

***Tomas O'Grady responses To Questionnaire
re CRA and Bifurcation of City Attorney***

Intro:

- As a representative for Council District 4, I would fight for transparency on all City matters, fiscal and otherwise.
 - In addition, I would fight for more robust reporting from ALL City of Los Angeles Agencies, including the Community Redevelopment Agency, and would require that those reports be provided with independent auditing to assure true transparency.
- ***Shouldn't the city councilmembers tell constituents that the CRA has a surplus?***
- Beyond the existing and/or improved Agency responsibilities for reporting, I believe that it is incumbent upon the City Council to take a more proactive / leadership role in advancing transparency and knowledgeable and fact-driven discourse on all critical City matters such as the CRA.
 - Given a Council member's standing responsibility, I would report (and would encourage ALL members to report) not only on the surplus issue, but on ALL related CRA efficacy matters. I would commit to bringing meaningful debate and discourse to the issue of CRA practices, both historic and planned, and I would lead actions seeking financial adjustments and policy changes whenever warranted.
 - Currently, CRA accounting/reporting standards are governed by the Government Auditing Standards adopted by the Comptroller General of the United States.
 - In terms of the current CRA reporting requirements (and as set forth in Health and Safety Code Section 33080-33080.8), CRA is currently responsible for providing audits and/or reports upon written request by ANY person.
 - That said, I believe that as a City Council Member, we should acknowledge that this is a minimum standard of care and craft legislation to hold CRA/LA more accountable per comprehensive performance reviews and more comprehensive accounting practices.
 - In addition, I believe the Council is seriously late to the party on this issue and needs to take a lead in demanding auditable performance reviews with defined and demonstrable achievement reviews to serve our communities, as they are set out to serve, by SERVING the community rather than operating as detached and untouchable entities.
 - Also, CRA is required annually to identify and calculate the amount of excess surplus which has accumulated in the agency's Low and Moderate Income Housing Fund (as set forth in Health and Safety Code Sections 33080.1.(a)(1) and 33080.7).
 - This is a start. However, it is entirely too limited a requirement and needs to be broadened to capture surplus within auditing reports to provide the deserved transparency and serve to make prudent long range fiscal commitments; something mandatory for effective development leadership at any public scale.
 - In terms of surplus issue specifically, my office would accept nothing short of such robust short + long range reporting prepared according to the highest public administration accounting standards as well as formatted in such a way that retains its integrity yet makes it readily approachable and engaging for all taxpayers.
 - The CRA's elective reporting provision to provide "any other fiscal information which the agency believes useful to describe its programs" is entirely weak and ineffective and should be supplemented to require 1/2/5/10/20 year projections and project/financial tracking on ALL CRA projects from the Survey proposal phase through project completion including legitimate exit plans; something which should become a matter of project evaluation, review, and approval criteria.
 - As a mechanism to achieve such a goal, and as provided by section 33080.3. of

Health and Safety Code, the Controller is currently charged with the responsibility of development and periodic revisions to the guidelines for the content of the reporting as required. Therefore, the Controller should be the first party to improve the reporting to provide the public an auditable report that allows tracking of all funds and work delivered accordingly.

- In the event that direct revisions via the Controller are not achievable, the City Council should sponsor and/or adopt legislation to require comprehensive CRA reporting.
 - Such reporting remains a foundation upon which responsible project management and fiscal leadership is based and all financial and public policy and policy planning must be based.
 - If elected I would accept nothing short of a full, accurate, publicly available, and independent report to include, at a minimum, surplus reports.
 - In addition, I believe that multiple CRA reforms are overdue, beginning with restoring public works, to Public Works. I believe that if a redevelopment project cannot be completed within a legitimate amount of time, if the project area and TIF zone can not be restored to the local tax roll within reasonable amount of time, the project exceeds the scope of work intended to be performed under the CRA model and legislation must then be developed to bring CRA projects under control.
- ***Shouldn't councilmembers tell constituents that the CRA projects pay no incremental property taxes?***
- Tax Increment Financing (or TIFs), are the CRA's fundamental public financing structure. As such, redevelopment in Los Angeles has financed improvements under this financing theory justifying proposed improvements with the expectation that the work performed will generate subsequent future gains in taxes, thus, the initial funding creates the project's ability to service the debt through capturing increased pending tax revenues.
 - It is CRITICAL that constituents be made aware of this model as well as the consequence that the marginal increased taxes generated will be redirected away from the General Fund and that those revenues are directed to service the bond debt incurred by the redevelopment project.
 - The challenge, and something I would take-on if elected, would be to evaluate the efficacy of continued redevelopment financing.
 - At a minimum, all public works (including CRA) will need to be evaluated based upon well defined and executable exit strategies that deliver public assets... the measure of which is to leave a place and the city budget in a better condition than before the work was initiated.
 - CRA projects must build in responsible withdraw and exit plans which begin to transfer the increased tax revenue back to the local coffers.
- ***Shouldn't councilmembers tell constituents the CRA's actual incremental property tax income year by year for the last ten years and tell them the projected revenue for the next fiscal year? If not, why not?***
- Certainly.
 - Given the opportunity and responsibility to bring transparency back to Los Angeles government, I look forward to building meaningful disclosure practices to SERVE my constituents, not only by providing thorough fiscal disclosure, but by developing and publishing timely financial reports that allow the taxpayers to see an encapsulated bond reporting for each CRA project.
 - This reporting should be provided electronically and in detailed and professional terms, but still in a manner comprehensible for every taxpayer.

- ***Shouldn't councilmembers tell constituents that Prop 22 meant that the school district and the city general fund could not claw back any funds from the CRA, thereby reducing the budgets for schools and diverting more incremental tax funds from the city's general fund? If not, why not?***
 - Yes.

- ***(2) If elected, would you propose that the City alter its charter in order to abolish the CRA? If not, why not?***
 - I am fully aware of the philosophical differences that have formed such a division between the taxpayers on the one side and the pro-redevelopment agents on the other.
 - I firmly support the actions of responsible governance coupled with wide-awake leadership but it is clear that we have reached a point of crisis and such dysfunction with respect to certain CRA projects and practices in which the ends no longer justify the means. It seems apparent that reformation must be considered immediately.
 - DO I believe that we can develop a better alternative to the currently structured Community Redevelopment Agency? Hell yes.
 - DO I believe in replacing broken government? Hell yes.
 - What we hear in the polar rhetoric includes:
 - CRA is either a community's last great hope for repairing our environments or CRA is an entirely corrupt, lumbering, and careless bull in an otherwise perfectly sustainable neighborhood china shop.
 - Communities are left feeling entirely excluded from the project determination process and have legitimate experiences to confirm those feelings
 - Communities are left feeling that their voices are completely ignored in favor of politicians' sweetheart deals with developers who have colluded to build predetermined projects benefiting a select group of outside private financiers, developers, and favored businesses in exchange for political donations which are used to reelect these same corrupted incumbents.
 - Communities are left feeling the legitimate threat of Eminent Domain and "takings" of private property well in advance of new projects based upon the documented history of actions.
 - Communities are left feeling that they have NO CONTROL as bond financing is issued and requires no voter approval whatsoever and is utilized to fund political favoritism.
 - Communities are left feeling they have no leadership guarding against largesse as they identify it.
 - ***Communities simply feel that they are not represented, and isn't this the***

PRECISE reason we elect a Councilperson in the first place????

- I would not be in favor of abolishing any City Agency without a cogently developed and authentic replacement, proposed and able to accomplish the civic goals and deliver the benefits we expect and that our taxes pay for.
- That said, I firmly support the replacement of dysfunctional practices, policies, agents and/or agencies with a proactive replacement.
- CRA must be challenged to retool itself to bring fiscal and programmatic maturity, to provide more durable and truly responsible actions: the efficacy of which can be measured by the level of restored public confidence.
- ***Prior to Prop 22, the City had the power to re-direct CRA's revenues, but that option is now lost. The only alternative to abolition seems to be to reject each new CRA project.***
 - California Proposition 22 (2010) was ostensibly crafted to prevent the State from taking or redirecting funds, including redevelopment and transportation funds, from the local governments and protected local services (9-1-1 emergency response, police, fire, libraries, transit, road repairs, etc.) to fund a stop-gap budget closure maneuver and represented a small fraction of the actual budget gap. The children's lesson of fingers plugging dikes would have made a sad yet comic sense of the measure's intentions...
 - Obviously before Prop 22 in 2010 came Proposition 1A in 2004 and 2006 and settled the voters' principle opinion that the state should no longer have the authority to permanently shift city, county, and special district property tax revenues to schools and restricted the state's ability to borrow state gasoline sales tax revenues.
 - Of course, those provisions did not eliminate the State's authority to **temporarily** borrow or redirect city, county, and special district funds, nor did they eliminate the State's authority to redirect local redevelopment agency revenues; hence the creation of Proposition 22, which passed by a margin of 3-2.
 - In the end, the voter's passage of Proposition 22 makes a clear case for fiscal conservatism and should be viewed as a clarion call for ALL public agencies to prudently prepare fiscal projections for multiple years utilizing amply conservative figures and prudent reserves without bail-out expectations.
- ***(3) If you do not propose to abolish the CRA, how do you plan to compensate the City general fund and the school district for the incremental property tax which the CRA diverts???***
 - The question is not how, but how quickly we apply bond resources to a community and how directly those resources serve the immediate community without paying out huge premiums to out-of-community private developers.
 - I am currently drafting an outline and look forward to proposing a new Redevelopment Pilot Project that would seek to utilize existing local labor, local creativity, and local knowledge to develop and achieve the real thing, Community Redevelopment, from **within** communities.
 - If we consider the most recently proposed CRA project area, the NORTHEAST LOS ANGELES RIVER STUDY, as an example of the potential the current CRA structure has failed to realize,

we could re-envision a Redevelopment Pilot Project that could tap into an incredible wealth of highly effective, extremely nimble trade and craftspeople as well as incredibly dedicated small professionals who have demonstrated commitment and skills who, together, literally ARE the community and the future for who the CRA's work is suppose to support.

- But let's be serious, all the greatest intentions in the world still need capital to breath life into them, and who the financing serves and how efficiently it produces the intended results should be the gauge.
 - As an example of how we could retool and build our Pilot Program, I intend to develop legislation to redefine what we call "small business" through a tiered system that breaks out mid-size from small business and brings back support for the small-small business.
 - Beyond acting as a catalyst for every district in Los Angeles, this action will provide what communities like CD 4 could use immediately to help claw out of our current financially deprived condition by providing entrepreneurs with the capacity to take up projects, create jobs, and utilize capital, delivering immediate and tangible corrections to the ever-growing socio-economic disparities we are experiencing citywide in Los Angeles.
 - This is why I would advocate for building a better Pilot mouse-trap, if you will, rather than abolish something outright without an alternative ready to replace it.
 - Build it to be effective, efficient, and community focused in every way. Everything, some would say, that is lacking in the current model.
- ***(4) Do you favor applying Kelo v City of New London 545 U.S. 469 (2005) to all properties within the City of Los Angeles? If not, why not???***
 - I do take the entire Fifth Amendment seriously, including the clause that holds that no person "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."
 - Just as seriously, the Supreme Court has debated the same fundamental issue since Calder v. Bull in 1798, as the ink was still drying on the 5th Amendment itself.
 - In Calder, the Court established the first fairly broad interpretation of the taking's clause in favor of taking and transferring private property defining public use in terms of economic development, paving the debate for the next 200+ years in favor of open ended interpretations of what constitutes a public good.
 - That said, promoting economic development is not only a traditional and long accepted governmental function, but remains a primary responsibility for a City's leadership. The question becomes how to balance more robust individual property rights within the ongoing need for a City to transform and respond to emergent conditions.
 - In addition, the Rehnquist Court's decision on Kelo, challenged as it should be in the coming years, is likely to stand stronger than ever with the appointments of Kagan and Sotomayor.
 - This may point out that I am an ardent and highly energized advocate set on improving our City through governance, and I am running for office and will serve through government and will apply myself in effective ways, giving realistic evaluations with eyes wide open and staying focused on achieving change sooner than later.

- ***(5) If the City or State introduces a new measure like AB 2531 to apply Kelo eminent domain to the entire city, will you oppose such a measure? If not, why not???***
 - As the bill's Sponsor, the Los Angeles City Council did not take formative responsibility for the proposed legislation, did not debate the merits nor hammer out an effective and pointed instrument, which became a significant part of the bill's downfall when it reached the Governors desk.
 - The bill marked a significant extension to redevelopment's traditional purposes to "build" facilities.
 - What I find deplorable about AB 2531 is that this bill was crafted and moved its way through committee with House and Senate passage, sponsored by the Los Angeles City Council but without any legitimate debate within the Council.
 - At this bill's core were funding expansions for industrial and manufacturing uses, something I support in theory. The bill sought to expand the use of the funding for manufacturing training and education responsibility.
 - It is essential that we open dialogue and debate whether job training should be included in a bill like this or not.
 - To that end, I would look for real data to help determine how and to what degree this jobs incentive could be effective and whether that responsibility lies elsewhere within the trade sector, private sector, and/or the education sector city agencies.
 - While improving access to public education is obviously one of my highest order goals, I believe it is critically important to fund education first and task this sector with teaching, training, and building our human resources.
 - That said, I was particularly supportive of the bill as it would have prohibited a redevelopment agency from amending a redevelopment plan to increase or extend the project time limits in order to collect additional tax increments, an area of particular interest to me and a line of thinking I believe should be expanded to provide effective and reliable exit strategies for CRAs to ensure that those incremental tax increases are returned back to the local tax roll as immediately as possible.
 - I was also in support of the bill's goal to expand a redevelopment agency's authority to provide financial assistance and incentives for the development of green technologies in a forward thinking/reaching industry.
 - Given Felipe Fuentes's reelection in November and with the election of Brown, Fuentes is likely to bring this bill back for another vote and if he does, I would support it.
 - Beyond AB 2531, with the defeat of Proposition 90 in 2006 and of Proposition 98 in 2008 and despite the voter's approval of Proposition 99, meaningful and achievable legislation has yet to be hammered out reforming government land aquisition practices that reaffirm private property rights and hold government accountable.
 - As should be clear, I am a fervent supporter of small business and firmly believe that we should not just rhetorically encourage the establishment of small business incubators, but should find the financial means to do so.

- What we are missing in CD -4 is true leadership with the sort of concentration legislation deserves.
- ***(6) The City Attorney is the lawyer for the City, its staff and elected officials. Thus, it owes fiduciary duties to these entities, making it a violation of the Ethics of the State Bar of California to take any position that may violate confidentiality or cause any harm to one of the represented entities. For example, if the City Attorney learns that a councilmember is engaged in extortion, the City Attorney must remain silent?? Will you support a charter amendment to bifurcate the City Attorney's office into two separate and distinct offices similar to the division between County Counsel and [County] District Attorney?***
 - Obviously the question is not limited to the City of Los Angeles, nor the State of California.
 - What is at issue is how and to what degree we can maintain a healthy and well balanced system of protections through earnest representation, reducing the potential conflicts of interest and preventing, insofar as humanly possible, the misappropriation of those protections to shield individuals' actions from public scrutiny or advance a singular administrative interest over all others.
 - The question of exactly who a City Attorney represents and how to uniformly honor the State Bar of California Ethics Code is not a new issue, and how the City's representative needs can most effectively identify their client and how that identification adheres as strictly as possible to conflicts of interest and ethical standards is at the heart of this issue.
 - At issue are the real, potential, and perceived conflicts of interest which can influence balanced legal representation for the City of Los Angeles itself and at the same time, those who represent the City's interests.
 - While other city attorney relationship models exist, Los Angeles employs a government agency model, one which some argue narrows and more carefully structures the attorney's relationship to the agent, making clear that the City Attorney is hired and fired by the electorate and therefore, not in the service of the Council or the Mayor's office.
 - Other structures exist including:
 - the public interest model, generally identified as challenging to define and often leading to contentious power plays
 - the government as a whole model, challenged due to naturally competing interests between the branches and sub-branches of government
 - The trouble is, when the interests diverge, as they should, an ethical question is raised immediately for the City Attorney regarding whose interests the city attorney should advance and how to balance a challenging ethical obligation.
 - At the core of the ethical debate is, of course, that an attorney should not undertake representation of a client if the representation of that client will negatively affect another client of the attorney.
 - Common structural solutions include the State Bar, Ethics Committees, and public integrity units within the city attorney's office.

- In the end, the City Attorney's dexterity in "identifying the client" "is a threshold issue for determining whether a conflict of interest exists, noting that client identification is paramount because a lawyer's duty of confidentiality and duty to avoid conflicting interests is owed only to a lawyer's clients." (See Richard C. Solomon, *Wearing Many Hats: Confidentiality and Conflicts of Interest Issues for the California Public Lawyer*)
- In any case, reducing or eliminating conflicts of interest should be a development goal in all City matters.
- Producing and debating a charter amendment, as you have suggested, providing permanent, independent representation is a challenge I would welcome.
- ***Under this bifurcation, the City Attorney's Office would have no duties for any criminal prosecution, but it would continue to act as the lawyer for the City, its staff and elected officials. ??The new City Prosecutor's Office would handle all the criminal matters which the current City Attorney handles, and in addition it would have full prosecutorial powers over the City, its staff and its elected officials. The City Prosecutor would owe no fiduciary duties to the City, its staff or its elected officials. The City Prosecutor's jurisdiction over the city, its staff, and its elected official would include felonies and would be concurrent with the jurisdiction of any other law enforcement agency.***
 - Clearly, navigating the ethical rules presents a challenge and is not easily reconcilable with the City Attorney's duties.
 - If elected, I would use the time honored litmus test and "follow the money" so to speak... In Los Angeles, as the City Attorney is elected, one could argue that we have diversified the obligation as best we can without a bifurcation plan, though this model leaves the City Attorney's "client determination" in a more interpretative, therefore personnel dependent, position.
 - In Trutanich's case, we have seen his office take relatively unflinching cracks at both the Mayor's office as well as the City Council during his tenure and while he may not have won the hearts of the Council, he certainly made clear that his office intends to perform their duty.
 - With or without the bifurcation proposal, an adversarial relationship in the best sense is a positive model, something that can lead to increased accountability if structured (or chartered) meaningfully.
 - In any case, I would remain ever-aware of and prepared to evaluate both the tangible and intangible allegiance structures and if necessary cooperate in producing any necessary changes to build balanced oversight with measurable powers and lines of authority.

Wrap-up thoughts:

In conclusion, with corporate profits on the rebound, we should ALL be simultaneously mad as hell and unsurprised that the system we have in place does NOT represent the people of this City. More often it appears to support large corporate, bureaucratic, and political systems first and have little or no wind left to protect the citizens who need it most, when they need it most. Is it really surprising that real job growth and wages are absolutely stagnant (by even the most optimistic observers accounting) while corporate profit is

growing independent of the personal declines.

What I see is that we don't need to stimulate the economy, we need to retool programs like CRA until they are truly able serve the communities and families first. Clever short term solutions to a budget crisis can grow into long term problems and need to be properly weighed in advance of implementing these seemingly easy answers.

Some of our neighbors DEEPLY distrust the current CRA system and have lost trust in our government and elected officials and have lost the will to participate themselves. This is one of the most sincere indictments of our current leadership.

Put simply, legitimate issues demand objective scrutiny, and claims that CRA provides multi-million dollar gifts to its developers at the expense of the taxpayers and at the expense of an otherwise forward-focused City leadership MUST be taken seriously.

We certainly need to foster successful urban renewal and we need to respect the ability of small community assets to rise up **through** our communities, bringing a wealth of knowledge, creativity, and determination to bear in the service of our neighborhoods, a solution that could not even be conceived of from outside of communities.

People in the neighborhood need to feel that government belongs to them and is there for them. They need to feel that they can participate and that their voices will be heard, that a councilman is there when they need representation and will go the distance to represent them. When we realize that we cannot count on our elected officials to lead and protect us, we need to find the person who can and will. The leadership must change if our City is to change.

If you agree with being proactive and if you believe that city leadership starts with its citizens rather than the other way around, I am the change Council District 4 needs. The standard by which we should judge our government actions and our politicians' effectiveness is the degree to which they improve our lives.