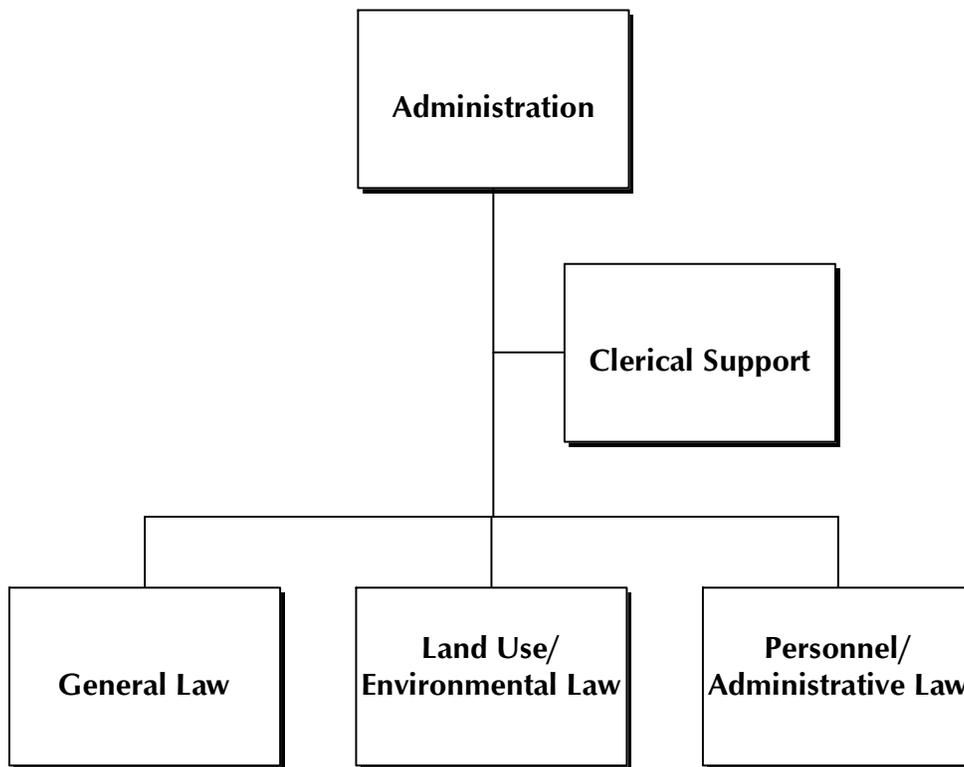


# Office of the County Attorney



## 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 three sections: the General Law section; the Land Use/Environmental Law section; and the Personnel/Administrative Law section. The General Law section civilly prosecutes delinquent tax claims; defends erroneous tax assessment lawsuits; 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 opinions to the governing body and the County government on all manner of subjects. The office maintains intensive collection and litigation efforts regarding tax delinquencies and bankruptcies. The section also 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.

## THINKING STRATEGICALLY

Strategic issues for the department include:

- Defending claims against the County to a favorable conclusion;
- Pursuing cases involving the abuse and neglect of children and the elderly;
- Assisting in the revitalization of older neighborhoods and the creation of housing opportunities for the low-income workforce and aging populations;
- Assisting the Zoning Administrator and the Property Maintenance Code Official in enforcing the laws against residential overcrowding and illegal multiple dwelling units; and
- Assuming a leadership role in facilitating transit in the Dulles corridor and in developing public-private partnerships to effect major highway improvements.

# Office of the County Attorney

The Land Use/Environmental Law section defends land use decisions of the Board of Supervisors, drafts and enforces zoning ordinances and building and land development regulations, brings condemnation actions, sues defaulting developers, advises County agencies on environmental issues, and reviews subdivision documents affecting County property interests. The shrinking inventory of land in the County on which development can take place increases infill development and places pressure on existing neighborhoods to redevelop. If the Board of Supervisors approves an infill application, litigation challenging the decision becomes likely. In addition, new developments may have an adverse environmental impact on neighboring developments. As a result, the Land Use/Environmental Law section may be called upon to enforce environmental constraints such as the County's erosion and sediment control regulations. Overcrowding of dwelling units and the creation of illegal multiple dwelling units on residential property have become major causes of the destabilization of certain mature neighborhoods within the County. The Land Use/Environmental Law section has become a crucial player in the efforts of the Zoning Administrator and the Property Maintenance Code Official to enforce the law and that section works closely with the other members of the strike teams that have been assembled to deal with this problem.

The Personnel/Administrative Law section defends County personnel decisions before administrative hearings and in litigation; provides counsel to the Fairfax County Redevelopment and Housing Authority (FCRHA) and the Park Authority; civilly prosecutes cases involving abuse and neglect of children and elders in the Juvenile and Domestic Relations District Court; drafts personnel and retirement ordinances; and defends the County and its employees in tort actions. A growing population density and an aging of that population impact this section in that accidents involving County vehicles are more likely, as are the filing of tort lawsuits. More people also means more instances of abuse and neglect of children and elders, the results of which currently occupy the efforts of five full-time attorneys. The aging population, many of whom will be on lower fixed incomes during their retirement years, will look to the County to assist them in meeting their housing needs and this will result in more work for the section in its provision of legal advice and transactional expertise to the Redevelopment and Housing Authority. The Board of Supervisors' successful initiative to provide more affordable and workforce housing also results in greater involvement of the section in the work of the FCRHA.

## New Initiatives and Recent Accomplishments in Support of the Fairfax County Vision

|  <b>Building Livable Spaces</b>   | <b>Recent Success</b> | <b>FY 2009 Initiative</b> |
|--|-----------------------|---------------------------|
| Continue to work with the Zoning Administrator, the Property Maintenance Code Official, and the strike teams to stabilize the mature neighborhoods that have been plagued by residential overcrowding and the creation of illegal multiple dwelling units. | ✓                     | ✓                         |
|  <b>Connecting People and Places</b>  | <b>Recent Success</b> | <b>FY 2009 Initiative</b> |
| Continue to work with all of the stakeholders in the Dulles corridor to hasten the expansion of rail to Dulles.  | ✓                     | ✓                         |
|  <b>Creating a Culture of Engagement</b>  | <b>Recent Success</b> | <b>FY 2009 Initiative</b> |
| Continue to participate in numerous community dialogues sponsored by members of the Board of Supervisors to educate County residents on the many activities of County government and the legal issues surrounding them.                                    | ✓                     | ✓                         |

# Office of the County Attorney

| <b>Exercising Corporate Stewardship</b>  | <b>Recent Success</b>               | <b>FY 2009 Initiative</b>           |
|--|-------------------------------------|-------------------------------------|
| Continue to successfully defend high-dollar personal injury claims brought against the County. | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

## Budget and Staff Resources



| <b>Agency Summary</b>            |                    |                             |                             |                                |                             |
|----------------------------------|--------------------|-----------------------------|-----------------------------|--------------------------------|-----------------------------|
| Category                         | FY 2007 Actual     | FY 2008 Adopted Budget Plan | FY 2008 Revised Budget Plan | FY 2009 Advertised Budget Plan | FY 2009 Adopted Budget Plan |
| Authorized Positions/Staff Years |                    |                             |                             |                                |                             |
| Regular                          | 65/ 65             | 65/ 65                      | 66/ 66                      | 66/ 66                         | 66/ 66                      |
| Expenditures:                    |                    |                             |                             |                                |                             |
| Personnel Services               | \$5,646,464        | \$6,064,988                 | \$6,164,988                 | \$6,360,995                    | \$6,446,812                 |
| Operating Expenses               | 624,938            | 574,311                     | 681,821                     | 574,311                        | 574,311                     |
| Capital Equipment                | 0                  | 0                           | 0                           | 0                              | 0                           |
| <b>Subtotal</b>                  | <b>\$6,271,402</b> | <b>\$6,639,299</b>          | <b>\$6,846,809</b>          | <b>\$6,935,306</b>             | <b>\$7,021,123</b>          |
| Less:                            |                    |                             |                             |                                |                             |
| Recovered Costs                  | (\$414,361)        | (\$432,757)                 | (\$432,757)                 | (\$446,349)                    | (\$446,349)                 |
| <b>Total Expenditures</b>        | <b>\$5,857,041</b> | <b>\$6,206,542</b>          | <b>\$6,414,052</b>          | <b>\$6,488,957</b>             | <b>\$6,574,774</b>          |
| Income:                          |                    |                             |                             |                                |                             |
| FCPS Legal Assistance Fees       | \$38,724           | \$35,997                    | \$35,997                    | \$35,997                       | \$35,997                    |
| County Attorney Fees             | 0                  | 1,000                       | 1,000                       | 1,000                          | 1,000                       |
| Litigation Proceeds              | 122,215            | 92,613                      | 122,215                     | 122,215                        | 122,215                     |
| Copy Machine Revenue             | 194                | 0                           | 0                           | 0                              | 0                           |
| <b>Total Income</b>              | <b>\$161,133</b>   | <b>\$129,610</b>            | <b>\$159,212</b>            | <b>\$159,212</b>               | <b>\$159,212</b>            |
| <b>Net Cost to the County</b>    | <b>\$5,695,908</b> | <b>\$6,076,932</b>          | <b>\$6,254,840</b>          | <b>\$6,329,745</b>             | <b>\$6,415,562</b>          |

| <b>Position Summary</b>                |  |  |
|--|--|--|
| <u>Administration</u>                  | <u>Land Use/<br/>Environmental Law</u> | <u>Personnel/<br/>Administrative Law</u> |
| 1 County Attorney                      | 1 Deputy County Attorney               | 1 Deputy County Attorney                 |
| 2 Administrative Associates            | 2 Senior Assistant County Attorneys    | 2 Senior Assistant County Attorneys      |
| 1 Network Analyst II                   | 3 Assistant County Attorneys VI        | 1 Assistant County Attorney VII          |
| 1 Management Analyst II                | 6 Assistant County Attorneys V         | 5 Assistant County Attorneys VI          |
|  | 3 Paralegal Assistants                 | 6 Assistant County Attorneys V           |
|  |  | 2 Paralegal Assistants                   |
|  | <u>General Law</u>                     |  |
| 11 Administrative Assistants IV        | 1 Deputy County Attorney               |  |
| 1 Administrative Assistant III         | 1 Senior Assistant County Attorney     |  |
| 1 Administrative Assistant II          | 3 Assistant County Attorneys VII       |  |
|  | 2 Assistant County Attorneys VI        |  |
|  | 4 Assistant County Attorneys V         |  |
|  | 5 Paralegal Assistants                 |  |
| <b>TOTAL POSITIONS</b>                 |  |  |
| <b>66 Positions / 66.0 Staff Years</b> |  |  |

# Office of the County Attorney

## FY 2009 Funding Adjustments

The following funding adjustments from the FY 2008 Revised Budget Plan are necessary to support the FY 2009 program:

- ◆ **Employee Compensation** **\$196,007**  
An increase of \$196,007 in Personnel Services is associated with salary adjustments necessary to support the County's compensation program. As a result of budget constraints, compensation adjustments for County employees have been reduced. For FY 2009, employee increases as part of the pay for performance system have been discounted by 50 percent and the impact of the lower pay for performance funding is reflected above.
- ◆ **Operating Expenses** **(\$107,510)**  
A decrease of \$107,510 in Operating Expenses is due to one-time expenses included as part of the FY 2007 Carryover Review.
- ◆ **Recovered Costs** **(\$13,592)**  
An increase of \$13,592 in Recovered Costs is based on projected salary and operating requirements.

## Board of Supervisors' Adjustments

The following funding adjustments reflect all changes to the FY 2009 Advertised Budget Plan, as approved by the Board of Supervisors on April 28, 2008:

- ◆ **Pay for Performance** **\$85,817**  
An increase of \$85,817 in Personnel Services is associated with the decision by the Board of Supervisors to eliminate the 50 percent reduction to employee increases as part of the pay for performance system. A reduction to pay for performance increases had been proposed in the FY 2009 Advertised Budget Plan due to budget constraints. However, as a result of the Board's decision, employees will be eligible for the full compensation increase for which they qualify based on performance.

## Changes to FY 2008 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2008 Revised Budget Plan since passage of the FY 2008 Adopted Budget Plan. Included are all adjustments made as part of the FY 2007 Carryover Review and all other approved changes through December 31, 2007:

- ◆ **Carryover Adjustments** **\$207,510**  
As part of the FY 2007 Carryover Review, the Board of Supervisors approved encumbered funding of \$107,510 in Operating Expenses. In addition, funding of \$100,000 was included to provide for 1/1.0 SYE position to support the substantial additional workload associated with the increased neighborhood zoning enforcement efforts of the Code Enforcement Strike Team.

The following funding adjustments reflect all approved changes to the FY 2008 Revised Budget Plan from January 1, 2008 through April 21, 2008. Included are all adjustments made as part of the FY 2008 Third Quarter Review:

- ◆ The Board of Supervisors made no adjustments to this agency.

# Office of the County Attorney

## Key Performance Measures

### Objectives

- ◆ To ensure that the civil litigation brought by or against the County of Fairfax and its constituent entities in state or federal, trial or appellate courts and administrative tribunals is consistently processed to a favorable conclusion by maintaining the percentage of lawsuits concluded favorably at 97 percent.
- ◆ To maintain the response time to all requests for legal opinions and advice from the Board of Supervisors, other boards, authorities or commissions, the County Executive, and County agencies at 87 percent of responses meeting timeliness standards.
- ◆ To forward a final draft Bill of Complaint to the Zoning Administrator within 40 days of the request for zoning enforcement 90 percent of the time.
- ◆ To maintain the recovery rate of amounts referred for collection by the Department of Tax Administration at a minimum of 63 percent.

| Indicator                                      | Prior Year Actuals |                |                           | Current Estimate | Future Estimate |
|--|--------------------|----------------|---------------------------|------------------|-----------------|
|  | FY 2005 Actual     | FY 2006 Actual | FY 2007 Estimate/Actual   | FY 2008          | FY 2009         |
| <b>Output:</b>                                 |                    |                |                           |                  |                 |
| Lawsuits completed                             | 816                | 1,287          | 925 / 1,121               | 1,138            | 1,162           |
| Advisory responses completed                   | 3,416              | 3,067          | 3,150 / 3,181             | 3,230            | 3,330           |
| Draft Bills of Complaint submitted             | 58                 | 86             | 70 / 94                   | 128              | 128             |
| Dollars collected for real estate              | \$933,025          | \$446,359      | \$500,000 / \$919,876     | \$600,000        | \$600,000       |
| Dollars collected for BPP, PP, BPOL, Other (1) | \$3,598,480        | \$3,161,196    | \$3,150,000 / \$2,679,107 | \$2,600,000      | \$2,600,000     |
| Total dollars collected                        | \$4,531,505        | \$3,607,555    | \$3,600,000 / \$3,598,983 | \$3,200,000      | \$3,200,000     |
| <b>Efficiency:</b>                             |                    |                |                           |                  |                 |
| Lawsuits completed per staff                   | 13                 | 20             | 14 / 17                   | 17               | 17              |
| Responses provided per staff                   | 53                 | 48             | 48 / 49                   | 49               | 49              |
| Draft Bills of Complaint per staff assigned    | 23                 | 34             | 28 / 38                   | 37               | 37              |
| Salaries expended per collection amount        | 12%                | 17%            | 16% / 17%                 | 20%              | 20%             |

# Office of the County Attorney

| Indicator   | Prior Year Actuals |                |                         | Current Estimate | Future Estimate |
|---|--------------------|----------------|-------------------------|------------------|-----------------|
|   | FY 2005 Actual     | FY 2006 Actual | FY 2007 Estimate/Actual | FY 2008          | FY 2009         |
| <b>Service Quality:</b>   |                    |                |                         |                  |                 |
| Percent of lawsuits concluded favorably   | 99%                | 98%            | 97% / 97%               | 97%              | 97%             |
| Percent of advisory responses meeting timeliness standards for BOS requests (14 days)   | 93%                | 91%            | 91% / 93%               | 91%              | 91%             |
| Percent of advisory responses meeting timeliness standards for subdivision review (21 days)                                   | 100%               | 100%           | 95% / 99%               | 95%              | 95%             |
| Percent of advisory responses meeting timeliness standards for legal opinion (30 days)  | 80%                | 91%            | 85% / 73%               | 80%              | 85%             |
| Percent of advisory responses meeting timeliness standards for Freedom of Information Act requests (according to state law)   | 100%               | 100%           | 100% / 100%             | 100%             | 100%            |
| Percent of advisory responses meeting timeliness standards for other requests (1 year)  | 84%                | 81%            | 81% / 88%               | 82%              | 82%             |
| Percent of advisory responses meeting timeliness standards overall  | 87%                | 85%            | 87% / 90%               | 87%              | 87%             |
| Percent of zoning enforcement requests meeting 40-day submission standard   | 88%                | 100%           | 90% / 100%              | 90%              | 90%             |
| Collection rate (Total BPOL, BPP, PP, collected in current year divided by total BPOL, BPP, PP referred in previous year) (1) | 79%                | 80%            | 63% / 89%               | 63%              | 63%             |
| <b>Outcome:</b>   |                    |                |                         |                  |                 |
| Percentage point change of lawsuits concluded favorably during the fiscal year  | 2                  | (1)            | (1) / 0                 | 0                | 0               |
| Percentage point change of responses meeting timeliness standards   | (1)                | (2)            | 2 / 5                   | (3)              | 0               |
| Percentage point change in zoning enforcement requests meeting 40-day submission standard                                     | 27                 | 12             | (10) / (10)             | (10)             | 0               |
| Percentage point change in recovery of amounts referred for collection  | (1)                | 1              | (17) / 9                | (26)             | 0               |

(1) BPP = Business Personal Property Tax; PP = Personal Property Tax; BPOL = Business, Professional and Occupational License Tax.

# Office of the County Attorney

---

## **Performance Measurement Results**

In FY 2007, 97 percent of lawsuits brought by or against the County were concluded favorably, meeting the established target. The Office of the County Attorney anticipates a continued high percentage of favorably concluded lawsuits in fiscal years 2008 and 2009.

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. In FY 2007, the Office exceeded its target of 87 percent by three percentage points and will continue to improve its timeliness of legal opinions in FY 2009.

In FY 2007, the target of 90 percent for meeting the 40-day submission standard for Zoning Enforcement suits was exceeded, with 100 percent met. The office will continue working to meet or exceed the 90 percent target estimate in future years.

The dollar recovery rate on collection suits is based on delinquencies that are referred by the Department of Tax Administration to the Office of the County Attorney's target component and the amount recovered. In FY 2007, the collection rate was 89 percent, which exceeded the objective of 63 percent. The Office of the County Attorney does not expect the dollar recovery rate to be as high in FY 2008 and FY 2009, since more accounts with smaller dollar values are anticipated to be resolved, but the office will still strive to meet its goal of a 63 percent collection rate.