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## **A Fresher Law: Amending the Florida Right to Farm Act to Include Urban Micro Farming as a Key Initiative to Promote Sustainability, Food Access, and Environmental Justice for Low-Income Communities**

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# A FRESHER LAW: AMENDING THE FLORIDA RIGHT TO FARM ACT TO INCLUDE URBAN MICRO FARMING AS A KEY INITIATIVE TO PROMOTE SUSTAINABILITY, FOOD ACCESS, AND ENVIRONMENTAL JUSTICE FOR LOW-INCOME COMMUNITIES

*Cameryn Rivera\**

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## INTRODUCTION

*“Never cook when you are stressed or hungry,” Mama explained as she gently ladled potatoes to their hot water bath on the stove. I helped plant those potatoes four months ago. Mama’s meals were slow cooked with love and seasoned like it was no one’s business. . .but hers. We ate well because of Mama’s garden. A couple of feet away from the back porch, the garden ran eastward through the narrow strip of grass shared by the rest of the neighborhood. At first, it was just a pile of dirt. But then, Mama tilled the soil with her hands and an old rusted dirt shovel. In a couple of months, Zinnias and Marigold flowers bloomed with cabbages, greens, squash, carrots, and sweet peas to follow. Soon, we saw baby strawberry heads peaking up and a surprising introduction of watermelon infants sprout through its leaves. I would kneel down and whisper, “hello little one” as I felt the softness of the leaves. The neighbors loved the garden, too. They planted their seeds, watered it daily, and faithfully picked the veggies at their prime ripeness. Our garden inspired people to be professional gardeners: cultivating, cooking, and sharing what they grew. Nowadays, everyone is in my backyard.*

Simply, an urban micro farm<sup>1</sup> is a small garden, sometimes tended by a community of people.<sup>2</sup> Not so simple is the harm that these gardens have faced, and likely will continue to face, if they are cultivated without the necessary protections, support, and funding from those who are in the best position to help them—the state legislature. Urban micro farms or community gardens in low-income communities exist at a risk because micro farms are most often situated on property that is owed by a private owner, the city, or “borrowed” from an abandoned lot. Cities and private owners have absolute power to sell, lease, or destroy any activities on the land without warning. If crops are vandalized or a city proposal is implemented to redevelop the land, micro farms created on abandoned lots are not guaranteed any legal protections. A perfectly linear dirt row of sweet tomatoes and salad turnip cannot stop the inevitable force of land use, zoning, and real property priorities other residents may have. Additionally, when an eager resident wants to plant a micro farm, she could be searching days looking for available space in a crowded metropolitan area.

For countless low-income residents, gardening must be preserved because it is a vital tool to survive. Micro farms close the

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1. For purposes of discussion, this paper will occasionally reference urban micro farms under more locally accepted terms such as community gardens, backyard gardens, and urban agriculture.

2. American Community Garden Association, *What is a Community Garden?*, <http://www.communitygarden.org/learn> (last visited Nov. 14, 2012).

marginal gap of unhealthy eating and high priced organic fruits and vegetables by providing access to free and healthy food options. Nevertheless, preservation presents a huge burden because residents in the urban projects have to find land to start a garden, and funding to help maintain the garden. If not overcome, these hurdles will ultimately deter a community from becoming agrarians. Lacking adequate resources, great urban food initiatives fail to come to full fruition. Even worse, low-income communities of color struggle significantly to maintain a healthy and balanced life because the nearest grocery store is two miles away. Without a reliable means of transportation, walking just to get an apple may seem unthinkable.

The current fast food system in the United States has caused people of color in low-income communities to have higher rates of obesity and diabetes because of the lack of fresh vegetables and fruits available to eat.<sup>3</sup> This form of environmental food injustice poses a serious threat to the health of future generations.<sup>4</sup> In food policy<sup>5</sup> and urban agriculture,<sup>6</sup> low-income residents are underrepresented in the state of Florida.<sup>7</sup> Food deserts and inadequate food distribution are all linked to preventable health diseases and are more than likely connected to where a person resides, what foods they have access to, and how their government is protecting the food system environment.<sup>8</sup> Time and time again, low-income communities of color find themselves struggling in the middle of an environmental justice issue—this time the injustice is related to food access.

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3. Food Empowerment Project, Food Availability Study, [http://www.foodispower.org/scc\\_study.php](http://www.foodispower.org/scc_study.php) (last visited Oct. 5, 2012).

4. *Id.*

5. A food policy is any legislative or administrative decision made by a government agency, business, or organization which affects how food is produced, processed, distributed, and purchased, designed to influence the operation of the food and agriculture system. See State & Local Food Policy Councils, *What is Food Policy?*, available at <http://www.statefoodpolicy.org/?pageID=qanda#WhatIsAFoodPolicy> (last visited on Nov. 14, 2012).

6. The practice of cultivating, processing, and distributing food in or around a village, town, or city. See generally, M. Bailkey & J. Nasr, *From Brownfields to Greenfields: Producing Food in North American Cities*, Community Food Security News, available at <http://www.foodsecurity.org/uploads/BrownfieldsArticle-CFSNewsFallWinter1999.pdf>.

7. Florida lacks specific food policy initiatives that aid low-income communities to overcome the negative impacts of food deserts. See Food Resource and Action Center, available at <http://frac.org/initiatives/hunger-and-obesity/why-are-low-income-and-food-insecure-people-vulnerable-to-obesity/xc> (last updated on Oct. 4, 2011).

8. United States Department of Agriculture Economic Research Service, *Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences* (2009), <http://www.ers.usda.gov/Publications/AP/AP036/AP036fm.pdf> (last visited Nov. 30, 2012).

Urban micro farms are a viable solution to address food insecurity, boast economic benefits for residents, and provide a measurable means to assure environmental justice initiatives are carried out. Most importantly, urban micro farms ensure that low-income communities in the state of Florida can avoid unfair limitations to access to food by tending to micro gardens that yield a nutritious and healthy food resource. There is enough fresh food to feed everyone adequately.<sup>9</sup> Therefore, before any community garden is harmed or any seed of hope to start an urban micro farm is trampled on, this article aims to advocate against inequitable food distribution by proposing an amendment to the Florida Right to Farm Act to provide legal, economic, and food policy protections for urban micro farms located in low-income communities in Florida.

Part I of this article discusses the history and evolution of urban micro farming in America. This section will showcase working examples of current urban micro farms around the United States, and the relevant state and city laws in place to protect community gardens. Part II discusses three case studies and policy components to consider when amending Florida's farm laws. Part III addresses the Florida Right to Farm Act (FRTFA) and the purposes underlying the Act. This section will highlight policy initiatives and the primary goals of the FRTFA and its scope of protection, while analyzing the benefits and initiatives that the FRTFA should consider to ensure the continuation of urban micro farms. Part IV will conclude with proposed revisions of the FRTFA and the three policy components (sustainability, food security and environmental justice) as primary motivations to ensure that all urban micro farms, community gardens, and urban agriculture in low-income communities will be safeguarded and continued without threat of termination.

## I. THE HISTORY AND EVOLUTION OF URBAN MICRO FARMING: FROM VICTORY GARDENS TO BIG CITY FARMS

One whiff of a freshly picked Thai basil leaf is all that is needed to turn a curious neighbor into a full believer in urban micro farming. Today, urban micro farming has become the new "green trend" to keep urban homes stocked with fresh fruits and vegetables, and decorated with indigenous flora and fauna. For many city dwellers, and particularly those living in low-income communities, urban micro farming is a consistent source of nourishment when a full day of work's pay cannot

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9. MARK WINNE, CLOSING THE FOOD GAP: RESETTling THE TABLE IN THE LAND OF THE PLENTY 13-14.

ensure a balanced meal for a family. This is the origin of urban micro farming that traces its foundation to early American history.

In the 1930s, as a response to poverty and unemployment, urban micro farms were first noted when local governments in the U.S. provided small plots of land to citizens for them to grow their own food.<sup>10</sup> As a result, the gardens became associated with lower class families.<sup>11</sup> During the Great Depression, cities made land available to the unemployed and impoverished through the Work Projects Administration.<sup>12</sup> In New York City alone, nearly 5,000 gardens were cultivated.<sup>13</sup> At this time, there still remained a prejudice against urban micro farms as a lower class activity.<sup>14</sup> This perception diminished during World War II when community gardens were publicized as a way for citizens to contribute to the war effort.<sup>15</sup> It was seen as an act of patriotism for people of all classes to grow a Victory Garden.<sup>16</sup> In 1943, the victory gardens program produced around 40%, 8 million tons, of the fresh vegetables in the United States from an estimated 20 million gardens.<sup>17</sup>

There was a resurgence of community gardens in the 1960s and 1970s in response to a sluggish economy, rising fear of chemicals used in foods, and public concern for the environment.<sup>18</sup> In 1976, the government again got involved and the United States Department of Agriculture established an urban gardening program.<sup>19</sup> This program was originally developed in six cities with the idea of helping low income families grow their own vegetables, and by 1993 it had grown to

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10. See, All Out Food Production, *Victory Gardens 2007*, available at <http://www.futurefarmers.com/victorygardens/history.html> (last visited Oct. 6, 2012).

11. Erin A. Williamson, *A Deeper Ecology: Community Gardens in the Urban Environment* (unpublished Masters thesis, University of Delaware), available at [http://www.cityfarmer.org/AP-city\\_farmer.doc](http://www.cityfarmer.org/AP-city_farmer.doc).

12. *Id.*; (During President Roosevelt's New Deal Programs, he created the Works Projects Administration (WPA) which created a work-relief program employing more than 8.5 million people to work on bridges, roads, and airports.); See also, Public Broadcasting Systems, available at <http://www.pbs.org/wgbh/americanexperience/features/general-article/dustbowl-wpa/> (last visited January 21, 2013).

13. Donna Armstrong, *A Survey of Community Gardens in Upstate New York: Implications for Health Promotion and Community Development*, 6 HEALTH & PLACE 319, 319 (2000).

14. *Victory Gardens 2007*, *supra* note 10.

15. *Id.*

16. Williamson, *supra* note 11 at 4.

17. *Id.*

18. *Id.*

19. United States Department of Agriculture, Community Gardening, <http://afsic.nal.usda.gov/farms-and-community/community-gardening>; See also H. PATRICIA HYNES A PATCH OF EDEN: AMERICA'S INTER-CITY GARDENERS, 89 (1996).

twenty-three cities with 200,000 gardeners involved.<sup>20</sup> Thus, since 1940, urban micro farms have gained considerable popularity due to the benefits and government support of urban agriculture development.

Urban micro farms have numerous benefits. Gardens are educational; by teaching elementary students to plant a garden in their schoolyard, a “grandma’s” garden concept turns into a little James’ garden of fresh watermelons. Also, gardens help generate employment opportunities and entrepreneurship. If well maintained, a single season’s crops and produce can yield an abundance of food to sell at local farmers markets.<sup>21</sup> Micro farms also promote self-respect. For those who have owned a garden, this point is easy to understand. For those who have not, the only way to understand the humility and dignity that gardening brings is to don a pair of overalls,<sup>22</sup> get on your knees, and start digging in the dirt to plant a seed. Urban micro farms can even reduce crime rates because gardening encourages patience, self-control, and love.<sup>23</sup> Community gardening also offers urban residents an opportunity to connect with nature and can instill environmental ethics into one’s lifestyle.<sup>24</sup> Finally, urban gardening provides low-income urban residents with a supply of fresh and healthy organic food that can combat problems associated with inadequate nutrition,<sup>25</sup> such as illness, fatigue, depression, anxiety, obesity and hunger.<sup>26</sup>

Additionally, cities can benefit from urban micro farms as well. By creating green “working spaces” in urban areas, gardens contribute to citywide systems of composting waste and environmental resource

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20. *Id.*

21. See, e.g., LocalHarvest, *Community Supported Agriculture*, <http://www.localharvest.org/csa/> (last visited Apr. 17, 2010) (allowing farmers to sell their seasonal produce directly to consumers on a subscription basis).

22. See generally Nathan Ballantine, *The Man in Overalls Blogspot*, <http://maninoveralls.blogspot.com/> (last visited Oct. 22, 2012).

23. Dorothy A. Borrelli, *Filling the Void: Applying a Place-Based Ethic to Community Gardens*, 9 VT. J. ENVTL. L. 271, 276-77 (2008).

24. *Id.* at 277 (“In this sense, exposing urban populations to nature through gardening serves as a technique to advance public, social and psychological health.”).

25. Adrienne C. Crow, *Developing Community Gardens: Moving Barriers To Improve Our Society*, 2 KY. J. EQUINE AGRIC. & NAT. RESOURCES L. 219 (2009-2010).

26. JoAnne L. Dunec, *Urban Farming; Land Use*, 26 NAT. RESOURCES & ENVTL 62 (2011) (“Municipalities are embracing urban agriculture as a means to combat a host of urban woes—hunger, air pollution and the proliferation of derelict, crime-ridden abandoned properties, to name a few—but also as a cornerstone to efforts to make themselves healthier and more sustainable.”).

renewal.<sup>27</sup> Community gardens create a cleaner city environment and greener economy by encouraging locally grown food consumption. Around 15 percent of the world's food is now grown in urban-city micro farms.<sup>28</sup>

According to the American Community Garden Associations (ACGA), community gardens and urban micro farms “improve the quality of life for people in the garden.”<sup>29</sup> The ACGA is a nonprofit membership group with a central goal to support community gardening by (1) facilitating the formation and expansion of state and regional community gardening networks; (2) developing resources in support of community gardening; and (3) encouraging research and conducting educational programs.<sup>30</sup> ACGA is now an essential resource to expand and support community gardening on a “whole new level of sustainability.”<sup>31</sup> The goals of ACGA help explain why a large majority of urban micro farms in San Francisco are members of this key garden association.<sup>32</sup>

With a bevy of community gardens thriving in San Francisco, the “plant it yourself” movement has become an effective tool to educate city residents to take control of their access to fresh food.<sup>33</sup> More community garden organizations are forming to manage and oversee the fresh food revolution.<sup>34</sup> The San Francisco Garden Resource Organization (SFGRO) and the San Francisco Green Schoolyard Alliance, both seek to revitalize abandoned plots, back yard public gardens, and schoolyard gardens in the name of environmental stewardship, creativity, and community building.<sup>35</sup> San Francisco Green Schoolyard Alliance focuses primarily on working with intercity youth to teach them the art of gardening and healthy eating.<sup>36</sup> These organizations

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27. National Sustainable Agriculture Information Service, Urban and Community Agriculture Enthusiasts Micro Farms Databases to Explore, *available at*, [https://attra.ncat.org/attra-pub/local\\_food/urban\\_ag.html](https://attra.ncat.org/attra-pub/local_food/urban_ag.html) (last visited Apr. 19, 2011).

28. USDA, Alternative Farming Systems Information Center, *available at* <http://afsic.nal.usda.gov/farms-and-community/urban-agriculture> (last visited on January 21, 2013).

29. American Community Gardens, *supra* note 2.

30. *Id.*

31. *Id.*

32. Civil Eats Project, *San Francisco Passes Progressive Urban Agriculture Policy*, *available at* <http://civileats.com/tag/urban-agriculture/> (last visited Nov. 12, 2012).

33. Novato Community Garden Project, *Growing a Healthy Community from the Ground Up!*, *available at* <http://www.novatolivewell.org/communitygarden.html>. (updated Oct. 19, 2012).

34. *Id.*

35. *Id.*

36. San Francisco Green School Yard Project, <http://www.educationoutside.org/> (last visited Nov. 12, 2012).



work side by side with the residents to ensure a priority to garden lasts for generations.<sup>37</sup>

When it comes to legal support for urban micro farms, San Francisco is leading the race. Urban micro farms located in the bay area benefit from local legislation titled, "Urban Agriculture Program."<sup>38</sup> The program coordinates existing programs within and between city agencies that relate to food production (including the Recreation and Parks Department's community gardens).<sup>39</sup> It considers new ways to (1) expand and improve urban agriculture opportunities, including an audit of city-owned rooftops with potential for gardens or beekeeping, (2) develop incentives for private landowners to lease undeveloped land to urban agriculture projects; and (3) create materials resource centers, where urban agriculturists can find the compost, mulch, and materials needed to successfully grow more food.<sup>40</sup> A victory for urban agriculture law, this legislation ushered in a new enthusiasm to advocate for food policy initiatives.<sup>41</sup> Furthermore, in California, residents seem to appreciate the "homestead" lifestyle as more food policy and pesticide concerns gain nationwide attention in Proposition 37, which "required that fresh produce and packaged foods be labeled if they contain or might contain ingredients that had been genetically altered in a laboratory."<sup>42</sup> However, in the 2012 election, the initiative did not pass and citizens were left guessing whether their grocery apples were the result of a new lab experiment.<sup>43</sup> Nevertheless, the city of San Francisco is progressing toward protecting and encouraging urban micro farming because it provides an avenue of easier access to fresh fruit and vegetables that yields good health and well being.

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37. GreenThumb, <http://www.greenthumbnyc.org/> (last visited Nov. 14, 2012).

38. San Francisco Urban Agriculture Alliance, <http://sfgsa.org/modules/showdocument.aspx?documentid=9202> (last visited Oct. 25, 2012) (The Urban Agriculture Ordinance states that, "San Franciscans have consistently demonstrated a demand for more space in which they can grow food. While private land offers some possibilities, public land is more likely to meet the demand. Land audits have surveyed potential sites and revealed that there is public land suitable for urban agriculture." This is a great example of how State laws can affirmatively further urban micro farming.).

39. *Id.*

40. American Community Gardens Association, *supra* note 2.

41. Civil Eats, *supra* note 31; See also, Jaime Gross, *That Big Farm Called San Francisco*, THE NY TIMES, available at [http://www.nytimes.com/2010/04/23/dining/23sfdine.html?\\_r=0](http://www.nytimes.com/2010/04/23/dining/23sfdine.html?_r=0) (last visited Apr. 23, 2012).

42. Right To Know Campaign, *The Truth About Proposition 37*, available at [http://www.carighttoknow.org/tags/proposition\\_37](http://www.carighttoknow.org/tags/proposition_37) (last visited on November 8, 2012).

43. See Jason Mark, *Prop 37 Defeat Reveals a "Food Movement" that Is Still Half Baked*, available at <http://civileats.com/2012/11/13/prop-37-defeat-reveals-a-food-movement-that-is-still-half-baked/> (last visited Nov. 13, 2012).

Similarly, 2,905 miles away, urban micro farms paint New York City “garden green” with community gardens, “blossoming in schoolyards, backyards and public housing property.”<sup>44</sup> Fresh arugula, asparagus, and basil leaves are sprouting at their peak ripeness in August in all five boroughs of New York City.<sup>45</sup> The majority of gardens are located in economically disadvantaged community planning districts that receive federal financial support through a complement of open space, affordable housing, and economic development.<sup>46</sup> Where others saw a vacant lot, urban residents tired of the urban decay<sup>47</sup> saw a community garden.<sup>48</sup> Organizations like GreenGuerillas,<sup>49</sup> GreenThumb,<sup>50</sup> and New York City Environmental Justice Alliance<sup>51</sup> all help community gardens become a normal way of life for New York residents.<sup>52</sup>

Yet, more than any other state, New York seems to have the most publicly polarized debate over the use of community gardens. Prior to the surge of gardening support, the government’s obligation to provide services and housing for citizens, conflicted with environmental groups, and their need for open space to garden.<sup>53</sup> In *New York City Environmental Justice Alliance v. Giuliani*, environmental organiza-

44. OasisNYC, *The richest source of community maps for NYC*, available at <http://www.oasisnyc.net/garden/resources.aspx> (last visited Oct. 30, 2012).

45. GrowNYC estimated, available at [http://www.grownyc.org/files/GrowNYC\\_CommunityGardenReport.pdf](http://www.grownyc.org/files/GrowNYC_CommunityGardenReport.pdf) (last visited Jan. 4, 2012).

46. Statement from GreenThumb Inc. website. GreenThumb is funded by federal Community Development Block grants and has been a program of the New York City Parks Department since 1995 helping New York city residents plant gardens during the seasons’ harvest, available at <http://www.greenthumbnyc.org/faqs.html> (Operation Green Thumb (or “GreenThumb”) was the name given to the community development program that allowed groups to establish community gardens on vacant or distressed lots leased from the City.).

47. Urban decay (also known as urban blight) is the process where a previously functioning city, or part of a city, falls into disrepair. The city may have deindustrialization, depopulation or changing population, economic restructuring abandoned buildings, high local unemployment, fragmented families, crime, and a desolate, barren city landscape. See, HANS SKIFTER ANDERSEN, *URBAN SORES: ON THE INTERACTION BETWEEN SEGREGATION, URBAN DECAY, AND DEPRIVED NEIGHBORHOOD* (2003).

48. GreenGuerilla Project Information, available at <http://www.greenguerillas.org/history> (last visited Nov. 5, 2012).

49. *Id.* (GreenGuerillas is a “unique mix of education, organization, and advocacy to help people cultivate community gardens, sustain grassroots groups, and address issues critical to the future of their gardens.”).

50. Greenthumb, *supra* note 46, (GreenThumb’s stated mission is to “foster civic participation and encourage neighborhood revitalization while preserving open space.)

51. The New York City Environmental Justice Alliance, available at [http://nyc-eja.org/?page\\_id=80](http://nyc-eja.org/?page_id=80) (last visited Nov. 14, 2012).

52. GreenThumb has over 20,000 garden members throughout New York City.

53. Robert Fox Elder, Note, *Protecting New York City’s Community Gardens*, 13 N.Y.U. ENVTL. L.J. 769, 769-776 (2005).

tions filed a class action suit seeking to keep the city and its officials from selling or bulldozing any of 1,100 City-owned parcels, which comprised of approximately 600 community gardens.”<sup>54</sup> The lots were initially leased through the city’s “GreenThumb” program<sup>55</sup> to be used for development as gardens.<sup>56</sup> The Plaintiffs, four environmental organizations and five Hispanic and African American individuals, argued that destruction of the gardens would have a disparate impact on minorities, violating regulations promulgated by the Environmental Protection Agency to implement Title VI of the Civil Rights Act of 1964.<sup>57</sup> The City claimed that the purpose of the project was not to negatively impact unused land use but to “permit construction of affordable housing, facilities for medical and related services and, perhaps, retail stores.”<sup>58</sup> The court held that although plaintiffs would suffer “irreparable harm from the loss of the garden lots,” they had ultimately failed to show a likelihood of prevailing on their claim of disparate impact in violation of the Environmental Protection Agency’s anti-discrimination regulations in 40 C.F.R. § 7.35(b).<sup>59</sup> The harm of losing 600 gardens, which fed and sustained hundreds of families, lacked the strength to render a decision in favor of the petitioner-gardeners and organizations. The court also noted that plaintiffs did not dispute the city’s legitimate justification for its actions, and they failed to demonstrate any less discriminatory option, vital elements to establish when a plaintiff seeks relief under 40 C.F.R. § 7.35.<sup>60</sup>

On September 18, 2002, the City and State of New York reached a settlement to protect the hundreds of gardens involved in the GreenThumb program from future elimination by development of new residential housing.<sup>61</sup> The citizens were granted the right to cultivate green space in the city, while the government continued with plans to provide affordable housing to the citizens of New York.<sup>62</sup>

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54. New York City Environmental Justice Alliance v. Giuliani, 214 F.3d 65, 68 (2d Cir. 2000).

55. GreenThumb, *supra* note 46.

56. New York City Environmental Justice Alliance, *supra* note 54, at 68.

57. *Id.* at 67.

58. *Id.*

59. *Id.* at 68 (40 C.F.R. § 7.35(b) states that “a recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.”).

60. *Id.*

61. New York City Environmental Justice Alliance, *supra* note 54 at 67.

62. *Id.*

In cities like New York and San Francisco urban micro farms demonstrate how beneficial and necessary community gardens are to many Americans. Each city also reflects the risk associated with urban agriculture. Notwithstanding the intention to beautify and unite urban community residents, local governments and private developers still maintain substantial control over land. This fact will most likely result in legal disputes that may not turn out as fair as the settlement in the New York case. Therefore, as more Americans become aware of food policy and food accessibility issues, the state of Florida must consider urban micro farm policy initiatives to be implemented now as a means to keep pace with other cities ahead in this race to secure fresh food for urban and poor residents.

## II. FOOD POLICY CONCERNS IN FLORIDA

In 1845, at a time when colonial plantations slowly spread throughout northern and central Florida, farming, citrus, and cattle were major economic resources for the new State.<sup>63</sup> Since that time, oranges are still ranked as Florida's most important agricultural product, but other citrus fruits such as grapefruit, limes, and tangerines are in high demand throughout the state.<sup>64</sup> In field crops, Florida leads the nation in the production of sugar cane.<sup>65</sup>

According to the 2007 Census of Agriculture, there are 41,407 farms in Florida that operate with less than 179 acres each.<sup>66</sup> The USDA defines a small farm as one having gross sales less than \$250,000.<sup>67</sup> According to the 2007 Census of Agriculture, 94% of farms in Florida fall into this category.<sup>68</sup> Based on the gross sale of products, community gardens in urban areas are not "small farms" within the definition. Nevertheless, these small farm operations have sustained hundreds of Florida's urban poor from the threat of hunger and have

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63. Publication of Archival Library & Museum Materials: State University Libraries of Florida: Florida, *Agricultural History & Rural Life*, [http://palmm.fcla.edu/feol/pathfinder\\_flag.shtml](http://palmm.fcla.edu/feol/pathfinder_flag.shtml) (last visited Oct. 3, 2012).

64. Florida Economy & Agriculture, *available at* [http://www.netstate.com/economy/fl\\_economy.htm](http://www.netstate.com/economy/fl_economy.htm) (last updated on Nov. 7, 2012).

65. The University of Florida and Florida A&M University have a small farmers allied organization that helps identify critical issues facing small farms. *See* Institute of Food and Agricultural Sciences, University of Florida, *available at* <http://edis.ifas.ufl.edu>, <http://edis.ifas.ufl.edu/ep124> (last visited Nov. 16, 2012).

66. National Institute of Food and Agriculture, *available at*, [http://www.nifa.usda.gov/nea/ag\\_systems/part/smallfarms\\_part\\_coordinators.html](http://www.nifa.usda.gov/nea/ag_systems/part/smallfarms_part_coordinators.html) (last visited Nov. 4, 2012).

67. *Id.*

68. University of Florida Electronic Data Information South, *available at* <https://edis.ifas.ufl.edu/wc088> (last visited Nov. 14, 2012).

enabled their choice of fresh food over fast food. This part of the paper will explore why community gardening and urban micro farms located in economically disadvantaged community in Florida need the same support as average farms enjoy.

#### A. Tallahassee: Maintaining Sustainable Principles

When the Florida legislature considers the state of urban micro farming, sustainability is but a quick glance out of the capital building window as Tallahassee is the clearest example of Florida's sustainability principles in action. "Sustainability" refers to creating and maintaining the natural conditions under which people and their environment exist in productive harmony, which permits fulfilling the social, economic, and other requirements of present and future generations.<sup>69</sup> According to the Environmental Protection Agency ("EPA"), sustainability is based on a simple principle: "Everything that we need for our survival and well-being depends, either directly or indirectly, on our natural environment."<sup>70</sup> Furthermore, sustainability is described as a concept of making decisions for the courses of action we choose in a way that balances the environment, economy, and social equity.<sup>71</sup>

As a clear example of sustaining our natural environment, Nathan Ballantine, known as "The Man in Overalls," is a gardener and educator of the Tallahassee Food Gardens, a social enterprise that "encourages and assists folks to raise food for self and neighbor."<sup>72</sup> Ballantine and other community activists are keenly aware of the food insecurity and lack of nutritious meal options that plague poor communities. This organization works to consider nature, and the skill of gardening, as essential lifestyle choices to remain in a sustainable world.<sup>73</sup> Ballantine and others in Tallahassee now help organize four

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69. *Definition of Sustainability*, The United States Department of Environmental Protection Agency, <http://www.epa.gov/sustainability/basicinfo.htm#sustainability> (last visited Nov. 5, 2012).

70. Environmental Protection Agency, *Sustainability Basic Information*, available at <http://www.epa.gov/sustainability/basicinfo.htm> (last visited Jan. 19, 2013).

71. Author Daniel Sitarz in his book, *Sustainable America: America's Environment, Economy and Society in the 21st Century*, discusses sustainable principles for America to consider by linking economic and social issues to show how making bold efforts to eliminate waste and prevent pollution in American industry can dramatically reduce U.S. consumption of energy and natural resources. See, DANIEL SITARZ, *SUSTAINABLE AMERICA: AMERICA'S ENVIRONMENT, ECONOMY AND SOCIETY IN THE 21ST CENTURY*, 4-5 (1997).

72. Ballantine, *supra* note 22.

73. *Id.*

major community gardens located throughout the city.<sup>74</sup> On the garden lots, residents of Tallahassee gather their weekly batch of vegetables, congregate to hold their Wednesday lunch bible studies, and share tips and stories with their fellow gardening neighbors. It is a refreshing sight to witness, which ultimately inspires everyone who visits to start a micro garden.

Furthermore, The City of Tallahassee has implemented a community garden program whereby eight residents can gather together and start a garden with funding and gardening tools provided by the city.<sup>75</sup> The program, called Stakeholder Gardens, is organized for civic purposes (including education and/or response to food security deficits in communities), neighborhood revitalization, and neighborhood beautification.<sup>76</sup> This program has become the moving force to initiate sustainable and food policy discourse in Tallahassee. Additionally, in 2011, the EPA collaborated with Florida A&M University, a Historical Black College and University (“HBCU”) located in Tallahassee, to “support campus greening and sustainability.”<sup>77</sup>

While sustainability principles are actively carried out in Tallahassee not all of Florida’s low-income residents are as advantaged to enjoy organically fresh fruits and vegetables. Thus, in the face of environmental, economic, and social equality challenges, it is imperative that the state of Florida establish sustainable urban agriculture principles like those in Tallahassee, to ensure all Florida residents can maintain a livelihood with the natural conditions under which they exist.

### B. Jacksonville: The Necessity of Food Security

Located in Northeast Florida in Duval County, the city of Jacksonville is special in many ways. It is the largest city in the continental United States by landmass at over 800 square miles.<sup>78</sup> It is also the

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74. Florida A&M University garden, Salvation Army garden, Detton Hills garden, and Dunn’s garden to name a few, *available at*, <http://www.talgov.com/planning/planning-environ-gardening.aspx> (last visited Nov. 14, 2012).

75. *Id.*

76. *Id.*

77. Environmental Protection Agency News Release 02/17/2011, *available at* <http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/a50563bfb9f8fea08525783a005e86e6!OpenDocument> (last visited Nov. 10, 2012) (“As part of the agreement, EPA will commit to enhance the university’s environmental policy and science curricula and offer opportunities for students interested in environmental careers.”).

78. United States Census Bureau: Guide to State and Local Census Geography-Florida, *available at* [http://www.census.gov/geo/www/guidestloc/st12\\_fl.html](http://www.census.gov/geo/www/guidestloc/st12_fl.html) (last revised Oct. 18, 2012).

14th largest city in the U.S. by population and the largest city in Florida.<sup>79</sup> In 2010, downtown Jacksonville had a population of 1,345,596.<sup>80</sup> Interestingly, the city of Jacksonville operates the largest urban park system in the U.S. with over 80,000 acres devoted to parks and community areas.<sup>81</sup>

Driving across the famous Matthews Bridge, onlookers can behold the beauty of Jacksonville without noticing evidence of brownfields, Superfund sites, abandoned lots, and urban decay.<sup>82</sup> A closer look may not reveal the immediate negative impacts of these industrial sites—food deserts that exist throughout the historic downtown Jacksonville area.<sup>83</sup>

“Revitalization” is quoted as the key focus of Jacksonville city officials and the EPA, as these entities cooperate to improve the “environmental and public health outcomes in an area that consists of a predominantly low-income and minority populations.”<sup>84</sup> Brownfields and Superfund cleanups are important environmental concerns, but the travesty of food availability in Jacksonville necessitates immediate action for the Florida legislature to focus its attention on.

Low income and minority populations living in historic downtown Jacksonville area have a median household income of \$17,169, significantly lower than U.S. average of \$56,604.<sup>85</sup> The urban population is primarily African-American, and mostly single.<sup>86</sup> Along with the title of a brownfield site, this is where food desertification takes place

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79. *Id.*

80. *Id.* See also WORLD ALMANAC AND BOOK OF FACTS, 612 (2012).

81. *Id.*

82. Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Cleaning up and reinvesting in these properties protects the environment, reduces blight, and takes development pressures off green spaces and working lands. Brownfield Definition, Environmental Protection Agency, available at <http://www.epa.gov/brownfields/> (last visited Oct. 26, 2012).

83. This area has a number of superfund sites, brownfields, vacant and abandoned lots, or other properties where contamination is suspected that may impact waterways that make gardening unlikely. National Service Center for Environmental Publications (NSCEP) EPA Brownfields Assessment Demonstrations Pilot Jacksonville, FL. available at <http://nepis.epa.gov> (last visited on January 21, 2013).

84. The Environmental Protection Agency, *Jacksonville, FL Superfund Site Cleanup*, available at [http://duval.ifas.ufl.edu/documents/DuvalAGImpact\\_000.pdf](http://duval.ifas.ufl.edu/documents/DuvalAGImpact_000.pdf) (last visited Nov. 12, 2012).

85. Information gathered from websites dedicated to selling property and disseminating information regarding demographics of city areas for realtors, National Neighborhood Link, available at <http://www.neighborhoodlink.com/zip/32206> (last visited Nov. 14, 2012).

86. *Id.*

as well.<sup>87</sup> The Center for Disease Control and Prevention defines “food deserts” as “areas that lack access to affordable fruits, vegetables, whole grains, low-fat milk, and other foods that make up the full range of a healthy diet.”<sup>88</sup> A majority of medium- to upper- income urban residents in downtown Jacksonville living unknowingly around food deserts understand the importance of eating fresh fruits, vegetables and organic produce. They have access to cars, and possess the ability to drive to the nearest supermarket or farmers market.<sup>89</sup> However, healthy and affordable food options for residents without cars, or the option of a reasonable walk to the nearest supermarket, present a quiet threat to a healthy life for Jacksonville’s urban poor. Their neighborhood is oversaturated with unhealthy food outlets such as fast food restaurants and convenience stores stacked with sugar-filled, high glucose corn syrup, and sometimes outdated snack food.<sup>90</sup> With fewer healthy food options, where a Jacksonville resident lives and how far a grocery store is located, has considerably “contribute[d] to their high overweight/obesity rates and diet related illnesses such as diabetes.”<sup>91</sup>

According to the United States Department of Agriculture food desert locator, 951 people that live in the historic Main St. downtown neighborhood, have “low access” to fresh produce and vegetables, while 338 urban low-income residents from 0-17 years of age experience low access to fresh food, and 181 housing units are without a vehicle to drive to a grocery store that permeates low access to fresh food.<sup>92</sup> This area of Jacksonville is just one example of the many food deserts that stain Jacksonville and the state of Florida.<sup>93</sup>

According to the Harvard School of Public Health, what an individual chooses to eat plays a large role in determining their risk of

87. The United States Department of Agriculture has created a “Food Environmental Atlas” Information for Duval County, Jacksonville, Florida, which reads “Low income & > 1 mile to access and proximity to Grocery Store is 73,588.” This information means that 73,588 low-income residents in Duval County live more than one mile from a supermarket or large grocery store.

88. Centers for Disease Control, *Food Deserts*, available at <http://www.cdc.gov/features/fooddeserts/> (last visited Nov. 18, 2012).

89. Riverside Farmers Market in Jacksonville occurs every Saturday. However, the majority of sellers and buyers are white upper to middle class residents.

90. Edward R. Jenkins, *USDA: Jacksonville Full Of ‘Food Deserts’; Duval Not A Healthy County*, available at <http://jacksonville.about.com/b/2011/06/28/usda-jacksonville-full-of-food-deserts-duval-not-a-healthy-county.htm>

91. Food Research and Action Center, available at <http://frac.org/initiatives/hunger-and-obesity/are-low-income-people-at-greater-risk-for-overweight-or-obesity/>.

92. USDA, Food Desert Locator, available at <http://www.ers.usda.gov/data-products/food-desert-locator/go-to-the-locator.aspx> (last visited Nov. 7, 2012).

93. Huntington, Virginia was found to be the most barren food desert in the nation. See generally DARRIN NORDAH, PUBLIC PRODUCE: THE NEW URBAN AGRICULTURE, 36 (2009).



gaining too much weight or experiencing other health related diseases.<sup>94</sup> Food choices, like processed meat, frozen meals, doughnuts, potato chips, soda—found abundant in low-income community convenient stores, shape the life expectancy and well-being of most community residents.<sup>95</sup> These options may be the only convenient snack available, if not a main food resource, which can inevitably stripe strip a low-income resident of color from living a healthy life. According to the Center for Disease Control and Prevention, the number one leading cause of death for communities of color is heart disease,<sup>96</sup> with diabetes and cancer to follow on the list.<sup>97</sup> One reason these communities face unexpected and preventable health related death tolls, is based on where they live, how they are educated about food nutrition, and the proximity of a supermarket location with nutritious and healthy food options. The inability to access fresh food is a major problem in the African American community. These communities are limited in their food choices not because mere desire to eat junk food, but simply based on an obvious, and potentially purposeful, placement of grocery stores attenuated by the way city governments support farmers and local locally grown food. These issues drive the unfortunate new era of food injustice and food policy issues that have afflicted low-income communities of color.

Food access must be dealt with now so that food deserts will not overwhelm the state of Florida. In 2009, the White House acknowledged the importance of changing the way we eat by utilizing the WWII victory garden approach to solve food security.<sup>98</sup> First Lady, Michele Obama, has made it her priority to bring nation-wide attention to the importance of food access and how gardening can ensure that

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94. See, Larson N, Story M. *A Review of Environmental Influences on Food Choices*, 30 ANN BEHAV MED S56-73 (2009); Abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/19802648> (highlighting “diet-related environmental and policy interventions being advocated at a population level because individual change is more likely to be facilitated and sustained if the environment within which choices are made supports healthful food options.”).

95. *Id.*

96. Heart disease is a term used to describe a number of problems affecting the heart and the blood vessels of the heart. Coronary artery disease (CAD) is the most common type of heart disease and is the leading cause of heart attacks. Some of the factors that contribute to this disparity include higher rates of overweight and obesity, higher rates of elevated cholesterol levels and high blood pressure and limited awareness of our elevated risks.

97. Center For Disease Control and Prevention, <http://www.cdc.gov/minorityhealth/populations/REMP/black.html>.

98. Marian Burros, *Michelle Obama Reveals How Her White House Garden Grows*, N. Y. TIMES, available at [http://www.nytimes.com/2012/05/29/us/politics/michelle-obama-writes-american-grown.html?\\_r=0](http://www.nytimes.com/2012/05/29/us/politics/michelle-obama-writes-american-grown.html?_r=0) (last updated on May 29, 2012).

Americans eat healthier meals.<sup>99</sup> Just as food access is important to the nation's First Lady, the hope is for states and cities to also consider how food deserts can be eliminated by regarding urban micro farming and gardening as an adequate tool to supply nutritious fruits and vegetables to low income individuals.

Research suggests that food security is built on three pillars: (1) Food availability: sufficient quantities of food available on a consistent basis, (2) Food access: having sufficient resources to obtain appropriate foods for a nutritious diet, and (3) Food use: appropriate use based on knowledge of basic nutrition and care, as well as adequate water and sanitation.<sup>100</sup> A full time single mother may not have the time, resources, or money to consider the three food pillars for her children, however the power to provide the resources necessary to begin a healthier lifestyle is in the hands of the Florida legislature, and it must seek a valid solution to eradicate food desertification. The food crisis in Jacksonville can be a principal case study for the legislature to consider as an example of how urban micro farms support food security and access to fresh food options. Why super markets and fresh food stores are located beyond the means of low-income community access is troubling and requires a closer look into the environmental justice aspect of food access for low-income communities.

### C. Orlando: The Negative Impacts of Food Injustice

"That garden was the hope we needed to get through those times," said Geraldine Matthew, a Lake Apopka farmworker for over 20 years.<sup>101</sup> As a farmworker, Ms. Matthew, along with other African American, Haitian, and Hispanic farmworkers, fed the nation by tilling, cultivating, harvesting, and packing fresh produce on large-scale commercial vegetable farms located on the north shore of the third largest lake in Florida, Lake Apopka.<sup>102</sup> From the 1940's until 1998, this area of farmland was considered one of Florida's premiere agricultural sites.<sup>103</sup> However, as part of their vegetable production operations, landowners sprayed massive amounts of pesticides and fer-

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99. See, MICHELE OBAMA, *AMERICAN GROWN: THE STORY OF THE WHITE HOUSE KITCHEN GARDEN AND GARDENS ACROSS AMERICA* (Crown, 2012).

100. World Health Organization, Food Security, available at <http://www.who.int/trade/glossary/story028/en/> (last visited Nov. 13, 2012).

101. Interview with Geraldine Matthew, Community Leader and Advocate, in Apopka, FL. (Oct. 13, 2012).

102. Farmworker Association of Florida, available at <http://www.ejrc.cau.edu/State%20ments%2010-27-09/Lake%20Apopka.pdf> (last visited Nov. 14, 2012).

103. *Id.*

tilizers on the crops.<sup>104</sup> Fifty years of pesticide and fertilizer runoff to the lake resulted in Lake Apopka becoming the state's most contaminated large lake.<sup>105</sup> Over the years and decades past, thousands of farmworkers were exposed to DDT, and other toxic organochlorine pesticides that were sprayed on the farm vegetables.<sup>106</sup> Lake Apopka farmworkers have suffered chronic and, in some cases, debilitating, diseases that many feel are related to this exposure.<sup>107</sup> For those that have survived the age of fifty, many struggle though through life with diseases, including but not limited to lupus, skin defects, kidney failure, diabetes, cancer, and arthritis.<sup>108</sup>

Located about one mile away from Ms. Matthew's home is a charming community garden, an urban micro farm. Lined with fresh fruits and vegetables, members of the community in South Apopka are able to incorporate their hand grown organic vegetables into their diets, instead of being deterred from buying fresh produce because of its high cost at local grocery stores.<sup>109</sup> Ms. Matthew and other Apopka residents found hope in the community garden through excruciating times; working ironically on a vegetable farm they could not garner adequate food supplies from. Ms. Matthew is part of the dwindling generation of farmworkers who are still alive and now advocate for social and environmental justice. All they ask is for health care to deal with and manage their multiple chronic illnesses, and recognition of the injustices they sustained while working on the farms. "The people who will suffer the most from Environmental Justice, or the "food injustice" crisis, are economically disadvantaged African Americans, like Ms. Matthew, who experienced the harsh effects of working on a contaminated farm yet struggled to keep food on her own table."<sup>110</sup>

The EPA defines environmental justice as "fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation,

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104. *Id.*

105. *Id.*

106. DDT (dichlorodiphenyltrichloroethane) is an organochlorine insecticide which is a white, crystalline solid, tasteless, and almost odorless. The U.S. has banned DDT. See D. Connell, et al., *INTRODUCTION TO ECOTOXICOLOGY* 68 (Blackwell Science 1999).

107. Matthew, *supra* note 102.

108. *Id.*

109. *Id.* (Actually, Geraldean Matthews does not work the community farm because she is too ill some days to get out of bed.).

110. Statement by Jeannie Economos, Pesticide Safety and Environmental Health Project Coordinator for The Farmworker Association of Florida, <http://www.floridafarmworkers.org/index.php/apopka-office>.

and enforcement of environmental laws, regulations, and policies.”<sup>111</sup> Rebecca Bratspies,<sup>112</sup> author of *Mayah’s Lot*, an environmental justice comic book series, stated, “Too many of our environmental ‘bads’ wind up in poor communities, especially communities of color.”<sup>113</sup> These ‘bads’ were first brought to the public’s eye in 1979 in *Bean v. Southwestern Waste Management, Inc.*,<sup>114</sup> the first case in which federal courts held that citizens can sue a corporation for environmental racism under the Civil Rights Act of 1967.<sup>115</sup> In *Bean*, a low-income community of color filed suit against a waste management company when the corporation planned to build a waste site next to their community.<sup>116</sup> The court decided in favor of the plaintiffs and found that there is evidence that low-income communities of color are more often subjects of environmental injustice than other races.<sup>117</sup> Moreover, as of 1994, President Bill Clinton<sup>118</sup> signed the Environmental Justice Executive Order 12898, that required, the “greatest extent practicable and permitted by law” all federal actions to address environmental justice in minority populations and low-income populations.<sup>119</sup> Environmental justice is now a prominent area of law that has become a beacon of hope for many low-income communities of color to combat unjust environmental harms.

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111. *Environmental Justice Definition*, Environmental Protection Agency, <http://www.epa.gov/environmentaljustice/> (last visited Oct. 26, 2012).

112. Professor of law at City University of New York School of Law, available at <http://www.law.cuny.edu/faculty/directory/bratspies.html>.

113. Rebecca Bratspies & Charlie La Greca, *Environmental Justice Chronicles: Book 1 “Mayah’s Lot”* Note from the editor, 2, available at [http://centerforurbanenvironmentalreform.org/wp-content/uploads/2012/08/Mayah\\_EJ\\_MAG.for-uploading.pdf](http://centerforurbanenvironmentalreform.org/wp-content/uploads/2012/08/Mayah_EJ_MAG.for-uploading.pdf) (last visited Nov. 5, 2012); See also *Environmental Justice Policies and Resources*, available at <http://www.epa.gov/environmentaljustice/resources/policy/plan-ej-2014/plan-ej-exec-sum.pdf> (last visited Nov. 14, 2012) (In January 2010, Administrator Lisa P. Jackson made Environmental Justice an agency priority by creating “Plan EJ 2014.” EPA’s overarching strategy for advancing environmental justice includes, protecting the environment and health in overburdened communities, empower communities to take action to improve their health and environment, and finally to establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities).

114. 482 F. Supp. 673 (S.D. Tex. 1979).

115. *Id.* at 677.

116. *Id.* at 675.

117. *Id.*

118. After the advice and research from the National Environmental Justice Advisory Council, See note 119.

119. Executive Order 12898, 59 FR 7629 (February 11, 1994) (The Executive Order is titled, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations”); See also The Environmental Protection Agency; Executive Order 12898, available at <http://www.epa.gov/fedreg/eo/eo12898.htm> (last updated on Oct. 29, 2009).

To improve the health in and equal treatment of overburdened low-income communities of color, environmental justice initiatives must be promoted by focusing on empowering these communities to choose micro farming. Ms. Matthew and her fellow farm workers were and still are victims of environmental food injustice. The low-income community plaintiffs in the *Bean* case were victims of environmental harms based on their location. Now, Florida's low-income residents are at risk of being subjected to environmental injustice that is rooted in food access inequality based on their location and whether they are able to access fresh food. The injustice may be directed at state and local municipalities that neglect the importance of the ability of poor residents to freely eat vegetables, fruits, fresh herbs and any kind of organically grown food. These are issues that can be easily overlooked and disregarded. However, these individuals are a vital and important part of the well-being and economic harmony of America. If their health issues are of the least concern to the Florida legislature, or other individuals in the position to help, then we all fail to uphold environmental justice for all. This is a major problem that needs to be curbed before Florida is a party to an environmental justice suit that intends to remedy past harms of food inequality.

Providing urban poor communities with the option to garden can solve numerous health problems and preventable diseases. Urban micro farms can aggressively attack food insecurity by ensuring a consistent food source and adequate nutrition to communities of color. These groups can be given equal and fair access to fresh food just as other similarly situated residents enjoy, thereby partially resolving the apparent environmental food injustice that plagues minorities and low-income communities.

By considering the food crisis and its connections to a resident's geographical location, socioeconomic status, and race, the role of the government to address environmental food justice must be strengthened to ensure these communities live with dignity by bringing fresh fruits and vegetables to the table. If wealthier urban residents have a choice in what they eat and can access the supply of food they choose to eat, residents in low-income communities should be able to enjoy that same freedom. Minority communities should not be victims to of preventable health diseases and obesity statistics based on their race and socioeconomic makeup. The Florida legislature must consider the environmental justice situation in Orlando and demystify environmental justice decision-making by aggressively promoting easier access to fresh food for communities in need of food stability.

## II. THE FLORIDA RIGHT TO FARM ACT (FRTFA)

In 1999, during disastrous weather conditions in America, the prices of produce dropped below market rates, resulting in a devastating impact on Florida agriculture.<sup>120</sup> In response to this concern, the Florida Legislature enacted the Florida Right to Farm Act (“FRTFA”) as the primary tool to protect farm operations from future disturbances.<sup>121</sup> According to legislative intent, the FRTFA was enacted to preserve farming operations, like crop and livestock production, as a way to promote self-sustaining principles on farms.<sup>122</sup> When the FRTFA was first established, most agricultural operations were small, family-operated rural farms, or micro farms.<sup>123</sup> The fact that the FRTFA’s early micro farming operations motivated the enactment of a state statute suggests that urban micro farming advocacy may have a firm foundation to stand on. If urban farms were considered a state priority in 1999, the current state of urban micro agriculture should be considered a vital farming operation that merits protection in the FRTFA.

Florida urban micro farms are in need of adequate protections that can be promoted in the FRTFA because residents and community organizations may encounter challenging barriers along the way. These barriers can threaten important food policy initiatives and deter low-income residents from seeking and experiencing the benefits of micro farming. Some challenges include: (1) locating and securing land to use for gardening, (2) ensuring long-term preservation of the land, (3) goading community interest, (4) protecting against theft and vandalism, (5) obtaining the necessary resources and funding, (6) and understanding farm, property, zoning, and tax laws that may regulate or limit the use of the garden.<sup>124</sup> Barriers that make it difficult for low-income communities to establish or maintain gardens in their neighborhoods can be overcome by expanding the overview, purpose, scope and coverage mandated in the FRTFA.

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120. Notes from the Florida House of Representatives Staff Analysis concerning agriculture conditions in 1999. See H.R. Rep. No. 1855 (Fl. 1999).

121. Fla. Stat. § 823.14.

122. *Id.*

123. Robert Andrew Branan, *Zoning Limitations and Opportunities For Farm Enterprise Diversification: Searching for New Meaning in Old Dimensions*, THE NATIONAL CENTER FOR AGRICULTURAL LAW AND INFORMATION, available at [http://www.nationalaglawcenter.org/assets/articles/branan\\_zoninglimitations.pdf](http://www.nationalaglawcenter.org/assets/articles/branan_zoninglimitations.pdf) (last visited Nov. 14, 2012).

124. Planning for Healthy Places, *Establishing Land Use Protections for Community Gardens*, PUBLIC HEALTH LAW & POLICY 4 (2009), available at <http://www.novatolivewell.org/nlw-pdfs/communitygardenpolicies.pdf> (last visited Nov. 14, 2012).

### A. Overview and Purpose

Drafted to reflect the spirit and importance of farming, the intent of the Florida Right to Farm Act reads: "The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute *unique* and *irreplaceable* resources of statewide importance."<sup>125</sup> The Act also provides that the continuation of agricultural activities, "furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the state."<sup>126</sup> Under Fla. Stat. § 823.14, a Florida resident who owns a "farm operation" is immune from nuisance suits under the definition of a "farm."<sup>127</sup> Ironically, the legislative intent concludes with an issue that this paper identifies as a threat to urban micro farms. It reads: "agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits. . . and they force the premature removal of the farm land from agricultural use."<sup>128</sup> As the legislature indicated, city farmers are at risk of lawsuits from those upset at the farming operation because of their densely populated location, and the potential interruption of farming activities in the city. This is the threat that current urban micro farms face. Although the risk of premature removal omit premature removal of urban micro farms may be a far-reaching issues issue that the 1999 legislature did not have in mind, a new era of farming operations has succeeded, which evidences a need for these farms to be included in the Florida Right to Farm Act.

As the state of Florida embarks on a new era of food policy and awareness that many other cities such as California and New York embrace, its agricultural laws must be aimed at preserving urban micro farming as a general benefit to the health and welfare of the people of the state. By avoiding the threat of a potential nuisance claim, property suit, or unavailable land to till upon, urban micro farms can be a stable source of economic, physical, and mental strength for residents. The legislature's intent and the Act's broad application to promote farming operations, makes the FRTFA the paramount statute for de-

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125. Florida Right to Farm Act, *supra* note 1 at §2 (emphasis added).

126. Florida Right to Farm Act, Fl. Stat. Section 832.14(a)(1)-(4).

127. *Id.* at Section (a) ("farm means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.').

128. *Id.* ("It is the purpose of this act to protect reasonable agricultural activities conducted on farm land from nuisance suits.').

fining, protecting, funding, and furthering urban micro farms and community gardens in urban poor neighborhoods in Florida.

### B. Scope of Protection

According to Florida Statute § 823.14, a Florida resident who owns a “farm operation” is immune from nuisance suits under the definition of a “farm.”<sup>129</sup> Few litigants have actually sought farming protections in the FRTFA, which makes this statute more difficult to interpret.<sup>130</sup> The lack of judicial insight may be a consequence of either of the following two theories: (1) contemporary farm operations are facing new threats of “premature removal” that were not contemplated at the time of the Act’s enactment, or (2) there are only a few farms in the last decade that experienced threat of elimination and were “subject to lawsuits.”<sup>131</sup> The former seems more reasonable. For example, in *Wilson v. Palm Beach County*,<sup>132</sup> the Florida Court of Appeals found that the “Right to Farm Act provisions restricting local government from adopting ordinances restricting farming activities” became effective June 16, 2000, which required that all “the set-back provisions, the non-conforming use requirements, and the zoning provisions for wholesale nurseries” were protected.<sup>133</sup> The *Wilson* court simply reaffirmed the protection of farms operations and established the prospective date of effectiveness. Furthermore, in *Flo-Sun, Inc. v. Kirk*,<sup>134</sup> the Florida Supreme Court barred a lawsuit against a sugar cane farm because the claims were “related to alleged pollution at least as the former relates to air and water pollution.”<sup>135</sup> These are the narrow case holdings that are relevant in any discussion centered on the FRTFA. However, since

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129. *Id.* at Section (a) (“farm means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.”).

130. See, e.g., *Wilson v. Palm Beach County*, 62 So.3d 1247 (2011); *Pasco County v. Tampa Farm Service, Inc.*, 573 So.2d 90 (1990); *Flo-Sun, Inc. v. Kirk*, 783 So.2d 1029 (2001); *Kirk v. U.S. Sugar Corp.* 726 So.2d 822, (1999); *Vavruz v. City of Palm Beach Gardens*, 927 So.2d 992 (2006).

131. Florida Right to Farm Act, *supra* note 128 at § 2 (emphasis added).

132. A neighbor of the nursery complained to Palm Beach County about burning activities on Wilson’s property. Throughout the dispute, Wilson maintained that his activities were protected by the Florida Right to Farm Act.

133. *Wilson*, 62 So.3d at 1248 (Fla. App. 4 Dist., 2011).

134. *Flo-Sun, Inc.*, 783 So.2d at 1032 (Fla. 2001) (holding that Respondents’ filed a complaint that petitioners farm caused “personal discomfort, inconvenience, and annoyance devastate[d] the air, land and water quality; pollute[d] the public lands; injure[d] wildlife; and cause[d] bodily injury to Respondents’ physical health and well-being. Petitioners’ complaint alleged that Petitioners’ activities damaged the use and enjoyment of land).

135. *Id.* (“[C]hapter 823 was impliedly superseded by part I of chapter 403, at least as the former relates to air and water pollution” and because the claims were related “to



new and innovative farming techniques have advanced, the intended “farming operations” seem to be outdated and irrelevant to modern urban farm operations.

If the “right to farm” provides the ability, need, and expectation to farm, the FRTFA should expand its scope to include the new urban agricultural operations so that all residents, especially those in low-income communities, have a right to “micro” farm as well. Bearing in mind the situation in *New York v. Guiliani*,<sup>136</sup> New York City’s last minute decision to bulldoze 600 community gardens came as a shock to the many resident gardeners because, presumably, they believed they had a right to uninterrupted micro farming. This case highlights the importance of reconsidering farming operation advances and updating and expanding the scope of farming laws as the future of agriculture evolves. The FRTFA must develop beyond its limited scope by amending the language in the act to foster more urban agriculture as it relates to low-income communities in order to prevent any threat of “premature removal.”

### III. PROPOSED AMENDMENTS TO THE FRTFA AND RECOMMENDED POLICY INITIATIVES FOR THE FLORIDA LEGISLATURE

Floridians enjoy pristine agricultural weather conditions that make gardening a lot simpler compared to soil and weather conditions elsewhere.<sup>137</sup> In a densely populated metropolitan area, most urban low-income residents enjoy the Florida weather, but are unable to pursue gardening endeavors because they do not have access to tillable land. Without land to dig, low-income residents are denied the benefit of practicing Florida farming techniques and altogether miss out on the social, health, and personal profits of consuming fresh food. Land needs to be available, programs should be in place to maintain access, and laws must be written to ensure continuation of sustainable urban agriculture in low-income communities without the threat of premature removal. Amending the Florida Right to Farm Act would incentivize and extend fixed protections for urban micro farms. Such amendments to the FRTFA should include: (1) offering property tax incentives for vacant private lots that are used for urban farming to

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alleged pollution . . . Respondents’ public nuisance claim warranted dismissal on this basis as well.”)

136. Florida Right to Farm Act, *supra* note 126.

137. My Raised Bed Florida Vegetable Garden Blog, *available at*, <http://www.floridavegetablegarden.com/> (describing Florida as the best place to garden, and offering gardener’s tips on how and when to grow Florida vegetables.) (last visited Aug. 13, 2012).

promote sustainability, (2) creating definitions of “community gardening” and “personal gardening” in the zoning code and allowing urban micro farming activities in every city zone to eradicate food deserts, (3) implementing a land inventory and prioritize prioritizing the use of city-owned land for urban farming to further environmental justice initiatives.

A. *Sustainability: Offering Property Tax Incentives for Vacant or Unused Private Lots Will Promote Sustainable Lifestyle Choices in Low-Income Communities*

An amendment to the FRTFA should include a section offering private owners of vacant lots reduced property tax<sup>138</sup> incentives to provide garden-ready residents easier access to tillable land. This amendment will implement sustainable principles by encouraging economically disadvantaged communities to fulfill their social, economic, and health-related needs by making use of unused lots to grow fresh food. This will also provide private property owners a tax break on vacant lots,<sup>139</sup> which builds a more sustainable and economic benefit to keep the land for current and future use. By removing a partial burden of paying property taxes and the potential property tax increases for private landowners, it simultaneously benefits landowners to continue ownership at a reduced tax rate, while encouraging prospective urban micro farmers to use the land.

A clear example of this kind of “property sharing” is demonstrated in Tallahassee where certain gardens are created on privately owned lots.<sup>140</sup> Owners that have either discontinued a prior use of their land, or have never developed a proposed use, have opted to revitalize the property by allowing a community garden to be constructed on the grounds. Essentially, many Tallahassee property owners “re-

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138. A property tax (or millage tax) is a levy on property that the owner is required to pay. See generally Florida Department of Revenue, *available at* <http://dor.myflorida.com/dor/property/taxpayers/> (last visited on Jan. 3, 2012).

139. The Williamson Act in California already provides property tax incentives to preserve land as agricultural in rural areas, and a similar policy should be applied in urban areas, See State of California Department of Conservation, *available at* <http://www.conservation.ca.gov/dlrp/lca/Pages/Index.aspx> (The Williamson Act, “enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value.”).

140. Greater Frenchtown/Southside Community Redevelopment Area Citizens Advisory Committee By-Laws, *available at* <https://www.tal.gov.com/treasurer/treasurer-bylaw-frcra.aspx> (last visited Nov. 5, 2012).

cycle” the use of their vacant lot for a more naturally sustainable use that then becomes an invaluable benefit for disadvantaged neighbors who do not have land to till. These residents are now given limitless creativity to plant and garden as they desire. Many of the vacant lots are now full blown micro farms—producing and selling inventory like bright yellow sunflowers and Valentine’s Day roses. By selling their new plants at local farmers markets or out of roadside tents, community gardeners in Tallahassee now have a business practice and a purpose to fulfill. Additionally, in most instances, the property owners themselves have a mini-garden on the lot, planted for daily use and cooking. This type of sustainable recycling of land benefits all parties—the gardens are protected from outside intrusion and sustained by allowing micro farming as a permitted use, while the landowners provide the means for gardens to grow.

Yet, not all private landowners can mimic the charitable priorities that many Tallahassee private lot owners possess. The problem stems from landowners’ unwillingness to continue paying the high price for their land, whether used or unused, while another is benefiting from the use. That is why the Florida legislature must consider amending the FRTFA to include a provision offering private owners a property tax incentive for urban micro farm development.

Contemplating the following can carry out the procedural parameters of this amendment. Developers, local housing authorities, and community residents should be encouraged to identify unused lots. The searching entities can contact the landowners and request use of the land for micro farming in accordance with the FRTFA provisions. By providing a tax incentive for unused privately owned land, opportunity to start and manage gardens will be less of a burden to low-income residents. Landowners can then report the permitted use to the Florida State revenue office capitalize? and request a deduction from their property taxes. The FRTFA can delegate the exact value of the tax incentive to the local municipalities, but it can be determined based on the value of land and the amount of space used for micro farming. For insurance purposes, private landowners may negotiate a small leasing fee if the unused land is located on a busy section in the city, to insure coverage of any injuries or accidents that occur on the land. However, the fee should be a subsidized amount for consideration if the leasing agreement is executed between a low-income resident and the property landowner. The fee may increase slightly if a housing authority is requesting the land for a larger community of residents.

Exposing the dual benefits of property tax incentives and urban micro farming to a wider audience must be the FRTFA’s new direction

and scope during this era of sustainability initiatives. The amendment will underscore the importance of food security by legitimizing the importance to obtain fresh food. By mandating more community sharing and sustainable principles established on the availability of natural resources, more urban low-income residents will be afforded the opportunity to grow fresh fruits and vegetables for health and self-sufficiency, while an unused vacant lot can serve a greater purpose than enhancing a property owner's financial burden. Sharing is the key to sustainability, as this proposal will benefit all persons. As King Solomon stated, "The profit of the land is for all; even the king is served from the field."<sup>141</sup>

Moreover, this proposal is in accordance with FRTFA's intention to "further the economic self-sufficiency of the people of the state."<sup>142</sup> The language of the statute suggests that farming operations are seen as an avenue of self-sufficiency, or the ability to provide and satisfy the daily needs of life. Just as the Victory Gardens in the 1930's helped people during tough economic times, by providing low-income community residents with land to till and protection to continue use, it helps these individuals utilize sustainable options. The urban agriculture lifestyle can allow residents to depend less on manufactured resources and more on natural options. Imagine major cities in Florida reclaiming unused land and replacing them with neatly garden rows of fruits and vegetables; where people can gather and build a community rather than fight over the traffic signals. The Florida legislature should refocus farming protections for this sustainable goal because it will put the beauty of culture back in agriculture.

Sustainability is the key to bringing residents with unattractive lots together with those who need the soil to garden, and the FRTFA can promote this goal. Amending the FRTFA to advance sustainable priorities will provide a measurable goal of encouraging more environmental stewardship of the land, furthering the legislature's intent to support self-sufficiency and natural renewal of environmental resources for low income communities, while incidentally beautifying the cities' overall urban landscape and, finally, helping the landowner to pay lower taxes for vacant lot space. Landowners should be rewarded for putting their land to a productive agricultural use because such a tax incentive could dramatically multiply the amount of available land for community gardening and urban micro farming.

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141. *Ecclesiastes* 5:9 (NKJV).

142. The Florida Right to Farm Act, *supra* note 126.

*B. Food Access: Creating a Definition for “Community Gardens” and “Urban Micro Farms” in the FRTFA Will Promote Higher Access to Fresh Food in Low-Income Communities*

In order to effectively enhance food security for urban low-income residents, the Florida legislature must articulate a state-wide definition of “community gardening” and “urban micro farms” and “personal gardening” in the FRTFA. This amendment will raise awareness of food desert and food access issues, while also providing a clear definition for city and local municipalities to follow as they amend their respective zoning codes to cater to urban micro farming development. By creating an acceptable definition of community gardening and urban micro farming in the FRTFA, the Florida legislature can raise awareness of the real injustice that food deserts presents.

Since food security is built on three pillars: (1) food availability, (2) food access, and (3) food use,<sup>143</sup> establishing urban micro farming as an effective agricultural practice can help more city governments recognize the importance of healthy food options for low-income communities. Residents who live in and around food deserts typically are not aware of the absence of fresh foods to eat. Yet, most can quickly attest to the fact that they reside near multiple fast food restaurants and are frequent customers to the many “convenient” convenience food stores located on the street corners. A food desert location, such as the one noted in the historic neighborhood in downtown Jacksonville, provides a compelling example of the travesty of how low income residents are unfairly limited in access to fresh food. Other omit wealthier residents who have access to a car and the means to drive to a major grocery store, remove comma may more readily choose a healthier lifestyle. The African American and low-income community in metropolitan Jacksonville and around the state of Florida should not have to be subjected to taking multiple bus trips to get fresh food from the nearest grocery store. Neither should they have the narrow option to grab food from the local convenience store to satisfy their hunger. Sadly, as the USDA noted, 338 of 0-17 year olds—infants, toddlers, youth, pre-teens and teenagers—are categorized as “low access” residents who have a limited access to fresh food in downtown Jacksonville.<sup>144</sup>

Access to fresh food should never have to affect a child in America. While more privileged residents shop at warehouse grocery

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143. *Supra* note 103 (In 1996, The World Food Summit analyzed how food security affects many countries health problems as it relates to dietary excess).

144. The United States Department of Agriculture, *supra* note 90.

stores, 338 urban youth in Jacksonville are unable to access the daily nutritional components to have a healthy and balanced lifestyle. Urban micro farming and community gardening are the solutions that confront and overcome the reality of food deserts, while foreclosing the restriction to exclusively eat at fast food restaurants. They provide immediate access to fresh food for low-income community residents and their children. Creating a definition of “urban micro farming,” “community gardening,” and “personal gardens” in the FRTFA will encourage cities and local government bodies to recognize the importance of food access and food security. As a result, local city commissions can amend their respective zoning codes to give potential gardeners the chance to start a garden without the threat of a land use violation or restrictions.

Zoning ordinances and other land use frameworks determine the primary and permitted uses of land.<sup>145</sup> These regulations are enacted under the state’s local government Comprehensive Planning and Land Development Regulation Act, and cover all property related concerns.<sup>146</sup> Under Florida Statute §163.3177, the principles of comprehensive planning and zoning laws include: (1) the housing needs of all current residents and anticipated future residents of the jurisdiction; (2) elimination of substandard dwelling conditions; and (3) structural and aesthetic improvement of existing housing.<sup>147</sup> With these principles in mind, local and city governments can amend the local zoning laws to reflect an awareness of food desert locations as it relates to substandard living conditions in urban communities of color. By utilizing the principles of the zoning laws, permitting the new use of gardens in residential areas will enable residents to slowly overcome the problem of food desertification. Also the permitted use of urban micro farming can enhance the aesthetic improvement of the urban communities by the presence of more greenery. For community gardens already in operation, cities that amend the zoning code can provide a retrospective protection on existing gardens so that they will not be challenged with land use violations—all goals reflective of Florida’s Comprehensive Plan and Land Development Regulation Act.

Even more practically, once city and local ordinances amend zoning codes to allow gardening in city neighborhoods, the accessibility

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145. See, Mark S. Dennison, *Challenge to Rezoning Decision as Illegal Spot Zoning*, 39 Am. Jur. Proof of Facts 3d 433 (2012).

146. See, e.g., Municode Code Corporation *State Laws In Florida Affecting Local Codes & Ordinances*, (2012) available at <http://www.municode.com/webcontent/statelawpamphlets/FL.pdf>.

147. See generally Fla. Stat. Ann. § 163.3177 (6)(1)(a)-(g); Peter W. Salsich, Jr., *Thinking Regionally About Affordable Housing and Neighborhood Development: The Impact of Land Use Laws on Affordable Housing*, 28 STETSON. LAW REV. 577-605 (1999).

of land will open a flood gate of opportunities for urban micro farming activities and community program development. For instance, as community gardening and urban micro farming become more popular as permitted land uses, local community groups can hold weekend gardening classes to help residents located in food deserts learn the techniques of gardening. Organizations can hold community outreach days and provide economic development and gardening workshops for new micro farmers. Senior citizens and SNAP<sup>148</sup> program participants can learn how to properly tend a garden and save money by micro farming. This will bring residents more knowledgeable about gardening techniques into the same room with those less fortunate. The cycle of bad eating habits can significantly decrease with workshop attendance and community outreach activities that promote awareness of food security. Residents that are taught to choose healthier food options through micro farming and community gardening can help disseminate information on the negative impacts of food deserts.

Communication and awareness are the key instruments to change the way people think about food access. It requires one on one communication at the local level, but it must be promulgated and supported at the statewide level. By permitting low-income residents with omit the ability to garden, amending the Florida Right to Farm Act to include a definition of “urban micro farming” and “community gardening” will provide a valid solution for eradicating food desert locations.

*C. Environmental Justice: Implementing Land Inventory and  
Prioritizing the Use of City-Owned Land for Urban Micro  
Farming Will Support Health and Food Security  
in Low-Income Communities.*

Parks, open spaces, schools, and vacant city-owned lots all provide opportunities for cities to dedicate publically owned land to urban micro farming.<sup>149</sup> Overwhelmed by shrubs and weeds, abandoned urban lots cast an unsightly shadow on city streets in Florida. The Florida legislature must consider this reality as evidence that city land should be prioritized for urban micro farming as a goal to reclaim unused and abandoned lots. This proposal would fit within and also yet

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148. The Supplemental Nutrition Assistance Program, or *SNAP*, is the new name for the Federal *Food Stamp* Program promulgated by the United States Department of Agriculture Food and Nutrition Service, available at <http://www.fns.usda.gov/ORA/menu/Published/SNAP/SNAP.htm#Building>.

149. Patricia Norrison, Gary Taylor & Mark Wyckof, *When Urban Agriculture Meets Michigan's Right To Farm Act: The Pig's In The Parlor*, 2011 MICH. ST. L. REV. 365 (2011).

broaden the scope of the FRTFA's regulatory framework because of the Act's broad application to provide a "benefit to the health and welfare of the people of the state."<sup>150</sup> By creating a statute that mandates unused city owned land be dedicated to urban micro farming, an amendment presents a win-win situation: land will be provided to historically disadvantaged communities of color, while also redeveloping unattractive blighted lots into community gardens.

As expressed above, the first barrier to micro farming is determining where to garden. Most urban communities of color do not have the resources to buy land, cannot run the risk of planting on property owned by the local housing authorities (for fear of property misuse), and do not have free access to cultivate another's land. Attempting to develop land "borrowed" from a landlord or developer can be difficult if not impossible because of alternative priorities and financial obligations.<sup>151</sup> Cities and municipalities obligating unused land for urban agricultural priorities can easily mitigate these threats. The strength of a statewide mandate in the FRTFA could protect and support urban community residents, including low-income minority residents living in segregated districts,<sup>152</sup> in their liberty to eat the same fresh food options other city residents enjoy. The state of Florida has the power to alleviate this burden by conditioning city owned land for urban micro farming.

The method for Remediating environmental "food injustice" wrongs seems surprisingly obvious. If a person is hungry, and the location of their residence inhibits their access to food, limits their ability to survive, and denies them the freedom to choose a healthier lifestyle, then a prompt solution should include delivering tillable and unused land so that he or she can dig, plant, water, and eat, nutritious and sustainable meals. Typical environmental justice issues, such as substandard living conditions and conscious placement of industrial waste near and around communities of color should shock the conscious, as this type of discrimination is despicable.<sup>153</sup> Another outright environ-

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150. *Id.*

151. However, this burden will be lessened if property owners are given tax incentives to prioritize land use for urban micro farming development.

152. See, MANNING THOMAS, JUNE & MARSHA RITZDORF EDS., *URBAN PLANNING AND THE AFRICAN AMERICAN COMMUNITY: IN THE SHADOW* (1997); see also, Christopher Silver, *The Racial Origins of Zoning In American Cities*, Ariz. St. University, available at <http://www.asu.edu/courses/aph294/total-readings/silver%20-%20racialoriginsofzoning.pdf>.

153. Robert D. Bullard, *THE QUEST FOR ENVIRONMENTAL EQUITY: MOBILIZING THE AFRICAN-AMERICAN COMMUNITY FOR SOCIAL CHANGE, AMERICAN ENVIRONMENTALISM* (1970-1990) (describing how vulnerable African American communities with fewer political opportunities are more often exposed to hazardous waste and toxins).



mental injustice involves stories of Floridian children not eating sufficient nutrients, and farmworkers who are unaware they are harvesting food that will eventually exacerbate their demise. Food injustice is becoming the new environmental justice concern as more communities of color are being subjected to restricted eating options and limited land use options to grow fresh food, and thus have become victims of obesity, omit high diabetes, and other health related issues.<sup>154</sup>

The solution for food insecurity is to locate unused city-owned land and prioritize its use for urban micro farming. This commitment can be carried out by the Department of Housing and Urban Development's (HUD) Florida section, and the Florida Department of Environmental Protection (DEP), as both entities have the resources to access and provide information about Florida's real estate inventory based on the City's land inventory system.<sup>155</sup> Once an individual becomes a resident in the designated low-income area they can be advised that the FRTFA has labeled certain city-owned land for urban residents to grow and maintain farming ventures. With a omit state-wide and citywide policy support, this amendment will affirmatively promote fair and equal food access for low-income and minority residents in order for them to pursue healthier eating choices and enjoy the benefits of gardening with other community members.<sup>156</sup>

The hope centers on whether the state of Florida wishes to protect their low-income urban residents from the harsh and discriminatory effects of food injustice before it gets out of control. Until that goal is fully achieved, these communities can use protections to access to fresh food and available land to grow fruits and vegetables right now on city owned land. Environmental food "bads" in poor communities of color can be eradicated when the Florida legislature amends the current farm laws to prioritize city-owed property for community gardening.<sup>157</sup>

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154. Anthony V. Clark, *The Unhealthy Truth; Obesity in the Black Population of Chicago*, Chicago Urban League (June 2005) available at [http://www.thechicagourbanleague.org/723210130204959623/lib/723210130204959623/\\_Files/The\\_Unhealthy\\_Truth.pdf](http://www.thechicagourbanleague.org/723210130204959623/lib/723210130204959623/_Files/The_Unhealthy_Truth.pdf) (last visited Nov. 1, 2012); see also Arielle Loren, *Is Black an Antonym for Healthy*, <http://frugivoremag.com/2011/05/is-black-an-antonym-for-healthy/> (last visited Nov. 18, 2012).

155. The City of Chicago has a map of available land owned by the city. Easy to read, this is the type of information Florida can consider when furthering environmental justice initiatives and seeking a solution to food insecurity in Florida. City of Chicago Map, available at [http://www.cityofchicago.org/city/en/depts/dcd/supp\\_info/city-owned\\_land\\_inventory.html](http://www.cityofchicago.org/city/en/depts/dcd/supp_info/city-owned_land_inventory.html) (last visited Nov. 13, 2012).

156. Bratspies & La Greca, *Environmental Justice Chronicles: Book 1 Mayah's Lot*, *supra* note 116, at 2 (last visited Nov. 5, 2012).

157. *Id.*

## CONCLUSION

The Florida Legislature must seriously consider the present and future state of food insecurity and urban agriculture for low-income communities in Florida. If climate changes, deforestation, and other egregious environmental issues concern the masses, food security should scare us all. It is the single most immediate environmental concern that directly affects all humans and their ability to survive. And yet the solution seems so simple: promote, support, fund, and provide for micro gardening and urban farming operations in low-income communities. A fresher law for urban micro farming is needed to promote sustainability efforts in low-income communities, ensure food security in locations labeled as food deserts, and further environmental justice initiatives, so that this generation and the next one will have a shot at a healthy life.

*“We do not inherit this land from our ancestors, we borrow it from our children.”*<sup>158</sup>

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158. *Haida Indian Saying*; See Nancy J. King & Brian J. King, *Creating Incentives For Sustainable Buildings: A Comparative Law Approach Featuring The United States And The European Union*, 23 VA. ENVTL. L.J. 397 (2005).

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