

Office of the County Attorney

Mission To provide the best possible legal counsel and representation to County officials and agencies in support of their mission to protect and enhance the community.

Focus The Office of the County Attorney is divided into five sections: The General Law Section; the Land Use/Environmental Law Section; the Personnel/Administrative Law Section; the Community Services Board Section; and the Public Private Partnership and Housing Section.

The General Law Section advises County agencies on highly complex financial matters and bond issues, including the formation of special tax and transportation improvement districts; interacts with the Virginia General Assembly on proposed legislation; drafts proposed County ordinances; reviews County contracts; and issues legal opinions to the governing body and the County government on all manner of subjects. The Section also maintains intensive collection and litigation efforts regarding bankruptcies. In addition, the General Law Section defends litigation brought by, among others, large corporations located in the County to challenge real estate, business personal property and Business, Professional and Occupational License (BPOL) tax assessments. In addition, this Section represents the County's interests in utility cases before the State Corporation Commission. The General Law Section also provides support in addressing Conflict of Interests Act inquiries and questions under the Virginia Public Procurement Act. If a County procurement is challenged, this Section defends the County's interests in such litigation. Finally, this Section provides legal advice and counsel regarding all aspects of election law.

The Land Use/Environmental Law Section works closely with the Department of Planning and Development (DPD), Department of Public Works and Environmental Services (DPWES), and Land Development Services (LDS) to evaluate a variety of legal issues in a proactive effort to resolve conflicts when possible and thereby diminish the chances of litigation. If litigation results, this section defends the legislative decision of the Board of Supervisors in the state and federal trial and appellate courts. This Section's attorneys are also an integral part of the County team that drafts the Zoning Ordinance and amendments thereto, as well as building and land development regulations. The Section also plays a crucial role in the efforts of the Zoning Administrator, the Property Maintenance Code Official, and the Director of DPWES to improve communities through the enforcement of various land use laws in the Zoning Ordinance, Fairfax County Code, and the Code of Virginia. This Section also brings and defends condemnation actions, assists the County in acquiring, leasing, and selling real property, initiates legal action against developers who default on land development projects, advises County agencies on environmental issues, and reviews subdivision documents affecting County property interests. In addition, one of the Section's attorneys serves in a full-time capacity on the County's legislative team in Richmond while the General Assembly is in session and throughout the remainder of the year reviews draft legislation and staffs various groups and commissions appointed by the General Assembly. The Land Use/Environmental Law Section also enforces environmental regulations such as the County's erosion and sediment control and stormwater ordinance, in addition to the Chesapeake Bay Preservation Ordinance. Finally, this Section also assists the P3/Housing Section with the litigation of Fair Housing claims in Circuit Court.

The Personnel/Administrative Law Section defends County personnel decisions before administrative bodies and in state and federal court. In addition, this Section defends the County and its agencies in alleged employment discrimination cases, other federal civil rights claims, Americans with Disability Act litigation, and tort actions (such as personal injury automobile accidents). This Section also renders legal advice on an ongoing basis to County agencies and employees in an effort to prevent and resolve legal issues on an informal basis and, failing that, to ensure that the County is in the best legal position possible if litigation ensues. Attorneys in this Section also draft and review personnel regulations and retirement ordinances. In addition, this

Section civilly prosecutes cases involving abuse and neglect of children and elders. Abuse and neglect cases occupy the efforts of five full-time attorneys, and these attorneys each handle between 40 to 60 active litigation cases at a time. These attorneys also review agreements and memoranda of understanding between state and federal agencies and the Department of Family Services.

The Community Services Board Section provides legal services and representation to the Fairfax-Falls Church Community Services Board (CSB). The Section represents the CSB's and the County's interests in civil commitment hearings for individuals requiring mandatory inpatient mental health services. The number of hearings has been steadily increasing each fiscal year since FY 2011 when this office first absorbed this work. In FY 2011, this office handled 124 hearings, and in FY 2021, the attorneys in this section handled 1,270 hearings. The Section also addresses subpoenas for CSB personnel and records and gives guidance to CSB regarding its duties and responsibilities under the many complex state and federal laws and regulations governing the health care industry.

The Public/Private Partnership and Housing Section (P3) assists in the planning and negotiation of significant infrastructure projects that leverage both public and private resources and drafts the myriad of contracts that reflect these complicated transactions. The attorneys in the P3 Section also support the Fairfax County Redevelopment and Housing Authority (FCRHA), the Department of Housing and Community Development (HCD), and the Department of Planning and Development (DPD). A growing population density and an aging of that population on lower fixed incomes during their retirement years, will look to the County to assist them in meeting their housing needs, resulting in more work for the Office in its provision of legal advice and transactional expertise to the FCRHA. The Board of Supervisors' successful initiative to provide more affordable and workforce housing also results in greater involvement of the County Attorney's Office in the work of the FCRHA. In its Housing capacity, the P3 section defends the existing stock of affordable dwelling units, ensures federal and state regulatory compliance, drafts leases and other Housing-related contracts, and assists with the review of Fair Housing claims. In addition, the P3 section supports the DPD in its mission to facilitate strategic redevelopment and investment opportunities within targeted commercial areas.

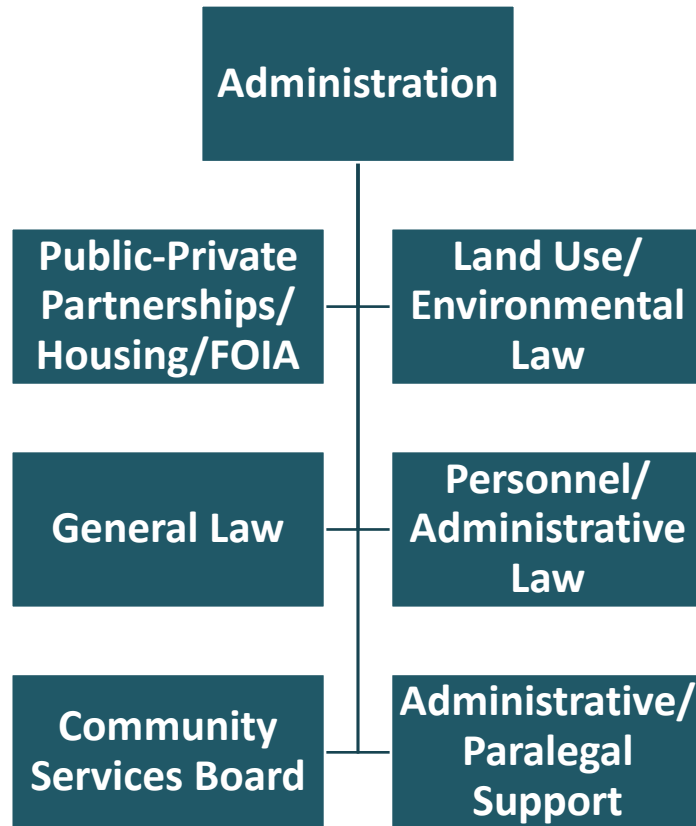
In addition to the above duties, all sections of the office handle requests for documents pursuant to the Virginia Freedom of Information Act (VFOIA) with the assistance and guidance of two full-time FOIA attorneys approved by the Board in FY 2017. These two full-time attorneys are presently supervised by the Deputy County Attorney for P3/Housing. In addition to responding to FOIA requests, the attorneys continue to provide legal advice and guidance to County agencies, as well as training for specific agencies and general countywide training. The full-time FOIA attorneys also have been instrumental in working with the Office of Public Affairs (OPA) on the countywide FOIA program.

The County Attorney's Office also continues to be actively engaged in the Board's One Fairfax initiative. Senior members of the Office have worked extensively with the One Fairfax team and updates about One Fairfax have been regularly shared in detail during office-wide all hands meetings and through office emails, including regular updates about upcoming trainings and events. Further, a small group of employees has been working on additional measures to implement the principles of One Fairfax in the daily work of the office and coordinates with the rest of the office about the initiatives on an ongoing basis. In addition, the office has taken significant steps internally to further promote diversity in the applicant pool for open positions, including attending job fairs hosted by specialty bar associations to solicit internship applications with the expectation that some of those interns might later become full-time employees. Finally, the office has been vigilant about identifying opportunities to promote One Fairfax through the County's daily work. For example, on the office's initiative, advertisements for openings on the Board of Zoning Appeals were circulated to the

specialty bar associations, resulting in the most robust and diverse applicant pool to date for the most recent vacancies on this board.

All sections of the OCA are also engaged in reviewing draft legislation that is presented to the Virginia General Assembly for consideration. In the past fiscal year, this office submitted over 2,835 legal reviews during the 2020 General Assembly session. Further, all sections of the OCA are engaged in providing ongoing training for the multitude of County clients served by this office. The Office's attorneys are also engaged in state and local bar association activities. Attorneys also regularly serve as expert lecturers for continuing legal education seminars.

**Organizational
Chart**



Budget and Staff Resources

Category	FY 2021 Actual	FY 2022 Adopted	FY 2022 Revised	FY 2023 Advertised
FUNDING				
Expenditures:				
Personnel Services	\$7,601,909	\$8,364,332	\$8,425,832	\$8,838,454
Operating Expenses	651,626	413,846	1,535,983	613,944
Subtotal	\$8,253,535	\$8,778,178	\$9,961,815	\$9,452,398
Less:				
Recovered Costs	(\$466,522)	(\$466,522)	(\$466,522)	(\$466,522)
Total Expenditures	\$7,787,013	\$8,311,656	\$9,495,293	\$8,985,876
Income:				
Litigation Proceeds	\$65,356	\$143,254	\$143,254	\$143,254
Total Income	\$65,356	\$143,254	\$143,254	\$143,254
NET COST TO THE COUNTY	\$7,721,657	\$8,168,402	\$9,352,039	\$8,842,622
AUTHORIZED POSITIONS/FULL-TIME EQUIVALENT (FTE)				
Regular	65 / 65	66 / 66	66 / 66	66 / 66

FY 2023 Funding Adjustments

The following funding adjustments from the FY 2022 Adopted Budget Plan are necessary to support the FY 2023 program:

Employee Compensation \$474,122

An increase of \$474,122 in Personnel Services includes \$335,410 for a 4.01 percent market rate adjustment (MRA) for all employees and \$138,712 for performance-based and longevity increases for non-uniformed merit employees, both effective July 2022.

Department of Vehicle Services Charges \$98

An increase of \$98 in Department of Vehicle Services Charges is based on anticipated billings for maintenance and operating-related charges.

Collective Bargaining \$200,000

An increase of \$200,000 in Operating Expenses is associated with providing legal support to the Board of Supervisors and County staff in connection with anticipated collective bargaining agreements.

Changes to FY 2022 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2022 Revised Budget Plan since passage of the FY 2022 Adopted Budget Plan. Included are all adjustments made as part of the FY 2021 Carryover Review, FY 2022 Mid-Year Review, and all other approved changes through December 31, 2021:

Carryover Adjustments \$1,183,637

As part of the FY 2021 Carryover Review, the Board of Supervisors approved funding of \$1,183,637, including \$61,500 in Personnel Services for a one-time compensation adjustment of \$1,000 for merit employees and \$500 for non-merit employees paid in November 2021. The remaining amount of \$1,122,137 includes \$200,000 in Operating Expenses to support the implementation of collective bargaining, and encumbered funding of \$922,137 in Operating Expenses mainly associated with professional legal services.

Position Detail

The FY 2023 Advertised Budget Plan includes the following positions:

OFFICE OF THE COUNTY ATTORNEY – 66 Positions			
Administration			
1	County Attorney		
1	Administrative Associate		
Administrative Support			
1	Administrative Associate	1	Administrative Assistant III
1	Administrative Assistant V	1	Financial Specialist II
5	Administrative Assistants IV		
Public-Private Partnerships/Housing/FOIA			
1	Deputy County Attorney	3	Assistant County Attorneys V
2	Assistant County Attorneys VII	1	Network Analyst II
1	Assistant County Attorney VI		
Land Use/Environmental Law			
1	Deputy County Attorney	4	Assistant County Attorneys VI
2	Senior Assistant County Attorneys	2	Assistant County Attorneys V
3	Assistant County Attorneys VII		
General Law			
1	Deputy County Attorney	4	Assistant County Attorneys VI
2	Senior Assistant County Attorneys	3	Assistant County Attorneys V
1	Assistant County Attorney VII		
Personnel/Administrative Law			
1	Deputy County Attorney	7	Assistant County Attorneys VI
2	Senior Assistant County Attorneys	3	Assistant County Attorneys V
2	Assistant County Attorneys VII		
Community Services Board			
1	Deputy County Attorney	1	Assistant County Attorney VII
Paralegal Support			
2	Paralegal Supervisors	5	Paralegals

Performance Measurement Results

In FY 2021, despite the increase in litigation and difficulties created by the pandemic, 93 percent of lawsuits brought by or against the County were concluded favorably. The office continues to strive to meet the expectations of its clients. The small percentage of unfavorable conclusions are primarily civil commitment hearings in which the patient was not committed. The continued success in litigation is accomplished through the dedication and skill of the attorneys staffing these cases.

The Office diligently provided timely and responsive legal advice to our various clients so that the continuity and operations of the County continued even in the pandemic. The response time to all requests for legal opinions and advice is based on responses to requests from the Board of Supervisors, other boards, authorities and commissions, the County Executive and County departments. The office continues to exceed the goal of 87 percent despite the increase in the volume, and complexity of the assignments. OCA will continue to strive to meet the increasing demand for complex legal opinions and advice in an efficient and productive manner.

The office continues to work closely with the Zoning Administrator, the Property Maintenance Code Official and the Director of DPWES to identify and work together to bring properties into compliance with the Zoning Code, the Fairfax County Code and the Code of Virginia. In 2021, the office exceeded the target of 90 percent for filing zoning and other Code enforcement-related litigation within 40 days of receipt. The office provided timely and critical legal advice to the Department of Code Compliance to ensure continuance of its essential functions during the pandemic. The office will continue to provide timely legal representation in response to requests for zoning and property maintenance code enforcement, as well as provide legal guidance for viable solutions prior to filing legal actions.

The office will continue to strive to bring favorable conclusions to its cases and provide timely and comprehensive responses to requests from the Board of Supervisors, other County boards, authorities and commissions, the County Executive and County departments.

Indicator	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2021 Actual	FY 2022 Estimate	FY 2023 Estimate
Percentage point change of lawsuits concluded favorably during the fiscal year	(1)	1	2	(2)	4	0
Percentage point change of responses meeting timeliness standards	6	0	(11)	(1)	(10)	0
Percentage point change in zoning enforcement requests meeting 40-day submission standard	(4)	(4)	(9)	0	9	0

A complete list of performance measures can be viewed at
<https://www.fairfaxcounty.gov/budget/fy-2023-advertised-performance-measures-pm>