

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 – CLAY 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 Clay County (hereinafter "Defendant County").

This Agreement resolves all of Plaintiffs' claims for injunctive relief against Defendant County. It does not resolve Plaintiffs' claims for damages or attorneys' fees and costs.

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. Defendant County is a Public Entity as that term is defined in 42 U.S.C. §12131(1). Defendant 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 Defendant 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 Defendant 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.

OBLIGATIONS ASSUMED BY THE DEFENDANT COUNTY

6. 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.

7. 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. Defendant County will complete as soon as practicable the items delineated in Appendix A. All of the Alterations delineated in Appendix A shall be completed within five (5) years of the Effective Date.

8. 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.

9. 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 insure 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

10. Upon the Effective Date, the parties agree to execute an agreed order of dismissal with prejudice as to Plaintiffs' claims for injunctive relief against Defendant County. This Agreement shall be made an exhibit to the dismissal order.

11. 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.

12. All claims resolved by this Agreement shall be dismissed with prejudice upon the Effective Date of this Agreement.

13. 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.

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

15. Defendant County shall provide to Plaintiffs (at the address for Plaintiffs set forth in Paragraph 22) 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 during each sixty (60) day time period. When the Defendant County has completed making 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.

16. 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 13 of the Agreement.

MISCELLANEOUS PROVISIONS

17. 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.

18. By entering into this Agreement, Defendant County does not waive its defense based on Plaintiffs Zappola, Lane, Cantrel, Ramsey and Larson's alleged lack of 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.

19. This Agreement will be null and void as to Plaintiffs Zappola, Lane, Cantrel, Ramsey and Larson 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 although that Plaintiff allegedly has never attempted to access judicial proceedings that are offered in Defendant County. Defendant County does not dispute that Plaintiff Jones has standing to enforce this Agreement.

20. 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.

21. 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.

22. All notices and other correspondence sent by Plaintiffs and Defendant County to one another relating to this Agreement shall be sent to the following addresses or at such other address as the parties may designate in writing in the future:

For Defendant County:

Mr. Luke Collins, County Executive
145 Cordell Hull Drive
Celina, Tennessee 38551

- and -

William Herschel Lacy, Esq.
County Attorney
P.O. Box 386
Celina, Tennessee 38551

For Plaintiffs:

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

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

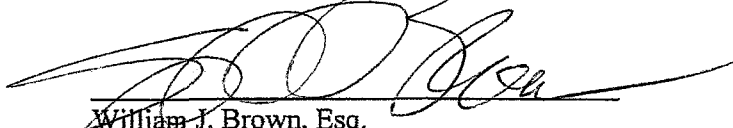
24. This Agreement shall become effective once signed by all parties and the effective date will be the date of the last signature affixed hereto.

25. This Agreement is contingent on the State of Tennessee executing the Compromise and Settlement Agreement 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 Two Thousand Six Hundred Eighty Dollars (\$2,680.00) which reflects Defendant County's pro rata

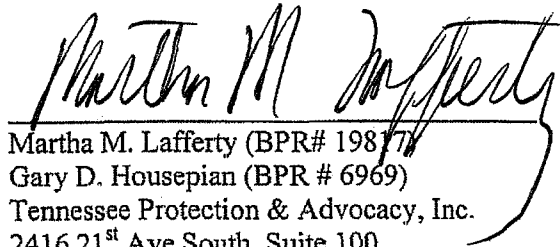
share of the amount of Plaintiffs' expenses and costs accrued through December 17, 2004 and not paid by the State, and the State approving the payments to be made by the State as set out therein.

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



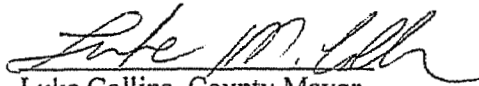
Linda M. Dardarian, admitted Pro Hac Vice
Roberta L. Steele, admitted Pro Hac Vice
GOLDSTEIN, DEMCHAK, BALLER, BORGAN & DARDARIAN
300 Lakeside Drive, Suite 1000
Oakland, CA 94612-3534
(510) 763-9800

Attorneys for Plaintiffs

Date: 2/16/05

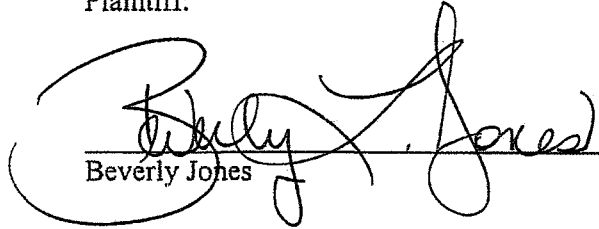
For Defendant County:

Clay County, Tennessee

By: 
Luke Collins, County Mayor

Date: 1-28-05

Plaintiff:


Beverly Jones

2-11-05
Date

CLAY COUNTY

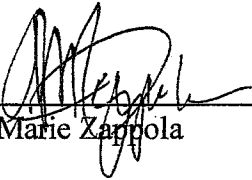
Plaintiff:

George Lane
George Lane

2-14-05
Date

CLAY COUNTY

Plaintiff:

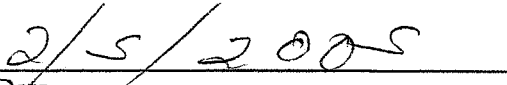


Ann Marie Zappola

2-17-05
Date

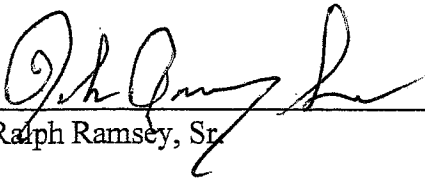
Plaintiff:


Dennis Cantrel


Date

CLAY COUNTY

Plaintiff:



Ralph Ramsey, Sr.

2-23-05
Date

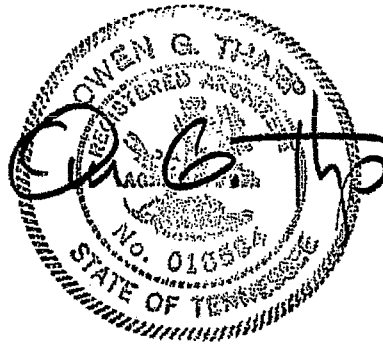
Plaintiff:

A handwritten signature in black ink, appearing to read "A. Russell Larson", written over a horizontal line.

A. Russell Larson

2-15-05
Date

REVIEW OF ADA ISSUES
JUDICIAL SERVICES
FOR
CLAY 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: June 18, 2004
Site Visit Date: June 11, 2004
Site Visit Date: October 29, 2004
Revised: January 17, 2005

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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LOCATION:

Clay County Courthouse
100 Courthouse Square
Celina, TN 38551

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 Clay County, TN, Courthouse, prepared by Falconnier Design Co. (FDC) and dated March 19, 2004. Data for this report was obtained in a field investigation by BWSC on June 11, 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: COURTHOUSE

The Clay County Courthouse is a two-story structure located at 100 Courthouse Square in the center of Celina, Tennessee. It was built in 1873 and is listed on the National Register of Historic Places. The building appears to have been changed very little since it was constructed. The exterior walls and First Floor interior walls are 16" thick load-bearing brick masonry. In the 1930's, basement-level space was excavated to construct Toilet Rooms. These rooms are accessed by a pair of stairs which are entered from the exterior of the building.

III. FACILITY EVALUATIONS/COMPLIANCE STRATEGIES/OPINIONS: COURTHOUSE

RECOMMENDATIONS ARE TO BE FOLLOWED UNLESS OTHERWISE NOTED HEREIN

A. ACCESSIBLE PARKING

ISSUE: (Ref: Sec. 1, FDC Report) One van accessible parking space is required for this building.

RECOMMENDATION: Title II of the ADA requires that all persons have access to the judicial services currently provided in this building. Title II allows government entities to use alternative means in order to provide program accessibility. The County has identified the Senior Citizens' Center, at 145 Cordell Hull Drive as a possible alternate location for the services offered in the Clerk & Master's Office and the Circuit Court Clerk's Office.

There are at present a number of non-compliant aspects to this location, which would have to be corrected before it would be acceptable as an accessible location for services. The parking area in front of the building where the accessible parking spaces are located should be paved, with the paving flush to the sidewalk paving at walkways. The drinking fountain should be made accessible, compliant door hardware installed on the Auxiliary Office door, and a new, accessible Unisex Toilet Room constructed in the building. Correcting deficiencies at the Senior Citizens' Center is much more readily achievable than making the Courthouse accessible to persons with mobility disabilities.

A sign should be posted at sidewalk alongside the existing handicap parking space at the southwest corner of the courthouse square reading "Persons with mobility disabilities are directed to the Senior Citizen's Center, 145 Cordell Hull Drive, for assistance with all judicial services. Please call 243-2557 for assistance from the Circuit Court Clerk's Office or 243-3145 for assistance from the Clerk and Master's Office."

Since persons with mobility disabilities will be directed to an alternative location for access to judicial services and programs, no accessible parking will be required at this building.

PER 1/25/05: LANGUAGE FOR THE SIGN: "Persons with mobility disabilities have the option of going to the accessible Community Center, 145 Cordell Hull Drive, for assistance with all judicial services, or calling the 243-2557 for assistance from the Circuit Court Clerk's Office or 243-3145 for assistance from the Clerk and Master's Office."

B. ACCESSIBLE ROUTE FROM PARKING TO ENTRANCE DOOR

ISSUE: (Ref: Sec. 2, FDC Report) The existing ramp from the parking space to the plaza is non-compliant.

RECOMMENDATION: It is the general recommendation of this report that all persons with mobility disabilities will be directed to an alternative location for access to judicial services and programs. Therefore no accessible route is required from the street to the Courthouse entrance.

C. ACCESSIBLE ENTRANCE

ISSUE: (Ref: Sec. 3, FDC Report) The west entrance is currently used as the accessible entrance. The ramp approaching the door is non-compliant, the clear entrance through one leaf of the door is too narrow, and the closing time of the door is too short.

RECOMMENDATION: It is the general recommendation of this report that all persons with mobility disabilities will be directed to an alternative location for access to judicial services and programs.

The door closer should be adjusted or replaced to meet the required closing time of 3 seconds.

D. ACCESSIBLE PATH OF TRAVEL TO THE SECOND FLOOR COURTROOM

ISSUE: (Ref. Sec 12 & 19, FDC Report) The only access to the Second Floor of the building is an unenclosed monumental wooden staircase, consisting of a double run up to an intermediate landing above the south entry door, and from there a single run up to a small landing in front of the Courtroom doors. The stair treads are worn, particularly in the center and therefore the height of rise and width of tread varies slightly between steps. The handrails are non-compliant.

RECOMMENDATION: The addition of an elevator on the exterior of this building would seriously compromise the historic character which has been so carefully preserved. Architecturally and functionally, the location of an elevator inside the existing building envelope presents a high level of difficulty. There is not room to insert an elevator or lift into the First Floor entry hall area without either destroying the stair or cutting a good deal of space out of the courtroom above, or both. Any location that would preserve the entry hall and stair would intrude into the Courtroom space, which occupies all of the main Second Floor level of the building. Clearly, the installation of an elevator would be expensive, since it would involve not only the elevator and shaft, but also rebuilding the stair and some part of the Courtroom as well. The staircase and entry hall are an important part of the historic character of the building, which would be destroyed by installation of an elevator in this area.

Title II of the ADA requires that all persons have access to the judicial services currently provided in this building. Title II allows government entities to use alternative means in order to provide program accessibility. The County has identified the Women's Pavilion, at 2021 Arcott Road, as an alternative location for court proceedings when persons with mobility disabilities are participants in those proceedings. A report on accessibility modifications required for that building is included at the end of this document.

PER 1/25/05: THE STATE PROTOCOL FOR ALTERNATE SITES WILL BE FOLLOWED.

Persons with mobility disabilities who are not participants in court proceedings but who wish to view the proceedings held in the Second Floor Courtroom, should be accommodated by a closed-circuit TV system. Such a system would allow viewing from the Auxiliary Office in the Senior Citizens' Center.

The non-compliant handrail condition at the courthouse should be corrected, either by replacing the existing one, or by installing a second handrail that meets ADAAG requirements. A handrail should be installed at both sides of the stair.

E. FIRST FLOOR CLERK & MASTER OFFICE

ISSUE: (Ref: Sec. 8 & 18, FDC Report) The door hardware is non-compliant. There is a non-compliant loose mat on the floor just inside the door, and a 5/8" vertical step-up inside the door. NOTE: This is now the only location for the Clerk & Master's Office. The former location on the Second Floor, off the Courtroom, is no longer used for this function.

RECOMMENDATION: New door hardware with a compliant handle and locking mechanism should be installed. The loose mat should either be removed or fastened to the floor in a compliant manner. A sloping transition piece, with slope not to exceed 1:8, should be installed at the 5/8" step up to the new wood floor.

It should be noted that an Auxiliary Office will be located in the Senior Citizens' Center, offering the services of the Clerk & Master's Office to persons with mobility disabilities.

F. FIRST FLOOR CIRCUIT COURT CLERK'S OFFICE

ISSUE: (Ref: Sec. 7, FDC Report) The door hardware is non-compliant. There is a non-compliant loose mat on the floor just inside the door.

RECOMMENDATION: New door hardware with a compliant handle and locking mechanism should be installed. The loose mat should either be removed or fastened to the floor in a compliant manner.

It should be noted that an Auxiliary Office will be located in the Senior Citizens' Center, offering the services of the Circuit Court Clerk's Office to persons with mobility disabilities.

G. SECOND FLOOR COURTROOM DOOR

ISSUE: (Ref: Sec. 13, FDC Report) The landing at the top of the stairs has a short, non-compliant ramp with a rise of 1 1/2" near the doorway. Access to the Courtroom is through a pair of doors, with an opening at the active leaf a non-compliant 30". The door hardware is non-compliant.

RECOMMENDATION: It is the general recommendation of this report that the County has the option of providing programs and services at an alternate location for persons who cannot climb stairs. As a result, the Second Floor Courtroom would not be made accessible to persons in

wheelchairs. The ADAAG requirements related to the small ramp and to the clear door opening seem to be based on wheelchair accessibility requirements, and should not apply if no persons in wheelchairs will be in this area. The door hardware should be changed to a compliant design.

H. SECOND FLOOR COURTROOM

ISSUE: (Ref: Sec. 14, 15 & 16, FDC Report) The courtroom has no wheelchair locations in the visitors' section of the room. Access to the judicial area of the courtroom is up an 8" step. Similarly, access to both the Witness Stand and the Jury Box is up at least one step.

RECOMMENDATION: It is the general recommendation of this report that the County has the option of providing programs and services at an alternate location for persons who cannot climb stairs. As a result, the Second Floor Courtroom would not be made accessible to persons in wheelchairs; no wheelchair locations would be needed in the visitors section and the steps up to and within the judicial area would not require alteration.

PER 1/25/05: THE STATE PROTOCOL FOR ALTERNATE SITES WILL BE FOLLOWED.

I. ACCESSIBLE TOILET ROOM

ISSUE: (Ref: Sec. 9, 10 & 11, FDC Report) There is no accessible toilet in this building. The ADA requires that a minimum of one unisex accessible toilet be provided. The existing toilets are at the Basement level and are reached by stairs from the exterior of the building. These Toilet Rooms were added at a later date than the original construction and are the only spaces at the Basement level

RECOMMENDATION: It is the general recommendation of this report that the County has the option of providing programs and services at an alternate location for persons who cannot climb stairs. The County proposes to make available the services now offered at the Circuit Court Clerk's Office and the Clerk and Master's Office at an Auxiliary Office in the Senior Citizens' Center. The County proposes to hold any court proceedings in which a person with mobility disabilities is a participant at an alternate location at the Women's Pavilion. Therefore there is no need for a Toilet Room accessible to persons with mobility disabilities.

J. FIRST FLOOR DRINKING FOUNTAIN

ISSUE: (Ref: Sec. 4, FDC Report) The First Floor drinking fountain is a non-compliant type.

RECOMMENDATION: It is the general recommendation of this report that persons in wheelchairs will not be using this building for judicial services. Thus, there is no reason to install a low drinking fountain.

K. FIRE EXTINGUISHERS

ISSUE: (Ref: Sec. 6 & 17) The fire extinguishers on the First Floor and in the Second Floor Courtroom are both mounted too high.

RECOMMENDATION: It is the general recommendation of this report that persons in wheelchairs will not be using this building for judicial services. Thus, there is no reason to lower the fire extinguishers.

L. SIGNAGE

ISSUE: (Ref: Sec. 20 and throughout FDC Report) There is a lack of compliant signage on the interior and exterior of this building.

RECOMMENDATION: Compliant signage should be installed to designate permanent rooms and spaces throughout the building, and to provide directions to or information about functional spaces of the building. On the exterior of the building, signage should direct persons with mobility disabilities to the Auxiliary Office in the Senior Citizen's Center.

M. AREA OF RESCUE ASSISTANCE

ISSUE: The ADA and Building Codes require an Area of Rescue Assistance where disabled persons can await rescue in the event of a fire if there is not an accessible means of egress from that part of the building. There is no Area of Rescue Assistance on the Second Floor of this building.

RECOMMENDATION: It is the general recommendation of this report that the County has the option of providing programs and services at an alternate location for persons who cannot climb stairs. In that case, the Second Floor would not be made accessible to persons who cannot climb stairs, and therefore no area of rescue assistance would be required.

IV. FACILITY BACKGROUND: WOMEN'S PAVILION

The Women's Pavilion is a one story structure located at 2021 Arcott Road. It consists of one large space, accessed directly from the exterior; Men's and Women's Restrooms, accessed from both the interior and exterior of the building; and an accessory space subdivided into a small meeting room and a storage area.

V. ACCESSIBILITY EVALUATION/RECOMMENDATIONS: WOMEN'S PAVILION

A. ACCESSIBLE PARKING

ISSUE: The unfinished nature of the site at the women's pavilion allows for a very clean and simple ADA accessible parking solution. As existing, the threshold into the building is a six-inch step up from the surrounding gravel parking lot.

RECOMMENDATION: This condition can be handled in several ways, but the simplest and most cost effective solution would be to build a platform at roughly the height of the building entrance. This would eliminate any need for ramps and handrails. This option requires a level, ADA compliant landing at the building entrance. This level should be set 0.1" below the building entrance (the maximum allowed under ADA guidelines) to help keep any precipitation from running into the building. From the landing, the concrete parking area should slope away from the landing so that water drains away from the building. Slopes should be sufficient to create positive drainage (0.5% min.) but must meet all ADA guidelines for slope (slopes of 1.0 – 1.5% are appropriate goals and are within ADA tolerances). The parking area should be 36'-0" wide by 21'-0" deep. The width will accommodate two handicap spaces to be laid out as follows (see attached ADA parking sheet) a 3'-0" outside walking lane, an 11'-0" van accessible space, an 8'-0" van accessible aisle, a standard 8'-0" handicap space and another 3'-0" outside walking lane. The depth accommodates a standard 18'-0" parking space and a 3'-0" walking lane. These spaces should have ADA compliant signage (outside of the walking lanes) denoting that they are Handicap Spaces and both the spaces and the aisles should be painted per ADA guidelines.

B. ACCESSIBLE ENTRANCE

ISSUE: The main entrance is through a pair of 48" leaf doors. The active leaf allows the required 32" clear opening. The lockset is operated with a non-compliant knob. The required clear space is available on the interior of the door.

RECOMMENDATION: Install a compliant lockset or lever conversion kit on the active door leaf.

C. PATH OF TRAVEL TO RESTROOMS:

The path of travel to the Restrooms is across the main room of the building. It is accessible.

D. WOMEN'S RESTROOM:

ISSUE: The door to the Women's Restroom is a 36" leaf which provides the required 32" clear opening. The lockset is operated with a non-compliant knob. The door has a closer. Required clear floor space is available on both the inside and outside of the door. The room identification signage mounted on the door is non-compliant.

The handicap toilet stall measures 56" deep x 67 ¾" wide, which does not meet the requirement for 60" of depth. There is no door on the stall. All of the toilet stalls in the room have shower curtains in lieu of doors. The toilet is located a non-compliant 24" from the side wall. The toilet seat is a non-compliant 15" above the floor. There are two 36" grab bars, one on each side wall. They are both non-compliant for size and/or location. There is no toilet paper dispenser in the stall. The handicap stall was being used for storage because the toilet does not operate properly.

There are two lavatories, the one on the right is 36 ¾" to the rim, the one on the left, 35" to the rim. Neither is at a compliant height. The piping under the sinks protrudes into the required

clear space and is not insulated. Faucet controls require grasping, which makes them non-compliant. There is a plywood box covering piping at the floor level under the lavatories. The box is 8 ½" tall and protrudes 9 ½" from the wall. This is a non-compliant intrusion into the required clear space under the lavatory.

There are no mirrors, no towel dispensers and no soap dispensers in this Restroom.

RECOMMENDATIONS:

- Install either a lever-type lockset or a lever retrofit kit on the door lockset.
- Install compliant room identification signage.
- Remove stored items from the handicap toilet stall.
- Repair the toilet.
- Extend the side wall of the handicap stall to allow 60" clear depth inside.
- Move either the toilet or the wall to get the required 18" from the side wall to the centerline of the toilet.
- Install a toilet paper dispenser next to the toilet at the required mounting height of 19" minimum above the floor.
- Install a 42" grab bar on the wall next to the toilet, mounted with the end 12" from the back wall and the centerline 33 – 36" above the floor.
- Install a 36" long grab bar behind the toilet, with the end 12" from the near side wall and the centerline 33 – 36" above the floor.
- Modify (or replace) the toilet, raising the seat to 17 – 19" above the floor.
- Reinstall one of the lavatories with the rim at no more than 34" above the floor.
- Reconfigure piping to provide the required clearance under the accessible lavatory. The existing piping does not meet Plumbing Code requirements. We recommend building a false wall in front of the existing wall in order to conceal the piping, and to allow room to get the piping out of the required knee clearance. Piping should be installed with code compliant traps and vent. The lavatories should be mounted on the false wall, which will probably require new carriers.
- Install insulation on hot water and drain pipes under the lavatory.
- Install compliant faucet controls at the accessible lavatory.

E. MEN'S RESTROOM

ISSUE: The door to the Men's Restroom is a 36" leaf which provides the required 32" clear opening. The lockset is operated with a non-compliant knob. The door has a closer. Required clear floor space is available on both the inside and outside of the door. The room identification signage mounted on the door is non-compliant.

The handicap stall measures 4'-9" wide x 7'-5" deep. Entry is diagonally at the corner in front of the toilet. There is no door on the stall. All of the toilet stalls in the room have shower curtains in lieu of doors. The toilet is located a non-compliant 23 ½" from the side wall. The toilet seat is a non-compliant 15" above the floor. The required 36" grab bar is mounted on the side wall nearest the toilet, a non-compliant 9" from the rear wall and at a compliant height of

35". A 42" grab bar is mounted on the other side wall. There is no toilet paper dispenser in the stall.

There are two lavatories in the room, both at a compliant height. Faucet controls on both are non-compliant because they require grasping. The piping under both lavatories intrudes into the required clear space and does not have insulation. Piping along the floor under the lavatories is protected by a plywood box which is 10 ½ "high and extends 11" from the wall. There are no mirrors, soap dispensers, or towel dispensers.

There are two urinals located in an alcove toward the back of the room. The urinal on the left is centered 12" from the left-hand wall, and is mounted with the rim 27 ¼" from the floor. The urinal on the right is centered 1'-8 ¾" from the right hand wall and is mounted with the rim 27 ¾" from the floor.

RECOMMENDATIONS:

- Install either a lever-type lockset or a lever retrofit kit on the door lockset.
- Install compliant room identification signage.
- Relocate the toilet to a compliant 18" from the side wall.
- Install a toilet paper dispenser next to the toilet at the required mounting height of 19" minimum above the floor.
- Relocate the 42" grab bar on the wall next to the toilet, mounted with the end 12" from the back wall and the centerline 33 – 36" above the floor.
- Relocate the 36" long grab bar to the wall behind the toilet, with the end 12" from the near side wall and the centerline 33 – 36" above the floor.
- Modify (or replace) the toilet, raising the seat to 17 – 19" above the floor.
- Reconfigure piping to provide the required clearance under the accessible lavatory. The existing piping does not meet Plumbing Code requirements. We recommend building a false wall in front of the existing wall in order to conceal the piping, and to allow room to get the piping out of the required knee clearance. Piping should be installed with code compliant traps and vent. The lavatories should be mounted on the false wall, which will probably require new carriers.
- Install insulation on hot water and drain pipes under the lavatory.
- Install compliant faucet controls at the accessible lavatory.
- Lower the right urinal so that the rim is 17" above the floor.

F. SMALL MEETING ROOM

ISSUE: The small Meeting Room directly off the main meeting space could be used as a Jury Room. The door is a 36" leaf, providing a compliant 32" clear opening. The hardware is non-compliant. There is no closer on the door. The threshold at the door is a non-compliant height. The clear space on both sides of the door is compliant.

RECOMMENDATIONS: Install either a lever-type lockset or a lever retrofit kit on the door. Replace the existing threshold with one that is of compliant design, no more than ½" rise above the floor.

G. FIRE EXTINGUISHER

ISSUE: The fire extinguisher, mounted on the wall near the entry door, is at a non-compliant height of 57" to the handle.

RECOMMENDATIONS: Remount the fire extinguisher at a maximum compliant height of 54" above the floor.