

Volunteers Recognized at CLR's Sixth Annual Celebration

On November 16, 2004, nearly 200 volunteer lawyers, nonprofit clients, funders, and public officials gathered at the 4731 Gallery in Detroit to celebrate Community Legal Resources' sixth year of service to Michigan's nonprofit industry.



Director of the Greater Wayne County Economic Development Corporation Mulugetta Birru (right) presents the Financial Outstanding Partner Award to Gary Heidel of the Michigan State Housing Development Authority.

New Director of the Greater Wayne County Economic Development Corporation, Mulugetta Birru, presented his vision for the redevelopment of the Detroit region and the role of community-based organization in this process. Visteon

Corporation Senior Vice-President and General Counsel Stacy Fox made brief remarks regarding her firm's commitment to Detroit and the importance of corporate involvement and partnerships before presenting CLR with a check for \$10,000 to support our work. 4731 Gallery owner Ric Geyer was on hand to explain how this abandoned warehouse was converted into a thriving "arts incubator" that is creating "Cool Cities" buzz in his Detroit neighborhood.

Congratulations to this year's awardees and thanks to all the volunteer lawyers, funders and hardworking nonprofit staff that are creating more livable neighborhoods for everyone!



CLR staff and board pose with event participants Gary Heidel, David Di Rita, Cameron Evans and Stacy Fox.

2004 Community Legal Resources Awardees

Steven H. Tobocman Award for Outstanding Volunteerism

Cameron J. Evans, Law Firm of Honigman Miller Schwartz and Cohn LLP

Outstanding Financial Partner

Michigan State Housing Development Authority

Affordable Housing Innovators Award

Members of the CLR Community Land Trust Project Team:

Randy Awdish and Vicki Harding, *Pepper Hamilton LLP*

Jane Forbes and Brian Page, *Dykema Gossett PLLC*

Debra Geroux and Max Hoffman, *Butzel Long PC*

Cathy LaMont, *LaMont Title Corporation*

Rochelle Lento, *UM Legal Assistance to Urban Communities Clinic*

Jerry Loeser and Glen Zatz, *Comerica Bank Legal Department*

Jill Kometh and Mitch Meisner, *Honigman Miller Schwartz and Cohn LLP*

Randy Perry (ret.), *Bodman LLP*

Noam Raz and James Rose, *Jaffe Raitt Heuer & Weiss PC*

Taylor Teasdale, *Lewis & Munday*

And a special thanks to the following for making the evening possible:

Platinum Sponsor

DaimlerChrysler Corporation Fund

Gold Sponsors

Johnson Controls

Michigan State Housing Development Authority

Bronze Sponsors

Harry & Debra Kuptz

Great Lakes Capital Fund for Housing

MASCO Corporation Fund

Standard Federal Bank

Detroit Local Initiatives Support Corporation

Michigan Local Initiatives Support Corporation

Fiscal Sponsorship

CLR, with the assistance of its volunteer attorneys, prepares Legal Lines designed to discuss issues pertinent to CLR clients. All Legal Lines are available on CLR's website at www.clronline.org/publications. This "Fiscal Sponsorship" article is based on a recent Legal Lines prepared by volunteer attorneys at Dykema Gossett PLLC.

What is Fiscal Sponsorship?

Fiscal sponsorship is one entity (the "sponsor") accepting and managing funds for another (the "beneficiary"). As a fiscal sponsor, an entity collects all the funds for either another organization or a specific project and then disperses the funds to the organization or project as needed. Each beneficiary will generally apply for its own grants from public agencies, foundations, corporations and individual donors, using the tax-exempt status of the sponsor to assist in obtaining the donations. The tax-exempt donation is then made to the fiscal sponsor, which earmarks the funds for the donor's intended beneficiary. This allows the beneficiary to apply to prospective donors under the auspices of 501(c)(3), increasing both the array of potential donors and the donors' incentive to donate. A fiscal sponsorship requires a written agreement between the fiscal sponsor and the beneficiary outlining the terms of their relationship.

All beneficiary programs must be pre-approved by the fiscal sponsor. Approval requires meeting both the requirements set by 501(c)(3) nonprofit standards and those of the particular sponsor's mission and goals. After approval the beneficiary must continue to demonstrate compliance throughout the project or program.

There are various benefits and limitations associated with a fiscal sponsor relationship. By understanding these considerations, an entity is better able to determine whether a fiscal sponsor relationship may be right for it. Evaluating how the benefits may further the goals of the beneficiary program and how the limitations may hinder its efforts, the beneficiary can determine whether it should pursue the possibility of fiscal sponsorship. In addition, the

fiscal sponsor must also evaluate the costs and obligations of providing sponsorship and the value of supporting the beneficiary program.

Benefits of Fiscal Sponsorship Beneficiary Benefits

Several foundations, government agencies, and corporate sources only grant donations to nonprofit organizations with IRS tax-exempt status. To be considered exempt, an organization must hold a current 501(c)(3) acknowledgment of tax-exempt status letter from the IRS. Rather than attempting to obtain 501(c)(3) certification on their own, new or emerging organizations with missions and goals consistent with the sponsor's can work with a fiscal sponsor to realize the benefits of tax-exempt status.

Fiscal sponsorship enables the beneficiary organization to receive the benefits of 501(c)(3) certification without the long process of obtaining certification. Once fiscal sponsorship is obtained, the beneficiary organization can apply for funds from the government, foundations, and corporations that would otherwise be unavailable. Due to the reputation of a fiscal sponsor, many foundations and government entities may be familiar with, and comfortable donating to, a proven fiscal sponsor rather than an uncertain, unknown, project or organization.

Sponsor Benefits

Organizations with 501(c)(3) certification can benefit by choosing to become fiscal sponsors. Fiscal sponsorship allows the fiscal sponsor to collect an administrative fee from the beneficiary on any money granted. These proceeds enable the organization to increase its operating budget. As discussed below, fiscal sponsorship requires that each sponsored program share a purpose with its sponsor. It also requires that the sponsor retain some control of the administration of funds in order to ensure that the spending is in furtherance of the proposed project and the purpose of the sponsor. Sponsorship, therefore, enables the fiscal sponsor to grow its presence in the very areas of concern in which it is already involved.

Limitations of Fiscal Sponsorship Beneficiary Limitations

A beneficiary organization is limited in several ways by entering into a fiscal sponsorship relationship with a non-profit organization. Though the beneficiary organization can receive donations under the auspices of a 501(c)(3), it does not have independent 501(c)(3) status. The project does not receive tax exempt purchasing power, nor any of the other benefits associated with being a 501(c)(3).

The beneficiary project must remain non-commercial. It is not permitted to be organized for or seek to make a profit, or to have investors. To do so would not only jeopardize its agreement with the sponsor, but also the sponsor's 501(c)(3) status. The IRS requires that the sponsor remain non-profit. If any of its beneficiary projects were to become for-profit, the certification for the sponsor and all of its projects would be lost. The beneficiary project and program is, therefore, limited in its scope and its potential donors once it enters into a fiscal sponsorship arrangement with a 501(c)(3).

Vision and purpose are also limited in a fiscal sponsor relationship. Fiscal sponsorship requires that the project be in furtherance of the sponsor's purpose and vision. In order to apply its 501(c)(3) exemption to a beneficiary project, the IRS requires that the project be in line with the sponsor's mission. Any notable differences in purpose or vision are in breach of the sponsorship agreement and jeopardizes the sponsor's tax-exempt status.

Projects must remain apolitical. Political themes and purposes aimed at influencing elections or political objectives are barred from 501(c)(3) exemption, and therefore there is no organization capable of sponsoring this type of beneficiary project.

Compliance with the central purpose also places several limitations on the day-to-day function and operation of a beneficiary project. Fiscal sponsorship requires pre-approval of both the

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purpose and budget. Further, the beneficiary project must continually demonstrate that its usage of the funds is in-line with the proposed mission and budget. The sponsor is also given oversight and supervisory privileges. All three are done in order to protect the sponsor's 501(c)(3) status. With this oversight, the beneficiary project's flexibility in achieving its goal may be limited.

Sponsor Limitations

As discussed above, the sponsor is limited in providing its service and status to beneficiary projects that share its tax-exempt purpose. In ensuring this, the sponsor incurs substantial responsibility and administrative burdens: managing each project's funds, keeping their donations separate, making sure that they are adhering to the non-profit guidelines, and overseeing projects.

Each beneficiary project taken on by the sponsoring non-profit organization brings new burdens and these increasing burdens create additional strain on the sponsor's internal resources. Each non-profit organization, accordingly, is only able to enter into a fiscal sponsor relationship with a limited number of groups or individuals.

Conclusion

Entering into or creating a fiscal sponsorship can create excellent financial opportunities for a new or developing organization or program. Sponsorship increases the availability of grants and donations, and brings together groups and individuals working towards a common goal. At the same time, sponsorship can impose several limitations. An organization must therefore weigh the independence needed, the availability of private

investors, and the desire to make a profit from the work, against the need for government, corporate, and individual tax-exempt grants. For the right types of projects, and the right non-profit entities, fiscal sponsorship can provide significant, previously untouched, resources.

This article, in a slightly different form, was originally prepared for Community Legal Resources as a CLR Legal Lines by Catherine Brainerd, Sarah E. Heineman, Julie A. Karkosak, and Robert Rodemeyer of Dykema Gossett PLLC.

This article is intended to provide general information, and is not a substitute for legal advice. If you have additional questions about this issue, contact Community Legal Resources at 313-964-4130.

Katy Locker named CLR Director of Policy Projects

CLR Staff Attorney Katy Locker has been named Director of Policy Projects after one year of service. Katy was hired in 2004 to manage CLR's legal education program and find ways to involve volunteer attorneys in policy issues impacting nonprofits. In 2005 Katy will continue to manage CLR's Community Land Trust Project (see Fall 2004 CLR News) and will spearhead other land-related research and advocacy on behalf of the state's CDCs.

Letter from the Director

Dear Friend of Community Legal Resources:

I hope you enjoyed a restful holiday season and that your new year is off to a productive start! We at Community Legal Resources are excited about a new year serving many of you with legal resources offered by our talented staff and volunteer attorneys. As in years past, I encourage you to contact our office with ideas for new ways in which we might help further the work of community developers statewide, particularly as you establish goals for the new year and take a look at barriers to your success that might have a legal component.

Here are a few of the goals we have set for this, our seventh year of operation:

1. Continuing to provide a full range of **free legal services** to nonprofit organizations throughout Michigan. We want to involve more lawyers in development projects in low-income neighborhoods and help nonprofits partner more effectively with other members of their development team.

2. Expanding our role as a **resource on land policy issues** effecting nonprofit CDCs in Detroit and throughout the state. We will build on key roles we played last year advising the State's Land Bank Fast Track Authority and providing research and analysis to local discussions around land disposition.
3. Providing **legal education and information** on topics unaddressed by other technical assistance providers through our website, e-newsletters, and other means. Written tools are currently in the works that will help CDCs and local public officials and their attorneys understand how to use "community land trusts" to preserve affordable housing.

So what do we hope that YOU will do?

If you are a *nonprofit executive or board member*, we hope you will contact us before signing any agreements or contracts, before buying property, before hiring an employee. Don't assume you only need a lawyer in a time

of crisis. Seeking professional advice on any business decision can save you money and inspire confidence in your partners.

If you are a *foundation or bank representative*, we hope you will refer your grantees or borrowers to us to help them make better business decisions that will ultimately better protect your investment.

If you are an *attorney interested in fulfilling a pro bono commitment* and getting involved in a worthy community project, we hope you will call us to volunteer or talk to your managing partner about expanding your firm's pro bono policy.

Thank you for your support of Community Legal Resources and best wishes for 2005!

Angela Zemboj

Executive Director

Letter from Sue Sattler, Women ARISE Board President

As regular readers of CLR News already know, one of the services of Community Legal Resources is matching nonprofit community organizations with quality legal representation. We at Women ARISE, the grateful beneficiaries of excellent service, are happy to take this opportunity to share our appreciation publicly.

About two years ago, during a period of reorganization, Women ARISE turned to Community Legal Resources for assistance with a variety of legal matters. We were directed to the Dykema Gossett law firm which immediately assigned us a lead attorney, Sherrill Wolford.

Once we identified our issues for her, she either handled them directly or involved her colleagues in providing legal work within their areas of specialization. Our board and staff have been extremely pleased with the work and style of interaction with the Dykema Gossett attorneys throughout these years. The attorneys have attended board meetings, met with staff and/or handled the matters efficiently via phone, email and mail depending on the need. In other words, their representation is consistent with the representation provided to clients with a fee-for-service arrangement.

As a member of the Michigan Bar and a

long-ago attorney with Michigan Legal Services, I am personally very inspired to know firsthand of the success of Community Legal Resources. May it continue to flourish and meet the critical needs of many nonprofit community organizations.

Women ARISE provides women ex-prisoners with the education, training, counseling, social interaction, and environment necessary to become productive members of society. The organization attempts to reduce recidivism through higher education, targeted job training, enhanced community supports, and stronger familial relationships.

Community Legal Resources is a joint project of Michigan Legal Services and the Pro Bono Committee of the Business Law Section of the American Bar Association working in conjunction with the Michigan Litigation Assistance Partnership Program.

Our mission is to foster pro bono legal representation for unfulfilled legal needs of nonprofit community organizations in Michigan that serve low-income individuals and communities, with an emphasis on community economic development activities.

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