

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL.)
ELIZABETH A. KOBLY, ROBERT A.)
DOUGLAS, JR. AND ROBERT P.)
MILICH, JUDGES, YOUNGSTOWN)
MUNICIPAL COURT)

CASE No. 2009-0866

RELATORS)

v.)

YOUNGSTOWN CITY COUNCIL, ET AL.)

RESPONDENTS)

FILED
JUL 18 2013
CLERK OF COURT
SUPREME COURT OF OHIO

RESPONDENTS' INDEX OF TESTIMONY
AND DIRECT TESTIMONY

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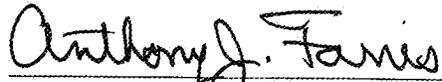
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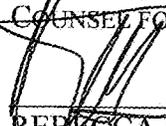
Now come Respondents, by and through the undersigned counsel, and hereby offer the following direct testimony pursuant to the Court's Order, issued through the Special Master on or about April 25, 2013:

Testimony of Sean McKinney Respondents' Direct 1-6
Testimony of Kirk Kreuzwieser Respondents' Direct 7-21
Testimony of Gregg Strollo Respondents' Direct 22-44
Testimony of David Eichenthal Respondents' Direct 45-62
Testimony of David Bozanich Respondents' Direct 63-68

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing RESPONDENTS' INDEX OF TESTIMONY AND DIRECT TESTIMONY was sent via regular U.S. Mail, postage pre-paid, on this 17th day of July 2013 to John B. Juhasz, Esq., Counsel for Relators, 7081 West Boulevard, Suite 4, Youngstown, Ohio 44512.


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SWORN DIRECT TESTIMONY OF
SEAN MCKINNEY

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SWORN DIRECT TESTIMONY OF
SEAN MCKINNEY

Q: Would you state your full name please?

A: Sean McKinney.

Q: What is your occupation?

A: I am currently the Commissioner of Building and Grounds for the City of Youngstown, Ohio.

Q: What does the Buildings and Grounds Department do?

A: The Building and Grounds Department is the operations and maintenance side of City government and functions as stewards of its buildings and physical assets and a provider of support services. In everything we do, we strive to deliver high

quality, reliable and innovative services that are responsive to the changing needs of Youngstown City Hall and the Youngstown Municipal Court.

Q: Was there ever a problem with maintenance at the Youngstown Municipal Court?

A: It is my understanding that during administrations prior to Mayor Williams and Mayor Sammarone taking office, the Youngstown Municipal Court area was often neglected and poorly maintained.

Q: Does that reflect the current status of the Youngstown Municipal Court facility?

A: No. I and the entire Building and Grounds Department of the City of Youngstown are committed to ensuring that situation never reoccurs.

Q: By what means do you carry out this commitment?

A: The Building and Grounds Department has staff available to offer services related to the Architectural Trades (carpentry, glass, building security, paint and sign) and the Building Engineering Trades (electrical shop, HVAC and plumbing).

Q: Are there additional services provided by other entities?

A: The Building and Grounds Department also manages additional services which it provides through outside contracts, such as garbage, recycling, custodial, relamping, pest control, D.I. water, fire doors, elevator maintenance and alarms and service problems.

Q: Can you specifically identify some of the many services provided to the Youngstown Municipal Court and the areas of City Hall which connect to it?

A: The Building and Grounds Department has, in recent years, provided the following specific services to the Youngstown Municipal Court and the areas of City Hall which connect to it: (1) painting the lobby, stairwell, restrooms, offices

and common areas; (2) new flooring in the open portions of the Youngstown Municipal Court area; (3) new heating and air conditioning for all judges' chambers and courtrooms; (4) updated the entrance to the court area through the Police Department with new carpet, paint, tile, furniture, receptacles, lights and new ceilings; (5) updated the lighting to make it energy efficient; (6) installed new bathroom fixtures; (7) installed new fire alarm systems; (8) installed eighteen-ton compressor HVAC used for Court Administrator's Office and Clerk of Courts' Office to maintain proper air flow and increase energy efficiency; (9) changed all traps on radiators to increase energy efficiency; (10) implemented a system requiring I.D. badges for all employees; (11) implemented twenty-four hours security system; (12) provided parking accommodations for all judges, court administrator and magistrate; (13) continued to provide all janitorial, carpet cleaning and maintenance services; (14) provided valve repair, pipe insulations, steam trap repair, increased sustainability and installed new lights pursuant to a Department of Energy and Conservation Block Grant; (15) provided major parking lot lighting; (16) administered, project managed and supervised all aspects of the Youngstown Probation Office renovation; (17) will repaint common areas of the adjoining Youngstown Police Department commencing July 19, 2013; (18) provided fire safety training in conjunction with the Youngstown Fire Department; (19) provided all needed telephone changes with AT&T; (20) provided all needed movement of furniture, boxes and files to off-site facilities; and (21) will be providing a new generator in conjunction with the Departments of Water and Wastewater to be used for emergency backup situations.

Q: Do you also take care of exterior areas?

A: The Building and Grounds Department also maintains the outdoor landscape around City buildings, including City Hall, by planting trees, maintaining plant life, maintaining pavement, snow removal/ice control and maintaining all outdoor structures and furnishings.

Q: Are you and your employees committed to maintaining high standards of service to the Youngstown Municipal Court?

A: The Building and Grounds Department diligently maintains the Youngstown Municipal Court facilities and is dedicated to continuing to do so.

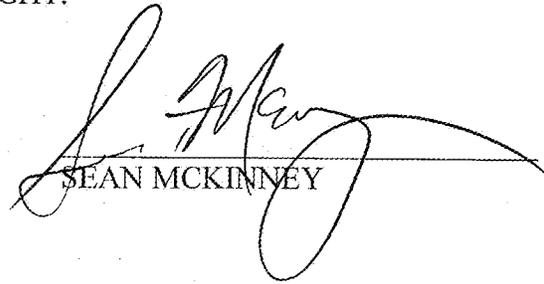
Q: Do you respond to requests of the municipal judges when they identify their wants and needs?

A: Yes. I and the Building and Grounds Department are committed to making every effort to provide the Youngstown Municipal Court with safe, effective and aesthetically pleasing facilities.

Q: Do you have personal knowledge of everything you have testified to?

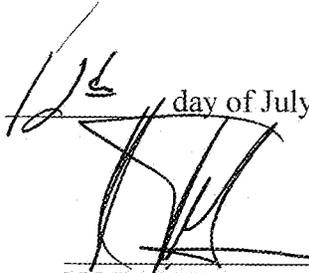
A: All of the foregoing is based on my own personal knowledge and related to relevant matters about which I am competent to testify.

FURTHER, AFFIANT SAYETH NAUGHT.


SEAN MCKINNEY

STATE OF OHIO)
COUNTY OF MAHONING) SS:

Subscribed and sworn to before me this 12th day of July, 2013.


NOTARY PUBLIC
REBECCA M. GERSON
ATTORNEY AT LAW
MY COMMISSION DOES NOT EXPIRE

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SWORN DIRECT TESTIMONY OF
KIRK KREUZWIESER

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SWORN DIRECT TESTIMONY OF
KIRK KREUZWIESER

Q: Would you state your full name please?

A: Kirk Kreuzwieser.

Q: What is your profession?

A: I am an architect and a principal in the architectural firm known as Strollo Architects, 20 West Federal Street, Suite 604, Youngstown, Ohio, 44503.

Q: Would you please describe your experience and practice areas?

A: Since 1980, I have designed a wide variety of government, education, recreation, office, cultural, health care and correction projects throughout the country.

Over the past years, I have been involved in a number of Court projects. These include my work in designing the Wayne County Municipal Court, preparing the schematic plan for the Seventh District Court of Appeals, and other similar projects.

Q: At some point, did you become involved in designing court facilities for the Youngstown Municipal Court?

A: Yes, in 2008, my colleague Gregg Strollo requested that I serve as lead designer and planner for a possible renovation of a building known as the City Hall Annex in order that it might provide suitable accommodations for the Youngstown Municipal Court.

Q: Would you please provide a brief description of the City Hall Annex?

A: The City Hall Annex is a former federal court building constructed largely of stone and marble which would provide a respectable and dignified setting for the Youngstown Municipal Court.

Q: Did you accept the role Mr. Strollo asked you to perform regarding that structure?

A: Yes. I personally prepared a schematic plan for the renovation of the City Hall Annex to serve as the new home of the Youngstown Municipal Court. A copy of said schematic plan is attached to this Affidavit as Exhibit A.

Q: Does the plan you prepared satisfy all requirements established by the Ohio Supreme Court?

A: I can say without hesitation that the plan I prepared for the Youngstown Municipal Court in the renovated City Hall Annex would comply with all standards promulgated by the Ohio Supreme Court.

Q: Were you ever contacted by the Youngstown Municipal Court judges or any representative of theirs with any proposed alterations?

A: Subsequent to my preparation of the plan in 2008, I received no response from the Youngstown Municipal Court judges which has had the effect of hampering my efforts to address their wants and needs.

Q: Did there come a time when you became aware of any criticism of the plan you prepared by the municipal court judges?

A: The first feedback I heard from any Youngstown Municipal Court judge came from being informed of the flaws that a Youngstown Municipal Court judge, Judge Elizabeth Kobly, claimed existed in my plan when questioned about them during her deposition in 2010. At that time, she provided a list of 24 objections to the Strollo Plan / Schematic / Strollo Draft and Drawings which my schematic is often referred to as. It is attached as Exhibit B.

Q: Did Judge Kobly identify any aspects of your plan which would actually be in violation of the Ohio Supreme Court Facility or Security Standards?

A: While some of her comments reference Ohio Supreme Court Facility or Security Standards, it is clear that none of the purported flaws Judge Kobly raised are actually violations of the referenced standards. She appears to have merely referenced whatever standard deals with the aspect of a courthouse she was not satisfied with in my schematic and described it as a violation.

Q: Would you please respond to the specific objections?

A: Judge Kobly's first objection is to language found in the Plan analysis prepared by Strollo Architects that refers to the fact that there is ample capacity in the annex to

"substantively comply with the intent of the standards" as set forth by the Supreme Court. The language means that the Stollo Plan meets the substantive parts of the standards that are specific as to what spaces are to be provided and is intended to meet the intent of the standards in providing for the efficient and effective administration of justice; providing a suitable judicial atmosphere and suitable facilities to properly serve the public; as well as providing for the safety and security of those who use the facility.

Q: What about the second objection?

A: Judge Kobly's second objection is to the outside conveyance of prisoners. She objects that there is no "sallyport" and that violates Standard 8 of the Court Security Standards. Standard Eight requires that prisoners should not be transported into and within a court facility through areas that are not accessible to the public. Although the Stollo Plan does not provide for a sallyport as a completely closed off area into which vehicles conveying prisoners can be brought, the plan provides for prisoner conveyance vehicles to be able to park next to a dedicated entrance where prisoners can exit the vehicle and immediately enter into secured area, not accessible to the public. A physical barrier to separate the police parking from that of the judges and other court personnel is easily fitted into the Stollo Plan without disturbing or adding to the existing historic building.

Q: The Third?

A: Judge Kobly objects that there is no private parking for judges, and that their parking spaces are labeled as "Judges Parking" in violation of Standard 12.

Standard 12 actually addresses procedures to increase the personal security of judges and does not address parking. The commentary to Standard 11 indicates the judges parking spaces could be located as close as possible to an entrance and that they should not be differentiated by judge signage. The parking spaces designated for judges' use in the Stollo Plan are near and adjacent to two entrances into the building, and they are designated as such for the schematic; there is no intention to label them as such. There is no court facility or security standard that requires garage parking for the judges.

Q: Fourth?

A: In her fourth objection, Judge Kobly states that the Stollo Plan calls for the same elevator to be used by the judges and prisoners violates Standard 8. Standard 8 states that prisoners should be transported within the facility through areas not accessible to "the public" and should be held in a secure area. It does not dictate that prisoners cannot use the same elevators as the judges, or even the same hallways. Nevertheless, the Stollo plan does provide for secure areas for prisoners and for their transportation by different secured hallways from the judges as well. The elevator to be installed under the Stollo Plan has two doors, one opening into a secure hallway of the judges and the other into a secure holding area for the prisoners both on the first and courtroom floors. The doors are to be operated by keylocks that would prohibit the judges and prisoners accessing the elevator at the same time.

Q: Fifth?

- A: Judge Kobly's fifth objection is that the prisoner holding area is right outside the judges' offices which violates Standard 13. While the schematic does show the prisoner holding area next to a judge's office, it also indicates that there is a separating wall between them and that the holding is secure from the hallway from which the judge's office is accessed. Standard 13 provides that "judges, juries, court personnel and prisoners should have routes to and from the courtroom separate from the public". It does not require that judges have separate routes from prisoners, probably because judges and prisoners rarely enter the court at the same time. Nevertheless, the Strollo Plan provides for separate corridors for judges and court personnel and prisoners and provides for those corridors to be locked down while prisoners enter the courts.
- Q: Does Judge Kobly claim that your failure to utilize the mezzanine floor as part of the court violated Supreme Court Standards?
- A: Judge Kobly claims that the Strollo Plan violates Standard 13 because it did not consider use of the mezzanine floor. Standard 13 does not call for consideration of all space in a government building in remodeling for court facilities but rather for consideration of "circulation patterns that govern the movement of people to, from and in the courtroom". The use of the mezzanine floor in architect Jaminet's schematic does not include any use of space for the movement of people to, from and in courtrooms. It is for administrative purposes.
- Q: Did Judge Kobly take issue with the size and location of various rooms?
- A: The remainder of Judge Kobly's objections relate to the size and location of various areas and offices, all of which were modeled based on the schematic

drawings of the rooms and areas provided for in the Masters Block project for a new courthouse that the judges had approved, and none for which there is any provision in the Court facility or safety standards as their size or location. Two courtrooms are smaller than the large central courtroom because the Strollo Plan utilized existing walls as much as possible both to save costs and to preserve the integrity of the building. Architect Jaminet's plan also calls for one larger and two smaller courtrooms. The Strollo Plan courtrooms have four conference rooms for attorneys and their non-prisoner clients, accessed from the public hallway, while the Jaminet Plan has none. Other objections question the existence of a copy room (there was a copy room in the Master Block Plan); steno offices with waiting areas and secretaries (these were areas in the Court Administrator's suite which can be used for steno's secretaries or put to any other use the administrator prefers); whether the stairway on the first floor has access to the mezzanine or courtroom floor (it does not). Any objections to the location of the fourth courtroom which was to be used for the magistrate has been reduced and the magistrate can now have one of the courtrooms previously assigned to a judge. There is parking space next to the building that can be made handicap accessible for him. The jury assembly room doubling as a hearing room was also a design that existed in the Masters Block Plan.

Q: Are there others?

A: Judge Kobly's 22nd objection is that the storage provided is as small as a judge's chamber. In the Strollo Plan there is a storage area designated as such, but there is also significant additional non-allocated space within the building that can be

used for storage. In addition the plan calls for cleaning and painting the basement of the building which can also be used for storage.

Q: Were there any other objections?

A: Finally, Judge Kobly objects that there is no separate violations bureau provided for. It is our understanding that the violations bureau is part of the Clerk of Courts office which in the Strollo Plan utilizes the former Post Office configuration that has space designed to accommodate a walk-up clientele at a service counter. The violations bureau in the Strollo Plan has the same proximity to public parking as any other plan which calls for renovation of the annex building has.

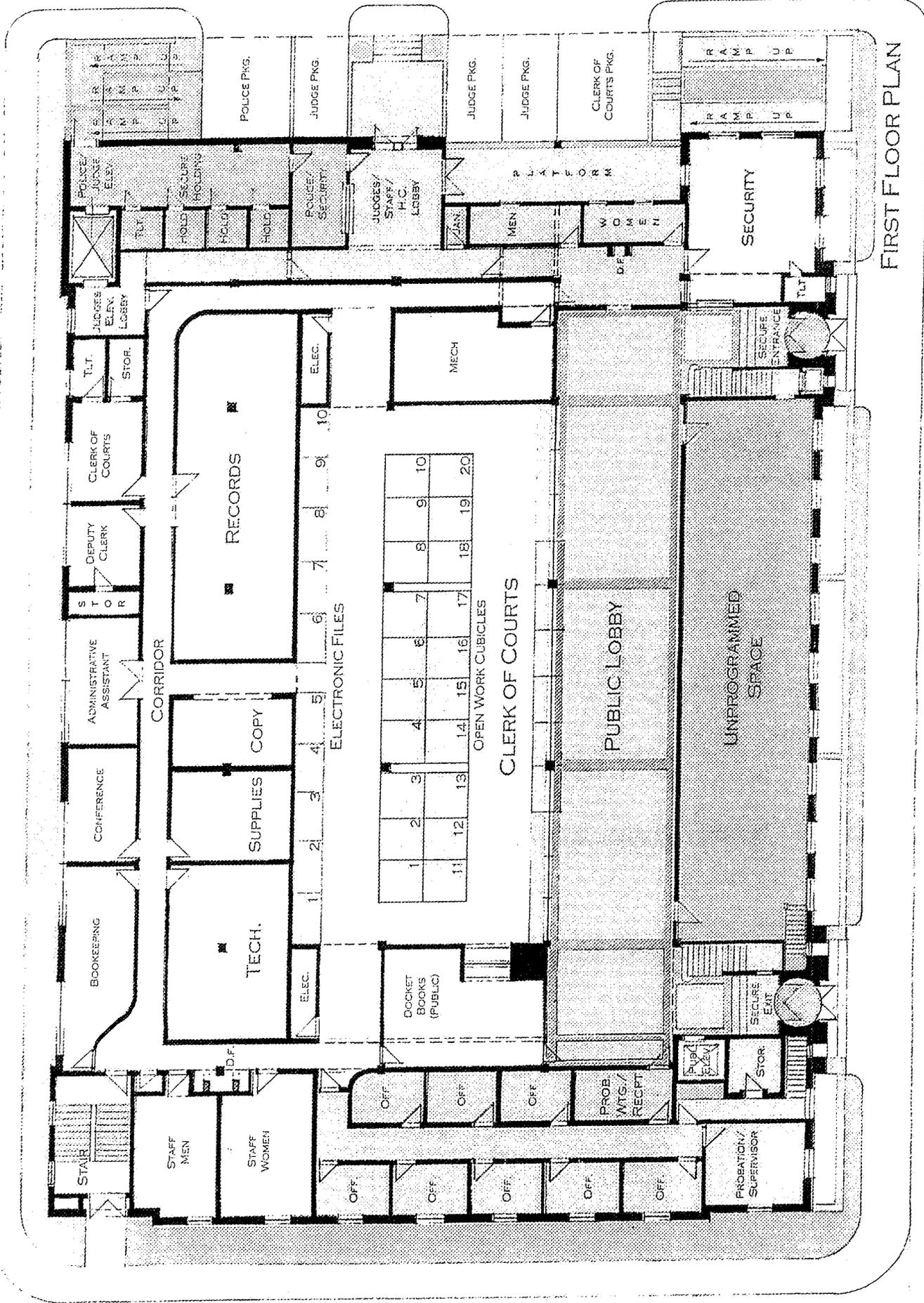
Q: Have you had an opportunity to read the purported flaws in your plan in Judge Kobly's direct testimony?

A: Yes. They are a restatement of the same objections referenced and refuted above. None of them constitute violations of the Ohio Supreme Court Facility or Security Standards.

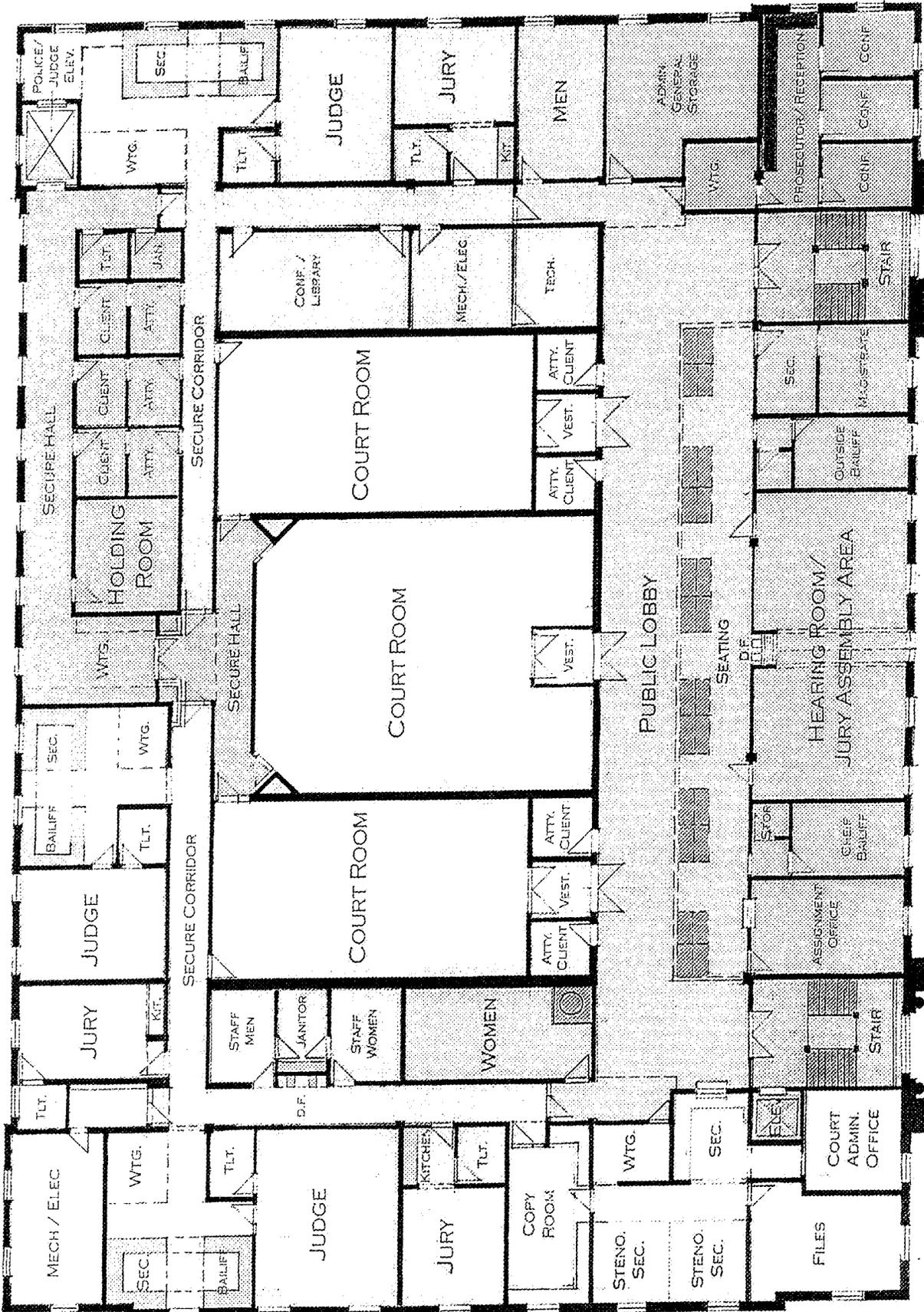
Q: Are you still willing to work with all parties to try to satisfy the wants and needs of all parties?

A: While the schematic I prepared is in full compliance with all standards set forth by the Ohio Supreme Court, I am capable and willing to make changes to my schematic design to more fully satisfy the wants and needs of the Youngstown Municipal Court judges.

Q: Does the plan you prepared provide suitable accommodations for the Youngstown Municipal Court?



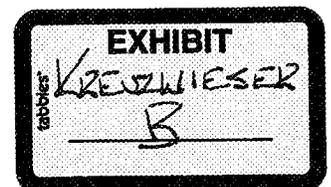
FIRST FLOOR PLAN



SECOND FLOOR PLAN

STROLLO DRAFT AND DRAWINGS

- 1 By definition, not fully compliant with modern court standards. Only intended to "substantively comply with the intent of the standards," whatever that means.
- 2 Safety hazard with outside prisoner conveyance. No sally port. Violation of Std. 8 of the Court Security Standards.
- 3 No private parking for judges. Presumably the same signs as at present designating in bold letters "Judge parking" on the outside of the building. Violation of Std. 12.
- 4 Judges and prisoners using the same elevator. Violation of Std. 8.
- 5 Judge/prisoner elevator opens up onto the judge's office. Violation of std. 8.
- 6 Prisoner holding area is right outside the judge's offices. Violation of Std. 13.
- 7 No consideration of using the mezzanine floor. Violation of Std. 13
- 8 What are the sizes of anything? Why is one courtroom bigger than the others?
- 9 Why does the big courtroom have no conference rooms, like the other 2?
- 10 The chief bailiff's office needs to be adjacent to the service bailiffs office and also to the jury assembly room.
- 11 The service bailiff's office is probably too small to accommodate 3 people.
- 12 The assignment office is probably too small to accommodate 2 windows to deal with the public, and also private work space.
- 13 The waiting area at the entrance to the probation dept. needs to be big enough to seat 12 people.
- 14 The waiting area at the entrance to the probation dept. must adjoin the intake officer's office, with a glass separation window akin to a doctor's office window.
- 15 There's a starway on the top left corner of the first floor. Does it go to the basement? It can't go to the 2d floor because that's where the "mech/elec" room is located. (Plus, the drawing indicates that this is a secure area).
- 16 Steno offices with a waiting area and secretary space??
- 17 Prosecutor's offices for 5 prosecutors is way too small.
- 18 What is a "copy room?"
- 19 The magistrate is handicapped. He is assisted daily by the assignment office and chief bailiff. His office and courtroom must be near these offices.
- 20 The magistrate has no secretary.
- 21 The magistrate must have a secure parking spot that is handicap accessible.
- 22 The one storage area for the entire court is as small as a judge's chamber. Violation of Appendix D (I).



23

Jury assembly room doubles as a hearing room? Comfortable chairs, tables, reading materials, telephones, televisions, maybe vending machines, in a courtroom?

Respondents Direct 21

24. NO violating bureau anywhere

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SWORN DIRECT TESTIMONY OF
GREGG STROLLO

Q: Would you state your full name please?

A: Gregg Strollo.

Q: What is your profession?

A: I am an architect and principal in the architectural firm known as Strollo Architects, 20 West Federal Street, Suite 604, Youngstown, Ohio, 44503.

Q: What is your role in the firm?

A: My primary role in the firm is as a Project Administrator. In that capacity, I have worked on over one thousand projects since 1979 worth over One Billion Dollars.

My areas of experience are in staffing, program analysis, planning, architectural design, handicapped access and ADA compliance, with a significant concentration in public works including corrections and justice.

Q: Has your firm previously designed court facilities?

A: My firm designed the Wayne County Municipal Court and prepared the schematic design for the Seventh District Court of Appeals, as well as participating in numerous other projects relating to county court facilities and/or the criminal justice system.

Q: Were you at some point asked to look into a potential site for a municipal court facility in Youngstown?

A: Yes. In 2006, the City of Youngstown, Ohio, requested that I review preliminary plans for a new Youngstown Municipal Court building at a site known as the Master's Block prepared by Olsavsky-Jaminet Architects in order to determine whether it was possible to scale back the cost of said project.

Q: Did you have any further involvement?

A: Yes. In 2008, the City of Youngstown requested that Strollo Architects analyze the suitability of the building known as the City Hall Annex as the location of a renovated court facility that would satisfy the standards of the Ohio Supreme Court in order that it might be proposed as an alternative site.

Q: How did you go about doing that?

A: Strollo Architects analyzed the suitability of the City Hall Annex by taking the preliminary plans that had been prepared for the Master's Block project and seeing if a similar program could be carried out in the City Hall Annex.

Q: What did you determine?

A: Strollo Architects determined that the City Hall Annex could easily accommodate the same program of spaces. This determination is set forth in the City Hall Annex Building Analysis. It is attached as Exhibit A.

In addition, my colleague and partner Kirk Kreuzwieser and I tested a schematic plan for the Youngstown Municipal Court at that location. It is attached as Exhibit B.

Q: Are you able to form an opinion as to whether the schematic plan prepared by your firm satisfies all standards issued by the Ohio Supreme Court?

A: It is my opinion that the plan prepared by Strollo Architects for renovated court facilities in the City Hall Annex will provide the Youngstown Municipal Court with suitable accommodations that comply with the standards set forth by the Ohio Supreme Court.

Q: Were the analysis and the plan ever made available to the municipal judges?

A: I believe the City Hall Annex Building Analysis and schematic plan were made available to the Youngstown Municipal Court judges on or about October 2008.

Q: Did you ever meet with Architect Raymond Jaminet to discuss your respective schematics?

A: In April of 2009, Architect Raymond Jaminet and I met at the request of the then-President of Youngstown State University, Dr. David Sweet, to examine the differences between our respective schematic plans in order to facilitate agreed modifications that would result in a resolution. At that time, Architect Jaminet and I agreed that the plans were addressing a similar program except for

approximately five significant differences.

Q: Did you and Mr. Jaminet sign off on a document reflecting some level of agreement?

A: Yes. If I remember correctly, we both signed a document setting forth the similarities and differences between our reports, acknowledging that none of the differences were so drastic that common ground could not be reached, and recommending work sessions be conducted to build consensus.

A copy of this document is attached as Exhibit C.

Q: What was the first of the referenced differences?

A: The Strollo schematic calls for renovations/additions to the first and third floor of the City Hall Annex, while the Jaminet schematic calls for renovations/additions to the majority of the entire four-story building and the 75,000 square feet it encompasses.

Q: The second?

A: The Strollo schematic plan would provide secure adjacent outdoor parking for the municipal judges and clerk of courts, while the Jaminet schematic would require that an enclosed attached garage be constructed for the judges and affixed somehow to the historic building in which the municipal court is to be housed.

Q: What is the third?

A: The Strollo schematic calls for prisoners to be escorted into the building through an entrance located adjacent to a secured parking area, while the Jaminet schematic would require that a new opening be cut into the south face of the stone building in order to create an overhead door/sally port, and the associated

improvements necessary to accommodate vehicles within the building . . . ramps, trench drains, exhausts, etc.

Q: Fourth?

A: The Strollo schematic calls for the municipal Court to utilize two elevators, while the Jaminet schematic calls for the use of four elevators which requires that two new elevator shafts be cut into the historic stone building.

Q: A fifth difference?

A: The Strollo schematic in general uses the existing walls to a greater extent, while the Jaminet schematic would require that a somewhat greater percentage of the walls and spaces be renovated.

Q: Do you still believe that these differences could be resolved by agreement if the municipal judges and Mr. Jaminet would be willing to work with the City?

A: Yes.

Q: Was any attempt made to resolve the differences by negotiations and work sessions as recommended by Dr. Sweet?

A: After Dr. Sweet's recommendation, I believe one meeting was held between Judge Kobly and counsel and former Mayor Williams and the former Law Director. My understanding is that the municipal judges' attorney then sent the City a letter stating the municipal judges were unwilling to negotiate the differences between the plans, but would meet only for the purpose of discussing how the City was going to finance Mr. Jaminet's plan. A copy of the letter is attached as Exhibit D.

Q: Are you still willing to meet?

A: Yes. I am and have always been willing to assist in resolving differences. While I am confident the plan Strollo Architects prepared is in compliance with standards set forth by the Ohio Supreme Court, the firm is capable and willing to make changes to more fully satisfy the wants and needs of the Youngstown Municipal Court judges.

Q: What is your estimate of the cost of carrying out the Strollo Schematic Plan?

A: My schematic design estimate for the construction and design of the Strollo renovation plan was Six Million Dollars (\$6,000,000.00). The final costs will ultimately be determined by market conditions at the time of building project.

Q: What is your opinion of the probable cost of Mr. Jaminet's Schematic?

A: Based on the schematic design of Architect Jaminet, I believe that an appropriate opinion of probable cost would have exceeded Eight Million Dollars (\$8,000,000.00) to renovate the building in that fashion assuming interior and exterior finishes/furnishings are treated in like kind, including mechanically and electrically. Given the fact that this schematic deals with approximately ten thousand square feet more than the Strollo schematic, and has the differences noted above, Eight Million Dollars (\$8,000,000.00) will likely be at the low end of costs to carry it out.

Q: Is your testimony based on both personal knowledge and your expertise and experience in the field of architecture?

A: Yes, it is.

FURTHER, AFFIANT SAYETH NAUGHT.

G. Strollo

Gregg Strollo

STATE OF OHIO)
COUNTY OF MAHONING) SS:

Subscribed and sworn to before me this 16th day of July, 2013.

NOTARY PUBLIC

KEBERN MCKERSON

ATTORNEY AT LAW

MY COMMISSION DOES
NOT EXPIRE

STROLLO
ARCHITECTS

YOUNGSTOWN OFFICE

20 West Federal Street
Suite 604
Youngstown, Ohio 44503
p 330.743.1177
f 330.743.2834

**CITY HALL ANNEX
BUILDING ANALYSIS**

AS RELATED TO THE

**YOUNGSTOWN MUNICIPAL
COURTS
AND
CLERK OF COURTS**

ARCHITECTURE

ENGINEERING

INTERIOR DESIGN

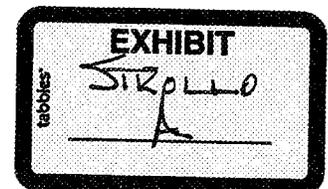
PLANNING

YOUNGSTOWN, OH
ORLANDO, FL
MEADVILLE, PA
COLUMBIANA, OH
RICHMOND, VA
WASHINGTON D.C.

PERRY DOUGLASS
RODNEY LAMBERSON
TOM MADEJ
TERRY MCCOY
GREGG STROLLO
J. PAT STROLLO
LAWRENCE STROLLO
JOSEPH A. YANK

OCTOBER 23, 2008

WWW.STROLLOARCHITECTS.COM



CITY HALL ANNEX BUILDING ANALYSIS relative to THE YOUNGSTOWN MUNICIPAL COURTS/CLERK OF COURTS

SCOPE OF WORK

In 2006, Strollo Architects was asked by the City of Youngstown to provide oversight into the planning process for the Municipal Courts. The project, which has been underway for several administrations was, and is, an arrangement between The Courts and Olsavsky Jaminet Architects of Youngstown. Our directive was, and is, to provide a second opinion, suggestions and review of the effort, which to date has not yet developed an alternative that was deemed financially feasible to the City.

Our initial role took the form of review and analysis of plans developed to that date. In general, our observations, strategies and suggestions were primarily a recommendation of space reduction and consolidation, highlighted by a range of sizes in the courts, rather than equally sized and equipped courtrooms. On or about February 16, 2007, Mr. Jaminet wrote and offered to discuss with the Courts/Clerk the prospect of incorporating some of these recommendations into the next revision of the plan. Based upon our review of that revised version, the resulting solution (placed on the former Masters Block) was even larger than prior versions. The explanation was that the suggestions were not acceptable to the courts, and that the Masters Block solution was the direction the courts would pursue, perhaps in conjunction with litigation against the city, for failing in it's charge to provide the Municipal Courts with appropriate space.

At this time, we were also informed orally that the City Hall Annex was examined by The City Engineering Department and the architect, and discussed as an option with the Courts. It was reported to us that the Annex was rejected as being unacceptable. We asked at that time for any written notification of the reasoning behind the rejection. To date, we are unaware of any written rationale behind the opinion that the building was unacceptable. Again, on or around this time, we were asked to re-analyze the building for space capacity and suitability for the courts. The following information is the result of that effort.

* Please note that following review of the draft of this document, a letter dated June 6, 2006 to the courts was shared with us. That letter suggests that the Annex would be acceptable, provided a more detailed analysis was able to confirm that initial 2006 opinion. This document confirms it's suitability.

SPACE CAPACITY

The City Hall Annex (Formerly Youngstown's Main Post Office and Federal Bankruptcy Court) is a Stone Building with a footprint of approximately 24,000 square feet.

There is a Basement, which currently serves as a storage facility for city record and unused equipment/furnishings. There is a small sub-basement, which houses the decommissioned mechanical system that formerly heated the building. The total are for basement and sub-basement is also approximately 24,000 square feet.

The first floor, which is now largely occupied by a tenant, is also 24,000 square feet.

The second floor is significantly smaller, currently housing miscellaneous city offices. Its size is approximately 9,000 square feet.

The third floor, which formerly housed the Federal Bankruptcy Court, is approximately 22,000 square feet.

There is a small mechanical penthouse, housing elevator equipment.

THE COMBINED GROSS FLOOR AREA OF THE BUILDING IS IN EXCESS OF 75,000 SQUARE FEET. As a frame of reference, the current square footage assigned to the Municipal Court and the Clerk of Court is approximately 10,000 square feet. Another reference is the gross square footage of the programmed solution at the Masters Block, which we believe to be approximately 36,000.

APPROACH

For the purpose of this analysis, only the ground and third floor are being discussed, with the fundamental premise that a suitable plan solution can be developed within the total square footage available on those floors.

Using the **COURT SECURITY STANDARDS OF THE OHIO SUPREME COURT, DATED OCTOBER 17, 1994** and the **COURT FACILITY STANDARDS, UNDATED, NOTED AS APPENDIX D**, this office took the assigned program square footages developed by the Municipal Courts and Mr. Jaminet and "tested" a fit on the ground and third floor of the City Hall Annex.

Our logic was to separate the Clerk and Probation functions from the court, placing them on the Ground/Street Level. In it's original capacity as a Post Office, the space was

designed to accommodate a walk-up clientele at a service counter. The large corridor that served as a queuing area still exists, and would serve the same function for the Clerk of Courts. The original service areas "behind" the service counter can comfortably accommodate the clerks staffing demands, and there is ample separated space to accommodate Probation and support services.

The Courtrooms and Judges Chambers have been "tested" on the third floor, the former home of the Federal Bankruptcy Court. By utilizing the former courtroom, and roofing over the adjacent "light courts", you are able to have three large courtrooms, similar in size. Using a reconfigured floor plan, a secure corridor can connect the vertical circulation core, and allow separated access to staff (i.e. judges) and escorted prisoners. There is also clear separation between public and staff.

We enclose as a part of this report, our schematic floor plans illustrating all assigned spaces on the abovementioned floors, to accommodate the Courts, Clerk of Courts, and associated support by the prosecutor and probation departments. Again, by way of reference, we believe that all of the assigned spaces accommodated in the Masters Block solution, have been similarly accommodated within these schematic plans.

PLEASE NOTE THE COURTS HAVE NOT REVIEWED THESE SCHEMATIC PLANS. They are not intended as a design solution, but clearly illustrate that there is ample capacity on these floors to substantively comply with the intent of the standards as set forth by the Supreme Court of Ohio.

STATEMENT OF PROBABLE COSTS

To assess/establish a rational budget to improve the Annex, we have conducted a series of visual inspections. Included were registered Engineering design professionals, contractors, architects and building officials.

It has been our approach to determine a cost to improve the entire building, with the clear intent that any solution must achieve a level of quality the addresses the "Dignity of the Courts". In point of fact, this structure, by way of its original design and material palate, has that character in its DNA. The Palladian Windows, Grand Public Spaces, Brass, Terrazzo, Ceiling heights and Exterior Stone, are precisely the quality features, which distinguish this structure and make it a logical fit for the Municipal Courts.

With that in mind, we would budget for the following:

Masonry / Parapet Stabilization	\$ 300,000
Window Replacement/Repair	275,000
Fire Alarm/Emergency Lighting And all Electrical/Data	900,000
Gas Fired rooftop units (9) And all Mechanical	775,000
Roof Tear-Off and Replacement	250,000
Sprinkler System	200,000
Security System	200,000
Basement/Mezzanine (clean/paint)	150,000
General Conditions	245,000
General Contracting, to include:	3,640,000
Metal Studs/Drywall	
Carpentry	
Acoustic Tile	
Doors/Frames	
Flooring	
Painting	
Concrete Repair/Ramps	
Elevator/Stairs	
Canopy Repair	
Concrete at new floor	
Necessary Demolition	
Miscellaneous Repairs	
TOTAL IMPROVEMENTS	\$5,434,000

The above referenced costs are specific schematic layout as shown in the accompanying drawings. Not included in these figures are permits, A/E fees and contractors overhead and profit. Common professional service percentages for projects of this scale and complexity range from 8% - 12%, based upon scope of services required. Contractor's overhead and profit commonly range from 5% - 7%, and are subject to bidding climate. We would recommend a 10% for a renovation of this nature, or \$534,000. Also please note that an asbestos analysis has been completed for this building. It is unclear whether or not this has been acted upon. It should be updated, and status confirmed.

ADDITIONAL OBSERVATIONS

The renovation and use of this building would represent a "highest and best" use of this neo-classical structure.

The project would be an example of responsible stewardship of both property, and public funds.

Although parking is not addressed in detail, the condition of and access to parking (by radius) at the Annex appear to be an improvement to the situation as currently exists at City Hall.

The time required to renovate, versus build new, should favor renovation.

PROPOSED MUNICIPAL COURT RENOVATION

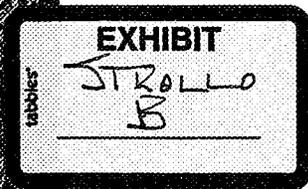
YOUNGSTOWN, OHIO
OCT. 23, 2008

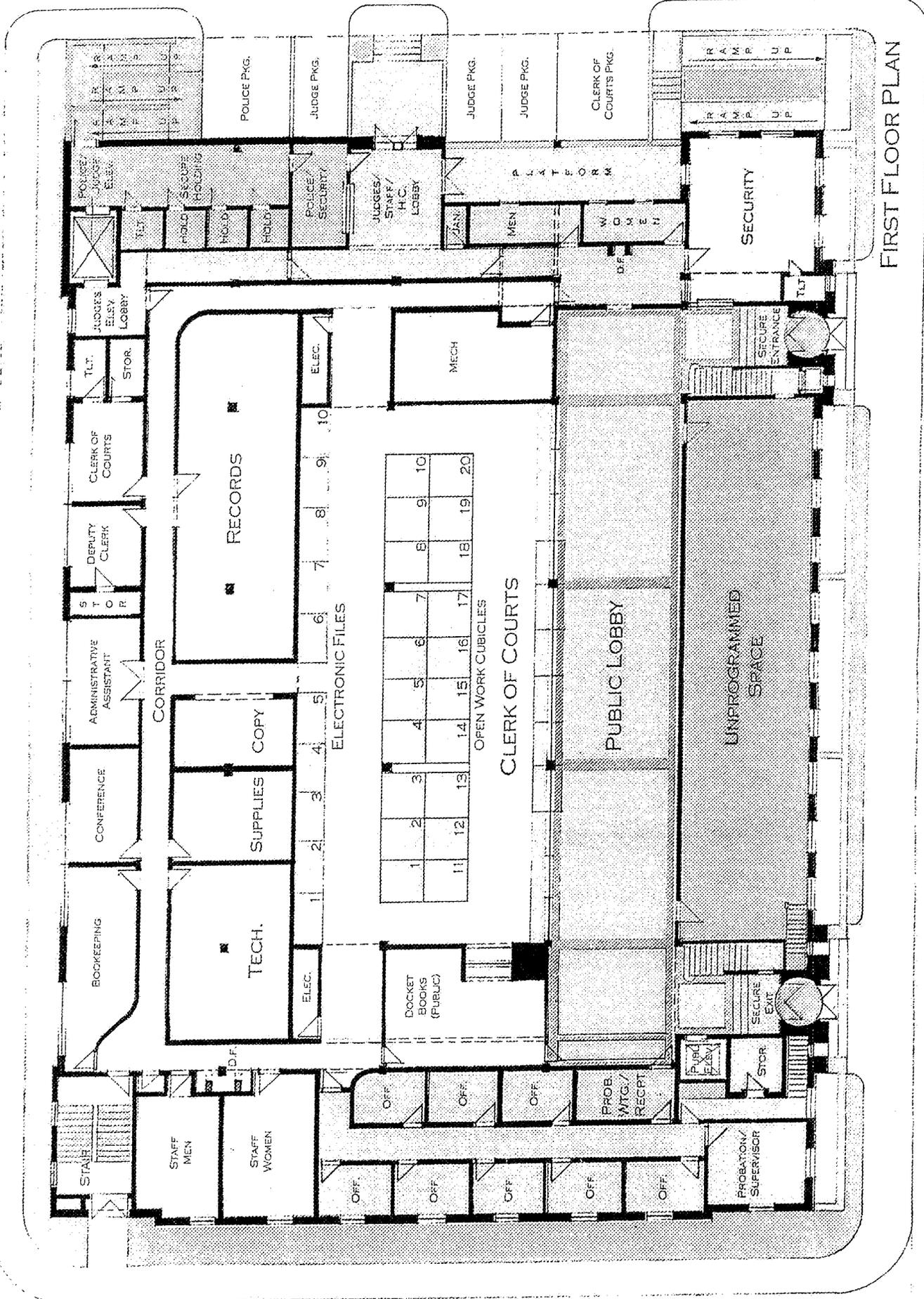
COLOR CODE FOR ATTACHED PLANS

- JUDGE / STAFF AREAS
- SECONDARY COURT ROOMS /
UNPROGRAMMED
- SECURE / DEFENDANT QUARTERS
- PUBLIC
- COURT ADMIN. / SECURITY
- COURTROOMS / CLERK OF
COURTS AREA
- PROSECUTOR'S AREA

Respondents Direct 36
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SITE LOCATION





FIRST FLOOR PLAN

Comparison of Reports
YOUNGSTOWN CITY HALL ANNEX BUILDING
Youngstown Municipal Court

OVERVIEW

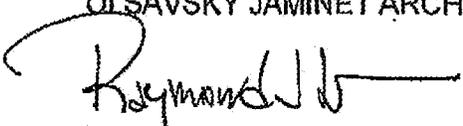
SIMILARITIES	DIFFERENCES
<ul style="list-style-type: none"> ▪ One large and two smaller courtrooms ▪ Top floor court space ▪ First floor clerk space ▪ Programmed room sizes nearly identical ▪ Both schemes upgrade all mechanical and electrical systems ▪ Both schemes replace roof ▪ Both replace windows ▪ Both propose exterior restoration consistent with historic preservation guidelines 	<ul style="list-style-type: none"> ▪ Use all four floors compared to: use only two floors ▪ Use of four elevators requiring no interaction between staff, public, and police/defendants compared to: use only two elevators relying on hardware and security personnel for shared staff and defendant movement ▪ One scheme adds private secure garage for judges ▪ One scheme cuts in new lower level opening to basement for sally port ▪ One scheme fills in light 'courtyards' on top floor

The outcome of the conference between Raymond Jaminet, AIA of Olsavsky Jaminet Architects, Inc. and Gregg Strollo, AIA of Strollo Architects was clear. There is capacity to accommodate the required space needs of the Youngstown Municipal Courts comfortably within the City Hall Annex. At the schematic design stage, a budget range of approximately \$6.5 to \$8 million appears to be adequate to fund design and construction.

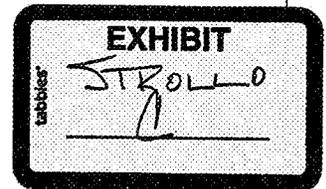
Though it is not our charge to recommend, we agreed that a logical next step would be to build consensus through work sessions involving the Courts, City Administration and the Clerk of Courts. These work sessions should be structured to resolve the few, yet sensitive, differences of opinion that exist among the various interests. None of these differences appear to be so drastic that common ground could not be achieved.

OLSAVSKY JAMINET ARCHITECTS, INC.

STROLLO ARCHITECTS


 Raymond Jaminet, AIA
 President


 Gregg Strollo, AIA
 President



April 3, 2009

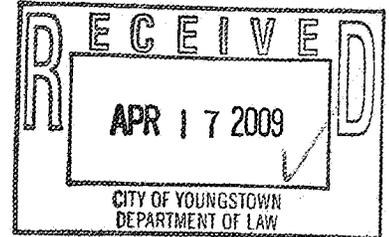
JOHN B. JUHASZ
ATTORNEY AT LAW

7081 WEST BOULEVARD, SUITE 4
YOUNGSTOWN, OHIO 44512-4362

Respondents' Direct 40
TELEPHONE: 330.758.7700
FACSIMILE: 330.758.7757

Thursday, April 16, 2009

Ms. Iris Torres-Gugliucello, Esq.
Director of Law, City of Youngstown
26 Phelps Street, 4th Floor
Youngstown, Ohio 44503



Re: Suitable Facilities for Youngstown Municipal Court

Dear Iris:

I write on behalf of the judges to respond to the City's proposal for renovation of the City Annex building, made during our meeting of March 25, 2009. While it appears that the City Administration and the Municipal Judges share the common ground that both view the Annex as a place where the Court reasonably can be located, the agreement ends there.

We have carefully considered the drawing dated October, 2008, prepared by Mr. Strollo, with those provided by the architect that the City hired for this project, Olsavsky-Jaminet Architects. Having done so, let me say that there exists a myriad of reasons why the October 2008 drawings submitted by Mr. Strollo are inadequate and fail to meet the reasonable and necessary requirements for the Court's facility. Moreover, in each circumstance, the schematic prepared by the City's project architect, Mr. Jaminet, accounts for those needs.

First, when it comes to court facility design, experience is a great teacher. Modern court facilities have many features that in years past were not even contemplated. Account must now be taken of things that no one contemplated years ago such as hostage situations; escaped prisoners; violence in the courtroom; bomb threats; fire; high risk trials; and the continued operation of a court at an alternative site should the present site be rendered inoperable due to a natural disaster, an act of terrorism, or a security breach within the building. Additionally, courts and those who design court facilities have learned much about the flow of human traffic into, out of, and through public court facilities. The drawing prepared by Mr. Jaminet takes into account what experience has taught. The Jaminet design houses on the first floor the offices which receive the bulk of the public traffic: the Clerk of Court and the Probation Department.



The Jaminet design makes use of the mezzanine area by housing court administrative offices, providing an employee break/lunch area and employee restrooms, and providing conference rooms for use by the city prosecutor's office. The Strollo design leaves that area untouched. Above that area, the second floor is reserved for the courtrooms, Judges' chambers, magistrates, and jury areas. Thus, there is a logical "flow" which is lacking in the Strollo design, in no small part because that design fails to make use of the mezzanine area.

Aside from this general premise of court facility design, the other key area in modern court design is security. As you know, years ago, courtroom security was not the issue that it is today. As you also know, courts are legally obliged to develop and to follow security plans. See, OHIO SUP. R. 9 and Appendix C thereto. Prisoners must be transported into, and also within, a court facility through areas that are not accessible to the public, and then held in a secure holding area equipped with video monitoring. The Jaminet plan takes these matters into account by providing, first, secure police, sallyport, and holding cells in the basement area; and, second, separate elevator access for three general classes: (1) the public; (2) judges and court staff; and (3) prisoners and police personnel. The plan also provides for separate public elevators to the courtroom facilities; a separate elevator for the judges and court staff; and separate secure elevators that will transport prisoners directly from the basement area to the second floor courtroom area. Equally important, under the Jaminet design, police can hold prisoners in a secure area separate and apart from the judges' chambers and separate and apart from the jury deliberation rooms.

The Strollo plan is entirely unacceptable because it fails to provide for the separate elevators described above, and places the holding facilities within the same area as the judges' office and jury rooms! The Strollo plan also fails to provide for separate parking, elevators, and corridors to separate the judges, court staff, and jurors from the prisoners, and thereby to minimize potential interaction and promote security. The lack of a secure sallyport, the lack of secure indoor parking for judges, and the fact that judges and staff would use the same elevator as prisoners are all entirely unacceptable.

I have been saying for years, only half in jest, that attending court in the present Youngstown Municipal Court facilities is like going to a court being held in someone's garage. With what appears nothing more than a pure interest in handling this project as cheaply as can be done, the City now proposes to, in effect, move the Court from a garage to a warehouse.

Moreover, because the Strollo plan fails to allow for such things as architect fees, permit costs, furnishings, and technology—matters which the Jaminet plan does take into account—the cost differences between the two is not as great as appears at first blush; and, of course, the design in the Jaminet plan is superior. The Strollo estimate is a *construction* cost, while the Jaminet estimate is a *project* cost.

The City wishes to avoid the cost of new construction and, therefore, proposes renovation of the City Annex. The judges have indicated agreement, rather than pedantically insisting upon a newly constructed facility. But as with everything in life, there are trade-offs to be made. Avoiding the significantly higher cost of new construction as opposed to renovation means having to deal with a building that is on the historic registry; that may have hazardous materials to be abated, and that may result in a use of space that is greater than what might be done in new construction. The existing courtroom and wide hallways are but two examples of that. The Strollo design is utterly unacceptable.

That there is such a plan is itself incredible. In what has to be one of the most unusual moves ever seen in construction, rather than consulting with the architect whom it hired for this project, the City engaged a second architect. There is no sound basis for this. Having reviewed the City's October drawing, replete with its disclaimer that the Judge's needs are not taken into account, we view this move as simply wasting time and money. And so, while we can shuttle plans and requirements back and forth until our *grandchildren* are still using the present court facility, what is still sorely lacking is any financial commitment from the City. The City is no closer today than it was 12 years ago to making the capital commitment necessary for there to be a new court facility, be it a new structure or a renovated building.

Some of the positions taken at the meeting of March 25 appear to be nothing more than feeble efforts to distract attention from the fact that the City has set aside no capital improvement dollars for this project since the Chief Justice declared a need for a new facility more than ten (10) years ago. The suggestion that the financial impact on the City would be the same whether it had to pay for the facility all at once or finance the project is as incorrect as is a claim that the burden of purchasing a home with a mortgage and paying cash are the same. Likewise, the suggestion that the City cannot borrow money for the project because it is up against its inside millage limitation has nothing to do with a new court facility and is another form of stonewalling. The 10 mill limitation has nothing to do with the capital improvement set-aside that was promised to the voters when the income tax was increased.

A new court facility will not force the City into bankruptcy. Improvident budgeting decisions over past years may cause the City some financial discomfort, but to claim that an insistence upon a new court facility years after the need for one was declared is a form of apologetics that will not withstand scrutiny. The City passed an income tax some years ago, promising the citizens of Youngstown that a certain percentage of the tax proceeds would be devoted to safety forces, and that a certain percentage of the proceeds would be devoted to capital improvements. There is, we expect, ample money from the capital proceeds percentage to accommodate the debt service for this project. That the City is using for general operations revenues it promised the taxpayers would be devoted to capital improvements is a problem that the Administration and Council will have to address. The Court is not the maker of broken promises, but it certainly is the victim of broken promises. There is no truth to the claim that an insistence upon a new court facility, *years* after the present facility was declared inadequate, will force the City into bankruptcy. Other spending decisions, past and present, may cause the City to trim certain operations, but those decisions were made with full knowledge of the need for a new facility.

For all of these reasons, there seems little point in engendering further expense and delay trying to hash out the differences between the Jaminet plan and the Strollo plan. They are irreconcilable. Mr. Jaminet's plan embodies a court facility that is reasonable and necessary and that complies with court security and jury management standards.

Therefore, if we truly want to avoid litigation, rather than simply delaying the inevitable, what we should be doing is scheduling a meeting—not about what should be in the facility, and not about what it would cost. The Court and the City's project architect, Mr. Jaminet, have made those determinations. The meeting instead should focus on how best to finance the facility and make it happen while trying to avoid or minimize the budget havoc that litigation can create. If the City wants to have such a meeting, we must schedule it soon. These judges have justifiably grown weary of the City's stonewalling and delay.

Please let me emphasize that as I view this issue, personalities are *not* involved. I am not interested in hearing excuses about what Mayor Williams has done or hasn't done, as opposed to previous mayors. Lest we forget John Adams' words, this is a government of laws, and not of men. It matters not whether Jay Williams, George McKelvey, or Jack Hunter for that matter was the mayor, just as it does not matter that Elizabeth Kobly, Robert Douglas, and Robert Milich are the current Judges. It is the obligation of the legislative and executive branches to furnish proper facilities for the operation of the third branch of government, the judicial branch.

The law in this State is unequivocally that courts of general jurisdiction, whether named in the Constitution or established pursuant to the Constitution, possess all powers necessary to secure and safeguard the free and untrammelled exercise of their judicial functions. The courts cannot be directed, controlled, or impeded in that regard by the other branches of the government. The courts themselves pass upon the suitability and sufficiency of quarters and facilities for their occupation and use, and may exercise control over the public buildings to the extent required to assure the provision, equipment, and maintenance of rooms and facilities essential for the proper and efficient operation of the courts. A legislative body has a duty to provide for the needs of the courts, and those needs may not be limited by legislative action. The public interest is served when courts co-operate with executive and legislative bodies in the complicated budgetary processes of government. This the Youngstown Municipal Court—without regard to who the judges were—has attempted for years, but to no avail. Voluntary co-operation should not be mistaken for a surrender or diminution of the plenary power of the courts to administer justice, and I assure you that our efforts to discuss this matter should in no way be construed as surrender. The City has failed, and it continues to fail, to provide adequate court facilities for the Youngstown Municipal Court. If we want to sit down and find a way to finance a new court facility that will not wreak the havoc upon the City's budget that litigation might, we would like very much to discuss that. Failing to hear from the City in the very near future about that, we will pursue the course of action we deem necessary.

Sincerely,



JOHN B. JUHASZ

cc: Hon. Elizabeth A. Kobly
Hon. Robert A Douglas, Jr.
Hon. Robert P. Milich

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL.)	
ELIZABETH A. KOBLY, ROBERT A.)	
DOUGLAS, JR. AND ROBERT P.)	
MILICH, JUDGES, YOUNGSTOWN)	CASE No. 2009-0866
MUNICIPAL COURT)	
)	
RELATORS)	
)	
V.)	
)	
YOUNGSTOWN CITY COUNCIL, ET AL.)	
)	
RESPONDENTS)	

SWORN DIRECT TESTIMONY OF
DAVID EICHENTHAL

JOHN B. JUHASZ [#0023777]
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COUNSEL FOR RESPONDENTS

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL.)	
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MUNICIPAL COURT)	
)	
RELATORS)	
)	
V.)	
)	
YOUNGSTOWN CITY COUNCIL, ET AL.)	
)	
RESPONDENTS)	

SWORN DIRECT TESTIMONY OF
DAVID EICHENTHAL

Q: Would you state your name please?

A: David Eichenthal.

Q: What is your profession?

A: I am a Director in the Public Financial Management (PFM) Group's Management and Budget Consulting practice and head the firm's Chattanooga, Tennessee office.

Q: What is the PFM Group?

A: The PFM Group of companies is a national leader in providing financial advice as well as investment advisory, management and consulting services to local, state

and regional government and non-profit clients. It helps its clients meet their financial challenges with a broad array of products backed by unquestioned professionalism and outstanding service.

PFM is one of the nation's leading municipal finance advisors. The PFM Group employs more than 445 professionals from offices located in every region of the country. It provides clients with independent advisory services free of conflicts in their dealings with capital markets. Public Financial Management, Inc. is consistently among the top-ranked independent financial advisory firms in the nation in almost every major category according to Thompson-Reuters. PFM Asset Management LLC (PFMAM), also part of the PFM Group of companies, is registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940. PFMAM had \$39.8 billion in assets under management and provided investment consulting services for an additional \$24.0 billion in securities as of September 30, 2011. PFMAM's clients are state and local governments, non-profit corporations, pension funds, and similar institutional investors. The PFM Group of companies also provides best practice strategic consulting and pension advisory consulting services.

Q: What is your role at PFM?

A: I participate in budgeting, operational improvement, and fiscal recovery engagements for local government clients across the country including Cuyahoga County, Ohio, New Orleans, Louisiana, Cleveland, Ohio and Shelby County, Tennessee. I play an important part in the firm's Management and Budget consulting practice, working with state and local governments to improve their

management and budget performance. I also have a particular focus on working with local governments to improve the performance and efficiency of their criminal justice systems. For example, last year, I led the first-ever comprehensive assessment of the cost and operations of the New Orleans criminal justice system as part of an engagement commissioned by the Mayor and Chief Administrative Officer of that city..

Q: Have you had experience analyzing government agencies outside of PFM?

A: I am the former President and CEO of the Ochs Center in Chattanooga, Tennessee, a non-profit policy research institute that works with local governments, foundations and non-profit organizations in the Southeast and across the nation. While leading the Ochs Center, I was also a Nonresident Senior Fellow with the Brookings Institution Metropolitan Policy Program.

Prior to joining the Ochs Center in 2005, I served in a series of senior positions in local governments in both Chattanooga and New York. As Finance Officer and Director of Performance Review for the City of Chattanooga, I oversaw the development of the city's budget, implementation of one of the nation's first 311 systems and creation of a citywide performance management initiative. In New York, I was Chief of Staff to the New York City Public Advocate, the city's second highest elected official. I also served as Chief of Policy, Assistant Advocate for Research and Investigation, and represented the Public Advocate on the Audit Committee of the City of New York. I also held the positions of Assistant Inspector General for Policy in the New York City School Construction Authority and Assistant Deputy Comptroller for Policy/Counsel for Special

Projects and Director of the Board of Estimate Staff in the Office of Comptroller for the City of New York.

Throughout my career, I have worked extensively on issues related to the criminal justice system. In addition to my work with PFM, I am also a Senior Research Fellow with the New York University School of Law Center for Research in Crime and Justice. I received my J.D. at the New York University School of Law and a B.A. degree from the University of Chicago in Public Policy Studies, cum laude. I was a Harry S. Truman Scholar, New York State, and have been admitted to the practice of law in the states of Tennessee and New York (currently inactive).

Q: Are you familiar with the City of Youngstown?

A: Yes.

Q: How did you become familiar with it?

A: In 2011, I participated as a lead consultant to a team of federal officials that was conducting an assessment of the city as part of making a determination regarding the city's possible participation in the White House Strong Cities, Strong Communities initiative.

Q: What is Strong Cities, Strong Communities?

A: The President established the White House Council on Strong Cities, Strong Communities (SC2) to provide an innovative new model of federal-local collaboration dedicated to assisting long-time economically-challenged communities get back on their feet and create jobs by helping them better leverage federal resources and form key partnerships to implement economic

visions. It is an inter-agency initiative that aims to strengthen neighborhoods, towns, cities and regions across the country by fostering the capacity of local governments to develop and execute their economic vision and strategies. Strong Cities, Strong Communities provides the insight, knowledge and technical assistance necessary for communities to address their long-standing problems. Youngstown is one of seven cities that were designated as SC2 pilots. As a result of this designation, Youngstown has received support through a federal community solutions team and through a mid-career SC2 Fellow.

Q: How did you go about pursuing these ends?

A: Following the determination by the federal government to include the City of Youngstown in the SC2 program, the City engaged PFM to conduct an operational efficiency study of city government. The initial federal assessment team believed that an operational efficiency study was a critical part to the overall effort to support economic revitalization in Youngstown.

Our engagement's goals were (a) provide an analysis of the City's current fiscal condition; (b) to project future fiscal trends; and (c) to identify steps that the City could take to ensure fiscal stability in a manner consistent with and supportive of efforts to promote economic growth.

My team spent in excess of six months studying every aspect of Youngstown City government with the full support of the City administration. We then produced a report known as "The Youngstown Plan" that details a series of steps necessary to achieve budget balance and future growth..

Q: What is your impression of Youngstown's condition?

A: Youngstown is a city in severe economic and fiscal distress. Between 1960 and 2010, Youngstown's population declined by nearly sixty percent or approximately 100,000 residents. More recent population estimates by the Census Bureau suggest continued population decline since 2010. Population loss has been accompanied by both long-term and more recent decline in employment. As a result, unemployment rates for Youngstown residents are generally higher than unemployment rates for Mahoning County, the State of Ohio or the nation. Youngstown has a concentration of very low income residents and high poverty rates. Nearly one-in-three residents are living in poverty and, in 2010, per capita income in Youngstown was just \$14,889 – compared to \$26,942 nationally. The impact on Youngstown neighborhoods is evidenced by the high number of vacant properties and structures in the community. Vacant structures impose significant burdens on city services.

Q: How does it function on a day to day basis?

A: Youngstown's current path is not fiscally sustainable. Over the years, Youngstown has developed a structural deficit where growth in expenditures has outpaced any reasonable projection in growth in revenue. Our analysis projected that expenditures would outpace expenditures in FY 2013 by \$5.5 million, growing to a budget gap of \$6 million in FY 2017. Over a five year period, deficits would total \$28.0 million.

The City's ability to close these gaps by increasing tax rates is extremely limited. At 2.75 percent, Youngstown already has one of the highest municipal income tax rates in the state and a tax rate substantially higher than some of its neighboring

jurisdictions. As a result, any further increases in income tax would be anti-competitive and could exacerbate the loss of jobs and population.

Absent the ability to raise revenue to close the gap, Youngstown needs to continue to reduce the cost of government. Between 2007 and 2011, the City's workforce (supported by tax funds) declined by ten percent. Further reductions in workforce are necessary, but need to be targeted at those operational areas where the impact will not erode provision of essential services.

The path that the City has utilized in past years to close annual budget gaps -- reliance on transfers from different governmental funds or one time revenues being used to support recurring cost -- is not sustainable.

Q: Why does this situation exist?

A: There are a number of reasons. First, Youngstown, unlike other industrial cities, has not been successful in re-inventing its local economy in a way that would stem population and job loss. Absent a change in economic strategy, it is difficult to overcome the economic challenges created by national and international trends. Decline in population, decline in jobs, increases in concentrated poverty are all interrelated and have the effect of creating a downward spiral.

Second, in the face of a declining economy and population reduction, the City -- until now -- has not undertaken a comprehensive approach on how to best manage its limited fiscal resources. In the absence of a fiscal strategy, the City has made decisions that result in a higher per capita workforce than in other cities, wages that have grown at a faster rate than inflation and benefits that exceed national and state benchmarks for its employees.

Q: As part of your analysis of the City government, did you analyze the Youngstown Municipal Court and the Youngstown Municipal Court Clerk's Office?

A: Yes. Efficient operation of the criminal justice system is one of my particular areas of expertise. Our analysis of the costs of the Youngstown Municipal Court System is detailed on Pages 167-168 of the Youngstown Plan, which are attached as Exhibit A to my testimony. Our recommendations related to the Youngstown Municipal Court System (the municipal court and municipal clerk of courts) can be found on Pages 182-186 of the Youngstown Plan and are attached as Exhibit B to my testimony.

Let me summarize the analysis that we performed for the City and our findings. From 2000 to 2010, Youngstown's Municipal Court and Clerk operations had a relatively stable headcount, while the City's headcount decreased by 16.3 percent. Between 2002 and 2011, expenditures for Youngstown's Municipal Court and Clerk operations grew by 25.5 percent – more than four times the 6.0 percent growth in the City's General Fund during the same period.

From 2002 to 2010, Municipal Court filings declined by 41.7 percent, but Clerk and Court headcount declined by less than 10 percent and spending increased by 18.3 percent (over \$600,000). In 2002, the combined Court and Clerk headcount was 63 – assuming there were actually 63 FTEs, there were 338.7 cases/FTE. In 2011, there were 233.7 cases/FTE. If the Court and Clerk operations were as efficient in 2011 as they were in 2002, they would have needed just 40.2 FTEs.

Youngstown's Municipal Court and Clerk operations have fewer filings per FTE than comparable jurisdictions in Ohio. If Youngstown's filings per FTE level

were at the median of the comparable municipal courts and clerks, the City would need just 23.0 FTEs in Court and Clerk positions.

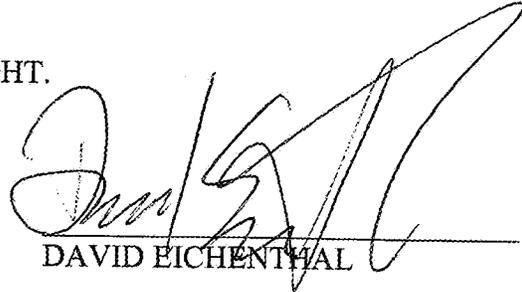
Current levels of funding for the Clerk and Court are unreasonable and unnecessary. While other parts of City government were asked to do more with less, the Court and Clerk have done less with more. In order to bring the Court and Clerk in line with what is reasonable and necessary to carry out their important charges there should be no more than 30 combined Court and Clerk employees – with a goal of achieving an FTE level much closer to the median of 23.0 FTEs seen among comparable operations.

Moreover, our analysis supports the recommendation of the National Center for State Courts to move forward with court consolidation in Mahoning County. In the absence of consolidation, we recommended reducing the number of judges in Youngstown Municipal Court to one.

Q: Do you have knowledge of all the matters you are testifying to and base your opinions on your education and expertise?

A: Yes. All of the foregoing is based on personal knowledge and matters about which I possess expertise and in which I am competent to testify.

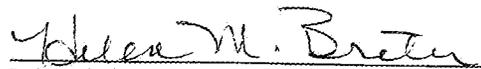
FURTHER, AFFIANT SAYETH NAUGHT.


DAVID EICHENTHAL

STATE OF OHIO)
COUNTY OF MAHONING) SS:

Subscribed and sworn to before me this 16th day of July, 2013.




NOTARY PUBLIC

My Commission Expires:
October 8, 2014

CONFIDENTIAL WORKING DRAFT – SUBJECT TO REVISIONS

Youngstown's Dysfunctional Criminal Justice System: Overview of Municipal Court

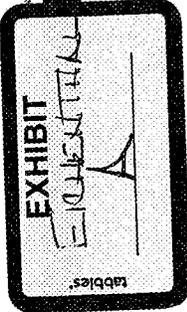


- Similar to Mahoning County's 5 elected judges, Youngstown's Municipal Court has 3 elected judges and a magistrate to hear cases
- In 2011, the Court employed 26 FTEs (45 if including part-time bailiffs handling the Court security organized by the judicial branch)
 - This total includes the City's probation department 7 employees
- In 2011, the Court's budget was \$2.249,070
- In 2011, the Court received approximately 12,176 new filings

2011 Municipal Court New Filings	Court Filings
Misdemeanors	1,893
Expungements	28
DUI	78
Traffic	4,103
Probation Violations	1,206
Civil	4,023
Felonies	836
TOTAL	12,167

- In 2011, Youngstown's four probation officers each had a caseload of approximately 306 probationers
- One probation officers conducts pre-sentence investigations
- Probation officers do not perform out of office visits to probationers – and supervision is rarely coordinated with APA

Sources: OH Supreme Court data, Youngstown Finance Dept; Youngstown Municipal Court



CONFIDENTIAL WORKING DRAFT – SUBJECT TO REVISIONS

**Youngstown's Dysfunctional Criminal Justice System:
Overview of Municipal Court Clerk**



- Similar to the County Clerk, an elected Municipal Clerk oversees the Municipal Clerk's office – with responsibilities for court records, collection of fines and fees from proceedings, and processing court-related filings
- In 2011, the Clerk's office employed 31 FTEs
- In 2011, the Clerk's budget was \$1,968,622
- In 2011, the Court collected \$949,271 in Criminal & Traffic fines, costs, and fees and an additional \$124,041 in receipts from parking penalties

2011 Municipal Clerk Receipts
Criminal, Traffic, Parking

Criminal & Traffic Division Receipts	
Fines, Costs and Fees	\$ 779,614.80
Bonds Collected	\$ 133,609.50
Restitution	\$ 36,046.32
Total Traffic & Criminal Receipts	\$ 949,270.62
Parking Division Receipts	
Parking Penalties	\$ 123,045.45
Refunds (from overpayments)	\$ 996.00
Total Parking Receipts	\$ 124,041.45

Sources: Youngstown Finance Dept.; Youngstown Municipal Court and Court Clerk 2011 Annual Report

Criminal Justice System Initiatives:

Lead Court Consolidation - Eliminate Municipal Judges and Clerk



Initiative:

Lead the Effort for Court Consolidation and Eliminate Municipal Court Judges and Clerk

Background/Current Status:

- In 2010, the Mahoning County Bar Association commissioned a study of court consolidation in Mahoning County (conducted by NCSC)
- In 2011, the study was conducted to address perceived weaknesses from organizations that do not have any notions of coherence and cohesion – specifically the perception that the current structure:
 - Impedes rational governance, effective management and efficient resource allocation
 - Results in inequitable distribution of court resources, diffuse authorities and power
 - Minimal management accountability, lack of control of uniform case processing and operations
 - Variations in processes, procedures and quality of justice, limited management capacity and inefficiencies, redundancies, and avoidable costs
- The study concluded the twelve limited jurisdiction courts in Mahoning County should be consolidated – noting:
 - “Mahoning County would benefit from an organizational, structural, budgetary, and administrative consolidation of the programs and procedures”
 - “Fiscal pressures are likely to make non-action by the courts community and its stakeholders more and more conspicuous

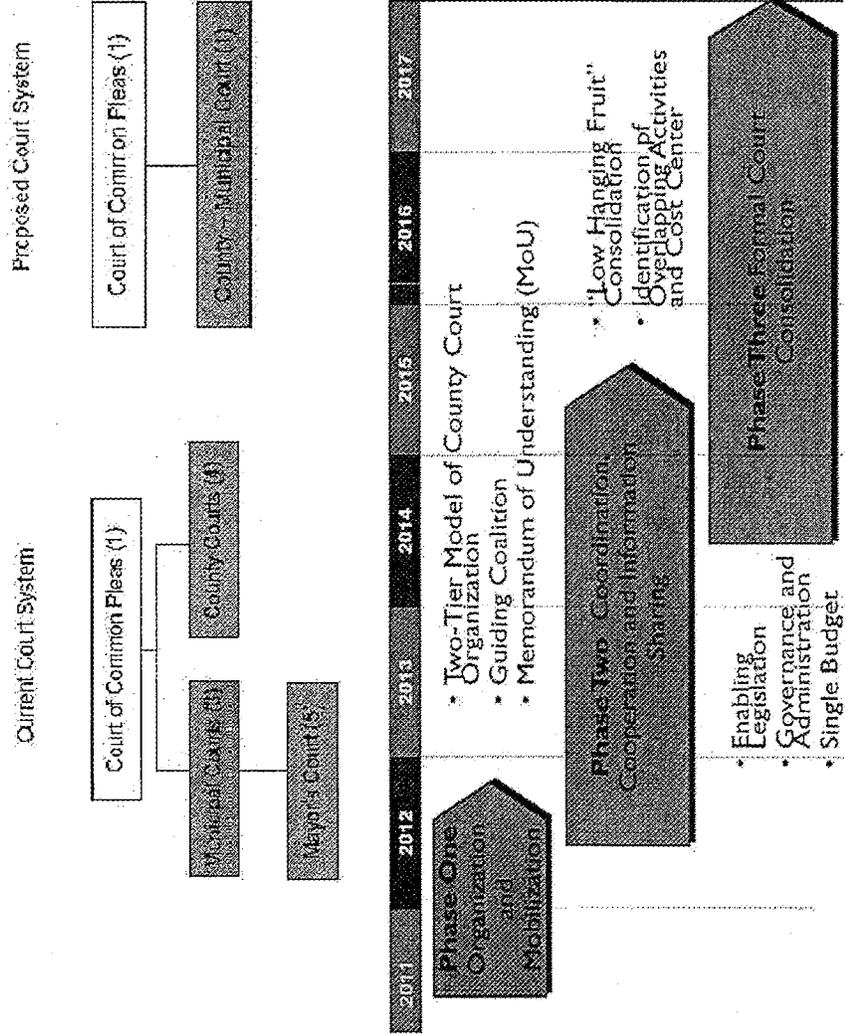
Criminal Justice System Initiatives:

Lead Court Consolidation - Eliminate Municipal Judges and Clerk



Overview of NCSC Court Consolidation Proposal:

- Report recommended a simplified 2-tier court system for adoption in Mahoning County over a 6 year period
- The study suggests consolidation will improve the quality of justice at a lower cost that is equal to or better than before consolidation
- NCSC believes the consolidation would bring coherence to an uncoordinated lower court system, as well as enhanced efficiency, economies, and effectiveness



CONFIDENTIAL WORKING DRAFT – SUBJECT TO REVISIONS

Criminal Justice System Initiatives:

Lead Court Consolidation - Eliminate Municipal Judges and Clerk



Potential Outcomes:

- Savings to divert to other criminal justice needs
 - Municipal Court, Municipal Clerk and Prosecutor functions duplicative of County's functions and cost the City a net of approximately \$3 million on an annual basis
 - To the extent the Courts and Clerk's Office are overstuffed, they starve the rest of the criminal justice system (i.e. police) of resources and hinder the criminal justice process
- Enhanced fine and fee collections
- Reduced costs for Court administration and adjudication of cases/processing

CONFIDENTIAL WORKING DRAFT – SUBJECT TO REVISIONS



**Criminal Justice System Initiatives:
Reduce the Number of Judges in Municipal Court**

Initiative:

Absent Consolidation, Eliminate 2 out of 3 Municipal Court Judges

Overview and Potential Outcomes:

- According to 2010 data from the State, the average new filings per municipal court judge across the State was 11,277
- In 2010, Youngstown Municipal Court had 12,441 new filings and 3 judges – an average of 4,147 new filings per judge

Cities	Population	# of Judges	Municipal Court Filings	Filings per Judge	Judge : Population Ratio
Youngstown (present)	66,982	3	12,441	4,147	22,327
Youngstown w/2	66,982	2	12,441	6,221	33,491
Youngstown w/1	66,982	1	12,441	12,441	66,982
Akron*	237,795	6	57,554	9,592	39,633
Canton	73,007	4	43,197	10,799	18,252
Cleveland	395,815	12	192,559	16,047	33,068
Dayton	141,527	5	50,316	10,063	28,305
Toledo	287,208	6	108,233	18,039	47,868
STATEWIDE	10,530,308	216	2,435,746	11,277	48,751

*Akron Municipal Court also serves Fairlawn – Fairlawn population is included in Akron total; Source: OH Supreme Court 2010 Municipal Court data publication

Criminal Justice System Initiatives:

Dowsize Combined Court and Clerk staffing to 30 FTEs



Initiative:

Condition City Funding on Performance Review of Municipal Clerk with Goal of Reducing Total Court and Clerk FTEs to no more than 30

Overview and Potential Outcomes:

- Comparative data indicates that the City has a greater number of court-related FTEs than other benchmarked jurisdictions
 - Reduction in overall headcount to 30 (from 57) will reduce the need for nearly \$860,000 in budgeted salary between Court and Clerk (total does not include part-time Court Security)
 - Reduction in headcount necessitates enhanced use of available or acquired technology
- Similarly, comparative data suggest that the Court and Clerk handle/process fewer filings per FTE than other benchmarked jurisdictions
- Additionally, the Clerk collects a significantly smaller amount of revenue on a per judge and per FTE basis as other benchmarked jurisdictions (ranking last in each)
 - A portion of this may be attributable to the City's fine and fee structure
 - The City collects the most revenue per new filing – underscoring the overstaffed nature of the offices
 - achieving relatively strong returns per filing, doing so in a highly inefficient manner that could be more beneficial to the City
- A performance review should identify current practices, collections, staffing, technology use and best practices for each area – such a review is likely to achieve additional revenue and savings for the City

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL.)	
ELIZABETH A. KOBLY, ROBERT A.)	
DOUGLAS, JR. AND ROBERT P.)	
MILICH, JUDGES, YOUNGSTOWN)	CASE No. 2009-0866
MUNICIPAL COURT)	
)	
RELATORS)	
)	
V.)	
)	
YOUNGSTOWN CITY COUNCIL, ET AL.)	
)	
RESPONDENTS)	

SWORN DIRECT TESTIMONY OF
DAVID BOZANICH

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COUNSEL FOR RESPONDENTS

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SWORN DIRECT TESTIMONY OF
DAVID BOZANICH

Q: Would you state your name please?

A: David Bozanich.

Q: What is your occupation?

A: I am currently the Finance Director for the City of Youngstown, Ohio.

Q: How long have you held that position?

A: I have held that position throughout the terms of Mayor Jay Williams which commenced on January 1, 2006 and his successor Mayor Charles Sammarone, as well as during portions of each of the two prior mayors' tenure.

Q: What is your evaluation of the economic condition of the City of Youngstown?

A: The City of Youngstown has been in a near-constant-state of economic distress for over thirty years.

Q: What is the cause of that condition?

A: Youngstown's population, employment base and tax revenues are fractions of what they once were.

Q: What has been done in response?

A: The City of Youngstown has had to increase its municipal income tax rate to 2.75% while reducing the number of employees in its Executive and Legislative Branches by approximately Fifty Percent (50%) in order to survive.

Q: Has the Judicial Branch engaged in a similar level of sacrifice?

A: No. During the same period of time, the number of employees of the Judicial Branch; the Youngstown Municipal Court and Youngstown Municipal Clerk of Courts, have remained the same or increased.

Q: What is the cost of the Youngstown Municipal Court System?

A: The City of Youngstown routinely budgets approximately Four Million Dollars (\$4,000,000.00) a year for those agencies while receiving revenues of about Seven Hundred Fifty Thousand Dollars (\$750,000.00) per year from fines and fees collected by the Court. The result is a yearly cost in excess of Three Million Dollars (\$3,000,000.00) to the City for operation of the Municipal Court and its Clerk of Court.

The above circumstances continue despite the facts that the City of Youngstown's population has greatly declined, the Youngstown Municipal Court's docket has greatly declined and continues to decline, and other municipal courts with

comparable dockets operate with fewer employees, fewer judges, and at a much lower cost.

Q: What effect have these costs had on the rest of City government?

A: Partly as a result of the disproportionately high cost of operation of the Youngstown Municipal Court and the Municipal Court Clerk's office, the City of Youngstown is routinely forced to expend funds out of its Capital Improvement Fund to help finance operations in its street and park and recreation departments aimed at preserving and maintaining its capital assets such as streets, parks and playgrounds.

Q: Is that something you would ordinarily choose to do?

A: While this use of capital improvement funds is permissible based on the definition of capital improvement used in the Ordinances of the City of Youngstown, it is not a desirable practice and has the unfortunate effect of making the Capital Improvement Fund ineffective in attempting to fund more traditional capital improvements such as building a new court facility or renovating an existing building for use as a court facility.

Q: What response do you receive when you raise the issue of the cost of a renovated court facility?

A: The Youngstown Municipal Court judges have expressed to me on a number of occasions their belief that it should be easy enough to finance their proposed facility out of the Capital Improvement Fund without recognizing that said course of action would entail the virtual dissolution of multiple departments of city government.

Q: Have you explored other potential means of raising revenue to finance a new or renovated court facility?

A: Other potential sources of raising revenue are also all but impossible for the City of Youngstown. The City of Youngstown already has an extremely high municipal income tax rate. Raising it any higher would extinguish what little economic activity still exists in Youngstown. The City of Youngstown's ability to renovate a court facility or build a new one is also extremely circumscribed by the indirect Ten Mill limit on non-voter approved general obligation debt.

Q: How can a renovated court facility be achieved?

A: Based on the City's present financial condition and its circumscribed ability to issue debt, in order to move forward on a court facility project, including one that involves only renovation to an existing building, the City needs the cooperation of the municipal judges in agreeing to a project the City can afford and in allowing the Court Special Project and Capital Improvement Funds on hand, which now total in excess of Three Million Dollars (\$3,000,000.00), to be used to further the project prior to the City being forced to seek to issue new debt.

Q: Has the City tried to reach an agreement with the municipal judges on reasonable alternative renovation plans other than the one favored by them?

A: The City of Youngstown has made concerted efforts to propose alternative plans which would still provide the Youngstown Municipal Court with court facilities that comply with all standards set forth by the Ohio Supreme Court, but the City's proposals have been rejected out of hand. The Youngstown Municipal Court judges have repeatedly expressed that they will not consider any revisions nor

make even the slightest effort to reduce either the cost of the renovated facilities or their own budget.

Q: Do you have direct knowledge of all the matters you have testified to?

A: All of the foregoing is based on my personal knowledge and relates to relevant matters about which I am competent to testify.

FURTHER, AFFIANT SAYETH NAUGHT.



DAVID BOZANICH

STATE OF OHIO)
COUNTY OF MAHONING) SS:

Subscribed and sworn to before me this 16th day of July, 2013.



NOTARY PUBLIC
REBECCA M. GERSON
ATTORNEY AT LAW
MY COMMISSION DOES
NOT EXPIRE