

# Land Loss Prevention Project

## ORGANIZATION OVERVIEW AND IMPACT

### **1. MISSION AND PROGRAMS:**

The Land Loss Prevention Project's (LLPP) mission is to provide comprehensive legal services and technical support to North Carolina's financially distressed and limited resource farmers and landowners seeking to preserve their farms, homes, land and rural livelihoods. Two operational units – the Litigation Unit and the Sustainable Development and Environment Unit allow LLPP to fulfill its mission.

The Litigation Unit represents eligible clients on the following legal matters: agriculture, which includes farm foreclosure, tobacco buyout, poultry contracts, etc.; real property, which includes heir property, trespass, boundary disputes, easements, and partition sales; bankruptcy; consumer protection including predatory lending and consumer finance; business such as assistance in evaluating the benefits of an agricultural cooperative; incorporation and 501 (c)(3) applications; civil rights; regulatory matters including zoning and municipal services; and rural economic development. The Litigation Unit also conducts legal seminars and works collaboratively with other organizations to expand the supportive services available to farmers and low-resource land owners.

Encompassed within the Litigation Unit is a SmartGrowth Business Center (SGBC), an internal resource, that provides counseling to farmers who need business planning services in order to sustain their farming operations/businesses, sustainable agriculture, and develop a succession plan where desired. Services include business entity formation, contractual review, counseling regarding the availability of federal programs and requirements, and taxation education. The Center provides viable options to farmers in order to avoid the problems that routinely lead to farm loss.

The Sustainable Development and Environment Unit helps small family farmers and landowners explore and implement market-driven, agricultural alternatives and guides business development that assist farmers to qualify for environmental incentive and conservation programs. This work expands agriculture-based partnerships creating economic strategies which benefit farmer's or landowner's rural community. The Sustainable Development and Environment Unit works with state, regional and national coalitions that support new agriculture practices, sustainable development, and policy innovations in the food system. The Sustainable Development and Environment Unit and the Litigation Unit share staff.

### **2. CUSTOMER/TARGET POPULATION**

The LLPP's clients are North Carolina's financially distressed and limited resource farmers and low-resource homeowners and landowners who face issues involving land tenure and use. The standard income ceiling for LLPP clients is 187.5% of the federal poverty level applied to a family's net income. In home foreclosure cases, the income level may be subject to a 300% of federal poverty level income limit.

A profile of LLPP's client base is as follows: North Carolina had approximately 50,400 farms according to available National Agriculture Statistics Services data reported in its 2011 annual Farm Numbers report.

<http://www.ncagr.gov/stats/economic/RealEstate.pdf>. Some 15,900 farm operators have been classified as limited resource farmers. Limited resource and very small, family farms account for

30% of all farms with less than 1% of total sales, representing \$105,431,750 of agriculture based revenue in North Carolina. <http://www.ncagr.gov/stats/2012AgStat/Page013-036.pdf> Family farms account for 97% of all farms, and about 85% of family farms are classified as small family farms. The average age of principal farm operators in North Carolina is 57, compared with 56 in 2002. <http://www.ncagr.gov/stats/census/highlights.htm>. (N.C. facts cited).

According to the census' state profile for North Carolina, in 2007, farm operators represented an increasing trend of diversity in agribusiness. Based on self-reporting, there were 7,016 women; 887 American Indian/Alaska Native; 232 Asian; 1,801 Black or African American; 12 native Hawaiian or other Pacific Islander; 471 "more than one race," and 738 Spanish, Hispanic, or Latino. [http://www.agcensus.usda.gov/Publications/2007/Online\\_Highlights/County\\_Profiles/North\\_Carolina/cp99037.pdf](http://www.agcensus.usda.gov/Publications/2007/Online_Highlights/County_Profiles/North_Carolina/cp99037.pdf). The N.C. Department of Agriculture emphasizes that women now account for 13% of all farm operators, up 3% from 2002. <http://www.ncagr.gov/stats/census/highlights.htm>. The limited resource farming population is traditionally underserved and benefit from the availability of coordinated legal services and technical assistance and outreach services LLPP provides.

#### PROFILE OF CLIENTS – FY 2011-2012

RACE/ETHNICITY OF CLIENTS									
African American	White, non-Hispanic	Entities	Hispanic/Latino	Native American	Mixed race	Asian or Pacific Islander	South Asian	Not specified	Total
337	105	5	6	5	6	6	1	8	479

### 3. **ORGANIZATION INCEPTION**

The LLPP was founded in 1982 by a taskforce of the North Carolina Association of Black Lawyers to stem the unprecedented losses of Black-owned land in North Carolina. The organization was incorporated as an independent entity in the state of North Carolina in 1983. In 1993, LLPP broadened its scope and field of work to provide legal support and assistance to all financially eligible, low-resource farmers and landowners throughout the state, and has been operating for 30 years.

### 4. **FOOTPRINT**

The LLPP serves the entire state of North Carolina and in state fiscal year 2011-2012 alone, provided services in 79 of the state's 100 counties (Alamance, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Clay, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Dobbs, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Iredell, Jackson, Johnston, Lee, Lenoir, Madison, Martin, Mecklenburg, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rowan, Sampson, Scotland, Stanly, Stokes, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wayne, Wilson, Yadkin and Yancey).

## **5. BUDGET**

<b>Support and Revenues</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>Total</b>
Federal funding	80,881	29,119	-	100,538	322,120	532,658
DOC (Received)	788,356	793,992	712,141	568,457	618,844	3,481,790
Public Grant Funds				117,000	207,874	324,874
Private Foundations	343,435	319,798	240,215	191,956	592,629	1,688,033
Recouped Legal Fee	-	83,838	-	17,386	-	101,224
Others	38,455	7,662	10,298	14,744	20,585	91,744
<b>Total Support and Revenues</b>	<b>1,251,127</b>	<b>1,234,409</b>	<b>962,654</b>	<b>1,010,081</b>	<b>1,762,052</b>	<b>6,220,323</b>

## **6. SALARY COMPLIANCE**

The LLPP has no state-supported positions with annual salaries above \$120,000. The employee benefits package includes group health, dental, disability insurance, paid time off, and a 403(b) SEP retirement plan. Employee participation in and employer contribution to the 403(b) retirement plan does not commence until after one year of employment. The employer contribution is currently set at 5% of the employee's annual salary.

## **7. LOBBYING SERVICES**

Patricia Yancey of Yancey/Martin Associates is on retainer to represent the LLPP on legislative and governmental public policy matters. The LLPP expended \$22,000 over a 12-month period to retain such representation. The LLPP has no employees who received compensation for lobbying or are registered lobbyists with the Secretary of State.

## **8. KEY PERFORMANCE INDICATORS**

LLPP measures its effectiveness based on the number of legal matters handled, its ability to achieve a positive outcome for clients, and its ability to identify clients' needs and adapt resources to meet those needs.

**Performance Indicator 1: Total number of legal matters handled by the firm.** LLPP provides legal services, as a last resort option to North Carolina's low-income, rural communities, the need for services is evidenced by the substantial number of clients served.

### **SAMPLING OF LEGAL MATTERS HANDLED**

<b>Number</b>	<b>Legal Area</b>
71	Real Property
160	Miscellaneous matters encompassing such issues as incorporation, tax-exempt status, land use regulation, environmental matters, taxes, wills, and rural economic development
190	Foreclosure defense, predatory lending, bankruptcy and other consumer protection matters
50	Discrimination/civil rights actions involving the United States Department of Agriculture
8	Other agriculture-related matters

## SUMMARY OF LEGAL MATTERS HANDLED

Fiscal Year 2011- 2012	
Number of legal matters handled	479
Number of counties in which assistance was provided (68 counties based solely on client location and 71 counties based on land location)	75

**Performance Indicator 2: Achieving positive outcomes for clients served.** In the past three state fiscal years (7/1/2009-6/30/2010; 7/1/2010-6/30/2011; and 7/1/2011- 6/30/2012), the LLPP has gained \$4,507,753 in debt relief, loan modifications, and awards for clients across its practice areas. The benefits of LLPP's services extend beyond the economic gains to individual clients served. By achieving positive outcomes for clients, communities and wealth are preserved, home values are stabilized, and opportunities are provided for clients to continue to contribute to their local tax base. In the practice area of foreclosure defense and fairness in lending, LLPP achieved positive property preservation value for farms. In the same practice area in 2011-2012, monetary relief of \$855,938 through debt relief by loan modifications or awards in lending cases was gained on behalf of farmers. Additionally, LLPP was able to preserve limited resource farm families' property valued at \$416,263 based on tax and appraisal records. This figure does not include certain business assets such as farm equipment.

A recent study by Western Carolina University found that in Macon County a conversion of a thirty acre parcel from agricultural-use to residential-use results in a \$532 net deficit in tax revenue to the county. In contrast, maintaining that same thirty acre parcel creates a positive net gain of \$290 that county's tax revenue. (Jeremy L. Jones & Susan B Kask, "The Fiscal Impact of Alternative Land Uses in Macon County," (2000)). In total, these savings have a correlation beyond clients' increased spending capacity and to the capital investments made in North Carolina's economy from agri-business.

Performance Indicator 3: Identifying clients' needs and adapting resources to meet those needs. Given LLPP's 30 years of expert legal practice in agricultural law matters, its staff attorneys have worked with many clients on matters that could have been prevented. Many of the challenges faced by the LLPP's clients involve the acquisition and management of farm credit. In addition, as evidenced by requests for assistance with bankruptcy or foreclosure proceedings, their need for better risk management is typical and urgent. To address such needs, several years ago, LLPP established the SmartGrowth Business Center, as an internal resource within its Litigation Unit. LLPP established the SmartGrowth Business Center, as an internal resource within its Litigation Unit. LLPP used its existing understanding of agriculture/business law to further develop its expertise to provide business planning services in order to sustain farming operations/businesses, sustainable agriculture, and develop a succession plan where desired. Services include business entity formation, contractual review, counseling regarding the availability of federal programs and requirements, and taxation education. The Center provides viable options to farmers in order to avoid the problems that routinely lead to farm loss.

### **9. SIMILAR ORGANIZATIONS**

The LLPP is unique in that it is the only non-profit law firm in the state as well as the country that provides both expansive direct legal assistance to farmers and landowners in a variety of practice areas while maintaining a focus on agricultural law. The LLPP is distinguished in the state's legal community by its 30 years of expertise in farm credit programs and farm foreclosure, farm related federal bankruptcy law and agriculture-based business development law and finance. In addition, the LLPP provides

technical support and outreach in helping farmers access and participate in the United States Department of Agriculture (USDA) credit and small farms programs and in local agriculture and natural resources programs and through the use and adoption of risk management tools. The organization provides essential legal services to the state's agriculture community. The only exception to the uniqueness of LLPP's services is in its collaborative work with other legal services organizations in the state when handling home foreclosure defense cases. If LLPP were not a partner in these efforts, fewer cases would be undertaken.

#### **10. BUDGETARY IMPACT**

As a result of the cuts in the grant-in-aid and uncertainty regarding future funding, LLPP has lost four staff attorneys. Two of those attorneys have been replaced, but the challenge remains relative to retaining the current staff in light of the perceived precariousness of funding. LLPP has increased its efforts to diversify its funding base including pursuing and acquiring some Federal funding. However, the funding that has been acquired is for specific projects, and without the State's general funding, LLPP will not be able to retain or attract the staff attorneys that are needed to continue to provide legal services to its increasing client needs.

Any substantial budget cuts for the Land Loss Prevention Project would have an immediate and negative effect on the individuals currently served by the nonprofit law firm. In order to handle a substantial reduction in funding, the Land Loss Prevention Project would have to begin curtailing services statewide before the expected date of such a cut. Because LLPP is a legal entity, it must adhere to certain professional and legal obligations to protect its clients' rights. In keeping with those professional and legal obligations, the legal staff has to gear up to finalizing active files, communicating with all clients with active files, copying client files and supplying all clients with their files, withdrawing as counsel in cases where appropriate, and assisting clients in finding new attorneys. Given the often insurmountable hurdle of securing legal assistance when one has limited or no financial resources, finding new attorneys is particularly challenging.

The LLPP is actively pursuing additional resources to offset the reduction in the grant-in-aid appropriated by the NC General Assembly. Additional resources have been secured by successfully competing for grants offered by the United States Department of Agriculture (USDA). These USDA grants provide funding for specific projects and relate more to outreach and access to government program activities and encompass a national, competitive grant cycle with no guarantee of funding. In terms of foreclosure prevention work, LLPP has been able to secure additional funding through the collaborative work with Legal Aid of North Carolina and the North Carolina Housing Finance Agency. Additional funding is being pursued for mortgage foreclosure prevention. These are resources with funding duration time limits.

Throughout the country, national private foundations have dramatically curtailed the provision of general support funding. Such funding is critical given that our program delivery mechanism is our staff attorneys. General support is necessary to cover staff attorneys' salaries and benefits.