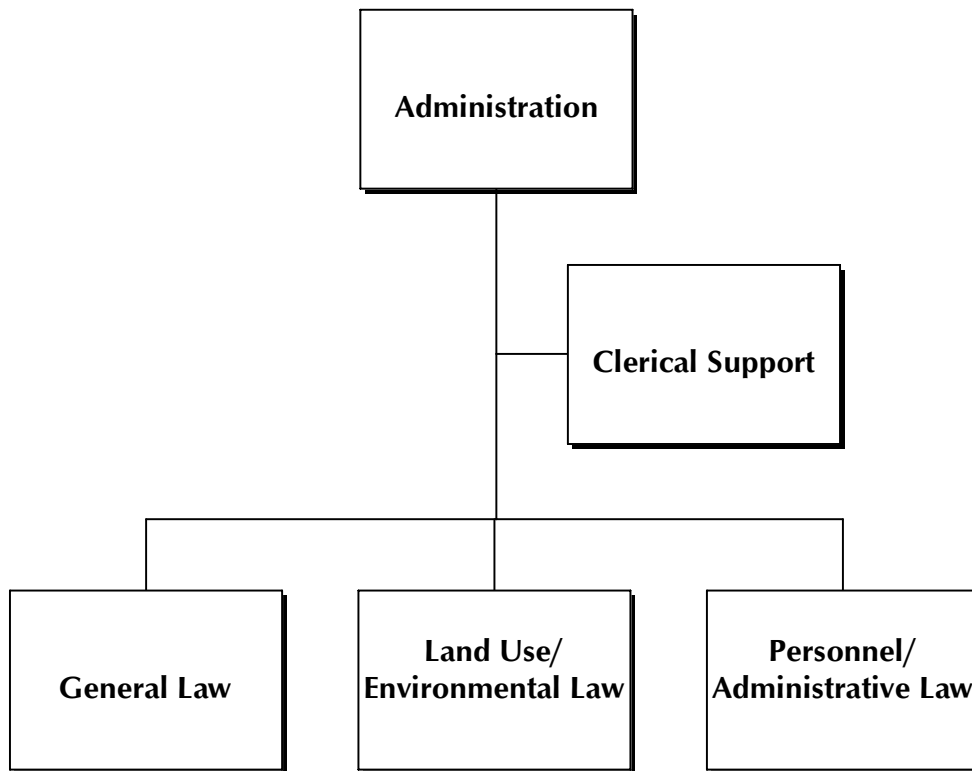


# Office of the County Attorney



## 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

### ***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

challenge real estate, business personal property and Business, Professional and Occupational License (BPOL) tax assessments.

The Land Use/Environmental Law section defends land use decisions of the Board of Supervisors, drafts and enforces zoning ordinances 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 and Circuit Court, drafts personnel and retirement ordinances, and defends the County and its employees in tort actions. A growing population density impacts 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.

# Office of the County Attorney

## Budget and Staff Resources

Agency Summary		
Category	FY 2007 Actual	FY 2008 Adopted Budget Plan
Authorized Positions/Staff Years		
Regular	65/ 65	65/65
Expenditures:		
Personnel Services	\$5,646,464	\$6,064,988
Operating Expenses	624,938	574,311
Capital Equipment	0	0
<b>Subtotal</b>	<b>\$6,271,402</b>	<b>\$6,639,299</b>
Less:		
Recovered Costs	(\$414,361)	(\$432,757)
<b>Total Expenditures</b>	<b>\$5,857,041</b>	<b>\$6,206,542</b>
Income:		
FCPS Legal Assistance Fees	\$38,724	\$35,997
County Attorney Fees	0	1,000
Litigation Proceeds	122,215	92,613
Copy Machine Revenue	194	0
<b>Total Income</b>	<b>\$161,133</b>	<b>\$129,610</b>
<b>Net Cost to the County</b>	<b>\$5,695,908</b>	<b>\$6,109,561</b>

## SUMMARY OF ALL AGENCY LOBS (FY 2008 Adopted Budget Data)

Number	LOB Title	Net LOB Cost	Number of Positions	LOB SYE
17-01	Legal Service/Representation	\$5,502,190	57	57.0
17-02	Tax Collection	\$607,371	8	8.0
<b>TOTAL</b>		<b>\$6,109,561</b>	<b>65</b>	<b>65.0</b>

# Office of the County Attorney

## LOBS SUMMARY

### 17-01: Legal Service/Representation

<i>Fund/Agency: 001/17</i>		<i>Office of the County Attorney</i>	
<b>LOB #: 17-01</b>		<b>Legal Service/Representation</b>	
Personnel Services			\$5,505,925
Operating Expenses			\$526,003
Recovered Costs			(\$432,757)
Capital Equipment			\$0
<b>Total LOB Cost:</b>			\$5,599,171
Federal Revenue			\$0
State Revenue			\$0
User Fee Revenue			\$0
Other Revenue			\$96,981
<b>Total Revenue:</b>			\$96,981
<b>Net LOB Cost:</b>			\$5,502,190
Positions/SYE involved in the delivery of this LOB			57 / 57.0

#### ► LOB Summary

This Office represents Fairfax County in civil legal matters, and it gives legal advice and opinions to the Board of Supervisors, to other boards, authorities, and commissions, to the County Executive, and to all of the other County agencies.

We continue to achieve a high rate of success in litigation before all of the trial and appellate courts in which we practice. Due to the County's renewed enforcement efforts by the recently formed Enhanced Code Enforcement Strike Team, the Land Use/Environmental Law section expects a significant increase in workload as a result. In September 2007, the BOS approved the creation of ten new positions in the County, including one full-time land use attorney in this Office dedicated to this effort.

In addition, this Office has provided, and will continue to provide, preventative law services by conducting specialized training sessions for the Criminal Justice Academy, the Department of Public Works and Environmental Services, the Department of Planning and Zoning, the Human Resources Department, the Department of Information Technology, Department of Family Services, and the Department of Taxation.

Lastly, the members of this Office, both the attorneys and the paralegals, strive to be active members of professional associations, and such activity enhances their ability to work with colleagues in both the public and private sectors. This Office has continuously attained leadership positions in the Fairfax Bar Association, the Fairfax Law Foundation, the Local Government Attorneys of Virginia, the Virginia State Bar and the Fairfax Paralegal Association. Members of this Office have also attained membership on the Bar Council and the Executive Council of the Virginia State Bar, the Budget and Finance Committee of the Virginia State Bar, and the Mandatory Continuing Legal Education Board. One member is an instructor for the Harry L. Carrico

## Office of the County Attorney

Professionalism Course. In addition, in 2004-2005, County Attorney David P. Bobzien served as the 66<sup>th</sup> President of the Virginia State Bar, becoming the first local government attorney to serve in that capacity. He is currently the Virginia State Bar's Delegate to the American Bar Association, a board member of the Fairfax Law Foundation and Virginia Law Foundation, and president-elect of the Virginia Lawyers Helping Lawyers, which assists lawyers with substance abuse and mental health problems.

### ► Method of Service Provision

County Attorneys in the Office of the County Attorney provide these services directly by means of oral and written communication. This Office's base hours are 8:30 a.m. to 5:00 p.m. However, such circumstances as court appearances, attendance at Planning Commission and public hearings, attendance at FCRHA and Park Authority meetings and the preparation of briefs and other legal documents are often done outside of the normal base hours. Additionally, the attorneys in this Office are on call at all times for emergencies requiring legal advice.

### ► Mandate Information

This LOB is federally or state mandated and is found on page 6 of the Federal/State Mandate Report. The percentage of this LOB's resources utilized to satisfy the mandate is 76-100 percent.

## 17-02: Tax Collection

<i>Fund/Agency: 001/17</i>		<i>Office of the County Attorney</i>	
<b>LOB #: 17-02</b>		<b>Tax Collection</b>	
Personnel Services			\$559,063
Operating Expenses			\$48,308
Recovered Costs			\$0
Capital Equipment			\$0
<b>Total LOB Cost:</b>			\$607,371
Federal Revenue			\$0
State Revenue			\$0
User Fee Revenue			\$0
Other Revenue			\$0
<b>Total Revenue:</b>			\$0
<b>Net LOB Cost:</b>			\$607,371
Positions/SYE involved in the delivery of this LOB			8 / 8.0

### ► LOB Summary

This Office collects various delinquents taxes owed to the County, including real estate, business personal property, personal property, and Business, Professional and Occupational License.

This Office has been working with the Department of Tax Administration to accelerate the referral rate of delinquent cases for legal action. In turn, the dollar amounts referred are lower because the

## Office of the County Attorney

delinquent accounts typically no longer include years of penalties and accumulated interest. This section continuously strives to achieve and maintain a high collection rate. This Office has also made great strides in pursuing back taxes from those who have filed for bankruptcy and has been successful in various federal bankruptcy courts throughout the country.

In addition, one member of this section has conducted two Continuing Legal Education seminars on bankruptcy for the Local Government Attorneys Association. This member has also published an article on the Bankruptcy Reform Act in the Journal of Local Government Law.

### ► Method of Service Provision

County Attorneys and Paralegals in the Office of the County Attorney provide these services directly by means of oral and written communication. This Office's base hours are 8:30 a.m. to 5:00 p.m. However, such circumstances as court appearances and the preparation of briefs and other legal documents are often done outside of the normal base hours. Additionally, the attorneys in this Office are on call at all times for emergencies requiring legal advice.

### ► Mandate Information

This LOB is federally or state mandated and is found on page 6 of the Federal/State Mandate Report. The percentage of this LOB's resources utilized to satisfy the mandate is 76-100 percent.

## **AGENCY 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.

# Office of the County Attorney

Indicator	Prior Year Actuals		Current Estimate	Future Estimate	LOB Reference Number
	FY 2006 Actual	FY 2007 Estimate/Actual	FY 2008	FY 2009	
Output:					
Lawsuits completed	1,287	925 / 1,121	1,138	1,162	17-01
Advisory responses completed	3,067	3,150 / 3,181	3,230	3,330	17-01
Draft Bills of Complaint submitted	86	70 / 94	128	128	17-01
Dollars collected for real estate	\$446,359	\$500,000 / \$919,876	\$600,000	\$600,000	17-02
Dollars collected for BPP, PP, BPOL, Other (1)	\$3,161,196	\$3,150,000 / \$2,679,107	\$2,600,000	\$2,600,000	17-02
Total dollars collected	\$3,607,555	\$3,600,000 / \$3,598,983	\$3,200,000	\$3,200,000	17-02
Efficiency:					
Lawsuits completed per staff	20	14 / 17	17	17	17-01
Responses provided per staff	48	48 / 49	49	49	17-01
Draft Bills of Complaint per staff assigned	34	28 / 38	37	37	17-01
Salaries expended per collection amount	17%	16% / 17%	20%	20%	17-02
Service Quality:					
Percent of lawsuits concluded favorably	98%	97% / 97%	97%	97%	17-01
Percent of advisory responses meeting timeliness standards for BOS requests (14 days)	91%	91% / 93%	91%	91%	17-01
Percent of advisory responses meeting timeliness standards for subdivision review (21 days)	100%	95% / 99%	95%	95%	17-01
Percent of advisory responses meeting timeliness standards for legal opinion (30 days)	91%	85% / 73%	80%	85%	17-01
Percent of advisory responses meeting timeliness standards for Freedom of Information Act requests (according to state law)	100%	100% / 100%	100%	100%	17-01
Percent of advisory responses meeting timeliness standards for other requests (1 year)	81%	81% / 88%	82%	82%	17-01
Percent of advisory responses meeting timeliness standards overall	85%	87% / 90%	87%	87%	17-01
Percent of zoning enforcement requests meeting 40-day submission standard	100%	90% / 100%	90%	90%	17-01
Collection rate (Total BPOL, BPP, PP, collected in current year divided by total BPOL, BPP, PP referred in previous year) (1)	80%	63% / 89%	63%	63%	17-02

# Office of the County Attorney

Indicator	Prior Year Actuals		Current Estimate	Future Estimate	LOB Reference Number
	FY 2006 Actual	FY 2007 Estimate/Actual	FY 2008	FY 2009	
Outcome:					
Percentage point change of lawsuits concluded favorably during the fiscal year	(1)	(1) / 0	0	0	17-01
Percentage point change of responses meeting timeliness standards	(2)	2 / 5	(3)	0	17-01
Percentage point change in zoning enforcement requests meeting 40-day submission standard	12	(10) / (10)	(10)	0	17-01
Percentage point change in recovery of amounts referred for collection	1	(17) / 9	(26)	0	17-02

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