Working with Allies
How can you work successfully with groups outside of city hall to advance your agenda?

Materials
Richmond:
Alejandro Lazo, “Richmond Adopts Eminent Domain Mortgage Plan,” Los Angeles Times, July 30, 2013.  WA - 1

“Richmond Cares FAQ,” Alliance of Californians for Community Empowerment, accessed September 2013.  WA - 3

“All Eminent Domain Statement of Principles,” Alliance of Californians for Community Empowerment.  WA - 5

“Plan to Preserve Homeownership, Reset Mortgages & Aid Local Economies,” Alliance of Californians for Community Empowerment, August 2013.  WA - 9

“Local Principle Reduction Model Resolution” Alliance of Californians for Community Empowerment.  WA - 11


Mark Andrew Boyer, “Can Eminent Domain Be Used to Avert a Foreclosure Mess? This California City Thinks So,” Yes Magazine, October 18, 2013.  WA - 15

Jersey City:
“City Ordinance 13.097,”Jersey City, September 25, 2013.  WA - 19


“Jersey City's Smart Push for Paid Sick Days”, Star-Ledger Editorial Board, September 5, 2013.  WA - 31

Salt Lake County:


Other Examples:

“Non-Discrimination Ordinances in Salt Lake City,” January 2014.

Speakers
Karen Crompton joined Voices for Utah Children in 2001. She is an experienced executive and change maker, who has developed, led and managed local, state and national level efforts to benefit children and families. She has hands-on experience in growing and sustaining an organization, forging partnerships, designing awareness campaigns, influencing public policy, mobilizing advocates, generating funds, managing grants, working with the media and planning events; proven ability to analyze needs, identify trends and opportunities, and develop innovative, effective solutions for enhancing programs and systems.

She had previously worked for Sears, Roebuck & Company for 17 years where she held a number of senior management positions. Karen was also a candidate for Salt Lake County Mayor in 2000. In 2006 Karen received the Florette Angel Award given annually by Voices for America’s Children to the chief executive officer of a member organization who has "demonstrated exceptional leadership, perceptive organizational vision, innovative advocacy, and effective service on behalf of children and their families." She was honored by the YWCA in 2007 with the Outstanding Achievement Award in Government and Public Service and also received the Community Champions Award for Advocacy from Molina Healthcare. Karen graduated from the University of Utah in 1971.

Ben McAdams was sworn into office as Salt Lake County Mayor on Jan. 7, 2013. Mayor McAdams pledged to work collaboratively, across party lines, to find efficiencies in County government and to be open and accountable to citizens. Mayor McAdams is a former Utah State Senator. His legislative record includes strengthening child safety standards and consumer protections, eliminating housing and employment discrimination and increasing funding for mass transit. Mayor McAdams is a corporate finance attorney who practiced law with firms in New York and Salt Lake City, where he represented clients in complex public and private securities transactions. That expertise assisted his strategic relationships involving management issues between 16 municipalities and cities within Salt Lake County. Ben and his wife, Julie (a fellow Columbia Law School graduate) enjoy hiking with their four children and cheering at Saturday morning soccer games.
Gayle McLaughlin was elected to her first term as Mayor of the City of Richmond, CA in November 2006 and was re-elected in November 2010. As Mayor of Richmond, Gayle signed four consecutive balanced budgets that kept and expanded City services and increased the number of police officers on duty by 18% since she took office. Violent crime and property crimes, still very serious problems in Richmond, have shown significant declining trends during her tenure.

Under Gayle’s leadership, even with the current national economic downturn, over 700 new businesses opened shop in Richmond, creating over 1,000 jobs. As Mayor, Gayle has spearheaded and sponsored many new green and sustainability initiatives. Gayle has prioritized the interests of Richmond residents, families, and small businesses. As chairperson of the Richmond City Council, she has promoted a more participatory, democratic and transparent local government. Gayle has defended the victims of violent crime, speaking loud and clear against the rape at Richmond High and the recent church shootings, and works closely with the Police Chief and our Office of Neighborhood Safety with ongoing and new strategies to reduce all violence in the city, especially in hot spot neighborhoods.

Gayle’s successful election to the Richmond City Council in 2004 and to the Office of Mayor in 2006, without a penny of corporate money, marked a turning point in Richmond politics, when voters selected a candidate solely on the power of her ideas and values, rather than the power of wealthy special interests.

As a Richmond resident, Gayle co-founded the Richmond Progressive Alliance (RPA) in 2003, a gathering of Democrats, Greens and Independents coming together in progressive unity for a better and healthier Richmond. With the RPA she has worked on various civil rights, human rights, environmental health, and living wage issues to preserve and improve the quality of life of Richmond residents. Gayle also co-founded Solar Richmond, a nationally-recognized local program promoting solar power and green jobs in Richmond, and Richmond Residents for a Responsible General Plan, a community organization committed to ensuring that the General Plan process be transparent and open to public participation. Gayle holds a Bachelor of Science degree in psychology, graduating summa cum laude. Her graduate studies include psychology and education.

Amy Schur is the Campaign Director of the Alliance of Californians for Community Empowerment (ACCE). ACCE is a grassroots community organization in low and moderate income neighborhoods in eight counties across California. Amy is the lead organizer coordinating the grassroots Campaign to Restore Community Wealth in Richmond, California, working hand in hand with the Mayor of Richmond and a broader coalition. This foreclosure and blight prevention effort utilizes eminent domain to acquire troubled mortgages and fix them. Before launching ACCE in 2010, Amy was the Head Organizer of California ACORN. Amy has worked as a community organizer on the South side of Chicago, in Detroit, and in cities across California. She was the head staff person in California ACORN until 2004, when she went on to serve as ACORN’s National Campaign Director for four years. At the end of 2007 she left ACORN and did a brief stint at SEIU, working at the national level to develop their child care center organizing project. Between 1986 and 2009, California ACORN grew to be a 48,000 member organization with 11 chapters across the state. During the 21-year span of her organizing career to date, Amy has worked with community leaders on a range of successful issue and civic engagement
campaigns, including a statewide tenants rights effort that led to passage of strong slum housing protections, a housing campaign that passed anti-predatory lending laws in several cities and at the state level, and a powerful fight in LA County that stopped many of the abuses of the Workfare (type of welfare to work) program. Amy Schur graduated from Oberlin College in 1988, with a B.A. in Latin American Studies.
Richmond adopts eminent domain mortgage plan

July 30, 2013 | By Alejandro Lazo

Richmond is adopting a plan to take over underwater mortgages that would invoke the city’s eminent domain powers if necessary.

The city will be the first in the nation to formally adopt the novel but controversial plan that was rejected by San Bernardino County and two of its cities earlier this year.

The city said it will buy home mortgages from financial institutions, write down those loans and refinance homeowners in the properties into new loans. If financial institutions do not cooperate, the city will seize the loans using eminent domain, Richmond Mayor Gayle McLaughlin said.

"This is a tool to get the job done,” McLaughlin said. “The housing crisis is still ongoing.”

The city on Tuesday sent notice to the holders of more than 620 underwater mortgages for homes in the city, asking these servicers and trustees to sell the city these loans. The city sent letters to 32 entities. The city plans further such actions in the future, officials said in a conference call with reporters Tuesday.

Eminent domain is usually used to seize land — not loans — to serve the public good, as when local governments seize blighted properties. The Richmond plan would be the first widespread attempt at using eminent domain to seize residential mortgages.

The city will team up with the San Francisco firm Mortgage Resolution Partners, which last year pitched the plan to San Bernardino and two of its cities, Fontana and Ontario. That county and the two cities formed a Joint Powers Authority to consider the eminent domain idea but then shelved it after Wall Street groups voiced sizable opposition and little public support was heard. The county and the two cities were the first communities to consider the plan.

The Securities Industry and Financial Markets Association of New York has been a hefty opponent of the eminent domain plan, with its managing director appearing before a number of municipal meetings to speak against it. On Tuesday, the group reaffirmed its disapproval in a brief email to The Times.

McLaughlin, the Richmond mayor, said on Tuesday that city officials had spoken to members of the group but remained resolute to move forward despite their opposition.

"We are just not going to back down; we really feel it is the responsibility of the servicers and the banks to fix this, and they haven’t, so we are taking this into our own hands,” she said. “It is our community that is at stake here.” Mortgage Resolution Partners will provide the funding for Richmond to purchase the loans and also finance any litigation.
Richmond CARES
Community Action to Restore Equity & Stability
A Plan to Save Homes, Save Neighborhoods, Save Richmond

Frequently Asked Questions

Question: Will this program take people’s homes?

Answer: No. First, the program is entirely voluntary. Homeowners will “opt-in” if they think the program can benefit them. Second, the entire goal of this program is to keep people in their homes. Mortgage loans are often bought and sold many times. In this case, the City or a Joint Powers Authority (JPA) the city sets up will buy the loan in order to help the homeowner modify or refinance into a better loan with substantially reduced principal.

Question: How will the City pay for this program?

Answer: The City is partnering with private investors who have the capital to acquire the loans and cover the operational and legal costs of the program. The City would be in charge, making all programmatic decisions and designing the program, but the money would come from these investors.

Question: Will this help or hurt home values in Richmond? I’m hearing both arguments.

Answer: This program will reduce foreclosures and therefore help property values. Foreclosures have a huge negative impact on home values. Those who are saying it will hurt property values are confused. The concern stems from the incorrect belief that properties are being sold at below market value and so will factor into the “comps” – what comparable homes are selling for in the area – when the price of other homes is determined. This is not the case. These homes are not in fact being sold. The loan is being sold, or taken through eminent domain. The house itself will not be going through the sale process.

Richmond CARES
A Program to Help
Rebuild Our Neighborhoods &
Reboot Our Economy

Wall Street’s recklessness & greed crashed the economy and left Richmond neighborhoods reeling. Predatory lending stripped families of their hard-earned wealth. The community of Richmond is stepping in to fix some of what Wall Street broke.

The City of Richmond has taken initial steps to establish a program called Richmond CARES – Community Action to Restore Equity and Stability. This Local Principal Reduction program will reduce foreclosures, improve neighborhood home values & help the local economy.

Working with homeowners who opt-in to the program, the City will buy certain troubled underwater loans that the banks are unwilling to fix and modify them to be in line with current market home values. The idea is to start with a pilot program and then expand.

IMPORTANT FACTS
- Only homeowners who choose to will be in the program – it’s voluntary
- The property value of neighboring homes will benefit as foreclosures & blight are prevented and the housing market is stabilized
- The entire city will benefit from reduced blight, improved home values & increased consumer spending
- The City’s private partner in this program, MRP (Mortgage Resolution Partners) has agreed to cover all costs for this program
Question: Will the future cost of credit – mortgages – go up, as the opponents are saying?

Answer: Wall Street is threatening this, but it would be discriminatory and illegal. There is nothing that Richmond is proposing to do that should impact the future cost or availability of credit. Richmond is using legal means to acquire the loans, paying whatever is deemed to be “fair market value” for the loans, making sure that current investors are fairly compensated and left whole.

Question: What’s the risk for the City?

Answer: This program only moves forward if the City is not put at undue risk. A front-end agreement when this program started is that all costs will be covered by the outside funding partners and that they must indemnify taxpayers from legal and financial liabilities. The City and the program partners are currently working on this, to design the program in a way that will protect the City.

Question: But wasn’t the City just sued by Wells Fargo & Deutsche Bank?

Answer: The City was sued, which was always a real possibility given Wall Street’s opposition. But the City is not covering the costs of dealing with the lawsuit – our outside partners have lined up a top national law firm to defend the City at no cost to us. And of course, we think Wall Street’s lawsuit has no merit. The law is on our side. They filed this lawsuit because they want to scare us and other cities and they have endless money to throw at this.

Question: How valuable is this program, really? Is it worth all this trouble?

Answer: Many community leaders and elected leaders certainly think so! Richmond neighborhoods have been devastated by the housing crisis. Property values plummeted 58%. Half of all homeowners owe more on their mortgages than their homes are worth. Thousands of homeowners and tenants have lost their housing due to this crisis. Richmond’s economy needs a boost! This program can give Richmond this boost by reducing debt for struggling homeowners and pumping millions back into the local economy.

ACCE (Alliance of Californians for Community Empowerment)
322 Harbour Way, #25, Richmond, CA 94801
contracosta@calorganize.org www.SaveRichmondHomes.org
STATEMENT OF PRINCIPLES

On the use of Eminent Domain as a tool for preserving homeownership, resetting mortgages, and aiding local economies

Our Communities Are in Crisis

The housing crisis has devastated neighborhoods and communities across the country. As a result, millions of Americans have lost their homes, their life savings, and their jobs. Communities of color and low-income communities have borne the brunt of the impact. American homes lost more value in the aftermath of the housing crisis than they did during the Great Depression. These declining home values have only compounded the problem by pushing more borrowers underwater, making them more vulnerable to default.

- Nine million families have lost their homes to foreclosure since 2008.
- Two million families are currently delinquent on their loans and in the foreclosure pipeline.
- Fourteen million families are underwater on their mortgages.

Experts estimate that an additional seven to nine million foreclosures will result from the backlog of underwater and delinquent loans. These foreclosures will not just harm those families that lose their homes. They will also put further downward pressure on their neighbors’ property values, devastate the local property tax base, create neighborhood blight, increase crime, and cause other negative economic spillover effects.

They will also prolong the Great Recession and the jobs crisis. As these foreclosures cause home values to further deteriorate, the financial burden of paying off unrealistically valued loans will continue to harm families and depress local economies. The Federal Reserve has identified continuing weakness in the housing markets as a significant barrier to vigorous economic recovery.

Resetting Mortgages Is a Win/Win Solution

Experts agree that we need to write down the principal on underwater mortgages to fair market value to stabilize the housing markets and revive the economy. Not only would this be good for homeowners and their communities, but it would also be good for the investors who own these mortgages. When homes go into foreclosure, investors are saddled with many foreclosure-related costs that can add up to as much as 75 percent of the unpaid mortgage
principal, which is more than the haircut they would have to take if they agreed to reset the mortgages on those homes. Furthermore, even if the borrower of a particular loan does not default, the onslaught of foreclosures in the rest of the market still adversely affects the valuation of all mortgages held by investors. For this reason, there is an emerging consensus that it is also in mortgage investors’ interest to reset mortgages to fair market value.

Existing plans and programs are not solving the problem

Even though resetting mortgages to fair market value is in the interests of both homeowners and the investors that own those loans, there are two key structural barriers that have prevented this from happening:

- Many mortgages have been packaged into private label securities (PLS), and the structure of these securitizations subdivides ownership between investors in complex ways that block renegotiations that would be good for the homeowners and the PLS investors alike.
- Management rights over mortgage loans are typically given to servicers who have different incentives than investors and do not support renegotiations even if they would be good for both the homeowners and the investors.

Partly for these reasons, all of the foreclosure prevention programs put in place at the federal level have proved insufficient at dealing with the scale of the problem. None of them have offered a viable path to the widespread resetting of underwater mortgages, even though that is crucial to fixing the crisis facing our communities.

Eminent Domain is a tool that can allow local governments to cut the Gordian knot, reset mortgages, and prevent foreclosures, on a much larger scale

We cannot stand by and watch another seven to nine million families lose their homes. Eminent domain can help cut through the structural barriers that make it difficult to accomplish principal reduction on a meaningful scale even when it is in the interest of both homeowners and mortgage investors. The power of eminent domain allows a properly constituted public authority to buy mortgages out of the complicated structures they are now trapped in, and create the conditions for new sustainable mortgages at current home values to be written, while borrowers stay in their homes. The use of eminent domain has too often hurt communities of color and low-income communities in the past, but this is an opportunity for local governments to use it to the tremendous benefit of those same communities, who have been hit hardest by the housing crisis.

A program to use eminent domain to reset mortgages should be guided by these core principles:
1. The program must not leave any homeowner worse off.
2. The primary purpose of the program must be to put homeowners into good, sustainable mortgages with reduced principal and payments that they can afford.
3. Homeowners must be able to choose whether or not to participate in the program.
4. The servicing of loans in the program must adhere to the highest standards, both during any transitional period while they are being refinanced, and in the long run. These standards must include providing sustainable loan modifications if loans become distressed in the future. The program design must ensure sufficient servicer capacity to meet such standards.
5. The program must be designed to benefit the community in which it takes place as well as the individual homeowners participating.
6. Maximizing sustainable homeownership and community benefit must be the priority in all areas of program design.
7. Homeowners and community residents must be part of the planning and decision making process in the design and implementation of the program.
8. The program must not cost taxpayers anything.
9. Taxpayers must be indemnified for any legal or financial liabilities arising from the program.
Plan to Preserve Homeownership, Reset Mortgages & Aid Local Economies
August 2013

The Crisis Continues: Lost Homes, Lost Wealth, Neighborhoods Devastated, Recovery Slowed

- Americans as a whole lost 40% of their wealth from 2007-2010.¹

- African-American and Latino households have been particularly hard-hit, both because they were targeted for predatory loans and because a particularly high percentage of their wealth is in their homes. From 2005 to 2009, inflation-adjusted median wealth fell by 66% among Hispanic households and 53% among black households nationally.² Nearly 25 percent of loans in low-income neighborhoods and 20 percent of loans in high-minority neighborhoods have been foreclosed upon or are seriously delinquent.

- Communities and cities are harmed by destabilized neighborhoods, lower property values, reduced property tax revenue, and added costs borne by cities to deal with the rise in vacant properties.

- 1.8 million families lost their homes to foreclosure in 2012, and another 5.1 million³ are in foreclosure or delinquent. Currently, there are still some 13.8 million⁴ US homes underwater.

It’s Time to Tackle the Underwater Crisis: Preserve Homeownership & Aid Local Economies

- Top economists say that housing remains the single biggest impediment to economic recovery and that what’s needed is principal write-down.⁵

- No matter how many top economists and leaders call for a widespread principal reduction program, Wall Street bankers have been unwilling to take this step to help fix what they broke. It is because of Wall Street’s recklessness and greed that the U.S. has seen the greatest loss of homes and wealth in decades, taking an enormous toll on families, neighborhoods and the broader economy. And it’s not over, with 14 million households still underwater.

- Unsuspecting homeowners who are unlucky enough to have their loans sold to pools of private investors (trusts/private label securities/mortgage-backed securities) are often told that principal reduction is not allowed given the terms of these Wall Street investment deals. This is likely true in some cases and likely not true in others.

² http://www.pewresearch.org/daily-number/recession-takes-its-toll-on-household-wealth/
³ http://www.lpsvcs.com/LPSCorporateInformation/NewsRoom/Pages/default.aspx
⁴ zillowblog.com/research/2013/02/20/nearly-2-million-american-homeowners-freed-from-negative-equity-in-2012
⁵ Joseph Stiglitz and Mark Zandi, August 12, 2012 http://www.nytimes.com/2012/08/13/opinion/the-one-housing-solution-left-mass-mortgage-refinancing.html?_r=0
A Local Solution with a Big Impact: Local Principal Reduction

- Finally, there's a way for local communities to step in and take action to help homeowners and communities. Cities can acquire certain underwater loans and restructure them so that homeowners can refinance into a new loan in line with the current value of the home and current market interest rates. The city never takes possession of the homes themselves, but rather just the mortgage loans.

- This can be accomplished through a partnership with experts who have the legal and financial expertise to carry out the program and with investors who have the capital to acquire the loans and cover the costs of the program, both operational and legal. The city (or city/county joint-powers authority, if established) would be in charge, making all programmatic decisions.

- By recognizing the current “fair market value” of these loans, as opposed to the inflated value on the books, the loans can be acquired at a price that allows for a new mortgage to be written that no longer has the homeowner underwater.

- How can cities acquire these loans at fair market value? Two ways: First, the City can make an offer to purchase the loans (it’s possible that eminent domain is then needed to free the loan from the trusts they are packaged into). Second, if the investors that own the loans are unwilling to sell, the City can use its eminent domain authority to acquire the loans at “fair market value.”

- This program can have a tremendous impact for homeowners, communities, cities: If just the five most severely underwater US cities used eminent domain to write down the principal on all underwater homes, homeowners in those cities would save $6.2 billion a year on their mortgage payments, and as they spent that money it would create 91,000 jobs in those five cities alone.
LOCAL PRINCIPAL REDUCTION

MODEL RESOLUTION

WHEREAS the economic crisis caused by the big Wall Street banks has devastated our communities: Nearly five million families have lost their homes to foreclosure; nine million Americans have lost their jobs; 10 million families now owe more on their mortgages than their homes are worth; and state and local governments that have seen their property and sales tax receipts plummet are facing crippling budget crises;

WHEREAS foreclosures harm all homeowners and erode the property tax base: The foreclosure crisis has caused a ripple effect where each new foreclosure brings another distressed property on the market, pushing prices lower, and harming the value of all homes within a neighborhood. It is estimated that homes in foreclosure experience a 22% decline in value, but the impact to foreclosed properties themselves is just the tip of the iceberg. It is conservatively estimated that each foreclosed property will cause the value of neighboring homes within an eighth of a mile to drop 0.9%. As housing values decline, property tax revenues decline as well and in turn increase budget deficits and force cuts to services and jobs that support communities;

WHEREAS resetting mortgages on underwater homes to fair market value to fix the housing crisis is critical to our economic recovery and creating jobs: The overhang of underwater mortgage debt is one of the primary drags on economic recovery. Underwater homeowners owe nearly $1 trillion more on their mortgages than their homes are worth, money that would otherwise go into our economy in the form of consumer spending. More and more economists are saying resetting mortgages is the best way to stabilize the housing market, which is critical for a strong economic recovery. Resetting mortgages on underwater homes to fair market value would reduce foreclosures and stabilize the real estate market to create revenue and jobs in our city and nationally;

WHEREAS underwater mortgages are at significantly greater risk of going into foreclosure: Research shows that homeowners who are severely underwater on their mortgages are 150% to 200% more likely to default on their mortgages;

WHEREAS the foreclosure prevention efforts that have been implemented thus far at the local, state, or federal levels have failed to adequately address the crisis;

WHEREAS the City of Richmond, California is boldly advancing a Local Principal Reduction program to acquire underwater mortgages in private label securities at their current market values and then refinance the homeowners into new loans with reduced principal in order to bring their mortgages in line with current market values.

WHEREAS the City of Richmond is offering to purchase the loans at fair market value, but may consider using eminent domain to acquire the loans if its offers are not accepted;

WHEREAS the City of Richmond would pay fair market value to the investors of the underwater mortgages even if it used eminent domain to acquire them;
WHEREAS the City of Richmond’s use of eminent domain to acquire underwater mortgages would serve the public purpose of preventing blight and preserving the community and tax base;

WHEREAS Wall Street banks and the financial industry’s leadership have chosen to threaten the City of Richmond and other cities who are working on this innovative program with retribution if they move forward with their plans in an effort to bully local communities into backing off from utilizing the legal mechanisms at their disposal to address the crisis and to prevent further devastation;

Therefore Be It RESOLVED ______ (City or other entity) stands united with the Mayor and City Councilmembers of Richmond and any other city or community that attempts to utilize similar lawful methods at their disposal as they work to save homes and save neighborhoods. Further, we call on Wall Street banks, the Securities Industry and Financial Markets Association (SIFMA), and the Federal Housing Finance Administration which oversees Fannie Mae and Freddie Mac, to stop threatening our communities with reprisals and litigation and instead work with them to negotiate principal reduction for underwater mortgages to current market values in order to the stop the housing crisis, strengthen local economies and help keep families in their homes.

[and, if the timing is right]

Also, Be it RESOLVED, we will explore how a Local Principal Reduction program similar to the one being implemented by the City of Richmond could work here in ________________[City]. We instruct staff to bring back to Council within no more than 30 days a brief report on what this program would look like in our city, including an analysis of the number of loans that might qualify, an estimate of the average benefit to borrowers and the attendant economic benefit, as well as the names of potential funding partners available for the city to work with.
More Cities Consider Using Eminent Domain to Halt Foreclosures

New cities are joining the effort to head off home foreclosures by using a twist on the power of eminent domain, despite threats of financial retaliation from Wall Street and Washington.

On Saturday, Mayor Wayne Smith of Irvington, N.J., will announce that his mostly working-class city is proceeding with a legal study of the plan. Irvington could try to head off legal action and repercussions through what are called “friendly condemnations,” in which incentives are used to persuade the owner to drop any objections, he said. “We figure if this program works it can help anywhere from 500 to 1,000 homes.”

This summer the similarly working-class city of Richmond, Calif., in a heavily industrial part of the San Francisco Bay Area, became the first to identify homes worth far less than their owners owe, and offer to buy not the houses themselves, but the mortgages. The city intends to reduce the debt on those mortgages, saying that will prevent foreclosure, blight and falling property values. If the owners of the mortgages — mostly banks and investors — balk, the letters said, the city could use eminent domain to condemn and buy them.

Since then, intense pressure from Wall Street and real estate interests, including warnings that mortgages will become difficult or impossible for Richmond residents to get, has whittled away support for the plan. The city has yet to actually use its power of eminent domain, but it is already fighting two lawsuits filed in federal courts.

Still, cities hard hit by the housing crash are showing interest. Yonkers, just north of New York City, will soon take up a resolution to study the use of eminent domain to reduce debt, and support is building in Newark as well. In California, Pomona and Oakland are considering it as well.
“Things seem to be picking up steam in Minnesota, and I’ve just been contacted in the past couple of weeks by two cities in Pennsylvania as well,” said Robert Hockett, a Cornell University law professor and one of the architects of the strategy. Nationally, housing prices have begun to recover, but about one in five homeowners still owes more than the home is worth, and in cities like Richmond as many as half do.

Several local governments that have considered the plan eventually backed away, including San Bernardino County and North Las Vegas. But, Mr. Hockett said, “We’re moving into a kind of second generation of municipal interest that is more hard core — it’s interest with a spine, so to speak.”

The cities are all still in the early stages of considering the plan.

In New Jersey, the American Civil Liberties Union has also joined the effort, saying that opponents are using threats to keep cities from exercising their legal right to employ eminent domain.

Opponents of the strategy, including the institutional investors BlackRock and Pimco, Wells Fargo and the Mortgage Bankers Association, say that taking mortgages by eminent domain is a breach of individual rights and that investors will not receive fair market value for the mortgages. In Richmond, Mayor Gayle McLaughlin has asked investors to come to the table to work out a price, but they have so far declined to negotiate.

The Federal Housing Finance Agency, which oversees the mortgage giants Fannie Mae and Freddie Mac and controls most mortgages in the country, has said that the eminent domain strategy is “a clear threat to the safe and sound operations of Fannie Mae, Freddie Mac and the Federal Home Loan Banks” and that it may take legal action against cities that use it or limit mortgage activity there. In Congress, a housing finance bill by Jeb Hensarling, a Texas Republican and chairman of the Committee on Financial Services, would effectively end mortgage financing in cities that used eminent domain.

On Friday, letters signed by 10 Democratic members of Congress were expected to be sent to Edward J. DeMarco, the acting director of the Federal Housing Finance Agency, and Shaun Donovan, secretary of housing and urban development, saying that any policies that restrict mortgage lending in areas that use eminent domain would violate anti-discrimination laws.

“We write to express our disappointment that the Federal Housing Finance Agency is actively supporting and threatening legal action against communities which consider exercising their legal rights to use eminent domain to help struggling homeowners,” the letter to Mr. DeMarco said.

A version of this article appears in print on November 16, 2013, on page B4 of the New York edition with the headline: More Cities Consider Eminent Domain to Halt Foreclosures.
Can Eminent Domain Be Used to Avert a Foreclosure Mess? This California City Thinks So

Governments usually use eminent domain powers to displace people. But one hardscrabble Bay Area city is going to the mat to do just the opposite—stabilize its economy and keep residents where they are.

by Mark Andrew Boyer

posted Oct 18, 2013

Morris LeGrande believes that, sooner or later, the bank's going to come for his house. The 57-year-old jazz musician lives in the largely African-American Park Plaza neighborhood of Richmond, Calif., and owes more than $400,000 on his mortgage. According to a recent assessment, his house is only worth about $130,000. LeGrande is current on his payments, but in 22 years he will have to make a single lump-sum payment of $194,000.

"At the end of the day, we will lose this home," LeGrande says. "There's no doubt about it."

LeGrande has become a de facto spokesman for underwater homeowners in a city where more than 40 percent of all mortgages are underwater, according to Zillow.

Richmond, a city of about 100,000 people (where the largest employer is a local Chevron refinery that made national headlines last year for a massive fire leading thousands of residents to sue for damages) is contemplating using an unlikely tool to rescue homeowners and help keep them in their homes: the power of eminent domain.

The city has become ground zero in a standoff between housing advocates and big banks, which argue that the unprecedented scheme could unsettle the market for complex mortgage-backed securities.

Richmond's eminent domain plan seeks to stabilize its local economy by preventing foreclosures from taking place.

If the plan succeeds, it could set off a chain reaction among cities big and small. And it could transform eminent domain—a power that has long been used to displace residents, often in communities of color—into a tool to help stabilize neighborhoods.

Here's what has happened so far: In July, city officials sent letters to 32 mortgage companies offering to purchase more than 600 underwater mortgages for about 80 percent of their market value. (80 percent, the plan's proponents say, because some loans are at risk of default, though banks have countered that the markdown is merely a moneymaking scheme since the principal amounts will be adjusted to their full market value). Once the city obtains the loans, it will help homeowners refinance
at more affordable rates. If the banks refuse to sell, Richmond is threatening to use eminent domain to seize the mortgages.

**The contagion of foreclosure**

The idea of using eminent domain to this end is widely attributed to Cornell University law professor Robert Hockett. Under the plan, Richmond would use its power to seize the mortgages, write down the principal to its fair market value, and refinance them at more affordable rates through government programs.

Eminent domain is a power that cities have traditionally used to force people from their homes to make way for large public works, like highways and stadiums.

"[It] has become what the founding fathers sought to prevent: a tool that takes from the poor and the politically weak to give to the rich and politically powerful," writes Dr. Mindy Fullilove, a professor of clinical psychiatry at Columbia University, in the conclusion to her 2007 Institute for Justice report, "Eminent Domain and African Americans."

**Foreclosures have a "contagion effect" on neighborhoods. They significantly drive down the property values of nearby, non-distressed homes because of deferred maintenance, neglect, and vacancy.**

Drawing on a decades-long history of seizure, Fullilove notes that from 1949-1973, more than 2,500 projects in 992 cities were carried out through eminent domain—displacing a million people. Two-thirds of them were African-American.

"What the government takes from people is not a home, with a small 'h', but Home in the largest sense of the word: a place in the world, a community, neighbors and services, a social and cultural milieu, an economic anchor that provides security during the ups and downs of life, a commons that sustains the group by offering shared goods and services," Fullilove writes.

Remarkably, Richmond is looking to become the first city to use eminent domain to keep people in their homes—and in their "Home," economically anchored.

LeGrande, who is African-American, says that Richmond's initiative is "a use of eminent domain where for once we don't get the short end of the stick."

If LeGrande were to lose his home to foreclosure, he wouldn't be the only one affected. Richmond Mayor Gayle McLaughlin says that foreclosures have a "contagion effect" on neighborhoods. They significantly drive down the property values of nearby, non-distressed homes because of deferred maintenance, neglect, and vacancy. According to one recent study, each foreclosure can also cost local governments upwards of $19,000 in lost property taxes, court fees, and in some cases, demolition costs.

Richmond's eminent domain plan seeks to stabilize its local economy by preventing foreclosures from taking place. According to a recent estimate by the Department of Housing and Urban Development, enabling underwater homeowners to refinance and preventing foreclosure can provide more than $37,000 in combined economic benefits to the homeowner, neighbors, local government, and lenders.

Mortgage Resolution Partners, a San Francisco-based investment firm, is partnering with the city in an advisory role. If the plan moves forward, the firm will search for funders who can lend the city enough money to buy the loans from their current owners. And for each mortgage that is acquired and refinanced through the program, MRP will earn a flat fee of $4,500. There are billions of dollars in state and federal programs that are available to help homeowners restructure their loans, says John
Vlahoplus, MRP's chief strategy officer. Once they obtain the loans, MRP and Richmond plan to refinance them through those government programs.

The loans Richmond made offers on aren't just any underwater mortgages. They're private-label securities, which have been pooled with other mortgages to back bonds. The trustees of these private-label securities have said that they can't sell or modify them, and that's exactly why Richmond officials targeted them: because homeowners with these complex loans are unable to get loan adjustments.

**Strong opposition**

The aim is to prevent foreclosures, but big banks argue that the novel use of eminent domain could quickly destabilize the market for mortgage-backed securities because it would destroy the relationship between lender and debtor. Investor losses from the Richmond program alone could exceed $200 million, the banks have said. And if the plan succeeds in Richmond, it could open the floodgates to similar initiatives around the country.

Locally, the loudest critics of the program have come from real estate professionals. The Western Contra Costa Association of Realtors has blanketed the city with flyers warning that the scheme will drive down property values and make it harder for people to sell their homes.

At a public forum attended by several dozen Richmond residents in September, local realtor Jeff Wright said Wall Street investors stood to benefit from the plan, but that local homeowners would suffer. (Wright earned jeers at the forum by defending the banks' role in the mortgage crisis, offering loans to buyers who could not really afford them. "You can't blame the banks for having a product and selling it," he said.)

In August, Wells Fargo and Deutsche Bank filed a lawsuit to prevent the plan from going forward. "If Richmond is allowed to proceed, other local governments would likely follow suit, with the result that losses across residential mortgage backed securities trusts and their investors would exceed billions of dollars," said Rocky Tsai, an attorney for the banks, in a court filing.

**Though critics of the program have framed it as a risky venture that could cripple Richmond's real estate market, to McLaughlin, the riskiest thing would be to do nothing at all.**

A federal judge isn't buying the banks' argument, though—not yet, at least. In mid-September, U.S. District Judge Charles Breyer dismissed the lawsuit, ruling that the banks can't sue the city for something it hasn't done yet.

So far, the only thing Richmond officials have done is send out letters to 32 banks and mortgage companies offering to buy the mortgages. The banks have responded that they don't have the authority to sell the loans. "If [the banks] have the authority to sue the city, it certainly sounds like they have the authority to sell the loan," Richmond Mayor Gayle McLaughlin said.

Richmond City Manager Bill Lindsay says he still hopes that the banks will be willing to sell the loans. "We are still hopeful that we can implement the program without ever using eminent domain through negotiation with the lenders," Lindsay said on Monday. But if the banks refuse to sell and the city does invoke eminent domain, it can expect more litigation.
A domino effect of foreclosure resistance

Other towns and cities battered by the mortgage crisis have taken note and are waiting to see what happens. If the Richmond plan succeeds, others will likely copy it. The Seattle City Council recently hired Hockett to study that city's foreclosure problem, and he suggested that Seattle also use eminent domain to keep people in their homes. And just across the bay from Richmond, San Francisco Supervisor David Campos recently revealed plans to propose similar measures to the County Board of Supervisors.

Though critics of the program have framed it as a risky venture that could cripple Richmond's real estate market, to McLaughlin, the riskiest thing would be to do nothing at all. Because of the impact that each foreclosure has on surrounding home values, she says the plan isn't just to help the owners of the 624 mortgages the city made offers on—it's to prevent entire neighborhoods from slipping into decline.

"It becomes a domino effect for the whole neighborhood," McLaughlin says. "The city's goal is to prevent harm to all of us, as neighbors and residents of Richmond."

Meanwhile, LeGrande and Richmond's other underwater homeowners are waiting to see what happens. Since he anticipates he will eventually lose his home, he questions the wisdom of holding on to his mortgage at all.

"This has placed us in a position where if it doesn't happen, then we will more than likely leave this city, because this is like placing money down a hole," LeGrande says.

Mark Andrew Boyer wrote this article for YES! Magazine's Commonomics project. Mark is a photographer and writer based in the San Francisco Bay Area. His work has appeared in GOOD, Inhabitat, and Mindful Metropolis.
ORDINANCE
OF
JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 13.097

TITLE:
ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3
(ADMINISTRATION OF GOVERNMENT) ARTICLE VI (DEPARTMENT OF
ADMINISTRATION) OF THE JERSEY CITY MUNICIPAL CODE TO IMPLEMENT
PAID SICK TIME

COUNCIL offered and moved adoption of the
following Ordinance:

WHEREAS, most workers in Jersey City will at some time during each year need limited time
off from work to take care of his or her own health needs or the health needs of family members;
and

WHEREAS, nationally, nearly forty percent of private sector workers are without access to any
paid sick time, and many workers who do have access to paid sick time are disciplined for using
it, or cannot use that time to care for sick children; and

WHEREAS, the lack of paid sick days is a problem for residents of Jersey City as well; and

WHEREAS, low-income workers are significantly less likely to have access to paid sick time
than other members of the workforce, and nationally, only one in five of the lowest-income
workers (21 percent) has access to paid sick time; and

WHEREAS, providing workers time off to attend to their own health care and the health care of
family members will ensure a healthier and more productive workforce in Jersey City; and

WHEREAS, paid sick time will have a positive effect on the individual and public health of
Jersey City by allowing workers to earn a limited number of hours per year to care for
themselves or a close family member when illness strikes or medical needs arise. Paid sick time
will reduce recovery time, promote the use of regular medical providers rather than hospital
emergency departments, and reduce the likelihood of people spreading illness to other members
of the workforce and to the public; and

WHEREAS, paid sick time will also reduce health care expenditures by promoting access to
primary and preventive care. Nationally, providing all workers with paid sick time would result
in $1.1 billion in annual savings in hospital emergency department costs, including more than
$500 million in savings to publicly-funded health insurance programs such as Medicare,
Medicaid and SCHIP. Access to paid sick time can also help decrease the likelihood that a
worker will put off needed care, and can increase the rates of preventive care among workers
and their children; and

WHEREAS, paid sick time will allow parents to provide personal care for their sick children.
Parental care makes children’s recovery faster and can prevent future health problems. Parents
who do not have paid sick time are more than twice as likely as parents with paid sick days to
send a sick child to school or daycare, and five times more likely to report taking their child or a
family member to a hospital emergency room because they were unable to take time off work during their regular work hours; and

WHEREAS, paid sick time will reduce the spread of contagious diseases. Workers in jobs with high levels of public contact, such as restaurant workers and child care workers, are very unlikely to have access to paid sick time. As a result, these workers may have no choice but to go to work when they are ill, thereby increasing the risk of passing illnesses on to co-workers and customers while jeopardizing their own health. Overall, people without paid sick days are 1.5 times more likely than people with paid sick days to go to work with a contagious illness like the flu; and

WHEREAS, a recent peer-reviewed epidemiological study found that nearly one in five food service workers have come to work with vomit and/or diarrhea inducing illnesses in the past year, creating dangerous health conditions. The largest national survey of U.S. restaurant workers found that two-thirds of restaurant wait staff and cooks have come to work sick; and

WHEREAS, in the event of a disease outbreak that presents a threat to public health, for example the H1N1 outbreak of 2009, government officials request that sick workers stay home and keep sick children home from school or child care to prevent the spread of illness, and to safeguard workplace productivity. However, because many workers lack paid sick time, they may be unable to comply; and

WHEREAS, during the height of the H1N1 pandemic, workers with lower rates of access to paid sick days were more likely than those with higher rates of access to paid sick days to go to work sick and, as a result, the pandemic lasted longer in their workplaces as the virus spread from co-worker to co-worker. A new study estimated that lack of paid sick time was responsible for five million cases of influenza-like illness during the pandemic; and

WHEREAS, providing paid sick time is good for businesses because paid sick time results in reduced worker turnover, which leads to reduced costs incurred from advertising, interviewing and training new hires. Firing and replacing workers can cost anywhere from 25 to 200 percent of an employee’s annual compensation; and

WHEREAS, paid sick time will reduce the risk of “presenteeism,” workers coming to work with illnesses and health conditions that reduce their productivity, a problem that costs the national economy $160 billion annually; and

WHEREAS, paid sick time will reduce the competitive disadvantage that many employers face when they choose to provide sick time to their workers.

NOW, THEREFORE BE IT ORDAINED, by the Municipal Council of the City of Jersey City that:

A. The following amendments to Chapter 3-(Administration of Government) Article VI (Department of Administration) are hereby adopted:

ADMINISTRATION OF GOVERNMENT
ARTICLE VI
Department of Administration

§3-50. Definitions.

For the purposes of this Ordinance, the following terms shall have the meanings indicated:

CALENDAR YEAR – is a regular and consecutive twelve-month period, as determined by an employer.

DEPARTMENT – is the Department of Health & Human Services.

EMPLOYER – Any entity as defined by N.J.S.A. 34:11-56a1(g) that operates as a
business in Jersey City.

EMPLOYEE(S) - Employee(s) as defined in N.J.S.A. 34:11-56a1(h) including an employee of a franchise(s) or business(s) owner located in Jersey City, who works in Jersey City for at least 80 hours in a year. Employee(s) for purposes of this ordinance does not include any person employed by any governmental entity or instrumentality including any New Jersey school district or Board of Education and including Rutgers, The State University and subdivisions of Rutgers.

FAMILY MEMBER - is defined as:
(a) a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child of a civil union partner, or a child to whom the employee stands in loco parentis; (b) a biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse, domestic partner or civil union partner or a person who stood in loco parentis when the employee was a minor child; (c) a person to whom the employee is legally married under the laws of New Jersey or any other State or with whom the employee has entered into a civil union; (d) a grandparent or spouse, civil union partner or domestic partner of a grandparent; (e) a grandchild; (f) a sibling; (g) a domestic partner of an employee as defined in N.J.S.A. 26:8A-3 et seq.

HEALTH CARE PROFESSIONAL - means any person licensed under Federal or New Jersey law to provide medical or emergency services, including but not limited to doctors, nurses and emergency room personnel.

PAID SICK TIME - means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in Section 3-52A(1-11) of this Ordinance, but in no case shall the hourly wage be less than that provided under N.J.S.A. 34:11-56a.

RETRIBUTION - means the denial of any right guaranteed under this Ordinance and any threat, discipline, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein.

UNPAID SICK TIME - means time that is allowed and accrued in the same manner as Paid Sick Time however, but for which leave an employee is neither penalized nor compensated.

§3-51. Purpose.

Purposes of this ordinance are:

1. To diminish public and private health care costs and promote preventive health services in Jersey City by enabling workers to seek early and routine medical care for themselves and their family members;

2. To protect the public's health in Jersey City by reducing the spread of contagious diseases;

3. To promote the economic security and stability of workers and their families;

4. To protect employees in Jersey City from losing their jobs or facing workplace discipline while they use paid sick time to care for themselves or their families;

5. To safeguard the public welfare, health, safety and prosperity of the people of Jersey City; and

6. To accomplish the purposes described in paragraphs (1)-(7) in a manner that is feasible for employers.
§3-52. Application.

This Ordinance requires all those employed within the City of Jersey City to accrue either paid or unpaid sick time from their employer as mandated by this Ordinance utilizing the formula applied herein.

Individuals who work for employers who employ ten (10) or more employees shall accrue compensated sick time.

Individuals who work for employers who employ less than ten (10) employees shall accrue sick time. However, this sick time need not be compensated.

Taking of sick time, whether compensated or not shall not be the basis of an adverse employment action.

A. Accrual of Paid Sick Time.

1. Employees shall accrue a minimum of one hour of paid sick time for every 30 hours worked.

2. Employers who employ ten or more employees for compensation are not required to provide more than 40 hours of paid sick time in a calendar year. In determining the number of employees performing work for an employer, all employees performing work for compensation on a full-time, part-time, or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation fluctuates, the number of employees may be determined for the current calendar year based upon the average number of employees who worked for compensation during the preceding calendar year.

3. Employees who are exempt from overtime requirements under 29 U.S.C. § 201 et seq. of the Federal Fair Labor Standards Act are assumed to work 40 hours in each work week for purposes of paid sick time accrual unless their normal work week is less than 40 hours, in which case paid sick time accrues based upon that normal work week.

4. Paid sick time as provided in this section begins to accrue at the commencement of employment.

5. Employees begin to accrue paid sick time on the first day of employment. Employees are entitled to use accrued paid sick time beginning on the 90th calendar day of their employment. After the 90th calendar day of employment, employees may use paid sick time as it is accrued.

6. Paid sick time is carried over to the following calendar year except that no employer is required to carry over more than 40 hours of paid sick time from one calendar year to the next and nothing in this section entitles an employee to use more than 40 hours of paid sick time in a calendar year.

7. Any employer with a paid leave policy, such as a paid time off policy, that provides an amount of paid leave sufficient to meet the total annual accrual requirements of this section that may be used for the same purposes and under the same conditions as paid sick time under this Ordinance is not required to provide additional paid sick time.

8. Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued paid sick time that has not been used.

9. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all paid sick time accrued at the prior division, entity, or location and is entitled to use all paid sick time as provided in this section. If there is a separation from employment and the employee is rehired within
six (6) months of separation, previously accrued paid sick time that had not been used shall be reinstated. Further, the employee is entitled to use accrued paid sick time and accrue additional paid sick time at the re-commencement of employment.

10. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all paid sick time accrued when employed by the original employer and are entitled to use all paid sick leave previously accrued.

11. At its discretion, an employer may loan sick time to an employee in advance of accrual by such employee.

B. Accrual of Unpaid Sick Time.

1. Employees who are not entitled to paid sick time under this ordinance, shall accrue a minimum of one hour of unpaid sick time for every 30 hours worked.

2. Employers who employ less than ten employees for compensation are not required to provide more than 40 hours of unpaid sick time in a calendar year. In determining the number of employees performing work for an employer, all employees performing work for compensation on a full-time, part-time, or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation during the preceding calendar year.

3. Employees who are exempt from overtime requirements under 29 U.S.C. § 201 et.seq. of the Federal Fair Labor Standards Act are assumed to work 40 hours in each work week for purposes of paid sick time accrual unless their normal work week is less than 40 hours, in which case paid sick time accrues based upon that normal work week.

4. Unpaid sick time as provided in this section begins to accrue at the commencement of employment.

5. Employees begin to accrue unpaid sick time on the first day of employment. Employees are entitled to use accrued unpaid sick time beginning on the 90th calendar day of their employment. After the 90th calendar day of employment, employees may use unpaid sick time as it is accrued.

6. Unpaid sick time is carried over to the following calendar year except that no employer is required to carry over more than 40 hours of unpaid sick time from one calendar year to the next and nothing in this section entitles an employee to use more than 40 hours of unpaid sick time in a calendar year.

7. Any employer with a paid leave policy, such as a paid time off policy, that provides an amount of paid leave sufficient to meet the total annual accrual requirements of this section that may be used for the same purposes and under the same conditions as paid sick time under this Ordinance is not required to provide additional paid sick time.

8. Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued paid sick time that has not been used.

9. If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all unpaid sick time accrued at the prior division, entity, or location and is entitled to use all unpaid sick time as provided in this section. If there is a separation from employment and the employee is rehired within six (6) months of separation, previously accrued unpaid sick time that had not been used shall be reinstated. Further, the employee is entitled to use accrued unpaid sick time and accrue additional unpaid sick time at the re-commencement of
employment.

10. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all paid sick time accrued when employed by the original employer and are entitled to use all paid sick leave previously accrued.

11. At its discretion, an employer may loan sick time to an employee in advance of accrual by such employee.

C. Use of Sick Time.

1. Sick time shall be provided to an employee by an employer for:

   a. An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventive medical care;

   b. Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventive medical care; and

   c. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.

2. Sick time shall be provided upon the oral request of an employee.

3. An employee shall give an employer notice of the need to use sick time as soon as practicable.

4. An employer may not require, as a condition of an employee's taking sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is absent.

5. Accrued sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

6. For sick time of more than three (3) consecutive days, an employer may require reasonable documentation that the paid sick time has been used for a purpose covered by Section 3-51.1A of this Ordinance. Reasonable documentation includes documentation signed by a healthcare provider indicating that paid sick time is necessary. An employer may not require that the documentation explain the nature of the illness.

§3-52.1. Exercise of Rights Protected; Retaliation Prohibited.

A. No person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Ordinance.

B. No person shall retaliate against an employee because the employee has exercised rights protected under this Ordinance.
C. The rights protected under this Ordinance include but are not limited to the right to request and use paid sick time pursuant to this Ordinance; the right to file a complaint or inform any person about any employer's alleged violation of this Ordinance; the right to cooperate with the Agency in its investigations of alleged violations of this Ordinance; the right to participate in any administrative or judicial action regarding an alleged violation of this chapter; and the right to inform any person of his or her potential rights under this Ordinance.

D. It is unlawful for an employer's absence control policy to count paid sick time taken under this Ordinance as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

E. Protections of this section apply to any person who mistakenly but in good faith alleges violations of this Ordinance.

F. There is a rebuttable presumption of unlawful retaliation under this section whenever an employer takes adverse action against a person within 90 days of when that person: (a) files a complaint with the Agency or a court alleging a violation of any provision of this Ordinance; (b) informs any person about an employer's alleged violation of this Ordinance; (c) cooperates with the Agency or other persons in the investigation or prosecution of any alleged violation of this Ordinance; (d) opposes any policy, practice, or Ordinance that is unlawful under this Ordinance; or (e) informs any person of his or her potential rights under this Ordinance.

§3-52.2. Notice and Posting.

A. All employers shall give individual written notice to each of their employees at the commencement of the employee's employment (or as soon as practicable if the employee is already employed on the effective date of this law) regarding employee's rights under this Ordinance. Such notice shall describe the right to paid sick time, the accrual rate and the amount of paid sick time, and the terms of its use guaranteed under this Ordinance; the right to be free from retaliation for requesting use of paid sick time; and the right to file a complaint or bring a civil action if paid sick time is denied by the employer or the employee is retaliated against for requesting or taking paid sick time. Such notice shall be in English and the primary language spoken by that employee provided that the Department has made available a translation of such notice into such language.

B. Employers shall also display a poster in a conspicuous and accessible place in each establishment where employees are employed containing notice of this Ordinance. The poster shall be in English and in any language that is the first language of at least 10% of the employer's workforce provided that the Department has made available a translation of such notice into such language.

C. The Department shall create and make available to employers individual notices and posters. Notices and posters shall be provided in English, Spanish, Italian, Chinese, Polish, Portuguese, Tagalog, and any other languages selected by the Agency.

D. An employer who violates the notice and posting requirements of this section is subject to a civil fine in an amount not to exceed $100 for each employee who was not given appropriate notice pursuant to this section and $500 for each establishment in which a poster was not displayed.

§3-52.3. Employer Records.

Employers shall retain for three years records documenting hours worked by employees and paid sick time taken by employees and shall allow the Department reasonable access to such records, to monitor compliance with the requirements of this Ordinance. An employer's failure to maintain or retain adequate records documenting hours worked by an employee and paid sick time taken by an employee create a rebuttable presumption that the employer has violated the
§3-52.4  Enforcement and Regulations.

A. The Department shall coordinate implementation and enforcement of this Ordinance and shall promulgate appropriate guidelines or regulations for such purposes.

B. The Department shall coordinate implementation and enforcement of this Ordinance, including, but not limited to:

1. establishing a system to receive complaints, in writing and by telephone, in English, Spanish, and any other language deemed appropriate by the Department regarding the employers non-compliance with this Ordinance;

2. investigate and resolve complaints received by the Department in a timely manner and keep complainants notified regarding the status of the investigation;

3. engage in pro-active enforcement of this Ordinance through the use of audits, on-site investigations, or other measures to ensure employer’s compliance. Investigators from the Department shall be empowered to interview employees and former employees in private outside the presence of the employer, and the power to determine whether or not employers have complied with this Ordinance. The Department shall also have the power to inform residents of the City of their rights under this Ordinance.

C. The Department shall maintain confidential the identity of any complaining person unless disclosure of the identity is necessary for resolution of the investigation. The Department shall, to the extent practicable, notify a complaining person that the Department will be disclosing his or her identity prior to such a disclosure.

D. The Department shall establish a system for reviewing and adjudicating complaints by employees. Employers deemed by the Department to be in violation of this Ordinance shall be subject to the penalty prescribed in §1-25 of the Municipal Code: the maximum penalty for violating this Ordinance shall be, in the discretion of the Court, a fine of up to $1,250.00 and/or a period of community service not exceeding ninety (90) days. This penalty shall apply to each individual infraction of this Ordinance. This section shall not affect any mandatory minimum penalty established by any section of the Code or ordinance.

E. Any person claiming to be aggrieved by the violation of this Ordinance may bring a cause of action in any court of competent jurisdiction. Submitting a complaint to the Department is neither a prerequisite nor a bar to bringing private action.

§3-52.5  Confidentiality and Non-disclosure.

An employer may not require disclosure of details relating to an employee's or an employee’s family member’s medical condition as a condition of providing paid sick time under this Ordinance. If an employer possesses health information about an employee or employee’s family member, such information shall be treated as confidential and not disclosed except to the affected employee or with the permission of the affected employee.

§3-52.6  Encouragement of More Generous Paid Sick Time Policies; No Effect on More Generous Policies.

A. Nothing in this Ordinance shall be construed to discourage or prohibit an employer from the adoption or retention of a paid sick time policy more generous than the one required herein.

B. Nothing in this Ordinance shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment
benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.

C. Nothing in this Ordinance shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of the State of New Jersey pertaining to public employees.

§3-52.7. Research.

The City shall contract to have a research study undertaken to measure and evaluate the economic impact on businesses and the impact on the health of residents as a result of this Ordinance. This study shall begin one year from the effective date of this Ordinance, and the City shall engage the services of a competent research institution to conduct this study.

§3-52.8. Severability.

If any provision of this Ordinance or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

§3-52.9. Effective Date.

This Ordinance will take effect 120 days following enactment except that in the case of employees covered by a collective bargaining agreement in effect on the effective date prescribed herein, this Ordinance shall apply on the date of the termination of such agreement.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

D. This ordinance shall take effect at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repeaters of existing provisions.

Note: All material is new, therefore underlining has been omitted.
Ordinance amending and supplementing Chapter 3 (Administration of Government) Article VI (Department of Administration) of the Jersey City Municipal Code to implement paid sick time.

### RECORD OF COUNCIL VOTE ON INTRODUCTION

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### RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING

- Councilperson **LAVARRO** moved, seconded by Councilperson **COLEMAN** to close P.H.

### RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY

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### RECORD OF FINAL COUNCIL VOTE

- Councilperson **LAVARRO** moved to amend* Ordinance, seconded by Councilperson **COLEMAN** & adopted

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<td>LAVARRO, PRES.</td>
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*Indicates Vote

N.V.-Not Voting (Abstain)

**Adopted on first reading of the Council of Jersey City, N.J. on SEP 11 2013**

**Adopted on second and final reading after hearing on SEP 2 5 2013**

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on SEP 2 5 2013

**APPROVED:**

Rolando R. Lavarro, Jr., Council President

Date SEP 2 5 2013

**APPROVED:**

Steven Fulop, Mayor

Date SEP 2 6 2013
Calling it a matter of “basic human dignity,” the mayor of Jersey City wants to require all but the smallest businesses to provide their employees paid sick days.

The bill would make the city, which is New Jersey’s second largest, the first in the state and one of the few nationwide to require paid sick leave. It is modeled on similar laws enacted in several cities over the last several years.

But it would go further than most, requiring any business with 10 or more employees to provide up to five paid sick days each year. Companies with fewer employees would have to provide five unpaid sick days.

In contrast, a bill passed by the New York City Council this year — after a veto by Mayor Michael R. Bloomberg — will require employers with 20 or more employees to provide paid sick leave when it takes effect next year; the following year, it will extend to workplaces with 15 or more employees. The city exempted manufacturers, as does a state law in Connecticut that requires employers with 50 or more workers to provide paid sick leave.

The policy proposed by Mayor Steven Fulop in Jersey City would not include that exemption. As in other cities, workers would earn a day of sick time for each 30 days worked.

Mr. Fulop, who worked in his parents’ deli in Newark when he was growing up, said he had fashioned his proposal so as not to hurt the businesses, like bodegas or start-ups, that struggle most.

“But once you get to a point that you have a stable work force, with 10 or more people,” he said, “it’s a reasonable thing to say they shouldn’t be at risk for losing their jobs or penalized if unfortunately they get sick or a loved one does.”

As financial firms have moved across the Hudson River, Jersey City has become more affluent; Mr. Fulop, 36, first moved there to work for Goldman Sachs. But he said the policy was aimed particularly at helping lower-wage workers.
“It’s an opportunity to make sure that employers who move here are conscious of this basic dignity for working families,” Mr. Fulop said.

The mayor, who was sworn in on July 1, will propose the bill to the City Council next week; its chances are considered good, given that the majority of the members are aligned with him.

A coalition of community and union groups is pushing the bill as a matter of good public health: food service workers who can stay home are less likely to spread germs, as are sick children whose parents can stay home with them, thanks to the bill.

“We think that people understand that it’s important for workers not to have to choose between taking care of their loved ones and a day’s pay,” said Kevin Brown, a vice president of a local service workers union.

In other cities that have debated paid sick leave, opponents have argued that it is too expensive, particularly for small businesses. While Portland, Ore.; Washington; and San Francisco have all passed paid sick-leave policies, about a half-dozen states have passed laws prohibiting municipalities from doing so. But studies have shown that most employers ultimately support the policy, and report that it has not made them less profitable.
Jersey City's smart push for paid sick days: Editorial

By Star-Ledger Editorial Board

on September 05, 2013 at 9:00 AM, updated September 05, 2013 at 9:03 AM

Jersey City Mayor Steve Fulop has proposed mandatory paid sick time for the city's private-sector workers. The Jersey Journal

When a stomach bug flattens your family, should it cost a day’s pay? Does flu season put you in fear of losing your job? For more than 1.2 million New Jersey workers without paid sick days, catching a cold means choosing between their health and their job.

**Paid sick days**

More private-sector employers offer paid time off for illness today than 20 years ago.

<table>
<thead>
<tr>
<th>Percent of private industry workers with access to paid sick leave</th>
<th>1992-1993</th>
<th>2012</th>
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<tbody>
<tr>
<td>All workers</td>
<td>50</td>
<td>61</td>
</tr>
<tr>
<td>Full-time workers</td>
<td>58</td>
<td>75</td>
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<tr>
<td>Part-time workers</td>
<td>16</td>
<td>23</td>
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<tr>
<td>Companies with fewer than 100 workers</td>
<td>44</td>
<td>52</td>
</tr>
<tr>
<td>Companies with 100 workers or more</td>
<td>59</td>
<td>72</td>
</tr>
</tbody>
</table>

**Source:** Bureau of Labor Statistics

Jersey City Mayor Steve Fulop is calling for nearly all city businesses to guarantee time off for illness. His proposal, requiring companies with 10 or more workers to offer five paid sick days a year, goes to the city council next week, he told the New York Times. He says it’s a matter of “basic dignity for working families.”

Fulop puts himself smartly in front of this nationwide trend. Letting sick workers stay home is good for their health — not to mention their co-
workers’, or the customers’. Do you want a sniffling, sneezing waiter serving lunch because he’ll be fired if he stays home?

In 1992, half the nation’s workers got paid sick time. Twenty years later, it’s 61 percent, even as wages and paid vacation are shrinking. Connecticut adopted paid sick leave in 2011. Massachusetts is debating it. New York City made it law in June. If Jersey City adopts Fulop’s plan — and it should — it would build momentum to expand the benefit statewide.

In May, Assemblywoman Pamela Lampitt (D-Camden) introduced a bill requiring employers to offer at least 40 paid sick hours a year. It hasn’t moved.

Predictably, businesses bristled, citing cost. But the opposition doesn’t add up: On average, paid sick time accounts for less than 1 percent of private-sector payrolls, according to the Bureau of Labor Statistics. And Fulop is sensitive to those worries: Small Jersey City employers would have to provide only unpaid sick time.

Paid sick leave is more than a public health concern. It’s economic justice. Increasingly, full-time jobs are difficult to find, and workers shouldn’t have to choose between their health and their paycheck. That was the rationale, too, when New Jersey enacted paid family leave in 2008.

Sick time should be a universal right.
Project Overview
Results-based Financing Proof of Concept
(July 9, 2013)

Background

In 2010, United Way of Salt Lake, Voices for Utah Children (Voices) and Granite School District (GSD) began laying the groundwork for a sustainable, large-scale financing mechanism for high quality preschool. Voices, in partnership with UWSL and GSD, conducted a longitudinal study of the GSD high-quality preschool program and demonstrated that approximately 33% of low-income 3 year olds would likely end up in special education without significant intervention. However, of those that received preschool through GSD, 95% were able to avoid special education, allowing the State of Utah to avoid costs of $2,607/year for 12 years for each child. These results have now held for five years.

This significant cost avoidance creates the conditions for results-based financing (also referred to as a “pay for success investment”). Results-based financing or pay for success investments are innovative and emerging financial instruments that leverage private financing to support high impact social programs. The goal of pay for success investments is to use private capital to achieve positive social and economic outcomes while at the same time generating cost savings to the government and providing modest financial returns to investors. The first such investment was piloted in 2010 in the United Kingdom, where early results are promising. Goldman Sachs invested in a pay for success loan in NYC in 2012, the first of its kind in the U.S.

In 2013 UWSL, Voices and others supported legislation (SB71, Osmond) based on the Granite study and partnership that would have established this financing mechanism within the State of Utah. When SB71 didn’t pass, UWSL’s Board of Directors voted to “prime the pump” by identifying investors and structuring a one year “proof of concept” with a repayment fund established by UWSL and possibly other public entities that see cost avoidance as a result of high quality early learning opportunities.

Rationale for Preschool and Results-based Financing / Pay for Success

In many low-income communities, 60-70% percent of children are not ready for school when they enter kindergarten – lacking basic skills like color, shape, and letter recognition, the ability to count, etc. In some neighborhoods, as many as eight in ten children are behind when they start kindergarten – and too many never catch up.
Without high quality early education opportunities, these children will likely never catch up and significant numbers will end up in special education and other remedial programs costing the State, cities, counties and school districts millions of dollars. In UWSL’s view, it will not be possible to achieve our state’s goals of 90% proficiency in core subjects, 90% high school graduation rate, and 66% of Utahns with a post-secondary education.

According to Nobel Laureate in Economics, Dr. James Heckman, “Our economic future depends on providing the tools for upward mobility and building a highly educated, skilled workforce. Early childhood education is the most efficient way to accomplish these goals, [providing] a 7% to 10% per year return on investment based on increased school and career achievement as well as reduced costs in remedial education, health and criminal justice system expenditures.” (Invest in early childhood development; Reduce deficits, strengthen the economy; www.heckmanequation.org)

In 2013, Senator Aaron Osmond introduced legislation (SB71), cosponsored by Rep. Greg Hughes, that aimed to address this crisis through an innovative, results-based financing approach that uses private investment to target high quality preschool to those children who need it most. The preschool intervention being used is based on a model developed and used by Granite School District that has been rigorously evaluated and shown to be successful. Park City School District and several private and non-profit early childhood education programs are also implementing this model.

In this model, repayment of the initial investment is based on achievement of measurable results and documentation of actual costs avoided by the State and/or other entities.

Because the need for high quality preschool is so significant, it is not possible for private philanthropy to address this challenge alone. That is why other government entities may participate in the proof of concept, and why the passage of SB71 by the Utah State Legislature is so critical.

Results-based financing is a conservative and financially responsible solution that has strong bipartisan support, builds on private sector innovation and partnerships, and focuses on real and lasting results.
As much of the country continues to grapple with the economic downturn, our state’s economy has expanded at a rate of 2.3 percent since 2006. For three years in a row Utah has been recognized by Forbes Magazine as the best state for business.

If we plan to keep it that way, we need to take steps to ensure we maximize the return on investment for our state’s greatest resource, our children, through early-childhood education.

Research shows that targeted investments in early-childhood education help to build the foundation of skills necessary for children to compete in the world and capitalize on opportunity. Providing high-quality early-childhood education will strengthen our children’s success in school, work and life — results that lead to big returns for Utah’s stake in the global economy.

Unfortunately, not every parent can afford early-childhood education that will make sure their children arrive at kindergarten with the knowledge and skills they need for success. Sixty percent of Utah’s 3- and 4-year-olds are not enrolled in preschool programs — a missed opportunity for higher achievement for them and Utah.

That’s because the achievement gap opens long before kindergarten, and quality early-childhood education can help us prevent it.

From infancy to toddlerhood, children build cognitive and social skills from interaction and early learning. Those that have quality early learning experiences through their parents, caregivers and professional teachers come to kindergarten with the knowledge and skills they need to succeed in both school and life.

Those who don’t, arrive far behind their peers in vocabulary, cognition and the key learning abilities such as impulse control, attentiveness, persistence and sociability.

Utah’s businesses know that to thrive in the 21st century, they must be able to find and retain skilled, educated workers who can master complex tasks and spur innovation. As the achievement gap continues to loom large, business leaders face shortages of qualified workers.

Quality early-childhood education would ensure that all children develop the cognitive and character skills they need to do well in school and eventually thrive on the job. Voices for Utah Children is working to make that happen in a fiscally responsible, targeted approach to funding preschool programs.
This fall, Goldman Sachs, one of Salt Lake City’s largest employers, the investor J.B. Pritzker, United Way of Salt Lake, and Salt Lake County combined forces in an innovative public-private partnership to expand preschool in the Granite School District through a social-impact financing agreement.

Just as in any new business venture, the investors will only make money if positive results are produced, and in this case, taxpayers will be spared from paying for costly special education and remediation programs.

By expanding access to disadvantaged children, high-quality preschool in Utah can unlock a significant return on investment for children, taxpayers and investors alike. The sustainable preschool finance model that invests existing school district resources into high-quality early-childhood education programs has already saved the Granite School District $1.7 million through reduced special education and remediation costs.

Our state’s smartest investors and policy makers recognize the opportunity in early childhood education. Our federal policy makers should do the same. Congress will be considering a plan to help states like ours ramp up public-private partnerships and the early childhood initiatives that we know work well.

Prioritizing investment in this plan is the most fiscally responsible thing we can do and will help ensure that Utah remains the best place to raise a family, have a good job and live a rewarding life.

*John Milliken is a board member of United Way of Salt Lake and president of Milcom, Inc. Karen Crompton is president and CEO of Voices for Utah Children. Both are in Salt Lake City.*
FACT SHEET: The Utah High Quality Preschool Program

America’s First “Results-based Financing” for Early Childhood Education

- “Results-based Financing” (also sometimes referred as “pay for success”) is an innovative and emerging financing approach that leverages private investment to support high impact social programs. In 2010, the UK government, along with philanthropic partners, piloted this approach. In 2012, Goldman Sachs was the first financial institution to invest in this product to finance preventative services for youth on Rikers Island.

- The Utah High Quality Preschool Program delivers a high impact and targeted curriculum to increase school readiness and academic performance among 3 and 4 year olds. As a result of entering kindergarten better prepared, it is expected that fewer children will use special education and remedial services in kindergarten through 12th grade, which results in cost savings for school districts, the State of Utah and other government entities. The first $1 million investment in this program will enable 450-600 children to attend pre-school this Fall.

- Private capital from J.B. Pritzker and Goldman Sachs will finance an expansion of the Utah High Quality Preschool Program to provide early education services to up to five cohorts totaling over 3,500 children. In this approach, there is no upfront cost to the taxpayer or other funders, instead:
  - Goldman Sachs loans up to $4.6 million to United Way of Salt Lake
  - J.B. Pritzker provides a subordinate loan up to $2.4mm to United Way of Salt Lake, reducing risk to the senior lender if the preschool program proves to be ineffective
  - United Way of Salt Lake oversees the implementation of the project and is also responsible for managing repayments to the private investors. Voices for Utah Children provides research and analytic support, and Granite School District supports the training and professional development to ensure quality implementation and model fidelity across providers
  - Granite School District, Park City School District, Guadalupe School, YMCA of Northern Utah, Children’s Express, and Lit’l Scholars provide the preschool program to low-income 3 and 4 year olds
  - The Park City Community Foundation acts as the Performance Account Manager, providing independent “performance account” in which to hold repayment funds, calculating and processing success payments
  - Private capital and other public funding sources, including Salt Lake County, provide Pay-for-Success payments to repay the loans, based on the cost-savings associated with the reduced use of special education and ancillary services
  - If the preschool program does not result in increased school readiness and decreased use of special education services, then there is no obligation on the part of United Way or other public funding sources to repay the loan
  - After initial funding, subsequent investments will be made based on the availability of repayment funds from public entities that are realizing cost savings as a result of the program.
Determining Pay-for-Success Payments:

— Children participating in the high impact preschool program are given the Peabody Picture Vocabulary Test which is a predictive evaluation that will serve as an indicator of their likely usage of special education and remedial services. Students that test below average and are therefore likely to use special education services will be tracked as they progress through 6th grade.

— Every year that they do not use special education or remedial services will generate a Pay-for-Success payment.

— School districts receive a fixed per annum payment of approximately $2,600 per student to provide special education and remedial services for students in general education classrooms from the State of Utah. The amount of the Pay-for-Success payment is based on the actual avoided costs realized by the State of Utah.

— Pay-for-Success payments will be made equal to 95% of the avoided costs or $2,470 per child for every year, Kindergarten through Sixth Grade, to repay the senior and subordinate debt plus a base interest rate of 5.0%.

— Thereafter, Success Payments will equal 40% of the savings, or $1,040 per child per year of special education services avoided, to be paid as Success Fees to Goldman Sachs and Pritzker.

— The State of Utah will retain 5% of the avoided costs or $137 per child for each year, kindergarten through sixth grade, until the senior and subordinate lenders are paid back the loan plus a base interest rate of 5.0%.

— Thereafter, the State of Utah will retain 60% of the avoided costs, or $1,567 per child per year through grade 6.

— From the seventh grade through twelfth grade the State of Utah retains 100% of the avoided costs or $2,607 per student.

The Utah High Quality Preschool Program has the potential to generate long-term savings for taxpayers and the results-based financing structure can become a replicable model for financing early childhood services nationally.

— The potential savings associated with the reduction in special education and remedial service usage are significant, and in each scenario exceed the potential payments to the lenders.

— Pay-for-Success payments are only made through 6th grade for each student; but all savings that are generated after that point will be captured by the school district, state and other government entities.
Working with Allies: Wage Theft Ordinances in Florida

The Problem: Wage Theft

Wage theft occurs when employers fail to pay employees for work they perform. It can take all sorts of forms, including paying less than the minimum wage, forcing workers to under-report hours, not paying for overtime, and misclassifying workers as independent contractors. Low-wage workers, including restaurant and other tipped workers, day laborers, domestic workers, security guards, farm workers and childcare workers, are particularly at risk, as are undocumented workers or workers for whom English is not their primary language.

Nationwide, this is a serious problem. According to a report by the National Employment Law Project:

“More than two-thirds (68 percent) of our sample experienced at least one pay-related violation in the previous work week. The average worker lost $51, out of average weekly earnings of $339. Assuming a full-time, full-year work schedule, we estimate that these workers lost an average of $2,634 annually due to workplace violations, out of total earnings of $17,616. That translates into wage theft of 15 percent of earnings.”¹

In Florida, this problem is particularly severe. On average, over 3,000 wage violations per year are reported in that state.² The Florida Wage Theft Task Force formed in 2007 to address the issue, and settled on a strategy of passing ordinances at the county level.

The Solution: Ordinances at the local level to prohibit wage theft

These ordinances, now in force in Miami-Dade, Broward, and Alachua counties, make it illegal for an employer to fail to pay any portion of the wages due to an employee within a reasonable amount of time. The ordinances establish a process for employees who feel they have been a victim of wage theft to file a complaint. The County will attempt conciliation between the parties, and if that is not possible, hold a hearing. If the employer is found to be in violation, they are subject to treble damages and the administrative costs of the hearing.

In 2010, Miami/Dade County passed the first wage theft ordinance in Florida. Experience since then suggests that it was sorely needed, and has been a success: the County has received almost 1,000 complaints and has recovered over $500,000 for workers.³

The Partnership: Broward County Mayor Kristin Jacobs and the Florida Wage Theft Task Force

After their success in Miami-Dade County, the Task Force was looking to repeat the process in other counties, and identified Broward County as a likely prospect. The U.S. Department of Labor documented nearly 5,000 cases of wage theft in the County over three years. These wage theft violations added up to more than $2 million dollars in unpaid wages. The Task Force met with the Mayor and her staff, sharing the research and what they knew about the extent of wage theft in Broward County. They made the case for introduction of an ordinance based on Miami-Dade’s language to help Broward County workers.

Mayor Kristin Jacobs was sympathetic to the cause – her own son had experienced wage theft in the past.4 She took a leading role in advocating for the ordinance and bringing other County Commissioners on board. When the inevitable opposition from the business community arose, she helped to counter it, arguing that ordinances such as these help create a level playing field for law-abiding employers, who can suffer a disadvantage if their competitors are able to offer lower prices by not paying their workers.

The ordinance passed in 2012. The Task Force worked with Alachua County to pass a similar ordinance in 2013, and is currently working with Hillsborough County in an effort to pass another ordinance in 2014.

Lessons Learned
- The Mayor’s role as a political champion with other elected officials, the media and the public is crucial.
- Background research, good data, and a compelling argument from a non-profit organization can really help an elected official make the case.
- Model legislative language, from advocates or other jurisdictions, can make it easier to get something introduced.

For more information contact:

Mayor Kristin Jacobs, Broward County FL
Office: 954-357-7002
kjacobs@broward.org
www.broward.org/Commission/District2

Cynthia Hernandez, Florida Wage Theft Task Force
Office: 305-348-2614
cynthia.hernandez1@fiu.edu
www.risep-fiu.org

**Working with Allies: Non-Discrimination Ordinances in Salt Lake City**

In 2005, the Salt Lake City Council created and appointed the Salt Lake City Human Rights Commission. The Commission was charged with reviewing legislation and policy, reviewing discrimination complaints, and making recommendations for educational efforts around non-discrimination. In 2008, Mayor Ralph Becker expanded the City's office of diversity to include human rights, asking them to focus on social justice and work more closely with the Commission.

**The Problem: Discrimination on the basis of gender identity and sexual orientation**

Concurrently, the Commission wanted to prioritize eliminating discrimination experienced by residents. They held community meetings to help identify the types of discrimination prevalent in the city. One conclusion was that while discrimination in housing and employment were prohibited for many things, landlords and employers could – and did – discriminate on the basis of perceived gender identity and sexual orientation. This community process was key in both identifying the issue and in communicating the importance of human rights to the community.

**The Solution: Non-discrimination ordinances**

There is a long history of prohibiting discrimination based on things such as race, religion or gender in housing and employment at the federal, state and local level. Recently, some jurisdictions have included gender identity and sexual orientation in such laws. Because there is an established legal precedent, such ordinances are an obvious tool for advocates wishing to address discrimination.

**The Partnerships**

Mayor Ralph Becker came to the issue with a history of supporting polices that promote human rights, including equality for LGBTQ individuals. The Mayor created Salt Lake City's Mutual Commitment Registry, extended partnership benefits to City employees, and instituted a bid preference in City contracting for companies that offer benefits to domestic partners. One key role he played in the adoption of the non-discrimination ordinances was to convene the stakeholders so a productive discussion could occur around the issue. Another was communicating his support to the relevant staff and departments, so that once the ordinances passed, there was internal support for enforcing it, and creating an infrastructure to deal with complaints brought under the ordinance.
The Human Rights commission worked with a number of partners throughout the process of holding community meetings. On this issue, Equality Utah and the Utah Pride Center were key partners. Equality Utah had been working almost entirely at the state level, trying to influence legislation. The work of the human rights commission helped to shift their focus to the local level, and they worked with multiple stakeholders to develop sample ordinance language. Once the ordinances were introduced, they helped educate and engage the public about the issue to build support for passage.

Lessons Learned
- If advocacy at the state level isn’t working, try the local level
- Citizen input can and should drive city priorities
- Citizen commissions can play an important role by listening to - and educating – the community
- Having citizens and elected officials lead on controversial issues is important for success – advocates can be seen as “outsiders”
- Implementation is key, and having support from the executive is an important part of successfully implementing ordinances
- The Mayor’s power to convene stakeholders is critical to moving conversations forward

For more information contact:

Mayor Ralph Becker, Salt Lake City UT
801–535-7704
mayor@slcgov.com
www.mayor.slcgov.com/

Brandie Balken, Equality Utah
801-355-3479
brandie@equalityutah.org
www.equalityutah.org

2 Joel Rogers and Satya Rhodes-Conway “Cities at Work” (Center for American Progress: In Press)