

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
SEP 29 2014
CLERK OF COURT
SUPREME COURT OF OHIO

RESPONDENTS PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

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Respondents, Youngstown City Council, et al., hereby submit the following
Proposed Findings of Fact and Conclusions of Law:

Parties

1. Relators are the acting Judges of the Youngstown Municipal Court. (Answer, ¶ 1)
2. Respondents are the duly elected, qualified, and acting members of the legislative and executive branches of government of the City of Youngstown. (Answer, ¶ 2)
3. Youngstown City Council is responsible for providing suitable accommodations for the Youngstown Municipal Court and its officers. (Answer ¶ 4)

Present Court Facilities

4. The Youngstown Municipal Court is located on the second floor of Youngstown City Hall, which is the third floor of the Youngstown City police station as the two buildings are connected. (Tr. 730)
5. When this lawsuit was commenced in 2009, there were three Judges of the Youngstown Municipal Court, Robert A. Douglas, Jr., Elizabeth A. Kobly, and Robert P. Milich. Presently, there are only two Judges, Elizabeth A. Kobly and Robert P. Milich. (Tr. 41)
6. The Youngstown Municipal Court facilities are safe, sufficient, and allow for the proper administration of justice. (Tr. 126, 255, 716)
7. In recent years, the City Building and Grounds Department has made numerous improvements to the municipal court. (McKinney Direct, 3) Those improvements include: (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

hour security system; (12) providing 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) [repainted] common areas of the adjoining Youngstown Police Department [in July of 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) [provided] a new generator in conjunction with the Departments of Water and Wastewater to be used for emergency backup situations (McKinney Direct, 3).

History

8. On July 17, 1996, the Youngstown Municipal Court Judges issued an Order providing that the Court was “in dire need of additional space to reasonably, efficiently and effectively administer justice.” (Tr. 149)
9. In May of 2003, at the request of the Municipal Court Judges, Raymond A. Jaminet, a local architect with Olsavsky Jaminet Architects, created plans for the renovation of the City Hall Annex. (Tr. 14, 665)
10. The renovation plan proposed by Jaminet had an estimated cost of 7.9 million dollars. (Tr. 68)

11. In 2008, the City engaged Strollo Architects to create a design proposal for the existing City Hall Annex building. (Tr. 559, 562)
12. The renovation plan proposed by Strollo had an estimated cost of 6 million dollars. (Strollo Direct, 28)
13. Respondents proposed to implement the Strollo plan which would provide suitable accommodations and meet all of the Rules of Superintendence contained in Appendix D, but Relators rejected the plan. (Kreuzwieser Direct, 9, Answer ¶ 11).
14. In rejecting the Strollo plan, Judge Kobly referred to Strollo's schematic plans as "garbage." (Tr. 649-651)
15. On January 26, 2009, the Municipal Court Judges issued an Order requiring the Mayor and Youngstown City Council "to provide suitable accommodations for the operation of the Youngstown Municipal Court and the related offices..." (Relators' Exhibit 2)

Present Facilities

16. The Youngstown Municipal Court facilities comply with Appendix D of the Ohio Rules of Superintendence.
 - (A) The Court's facilities are clean, well-lit, and adequately heated and air-conditioned. (Drennan Deposition, 24-25)
 - (B) The Court's facilities are located in a municipal building as required by the Rules. (Tr. 730)
 - (C) The Court's location within the building is separated from non-judicial governmental agencies. (Tr. 730)

- (D) The Court's facilities are located in a building that is dignified and properly maintained. (Drennan Deposition, 24-25)
- (E) Each trial judge has a separate courtroom. (Tr. 284)
- (F) The courtrooms have adequate seating capacity. (Tr. 123-124)
- (G) There are sufficient desks, tables and chairs for all court personnel. (Tr. 123-124)
- (H) There are tables and chairs provided for parties and counsel. (Tr. 123-124)
- (I) Each trial room is equipped with a jury box which is situated so jurors may observe the demeanor of witnesses and hear all proceedings. (Tr. 717)
- (J) Every judge has private chambers convenient to the courtroom. Access from chambers to the courtroom is private. (Tr. 330, 680)
- (K) There is a jury deliberation room located as near to the courtrooms as possible and access from the room to the courtroom is private. (Tr. 285)
- (L) There is an adequate waiting room for jurors. (Tr. 252)
- (M) There is a multipurpose room available for use by attorneys. (Tr. 285)
- (N) There are adequate restroom facilities separate from public restroom facilities that are provided for all court personnel. (Tr. 164)

(O) There is a restroom two floors below the court that can be accessed via the elevator or stairwell. (Tr. 167)

17. The Youngstown Municipal Court facilities comply with Appendix C of the Ohio Rules of Superintendence.

(A) All persons entering the Court facility are subject to a security search and screened through the use of metal detectors. (Tr. 300-301, 742)

(B) Uniformed Court security officers are OPOTA trained and assigned in sufficient numbers to ensure the security of each courtroom and the court facility (Tr. 301-302, 309, 323)

(C) There is video surveillance of the courtrooms and surrounding areas. (Tr. 321, 326)

18. While all provisions of the Rules of Superintendence are not met by the facilities of the Youngstown Municipal Court, the deficiencies in the Youngstown Municipal Court facilities are minor and few. (Tr. 126, 255, 716)

Court and Clerk Operations

19. From 2002 to 2010, the Municipal Court filings decreased by 41.7 percent.

(Eichenthal Direct, 53)

20. From 2002 to 2010, the number of Municipal Court and Clerk employees declined by less than 10 percent and spending increased by 18.3 percent (over \$600,000). (Eichenthal Direct, 53)

Financial Circumstances of the City of Youngstown

21. The City of Youngstown is in severe economic and fiscal distress. (Eichenthal Direct, 51)
22. The population of Youngstown declined by nearly sixty percent or approximately 100,000 residents between 1960 and 2010. More recent population estimates by the Census Bureau suggest continued population decline since 2010. (Eichenthal Direct, 51)
23. The impact of population loss 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. (Eichenthal Direct, 51)
24. 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. (Eichenthal Direct, 51)
25. A 2010 analysis of the City of Youngstown revealed deficits would total 28 million dollars over a five year period. (Eichenthal Direct, 51)

Conclusions of Law

26. Pursuant to R.C. 1901.36, Youngstown City Council is required to "provide suitable accommodations for the municipal court and its officers..."
27. Relators have failed to substantiate their claim that the current, long-standing accommodations for the court are unsuitable, as any deficiencies are so minor or so few that the facilities constitute suitable accommodations pursuant to R.C. 1901.36 and the relevant case law. See *State ex rel. Hillyer v. Tuscarawas Cty.*

- Bd. of Commrs.*, 70 Ohio St.3d 94, 637 N.E.2d 311 (1994); *State ex rel. Badgett v. Mullen*, 177 Ohio App.3d 27, 2008-Ohio-2372, 893 N.E.2d 870 (4th Dist.).
28. Relators have failed to prove by clear and convincing evidence that they have a clear legal right to a writ of mandamus.
29. Relators have failed to prove by clear and convincing evidence that Respondents are under a clear legal duty to provide them with new accommodations. See *State ex rel. Hillyer v. Tuscarawas Cty. Bd. of Commrs.*, 70 Ohio St.3d 94, 637 N.E.2d 311 (1994); *State ex rel. Badgett v. Mullen*, 177 Ohio App.3d 27, 2008-Ohio-2372, 893 N.E.2d 870 (4th Dist.).
30. Relators have failed to prove by clear and convincing evidence that they have no plain and adequate remedy in the ordinary course of law. See *State ex rel. Wellington v. Kobly*, 112 Ohio St.3d 195, 198, 2006-Ohio-6571, 85 N.E.2d 798.
31. Relators have failed to prove by clear and convincing evidence that the deficiencies in the municipal court facilities are so numerous or serious that they are entitled to a writ of mandamus. See *State ex rel. Hillyer v. Tuscarawas Cty. Bd. of Commrs.*, 70 Ohio St.3d 94, 637 N.E.2d 311 (1994); *State ex rel. Badgett v. Mullen*, 177 Ohio App.3d 27, 2008-Ohio-2372, 893 N.E.2d 870 (4th Dist.).
32. Relators have no legal right to the specific and unreasonable Court accommodations of their choosing. See *State ex rel. Willis v. Sheboy*, 6 Ohio St.3d 167, 451 N.E.2d 1200 (1983); *State ex rel. Foreman v. Bellefontaine Municipal Court*, 12 Ohio St.2d 26, 231 N.E.2d 60 (1965); *State ex rel. Finley v. Pfeiffer*, 163 Ohio St. 149, 126 N.E.2d 57 (1955); *Comm. for Marion Cty. Bar Ass'n v. Marion Cty.*, 162 Ohio St. 345, 123 N.E.2d 521 (1954); *State ex rel.*

Cleveland Mun. Court v. Cleveland City Council, 34 Ohio St.2d 120, 296 N.E.2d
554 (1973).

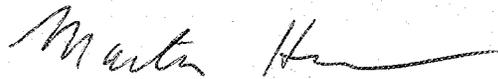
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing RESPONDENTS PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW was sent via regular U.S. Mail, postage pre-paid, on this 26th day of September, 2014 to John B. Juhasz, Esq., Counsel for Relators, 7081 West Boulevard, Suite 4, Youngstown, Ohio 44512.



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