

PRELIMINARY  
REPORT AND RECOMMENDATION  
CONCERNING COURT FACILITIES IN  
ROCK ISLAND COUNTY  
PURSUANT TO LOCAL RULE 20.2

TO

CHIEF JUDGE O'CONNOR



BY

14<sup>TH</sup> CIRCUIT COURT FACILITIES COMMITTEE  
HON. GREG CHICKRIS  
HON. FRANK FUHR  
HON. MARK A. VANDEWIELE  
HON. RICHARD ZIMMER

NOVEMBER 9, 2012

## EXECUTIVE SUMMARY

A 1992 report by a Committee of the Illinois Judges Association recommended that the Rock Island County Courthouse be closed as a court facility. Years of subsequent informal talks with the County Board failed to produce a commitment or plan by the County Board to bring court facilities into compliance with applicable Minimum Courtroom Standards. Deference is usually given to the legislative and executive branches of government to act on such matters, but the County Board has failed to address the court facility need for 20 years. Facility conditions have deteriorated to the point that they are jeopardizing the Court's ability to administer justice in this county and placing the health and safety of the public and staff at risk.

In January 2011 the Illinois Supreme Court updated the Minimum Courtroom Standards. As part of that update, each circuit's Chief Judge was directed to ensure compliance. Chief Judge Jeffrey O'Connor has now activated this circuit's Rule 20.2 Court Facilities Committee which is the first in a series of formal steps required under the Local Court Rules to eventually compel action by the County Board.

As ordered, this Committee inspected the courthouse and produced this report. It is this Committee's opinion that:

- a) It remains neither practical nor feasible to remodel the present Rock Island County Courthouse to meet applicable Minimum Courtroom Standards; and
- b) Exigent circumstances exist within the meaning of Local Rule 20.3(d) given the deteriorating building conditions and the associated risk to the health and safety of both the public and staff.

It is further the recommendation of this Committee that:

- c) The existing courtrooms and ancillary facilities in the Rock Island County Courthouse be closed as soon as practical and the Rock Island County Board required to construct suitable and conforming replacement court facilities at a location acceptable to the Chief Judge. The CFC recommends the Chief Judge adopt the following schedule in assessing the County Board's progress:
  - i. The County Board should have the location selected for a replacement court facility and a suitable and conforming plan in place acceptable to the Chief Judge by March 31, 2013.
  - ii. Preliminary architectural plans to the Chief Judge for his approval by June 30, 2013.
  - iii. Final architectural plans to the Chief Judge by December 31, 2013.
  - iv. Construction started by May 31, 2014 with the replacement facility completed by August 31, 2015.
- d) Consistent with the 2011 unanimous recommendation of the Joint Planning Committee, it is this Committee's recommendation that any new court facilities construction be physically tied to the current Rock Island County Justice Center.
- e) Contingency plans to operate the civil and traffic courtrooms from a temporary location until the replacement facility is completed should immediately be

prepared. The building is in such poor condition that a critical infrastructure failure could close the building.

- f) Temporary use of the Courthouse as a court facility until a replacement facility is constructed should be contingent upon the following:
1. The County Board addressing and correcting certain critical life safety issues within 120 days of this report.
  2. The Illinois Department of Labor conducting an advisory OSHA inspection within 45 days and any additional immediate remediation recommendations completed 75 days thereafter.
  3. Monthly inspections of the facility to monitor building deterioration.
  4. The judiciary receives complete copies of all Rock Island County Courthouse building inspections and reports.
  5. Staff receives periodic training on building evacuation procedures.

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### *Acknowledgment*

***Special thanks are extended to Circuit Court Judge Lori Lefstein and Court Administrator Victoria Bluedorn. Neither were formally members of the Court Facility Committee but both provided valuable input in drafting this report.***

## 1. AUTHORITY & ASSIGNMENT OF THIS COMMITTEE

This Court Facilities Committee (CFC) was empanelled by order of 14<sup>th</sup> Circuit Court Chief Judge Jeffery O'Connor pursuant to Local Rule 20.2(a). The Chief Judge further ordered the CFC to inspect the courtrooms and ancillary facilities at the Rock Island County (RICO) Courthouse and make its preliminary report and recommendations pursuant to Local Rule 20.2(b). A copy of Local Rule 20 is set forth in Tab #1. The inspection is to determine conformance to the 2011 Minimum Courtroom Standards of this state, a copy of which are attached as Tab #2.

Brief biographies of CFC members are located in Tab #7. All of the members of the CFC were part of the 2010 Joint County Board/Judicial Planning Committee.

Building upon the discussions of that Joint Committee, this report will identify for the new county board and its new chairman the existing problems with the RICO Courthouse; discuss the merits of available options; and recommend a timetable for action. The ultimate decision on what and where to build rests with the county board in consultation with the Chief Judge.

The CFC prepared this report with transparency and public disclosure in mind. The security issues discussed in the report were reviewed and cleared for public release by Sheriff Boyd.

There are two structures built in the very late 1800's currently in use in RICO. The building known as the Rock Island County Courthouse currently houses the civil and traffic courts, court administration, the law library and the offices of the Circuit Clerk, Recorder of Deeds, Juvenile Probation, and States Attorney. This is the building that both the CFC and the Illinois Judges Association have inspected and recommend be closed as a court facility.

A replacement court facility will likely cost \$13M to \$20M depending what judicial branch offices are located there. The lower number is just the courtrooms, ancillary offices, and holding cells. The costs increase as associated offices such as the circuit clerk, probation, court administration, the law library, public defender and/or states attorney are added.

RICO has another building known as the County Office Building (COB) that houses the offices of the County Board, Auditor, Treasurer, County Clerk, Public Defender and others. Although it does not have courtrooms, the COB could also be called a courthouse annex because it houses many of the traditional general government offices historically found in a courthouse throughout this state. The COB is NOT part of this inspection. When or even if it is prudent to replace the COB is left to the discretion of the county board and the taxpayers of this county. Adding a replacement for the COB into the plan increases the total new construction cost to the \$45M to \$50M range.

## 2. UNDERSTANDING THE ROLE OF KEY DECISION MAKERS

In the decision-making process it is important to understand who the key decision makers are and their respective roles.

*Illinois Legislature*– Mandates that each County Board provide for and maintain a proper courthouse with courtrooms meeting the minimum standards set by the Illinois Supreme Court. 55 ILCS 5/5-1106. The legislature has not provided any dedicated funding source.

*Illinois Supreme Court*– Pursuant to delegated authority from the Legislature, establishes the minimum standards for courtrooms. The 1992 version of the Minimum Courtroom Standards required compliance when a court facility was constructed or remodeled. The updated 2011 Minimum Courtroom Standards (attached as Tab #2) require all existing court facilities be brought into compliance and the Chief Judge in each circuit is required to ensure compliance. (Tab #2, para.1.2)

*County Board* – Legally owns the courthouse (as per *People v. Dahnke*) and legally must provide for a courthouse and its upkeep. The duty is spelled out specifically in 55 ILCS 5/5-1106 which reads:

It shall be the duty of the county board of each county:

Sixth--To provide proper rooms and offices, and for the repair thereof, for the accommodation of the circuit court of the county and for the clerks for such court, and to provide suitable furnishings for such rooms and offices, and to furnish fire proof safes, and the repair thereof, for the offices of the clerks of the circuit court of the county. The court rooms and furnishings thereof shall meet with reasonable minimum standards prescribed by the Supreme Court of Illinois. Such standards shall be substantially the same as those generally accepted in court rooms as to general furnishings, arrangement of bench, tables and chairs, cleanliness, convenience to litigants, decorations, lighting and other such matters relating to the physical appearance of the court room. (Emphasis added.)

*Sheriff* – Provides security and maintenance of the courthouse (as per *People v. Dahnke*) and operates the jail.

*Chief Judge* –Determines when and where court will be held in his/her circuit. (Ill. Const. Art. VI Sec.7.) This constitutional authority gives the Chief Judge the authority to close a court facility. Under Local Rule 20 he can order an inspection and report concerning compliance with existing standards. The Chief Judge is also the on-site manager for personnel issues on behalf of the Illinois Supreme Court.

*Court Facilities Committee* – Provided for in Local Court Rule 20. At the direction of the Chief Judge, judges of this circuit inspect a court facility and make a

report and recommendation to the Chief Judge who then forwards the report to the County Board Chairman.

*Illinois Department of Labor* -- It enforces Federal OSHA standards in the public workplace in Illinois. A facility found in violation can be fined. Recently two local police departments were cited for OSHA violations.

*Local Taxpayer* -- The taxpayer may have to vote on a referendum and ultimately is asked or required to pay the bills for a new courthouse.

### **3. ILLINOIS SUPREME COURT RULINGS REGARDING COURTHOUSES THAT FURTHER DEFINE ROLES**



The Illinois Supreme Court in the 1897 case of *People v. Dahnke* clarified that the county board legally owns the courthouse and the sheriff guards and cares for it as an officer of the court. In *Dahnke*, the Cook County Board, believing it controlled the assignment of courtrooms, had an agent remove a judge's belongings from the courtroom the judge was using. That agent was fined and jailed for contempt of court. In upholding the trial court's action the Supreme Court made it clear, that even though the county board owned the real estate, the circuit courts controlled their courtrooms and ancillary facilities. This case explains why the county board cannot alter, tear down, or otherwise adversely impact courtrooms without the permission of the Chief Judge.

In the 1920 case of *People v. Gallatin County* it was established that a county board can be sued to force repairs to a courthouse. In RICO's situation the 2008 engineer's report (Tab #3) from KJWW recommends against attempting renovation.

In the 1983 case of *Knuepfer v. Fawell* the Illinois Supreme Court recognized the inherent power of a Chief Judge to order production of adequate facilities if the county board refuses to act. The court stated:

*While the obvious lack of essential courtrooms and the problems resulting therefrom demand action, a proper regard for and deference to the prerogatives of the legislative and executive branches requires that judicial action be limited to exigent situations where the unwillingness of those branches to furnish essential facilities or personnel has been clearly established.*

### **4. CAN THE CHIEF JUDGE CLOSE THE COURTHOUSE?**

The Chief Judge cannot summarily close a courthouse. As noted previously, other government offices also share space within the walls of the building known as a courthouse. Closure is limited to the offices and court related facilities within the control of the judiciary. Those portions of a courthouse under the control of general government such as the



Recorder (located in the courthouse), Auditor, Treasurer and County Clerk (located in the COB) would not be affected.

As noted, the county board owns the courthouse as real estate. Once the judiciary vacates the building it is within the discretion of the county board whether to attempt to convert the courthouse into office space, find some other use for the building, or tear it down as the engineers recommend.

The Chief Judge is required to forward a copy of this report to the County Board Chairman. If the county board continues to decline remedial action, under Local Rule 20.3, the next step is litigation and a public hearing presided over by the Chief Judge. If the Chief Judge makes a finding of exigent circumstances, the Chief Judge has the authority to order the closure of the present court facilities and order the construction of a new or remodeled court facility.

## 5. HISTORY AND INVENTORY OF COURT FACILITIES

Construction of the present four-story 45,000 sq. ft. courthouse was started in 1895 and cost approximately \$125,000. It was built using marble and many other high end materials, features no one expects to be replicated in a new facility.

County population at the time was 55,249. As of the 2010 census the county population stood at 147,546. As the county outgrew the present courthouse, space needs were addressed by adding branch courts and the county office building. Traditional county offices normally located in a “courthouse” were moved to the county office building such as the Treasurer, Auditor, and County Clerk. Even though it does not have courtrooms, the approximately 56,000 sq. ft. county office building is in reality a courthouse annex because of the core county government offices located there. The adult probation department is housed in yet another location.



*Courthouse with Domes*



*Courthouse with domes removed*

The copper domes that were part of the original construction, were removed in the 1950's in an effort to stop roof leaks. Steam heating for the original courthouse was supplied by a boiler in the old jail with steam pipes that run under 15<sup>th</sup> Street, still visible in the courthouse basement. There has never been natural gas service to the courthouse.



During the tough economic times of the 1980's the RICO Board, as a cost saving measure, made the decision to defer maintenance on the courthouse. Maybe it was also in recognition that the courthouse was nearing the end of its useful life.

After a federal judge ordered the old jail closed, taxpayers opted to build a new jail rather than pay to house prisoners in other counties. RICO utilized the present jail Public Building Commission (PBC) to build the 1985 jail which included construction of a small first appearance courtroom. Steam heat for the courthouse was now supplied by the boiler located in the new jail.

The PBC consists of five members appointed by the RICO Board. It holds title to the building (in this case the jail) and issues bonds to pay for construction. The county then leases the jail from the PBC. The lease payment covers the bonds and maintenance. Once the construction bonds are paid off, title reverts back to the county. RICO levies about \$1,500,000 per year to cover the lease payment.

In 1992 a team of judges from outside the area knowledgeable in courthouse standards conducted an independent evaluation of the adequacy of court facilities in RICO. It performed essentially the same function as this CFC. Those judges issued a twelve page report and recommended that the present courthouse no longer be used as a court facility (Tab #5 --1992 IJA Report). Safety and security concerns were among the reasons listed.

In 2001 using the jail PBC, the Justice Center was completed for \$13,000,000 to add jail cells and three new courtrooms. The new cells addressed a new federal lawsuit alleging jail overcrowding. The new courtrooms also addressed some of the concerns expressed in the 1992 report concerning the felony courts. Prisoners now could safely be moved to and from the felony courtrooms without leaving the building.

A few years ago the federal government donated the old Social Security Building to RICO and the building was converted into a juvenile court facility. That facility now handles RICO's child abuse/neglect and delinquency cases. The case load is expected to outgrow that facility if Illinois joins the growing trend of states that treat 17 year olds as juveniles for felonies. It also created a third court facility the Sheriff must secure and maintain.

At the present time, except for the Juvenile Center, all branch courts have been closed because of operating costs associated with staffing and securing a satellite court facility, which leaves RICO short at least two courtrooms. The main courthouse now handles the roughly 40,000 civil and traffic division cases filed each year even though it was designed for only a fraction of that case load.

There are 22 judges in the 14<sup>th</sup> Circuit (Rock Island, Mercer, Henry, and Whiteside counties) and 15 of them are routinely assigned to duties in RICO, but there is only office and courtroom space for 12 in three different buildings. As presently configured, the courthouse has three jury courtrooms (but the jury courtroom on second

floor lacks a jury deliberation room); a hearing room used for family and domestic violence cases; and two non-jury courtrooms on the first floor used for misdemeanor, traffic and small claims. (See Tab #6) The two chambers on the first floor are routinely used as courtrooms due to lack of courtroom space contributing to a situation that is neither safe nor transparent as to the court proceedings conducted there. There are no private conference rooms.

The county office building (COB) is the former Modern Woodmen Building. That building is over 100 years old, lacks security, and was inserted into the planning mix at the request of the RICO Board. The COB is nearing the end of its useful life but is in better condition than the courthouse and lacks the same volume of foot traffic of the courthouse. It houses the majority of county government. Adult probation and the RICO Health Department are located in offices near Trinity West hospital. The adult probation building is in poor shape and also needs to be replaced.



*County office building*



*Adult Probation (a former house)*

## **6. 2011 RECOMMENDATION OF THE JOINT PLANNING COMMITTEE**

In 2010 Chief Judge O'Connor and Chairman Bohnsack formed a Joint Courthouse Planning Committee and appointed members of the judiciary and county board to meet and explore building solutions. It was the unanimous 2011 recommendation of the Joint County Board/Judicial Planning Committee that RICO adopt a phased construction approach. The first phase would add at least 4 civil and 4 traffic courtrooms to the Justice Center financed through the existing jail PBC. Phase two would address the needs of general government after voter approval at a referendum.

In furtherance of that recommendation, meetings were held in the fall of 2011 with bonding attorneys and the bonding company. Bond attorneys would approve construction of 1 or 2 new courtrooms immediately, leaving the remaining 6 for later. For underwriting liability reasons the bond attorneys wanted assurances that construction of 8 new courtrooms was a permitted and proper use under RICO's jail PBC. The argument in support of this project is that prisoners from the jail appear in every civil and traffic courtroom in the courthouse and therefore security and safety are enhanced by having these courtrooms directly incorporated into the jail. To eliminate any doubt, bond counsel requested a *Quo Warranto* action be filed to challenge the right of the PBC to build the additional civil and traffic courtrooms. In other words bond counsel needed the

RICO States' Attorney to file suit to challenge the PBC's right to add courtrooms through use of the jail PBC. If a judge determined this project fits within the scope of the jail PBC, the bonds to build 8 courtrooms could be issued.

Using the present jail PBC to finance the new courtrooms was a creative way to minimize or potentially eliminate the need for any current tax increase to fund courtroom construction. It is similar to a homeowner adding a major addition to the family home. The homeowner could finance the project through a second mortgage and carry a first and second mortgage or the homeowner could refinance the first mortgage and borrow sufficient extra money to pay for the project. In most instances the monthly payment on the refinanced first mortgage is lower than the combined payments of the first and second mortgages.

In the case of the jail PBC, \$1,000,000 of the current levy supports about \$14,000,000 of debt at today's bond rates. After the December, 2012 payment there is about \$5,625,000 in bonds outstanding. By refinancing the bonds, there would be at least \$8,375,000 (\$14,000,000 less the \$5,625,000 outstanding) available to apply to construction costs without increasing the current tax levy. Think of it this way. You borrowed \$140,000 to build your house to be paid off over 20 years. By year 13 you have paid your mortgage down to \$57,000. You put an \$83,000 addition onto your house. This takes your mortgage back up to \$140,000. If you pay that new refinanced mortgage off over 20 years (assuming the interest rate is the same) the mortgage payment will be the same as when you started.

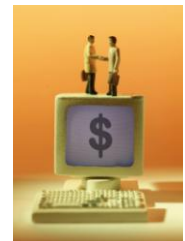


The pros and cons of proceeding via *Quo Warranto* or referendum (to amend the powers of the PBC) were still being discussed and were tabled after a developer made an unsolicited proposal to address the building needs of general government and the civil, traffic, and juvenile courts at the QCIC.

To date the County Board has failed to act on the Joint Committee's recommendations; has failed to pursue a *Quo Warranto*, has failed to act on an unsolicited proposal from the private developer; and/or has failed to place a referendum on the ballot. In addition, the budget for the upcoming year made no provision for any significant repairs or maintenance of the RICO Courthouse.

## **7. HOW MUCH WILL NEW CONSTRUCTION COST AND HOW TO PAY FOR IT?**

Economic times are tough and even a small tax increase is a burden for many families. As a rough rule of thumb, for 20 year bonds at current bond rates, it will cost the owner of a \$100,000 home about \$1 per year for every \$1,000,000 worth of debt incurred by RICO.



Total project cost is dependent on several factors including:

- Are we just building new courtrooms or will general government needs also be included?
- Will land be purchased as part of the project?
- Must any environmental hazard remediation occur?
- How will the building be financed?

A project to address all court and general government building needs at once will probably cost \$45 to \$50 million. If a phased construction approach is adopted, a new court facility would likely cost \$13 to \$20 million. Costs for the second general government phase would be dependent on market conditions in 10-20 years.

When measured on a cost per square foot basis, jails are more expensive to build than courthouses which in turn are more expensive to build than general government offices. Jails and courthouses each require security and design features not common to an office building which increases the price. Estes Construction generated estimates in 2012 (Tab #4) using \$250 per foot for courtrooms and \$190-\$195 per foot for general government.

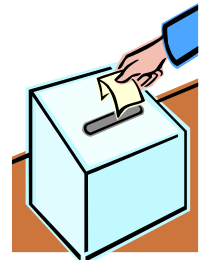
There is no dedicated funding source for construction; financing typically must come from bonds with debt service paid from the general fund or a special tax. By referendum, some counties empower their PBC with authority to build and maintain a courthouse; RICO at the present time does not. The RICO PBC is limited to a jail which has been interpreted to include some courtrooms. (Security of a jail and the safety of the public are enhanced if the prisoner can be transported to/from court without leaving the building or coming in contact with the public.)

The RICO Justice Center was completed in 2001 using the existing jail PBC. The PBC issued \$13,000,000 in bonds payable over 20 years. The county board leases the jail from the PBC and pays “rent” to the PBC of about \$1,500,000 per year. When the bonds are paid off, title to the Justice Center is transferred to RICO. To pay for the lease, the county board levies about \$1,500,000 per year against the taxable real estate in the county, with roughly \$1,000,000 going to the bond payment and \$500,000 towards jail expenses and maintenance.

To put these numbers into perspective and the impact on property taxpayers, an annual \$1,000,000 levy costs the owner of a \$100,000 home \$13.92 per year based upon recent numbers obtained from RICO officials. Therefore the current \$1,500,000 PBC levy results in an annual cost of \$20.88 ( $\$13.92 \times 1.5$ ) per year for the owner of that same \$100,000 home. The Justice Center bonds will be retired in December of 2019. After the December 2012 bond payment, about \$5,625,000 in PBC debt remains outstanding.

## 8. REFERENDUM OPTIONS

Binding referendums, such as authorizing the expansion of the PBC can occur if the county board votes to place that question on the ballot. The



next opportunities for a referendum and the last day for the county board to place an issue on the ballot are as follows:

<u>Election</u>	<u>Last Date to Act</u>
February 26, 2013	December 10, 2012
April 9, 2013	January 22, 2013
March, 2014	TBD
November, 2014	TBD

Should a referendum be placed on the ballot, the County Board must educate the public as to the need and the consequences of a vote either in support of or in opposition to the referendum.

### **9. ASSESSING THE IMPACT ON PUBLIC SERVICES AND THE CONSEQUENCES OF INACTION**

The courthouse building is worn out and has not been renovated for decades. As one senior attorney describes it, he walked into the building in 1975 when he started practicing law, it was in poor condition then and nothing has changed. It has been documented since at least 1992 (Tab #5) that the present courthouse should no longer be used as a court facility.

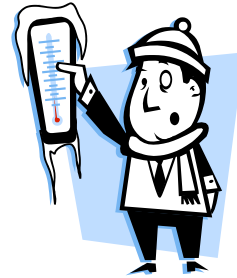
Deterioration of the courthouse has accelerated during the last ten years and conditions are impacting trials and public safety. There is the real risk that an Occupational Safety and Health Administration (OSHA), Americans with Disabilities Act (ADA), Environmental Protection Agency (EPA), or some other violation or a catastrophic failure results in immediate or eventual closure of the courthouse building. The judiciary is urging action before that happens. The best long term decisions are seldom made when addressing a short term crisis.

In the past space needs could be addressed by operating satellite facilities. Today operating costs associated with securing a facility and screening visitors for weapons limits the satellite option. It costs the sheriff approximately \$200,000 per year to staff the entrance/exits to the RICO courthouse and another \$100,000 for the Justice Center.

A properly designed courtroom is functional, fosters respect, and incorporates subtle but important safety and security features. Like seatbelts and airbags in vehicles, courthouse safety and security features are there to save lives in an emergency.

To date the judiciary has made the present RICO courthouse work, partly through innovation, partly through humility, and partly through sacrificing personal safety. When there are no courtrooms available, court is routinely held in the library, a jury room, or chambers. Sometimes court is held at the third floor bailiff's station. Another morning a judge held court sitting on the windowsill outside the first floor men's restroom. After some are finished laughing over that last visual, seriously is any of this safe or dignified? No. Does it foster respect for the judiciary or judicial decisions? No.

When the heat fails, judges wrap in blankets and sit next to a space heater. But imagine you were a litigant in a jury trial, perhaps an auto accident. Do you really want the jury that will decide your case freezing or suffering through 90 degree heat?



Do you want them distracted by the snow that drifts in the building under the fire escape door?

Or do you want your trial disrupted when the courtroom window is blown into the courtroom and shatters? Or do you worry the jury can't hear the testimony because the wind makes the ill-fitting windows whistle.



*Snow blowing under fire escape door*

Speaking of safety, there is a reason entrants to a courthouse are screened for weapons. It can be and is a dangerous place. A bullet hole through a window in a RICO judge's chambers is a testament to that.

In a properly designed courtroom prisoners are transported from their cell via a secure hallway and never have contact with the general public. The public is protected, the prisoner is protected from being the victim of vigilante justice, and the chances of escape are reduced. In the present RICO Courthouse, public contact is commonplace as prisoners are walked across the parking lot from the jail for court appearances.

Some will scoff and claim taxpayers are weary of taxes and government spending. Those views are acknowledged. But remember those views can be freely expressed because of the constitutional liberties the courts are set up to protect and that judges are sworn to uphold. By law, each county is required to have and maintain court facilities that meet certain minimum standards. RICO fails to do so and ignoring the problem for decades does not make it go away. It moves RICO into uncertain legal territory and uncertainty usually brings litigation. Historically RICO only builds when it gets sued or is on the verge of being sued.

## **10. LIABILITY RISK**

The taxpayers ultimately are financially responsible for any damages that are awarded if poor building conditions cause an injury or death. Recent history shows it happens. A county in Georgia paid out \$10,000,000 to settle two wrongful death lawsuits over a security lapse in their courthouse several years ago. The City of Chicago and Cook County, Illinois each contributed toward a \$100,000,000 settlement after people died in a 2003 county administration center fire. Some of that



settlement was covered by insurance and other defendants; some of it was paid by the taxpayers.

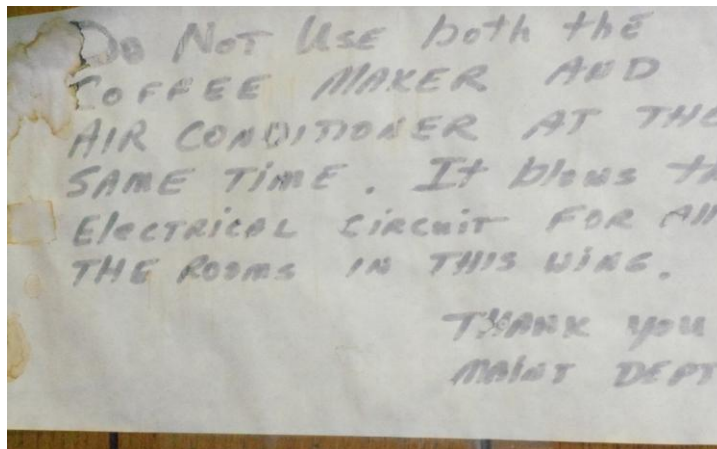
Like many large entities, RICO is self insured so there is no liability insurance coverage. A proportionate share of any judgment gets added to tax bills through the tort fund. To put it in dollar terms, if a judgment was entered against RICO, the owner of a \$100,000 home would pay as his share:

<u>Judgment</u>	<u>Tax</u>
\$1,000,000	\$13.92
\$5,000,000	\$69.60
\$10,000,000	\$139.20
\$100,000,000	\$1,392.00

Here is a list of recent incidents or building conditions to consider in which the health/safety of staff and/or the public was put at risk:

#### BUILDING RELATED ISSUES

- In 2009 the courthouse elevator motor caught fire in the basement not far from where all the old paper files are stored. Fortunately an employee was walking by when it happened and was able to grab a fire extinguisher and stop the flames from spreading to the nearby paper. That employee was credited with saving lives and the building that day. Because the fire alarm is not audible in certain areas of the building, some staff did not hear the alarm and were left in the building during the evacuation.
- The electrical system cannot always handle the loads. Burn marks on electrical outlets are commonplace. In a third floor jury room jurors can choose between running the air conditioner or the coffee pot but not both.



*Sign in third floor jury room.*

- The building lacks a sprinkler system and proper air handling system in case of a fire. (Tab #3) The elevator shaft, rotunda and open stairwell all would act as chimneys to feed oxygen to any fire.



- The public elevator breaks down frequently, trapping people inside it. It happened to a State Representative while conducting a fact-finding tour of the courthouse in 2010. Many employees now decline to ride the elevator. During evacuations or breakdowns the disabled must be physically carried down the staircase or use the small service elevator.

- When the elevator breaks, prisoners walk up and down the stairs in leg shackles to get to and from court. Because the building is not at the same grade/level as the land and sidewalk near the entrances, prisoners and the public still must always navigate steps just to enter and exit the courthouse. Tripping and falling is a hazard.



*Stone ready to fall off exterior*

- Examine the third story of the courthouse exterior and you will notice chunks of stone missing from the building façade. Pieces weighing several pounds with sharp edges are breaking away and falling to the ground near the sidewalks. Tuck-pointing to correct the problem would cost \$200,000.

- During a 2001 jury trial a courtroom window dislodged from the track due to strong winds, flew into the room and crashed to the floor without warning, narrowly missing a bailiff.
- On windy days, courtroom windows frequently whistle and howl so loudly it is difficult to hear witnesses and attorneys. In an attempt to address the issue, windows are propped in place by sticks. New windows would cost \$500,000.
- A 2008 Sheriff's report notes frequent respiratory problems among courthouse workers, symptomatic of a poor HVAC system as noted in the KJWW Engineering report (Tab #3). Cost to bring just the HVAC up to code is estimated



at \$3,100,000. Keep in mind some litigants and witnesses come to the courthouse carrying oxygen bottles because of already compromised respiratory systems.

- In 2010 a steam pipe unexpectedly burst in the gallery seating section of a courtroom during a busy court call, filling the courtroom with steam. Fortunately no one was burnt or hurt, but many cases needed to be continued until the problem could be fixed.
- Security personnel have had to intervene to keep people from being pushed or thrown over the third floor rotunda railing. The railing also poses a suicide risk. The third floor contains three busy courtrooms and the main office for the circuit clerk. Many litigants and their families gather in the third floor rotunda waiting for their cases to be called. Many domestic violence, divorce, and custody cases are heard in these courtrooms. Tensions and emotions frequently run high.



*Water damage on the 4<sup>th</sup> floor*

- Water leaking from the roof damages offices and courtrooms. It stains carpets and ruins plaster. It gets in the lights and electrical fixtures creating shock and electrocution concerns. Water on the floor creates a slipping hazard. A new roof would cost \$120,000. Structural improvements to support new equipment or repairs to roof trusses would cost much more.



*4<sup>th</sup> floor restroom bucket for roof leak*

- (Left) When the roof leaks women must step over a bucket (used to catch the water leaks) in order to use the 4<sup>th</sup> floor restroom.

- Recently concerns were raised about lead in the water coolers. The same coolers are used to supply “fresh” water to litigants and jurors.

- After a water heater was replaced the “fresh” water supply looked like thick coffee, which indicates further plumbing issues. Many employees decline to drink the courthouse water.



*Chamber's restroom*

- Judges sit and work but a few steps away from the public sidewalk, sometimes with their backs to the windows. The bullet hole in one first floor chambers is a solemn reminder of the dangers of the job and why the minimum courtroom standards should be followed.



(Caulked bullet hole in chambers)

- Asbestos, mold and lead paint chips are common throughout the building.

## **11. ECONOMIC RISK**

Some will argue now is not the right time. It obviously was not “the right time” between 1992 and 2012. But if not now, when? Delaying action adds economic risk. Interest rates for bonds were recently at or near historic lows. Will those rates stay low in the future or will they tick upward? Investors are willing to receive less interest on the bonds because the interest they receive is presently tax free. As the federal government struggles with its own budget problems, will that tax policy continue or will investors demand higher rates because the tax free feature was taken away?

Another risk is building costs. Every year building material costs increase. Right now construction is fairly soft due to the down economy. Contractors typically bid the job lower if they are hungry for work. You should also assess any ripple effect and

stimulus value of a large public works project on the local economy through labor and material purchases.

A few years ago Illinois adopted OSHA standards for the public workplace in Illinois. Those standards are enforced by the Illinois Department of Labor. At least two local governments have already been cited. The violations in the courthouse are numerous, and if a complaint is filed, the fines imposed upon RICO could prove significant.

## **12. OTHER FACTORS**

In 2008 the building was inspected by KJWW, an engineering company; their written report is attached at Tab #3. The engineers view the building as a tear down and advise against attempting restoration due to high costs and uncertainty of whether the roof could support modern air handling equipment.

The entrances, bathrooms, elevator, and courtrooms do not meet the requirements of the Americans with Disabilities Act. There are environmental issues such as mold, lead paint, and asbestos. There is no sprinkler system. These are all issues that must be addressed in any remodeling project.

The plumbing is old and water pipes break. One third floor leak from a bathroom occurred on the weekend. By Monday morning even files in the basement were damaged by the water and insurance did not cover all of the restoration. A nearby courtroom still has a musty smell from the leak. Now a deputy is pulled away from patrol duty to check every bathroom in the building for leaks daily when the courthouse is not open. Updating the plumbing would cost \$780,000.

The next time a jury is freezing due to lack of heat or sweltering because of excessive heat, are the taxpayers willing to pay for the cost of a new trial when a losing litigant claims he or she was denied a fair trial due to courthouse conditions? In a recent jury trial the parties spent well over \$50,000 in preparing and presenting the case at trial.

When planning a new building, two sets of costs need to be considered. The first set is acquisition, planning, construction, and financing, generally one-time costs. The second set of costs is recurring, and includes heating and cooling, lighting, upkeep, and security.

Screening people entering public buildings for weapons prior to admittance has been a mainstay for courthouse safety for years and is rapidly becoming necessary for general government, too. RICO adopted a courthouse screening policy after a defendant out on bail brought a loaded gun to the last day of his criminal trial. A tragedy was averted because law enforcement was tipped off to his plan.

The public entrance must be staffed with security whenever the building is open to prevent introducing weapons into the building. Security duties fall upon the Sheriff and the expenses charged to his budget. The present courthouse was designed for access, not security. Just the guarding of the courthouse entrance and exit is a necessary operational expense that costs about \$200,000 a year.

The county seat by statute must stay in the City of Rock Island. Courthouses are historically located in the heart of the county seat. It takes a successful referendum to change the county seat.

### **13. WHY IT IS NOT PRACTICAL TO RENOVATE THE EXISTING COURTHOUSE**

There are at least four problems with renovating: total cost; where to operate during renovation; the building can't be configured to meet code; and finding a funding source to pay for the renovations. Many feel that any historical significance to the building was lost in the 1950's when the domes were removed.

The 1992 IJA report (Tab #5) concluded that the present courthouse should no longer be used as a court facility. The minimum courtroom standards at the time were substantially similar to the current standards. Nonconforming issues include:

- There are no conference rooms. (Violation of 3.5 of the Minimum Courtroom Standards-- see Tab #2)
- In courtrooms 201 and 307 the judge lacks a secure corridor for access to the bench. (Violation of 4.4)
- The jury deliberation rooms are too small (Violation of 11.1) and not soundproof. (Violation of 11.4)
- Access to certain judges' chambers is not controlled or secure. (Violation of 12.3)
- As detailed in Tab 6, the litigation areas within certain courtrooms are too small.(Violation of 3.1)
- One courtroom is divided in half by a wall and has an egress staircase rising up from the basement into the litigation area.
- Judges' chambers are pressed into service as courtrooms. This means the judge sits across a small desk from the defendant. This setup poses security risks and denies litigants and the public the right to have all cases heard in open court.
- Temperatures cannot be controlled; wintertime courtroom temperatures have been documented between 50 and 106 degrees. (Violation of 3.11)
- There are no secure hallways for transporting prisoners to and from court. Prisoners ride the same elevator and walk the same corridors and staircase as the public. (Violation of 3.4)
- There is only one staircase and one passenger elevator serving the building so judges and jurors routinely are in close proximity to litigants, witnesses, victims, prisoners, and other interested parties.

- The building has four entrances and was never designed for security.
- The building lacks a jury assembly area. (Violation of 16.1) Jurors assemble in the Justice Center across the parking lot and are not in close proximity to the courthouse jury rooms. (Violation of 16.2)

There are also building code issues not unique to a courthouse that directly impact court operations and would need to be addressed in any courthouse renovation. They include issues such as:

- A roof that perpetually leaks.
- Lead paint, lead in the water coolers, asbestos, and mold.
- The HVAC system is not up to code. It lacks enough fresh air intakes and the temperature cannot be controlled. Employees complain of frequent respiratory problems. (Violation of 3.11)
- The plumbing and electrical systems need to be replaced.
- The open stairwell, rotunda, and elevator act as chimneys during a fire and must be enclosed and/or a smoke control system installed.
- The elevator is old and needs to be replaced.
- There is no sprinkler system.
- The fire alarm is not audible throughout the entire building.
- The south first floor doors can't be opened from the inside; the north doors require an access code to open.
- Windows are old and need to be replaced. Some are single pane.
- Stone is falling off the building exterior.
- Sinking and uneven steps are a trip hazard.
- The building fails to meet A.D.A. accessibility requirements (Violation of 2.0)

The RICO courthouse was built with brick and mortar with the weight of the entire building resting on the exterior walls and strategically placed interior weight-bearing walls. Even if the courthouse was gutted and renovated, it cannot be practically reconfigured to meet the size and traffic flow patterns called for in the Minimum Courtroom Standards. For example Courtroom B is divided in two by a 42" thick weight-bearing wall. The public in the back of the courtroom can only view the judge by way of a small TV monitor. The wall cannot safely be removed.

Repairs could not be made over time as some have advocated. Modern building codes require the entire building be brought up to code once a relatively low dollar threshold is reached.

In theory, once decertified by the Chief Judge, RICO could chose to renovate the courthouse into office space and then close the county office building. But that is a decision for taxpayers and the County Board to address.

## **14. CONCLUSION**

Our ancestors built a quality courthouse that has stood for over 110 years. But times and needs have changed and as a courthouse the present building has outlived its

useful and functional life. Many attorneys consider it one of the worst in the State. The public deserves better and Illinois law requires it. There are no easy or inexpensive answers or solutions.

For over 20 years RICO has avoided updating its courthouse to meet standards by simply doing nothing. That option ended as of January 2011. Our Supreme Court now mandates compliance with certain minimum standards. As judges we took an oath to uphold all laws, not just the popular ones.

By 1992 the County Board knew the courthouse was no longer suitable as a court facility. By 2008 the deterioration was bad enough that KJWW was asked to inspect the facility. KJWW's recommendation was that it was not economically feasible to repair the building (Tab #3).

In 2009 the County Board secured an estimate from Estes Construction that it would cost \$53,000,000 to build a new campus to replace the courthouse, county office building, and adult probation. RICO lacked any practical way to pay for a project of that magnitude. In 2010 and 2011 a Joint Planning Committee of county board members, judges and staff was formed and additional options were proposed, studied, and discussed. That committee made a unanimous recommendation June 1, 2011. The full County Board never acted on that recommendation or on any proposal.

It is not politically appealing to spend money on jails and courthouses but it is required by Illinois law and necessary to support our system of justice. It is the opinion of this CFC that unless forced to act, the County Board will continue to defer action on what it perceives as a politically controversial and unpopular decision. History supports this opinion.

- The 1985 Jail was built after a federal judge ordered the old one closed due to poor conditions.
- The 2001 Justice Center was built after a federal judge ordered that county prisoners could no longer be forced to sleep on the floor.
- Hope Creek Nursing Home was built after the state ordered facility upgrades or closure of the old Oak Glen Nursing Home.

As further evidence of procrastination, the County Board declined to share the 2008 KJWW report with the judiciary citing building security as the reason. It took a Freedom of Information Request to obtain the redacted copy of the report. (Tab #3B) In 2010 the judges on the Joint Planning Committee requested a copy of the full un-redacted KJWW report. It was the position of the judiciary that for a proper plan to be formulated the full extent of the problem had to be taken into account. The County Board unilaterally determined that since they now agreed the courthouse needed to be replaced, the judges did not need to see the report. The County Board eventually released the full content of the KJWW report in the summer of 2012 in support of the proposed move to QCIC.

The information redacted from the KJWW report all pertains to the lack of fire safety features in the courthouse; just the kind of information that supports closure of the

facility. The County Board cited “building security” as the basis to withhold from the judiciary the existence of latent and dangerous building conditions. Judges routinely deal with highly sensitive and confidential information. Conditions so dangerous the judiciary can’t be told speaks volumes as to why the RICO courthouse should no longer be used as a court facility. If it is that dangerous, nobody should be working there.

Given the deteriorating building conditions and the associated risk to the health and safety of both the public and staff, exigent circumstances exist within the meaning of Local Rule 20.3(d). In other words, grounds exist for the Chief Judge to order construction of replacement court facilities.

It is the recommendation of this Committee that:

1. The existing courtrooms and ancillary facilities in the Rock Island County Courthouse should be closed as soon as practical and the Rock Island County Board required to construct suitable and conforming replacement court facilities at a location acceptable to the Chief Judge.
  - a. Construction does not happen overnight. It will take an estimated 24-36 months to select a location, arrange financing; have an architect prepare preliminary and final construction plans; bid the job and complete construction.
  - b. The CFC recommends the Chief Judge adopt the following schedule in assessing the County Board’s progress:
    - i. The County Board should have the location selected for a replacement court facility and a suitable and conforming plan in place acceptable to the Chief Judge by March 31, 2013.
    - ii. Preliminary architectural plans to the Chief Judge for his approval by June 30, 2013.
    - iii. Final architectural plans to the Chief Judge by December 31, 2013.
    - iv. Construction started by May 31, 2014 with the replacement facility completed by August 31, 2015.
2. Consistent with the 2011 unanimous recommendation of the Joint Planning Committee, it is this Committee’s recommendation that any new court facilities construction be physically tied to the current RICO Justice Center.
  - a. That is the most efficient operating model for the judiciary and the Sheriff, especially if there is only one public entrance to the facility. The Sheriff can speak to the security needs, but it is generally easier to guard courtrooms if they are in one building rather than several. It is also easier and safer to transport prisoners to and from court if they do not leave the building.
  - b. In serving the public, it is easier to direct litigants, witnesses, and jurors to the right courtroom if it is located in the same building as opposed to across the parking lot, down the street, or across town. Having most or all the judges in one location also provides better service to the public if there

is a judicial conflict, substitution, emergency or illness. One judge can easily step in for another.

- c. That does not mean the Chief Judge should ignore another location if it is proposed by the County Board. If it is more financially feasible (a savings of \$10,000,000 or more) to build in another location, then that location should be strongly looked at. If another location produces only a few million dollars or less in construction savings, the Justice Center remains the preferred location because the operational savings and efficiencies will quickly overcome the smaller construction savings.
3. Immediately prepare contingency plans to operate the civil and traffic courtrooms from a temporary location until the replacement facility is completed. The building is in such poor condition that a critical infrastructure failure could close the building.
  4. Temporary use of the RICO Courthouse as a court facility until a replacement facility is constructed should be contingent upon the following:
    - a. The County Board immediately addressing and correcting critical life safety issues. The fire code elevator, ventilation, alarm and detector violations identified in the KJWW report should be corrected within 120 days of this report. These repairs are not unreasonable in a building full of paper records prone to catching fire where staff members are routinely left in the building during practice and real evacuations.
      - i. Alarm and detector coverage should be linked and provide coverage for the entire building.
      - ii. The elevator return fixed. This important safety feature takes elevator passengers to a safe floor away from the fire.
      - iii. Install a smoke control system. The open courthouse rotunda is by definition an atrium that requires a specialized air handling system. Because smoke rises, the system protects people on the upper floors from the smoke by giving them time to evacuate.
    - b. That an inspection committee be formed consisting of the Chief Judge, Sheriff, and County Board Chairman (or their respective designees). The committee shall monitor the building deterioration and safety through monthly inspections and staff incident reports.
    - c. The Illinois Department of Labor conducting an advisory OSHA inspection within 45 days and any additional immediate remediation recommendations completed 75 days thereafter. The OSHA inspection to occur in the presence of the aforementioned inspection committee.
    - d. The judiciary receives complete copies of all RICO courthouse building inspections and reports, including the OSHA inspection.
    - e. Staff receives periodic training on building evacuation procedures.

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