

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

**GEORGE LANE, BEVERLY JONES, ANN
MARIE ZAPPOLA, DENNIS CANTREL,
RALPH E. RAMSEY, Sr., and
A. RUSSELL LARSON,**

Plaintiffs,

v.

**STATE OF TENNESSEE and its political
subdivisions, POLK COUNTY, BLEDSOE
COUNTY, CANNON COUNTY, CHESTER
COUNTY, CLAIBORNE COUNTY, CLAY
COUNTY, COCKE COUNTY, DECATUR
COUNTY, FAYETTE COUNTY, GRAINGER
COUNTY, HANCOCK COUNTY, HAWKINS
COUNTY, HICKMAN COUNTY, HOUSTON
COUNTY, JACKSON COUNTY, JEFFERSON
COUNTY, JOHNSON COUNTY, LAKE
COUNTY, LEWIS COUNTY, MEIGS
COUNTY, MOORE COUNTY, PERRY
COUNTY, PICKETT COUNTY, TROUSDALE
COUNTY, and VAN BUREN COUNTY,**

Defendants.

No. 3:98 CV 0731

Judge Campbell

Magistrate Judge Griffin

JURY DEMAND

SETTLEMENT AGREEMENT – CLAIBORNE COUNTY

This Settlement Agreement (hereinafter "Agreement") is entered into this 23 day of February, 2005, by and between Plaintiffs George Lane, Beverly Jones, Ann Marie Zappola, Dennis Cantrel, Ralph E. Ramsey, Sr., and A. Russell Larson (hereinafter "Plaintiffs") and Defendant Claiborne County (hereinafter "Defendant County").

PARTIES TO THIS AGREEMENT

1. Plaintiffs have alleged they are qualified individuals with disabilities as that term is defined by 42 U.S.C. § 12131(2).

2. Claiborne County is a Public Entity as that term is defined in 42 U.S.C. § 12131(1). Claiborne County is subject to Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulations, 28 C.F.R. Part 35.

ADDITIONAL DESIGNATIONS

3. As used herein, the State of Tennessee shall refer collectively to the defendant designated as the State of Tennessee in this litigation, all Tennessee Courts exercising jurisdiction under Tennessee law in the courthouse and any other owned or operated facility of the Claiborne County, and the AOC ("Administrative Office of the Courts").

DEFINITIONS

4. Unless otherwise specified in these Definitions, the definitions of terms used in this Agreement shall be the same definitions as are contained in 42 U.S.C. § 12131 et seq. and 28 C.F.R. Part 35 and 36 and any accompanying explanations as may be contained in the statutes, appendices or regulations associated with those statutes and regulations.

a. "ALTERATION" refers to any modification, improvement, remodeling, renovation or repair to ANY buildings or structures at the SUBJECT FACILITIES.

b. "DEFENDANT COUNTY" as used herein refers to Defendant County and includes any official agency of Claiborne County.

c. "EFFECTIVE DATE" means the last date upon which this Agreement was executed by a party.

d. "SUBJECT FACILITIES" refers to any courthouse and/or other buildings owned and/or operated by Defendant County in which judicial programs and services and/or county commission meetings are held.

FACTUAL BACKGROUND

5. Pursuant to the Constitution of the State of Tennessee and state statutes, the State of Tennessee conducts its judicial program in the county courthouses and other facilities of the State. Defendant County is responsible for providing the facilities in which the State's judicial program is conducted in the Defendant County.

PLAINTIFFS' RELEASE OF DEFENDANT COUNTY

6. This Agreement constitutes a settlement of all of the Plaintiff's claims against the Defendant County, arising out of the alleged inaccessibility of the Claiborne County Courthouse, including, but not limited to, all claims for back pay, lost wages, compensatory damages, injuries to person and property, reimbursement of out of pocket expenses, physical or emotional injury and stress, any punitive type damages, attorneys fees, costs, experts' witness fees and any and all other damages.

7. Plaintiffs agree to, and hereby do, completely release and discharge Defendant County, including but not limited to, its officials, employees, agents, whether current or former, in all of their official and individual capacities, including, but not limited to, their successors, assigns, servants, agents, attorneys, subsidiaries, affiliates, officers, directors, and representatives, of and from any and all claims, demands, actions, and causes of action of any and every kind and character, known or unknown, that Plaintiffs may have had or may now have against them regarding the alleged inaccessibility of the Claiborne County Courthouse whether asserted in this case or otherwise, including, but not limited to, any and all matters asserted in the case, or which may have been asserted.

8. Plaintiffs agree to execute the attached Agreed Order of Dismissal with Prejudice. This Agreement shall be made an Exhibit to the Order of Dismissal.

9. Plaintiffs further agree and acknowledge that the payment described in Paragraph 10 and the Alterations delineated in Appendix A, attached hereto, constitute the entire consideration, both monetary and otherwise, for the complete release provided for herein. The terms set forth herein are intended to be the full and complete settlement of this case. No additional compensation is to be paid and no additional Alterations are to be made by the Defendant County. The parties agree that this Agreement is based upon mutually adequate consideration, and that this Agreement shall not be subject to attack by any party on the grounds of lack of consideration or inadequate consideration.

OBLIGATIONS ASSUMED BY THE DEFENDANT COUNTY

10. Defendant County will pay Plaintiffs in total the amount of Two Thousand Six Hundred Eighty Dollars (\$2,680.00) which reflects Defendant County's pro rata share of the amount of Plaintiffs' attorneys' fees, expenses and costs accrued through December 17, 2004 and not paid by the State. Defendant County will have no further liability for any additional monetary damages or attorneys' fees, expenses and costs.

11. Defendant County will make the Alterations as enumerated in Appendix A, attached hereto. Defendant County will cooperate with the State of Tennessee to implement the State of Tennessee's policies and procedures to ensure that the State's judicial program is in compliance with Title II of the ADA and its implementing regulations.

12. Defendant County has represented that it is not possible to make all the Alterations delineated in Appendix A immediately. Defendant County agrees to make good faith progress toward the completion of the Alterations delineated in Appendix A. All of the Alterations delineated in Appendix A shall be completed within five (5) years of the Effective Date.

13. Notwithstanding any unforeseen future contingencies that might impact the Alterations set forth in Appendix A, Defendant County agrees to refrain from taking any action that will diminish the level of physical accessibility of the judicial program conducted in Defendant County's subject facilities as achieved through the Alterations enumerated in

Appendix A. This paragraph shall not be read to prohibit the curtailment of a judicial program, service, or activity at any of Defendant County's subject facilities for reasons unrelated to compliance with the ADA unless such action eliminates the only such accessible program, service, or activity in Defendant County's subject facilities.

14. Defendant County agrees that all disability access features that are provided for in this Agreement shall be inspected and maintained by the Defendant County hereafter to ensure the accessibility of the judicial program in the subject facilities at all times, except for isolated or temporary interruptions due to necessary maintenance or repairs.

ENFORCEMENT AND MONITORING

15. The United States District Court for the Middle District of Tennessee shall have exclusive jurisdiction and venue to construe and enforce this Agreement, and to resolve any and all disputes arising out of or relating to this Agreement, which shall be governed by and construed in accordance with the laws of the United States and the State of Tennessee. This Agreement shall be made an exhibit to the Dismissal Order.

16. If any party to this Agreement believes that another party is violating its obligations under this Agreement, or believes a dispute has arisen under the Agreement (the "Complaining Party"), then the Complaining Party shall give written detailed notice (the "Notice") to the other party (the "Responding Party"). The Responding Party shall be given thirty (30) days to provide a written response to the Notice. The Complaining and Responding Parties shall attempt within the next thirty (30) days to resolve their differences regarding the issue(s) addressed in the Notice including any issues of attorneys' fees, expenses, and costs. No action may be instituted in the United States District Court for the Middle District of Tennessee relating to this Agreement prior to the expiration of the time periods addressed in this Paragraph.

17. Reasonable attorneys' fees, costs and expenses may be sought in any judicial proceeding relating to paragraph 16 of this Agreement by the prevailing party to the extent allowed by law.

18. Defendant County shall provide to Plaintiffs' attorney, William J. Brown, at P.O. Box 1001, Cleveland, TN 37364-1001 a bi-monthly report (no less frequently than every sixty (60) days following the Effective Date) that sets forth its progress in making the Alterations set forth in Appendix A until such time as compliance with the obligations specified therein is achieved. Defendant County agrees to make good faith efforts at completing the Alterations delineated in Appendix A during each sixty (60) day time period. When the Defendant County has completed the alterations in Appendix A, said Defendant County shall submit a certified report, signed by an appropriate representative of the County stating that the Alterations set forth in Appendix A have been completed.

19. If at any time Defendant County wishes to modify any portion of this Agreement because of changed conditions making performance impossible or impractical, Defendant County's designated representative will promptly notify Plaintiffs in writing (at the address for Plaintiffs set forth in Paragraph 22), setting forth the facts and circumstances thought to justify

modification and the substance of the proposed modification, and provide evidence to support their position that such modification is necessary. Until there is written assent or agreement by Plaintiffs to the proposed modification, the proposed modification will not take effect. If the requested modification is not approved within thirty (30) days of the date of written notification of such need, then Defendant County may proceed as a Complaining Party under the provisions of Paragraph 16 of the Agreement.

MISCELLANEOUS PROVISIONS

20. By entering into this Agreement, no party shall be deemed to have waived any claim or defense not otherwise specifically released in writing, until such time as the Court no longer has jurisdiction over the matters raised in this action.

21. By entering into this Agreement, Defendant County does not waive its defense based on Plaintiffs' alleged lack of standing to seek injunctive relief against Defendant County since none of these Plaintiffs have ever attempted to access judicial proceedings that are offered in Defendant County.

22. This Agreement will be null and void if any court of competent jurisdiction reverses Judge Campbell's Order (Docket Entry No. 319) entered on December 7, 2004, relating to a Plaintiff's standing to seek injunctive relief against Defendant County since none of these Plaintiffs has ever attempted to access judicial proceedings that are offered in Defendant County.

23. The representatives signing this Agreement on behalf of Defendant County represent that they are authorized to bind Defendant County to the provisions agreed upon herein. Each signatory to this Agreement affirms that he or she has consulted with and been advised by counsel in connection with the execution of this Agreement and that he or she agrees that its terms are fair and reasonable.

24. This Agreement sets forth the entire agreement between Plaintiffs and Defendant County with respect to the subject matters herein, and supersedes all prior oral and written agreements and discussions. No other statement, promise, or agreement concerning the subject matters herein, either written or oral, made by any party or the agents of any party that is not contained in this written Agreement shall be effective. Plaintiffs and Defendant County represent that in entering into this Agreement, none of them has relied upon any statement of any other party to this Agreement except those statements set forth herein.

25. All notices and other correspondence sent by Plaintiffs to the Defendant County shall be sent to the County Mayor and the County Attorney. All notices and other correspondence sent by Defendants shall be sent to the office of Plaintiffs' attorney, William J. Brown.

26. This Agreement shall be binding on the parties, and their elected or appointed successors in interest.

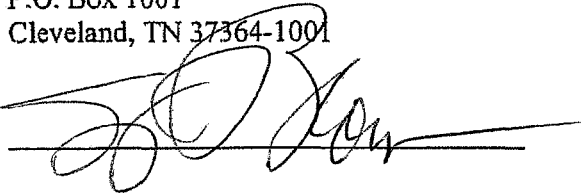
27. This Agreement shall become effective once signed by all parties and the effective date will be the date of the last signature affixed hereto.

28. This Agreement is contingent on the State of Tennessee approving the Compromise and Settlement Agreement between Plaintiffs and the State of Tennessee which provides, *inter alia*, that Defendant County will not be responsible for any of Plaintiffs' attorneys' fees, expenses and costs through December 17, 2004, including those relating to Defendant County, with the exception of the amount of \$2,680.00 which reflects Defendant County's pro rata share of the amount of Plaintiffs' expenses and costs accrued by through December 17, 2004 and not paid by the State. In the event that the Memorandum of Understanding is rejected by the State of Tennessee then the dismissal shall be set aside and the case shall be placed back on the active docket for disposition and all defenses, otherwise available, would continue to be available included but not limited to standing and are not waived by this Agreement.

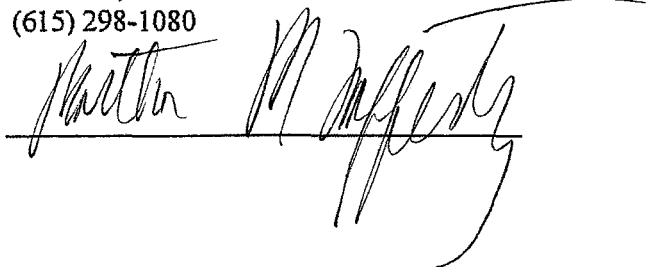
IN WITNESS WHEREOF, Plaintiffs and Defendant County in the above-captioned action have caused this Agreement to be executed as of the dates subscribed below.

For Plaintiffs George Lane, Beverly Jones, Ann Marie Zappola, Ralph E. Ramsey, Sr., Dennis Cantrel, and A. Russell Larson:

William J. Brown, Esq.
William J. Brown & Associates
23 North Ocoee Street
P.O. Box 1001
Cleveland, TN 37364-1001



Martha M. Lafferty (BPR# 19817)
Gary D. Housepian (BPR # 6969)
Tennessee Protection & Advocacy, Inc.
2416 21st Ave South, Suite 100
Nashville, TN 37212
(615) 298-1080



Linda M. Dardarian, admitted Pro Hac Vice
Roberta L. Steele, admitted Pro Hac Vice
GOLDSTEIN, DEMCHAK, BALLER, BORGAN & DARDARIAN
300 Lakeside Drive, Suite 1000
Oakland, CA 94612-3534
(510) 763-9800

Linda M. Dardarian

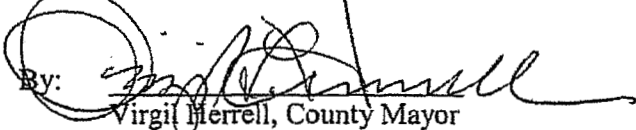
Attorneys for Plaintiffs

Date: 2/15/2005

For Defendant County:

Claiborne County, Tennessee

By:

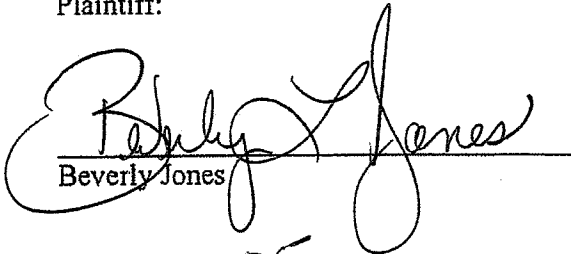
A handwritten signature in dark ink, appearing to read "Virgil Merrell", written over a horizontal line.

Virgil Merrell, County Mayor

Date:

02/02/05

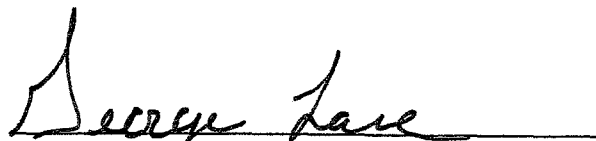
Plaintiff:


Beverly Jones

2-11-05
Date

CLAIBORNE COUNTY

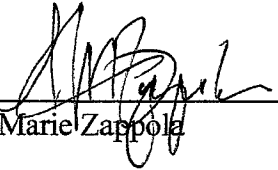
Plaintiff:


George Lane

2-14-05
Date

CLAIBORNE COUNTY

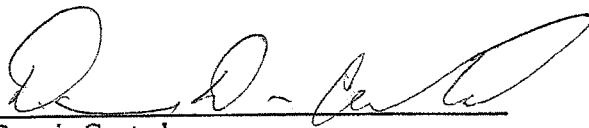
Plaintiff:

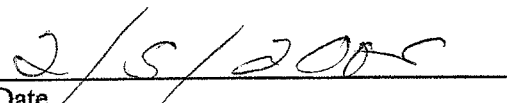


Ann Marie Zappola

2/17/05
Date

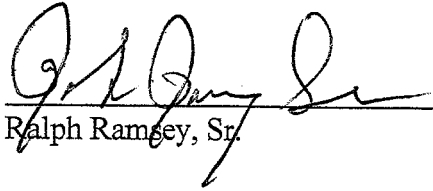
Plaintiff:


Dennis Cantrel


Date

CLAIBORNE COUNTY

Plaintiff:



Ralph Ramsey, Sr.

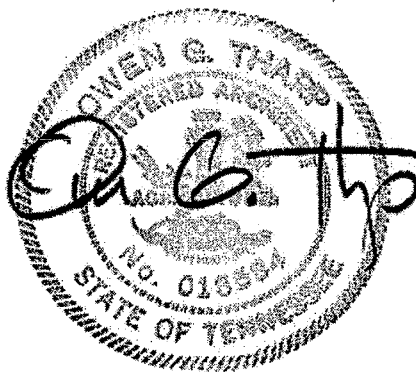
2-23-05
Date

Plaintiff:


A. Russell Larson

2-15-05
Date

REVIEW OF ADA ISSUES
JUDICIAL SERVICES
FOR
CLAIBORNE COUNTY COURTHOUSE



The information contained in this Review is described in the Work Statement contained in Section I. The information contained in this Review is copyrighted and may be used only by the parties associated with litigation in the case of Lane et.al v. the State of Tennessee et.al that is pending in the Federal District Court for the Middle District of Tennessee Docket No. 3:98 CV 0731.

Issue Date: July 1, 2004
Site Visit Date: June 29, 2004
Revised: August 24, 2004

BWSC | BARGE
WAGGONER
SUMNER &
CANNON, INC.

211 Commerce Street, Suite 600
Nashville, Tennessee 37201
Phone: 615-254-1500
Fax: 615-255-6572

APPENDIX A

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ATTACHMENTS

A. Site

LOCATION:

Claiborne County Courthouse
1740 Main Street
Tazewell, TN 37879-5118

I. INTRODUCTION**A. WORK STATEMENT**

This report is prepared by Barge Waggoner Sumner & Cannon, Inc. (BWSC) at the request of Manier & Herod. The information contained herein is a response to the ADA Compliance Report, Judicial Services, on the Claiborne County, TN, Courthouse, prepared by Falconnier Design Co. (FDC) and dated March 15, 2004. Data for this report was obtained in a field investigation by BWSC on June 29, 2004. This report responds to items noted and issues raised in the report by FDC. Recommendations are made with the goal of providing access for the disabled to judicial services now provided within the building.

Accessibility Compliance for the purposes of this report means compliance with ADAAG regulations (Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities Appendix A to Part 36 – Standards for Accessible Design Federal Register / Vol. 56, no. 144 / Friday, July 26, 1991, Rules and Regulations.)

This report is not intended to be a complete review of the designated building in relation to requirements of the Americans with Disabilities Act. It addresses only accessibility issues relative to the judicial services provided in the building. It does not address Building Code compliance or Life Safety issues. Alterations undertaken to provide greater accessibility may trigger requirements for Building Code compliance. Any alterations to the building should be designed and reviewed on site by a design professional licensed in the State of Tennessee and must be approved by any Building Authority having jurisdiction.

B. THE AMERICANS WITH DISABILITIES ACT

The American with Disabilities Act (ADA) is a federal civil rights act enacted in 1990 prohibiting discrimination against people with disabilities. There are five sections, or "titles," which cover different aspects of discrimination:

Title I Employment

Title II State and Local Government

Title III Public Accommodations and Commercial Facilities

Title IV Telecommunications

Title V Miscellaneous provisions of the law

The judicial services provided in this courthouse fall under the requirements of Title II. The following excerpts from "The Americans with Disabilities Act Title II Technical Assistance Manual" explain some of these requirements.

"Title II of ADA covers programs, activities, and services of public entities. It is divided into two subtitles. Subtitle A is intended to protect qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments."

"A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. A public entity's services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to all existing facilities of a public entity. Public entities, however, are not necessarily required to make each of their existing facilities accessible."

"Public entities may achieve program accessibility by a number of methods. In many situations, providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or construction of additional facilities, may be the most efficient method of providing program accessibility. The public entity may, however, pursue alternatives to structural changes in order to achieve program accessibility. Nonstructural methods include acquisition or redesign of equipment, assignment of aides to beneficiaries, and provision of services at alternate accessible sites."

"Unlike private entities under Title III, public entities are not required to remove barriers from each facility, even if removal is readily achievable. A public entity must make its "programs" accessible. Physical changes to a building are required only when there is no other feasible way to make the program accessible."

In altering facilities in order to make them accessible, government entities must comply with the ADA Standards (ADAAG) unless it is "technically infeasible" to do so. If technically infeasible, the alteration must comply "to the maximum extent feasible." "Technically infeasible" is defined as having little likelihood of being done because a major structural member would have to be moved or because an existing physical or site constraint prohibits compliance.

II. FACILITY BACKGROUND

The Claiborne County Courthouse was built in 1932 and appears to have had few changes since it was built. It qualified for listing on the National Register of Historic Places until the windows were replaced with insulated units that do not maintain the appearance of the original windows. It is a three story structure, with the First Floor primarily used for County offices, the Second Floor for judicial functions and the Third Floor for the jail. Behind the Courthouse, there is a small building across Eppes Street which is used for jury deliberations.

The County has recently passed a bond issue allocating \$10.3 million for a new Jail Facility which will include an accessible courtroom and ADA improvements to the existing Courthouse. The new Jail Facility is scheduled to be completed in January of 2006. \$365,000 is budgeted for Courthouse ADA. Proposed improvements to the Courthouse include the installation of an elevator, replacement of the ramp to the Second

Floor rear entrance, and remodeling of the First Floor Men's and Women's Toilet Rooms.

III. FACILITY EVALUATIONS/COMPLIANCE STRATEGIES/OPINIONS

RECOMMENDATIONS ARE TO BE FOLLOWED UNLESS OTHERWISE NOTED HEREIN

A. ACCESSIBLE PARKING

ISSUE: (Ref: Sec. 1, FDC Report) The FDC report details a number of problems with the accessible Parking for the Courthouse including an insufficient number of spaces (there is one and there should be two) and other issues with the existing space.

RECOMMENDATION: It is recommended that two completely new spaces be constructed near the east entrance to the Courthouse which will be closest to the proposed location of the elevator. There is space near the East entrance for a standard accessible space and a van accessible space. Grading of this area will be required.

As an alternative, parking could be located near the west entrance on the first floor. This alternative would require significant re-grading of the parking lot and the possible construction of a significant retaining wall. The alternative appears to be more costly and difficult than providing accessible parking near the East entrance.

Another alternative would involve the construction of two new parking spaces just off Eppes Street. This is the existing Accessible route which utilizes a noncompliant metal ramp to get into the building. This ramp must be replaced (see section titled "accessible route from north entrance to jury deliberation room"). If this location is selected, it is suggested that two new spaces be constructed along the south side of the street just east of the existing ramp. These spaces would be built on an area of fill and would be angled, head-in spaces pointing toward the building. This solution would require the installation of a large retaining wall and would be costly and difficult. In the future it is noted that this entrance is not planned to be used as a public entrance to the building.

B. ACCESSIBLE ROUTE FROM PARKING TO ENTRANCE DOOR

ISSUE: (Ref: Sec. 2, FDC Report) The current accessible entrance is by way of a non-compliant ramp on the north side of the building.

RECOMMENDATION: Because of the planned installation of an accessible elevator in the building, access from the new accessible spaces to the East entrance to the First Floor will provide access to the entire building.

C. ELEVATOR

ISSUE: (Ref: Sec. 22, 23, 34 & 35, FDC Report) There is currently no elevator in the building. Nor is there an accessible path of travel between the First and Second Floors.

RECOMMENDATION: Installation of an elevator is included in the planned Courthouse improvements now being designed for the County. There is an existing elevator shaft adjacent to the main corridor and the Sheriff's Office on the First Floor and the Circuit Court courtroom on the Second Floor. This shaft should be modified to provide elevator access to the main corridor on both floors.

D. SECOND FLOOR CIRCUIT COURT (MAIN) COURTROOM DOOR

ISSUE: (Ref: Sec. 5, FDC Report) The Circuit Court courtroom is entered through two pairs of doors, both of which have non-compliant 30" wide door leafs. The doors have view windows cited as being at a non-compliant height. The door closer has a closing period that is too fast. Signage is non-compliant.

RECOMMENDATION: One entrance should be provided with a minimum 32" clear opening. This could be accomplished by installing a power operating device, activated by push pads, on one pair of doors.

The rule cited by FDC for the required height of the view glass is in the Appendix to the ADAAG regulations. The Appendix contains material of an advisory nature. The ADAAG regulations themselves do not make reference to view glass in doors and sidelights. While it would be very helpful to wheelchair users to have view glass at a lower height in the door, it is not required in the ADAAG regulations.

Compliant signage should be installed.

E. SECOND FLOOR CIRCUIT COURT (MAIN) COURTROOM

ISSUE: (Ref: Sec. 6, FDC Report) There are no compliant wheelchair locations in the Courtroom visitors' area.

RECOMMENDATION: The ADA requires 6 wheelchair locations for a seating capacity of 301-500. Since the seating capacity of this courtroom is more than 300, the wheelchair locations must be provided in more than one location. Wheelchair locations should be provided by removing or shortening existing pews, both at the front and rear of the visitors' section.

F. SECOND FLOOR CIRCUIT COURT (MAIN) COURTROOM JURY BOX

ISSUE: (Ref: Sec. 7 & 8, FDC Report) The path of travel to the Jury Box narrows to a non-compliant width between the bar rail and the Jury Box entrance. The Jury Box has two seating levels; the lowest is 7 3/4" above the Courtroom floor. The entrance is too narrow, and there is not room to maneuver a wheelchair within the jury seating area.

RECOMMENDATION: The County is planning to build a new Jail Facility with at least one accessible courtroom for jury trials. The new Facility is scheduled to be completed in less than 2 years. The courtrooms in the existing building date to the original construction of the building, and are part of the historic fabric of the building. When the new Courtroom is available, the County should use that space as an alternative location for

trials in which a person unable to climb stairs is a jury member. Until that time, as a temporary measure, there would be room for a jury member in a wheelchair to be seated between the bar rail and the Jury Box if that section of the bar rail were moved. The section of the bar rail beside the Jury Box should be moved to allow 60" between the rail and the Jury Box.

Per FDC in meeting on 8/6/04: It will not be necessary to move the section of the Bar rail next to the Jury Box.

PER 1/24/05: NO PHYSICAL CHANGES WILL BE MADE TO THE JURY BOX. INSTEAD, STATE PROTOCOL WITH REGARD TO JURY BOX WILL BE FOLLOWED.

G. SECOND FLOOR CIRCUIT COURT (MAIN) COURTROOM WITNESS STAND

ISSUE: (Ref: Sec. 9, FDC Report) The Witness Stand is raised up two steps (13 1/2") above the Courtroom floor. The entrance to the Witness Stand is too narrow.

RECOMMENDATION: As noted above, the County is planning to build new accessible courtroom space within the next two years. When the new Courtroom is available, the County could use that space as an alternative location for trials in which a person unable to climb stairs appears as a witness.

Until that time, as a temporary measure, there is room available for a wheelchair space in front of the Witness Stand, within good view of the Jury box, the Judge's Bench and the Attorneys' tables. The County could provide this as an alternative location for witnesses who cannot climb stairs. Such a witness could use a portable or hand-held microphone.

Per FDC in meeting on 8/6/04: The County should make a rule that in a proceeding where any witness is unable to climb into the Witness Stand, all witnesses will sit at floor level in front of the Witness Stand.

TO FOLLOW STATE PROTOCOL.

H. ACCESSIBLE PATH OF TRAVEL FROM CIRCUIT COURT (MAIN) COURTROOM TO THE JURY ROOM

ISSUE: (Ref: Sec. 2 & 10, FDC Report) The jurors exit from the Courtroom through a door with non-compliant hardware. FDC cites the space inside the courtroom as non-compliant, but there is no need or requirement for a turning space at that location. They then pass through an exterior door (the North Entrance), with a non-compliant push-side clearance of 9". The door threshold is too high. The door closer has a slightly too fast closing time. A loose mat is on the interior of the door. The jury then travels along a non-compliant ramp, across Eppes Street, up a 6" curb to the Jury Building entrance door.

RECOMMENDATION: Compliant hardware should be installed on the jurors' door in the courtroom. It is technically infeasible to enlarge the push-side clearance at the North Entrance Door. The intersecting wall next to the door is the common wall with the Circuit Court Courtroom. The total required 48" width of clear space is available in front of the door, but not in the required relationship to the door opening.

An accessible exterior route to the Jury Room (in the building north of the courthouse) should be provided. Outside the North entrance, a 5'-0" level landing must be constructed and the door threshold modified to be compliant. From the landing, the ramp should slope down toward Eppes Street at a maximum slope of 8.3%. Once the ramp arrives at the street, another level landing of 5'-0" should be built and the ramp should turn east until it reaches existing grade. This ramp should have an ADA compliant railing with the required 1'-0" extensions. This rail should be continuous for the length of the ramp.

At the base of the ramp, there should be another landing and an ADA compliant curb ramp down to the street. A painted crosswalk should then cross the street to another curb ramp onto the sidewalk north of the street. The sidewalk should be realigned so that there is an ample walking space around the curb ramp. From this ramp, an accessible route should reach all the way to the entrance of the Jury Room. Slopes should be verified to assure that additional improvements to the walkway are not necessary.

I. JURY ROOM ON EPPES STREET

ISSUE: (Ref: Sec.10 & 11, FDC Report) The entrance door threshold is too high. The threshold of the door between the lobby and the Jury Room is also too high.

RECOMMENDATION: Both thresholds should be replaced with compliant models. The sidewalk outside the exterior door should be raised as necessary to provide a compliant condition.

J. PATH OF TRAVEL TO JURY TOILET ROOM

ISSUE: (Ref: Sec.12, FDC Report) The path of travel to the Jury Toilet Room passes through an intervening door with non-compliant hardware.

RECOMMENDATION: Compliant hardware should be installed.

K. JURY TOILET ROOM

ISSUE: (Ref: Sec. 13, FDC Report) There are non-compliant features of the Jury Toilet Room.

RECOMMENDATION: An accessible Toilet Room should be available to the Jury. The following modifications to the existing Jury Toilet Room should be made:

- Compliant hardware should be installed on the entrance door.
- The sink should be raised, compliant piping installed, and the piping insulated.

RECOMMENDATION: Compliant hardware should be installed on the jurors' door in the courtroom. It is technically infeasible to enlarge the push-side clearance at the North Entrance Door. The intersecting wall next to the door is the common wall with the Circuit Court Courtroom. The total required 48" width of clear space is available in front of the door, but not in the required relationship to the door opening.

An accessible exterior route to the Jury Room (in the building north of the courthouse) should be provided. Outside the North entrance, a 5'-0" level landing must be constructed and the door threshold modified to be compliant. From the landing, the ramp should slope down toward Eppes Street at a maximum slope of 8.3%. Once the ramp arrives at the street, another level landing of 5'-0" should be built and the ramp should turn east until it reaches existing grade. This ramp should have an ADA compliant railing with the required 1'-0" extensions. This rail should be continuous for the length of the ramp.

At the base of the ramp, there should be another landing and an ADA compliant curb ramp down to the street. A painted crosswalk should then cross the street to another curb ramp onto the sidewalk north of the street. The sidewalk should be realigned so that there is an ample walking space around the curb ramp. From this ramp, an accessible route should reach all the way to the entrance of the Jury Room. Slopes should be verified to assure that additional improvements to the walkway are not necessary.

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RECOMMENDATION: Both thresholds should be replaced with compliant models. The sidewalk outside the exterior door should be raised as necessary to provide a compliant condition.

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RECOMMENDATION: Compliant hardware should be installed.

K. JURY TOILET ROOM

ISSUE: (Ref: Sec. 13, FDC Report) There are non-compliant features of the Jury Toilet Room.

RECOMMENDATION: An accessible Toilet Room should be available to the Jury. The following modifications to the existing Jury Toilet Room should be made:

- Compliant hardware should be installed on the entrance door.
- The sink should be raised, compliant piping installed, and the piping insulated.

- The water heater should be moved to another location, so it does not obstruct the required clear space under the sink.
- The mirror should be lowered to a complaint height.
- The paper towel dispenser is mounted slightly too high. It should be moved to a location that does not obstruct the path of travel.
- The toilet paper dispenser should be moved to a position a complaint 36" from the back wall.
- The toilet is located $\frac{3}{4}$ " too close to the side wall. However, this location is within the limits (16" – 18") set in the proposed New ADAAG standards. Although this standard has not been adopted, it signals that the Access Board thinks this toilet is accessible in its current location.
- The wing wall in front of the toilet should be removed.
- The flush valve should be changed to the compliant side of the toilet.
- Both side and rear wall grab bars should be replaced with grab bars of the compliant length mounted in the complaint location.

L. SECOND FLOOR CHANCERY (SMALL) COURTROOM

ISSUE: (Ref: Sec. 18 & 19, FDC Report) The Courtroom entrance is a pair of doors, neither of which allow a compliant 32" clear width. The view window is cited as being too high. There is a pew which intrudes into the required clear area inside the door. The aisle from the door along the bar rail is too narrow. The passage through the bar rail is $1\frac{3}{4}$ " too narrow. There are no locations for wheelchair spaces in the visitors' section.

RECOMMENDATION: The entrance should be provided with a minimum 32" clear opening. This could be accomplished by installing a power operating device, activated by push pads.

The rule cited by FDC for the required height of the view glass is in the Appendix to the ADAAG regulations. The Appendix contains material of an advisory nature. The ADAAG regulations themselves do not make a reference to view glass in doors and sidelights. While it would be very helpful to wheelchair users to have view glass at a lower height in the door, it is not required in the ADAAG regulations.

The required clear space at the door and for the front aisle should be provided. This could be done by removing the first pew. A wheelchair accessible passage of 32" should be provided through the bar rail. Care should be taken to preserve the existing millwork as much as possible.

The ADA requires 4 wheelchair spaces in the visitors' section of this courtroom. These spaces should be provided by either removing or shortening some of the wooden pews.

M. SECOND FLOOR CHANCERY (SMALL) COURTROOM WITNESS STAND

ISSUE: (Ref: Sec. 9, FDC Report) The Witness Stand is raised up two steps ($13\frac{1}{2}$ ") above the main Courtroom Floor. The entrance to the Witness Stand is too narrow and there is not room for wheelchair maneuvering within.

RECOMMENDATION: As noted above, the County is planning to build new accessible courtroom space within the next two years. When the new Courtroom is available, the County could use that space as an alternative location for trials in which a person unable to climb stairs appears as a witness.

Until that time, as a temporary measure, there is room available for a wheelchair space in front of the Witness Stand, within good view of the Jury box, the Judge's Bench and the Attorneys' tables. The county could provide this as an alternative location for witnesses who cannot climb stairs. Such a witness could use a portable or hand-held microphone.

Per FDC in meeting on 8/6/04: The County should make a rule that in a proceeding where any witness is unable to climb into the Witness Stand, all witnesses will sit at floor level in front of the Witness Stand.

TO FOLLOW STATE PROTOCOL.

N. SECOND FLOOR CIRCUIT COURT CLERK OFFICE

ISSUE: (Ref: Sec. 14, FDC Report) The door into the Circuit Court Clerk's Office has a deep frame and non-compliant latch side clearances on both the inside and outside. The door has non-compliant hardware and a closer with a non-compliant push-force.

RECOMMENDATION: It is recommended due to the technical infeasibility of remodeling the existing space that a buzzer at the door be installed. Remodeling is technically infeasible for a number of reasons. It is technically infeasible to enlarge the latch side clearance on the corridor side of the door. The wall on the hinge side is the common wall with the Circuit Court Courtroom. The intersecting wall on the latch side is the guardrail at the stair opening. On the inside of the door it may be possible to move part of the storage room wall, which intersects at the latch side of the entrance door. However, there is an HVAC unit in the storage room which may make modification to that room infeasible. The door closer should be adjusted to a compliant push pressure.

Per FDC in meeting on 8/6/04: The only required modifications at this door are installation of lever hardware and adjustment of the door closer.

O. SECOND FLOOR CLERK AND MASTER OFFICE

ISSUE: (Ref: Sec. 16, FDC Report) The signage is non-compliant. The door has non-compliant hardware. The floor space inside the door is too small by 4".

RECOMMENDATION: Compliant hardware should be installed on the door. The counter inside the door should be moved the necessary 4" to allow 60" clear space in front of the door. Compliant signage should be installed.

Per FDC in meeting on 8/6/04: the counter inside the door does not need to be moved.

P. ACCESSIBLE TOILET ROOMS

ISSUE: (Ref: Sec. 31, 32, AND 33, FDC Report) There are currently three public Toilet Rooms in the Courthouse: inaccessible Men's and Women's Toilets and a designated accessible Unisex Toilet, all on the First Floor. There are several non-compliant features to the Accessible Unisex Toilet.

RECOMMENDATION: As part of the proposed Courthouse improvements, the County plans to completely remodel the existing inaccessible Men's and Women's Toilet Rooms, making them accessible and taking the current accessible Unisex Toilet Room out of public use.

PER 1/24/05: UNTIL THE EXISTING INACCESSIBLE MEN'S AND WOMEN'S TOILET ROOMS ARE REMODELED, DIRECTIONAL SIGNAGE WILL BE INSTALLED DIRECTING THEM TO THE ACCESSIBLE UNISEX TOILET.

Q. DRINKING FOUNTAINS

ISSUE: (Ref: Sec. 25 & 29, FDC Report) The drinking fountains on both the First and Second Floor are non-compliant.

RECOMMENDATION: The County should install a compliant model on each floor on which they wish to maintain a drinking fountain. They could keep the non-compliant models for the convenience of those who have trouble bending over.

R. FIRE EXTINGUISHER

ISSUE: (Ref: Sec. 27, FDC Report) There is a fire extinguisher on the Second Floor mounted too high.

RECOMMENDATION: The fire extinguisher should be mounted at a compliant height.

S. DIRECTIONAL SIGNAGE

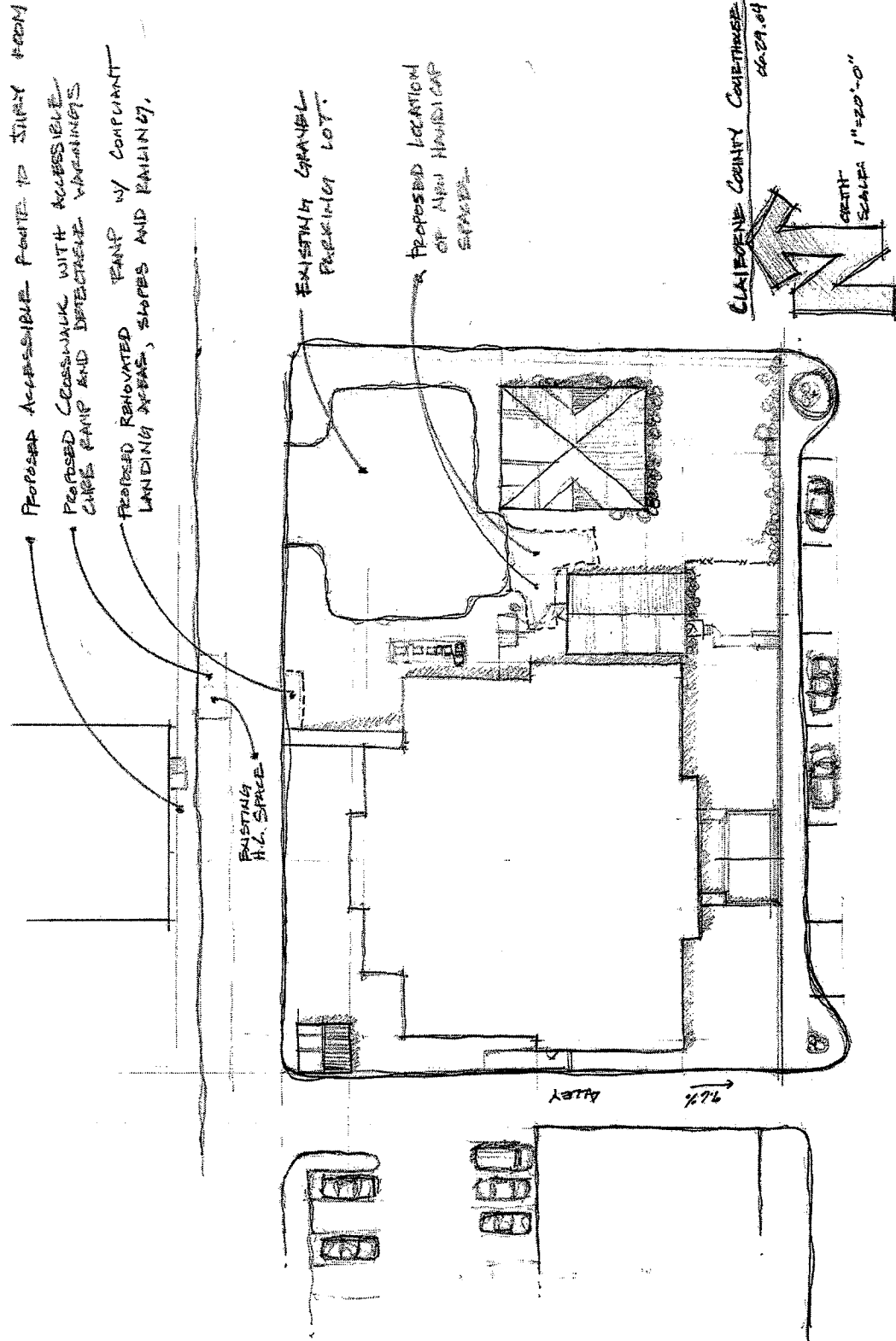
ISSUE: (Ref: Sec. 36) On the exterior of the building, there is a lack of signage at non-accessible entrances giving direction to the accessible entrances.

RECOMMENDATION: On the exterior of the building, the accessible entrance should be identified, and signage at other entrances should indicate the route to the accessible entrance.

T. AREA OF RESCUE ASSISTANCE:

ISSUE: Currently the building lacks an accessible egress from the Second Floor and therefore is required to have an Area of Rescue Assistance.

RECOMMENDATION: As part of the proposed Courthouse improvements, the County should provide an accessible egress at the North Entrance ramp.



ATTACHMENT A
SITE (Not to Scale)

Claiborne County Courthouse
335389.