

SUPREME COURT OF VERMONT  
OFFICE OF THE COURT ADMINISTRATOR

PATRICIA GABEL, ESQ.  
State Court Administrator  
Patricia.gabel@state.vt.us



**Mailing Address**  
Office of the Court Administrator  
109 State Street  
Montpelier, VT 05609-0701

**Telephone** (802) 828-3278  
**FAX:** 802 828-3457

www.vermontjudiciary.org

January 30, 2015

Senator Peg Flory, Chair, Senate Committee on Institutions  
Members of Senate Committee on Institutions  
Rep. Alice Emmons, Chair, House Committee on Corrections and Institutions  
Members of House Committee on Corrections and Institutions  
Statehouse, 115 State Street  
Montpelier, VT 05633

**Re: Report on County Courthouses and Americans with Disabilities Act (ADA) Compliance**

Dear Senator Flory, Representative Emmons and Members of the Committees:

On behalf of the Vermont Supreme Court, please find this report on county courthouses and Americans with Disabilities Act (ADA) compliance. Act 178 of 2014 (Capital Construction and State Bonding Budget Adjustment) included the following language:

*Sec. 37. COUNTY COURTHOUSES; PLAN*

*(a) Pursuant to the restructuring of the Judiciary in 2009 Acts and Resolves No. 154, the Court Administrator and the Commissioner of Buildings and General Services shall evaluate the scope of the State's responsibility for maintaining county courthouses, including Americans with Disabilities Act (ADA) compliance and whether an emergency fund is necessary for construction or renovation projects at county courthouses.*

*(b) On or before January 15, 2015, the Judiciary shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the results of the evaluation.*

**Summary:**

The Judiciary utilizes county-owned courthouses: in some instances in conjunction with a State courthouse in that county; in other instances as the only courthouse in the county. While the restructuring statute requires counties to adequately maintain their courthouses, the State has occasionally provided assistance in this regard. As an example, State law requires the State to facilitate ADA compliance renovations at county courthouses; however, the two existing capital appropriations for this project are not sufficient to complete the effort.

**Legislative and funding history:**

The legislature directed BGS through the Capital Construction Bill [Act 154, Sec 235(a) of the Acts of 2009 Adj. Sess. (2010)] to audit (13) County Courthouses for ADA compliance. All facilities were found to have non-compliance issues. In several buildings, it was determined that renovations would be detrimental to the buildings' historical character and/or cost prohibitive to renovate to comply. In those situations, accommodations would need to be made at other compliant buildings to serve clients with accessibility needs.

In response to these findings, the legislature appropriated \$400,000 (\$200,000 in each of FY 2012 and FY 2013) in Act 40 of 2012 (FY 2012-13 Capital Bill).

*Sec. 5. JUDICIARY*

*(a) \$200,000 is appropriated in FY 2012 to the department of buildings and general services on behalf of the judiciary to perform repairs and upgrades to bring county courthouse facilities into ADA compliance. The department shall perform these repairs in accordance with the County Courts Americans with Disabilities Act Audits Reports submitted by the department to the general assembly pursuant to Sec. 235a of No. 154 of the Acts of the 2009 Adj.Sess. (2010).*

*(b) \$200,000 is appropriated in FY 2013 to continue the project described in subsection (a) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work as soon as possible, it is the intent of the general assembly that these are committed funds not subject to capital budget adjustment.*

*Total Appropriation – Section 5 \$400,000*

**Status of work completed so far:**

As the work on the initial courthouses was performed, in many instances the ADA compliance work turned out to be more complex than initially estimated; the buildings are generally extremely old, and many problems did not manifest themselves until work was underway. In addition, costs of construction increased during the period between the initial audit and the actual work. (In 2012, the Judiciary initially requested \$830,000 over a two-year cycle to complete the work, but ultimately only \$400,000 was appropriated.)

With the amounts originally appropriated, ADA work has been completed in the following counties:

- Orange (County – Chelsea);
- Windsor (County – Woodstock); and,
- Essex (County – Guildhall).

As noted above, assessments at the following courts determined that the cost of ADA compliance was prohibitive, but given there are multiple courthouses in the county, any hearings requiring ADA access could be scheduled at another courthouse:



- Windham - Newfane (County-owned) – utilize Brattleboro (State-owned) when ADA accommodation is necessary; and,
- Manchester (Bennington County-owned) – utilize Bennington (State-owned) when ADA accommodation is necessary.

Compliance at the Lamoille courthouse is incorporated in proposed renovation work that is separately budgeted (see Judiciary’s FY 2016-17 capital request). The Caledonia courthouse is now a State building; ADA compliance becomes part of BGS’ major maintenance and can also be incorporated in the structural work scheduled this year (also see Judiciary’s FY 2016-17 capital request).

To the extent there is carry-forward of unspent funds from these two appropriations, they will be applied to the projects described below as a contingency.

**FY 2016 Capital request for remaining buildings:**

During FY 2016, funds are being requested to continue making repairs and upgrades to help provide reasonable accommodations in the County courthouse buildings. Section 37 requested that BGS and the Judiciary review the status of the remaining ADA projects and identify any emergency funding required. BGS has identified the following renovation and modification needs at county-owned buildings.

Estimated cost of remaining renovations/modifications at the following county-owned buildings:

• Grand Isle Superior Court	\$33,000
• Bennington Superior Court	\$50,000
• Orleans Superior Court	\$15,000
• Chittenden Superior Court	\$16,000
• Washington Superior Court	\$38,000
• Rutland Superior Court	<u>\$28,000</u>
<b>Total Estimated Cost:</b>	<b>\$180,000</b>

**The Judiciary strongly supports these requests.** The Judiciary’s original request of \$155,000 reflected our understanding in the fall of the projects’ costs. The revised estimate in the Capital Bill of \$180,000 reflects BGS’ most current projects’ cost estimates, and we defer to BGS’ revised estimates. BGS advises that these are challenging projects due to the buildings’ historic nature, and project costs may be revised as the projects develop.

These estimates reflect BGS’ estimate to provide reasonable accommodation in the county buildings. As noted above, during the first phase in several buildings it was determined that renovations would be detrimental to the building’s historic character and/or be cost prohibitive to renovate. (Washington Superior Court is an example where reasonable accommodation cannot be provided on the second floor without destroying historic elements and where costs would be prohibitive. Access will be developed for the first floor public counter window. Hearings there – normally on the 2<sup>nd</sup> floor -- can be redirected to the Barre courthouse).

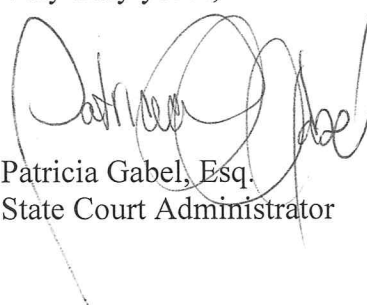
**Conclusion:**

**The Judiciary feels that the current legal structure, whereby counties are responsible for maintaining their own buildings, is both logical and cost-efficient. As a corollary to this statement, the Judiciary -- as a tenant in both county- and state-owned buildings -- has a reasonable expectation that the building owner will maintain the building to proper standards.**

Aside from the commitment that the State has made to the ADA projects discussed above, our first priority for any capital funds allocated to the Judiciary would be to address known deficiencies at state-owned buildings, where there are significant short-term and long-term infrastructure needs. Based on BGS' estimate of the remaining county locations, the \$180,000 provided in the Governor's recommendation should be sufficient to complete the ADA work, so no emergency fund should be required. In light of past experience regarding cost overruns, however, we request that any funds remaining from the previous ADA appropriations be used as a contingency fund to address hidden conditions and other unforeseen issues.

Please let us know if you have any questions about this topic generally. BGS has detailed assessments of each location and, therefore, is in the best position to answer any technical questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patricia Gabel", written over a circular stamp or seal.

Patricia Gabel, Esq.  
State Court Administrator

cc:

Representative Maxine Grad, Chair  
House Judiciary Committee

Senator Richard Sears, Chair  
Senate Judiciary Committee

Supreme Court Justices  
Matt Riven, Chief of Finance & Administration

Steve Klein, Director, Joint Fiscal Office  
Catherine Benham, Joint Fiscal Office

Wanda Minoli, BGS