

In the Supreme Court of Ohio

ORIGINAL

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY, ROBERT A.
DOUGLAS, JR., and ROBERT P.
MILICH, Judges, Youngstown
Municipal Court
26 South Phelps Street
Youngstown, Ohio 44503

39660
26347
726

09-0866

Case No. _____

Relators

-vs-

YOUNGSTOWN CITY COUNCIL, viz.:
ANNIE GILLAM, 1st Ward
DEMAINE KITCHEN, 2nd Ward
JAMAE BROWN, 3rd Ward
CAROL RIMEDIO-RIGHETTI, 4th Ward
PAUL DRENNEN, 5th Ward
JANET TARPLEY, 6th Ward
JOHN R. SWIERZ, 7th
CHARLES SAMMARONE, President
26 South Phelps Street
Youngstown, Ohio 44503

and
CITY OF YOUNGSTOWN
c/o Iris T. Gugliucello, Law Director
26 South Phelps Street
Youngstown, Ohio 44503

and
JAY WILLIAMS, Mayor
26 South Phelps Street
Youngstown, Ohio 44503

Respondents

FILED
MAY 13 2009
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
MAY 13 2009
CLERK OF COURT
SUPREME COURT OF OHIO

COMPLAINT FOR WRIT OF MANDAMUS
WITH INSTRUCTIONS FOR SERVICE

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19416

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL.
ELIZABETH A. KOBLY
ROBERT A. DOUGLAS, JR.
ROBERT P. MILICH
Judges of Youngstown
Municipal Court
26 South Phelps Street
Youngstown, Ohio 44503

Relators

-vs-

YOUNGSTOWN CITY COUNCIL,
and all members thereof, viz.:
ANNIE GILLAM, First Ward
Councilwoman
DEMAINE KITCHEN, Second Ward
Councilwoman
JAMAE BROWN, Third Ward
Councilman
CAROL RIMEDIO-RIGHETTI, Fourth
Ward Councilwoman
PAUL DRENNEN, Fifth Ward
Councilman
JANET TARPLEY, Sixth Ward
Councilwoman
JOHN R. SWIERZ, Seventh Ward
Councilman
CHARLES SAMMARONE,
President of Council
26 South Phelps Street
Youngstown, Ohio 44503

and

CITY OF YOUNGSTOWN
c/o Iris T. Gugliucello, Law Director
26 South Phelps Street
Youngstown, Ohio 44503

and

Case No. _____

JAY WILLIAMS, Mayor
26 South Phelps Street
Youngstown, Ohio 44503

Respondents

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COMPLAINT FOR WRIT OF MANDAMUS WITH
INSTRUCTIONS TO THE CLERK FOR SERVICE

COME NOW THE RELATORS, HON. ELIZABETH A. KOBLY, HON. ROBERT A. DOUGLAS, JR., and HON. ROBERT P. MILICH, Judges of the Youngstown Municipal Court, and for their Complaint in Mandamus say as follows:

1. Relators are the duly elected, qualified, and acting Judges of the Youngstown Municipal Court, Mahoning County, Ohio. Relators bring this action pursuant to OHIO REV. CODE ANN. §§1901.36 and 2731.01, *et seq.* and OHIO CONST., art. IV, §1.

2. Respondents are the duly elected, qualified, and acting members of the legislative and executive branches of the City of Youngstown.

3. Relators are, by virtue of their aforesaid positions as Municipal Judges, charged with the constitutional and statutory duties of maintaining and operating the Youngstown Municipal Court, including the Court itself and the probation department.

4. Respondents, as the duly elected, qualified, and acting members of the executive and legislative branches of Youngstown municipal government, are constitutionally and statutorily obliged to provide

suitable accommodations for the judicial branch of government, *viz.*, the Youngstown Municipal Court.

5. The Youngstown Municipal Court and the support services for the Court are presently housed on the second floor of the Youngstown City Hall, and have been for quite some time.

FIRST CAUSE OF ACTION

6. Relators restate the allegations made in ¶¶1 through 5 as though restated herein.

7. The facilities which house the Youngstown Municipal Court and the support services for the Court are, and have been, entirely inadequate, and the Court facility is not clean, adequately heated and air-conditioned, or adequately maintained.

8. The deficiencies of the Court facilities are, *inter alia*:

a. The courtrooms do not have adequate seating capacity so that litigants and others are not required to stand or wait in hallways and areas adjacent to the courtroom.

b. Desks, tables, and chairs are insufficient for all court personnel regularly present in the courtroom.

c. Tables and chairs cannot be situated in two of the three courtrooms to allow private interchanges between litigants and counsel.

d. Not all courtrooms have a blackboard and other necessary demonstrative aids.

e. The Court's Magistrate does not have courtroom and office facilities similar to those of a judge.

f. The courtrooms do not each have a soundproof jury deliberation room located in a quiet area as near the courtroom as possible.

g. There are no private personal convenience facilities available for the jurors in the rooms that are used as jury assembly and deliberation rooms.

h. There is no adequate waiting room for jurors, nor reading material of general interest, television, or telephones.

i. There is no waiting room for witnesses.

j. There is no consultation room for use by attorneys.

k. The violations bureaus and pay-in windows are not located near public parking areas.

l. There is insufficient space and equipment for court personnel to prepare, maintain, and store necessary court records.

m. There are no adequate restroom facilities separate from public restroom facilities for the use by court personnel.

n. There are no clean, modern restroom facilities in the vicinity of the public areas of the court. Indeed, the only public restroom facilities are a one commode unisex restroom two floors below the floor on which the court, violations bureau, and pay-in windows are located, and the restroom is not handicap accessible.

- o. There are no public telephones available.
- p. Prisoners are not transported into and within a court facility through areas that are not accessible to the public. There is no separate entrance and public hallways must be utilized.
- q. During the transport of prisoners, law enforcement officers who are in direct contact with the prisoners carry firearms.
- r. There is no secure prisoner holding area equipped with video monitoring.
- s. There is no effective secondary security perimeter at the entrance to the office space housing judges and court personnel.
- t. There is no ability to stop anyone from accessing the court area at any time of the day or night.
- u. The floor on which the Court is located is the only means by which persons access all of Youngstown City Hall during non-business hours.

9. On July 17, 1996, the judges of the Youngstown Municipal Court entered an order indicating that the Court was "in dire need of additional space to reasonably, efficiently and effectively administer justice."

10. The issue of adequate space and facilities for the Court's operations has been repeatedly raised with the government for the city of Youngstown for many years, and the Respondents and their predeces-

sors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

11. In 1996, the Mayor of the City of Youngstown wrote to the City Council, indicating that a consultant had been secured "to meet with the Judges to identify their needs, survey available space and make recommendations on accommodating the Municipal Court," however, as of the filing hereof, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

12. On August 28, 1998, the Youngstown Municipal Court issued an amended judgment entry that increased Court costs and established a special projects fund; however, as of the filing hereof, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

13. Youngstown City Ordinance 98-369 authorized the finance director to establish a special projects fund in the Youngstown Municipal treasury, fund 214.

14. Youngstown City Ordinance 00-97 authorized the Youngstown City Board of Control to solicit proposals and to enter into a professional services agreement to conduct a study of the facility needs for the Court. However, no useful study has ever been completed and implemented, save and except as the Court itself has determined its own needs, and, as

of the filing hereof, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

15. In 2002, Youngstown City Ordinance 02-65 expressed the intent of City Council to allocate future city capital improvement funds to construct a City Justice Center and to amortize the debt thereon, thereby committing a portion of the City's income tax receipts which were dedicated to capital improvements for the construction of a justice facility; however, as of the filing hereof, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations, and they have failed to dedicate any income tax proceeds to defray the cost thereof.

16. In the twelve years since the Youngstown Municipal Court declared the need for more suitable facilities, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

17. OHIO REV. CODE ANN. §1901.36 provides in pertinent part;

(A) The legislative authority of a municipal court shall provide suitable accommodations for the municipal court and its officers. ...

The legislative authority shall provide for the use of the court suitable accommodations for a law library, complete sets of reports of the supreme and inferior courts, and such other law books and publications as are considered necessary by the presiding judge, and shall provide for each courtroom a copy of the Revised Code.

The legislative authority shall provide any other employees that are necessary, each of whom shall be paid such compensation out of the city treasury as the legislative authority prescribes, It shall provide all necessary form books, dockets, books of record, and all supplies, including telephone, furniture, heat, light, and janitor service, and for such other ordinary or extraordinary expenses as it considers advisable or necessary for the proper operation or administration of the court.

18. The Youngstown Municipal Court facilities do not comply with Appendix D of the Ohio Superintendence Rules, and, despite the clear requirements of OHIO REV. CODE ANN. §1901.36 and the previous orders of the Youngstown Municipal Court, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

19. On January 26, 2009, Relators adopted an entry which directed the Mayor and the City Council of Youngstown, Ohio, to provide suitable accommodations and facilities for the operation of the Youngstown Municipal Court and the related offices forthwith, which facilities must include, at a *minimum*, courtrooms and related areas with chambers for each judge; proper offices for the secretary and the bailiff for each judge; an office for each magistrate and a secretary for the magistrate; three judicial courtrooms; a large conference room for use by the Court magistrate; at least one conference room for use by attorneys and the public; a jury assembly area; and jury deliberation rooms for each Court immediately adjacent to each courtroom; a Court administrator and

probation suite, and an office for the chief bailiff; office facilities for deputy bailiffs and outside bailiffs; a Court assignment office; a stenographer's office; restroom facilities; a suite for the Clerk of the Court, sufficient storage facilities; proper public and non-public restroom facilities; an area for use by the city prosecutor's office; a police facility, with a sallyport, holding rooms, an interview room, and restroom facilities; a public area, with a lobby, public restrooms, and stairs and elevators. A true copy of the order is attached as "Exhibit A" and made a part hereof by this reference.

20. Despite being served with the foregoing entry, the Respondents and their predecessors in office have failed and refused to provide the Youngstown Municipal Court with suitable accommodations.

21. The deficiencies in the facilities of the Youngstown Municipal Court are so numerous and so serious that the Respondents have failed to provide "suitable accommodations" for the Youngstown Municipal Court as required by OHIO REV. CODE ANN. §§1901.36 and OHIO CONST., art. IV, §1.

22. Relators have a clear right to the relief requested here, *i.e.*, that Respondents are to provide suitable court facilities for the Youngstown Municipal Court in compliance with OHIO REV. CODE ANN. §1901.36 and the Rules of Superintendence.

23. By virtue of OHIO REV. CODE ANN. §§1901.36 and OHIO CONST., art. IV, §1 Respondents have a clear legal duty to provide suitable court facilities for the Youngstown Municipal Court in compliance with OHIO REV. CODE ANN. §1901.36 and the Rules of Superintendence.

24. Despite Respondents' present existing duty to provide suitable accommodations facilities for the Youngstown Municipal Court in compliance with OHIO REV. CODE ANN. §1901.36 and the Rules of Superintendence, Respondents have defaulted upon the same.

25. For the requested relief, Relators lack a plain and adequate remedy in the ordinary course of law. Contempt is not an adequate remedy because, *inter alia*, the actions of Respondents indicate that they will continue to ignore or to defy the orders of Relator as they have done in the past.

SECOND CAUSE OF ACTION

26. Relators restate the allegations made in ¶¶1 through 25 as though fully rewritten herein.

27. Because of a conflict of interest, the Youngstown Law Director is unable to represent Relators and Relators have had to retain counsel to obtain the relief sought herein. See, *e.g.*, *State ex rel. Donaldson, Judge, v. Alfred* (1993), 66 Ohio St.3d 327, 612 N.E.2d 717; and *State, ex rel. Wilke v. Hamilton County Board of Commissioners*, 90 Ohio St.3d 55, 2000 Ohio 13, 734 N.E.2d 811.

28. In order that Relators may have proper legal representation to enforce their right to relief, Respondents are obliged to appropriate sufficient money to pay the legal expenses associated with this action in mandamus.

29. Despite an order from the Youngstown Municipal Court, Respondents and their predecessors in office have failed and refused to appropriate funds for the appointment of special private counsel to represent the Youngstown Municipal Court in its efforts to obtain suitable court facilities, including this action in mandamus.

30. Relators have a clear right to the relief requested here, *i.e.*, that Respondents are required to appropriate funds for the appointment of special private counsel to represent the Youngstown Municipal Court in its efforts to obtain suitable court facilities, including this action in mandamus.

31. Respondents have a clear legal duty to appropriate funds for the appointment of special private counsel to represent the Youngstown Municipal Court in its efforts to obtain suitable court facilities, including this action in mandamus.

32. Respondents have a present existing duty to appropriate funds for the appointment of special private counsel to represent the Youngstown Municipal Court in its efforts to obtain suitable court facilities, including this action in mandamus, by virtue of the order of the

Youngstown Municipal Court dated March 7, 2008 (attached as "Exhibit B") and have defaulted upon the same, refusing in fact to appropriate such funds.

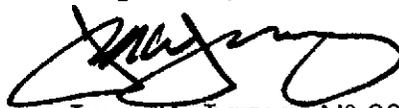
33. For the requested relief, Relators lack a plain and adequate remedy in the ordinary course of law. Contempt is not an adequate remedy because, *inter alia*, the actions of Respondents indicate that they will continue to ignore or to defy the orders of Relator as they have done in the past; and, to hold Relators as legal hostages, unable to access the courts of this State through counsel, is to deny Relators access to the courts in contravention of OHIO CONST., art. I, §16 and is in defiance of the sacred doctrine of separation of powers which underlies our constitutional government.

WHEREFORE, as to the first cause of action, Relators prays for the issuance by this Honorable Court of a peremptory writ of mandamus, compelling Respondents to provide suitable court facilities for the Youngstown Municipal Court in compliance with OHIO REV. CODE ANN. §1901.36 and the Rules of Superintendence. In the alternative, Relators pray for an alternative writ of mandamus, compelling Respondents to show cause why a writ of mandamus should not issue commanding that they provide suitable court facilities for the Youngstown Municipal Court in compliance with OHIO REV. CODE ANN. §1901.36 and the Rules of Superintendence.

As to the second cause of action, Relators prays for the issuance by this Honorable Court of a peremptory writ of mandamus, compelling Respondents to appropriate funds for the appointment of special private counsel to represent the Youngstown Municipal Court in its efforts to obtain suitable court facilities, including this action in mandamus. In the alternative, Relators pray for an alternative writ of mandamus, compelling Respondents to show cause why a writ of mandamus should not issue commanding that Respondents appropriate funds for the appointment of special private counsel to represent the Youngstown Municipal Court in its efforts to obtain suitable court facilities, including this action in mandamus.

As to both causes of action, Relators prays for an order assessing the costs of this action against the Respondents, and for such other and further relief as this Court may deem equitable, just, and proper.

Respectfully submitted,



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COUNSEL FOR RELATORS

INSTRUCTIONS TO THE CLERK

In accordance with OHIO S. CT. PRAC R. X, §4(A), please issue a Summons and forward a copy of said Summons and the foregoing Complaint in Mandamus with Exhibits as well as the Memorandum in Support of Complaint for Writ of Mandamus with Exhibits attached thereto to each of the Respondents at the address listed in the caption hereof. All Respondents named in the Complaint are to be served at 26 South Phelps Street, Youngstown, Ohio 44503. Please make service by United States Certified Mail, Return Receipt Requested, and make the same returnable according to law.


JOHN B. JUHASZ
COUNSEL FOR RELATORS

C:\AtOf\JB\Civil\YMC Judges 2326\Pleadings\SCt Complaint mandamus dr8.wpd * Tue 12 May 2009 • 0435pm

IN THE YOUNGSTOWN MUNICIPAL COURT
MAHONING COUNTY, OHIO

In the Matter of

Suitable Facilities for the
Operation of the Youngstown
Municipal Court and Related
Departments

Case No. 2009 CV OPEN

SARAH BROWN-CLARK
CLERK OF COURT

2009 JAN 26 AM 10:59

MUNICIPAL COURT
YOUNGSTOWN OHIO
FILED

This cause came on for consideration upon the Court's own motion. The Judges of the Youngstown Municipal Court, having fully discussed the matter, both now and in the past, make the following findings:

The present facilities which house the Youngstown Municipal Court and the support services for the Court are, and have been, entirely inadequate. The Court finds that on July 17, 1996, the judges of this Court entered an order indicating that the Court was "in dire need of additional space to reasonably, efficiently and effectively administer justice." The entry further recited that the Chief Justice of the Supreme Court of Ohio has inspected the facilities and deemed them inadequate. The Court also found that the issue of adequate space and facilities for its operations had been repeatedly raised with the government for the city of Youngstown "for many years with no results." The Court directed that the premises then occupied by the Youngstown City Prosecutor's Office should be appropriated, and the Court made use of the same for the Probation Office.

The Court further finds that several weeks later, the Mayor of the City of Youngstown wrote to the City Council, indicating that a consultant had been secured "to meet with the Judges to identify their needs, survey available space and make recommendations on accommodating the Municipal Court." The Youngstown Municipal Court still, of course, remains in its present facilities, and they are entirely inadequate.

The Court and the city administration have discussed the problem for years. On August 28, 1998, the Court issued an amended judgment entry that increased Court costs and established a special projects fund.

Youngstown City Ordinance 98-369 authorized the finance director to establish a special projects fund in the Youngstown Municipal treasury, fund 214.

1
EXHIBIT A

2009

Youngstown City Ordinance 00-97 authorized the Youngstown City Board of Control to solicit proposals and to enter into a professional services agreement to conduct a study of the facility needs for the Court. However, no useful study has ever been completed and implemented, save and except as the Court itself has determined its needs.

Youngstown City Ordinance 00-410 authorized the Youngstown City Board of Control to do no more than solicit proposals for the renovation of the existing court facility and police facility, or for leasing a newly constructed facility for the Court and related departments. As noted, however, the ordinance authorized nothing more than the solicitation of proposals.

Some six years ago, Youngstown City Ordinance 02-65 expressed the intent of City Council to allocate future city capital improvement funds to construct a City Justice Center and to amortize the debt thereon, thereby committing a portion of the City's income tax receipts which were dedicated to capital improvements for the construction of a justice facility.

Youngstown Ordinance 02-126 authorized the Board of Control to solicit proposals and to enter into contracts for professional services relating to the design and building of a Municipal Justice Center.

Youngstown Ordinance 03-319 appropriated the sum of \$22,000.00 to pay for architectural services for planning a new Court facility.

Youngstown Ordinance 04-17 appropriated the sum of \$22,000.00 to pay for architectural services from the special project fund, fund 214.

Youngstown Ordinance 04-97 authorized the Board of Control of the City of Youngstown to enter into necessary agreements required to conduct property appraisals and to establish the fair market value of parcels within a certain defined area of the City of Youngstown, ostensibly for a new court facility.

While the foregoing represent steps that have been taken, the Court finds that in some twelve years since it announced a need for more suitable facilities, City officials have taken but small steps, often with large gaps of time in between the steps, and there has been no real progress for the past five (5) years. More troubling is that the Court has attempted over the years to maintain a posture of discussion, mediation, and

negotiation with City officials. But City officials have now publicly suggested that the Court's needs, which are authorized by the Constitution, which exist in law, and which have been recognized in the past by the city government, now are regarded by at least some City officials as illusory. City officials have suggested that the Court's needs are not legitimate, that the Court is in some respects over-staffed, and that the Court's caseload is declining and does not justify the present number of judges or court staff. The Court finds that such comments are not supported by the true facts, and that the City officials who make such comments ignore the fact that legislative enactments have become more and more complex to administer; that the Court did not have the space for a Probation Department that actively supervised probationers until the aforesaid judgment entry in 1996; and, that the lack of adequate jail and administrative facilities places further burdens upon the judges of this Court that are not necessarily addressed inside the courtroom.

The Court further finds that Court Facility Standards, viz., OHIO SUP. R., Appendix D, presently in effect in this State recommend the following for all Courts of record in Ohio. The following are regarded as the minimum requirements to ensure the efficient and effective administration of justice and are intended to complement federal, state, and local laws, regulations, and standards pertaining to building construction, safety, security, and access. (The Court Facility Standards are attached hereto and incorporated by this reference.)

First, in order to maintain suitable judicial atmosphere and to properly serve the public, there must be clean, well-lighted, adequately heated and air-conditioned Court facilities, which must also be maintained properly.

Second, the facilities should be located in a Courthouse or in a county or municipal building. The location within the building should be separate from the location of non-judicial governmental agencies. Court facilities should be located in a building that is dignified and properly maintained.

Third, every trial judge should have a separate Courtroom, and each Courtroom should have adequate seating capacity so that litigants

and others are not required to stand or wait in hallways and areas adjacent to the Courtroom. All participants must be able to hear and to be heard. If the room acoustics are not satisfactory, an efficient public address system shall be provided. Every Courtroom should have an elevated bench. Adequate shelving should be provided adjacent to the bench for legal reference materials. United States and Ohio flags should flank the bench. The witness chair should be near the bench, slightly elevated, and situated in an appropriate enclosure. Desks, tables, and chairs should be provided for all Court personnel regularly present in the Courtroom. Tables and chairs should be provided for parties and counsel. Tables shall be situated to enable all participants to hear and to allow private interchanges between litigants and counsel. Each trial Courtroom should be equipped with a jury box, suitable for seating jurors and alternates sufficient to meet the demands of the Court. The jury box should be situated so that jurors may observe the demeanor of witnesses and hear all proceedings. A blackboard and other necessary demonstrative aids should be readily available. Unnecessary material or equipment should not be kept in the Courtroom. Each judge should have private chambers convenient to the Courtroom. Access from chambers to the Courtroom should be private. Chambers should be decorated and equipped in appropriate fashion.

Fourth, each Court shall be provided an adequate law library comprised of those materials, including electronic media, considered necessary by the Court.

Fifth, magistrates should have Courtroom and office facilities similar to those of a judge.

Sixth, each trial Courtroom shall have a soundproof jury deliberation room located in a quiet area as near the Courtroom as possible. Access from the jury deliberation room to the Courtroom should be private. Private personal convenience facilities should be available for the jurors. An adequate waiting room must be provided for jurors. Reading material of general interest, television, and telephones should be provided. A waiting room comparable to the jurors' waiting room should be provided for witnesses.

Seventh, a room should be provided for use of attorneys.

Eighth, facilities for violations bureaus and pay-in windows should be located near public parking areas.

Ninth, adequate space and equipment shall be provided for Court personnel to prepare, maintain, and store necessary Court records. Space and equipment should be utilized to ensure efficiency, security, and confidentiality. Adequate restroom facilities separate from public restroom facilities should be provided for all Court personnel.

Tenth, clean, modern restroom facilities should be available in the vicinity of the public areas of the Court. Public telephones should be available and afford privacy.

The City is required by law to provide suitable facilities for the Court. In determining what are "suitable accommodations" for municipal Courts, the foregoing standards are to be employed. See, e.g., *State ex rel. Taylor v. Delaware* (1982), 2 Ohio St.3d 17, 18, 2 OBR 504, 505, 442 N.E.2d 452, 454; *State ex rel. Finley v. Pfeiffer* (1955), 163 Ohio St. 149, 56 Ohio Op. 190, 126 N.E.2d 57, syl. 2; *State ex rel. Hillyer v. Tuscarawas City Bd. of Comm'rs*, 70 Ohio St.3d 94, 99, 1994 Ohio 13, 637 N.E.2d 311.

This Court now follows the well-established precedent and the seminal decision of the United States Supreme Court that foot dragging and delay in the implementation of constitutional commands is unacceptable and will not be tolerated by the judiciary. See, e.g., *Cooper v. Aaron* (1958), 358 U.S. 1, 18, 78 S.Ct. 1401, 3 L.Ed.2d 5, 3 L.Ed.2d 19, 79 Ohio Law Abs. 452, 79 Ohio Law Abs. 462. The Court finds that city officials, while taking occasional small steps, have made no real progress in addressing the inadequacies in the Court facilities which have existed for years and which remain largely unaddressed. Polite requests for progress have been met by promises but no real action.

It is unqualifiedly the law of this State that the administration of justice by the judicial branch of the government cannot be impeded by the other branches of the government in the exercise of their respective powers. Courts of general jurisdiction, whether named in the Constitution or, as is the case with municipal Courts, established pursuant to the provisions of the Constitution, possess all powers necessary to secure and safeguard the free and untrammelled exercise of their judicial functions. In carrying out

these functions, the Courts cannot be directed, controlled or impeded therein by other branches of the government. See, e.g., *Zangerle v. Court of Common Pleas* (1943), 141 Ohio St. 70, 25 Ohio Op. 199, 46 N.E.2d 865, syl. 2. That same case highlighted the importance of the judicial function by holding that Courts may pass upon the suitability and sufficiency of quarters and facilities for their occupation and use, and may exercise control over the Courthouse to the extent required to assure the provision, equipment and maintenance in the Courthouse of rooms and facilities essential for their proper and efficient operation. *Id.*, at syl. 3. Indeed, so essential to the proper operation of a government of balanced and coordinate equal branches that enforcement of these principles is no longer relegated to judges alone, even in cases such as this, where the judges, in the spirit of cooperation, have been less than forceful in insuring adequate facilities. The furnishing of proper facilities for a Municipal Court is enforceable by citizens in a taxpayer suit when the law director refuses to take action. See, *State ex rel. Badgett, v. Mullens*, 177 Ohio App.3d 27, 2008 Ohio 2373, 893 N.E.2d 870.

While the decisions of Ohio Courts reflect that a reasonably exercised spirit of mutual cooperation among the various branches of government is essential, the fact remains that the needs of the Court have not been addressed. The doctrine of separation of powers is a fundamental part of a complex system of checks and balances designed to prevent the accumulation of political power in any one of the three branches. The judicial branch must, to be reasonably free of dominance by the other two branches, have relative autonomy in the provision for its financial and operational needs. If the judiciary were to be dependent upon the whim of legislative authority, as it has been now for some years simply as a product of attempts to be cooperative, the judiciary would be subject to, and be subservient ultimately to, the coordinate political branches of the government. Each branch of government has its own authority, and while other bodies or officers are charged with the duty of providing suitable buildings or rooms for the holding of Courts, it is uniquely the duty of the Court to pass on the suitability of the quarters furnished and exercise control over the physical facilities to the extent necessary to secure suitable

rooms for, and to prevent interference with, the discharge of public business.

This is not to say that a new facility must be built, simply that suitable facilities must be provided and they must be provided now. The suitability of remodeling a City-owned building has been studied by the Court. Provided that those facilities are suitably remodeled and meet the needs of the Court, they are just as acceptable as a newly constructed facility. In this regard, renovation of the Youngstown City Hall Annex may be entirely appropriate. The facility is structurally sound. It has the ability to meet the needs of the Court, provide adequate parking and accessibility, and has sufficient square footage. Based upon the foregoing findings, it is now

ORDERED, ADJUDGED, AND DECREED, that the Mayor and the City Council of Youngstown, Ohio, be and they are hereby ORDERED forthwith to provide suitable facilities for the operation of the Youngstown Municipal Court and the related offices, which facilities shall include, at a minimum, the following:

- Courtrooms and related areas of not less than 12,950 square feet, which shall contain chambers for each of the judges with proper private restroom facilities; an office for the secretary for each judge and the bailiff for each judge; an office for each magistrate and a secretary for the magistrate; three judicial courtrooms of not less than 1,200 square feet each; a large conference room for use by the Court magistrate; at least one conference room for use by attorneys and the public; a jury assembly area, and jury deliberation rooms for each Court, immediately adjacent to each courtroom.

- A Court administrator and probation suite, which shall be not less than 5000 square feet, and which shall contain a Court administrator's office with restrooms; a legal research library, and an office for the chief bailiff; office facilities for deputy bailiffs and outside bailiffs; a Court assignment office; a probation area, which shall include a waiting area for probationers, and area for a probation receptionist, offices for the probation officers, and office for the probation supervisor, and a conference room; a systems administrator office; a copy room; a stenographer's office; restroom

facilities, and a lounge and lunchroom; and general storage.

• A suite for the Clerk of the Court, which shall be not less than 7700 square feet, and which shall contain a waiting area and reception area; an open office area; sufficient storage facilities; nonpublic restroom facilities; a copy room; a staff lounge; and, separate offices for the Clerk of Court, the administrative assistant, the administrative bookkeeper, and other bookkeepers.

• An area for use by the city prosecutor's office, which should not be less than 625 square feet, and which should include a reception area and conference rooms.

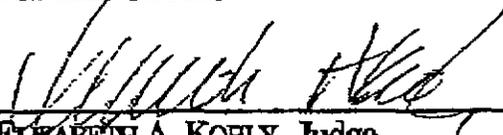
• A police facility, which should be not less than 2800 square feet, and which should contain a sallyport; holding rooms with adjacent staff room; an interview room; and restroom facilities for staff and separate restroom facilities for inmates.

• A public area, which should be not less than 2600 square feet, and which must contain a lobby, public restrooms, and stairs and elevators.

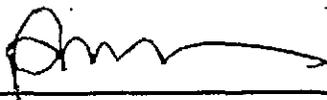
• A total space for the Court and the related facilities, described above, that is not less than 34,000 square feet.

It should go without saying that these facilities must comply with federal, state, and local regulations and requirements, including handicap accessibility.

ALL UNTIL FURTHER ORDER OF THIS COURT.

Hon. 
ELIZABETH A. KOEHLI, Judge

Hon. 
ROBERT A. DOUGLAS, JR., Judge

Hon. 
ROBERT P. MILICE, Judge

The Clerk is ordered to provide certified copies forthwith to: the Mayor, the President of Council, all City Council members, the Law Director, and the Finance Director.

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SARAH BROWN-CLARK
CLERK OF COURT
WORKSHEETING AND
FILED

Appendix D. Court Facility Standards

Court Facility Standards

These standards apply to all courts of record in Ohio except as otherwise indicated. The standards represent the minimum requirements to ensure the efficient and effective administration of justice and are intended to complement federal, state, and local laws, regulations, and standards pertaining to building construction, safety, security, and access.

(A) General considerations.

In order to maintain suitable judicial atmosphere and properly serve the public, clean, well-lighted, adequately heated and air-conditioned court facilities shall be provided and maintained.

(B) Location.

The facilities should be located in a courthouse or county or municipal building. The location within the building should be separate from the location of non-judicial governmental agencies. Court facilities should be located in a building that is dignified and properly maintained.

(C) Courtroom.

Every trial judge should have a separate courtroom.

The courtroom should have adequate seating capacity so that litigants and others are not required to stand or wait in hallways and areas adjacent to the courtroom.

All participants must be able to hear and to be heard. If the room acoustics are not satisfactory, an efficient public address system shall be provided.

Every courtroom should have an elevated bench. Adequate shelving should be provided adjacent to the bench for legal reference materials. United States and Ohio flags should flank the bench.

The witness chair should be near the bench, slightly elevated, and situated in an appropriate enclosure.

Desks, tables, and chairs should be provided for all court personnel regularly present in the courtroom.

Tables and chairs should be provided for parties and counsel. Tables shall be situated to enable all participants to hear and to allow private interchanges between litigants and counsel.

Each trial courtroom should be equipped with a jury box, suitable for seating jurors and alternates sufficient to meet the demands of the court. The jury box should be situated so that jurors may observe the demeanor of witnesses and hear all proceedings.

A blackboard and other necessary demonstrative aids should be readily available. Unnecessary material or equipment should not be kept in the courtroom. Each judge should have private chambers convenient to the courtroom. Access from chambers to the courtroom should be private. Chambers should be decorated and equipped in appropriate fashion.

(D) Library.

Each court shall be provided an adequate law library comprised of those materials, including electronic media, considered necessary by the court.

(E) Magistrate.

Magistrates should have courtroom and office facilities similar to those of a judge.

(F) Juror and witness facilities.

Each trial courtroom shall have a soundproof jury deliberation room located in a quiet area as near the courtroom as possible. Access from the jury deliberation room to the courtroom should be private. Private personal convenience facilities should be available for the jurors.

An adequate waiting room must be provided for jurors. Reading material of general interest, television, and telephones should be provided.

A waiting room comparable to the jurors' waiting room should be provided for witnesses.

(G) Consultation room.

A room should be provided for use of attorneys.

(H) Violations Bureaus and pay-in windows.

Facilities for violations bureaus and pay-in windows should be located near public parking areas.

(I) Court staff and court-related personnel facilities.

Adequate space and equipment shall be provided for court personnel to prepare, maintain, and store necessary court records. Space and equipment should be utilized to ensure efficiency, security, and confidentiality.

Adequate restroom facilities separate from public restroom facilities should be provided for all court personnel.

(J) Public convenience facilities.

Clean, modern restroom facilities should be available in the vicinity of the public areas of the court. Public telephones should be available and afford privacy.

IN THE YOUNGSTOWN MUNICIPAL COURT
MAHONING COUNTY, OHIO

IN THE MATTER OF:

THE EMPLOYMENT OF COUNSEL

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}
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Case No. 2008 CV OPEN

SARAH EROWN-CLARK
CLERK OF COURT

7:00 MAR -7 PM 12: 51

MUNICIPAL COURT
YOUNGSTOWN OHIO
FILED

JUDGMENT ENTRY

This cause came on to be heard upon the Court's own motion. The Supreme Court of Ohio has held that "[t]he primary and paramount purpose of a courthouse, as its name implies, is to furnish the rooms and facilities essential for the proper and efficient performance of the functions of the court." See, *Zangerle v. Court of Common Pleas of Cuyahoga County* (1943), 141 Ohio St. 70, 46 N.E.2d 865, 25 Ohio Op. 199, syl. 1. Courts must possess the powers necessary to secure and safeguard the free and untrammelled exercise of their judicial functions and cannot be directed, controlled or impeded therein by other branches of the government. *Id.*, at syl. 2. The courts have the power to exercise control over the courthouse to the extent required to assure the provision, equipment and maintenance in the courthouse of rooms and facilities essential for their proper and efficient operation. *Id.*, syl. 3. In *State, ex rel. Taylor, Judge, v. City of Delaware* (1982), 2 Ohio St.3d 17, 442 N.E.2d 452, 2 OBR 504, the Supreme Court observed that by the enactment of OHIO REV. CODE ANN. §1901.36, the General Assembly recognized that municipal courts, as an essential part of

EXHIBIT B

the justice system in this State, must be given means to carry out their duties under the law.

The Court finds that the facilities presently used by the Youngstown Municipal Court are entirely unsuitable for the purposes of carrying on the business of administering justice within the parameters of this Court's statutory jurisdictional powers. The Court further finds that it has attempted to resolve this matter through discussions with the coordinate political branches of Youngstown City government; *i.e.*, the Mayor of the City of Youngstown and the Youngstown City Council. Those discussions appear, however, to have reached an impasse, and the Court finds that it is necessary for the Court to engage its own legal counsel. The Court has inquired and been informed that Youngstown Law Director will not represent the Court and will represent the coordinate political branches of the government in any future discussions and/or litigation concerning the Court obtaining proper facilities for its operation.

Just as courts have the inherent constitutional authority to compel the funding necessary for their reasonable operation, so, too, do courts have the inherent authority to compel the political branches of government to provide the facilities necessary for the court's proper operation. The courts accordingly have the right to insure that they are properly represented by legal counsel in any proceedings necessary to secure proper court funding or proper facilities for the operation of the court. Were it otherwise, the

EXHIBIT B

courts would be entirely dependent upon the coordinate political branches of government to determine when the courts could secure counsel, how much counsel could be paid, and under what circumstances. Such a situation would involve the coordinate political branches of government fettering the proper exercise of judicial power. This cannot be—and indeed is not—the constitutional rule in our tripartite government.

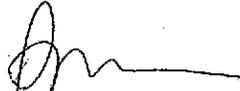
Accordingly, based upon the foregoing, and based upon the fact that the Court is without legal counsel in this matter, as the Youngstown Law Department is unable to represent the Court, the Court finds it necessary to engage outside counsel. The Court has contacted and has received a proposal from John B. Juhasz, Esq., 7330 Market Street, Youngstown, Ohio 44512-5610, to represent the Court in this matter, at the rate of \$150.00 per billable hour, together with reasonable expenses incurred in the course of the representation. The Court finds said terms to be reasonable, and finds the compensation well within what private practitioners in Northeast Ohio charge for billable services. Accordingly, the Court directs that the Youngstown Board of Control shall hereby set aside a sum sufficient for such legal services. That it may be necessary to appropriate an additional sum depending upon the nature, length, and the complexity of any litigation which might ensue, the Court hereby orders the Youngstown Board of Control to appropriate and set aside the sum of \$25,000.00, and the Court

EXHIBIT B

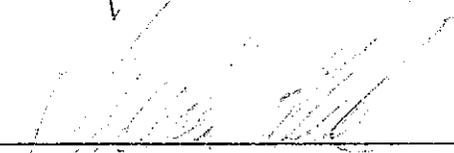
hereby directs the Youngstown City Council to appropriate said funds for said purpose within the general fund of the City of Youngstown.



HON. _____
ROBERT A. DOUGLAS, Jr. Judge



HON. _____
ROBERT P. MILICH, Judge



HON. _____
ELIZABETH A. KOBLY, Judge

MUNICIPAL COURT
YOUNGSTOWN OHIO
FILED

2008 MAR -7 PM 12: 51

SARAH BROWN-CLARK
CLERK OF COURT

EXHIBIT B