

**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 – COCKE 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 Cocke 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 Cantrel, Larson, Zappola, Lane, and Jones' 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 Cantrel, Larson, Zappola, Lane, and Jones 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 Ramsey 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:

Iliff McMahan, Jr., County Mayor
Courthouse Annex
360 East Main Street, Suite 146
Newport, Tennessee 37821

- and -

Fletcher L. Ervin, Esq.
County Attorney
319 East Broadway
Newport, Tennessee 37821-3105

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.

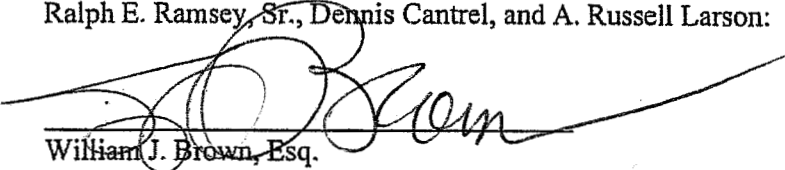
24. This Agreement shall become effective once signed by all parties and the effective date will be the date of the last signature affixed hereto.

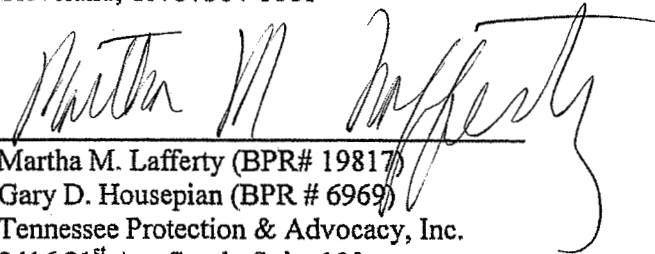
25. This Agreement is contingent on the State of Tennessee executing the Compromise and Settlement Agreement which provides, *inter alia*, that Defendant County will not be responsible for any of Plaintiffs' attorneys' fees, expenses and costs through December 17, 2004, including those relating to Defendant 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

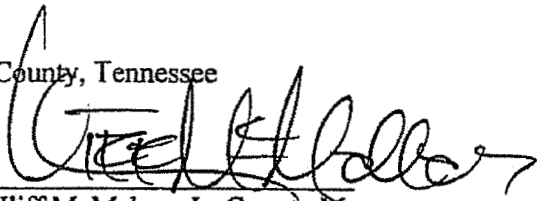
Attorneys for Plaintiffs

Date: 2/15/2005

For Defendant County:

Cocke County, Tennessee

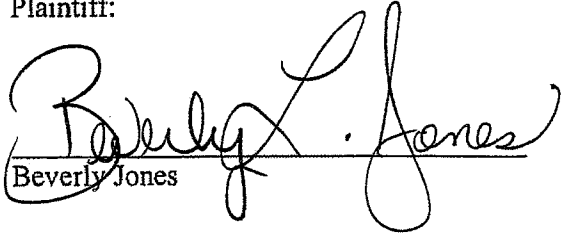
By:


Cliff McMahan, Jr. County Mayor

Date:

1.28.05

Plaintiff:


Beverly Jones

2-11-05
Date

COCKE COUNTY

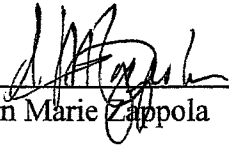
Plaintiff:

George Lane
George Lane

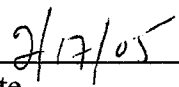
2-14-05
Date

COCKE COUNTY

Plaintiff:



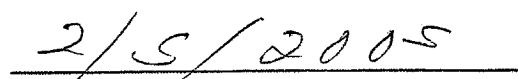
Ann Marie Zappola



Date

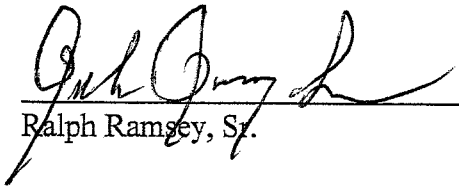
Plaintiff:


Dennis Cantrel


Date

COCKE COUNTY

Plaintiff:



Ralph Ramsey, Sr.

2-23-05
Date

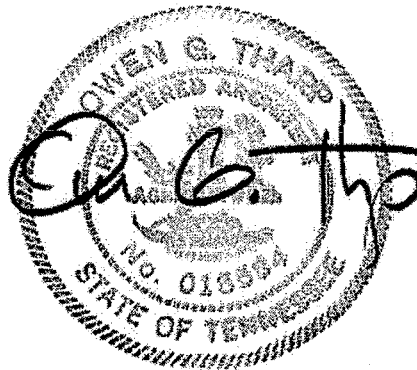
Plaintiff:

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
COCKE 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 28, 2004
Revised: August 23, 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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**IV. FACILITY EVALUATIONS/COMPLIANCE
STRATEGIES/OPINIONS COURTHOUSE ANNEX 10-14**

- A. Accessible Parking
- B. Accessible Route from Parking to Entrance Door
- C. Entrance Door
- D. Chancery Court Clerk's Office
- E. Chancery Deputy Chief Office
- F. Clerk and Master Office
- G. Chancery Courtroom
- H. Men's Accessible Toilet
- I. Women's Accessible Toilet
- J. Water Fountain
- K. Fire Extinguisher
- L. Signage

ATTACHMENTS

- A. Courthouse Site
- B. Annex Site

LOCATION:

Cocke County Courthouse
360 E. Main Street
Newport, TN 37621

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 Cocke 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 28, 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 Cocke County Courthouse was built in 1930. The building is listed on the National Register of Historic Places. A new three story addition of about 1,300 square feet per floor was completed in the spring of 2004 on the west side of the old courthouse. This addition includes accessible toilets on each floor, an elevator, and a new fire rated exit stair. Great care was taken to match the exterior appearance of the original building in both design and materials. The Courthouse Annex, which houses some judicial functions, is located across the street from the main courthouse.

III. FACILITY EVALUATIONS/COMPLIANCE STRATEGIES/OPINIONS OLD COURTHOUSE

RECOMMENDATIONS ARE TO BE FOLLOWED UNLESS OTHERWISE NOTED HEREIN

A. ACCESSIBLE PARKING

ISSUE: (Ref: Sec. 1, FDC Report) The two designated spaces represent a compliant number of handicap accessible spaces, but the spaces are non-compliant for running slope, connection to the accessible route and for signage.

RECOMMENDATION: It is recommended that the existing handicap accessible spaces be amended to meet compliance. Due to the non-compliant slope of the spaces, it may be necessary to backfill the south edge of the spaces (nearest the building). This backfilling and the subsequent leveling of the space to no more than a 2.0% running slope, will accomplish two things. First, it will bring the space to a compliant running slope and second it will bring the space to level with the curb (making up the existing 2.5" drop) and will provide a connection to the accessible route. The entire parking area will likely need to be re-striped to allow for a van accessible aisle space between the two spaces. Additionally, signage, including a sign indicating the required van space, should be installed per ADA specifications.

B. ACCESSIBLE ROUTE FROM PARKING TO ENTRANCE DOOR

ISSUE: (Ref: Sec. 2, FDC Report) The existing accessible ramp is slightly out of compliance for slope and lacks the required edge protection. The existing handrails are also non-compliant.

RECOMMENDATION: The ramp should be extended as far as is necessary to lower the slope to a maximum of 8.3%. The ramp should not run for more than 30'-0" without a 5'-0" by the width of the ramp level landing. The ramp should also have ADA compliant edge protection. The railing should be modified or replaced to include the required 1'-0" handrail extensions.

C. ACCESSIBLE ENTRANCE DOOR

ISSUE: (Ref: Sec. 3, FDC Report) The main entrance is a pair of doors, neither leaf of which is wide enough. The aluminum entrance doors are set in a deep decorative masonry frame with no sidelights. A loose mat is on the interior of the door.

RECOMMENDATION: A clear opening of at least 32" should be provided at the entrance doors. The most feasible way to achieve this may be the installation of an automatic door opening device activated by push pads. The opening device would open both leaves of the door together. To the extent that it would not alter its Historic Register standing, another option would be the installation of a single 36" or wider door with fixed sidelights. The mat should be removed or attached to the floor in a compliant manner.

PER 1/24/05: LOOSE MAT – NO ACTION REQUIRED AS VENDOR HAS INDICATED IT IS COMPLIANT WITH THE ADA.

D. ELEVATOR (COURTHOUSE ADDITION)

ISSUE: (Ref: Sec. 5, FDC Report) The elevator is in the recent addition to the Courthouse. It serves three floors, including the third floor jail, which is not covered in this report. The heights of the hall call buttons on all floors are not at the 42" height called for in the regulations. The jamb floor identification signage on the First and Third floors is located at a non-compliant height. The elevator door does not remain open long enough at the Third Floor. The threshold at the Third Floor elevator door is too tall.

RECOMMENDATION: ADAAG regulations give a single dimension for the centerline mounting heights of the hall call buttons and floor designations. ADAAG allows for the small errors that typically occur in the course of building construction. While these items are technically non-compliant, no functional advantage would be gained by repositioning them.

Even though the third floor (jail) is not a component of this lawsuit, the elevator door opening time should be adjusted to a compliant time. Likewise, the threshold height should be changed to a compliant height by the responsible contractor.

E. SECOND FLOOR CIRCUIT COURT ENTRANCE DOOR

ISSUE: (Ref: Sec. 13, FDC Report) The entrance is through a pair of 30" doors, neither of which give the required 32" clear opening. The push/pull pressure on the active (left) leaf is too great and the closing period is too short. The clearance at the interior side of the door is too narrow between the door and the pews. The threshold has too sharp an incline. The view glass is higher than recommended, and the signage is non-compliant.

RECOMMENDATION: A clear entrance of 32" should be provided. This can be done by changing the door to a pair of unequal size, or by enlarging the frame to accommodate two leaves of compliant size. The pews should be modified to allow 48" clear space on the interior of the doors. The threshold should be replaced or modified to have a maximum of 50% incline at the beveled edge. Compliant signage should be installed.

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.

PER 1/24/05: WHEN NEW DOORS ARE INSTALLED, EFFORTS MUST BE TAKEN TO ENSURE THAT THE CLOSING PERIOD OF THE DOORS AND THE PUSH/PULL PRESSURE ON THE DOORS IS IN COMPLIANCE WITH THE REQUIREMENTS OF THE ADA.

F. SECOND FLOOR CIRCUIT COURTROOM

ISSUE: (Ref: Sec. 14, FDC Report) There are no compliant wheelchair spaces in the visitors' section of the courtroom. The aisle between the front pew and the bar rail is too narrow.

RECOMMENDATION: Four compliant wheelchair spaces are required in the visitors' section of this room. These spaces are most easily created by removing one or more of the pews. An aisle 36" wide, plus leg space for those seated in the front pew, should be created along the path from the entrance door to the passage through the bar rail. This may require removal of the front pew.

G. SECOND FLOOR CIRCUIT COURTROOM WITNESS STAND

ISSUE: (Ref: Sec. 15, FDC Report) The Witness Stand is raised 15 ¾" above the courtroom floor. The space within the Witness Stand is too small for a wheelchair to maneuver.

RECOMMENDATION: There is not room within the current configuration of the judicial area to install a ramp or lift to access the Witness Stand. Even if that were possible, the space available in the Witness Stand is too small. There is clear space on the floor in front of the Court Reporter's desk. A person unable to climb stairs could sit there as a witness and use a hand-held microphone.

As an alternative, Title II allows government entities to use alternative means in order to provide program accessibility. The County has a building across the street with Courtroom space. The Chancery Courtroom has its Witness Box at floor level. The County could use the Chancery Courtroom as an alternative location for proceedings in which a person unable to climb stairs appears as a witness. It would be more feasible for the County to use this courtroom as an alternative location than to make the Witness Stand in the Circuit Courtroom accessible.

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. SECOND FLOOR CIRCUIT COURTROOM JURY BOX

ISSUE: (Ref: Sec.16, FDC Report) The Jury Box is raised on two levels, the lowest is 6 ¼" above the courtroom floor. Within the Jury Box, there is no compliant space to maneuver a wheelchair.

RECOMMENDATION: There is no space available in the current configuration of the judicial area to install a ramp or lift to access the Jury Box. Making both the Witness Stand and Jury Box accessible to wheelchairs would require rebuilding both the Witness

Stand/Court Reporter's Desk and the Jury box, and would block the door from the Corridor in that area.

Title II allows government entities to use alternative means in order to provide program accessibility. The County has a building across the street with Courtroom space. The Chancery Courtroom in the Courthouse Annex is not currently set up to accommodate jury trials. Making it useable for a jury trial would require considerable remodeling of the millwork furnishings now in the room. However, it would be more feasible for the County to outfit this courtroom as an alternative location for use when a person unable to climb stairs is a jury member, than to make the Jury Box in the Circuit Courtroom accessible.

Per FDC in meeting on 8/6/04: the Jury Box should be modified by removal of the solid side rail closest to the Witness Stand. With this modification a juror in a wheelchair may participate by sitting on the floor beside the Jury Box seating platform.

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.

I. PATH OF TRAVEL TO SECOND FLOOR CIRCUIT COURTROOM JURY ROOM

ISSUE: (Ref: Sec. 17 & 18, FDC Report) The exit door out of the Circuit Courtroom used by the jury when going to the Jury Room has non-compliant hardware, a closer with a non-compliant push/pull force and a threshold with too steep an angle at the beveled edge. The door into the jury room itself has 12" rather than the required 18" clear at the latch side on the pull side of the door. It also lacks the required 60" deep clear space on the pull side. The hardware on this door also is non-compliant.

RECOMMENDATION: The exit door out of the Circuit Courtroom should have compliant hardware. The closer should be adjusted to a compliant push/pull pressure of 5 lbs. maximum. The threshold should be replaced with a compliant model.

The general recommendation of this report is that an alternative location be provided for court proceedings in which a wheelchair user appears as a juror. In that case, the clearances at the door to the Jury Room need not be altered. Compliant hardware should be installed.

Per FDC in meeting 8/6/04: Because the Jury Box will be modified, no alternative location will be required for jury trials. No modification is required to the Jury Room Toilets if they are no longer available for jury use and have signage installed labeling them "Private."

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.

J. SECOND FLOOR GENERAL SESSIONS AND JUVENILE COURTROOM

ISSUE: (Ref: Sec. 20 & 21, FDC Report) The entrance door has non-compliant hardware and the closer requires too great a push/pull force. The view window in the door is identified as being too high above the floor. Room identification signage is non-compliant. Inside the entrance door, the clear space in front of the door is not deep enough.

RECOMMENDATION: Compliant hardware should be installed on the door. The closer should be adjusted to a compliant push/pull pressure of 5 lbs. maximum. Compliant signage should be installed. The pew seats inside the door should be shortened or replaced with other seating to allow 54" depth of clear space in front of the door.

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.

K. SECOND FLOOR GENERAL SESSIONS COURT CLERK OFFICE

ISSUE: (Ref: Sec. 22, FDC Report) The door has non-compliant hardware. A file cabinet blocks the required 18" latch side clear space on the pull side of the door.

RECOMMENDATION: Compliant hardware should be installed on the door. The file cabinet should be moved in order to maintain required clearances.

L. SECOND FLOOR CIRCUIT COURT CLERK OFFICE

ISSUE: (Ref: Sec. 23, FDC Report) The door has non-compliant hardware and the closer requires too great a push/pull force. The view window is cited as being too high above the floor.

RECOMMEDATION: Compliant hardware should be installed on the door. The closer should be adjusted to a compliant push/pull pressure of 5 lbs. maximum.

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.

M. FIRST FLOOR WOMEN'S TOILET ROOM (COURTHOUSE ADDITION)

ISSUE: (Ref: Sec. 7, FDC Report) The door signage is in a non-compliant location. The distance from the floor to the bottom of the sink is too short. The drain piping encroaches into the required space under the sink. The toilet is 3/8" too far from the side wall. The flush valve is located on the wrong side of the toilet.

RECOMMENDATION: The architect for the Courthouse Addition has identified all of the above listed items in the First Floor Women's Toilet Room as needing correction and has directed that they be corrected.

N. FIRST FLOOR MEN'S TOILET ROOM (COURTHOUSE ADDITION)

ISSUE: (Ref: Sec. 8, FDC Report) The door signage is in a non-compliant location. The push force on the door is too great. The drain piping encroaches into the required space under the sink. The mirror is 1/2" too high. The toilet is located 1/4" too far from the side wall.

RECOMMENDATION: The architect for the Courthouse Addition has identified all of the above listed items in the First Floor Men's Toilet Room as needing correction and has directed that they be corrected.

O. SECOND FLOOR UNISEX TOILET ROOM (COURTHOUSE ADDITION)

ISSUE: (Ref: Sec. 9, FDC Report) The door signage is in a non-compliant location. The closer requires too much push/pull force, and has too short a closing time. The sink is hung 1/4" too low. The drain piping encroaches into the required space under the sink. The mirror is 1/2" too low. The flush valve is located on the wrong side of the toilet.

RECOMMENDATION: The architect for the Courthouse Addition has identified all of the above listed items in the First Floor Women's Toilet Room as needing correction and has directed that they be corrected.

PER 1/24/05: COUNTY IS NOT REQUIRED TO REPOSITION SINK 1/4".

P. DRINKING FOUNTAINS

ISSUE: (Ref: Sec. 4 & 12, FDC Report) The drinking fountains on both the First and Second Floors are of a type and height that is not useable by persons in wheelchairs.

RECOMMENDATION: The existing models should be replaced or supplemented with one which is compliant.

Q. FIRE EXTINGUISHERS

ISSUE: (Ref: Sec. 6, FDC Report) The fire extinguisher cabinets in the Courthouse Addition protrude too far into the corridor space, and are mounted too high.

RECOMMENDATION: The non-compliant protrusion into the corridor space should be corrected. The cabinets could be replaced with fire-rated semi-recessed models, or the fire extinguishers could be wall-mounted with brackets.

R. AREA OF RESCUE ASSISTANCE

ISSUE: There is no Area of Rescue Assistance on the Second Floor of the Courthouse. The stairs in the Addition do not have the required 48" between handrails for rescue of a person in a wheelchair. 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 no accessible means of egress from that part of the building.

RECOMMENDATION: An Area of Rescue Assistance should be provided on the Second Floor, preferably in the Addition. It will require some effort to create such an Area now that construction is completed. However, examination of the Construction Documents shows a space labeled Closet, adjacent to the elevator shaft that might be incorporated into the stair landing. The stairs in the Addition do not have the required clearance between handrails. However, it is possible to rescue a person unable to climb stairs without carrying them down the stairs in a wheelchair.

Per FDC in meeting of 8/6/04: instead of using the Closet, the bathrooms in the Addition can be used as areas of rescue. No action is required concerning the clearance between the handrails.

IV. FACILITY EVALUATIONS/COMPLIANCE STRATEGIES/OPINIONS COURTHOUSE ANNEX

A. ACCESSIBLE PARKING

ISSUE: (Ref: Sec. 24, FDC Report) Parking at the annex building has a compliant number of parking spaces (2). One of the spaces is compliant for both width and length. The other space is of compliant width, but not length.

RECOMMENDATION: These parking spaces should be re-striped to meet ADA specifications for size. This appears possible by simply reducing the size of the shared aisle between the two spaces. One of the two spaces should also be made into a van space, as required. This space should have the required van aisle. Signage should be brought into compliance as well, including the addition of the indication of the van accessible space.

B. ACCESSIBLE ROUTE FROM PARKING TO ENTRANCE DOOR

ISSUE: (Ref: Sec. 25, FDC Report) The ramp at the main entrance to the annex is at a non-compliant slope of 8.4%.

RECOMMENDATION: It should be noted that standard concrete construction tolerances allow for 0.25" of inconsistency over a 10'-0". The existing slope only differs by 0.08" of rise over 10'-0" of run. It is recommended that this difference be considered within

conventional building industry tolerances. If required, this ramp could be extended to make up the 0.07% slope difference. Regardless of whether the ramp must be changed, the handrails must be fixed or replaced and brought into compliance with ADA standards including the required 1'-0" handrail extensions. A level landing at the base of the ramp should also be installed. This landing should be 5'-0" by 5'-0" and will likely need to be offset from the curb ramp due to space restrictions. The curb ramp could be located in such a way as to center on the aisle between the two handicap spaces and should have a level landing at its top. The main accessible route along the sidewalk should go around the curb ramp.

Additionally, it should be noted that access is provided to the building by another ramp at the southwest entrance to the building. The slope of this ramp is a compliant 8.0%.

Per FDC in meeting on 8/6/04: No modification is required to the slope of the ramp to the main entrance. A level landing at the bottom of the ramp and compliant handrails should be installed.

C. ENTRANCE DOORS

ISSUE: (Ref: Sec. 26, FDC Report) The hardware for the active leaf is non-compliant. There are loose mats on the floor both inside and outside the door.

RECOMMENDATION: Compliant hardware should be installed. The loose mats should be removed or fastened to the floor in a compliant manner.

PER 1/25/05: LOOSE MAT – NO ACTION REQUIRED AS VENDOR HAS INDICATED IT IS COMPLIANT WITH THE ADA.

D. CHANCERY COURT CLERK'S OFFICE

ISSUE: (Ref: Sec. 27, FDC Report) Signage is non-compliant. The latch-side clearance on the inside of the room is too small.

RECOMMENDATION: This is not an office to which the public needs access to conduct business with judicial services. Persons needing access to this office can inquire at the window for the Chancery Court Clerk & Master. Compliant signage should be installed.

E. CHANCERY DEPUTY CHIEF OFFICE

ISSUE: (Ref: Sec. 28, FDC Report) Signage is non-compliant. The latch-side clearance on the inside of the room is too small.

RECOMMENDATION: This is not an office to which the public needs access to conduct business with judicial services. Persons needing access to this office can inquire at the window for the Chancery Court Clerk & Master. Compliant signage should be installed.

F. CLERK AND MASTER OFFICE

ISSUE: (Ref: Sec. 29, FDC Report) Signage is non-compliant.

RECOMMENDATION: The Chancery Court Clerk's Office has a counter which opens onto the corridor. Persons doing business with the Office so not have to enter the Office through a door. Compliant signage should be installed.

G. CHANCERY COURTROOM

ISSUE: (Ref: Sec. 30, FDC Report) The door hardware is non-compliant.

RECOMMENDATION: Compliant hardware should be installed.

NOTE: In Section III H above, it was recommended that this Courtroom be renovated for use as an alternative location for jury trials in which a person unable to climb stairs is to serve as a juror. Considerable remodeling of the millwork furnishings now in the room would be required, but that may be more feasible in the County's estimation than the considerable rebuilding required to make the Circuit Courtroom Jury Box in the Courthouse accessible. In order to have a private space for jury deliberations in the Annex, a Jury Room could be created in the current open meeting area across the corridor from the Chancery Courtroom by installing a partition and door.

Per FDC in meeting 8/6/04: Because the Jury Box in the Circuit Court Courtroom will be modified to accommodate a juror in a wheelchair, no modification for jury trial use will be required in the Chancery Courtroom.

H. MEN'S ACCESSIBLE TOILET

ISSUE: (Ref: Sec. 34, FDC Report) The alcove is cited as non-compliant at 39 ¾" wide. The signage is installed in a non-compliant location. The push force for the door is too great. The distance from the floor to the top of the sink counter is 5/8" too high. The pipes under the sink are not fully insulated. The urinal is mounted too high. The flush valve for the toilet requires too much pressure to operate.

RECOMMENDATION: Because the combined depth of the alcove at the outside of the door and the door frame is less than 24" and the door does not have a latch, the condition is compliant.

The closer should be adjusted to a compliant push pressure. Other than the 5/8" extra height, the sink counter is compliant. Lowering the counter by such a small amount would be a great deal of effort for a very small increase in accessibility. It is recommended that the counter remain as it is. The urinal should be lowered to a compliant height. The toilet should be moved to a compliant distance of 18" from the side wall, and the flush valve adjusted to a compliant operating pressure. Insulation should be added to the uninsulated pipes under the sink. The signage should be moved to a compliant location.

Per FDC in meeting 8/6/04: No modification is required to the location of the toilet.

PER 1/24/05: ADDITIONAL DIRECTIONAL SIGNAGE DIRECTING PERSONS TO THE ACCESSIBLE TOILET WILL BE PLACED BY THE MEN'S TOILET CLOSEST TO THE COURTROOM.

I. WOMEN'S ACCESSIBLE TOILET

ISSUE: (Ref: Sec. 35, FDC Report) The alcove is cited as non-compliant at 39 $\frac{3}{4}$ " wide. The signage is installed in a non-compliant location. The push force for the door is too great. The distance from the floor to the top of the sink counter is 1/2" too high. The pipes under the sink are not fully insulated. The toilet is located $\frac{1}{4}$ " too close to the side wall. The flush valve is on the wrong side of the toilet. The flush valve for the toilet requires too much pressure to operate.

RECOMMENDATION: Because the combined depth of the alcove at the outside of the door and the door frame is less than 24" and the door does not have a latch, the condition is compliant. The closer should be adjusted to a compliant push pressure. Other than the 5/8" extra height, the sink counter is compliant. Lowering the counter by such a small amount would be a great deal of effort for a very small increase in accessibility. It is recommended that the counter remain as it is. Insulation should be added to the uninsulated pipes under the sink. Although the distance from the wall to the centerline of the toilet is non-compliant by the standards of the 1991 ADAAG, it is within the proposed guidelines of the New ADAAG, now under review. Such a small difference in location would not functionally improve accessibility. The toilet should stay as it is. The flush valve should be changed to the compliant side and adjusted to a compliant operating pressure.

PER 1/24/05: ADDITIONAL DIRECTIONAL SIGNAGE DIRECTING PERSONS TO THE ACCESSIBLE TOILET WILL BE PLACED BY THE WOMEN'S TOILET CLOSEST TO THE COURTROOM.

J. WATER FOUNTAIN

ISSUE: (Ref: Sec. 31, FDC Report) The accessible drinking fountain outside the Chancery Courtroom is mounted $\frac{1}{2}$ " too low and the water flow height is too low.

RECOMMENDATION: The water fountain should be raised by $\frac{1}{2}$ " and the water flow adjusted to a compliant height.

K. FIRE EXTINGUISHER

ISSUE: (Ref: Sec. 32, FDC Report) The fire extinguisher mounted on the wall outside the Chancery Courtroom is too high.

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

L. SIGNAGE

ISSUE: (Ref: Sec. 37, and throughout FDC Report) There is a lack of compliant signage on both 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 and information about functional spaces of the building. 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.

M. AREA OF RESCUE ASSISTANCE

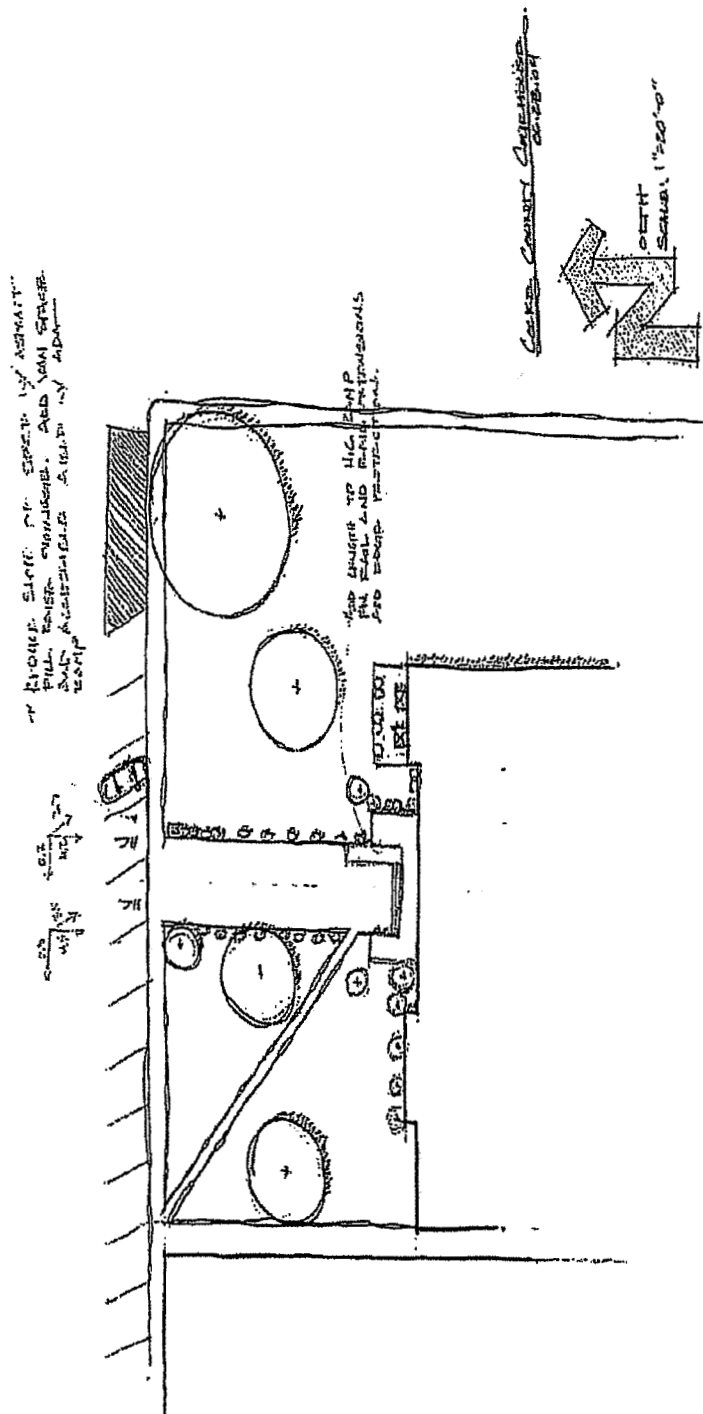
ISSUE: ANNEX BUILDING IS NON-COMPLIANT SINCE IT DOES NOT PROVIDE AN AREA OF RESCUE ASSISTANCE FOR ALL LEVELS ABOVE GRADE.

RECOMMENDATION: NO ACTION REQUIRED AS ALL JUDICIAL PROGRAMS OFFERED IN THIS BUILDING ARE LOCATED ON THE GROUND LEVEL.

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ATTACHMENT A COURTHOUSE SITE (Not to Scale)

Cocke County Courthouse
August 23, 2004, rev.

[illegible]

Cocke County Courthouse
August 23, 2004, rev.