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Summary of Activities and Accomplishments, 2007-2008

June 30, 2008 marks the end of the sixth year of the Duke Law School Community Enterprise Clinic's (the "Clinic") work providing legal services to North Carolina's community economic development sector and transactional experiential educational opportunities to Duke Law students. With an outstanding group of students and a diverse mixture of new and returning clients, this year was engaging and productive. In sum, the Clinic's work proved meaningful to its students in their personal and professional development as lawyers, and to its clients in meeting their substantive legal needs.

This year 19 students worked in the Clinic, representing over 30 clients and handling more than 60 diverse and complex legal matters. Collectively, these students and the Clinic's faculty provided more than 3300 hours of legal services to these clients. This represents approximately \$450,000 worth of legal services offered at no cost to the Clinic's clients.¹ The cost of operating the Clinic during this period was approximately \$175,000. Thus, the resources of the Clinic were leveraged at a rate of 2.5 to 1.

The Clinic has a two-fold mission. First, it provides students with practical legal skills training and professional development through direct client representation. Second, the Clinic provides low-wealth entrepreneurs and nonprofit community development organizations with the high quality legal services that are vital to achieving their economic development missions. While in practice the fulfillment of these dual goals are inextricably linked, it is useful to consider them individually in evaluating our success in meeting each.

Educational Impact

Community economic development encompasses a broad range of activities, issues and actors. The diversity of this field provides students with a unique array of opportunities to develop both practical and substantive legal skills. Each student had primary responsibility for at least two matters and most worked with multiple clients or on multiple matters for a single client. Fundamental practical skills like client interviewing and counseling, negotiation, drafting, and case management were emphasized through classroom simulations, seminar discussions, direct observation, and in weekly individual case review meetings. Because students represent clients directly, the Clinic provides unique opportunities within the Law School context for students to develop and practice these fundamental lawyering skills in a real world setting.

Students also enhanced their knowledge of substantive law in a number of areas including: corporate, tax, real estate, nonprofit, environmental and affordable housing and

¹ The portion of this figure attributable to time worked by Duke Law students is based on an assumed billing rate of \$100/hour for a third-year law student. These rates are similar to those charged at large law firms in North Carolina for law clerks.

community development law. In all of our cases, students counseled clients on the nature and form of their business transactions or organizations, and researched, drafted, and in some cases, negotiated the terms of the relevant documents. As a result, students increased their knowledge of substantive law, in addition to developing critical professional skills.

For many students, the practical experiences provided in the Clinic were heightened by the significance and sophistication of their cases. For example, one Clinic student represented a client in the acquisition of all of the assets of another nonprofit corporation. This case included drafting a purchase agreement, authorizing resolutions, and all required third party consents, as well as conducting due diligence to assess the potential risks of the transaction and negotiating agreements related to the financing of the deal. Through this process the student had the opportunity to plan and structure a significant corporate transaction and to become familiar with the documentation associated with the acquisition of a business. More importantly, he had the professional responsibility of shepherding the transaction from the negotiation stage to closing and through this gained valuable lessons about managing cases and clients, as well as dealing with opposing parties.

Two other Clinic students had the challenge of preparing comments for a client on a proposed rulemaking by the Internal Revenue Service designed to curb certain predatory practices that are prevalent in the tax preparation industry. This project gave our students the opportunity to present the legal and policy arguments against these practices at the highest level. This project provided the student the chance to learn a specific area of tax policy in great depth, to explore the limits of the agency's regulatory power and authority and to take responsibility for developing a practical and workable advocacy strategy that enabled the client to achieve its goals.

These types of cases typify the experiential educational opportunities available to Duke Law students through the Clinic. We will continue to work hard to ensure that both the classroom and client components of the Clinic provide rigorous opportunities for students to practice critical lawyering skills, deepen their substantive legal knowledge and begin to develop their professional identities.

Community Impact

Our clients benefit from the Clinic's work in two key ways. First, by receiving these legal services *pro bono*, our clients' transaction costs are substantially reduced and the funds saved can be re-directed into additional programming. Second, because of the high-quality and sophistication of the Clinic's work and the depth of the counseling we are able to provide, our clients are more comfortable taking on a broader and more complex range of community development transactions. As a result, they are better able to serve their constituencies.

Some significant results of the Clinic's work this year include the following:

- **Completed “legal audits” of nine community-based development organizations.** This year the Clinic piloted its new Assessment of Legal Fitness process. This process entails a legal audit of the participating organizations designed to ensure that they are operating in compliance with their organizational documents, their charitable status, the

applicable law, as well as industry best practices. In each audit, two students conducted an extensive corporate due diligence process, met repeatedly with executive staff and key board members, prepared a written audit report that included analysis and recommendations, and presented their findings at a meeting of the client's board of directors. In each audit, the students were able to identify specific areas in which improvements were needed to ensure legal compliance, protect organizational assets and increase organizational effectiveness. The Clinic believes that this process will help to significantly improve the management and operations of community-based development organizations throughout the state and expects to continue conducting such audits in future years.

- **Drafted agreements, contracts and supporting documents required for a major urban redevelopment project.** The Clinic represented a community development corporation ("CDC") throughout the planning, structuring and negotiation of the redevelopment of an abandoned tobacco facility in the Triad region of the state. Construction on the project is underway and, once complete, it will provide not only eighty-four (84) new apartments in a distressed urban neighborhood, but will be the cornerstone of a broader community development effort by our client.
- **Assisted a non-profit housing developer to restructure the ownership of two low-income housing tax credit properties in order to preserve them as affordable housing.** The Clinic developed a model for converting the ownership of these two properties such that they can continue to be operated as affordable rental housing. In addition, as a result of the ownership structure developed by the Clinic, each project will qualify for favorable property tax treatment and are eligible to be rehabilitated in the future using additional tax credit allocations. This project not only resulted in the preservation of more than seventy units of affordable rental housing, but also provides a model for structuring the preservation of other tax credit housing properties after the conclusion of the fifteen year compliance period.
- **Assisted a client to finance the revitalization of a manufactured housing community in western North Carolina.** This project resulted in the conversion of a costly mobile home rental facility into long-term, quality, affordable rental housing opportunities for thirteen very low-income families. The Clinic helped its client to negotiate, document and close the subordinate credit facility that made the conversion possible. This project provides both immediate benefits to the residents of the community, but will also serve as a model for the state.
- **Helped a client to negotiate and document a management agreement for a significant community facility with a local government.** Over the past five years, our client has been trying to gain management control over a community, recreational and educational facility that it developed in a lower income, predominantly African-American neighborhood from the local government that financed the project. The agreement, which was reached this spring, provides for the orderly transition of management control from the local government to our client over a multi-year period

and should enable the organization to develop and demonstrate the capacity to effectively operate the facility as an important community-controlled asset.

These are just a few examples of the kinds of assistance the Clinic has provided its clients this year. We are very proud of the positive impact that our representation has for our clients and the individuals, neighborhoods and communities that they serve.

Conclusion

The Clinic continues to work diligently and effectively to meet both its educational and community impact goals. Through direct client representation, seminar classes, and one-on-one faculty supervision and mentoring, students gain invaluable experience building practical legal skills and strengthening their substantive legal knowledge. In addition, these students, in collaboration with the Clinic faculty, provide high-quality, sophisticated legal services to clients that often would not otherwise have access to this type or level of assistance. As a result, our clients are achieving more significant results and improving communities throughout North Carolina. It is exciting to see the educational and community benefits provided by the Clinic and we look forward to continuing and expanding this work.