So, with evidence of programs that do create effective partnerships, why doesn't Buffalo have more CRA advocacy? Perhaps one factor is the limited presence of the Federal Reserve Bank in Buffalo. The New York Federal Reserve, serving New York state, northern New Jersey, and Fairfax County, CT, on the other hand, is focused primarily on Wall Street and the securities markets. A search for "Buffalo" within the content of the New York Reserve website reveals only one substantive article – announcing the closing of the Buffalo branch office.^{xiii} By comparison, the 2nd District, with headquarters in Cleveland, Pittsburgh, and Cincinnati, serving Ohio, western Pennsylvania, northern panhandle of West Virginia, and eastern Kentucky, has a

website that provides a wealth of information about the region, the economy, and community development.

So, while the Cleveland Reserve has branch offices in areas decimated by foreclosure and is focused on dealing with the foreclosure problems in northern Ohio, the New York Reserve has little more than an “Advisory Board” that represents all of “upstate” New York.^{xliii} The fact that the New York Federal Reserve branch serves predominantly the New York metro area means that regulators are surrounded on a daily basis not by foreclosed, vacant houses, but rather by the same bankers who eschewed quality for volume in loan sales.

But there are groups in Buffalo who are acutely aware of the issues and who are advocating for CRA reform. Recently, the local community group PUSH (People United for Sustainable Housing) sponsored a meeting with Federal Reserve officials to give them a better idea of the real impact of their policies in Buffalo’s neighborhoods. The comments from citizens and community groups in attendance largely agreed that CRA and Home Mortgage Disclosure Act reforms, in addition to better oversight by the Federal Reserve, are needed in order to extend more credit to underserved communities and keep more people in their homes in Buffalo.^{xliv} According to Kathleen Lynch, senior attorney at the Western New York Law Center, “the current regulatory structure is inadequate to detect or prevent a problem.”^{xlv} The CRA only applies to federally insured depository institutions. Lenders who are not subject to any CRA obligations can engage in predatory lending practices without the data collection and analysis imposed on banks by the CRA. HMDA Data from 2006 indicates that only 10% of all loans are CRA-related, while 34% of all loans are to low and moderate-income borrowers. 24%

of low- and moderate-income borrowers are therefore served either by independent mortgage lenders or banks lending outside of their self-imposed assessment areas.^{xlvi} Thus, the CRA and HMDA must be expanded to include all lenders. That would allow advocacy groups to get access to more accurate information regarding the types of loans that are being extended in their communities.^{xlvii}

In addition to advocating for change in the regulations local groups can create partnerships with banks to increase the flow of capital to underserved areas. According to Joan Dallis, VP of Community Development at HSBC Bank, banks are looking for partnerships that can maximize leverage to satisfy the bank's CRA obligations *and more*.^{xlviii} While the CRA can be used to bring banks to the table, it is important to keep in mind that banks also have the *power to convene*.^{xlix} Approaching a bank in the spirit of partnership could prove to be very fruitful, as the bank can use its status to bring municipalities to the bargaining table. The bank has an opportunity to not only fulfill CRA obligations, but also create new customers predominantly through mortgage and small business lending. Expanding its customer base is good business for the bank, so clearly well-designed CRA-related projects can be mutually beneficial for all parties involved. While banks are legally obligated to lend in all areas in which they take deposits, municipalities can help banks to identify projects where they can maximum the impact of their discretionary community development spending.^l When the municipality articulates a vision and strategy for achieving community development goals, this can act as a guide for banks and a risk mitigating factor.^{li}

III. Examples of Programs from Other Cities

One such mutually beneficial public-private partnership is the Greater Rochester Housing Partnership (GRHP), a non-profit that deals primarily in construction loans. GRHP runs a program called Home Rochester, which distributes pooled money for rehabilitation and sale of city homes:

HOME Rochester is financed through a unique consortium of for-profit and non-profit lenders. Under the leadership of JP Morgan Chase, a total of \$57,000,000 has been made available to the RHDFC for purchasing and renovating single family homes. The current \$16,000,000 participation loan consists of lenders with investments ranging from \$500,000 to \$3,000,000. The lenders are: JP Morgan Chase, HSBC, Citizens Bank, M&T Bank, Key Bank, City of Rochester, Enterprise Community Partners, Greater Rochester Housing Partnership and the United Way of Greater Rochester.^{lii}

Banks get CRA credit for buying into the loan pool. The banks are able to provide mortgages for the purchasers of these homes as well. According to Jean Lowe, Executive Director of GRHP, this model works because there is a centralized administrative structure. The City is fully supportive of the organization and it provides reserve funds, which makes banks comfortable. The City of Rochester's Focused Investment Strategy also helps to alleviate fears that investments in riskier areas will fare poorly. By lending its support to a comprehensive strategy, the City is able to guide the banks, within the requirements and boundaries of the CRA, into what would otherwise look like risky investment areas.^{liii} Syracuse, NY has a similar, centralized organization called Home Headquarters.^{liv}

In San Diego, CA, the city and county governments partnered to create the San Diego City-County Reinvestment Task Force.^{lv} This public-private, intergovernmental approach allows the group to adapt based on the needs of the various communities where CRA-related lending issues arise. The Task Force, made up of local government officials, bank representatives, non-profits and even "public members", convenes regularly to analyze trends in the San Diego housing market, discuss strategies for creation of new low- and moderate income housing, and

track impacts of existing projects.^{lvi} If nothing else, this proactive partnership shows that cities and counties can and should work together to solve problems, since disinvestment and foreclosure are regional problems, not just stereotypical “urban” problems. This type of proactive, collaborative approach could very well encourage risk-averse banks by assuring them that the CRA-related programs they are buying into will be fully supported by local government officials.

Buffalo has many organizations working on housing and community development-related functions. HomeFront, Belmont Shelter, Heart of the City Neighborhoods, Inc., Fillmore-Leroy Area Residents, Inc., PUSH Buffalo and West Side Neighborhood Housing Services, among others, all serve low to moderate income communities and implement home ownership initiatives within the city of Buffalo. Most of these groups have programs that address homeownership counseling and financial education for homebuyers, and some do new construction of affordable housing and/or rehab and repair of existing units.

However, there are advantages to the collaborative, more unified models used in Rochester, Syracuse and elsewhere. For instance, due to delays in city processes, HomeFront, along with fifty other service-providing organizations in Buffalo, has been without city funding for months and the organization is in limbo with regards to its city contract.^{lvii} Both HomeFront and the Lt. Matt Urban Human Services Center, which also provides housing services, have consistently received high productivity ratings in city evaluations.^{lviii} While it remains unclear why these contracts have not been renewed, the larger picture shows that it is precisely this type of uncertainty that makes banks wary of risk. This is even more problematic given the fact

that several banks provide support to HomeFront. Mr. Dossinger of M&T Bank sits on its board of directors.^{lix} So, there is a productive relationship between the banks and the non-profit that is unsupported by local government efforts. When viewed over the long-term, this is bad for all housing and community development organizations, not just HomeFront. The city comes across as unstable in these instances. So, regardless of who gets money from where, the process seems unpredictable. That is not the type of environment that would make any bank comfortable investing money, especially in the already-risky arena of low-income housing acquisition and rehab. Home Rochester, while a creation of government, operates independently so it can avoid the risks that are inherent in the political process.

Furthermore, the ad hoc approach to CRA advocacy could result in divisions and disagreements between organizations within the same area regarding how to best use CRA lending to improve the community. This may not cause banks to be wary of lending to any particular project, but in the long run in such discord could result in a project becoming unprofitable for lack of broader community support. Or, at the very least, the appearance of discord within a community could further the perception that lending within that community is risky.

If east side and west side housing advocacy groups combined efforts in pushing for community development lending, the nature of this coalition could eliminate some of the risks associated with CRA projects.^{lx} Combining efforts would increase organizational capacity to acquire, rehab, hold and sell properties. It would also allow for the identification of strategic demand areas throughout the city of Buffalo. Once a few key areas are identified by a diverse group of neighborhood leaders, ways to connect these areas can be discussed so the city will be

able to build upon successful efforts with further investment. Finally, such a coalition could more easily leverage federal Community Development Block Grant funding from local government officials, since the benefits of the lending activity would be felt throughout Buffalo. Neighborhoods in need would not have to compete with one another for investment dollars.

Furthermore, such efforts could focus on transit-accessible projects near major transportation nodes and commercial corridors, thereby building on existing investments such as ArtSpace lofts and Amherst Station. Utica Street, for instance, is a hub that connects a major east-west bus route to the subway. Investment in housing improvements for low and moderate income residents near Utica and Main would allow residents to access public transportation options that conveniently connect to almost all parts of the city and beyond. That type of reinvestment effectively adds value to the project by reducing low- and moderate-income residents' dependence on automobile travel for employment and services. By viewing Main Street as a permeable boundary (or, perhaps not a boundary at all), organizations on opposite sides of Buffalo could find common ground. In doing so, ideally, they could also leverage more resources in pursuit of a building a city that creates value and builds wealth for all of its residents.

IV. CRA Strategies

Effective CRA advocacy takes two general forms. The first is the form of “watchdog” where the advocate monitors publically available CRA data, using that information to track trends in lending and advocate for more bank involvement in particular communities.^{lxi} This is necessary to make sure that banks are living up to their CRA requirements, including the “spirit”

of the act, and that there are no outright violations. Or, if there are, they are quickly called to the attention of regulators.

The watchdog role can also involve watching the regulators to ensure that they are using their discretion appropriately and that when they give passing grades, those grades are warranted by the available data. Simply keeping tabs on and analyzing this data may sound dull and excessively time-consuming, but banks are required by law to keep these comments on their CRA activity as a matter of public record.^{lxii} Regulators, then, must by law consider these comments when evaluating the bank. So, the CRA does reward the diligent watchdog.

The watchdog role can also involve legislative advocacy. Keeping in mind that the subprime bubble was not caused *by* the CRA but was rather a result of the CRA not being inclusive enough, it is important to advocate for a stronger CRA that includes more types of lenders. This will allow for collection of more accurate data about subprime lending. It could potentially also prevent the Deutsche Bank scenario, where a national lender is allowed to literally walk away from and increase blight in low income communities while still getting “outstanding” CRA ratings.

The second strategy adopts a collaborative form – create a coalition of housing and community development organizations to work with the banks, ideally with participation from local government, but even if it is initially lacking. This type of collaboration would command attention thanks to the CRA, thereby bringing the banks, large and small, as well as other financial intermediaries, to the table. The financial institutions, then, could bring local governments to the table to help work out a comprehensive CRA strategy.

ⁱ 12 U.S.C.A. § 2901.

ⁱⁱ Warren W. Traiger, *The CRA: A Welcome Anomaly in the Foreclosure Crisis*, 53 N.Y.L. SCH. L. REV. 227, 230 (2008/2009).

ⁱⁱⁱ *Id.* at 228.

^{iv} See Western New York Law Center, Community Reinvestment Act: Using Law and Advocacy to Promote Healthy Communities (on file); 12 C.F.R. part 25.

^v Interview with Mr. Bradley Dossinger, M&T Bank, (on file with author). For an example of an Individual Development Account, see the “First Home Club” program sponsored by the Federal Home Loan Bank of New York, <http://www.fhlbny.com/community/fhc/fhc.htm>.

^{vi} *Id.*

^{vii} *Id.*

^{viii} Sargent Shriver National Center on Poverty Law, *CRA and Sustainability* (2005) at 4, available at, <http://www.povertylaw.org>; Office of the Comptroller of the Currency, www.occ.treas.gov/Pubinf.htm.

^{ix} House Committee on Oversight and Government Reform Subcommittee on Domestic Policy Hearing, *Upholding the Spirit of the CRA: Do CRA ratings accurately reflect bank practices?*, Oct. 24, 2007, at 27; Sargent Shriver National Center on Poverty Law, *CRA and Sustainability* (2005) at 4, available at, <http://www.povertylaw.org>.

^x House Committee Hearing at 27; Shriver at 4.

^{xi} House Committee Hearing at 28; Shriver at 5.

^{xii} Shriver at 5.

^{xiii} *Id.*

^{xiv} See, e.g., Brent J. Horton, *In Defense of Private-Label Mortgage-Backed Securities*, 61 FLA. L. REV. 827 (2009) (“[G]overnment interference caused the unsustainable housing bubble and resulting economic crisis through government sponsored entities competing in the MBS marketplace coupled with federal housing policy, particularly the Community Reinvestment Act, which encouraged banks to take undue risk.”); Cf. Raymond H. Brescia, *Part of the Disease or Part of the Cure: The Financial Crisis and the Community Reinvestment Act*, 60 S.C. L. REV. 617 (2009) (refuting the idea that the CRA was to blame for the subprime crisis and arguing instead that it was not strong enough).

^{xv} Traiger at 228.

^{xvi} *Id.* at 228-29.

^{xvii} *Id.* at 229.

^{xviii} *Id.* at 228 (quoting Ben S. Bernanke, Testimony before the Committee on Financial Services, U.S. House of Representatives, Subprime Mortgage Lending and Mitigation Foreclosures, Sept. 20, 2007, available at <http://www.federalreserve.gov/newsevents/testimony/bernanke20070920a.htm>).

^{xix} Traiger at 238.

^{xx} See Letter from WNYLC to Jay Bernstein, Federal Reserve Bank of New York, protesting the proposed closing of two HSBC bank branches in low-income neighborhoods in Buffalo (on file with author).

^{xxi} House Committee on Oversight and Government Reform Subcommittee on Domestic Policy Hearing, *Upholding the Spirit of the CRA: Do CRA ratings accurately reflect bank practices?*, Oct. 24, 2007, at 3.

^{xxii} *Id.*

^{xxiii} *Id.* at 10.

^{xxiv} *Id.* at 28.

^{xxv} House Committee Hearing at 4.

^{xxvi} See Western New York Law Center, Comment on Proposed Changes to CRA, April 5, 2004 (on file) (“[F]ederal bank agencies will fail to enforce CRA’s statutory requirement that banks have a continuing and affirmative obligation to serve credit and deposit needs if they eliminate the investment and service test for a large subset of depository institutions.” “In addition, an anti-predatory standard must apply to all loans made by the bank and all of its affiliates, not just real-estate secured loans issued by the bank in its “assessment area” as proposed by the agencies. By shielding banks from the consequences of abusive lending, the proposed standard will frustrate CRA’s statutory requirement that banks serve low- and moderate-income communities consistent with safety and soundness.”).

^{xxvii} www.federalreserve.gov

^{xxviii} www.ffiec.gov/craratings (search bank name: “Manufacturers and Traders” and state: NY).

^{xxix} www.ffiec.gov/craratings (search bank name: “HSBC” and state: NY).

^{xxx} www.fdic.gov

^{xxxi} www.ffiec.gov/craratings (search bank name: “Greater Buffalo Savings Bank”).

^{xxxii} www.ffiec.gov/craratings (search bank name: “Bank of Akron” and state: NY).

^{xxxiii} www.occ.treas.gov

^{xxxiv} www.ffiec.gov/craratings (search bank name: “Evans” and state: NY).

^{xxxv} www.ots.treas.gov

^{xxxvi} www.ffiec.gov/craratings (search bank name: “First Niagara” and state: NY).

^{xxxvii} www.ffiec.gov/craratings (search bank name: “Deutsche Bank”).

^{xxxviii} *Id.*

^{xxxix} According to Linda Chiarenza, Director of West Side Neighborhood Housing Services, WSNHS partnership with HSBC bank started with the donation of 3 foreclosed homes in 1999. (Interview on file with author). But, as Bradley Dossinger of M & T bank pointed out, donating vacant, foreclosed properties to non-profits requires more than just CRA considerations. There must be certain conditions present for such a transfer to be successful. Namely, there must be organizational capacity to handle the rehabilitation, holding and marketing of the homes, or else the houses could become liabilities to the non-profit group. Also, there must some kind of demand for the houses from income-qualified homeowner-applicants in the first place. (Interview on file with author).

^{xl} Western New York Law Center, Community Reinvestment Act: Using Law and Advocacy to Promote Healthy Communities (on file).

^{xli} Michael K. Clarke, op-ed, *Blaming CRA for Bad Loans is Both Unfair and Inaccurate*, BUFFALO NEWS, Nov. 1, 2008. See also HomeFront Buffalo, <http://www.homefrontbflo.org>.

^{xlii} <http://www.newyorkfed.org/newsevents/news/aboutthefed/2008/an080305.html>

^{xliii} http://www.newyorkfed.org/newsevents/news/regional_outreach/2008/an081222.html

^{xliv} Jonathan D. Espstein, *Fed Urged to Do More*, BUFFALO NEWS, July 19, 2009.

^{xlv} *Id.*

^{xlvi} Ren S. Essene & William C. Apgar, *The 30th Anniversary of the CRA: Restructuring the CRA to Address the Mortgage Finance Revolution*, available at http://www.frbsf.org/publications/community/cra/30th_anniversary_cra.pdf

^{xlvi} *Id.*

^{xlviii} Interview with Ms. Joan Dallis (on file with author).

^{xlix} *Id.*

^l *Id.*

^{li} *Id.*

^{lii} Greater Rochester Housing Partnership, <http://www.grhp.org>; See also Home Rochester, <http://www.homerochester.org>.

^{liii} Interview with Ms. Jean Lowe (on file with author).

^{liv} <http://www.homehq.org> (“Established in 1996, Home HeadQuarters offers Nationally-certified Homebuyer Education for first time homebuyers, financial and homeownership counseling, Foreclosure Prevention and real estate planning and development. Home HeadQuarters is also one of the largest regional providers of affordable home and energy improvement loans and grants to area homeowners.”).

^{lv} <http://www.communityinvestmentnetwork.org> (search: “San Diego Reinvestment Task Force”).

^{lvi} See San Diego City-County Reinvestment Task Force, Meeting Minutes, October 15, 2009, *available at* <http://sdhc.org/Min&Agendas&Reports/RTF/2009Agendas&Minutes/RTF20091015m.pdf>

^{lvii} Jim Heaney, *City Failing to Correct Anti-Poverty Funding Flaws*, BUFFALO NEWS, Nov. 2, 2009.

^{lviii} *Id.*

^{lix} See HomeFront Buffalo, <http://www.homefrontbflo.org>; Dossinger Interview, *supra* note 39.

^{lx} For example, Ms. Chiarenza of WSNHS, *supra* note 39, mentioned that her organization and Fillmore-Leroy Area Residents, Inc. were in talks about a potential joint venture.

^{lxi} See, e.g., Empire Justice Center letter to M&T; WNYLC letter to Fed. Res. Re: HSBC branch closings.

^{lxii} Shriver at 7.