



# FARMWORKER LEGAL SERVICES

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## ISSUE BRIEF

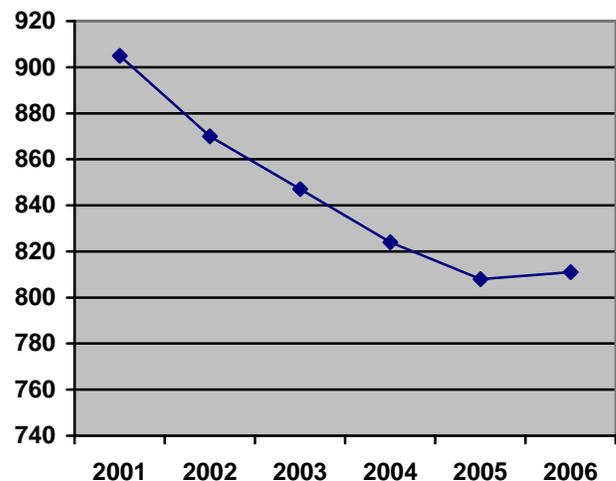
### State of Michigan Migrant Labor Housing Inspection Program Compromised by Chronic Understaffing

All of us would like to believe that the people who pick our food live in sanitary conditions. Unfortunately, Michigan's system of enforcing health and safety laws in agricultural labor camps is broken because the agency in charge of inspection and enforcement has not been adequately staffed for the past five years.

The Michigan Legislature created a system for licensing migrant labor camps in order to ensure an adequate supply of agricultural workers within the state, to maintain the safety of the food supply, and to protect the health and safety of migrant laborers and the general public. Michigan's Public Health Code Act 368 of 1978 mandates annual inspection and licensing of labor camps housing five or more migratory farmworkers. The Act requires that a state inspector issue a license to an agricultural labor camp only after an inspection of the facilities establishes, at a minimum, that it is equipped with an approved water supply, appropriate toilet and washing facilities, adequate cooking facilities, and sanitary garbage and human waste disposal systems.

The Michigan Department of Agriculture (MDA) is responsible for the investigation and inspection of agricultural labor camps. However, for the past five migrant seasons, the MDA Migrant Housing Inspection Program has been operating at half-staff. "Early out" retirements in 2002 reduced the staff of licensed sanitarians from eight to just five statewide. The remaining inspectors currently drive up to four hours a day to reach the over 800 camps spread across the state. Department managers have stated that no discretionary staff time is available for inspectors to respond to complaints of deplorable conditions in licensed labor camps or to investigate reports of unlicensed camps. The understaffed program has allowed its enforcement activities to fall well short of the expectations of the legislature in enacting the 2005 law granting authority for administrative fines of up to \$1,000 per day against recalcitrant employers who operate unlicensed migrant labor camps. Compounding this problem, the MDA has announced the retirement of two of the remaining housing inspection program staff in 2007. Unless the program is exempted from the current hiring freeze, more migrant housing sites will fall further out of compliance with the minimal requirements of the state inspection regime.

Licensed Migrant Housing Sites  
2001-2006



Lack of enforcement has led to a marked decline in the number of growers who seek a license for their labor camps. The graph above demonstrates the year-by-year decline in the number of camps licensed by the MDA between 2001 and 2006. In 2001, 905 sites were licensed, while in 2006 the number of licensed camps had declined to 811 sites. Current indications are that MDA will receive at least one hundred fewer license applications for 2007. Despite the additional enforcement powers authorized by the legislature in 2005, the persistent inspector shortages prevent MDA staff from verifying whether previous licensees are operating unlicensed camps. And because authorized fines are not being enforced, the state is forfeiting revenue that is intended to supplement funding for the construction of new or improved migrant labor housing.

Following the 2002 inspection staff reductions, MDA eliminated most in-season inspections of migrant labor camps, in spite of the fact that most dangerous conditions are only apparent when the housing is occupied. The department has effectively abandoned its mandate to identify defects such as failed septic systems, overcrowded housing, obstructed fire exits, and faulty waste disposal,

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which could generate infectious disease outbreaks or other public health emergency during the agricultural season.

The declining number of licensed agricultural labor camps, coupled with MDA's lax enforcement, means that a diminishing share of Michigan's migrant labor population is protected by the laws meant to ensure that farmworkers are housed in safe and sanitary conditions. By the best estimates, Michigan currently has only one-third of the licensed migrant labor sites needed to house migrant farmworkers and their accompanying family members. A 2006 study commissioned by the State of Michigan Interagency Migrant Services Committee estimated the annual number of migrant farmworkers and accompanying family members at about 69,000. In contrast, the total capacity of migrant labor housing sites licensed by MDA in 2006 was less than 23,000 – a 3 to 1 ratio of migrants to licensed housing.

Although comprehensive data on conditions in migrant labor camps is unavailable, there are several indications that substandard housing is a growing problem in Michigan. A survey published in 2001 by the national non-profit Housing Assistance Council found that 61% of migrant farmworker housing in Michigan was overcrowded. The researchers also found that 30% of the units examined were "severely substandard" and an additional 15% were "moderately substandard."

This data supports anecdotal conclusions that substandard migrant housing may play a role in labor shortages that some growers have reported in recent years. In a survey conducted by a MSU researcher in 2000, 81% of Michigan growers responded that they supplied housing (although not necessarily licensed housing) for at least some of their migrant workers. In the same study, 25% of asparagus growers and 33% of blueberry growers who reported a shortage of migrant labor cited the lack of housing as one reason they were not able to recruit the number of workers they needed.

Despite the critical role that agriculture plays in Michigan's economy, the state's Migrant Labor Housing Construction Grant Program has been practically eliminated. The state budget line for this successful matching program, which once approached \$1,000,000 annually, has been slashed to \$100 in FY 2006. Lack of utilization of the 2005 fine authority has resulted in little grower contribution to the camp construction fund.

By failing to impose and collect fines from labor camp operators who blatantly defy the legal requirement to license migrant housing, and in failing to investigate the health and safety of migrant labor housing during occupancy, the state agency is not just violating the Public Health Code and its own regulations. Such failures to

protect the public health also conflict with the recently-released "Report and Recommendations" (October 2006) of the Michigan Food Policy Council that explicitly encourages the consumption of fresh Michigan produce by the public through "farm-to-school" and other direct community marketing strategies. In this era of increasing attention on "food safety" concerns, the state should be prioritizing the health and safety of housing for the farmworkers who come in contact with the food supply, rather than tolerating the systematic "downsizing" of the number and role of public health sanitarians assigned to inspect and license agricultural labor housing in Michigan.

In contrast to the state's disappointing response to its enforcement mandate, in 2006 the U.S. Department of Labor conducted a year-long investigation to protect migrant workers under the authority of the federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and found numerous violations of housing provisions by Michigan agricultural employers, including leaking propane gas, electrical hazards, vermin infestations, lack of clean water, and discharge of sewage directly onto the ground.

Michigan growers who seek to recruit workers from other states, or those who hire temporary workers from other countries, are required to provide licensed housing as a condition for utilizing these federal labor recruitment programs. Consequently, the success of the state's current efforts to recruit workers in Texas and elsewhere depends to a significant extent on whether Michigan can rapidly restore the integrity of its migrant labor housing inspection program.

### **Recommendations:**

- Restore licensed public health sanitarian staff in the Migrant Labor Housing Inspection Program to 2002 levels allowing for pre-season, as well as in-season, inspections and complaint investigations.
- Increase staff in the program to the extent necessary to fully implement the enforcement authority associated with the \$1,000 per day fines authorized by the Michigan Legislature in 2005.

Focus enforcement on former licensees who are gambling on MDA's inability to enforce the state's migrant camp licensing requirements.