

Chinatown Community Benefit Business Improvement District

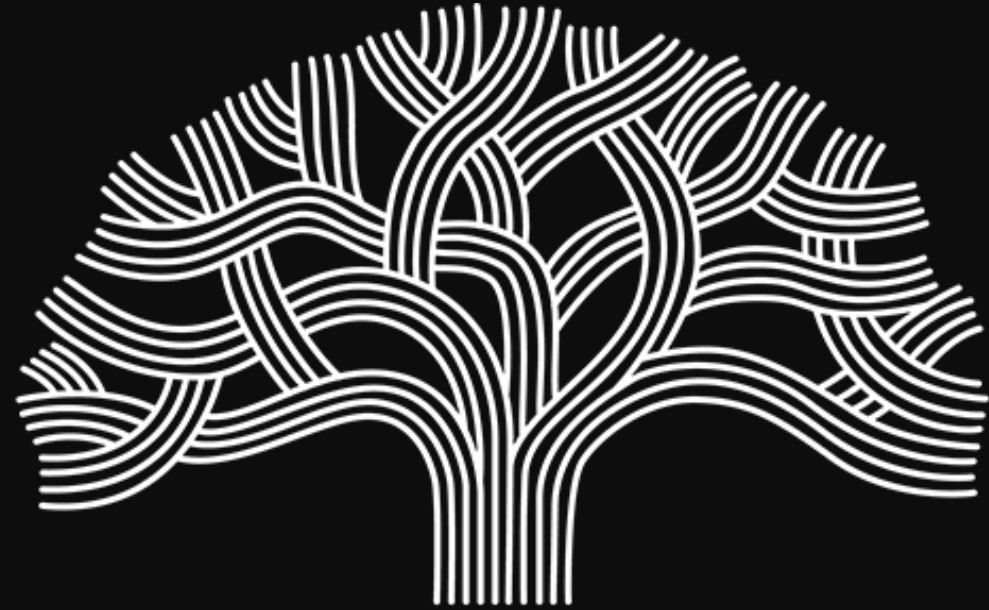
Investigation Briefing

**Oakland City Council's Community &
Economic Development Committee**

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CITY OF OAKLAND
Office of the City Auditor

Background

- Community Benefits Districts (aka business improvement districts) deliver services the City cannot or does not provide (safety, maintenance, marketing)
- Property tax assessments are collected and remitted to the community benefits districts (CBDs)
- State laws authorize the establishment of CBDs
 - Streets & Highways Code §36500
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- City of Oakland Business Improvement Management District Ordinance allows the formation of CBDs in Oakland

Background

- In 2020, the Oakland Chinatown Chamber of Commerce led the development of a CBD, and hired a company that specializes in forming and managing CBDs.
- A Steering Committee was developed to set structure, direction, budget, and goals for the CBD (property owners, residents, businesses, and members of community organizations)
- On July 26, 2021, the City Council approved the Chinatown CBD, including the assessment revenues of \$1,309,837 per year for 10 years. (July 1, 2021, through June 30, 2031)
- Per the OMC, the City Administrator either provides services or contracts with a designated nonprofit comprised of the assessed themselves.
- The Chinatown CBD contracted with the Oakland Chinatown Improvement Council (OCIC).

Investigation History

The City Auditor's Office received numerous allegations about the Chinatown CBD

- The formation of the Board of Directors lacked transparency and a defined, fair, and objective process.
- The self-appointed Board of Directors were not verified to ensure its members had an interest in the Chinatown CBD, and its composition met requirements outlined in the Chinatown CBD bylaws.
- Some votes may have been cast by people not on the Board of Directors yet counted as official votes.
- Some votes may not have been accurately counted and recorded.
- Some activities and expenditures occurred without documented approval.

Investigation Objectives

The objectives of the investigation were to substantiate or refute the allegations

- Was the formation of the Board of Directors a defined, fair, and objective process that aligned with best practices for nonprofit board development?
- Was the composition of the Board of Directors sufficiently verified to determine if members had an interest in the CBD and that membership met the requirements outlined in the Chinatown CBD bylaws?
- Were some votes cast by people not on the Board of Directors counted as official votes?
- Were some votes inaccurately counted and recorded?
- Did some activities and expenditures occur without documented approval?

Investigation Conclusion

The Investigation Substantiated 5 Allegations

1. The formation of the Board of Directors was not based on authoritative standards, and was misleading.
2. The Board of Directors was not verified to ensure its members had an interest in the Chinatown CBD.
3. Some votes may have been cast by people not on the Board of Directors and counted as official votes.
4. Some votes may have been inaccurately counted and recorded.
5. Some CBD activities and expenditures occurred outside of authorized Board processes.

Recommendations

Recommendations were developed from...

- Investigation Findings
- Leading Practices
 - Industry Experts
 - Other Government Agencies
- State Law
 - Brown Act and other transparency laws

Recommendations

- 1) Amend the contracting process for designating nonprofits to administer CBDs:
 - a) Demonstrate track record of involvement in small business and community affairs
 - b) Demonstrate status as legally formed California nonprofit corporations, whose memberships include all assessed parties within the CBDs
 - c) Provide notices of all meetings and ballots to all members (assessed parties within CBDs)
 - d) Include copies of adopted articles of incorporation and adopted bylaws in their CBD applications
 - e) Adopt bylaws that include the names and addresses of the initial Directors including terms of service with expiration dates, and timeframes when new Directors should be formally elected

Recommendations

- 1) Amend the contracting process for designating nonprofits to administer CBDs:
 - f) Establish requirements for Board members and qualifications
 - g) Elect Board members at annual meetings called for that purpose and provide the names and addresses of elected CBD Board members
 - h) Demonstrate affirmative measures to ensure the Boards reflect the ethnic and business/community diversity of their districts
 - i) Demonstrate adequate governance systems to accurately account for and record Board actions, and ensure votes can be publicly validated, in compliance with State and local laws
 - j) Provide annual formal attestations of compliance with requirements of the disbursement agreement, as well as applicable State and local laws and regulations
 - k) Notify the Economic & Workforce Development Office of changes in Board membership

Recommendations

- 2) Limit the size of CBDs' designated nonprofit Boards to no more than 20.

- 3) Require the Chinatown CBD's current designated nonprofit, OCIC, to:
 - a) Formally elect its Board members and limit the Board size to no more than 20.
 - b) Provide a list of Board members' names and addresses and notify the City of changes.
 - c) Verify and document that the Board of Directors complies with composition requirements outlined in its bylaws.
 - d) Ensure it is compliant with competitive selection requirements when selecting contractors, and that all major contracts are publicly posted.

Recommendations

We recommend the City Administration work with the City Attorney's Office to:

4) Develop and implement training for all Oakland CBD Board members to ensure a clear understanding of their roles and responsibilities, State and City requirements the CBD must follow (including ethics laws), and their relationship between the CBD and the City.

Next Steps

- The City Council should consider the recommendations in this report at a public meeting.
- The City Administration should provide a written report on the development of training for Oakland CBDs and a proposed implementation schedule.
- The Office of the City Auditor will publicly report on the status of the recommendations within a year.

Comments? Questions?