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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kathleen Hoffard, Plaintiff, vs. Cochise County, Arizona; Lisa Marra, in her official capacity as Director of Cochise County Elections Department, Defendants.	Case Number: 4:20-cv-00243-SHR MOTION TO COMPEL INSPECTION <i>(Assigned to the Hon. Scott H. Rash)</i>
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Plaintiff, by and through her undersigned counsel, files this *Motion to Compel Inspection* pursuant to Fed. R. Civ. P. 37(a). Plaintiff seeks to complete the unfinished inspection of Cochise County’s vote center located at Shiloh Christian Ministries, 1519 Avenida Del Sol, Sierra Vista AZ 85635 (“Shiloh Christian”). The parties conducted a partial inspection of Shiloh Christian along with two other vote centers on March 31, 2022. When the inspection of Shiloh Christian was not completed after one hour,

Defendants ended the inspection, and refused to cooperate with Plaintiff to complete the inspection on the same day, even after conference with this Court.

For the reasons set forth herein, Plaintiff seeks an order: (A) compelling Defendants to permit Plaintiff to complete the inspection¹ of Shiloh Christian; (B) granting Plaintiff permission to supplement Dr. Odell's Expert Report within ten days of completion of the inspection; (C) awarding Plaintiff sanctions for the expenses associated with the inspection, supplemental report, and resolving this motion; and (D) granting any other relief this Court deems proper. A memorandum of points and authorities and a certification of good faith conferral are included below.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In the Entry Upon Land [Docs. 43, 50-1], Plaintiff sought to inspect the County's 17 voting center and for each inspection to "the parking lot and passenger drop-off area, the accessible route from the parking lot and the nearest public transportation stop to the entrance, the entrance(s), the area(s) where lines are formed to enter the Vote Center, and the interior of the Vote Centers that the public and voters may enter on election days, including the restrooms." Defendants objected to the number of voting centers that Plaintiff could inspect. Following the Court's February 17, 2022 Order limiting Plaintiff's inspection to three vote centers in Sierra Vista, the parties agreed to conduct Plaintiff's inspection on March 31, 2022. Defendants did not object to the substantive scope of the inspection and thereby, waived objections to the scope of the inspection.

On March 31, 2022, the inspection of one site – Shiloh Christian – was more complex than anticipated because it had three-times the number of restrooms available to women voters than the other vote centers inspected. Despite that Defendants' Counsel had built in extra time and had agreed prior to the inspection to be flexible if the inspection

¹ Plaintiff's accessibility and compliance expert, Dr. Nanette Odell estimates the inspection will take another hour to complete. *See* Declaration of Meghan K. Kramer (Kramer Decl.), attached as Exhibit "1", at ¶ 37.

ran long, Defendants' Counsel ended the inspection at Shiloh Christian before Plaintiff's expert could complete the inspection.

Plaintiffs' Counsel asked Defendants to permit the expert to return to Shiloh Christian later that day, while all the experts and counsel were still in Sierra Vista. When Defendants' Counsel refused, Plaintiff brought the discovery dispute to the Court to resolve the matter on March 31, 2022 while the expert was still in Sierra Vista. The Court declined to rule on the discovery dispute on the day of, and instead encouraged the parties to resolve the matter, or alternatively to file a motion to compel and seek sanctions. Following the conference, Plaintiff made a final effort to resolve the matter on the date of the inspection, which Defendants refused. Plaintiff now files this motion seeking to complete the inspection and seeks sanctions for the costs incurred because of Defendants' Rule 37 violation.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Defendants waived objection to the substantive scope of the inspection, built in extra time, and agreed to be flexible on the day of inspection

On January 21, 2022, Plaintiff served her *Request for Entry Upon Land and Inspection of Items* on Defendants Cochise County and Lisa Marra, in her official capacity as Director of Cochise County Elections Department ("Request for Entry Upon Land"). [Docs. 43, 50-1]. Plaintiff initially sought to inspect all 17 vote centers in Cochise County. At that time, Plaintiff estimated that the inspection would last an hour per vote center. *See* Doc. 50-2, at 3 ("With travel time, we are estimating just an hour per site wherein our experts will evaluate the County's claims that the voting centers are fully accessible...."). Defendants objected to Plaintiff's request, and after consideration, the Court on February 17, 2022 limited Plaintiff's inspection to three vote centers in Sierra Vista. [Doc. 50-2, at 2]. The Court ordered the parties to set the inspection "at a time the parties mutually agreed upon." *Id.*

Defendants did not lodge, and therefore waived, any objection to the substantive scope of Plaintiff's Request for Entry Upon Land. For context, Plaintiff's notice noted

that Plaintiff's accessibility expert would inspect the parking lot, interior of the vote centers, restrooms, and paths of travel available to voters on election days:

Nannette Odell, Ed.D., is a certified ADA coordinator, and the owner of Life Quest Training and Consulting, LLC. Dr. Odell and her team will evaluate the vote centers to evaluate compliance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG), **including the parking lot and passenger drop-off area, the accessible route from the parking lot and the nearest public transportation stop to the entrance, the entrance(s), the area(s) where lines are formed to enter the Vote Center, and the interior of the Vote Centers that the public and voters may enter on election days, including the restrooms.**

[Doc. 50-1, at 3 (emphasis added)].

The parties scheduled the inspection for March 31, 2022, at three vote centers, in accordance with the Court's order. *See* Kramer Decl. at ¶ 2, and Ex. A; [Doc. 50-2, at 2]. Though the first two vote centers were only a seven-minute drive from one another, the County built in 38 minutes of travel time between them. *See* Kramer Decl. at ¶ 3, and Ex. B. The County also built in a two-hour break for lunch, though the second and third vote centers were separated by only an eight-minute drive. In other words, the total time in Sierra Vista was preliminarily scheduled to last five and a half hours, but the parties were only scheduled for three hours of inspection time:

Vote Ctr	City	Facility Name	Time	Minutes There	Travel Between	Physical Address
8	Sierra Vista-	Shiloh Christian Ministries	9:30 - 10:30	1hr	38 min	1519 Avenida Del Sol
9	Sierra Vista-	SV-United Methodist Church	11:00 - 12:00	1hr	7 min	3225 S. St. Andrews Dr
		LUNCH 12:00 - 1:30 p.m. in Sierra Vista				
7	Sierra vista	SV-Kino Hall/ St Andrews Church	2:00-3:00	1hr		800 Taylor Dr NW

See Kramer Decl. at ¶ 4, and Ex. C.

Though the parties agreed to a preliminary schedule wherein inspection of each vote center would take place in one hour, the parties repeatedly agreed that they would be flexible if the inspection lasted longer or shorter. In emails dated March 7, 2022, undersigned counsel wrote to counsel for Defendants:

1 [W]e'd prefer not to include the proposed times in the stipulation. Omitting
 2 [inspection] times will allow us the flexibility to mutually agree to a change
 in case something arises that is out of either party's control.

3 *See* Kramer Decl. at ¶ 5, and Ex. D. Defendants' counsel responded, agreeing with the
 4 sentiment that the parties should be flexible. Copying her colleague Paul Correa, Christine
 5 Roberts stated: "Everyone understands that an inspection may run long or short. That is
 6 fine." *See* Kramer Decl. at ¶ 6, and Ex. D.

7 Before the inspection began at Shiloh Christian, Ms. Roberts again reiterated that
 8 the inspection may run short or long at each site, which would be fine. *See* Kramer Decl.
 9 at ¶ 7; Declaration of Tamaraingsey In ("In Decl."), attached as Exhibit "2", at ¶ 3.

10 **B. Defendants ended the inspection at Shiloh Christian and refused to**
 11 **allow Plaintiff's experts to return to complete the inspection.**

12 Unlike the other sites, which only had one restroom available to women voters on
 13 election day, Shiloh Christian had three restrooms available to women voters – two large
 14 multi-stall restrooms, and one family/companion restroom. *See* Kramer Decl. at ¶ 8.
 15 Restrooms take a significant amount of time to survey because the Americans with
 16 Disabilities Act Accessibility Guidelines ("ADAAG") for restrooms are complex,
 17 covering many topics, including for example: grab bars, exposed pipes, faucets, toilets,
 18 floor space, and knee clearance.² Accordingly, Dr. Odell indicated early in the inspection
 19 of Shiloh Christian that she may need additional time to complete the inspection. *See*
 20 Kramer Decl. at ¶ 13.

21 When it was clear that the inspection at Shiloh Christian may run long, Defendants
 22 informed undersigned counsel that they were no longer willing to be flexible with the
 23 timing of the inspection. *See* Kramer Decl. at ¶ 14.

24 Dr. Odell and Plaintiff's counsel were ushered out of Shiloh Christian by Counsel
 25 for Defendants at 10:38 a.m., and were given limited time to complete the inspection of
 26 the parking lot outside of the building. *See* Kramer Decl. at ¶ 15. When asked why the
 27 inspection could not be completed as the parties had agreed, Ms. Roberts responded "[t]he

28 ² *See* https://www.ada.gov/2010ADASTandards_index.htm (last visited 4/14/2022).

Pastor has to leave,” and “this is private property.” *See* Kramer Decl. at ¶ 16. Both Ms. Roberts and Mr. Correa also emphasized that Plaintiff’s expert had chosen to devote time to inspection of restrooms., which Defendants’ counsel did not deem to be relevant or appropriate. *See* Kramer Decl. at ¶ 17.

As a result of Defendants’ unjustified refusal to continue the inspection, Dr. Odell was unable to finish the evaluation of a multi-stall women’s restroom, a family/companion restroom, and a portion of the accessible parking in the lot, including the path of travel therefrom. *See* Kramer Decl. at ¶ 18 and Ex. I, Expert Report of Nanette Odell at p. 7.

On the parties’ lunch break, undersigned counsel emailed counsel for Defendants to reach a resolution that would allow the parties to complete the inspection of Shiloh Christian the same day. *See* Kramer Decl. at ¶ 20, and Ex. “E”, email from Meaghan K. Kramer sent March 31, 2022 at 1:10 PM; *see also* In Decl. at ¶ 4. Undersigned counsel reiterated that the parties had agreed to be flexible if the inspection ran long, and proposed that the inspection be completed later that day during either of two events which were scheduled to be held at Shiloh Christian between 3:30 p.m. and 7:00 p.m. that evening. *See* Kramer Decl. at ¶ 21, Ex. E. Since the pastor merely provided access to the building, rather than supervision during the inspection,³ Plaintiff’s proposal would have allowed the inspection to be completed at a time when access to the church could have easily been

³ Because the inspections took place at third-party vote centers, Plaintiff’s counsel has been mindful of the fact that third-party coordination is essential. Notwithstanding the foregoing, however, Plaintiff’s experts and counsel were supervised only by Ms. Roberts, Mr. Correa, and four County employees, one of whom recorded the entire inspection (in total, six County employees). *See* Kramer Decl. at ¶ 9. At no time at any of the inspection locations, were Plaintiff’s counsel and experts supervised by third-party staff or representatives from the vote center locations. *See* Kramer Decl. at ¶ 10. Counsel for Plaintiff observed the pastor from Shiloh Christian only three times: (1) when he let everyone into the building, (2) when he left his office to use the restroom, and (3) when he was informed that everyone was leaving the building. *See* Kramer Decl. at ¶ 11. The pastor otherwise remained in his office, was not supervising the inspection, and seemed to be present only to grant the parties access to the building. *See* Kramer Decl. at ¶ 12.

1 granted, without disturbing anyone else on the campus.⁴ *See* Kramer Decl. at ¶ 22, and
2 Ex. E.

3 Plaintiff’s counsel finally noted, “if we can reach this agreement today, this will
4 avoid the unnecessary cost⁵ of experts returning ... for an inspection.” *See* Kramer Decl.
5 at ¶ 23, and Ex. E. When counsel for both parties met in person at the third vote center
6 just before 2:00 p.m., Ms. Roberts indicated that she had read her email and “the answer
7 is no.” *See* In Decl., at ¶ 5.

8 **C. Plaintiff sought intervention from the Court to allow the inspection to**
9 **be completed on March 31, 2022.**

10 Pursuant to this Court’s Scheduling Order, undersigned counsel sent an email to
11 the Court, and copied counsel for Defendants, seeking assistance so that the Shiloh
12 Christian inspection could be completed that day. *See* Doc. 40, ¶ D; Kramer Decl. at ¶ 24,
13 Ex. “F”, email from Meaghan Kramer to chambers dated March 31, 2022 at 2:32 p.m.
14 Counsel for Defendants elected not to submit a written position to the Court. *See* Kramer
15 Decl. at ¶ 25.

16 The Court conducted a telephonic discovery conference at approximately 4:00
17 p.m. on March 31, 2022. *See* Kramer Decl. at ¶ 26. After hearing arguments, the Court
18 declined to decide the matter, but encouraged the parties to work out the dispute. *See*
19 Kramer Decl. at ¶ 27. Alternatively, the Court noted, the parties could file a motion and
20 seek sanctions for costs incurred in this discovery dispute. *Id.*

21 ⁴ Shiloh Christian is a large campus, and there were several bathrooms available to guests
22 aside from the restrooms to be inspected. The fact that evening events were being held
23 should not have prevented the parties from completing the inspection. In fact, several
24 church volunteers were present during the inspection at the second inspection location,
25 the United Methodist Church, and Cochise County simply asked that everyone be
26 respectful of the church representatives – an instruction that all parties abided without
27 issue. *See* Kramer Decl. at ¶ 19.

28 ⁵ Counsel of record from the Arizona Center for Disability Law traveled from both their
Phoenix and Tucson offices for the inspection in Sierra Vista, Arizona – 370 and 155.2
roundtrip miles, respectively. While Plaintiff’s software expert is local to Cochise
County, Plaintiff’s ADA accessibility expert traveled 440 miles roundtrip, from her office
in New River, Arizona. *See* Kramer Decl. at ¶¶ 40-41.

1 Following the conference, undersigned counsel emailed Defendants' counsel in a
2 final attempt to seek a cost-effective resolution. *See* Kramer Decl. at ¶ 28, and Ex. "G",
3 email from Meaghan Kramer to Defendants' Counsel sent March 31, 2022 at 4:11 PM.

4 We are willing to compromise and have our experts complete the inspection
5 within a half-hour (internally) if we can get it done today. We will of course
6 encourage them to complete this sooner, if possible.

7 We ask that you please contact the pastor at [Shiloh Christian] and ask that
8 we be able to complete the inspection today. The reason we raised that there
9 are activities going at the church tonight is to show that there would already
10 be access to the facility. Our use of the bathrooms will not prevent folks on
11 campus from having access to other bathrooms, which are nearby.

12 If we can't reach an agreement today, we intend to file a motion and seek
13 sanctions, which will include time for attorneys and experts to travel to and
14 from Sierra Vista. We'd much prefer to work this out if possible. Please
15 give me a call if you'd like to discuss.

16 *Id.* Undersigned counsel also sent a text message to Defendants' Counsel seeking to
17 inform them of the offer of compromise: "This is Meaghan Kramer. Just sent one last
18 email your way in attempt to resolve this today. Please let me know your thoughts, either
19 way." *See* Kramer Decl. at ¶ 29, and Ex. "H", Meaghan K. Kramer text message to
20 Defendants' Counsel sent March 31, 2022 at 4:17 PM.

21 When Defendants' counsel did not respond to the email or text message by 4:30
22 p.m., undersigned counsel attempted to call Ms. Roberts, who did not answer. *See* Kramer
23 Decl. at ¶ 30. Undersigned counsel then called Mr. Correa, who declined to answer as to
24 whether the County would agree to the compromise offered, and notified undersigned
25 counsel that he did not believe that the Court would allow Plaintiff's counsel to return to
26 Sierra Vista to complete the inspection, and even if it did, the Court would not award
27 sanctions. *See* Kramer Decl. at ¶ 31.
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D. Dr. Odell concluded that Shiloh Christian was inaccessible and noncompliant with the ADAAG.

On Monday, April 11, Plaintiff served on Defendants Plaintiff Kathleen Hoffard's expert reports from Jason Frankovitz⁶ and Dr. Nanette Odell. *See* Kramer Decl. at ¶ 32, and Ex. "I", Email from Meaghan Kramer dated April 11, 2022 at 10:53 PM (attachment of Jason Frankovitz Expert Report omitted), and Doc. 51.

At Shiloh Christian, Dr. Odell was also unable to complete her survey of the accessible parking spaces and the paths of travel therefrom. *See* Kramer Decl. at ¶ 34, and Ex. I, at pp. 4-5. Notwithstanding the foregoing, however, Dr. Odell noted at least four areas of noncompliance related to the same. *Id.*

In her Expert Report dated April 11, 2022, Dr. Odell found that the multi-stall women's restroom she inspected at Shiloh Christian was not accessible and noncompliant with the ADAAG – noting 21 specific areas of noncompliance. *See* Kramer Decl. at ¶ 35, Ex. I, pp. 7-9. Her cursory review of the family/companion restroom was not complete, due to time constraints, but Dr. Odell identified that there are a minimum of four compliance violations in that restroom. *See* Kramer Decl. at ¶ 36, Ex. I, pp. 7-9.

Dr. Odell estimates that she would require approximately another hour to complete her inspection of Shiloh Christian, including a thorough review of the parking lot, paths of travel from the accessible parking spaces to the voting location, the family/companion restroom, and the second of the two women's multi-stall restrooms. *See* Kramer Decl. at ¶ 37.

II. LEGAL ARGUMENT

A. Compelling access for Plaintiff to complete her inspection of Shiloh Christian is appropriate under the circumstances.

Rule 37(a)(3)(B)(iv) of the Federal Rules of Civil Procedure provides that "[a] party seeking discovery may move for an order compelling ... inspection" when the non-moving party "fails to permit inspection -- as requested under Rule 34."

⁶ Plaintiff's software expert, Mr. Frankovitz received all the data he needed to complete his report on the day of inspection. *See* Kramer Decl. at ¶ 33.

1 **1. Compliance with LR 37.1(a).**

2 Pursuant to Local Rule 37.1(a), Plaintiff, as the moving party sets forth, separately
3 from a memorandum of law, the following in separate, distinct, numbered paragraphs:

4 1. The inspection requested: The Request for Entry Upon Land sought the
5 inspection of, among other places: Shiloh Christian Ministries, located at 1519 S.
6 Avenida Del Sol, Sierra Vista, Arizona.

7 Nannette Odell, Ed.D., is a certified ADA coordinator, and the owner of
8 Life Quest Training and Consulting, LLC. Dr. Odell and her team will
9 evaluate the vote centers to evaluate compliance with the Americans with
10 Disabilities Act Accessibility Guidelines (ADAAG), including the parking
11 lot and passenger drop-off area, the accessible route from the parking lot
12 and the nearest public transportation stop to the entrance, the entrance(s),
the area(s) where lines are formed to enter the Vote Center, and the interior
of the Vote Centers that the public and voters may enter on election days,
including the restrooms.

13 [Doc. 50-1, at 3].

14 2. The response received: While Defendants have not yet articulated their
15 position in writing, when asked why the inspection could not be completed as the parties
16 had agreed, Ms. Roberts responded “[t]he Pastor has to leave,” and “this is private
17 property.” *See* Kramer Decl. at ¶ 38. Both Ms. Roberts and Mr. Correa also emphasized
18 that Plaintiff’s expert had chosen to devote time to inspection of restrooms, which
19 Defendants’ counsel did not deem to be relevant or appropriate. *See* Kramer Decl. at ¶
20 39. Counsel for Defendants asserted similar arguments on the discovery conference with
the Court at 4:00 p.m. on March 31, 2022.

21 3. The reason(s) why said response is deficient. Defendants’ response is
22 deficient because, as set forth more fully below, Plaintiff’s request to complete the
23 inspection meets the relevancy requirements of Rule 26(b); the inspection could have
24 been completed on March 31, 2022 without additional burden or cost; and Defendants’
25 abrupt ending of the inspection at Shiloh Ministries was not substantially justified
26 pursuant to Fed. R. Civ. P. 37(a)(5)(A)(ii).
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2. **Plaintiff’s request to complete the inspection meets the “low bar” for discovery of relevant information.**

“[T]he party seeking to compel discovery has the initial burden of establishing that its request satisfies the relevancy requirements of Rule 26(b).” *Doe v. Swift Transp. Co.*, 2015 WL 4307800, *1 (D. Ariz. 2015). This “is a relatively low bar.” *Continental Circuits LLC v. Intel Corp.*, 435 F. Supp. 3d 1014, 1018 (D. Ariz. 2020).

Rule 26(b) defines the “Scope and Limits” of discovery. Under Rule 26(b)(1), “[p]arties may obtain discovery regarding any nonprivileged matter that is: [a.] relevant to any party’s claim or defense and proportional to the needs of the case, [b.] considering the importance of the issues at stake in the action, ..., [c.] the parties’ relative access to relevant information, the parties’ resources, [d.] the importance of the discovery in resolving the issues, and [e.] whether the burden or expense of the proposed discovery outweighs its likely benefit.” As set forth below, each of the applicable⁷ factors under Fed. R. Civ. P. 26(b) weighs in Plaintiff’s favor.

a. The inspection is relevant to Defendants’ central defense and proportional to the needs of the case. In inspecting the voting sites, Plaintiff sought to determine, among other things, whether the vote centers Cochise County uses in its elections were accessible and ADA compliant to evaluate Defendants’ defense. [Doc. 50-2, at 3]. Defendants denied Plaintiff’s request for a reasonable modification under the Americans with Disabilities Act (“ADA”) to vote curbside. In their *Answer to Plaintiff’s First Amended Complaint for Injunctive and Declaratory Relief*, Defendants respond that they no longer offer curbside voting because their vote centers are fully ADA accessible and compliant:

curbside voting is no longer offered in Cochise County because all of the County’s seventeen (17) Vote Centers are fully ADA accessible and ADA compliant, all equipment utilized at the Vote Centers are fully ADA

⁷ Under Rule 26(b)(1), “[i]nformation ... need not be admissible in evidence to be discoverable.” While Rule 26(b) also requires the Court to consider the amount in controversy in an action, Plaintiff does not seek damages in this action – she seeks only to enforce her civil rights. [Docs. 1, 6].

1 accessible, and the County is not required to offer curbside voting in this
2 circumstance.

3 [Doc. 31, at ¶ 42].

4 To be fully ADA compliant, all areas of the voting location available to the voter
5 on election day must comply with the ADAAG. While Dr. Odell found that the restrooms,
6 parking lots, and paths of travel that she did survey at Shiloh Christian were noncompliant
7 with the ADAAG, an incomplete inspection leaves a critical issue unanswered – whether
8 the un-surveyed restrooms, parking spaces, and paths of travel were noncompliant. If
9 Plaintiff is not permitted to complete the inspection at Shiloh Christian, at trial,
10 Defendants may raise their defense that Shiloh Christian’s un-surveyed areas are
11 accessible and compliant, but Plaintiff will have been restricted from gaining access to
12 information to independently evaluate Defendants defense that they do not need to
13 provide curbside voting because they purportedly offer full access.

14 Dr. Odell should be allowed to complete the inspection where, as here, this Court
15 already limited Plaintiff’s inspection from seventeen to three vote centers based on
16 Defendants’ proportionality objection. Dr. Odell estimates that she requires an additional
17 hour to complete her inspection of Shiloh Christian, including a thorough review of the
18 parking lot, paths of travel from the accessible parking spaces to the voting location,
19 family/companion restroom, and the second of the two women’s multi-stall restrooms.
20 *See Kramer Decl.* at ¶ 37. An additional hour to complete the inspection of one of the
21 three Sierra vote centers because it has more features to evaluate does not affect
22 proportionality. Moreover, this case is a civil rights matter where Plaintiff bears the
23 ultimate burden of proof. *See California Open Lands v. Butte County Dep’t of Pub. Works*,
24 2:20-CV-0123-KJM-DMC, 2021 WL 4992907, at *7 (E.D. Cal. Oct. 27, 2021)
25 (overruling defendants’ proportionality objections to plaintiff’s request for inspection,
26 because such objections were “boilerplate,” and the proposed inspection was proportional
27 and directly relevant to plaintiff’s case “especially given that Plaintiff bears the ultimate
28 burden of proof.”).

1 ***b. The civil rights issue at stake in this action is of critical importance to***
2 ***Plaintiff, a disabled Cochise County voter.*** This action concerns the civil rights of Ms.
3 Hoffard, a person with a disability. She seeks a permanent injunction against Cochise
4 County’s ban on curbside voting, and a declaratory judgment that her request to vote in
5 person like her non-disabled peers, and curbside in future elections, is indeed a reasonable
6 modification under the Americans with Disabilities Act. Doc. 6, at p. 14, ¶¶ A-B; *McGary*
7 *v. City of Portland*, 386 F.3d 1259, 1267 (9th Cir. 2004) (failing to provide a reasonable
8 accommodation is a form of discrimination under the ADA); *cf Fortune v. Am. Multi-*
9 *Cinema, Inc.*, 364 F.3d 1075, 1086 (9th Cir. 2004) (“[T]he ADA defines discrimination
10 as a public accommodation treating a disabled patron the same as other patrons despite
11 the former's need for a reasonable modification”) (interpreting identical reasonable
12 modification requirement under ADA Title III). Moreover, a party’s failure to grant
13 reasonable modifications for Arizonans with disabilities “is clearly contrary
14 to public policy and the interests of society as a whole.” *See Anderson v. Little League*
15 *Baseball, Inc.*, 794 F. Supp. 342, 345 (D. Ariz. 1992) (in Title III action, failure to modify
16 policy prohibiting little league coach in wheelchair from sitting in coaches’ box “is clearly
17 contrary to public policy and the interests of society as a whole”).

18 ***c. Defendants have exclusive control of the Shiloh Christian vote center.***
19 The only way for Plaintiff to determine the accessibility and compliance of Cochise
20 County’s vote centers accurately and independently in this case is to conduct an
21 inspection pursuant to Fed. R. Civ. P. 34(a)(2). Rule 34(a)(2) permits “entry onto
22 designated land or other property possessed or controlled by the responding party, so that
23 the requesting party may inspect, measure, survey, photograph, test, or sample the
24 property or any designated object or operation on it.” Because Shiloh Christian is a vote
25 center contractually controlled by Cochise County, Plaintiff cannot gain access to inspect
26 it without noticing an inspection under Rule 34(a)(2). Accordingly, the properly noticed
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1 inspection of Shiloh Christian is Plaintiff's sole opportunity to determine the accessibility
2 and compliance of the vote center accurately and independently.

3 *d. Completing the inspection is critical because no other form of discovery*
4 *or examination at trial will adequately answer the unresolved issues of fact related to*
5 *Shiloh Christian's accessibility and compliance.* As set forth above, Plaintiff cannot gain
6 access to Shiloh Christian outside of a Rule 34(a)(2) inspection. No written discovery or
7 testimony will permit Plaintiff to resolve the issues related to Shiloh Christian's ADAAG
8 compliance. Accordingly, a complete inspection is Plaintiff's sole opportunity to
9 determine the complete accessibility and compliance of the vote center accurately and
10 independently – an issue of fact central to Defendants' defenses in this action.

11 *e. The burden or expense of the proposed discovery – if any, is far*
12 *outweighed by its likely benefit.* The expense for the additional hour to inspect Shiloh
13 Christian would be the cost of any hourly staff to attend. Defendants elected to have six
14 employees present, of which at least three were salaried (the County Attorneys and Ms.
15 Marra). The parties could limit the cost in how they staff the supervision of the additional
16 time to inspect Shiloh Christian. As set forth above, the pastor at Shiloh Christian granted
17 the parties access to the building, but left the supervision of the inspection to the County.
18 If Plaintiffs were allowed to return to Shiloh Christian, it could be scheduled at the
19 pastor's convenience or when the pastor is already expected to be at the church for other
20 scheduled activities. It is not likely that any cost, aside from the hourly wages of two or
21 three county employees, would be incurred, if the parties returned to briefly complete the
22 Shiloh Christian inspection initiated on March 31, 2022. If there are any costs, those costs
23 were avoidable if Defendants had been flexible when the inspection ran over as they had
24 agreed to be in writing before the inspection or had engaged in informal resolution of this
25 discovery dispute at the Court's urging.

1 **3. The inspection could have been completed for little to no burden or**
 2 **cost on March 31, 2022.**

3 If the movant meets its burden of establishing relevancy, “the party opposing
 4 discovery has the burden to demonstrate that discovery should not be allowed due to
 5 burden or cost and must explain and support its objections with competent evidence.”
 6 *Doe*, 2015 WL 4307800 at *1. Defendants will not be able to meet their burden to
 7 demonstrate that concluding the inspection at Shiloh Christian would result in a
 8 prohibitive burden or cost. As set forth in more detail above, it is unclear that any cost,
 9 aside from the hourly wages of a few county employees, would be incurred, if the parties
 10 returned to briefly complete the Shiloh Christian inspection on March 31, 2022.

11 **B. Granting permission to supplement Dr. Odell’s Expert Report is**
 12 **warranted given the prior denial of access to complete the inspection.**

13 On April 11, Plaintiff served her expert reports on Defendants. *See* Kramer Decl.
 14 at ¶ 32, and Ex. I, and Doc. 51. Dr. Odell was unable to complete her inspection of Shiloh
 15 Christian, including the parking lot, paths of travel from the accessible parking spaces to
 16 the voting location, the family/companion restroom, and one of the two women’s multi-
 17 stall restrooms. *See* Kramer Decl. at ¶ 34, Ex. I, at pp. 4-5. If the Court grants Plaintiff’s
 18 Motion and permits Plaintiff’s expert an additional hour of inspection at Shiloh Christian,
 19 Plaintiff seeks permission to supplement Dr. Odell’s Expert Report within ten calendar
 20 days of the date of the completion of inspection. Plaintiff’s requested extension will not
 21 prejudice Defendants, since both parties’ rebuttal reports are due simultaneously on June
 22 9, 2022.⁸

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 25 ⁸ Defendants’ deadline to submit a separate expert report is Tuesday, May 10, 2022 (40
 26 calendar days after the date of inspection, March 31, 2022). [Doc. 49]. Defendants will
 27 then be entitled to rebut Plaintiff’s expert reports and any supplements thereto on the
 28 parties’ mutual rebuttal report deadline, which is currently scheduled for Thursday, June
 9, 2022 (70 calendar days after the date of inspection, March 31, 2022). *Id.* The parties’
 discovery cutoff is not scheduled until August 5, 2022. [Doc. 40].

1 **C. Plaintiff is entitled to sanctions.**

2 Defendants’ abrupt ending of the inspection at Shiloh Ministries was not
 3 substantially justified pursuant to Fed. R. Civ. P. 37(a)(5)(A)(ii). An individual’s
 4 discovery conduct is substantially justified under Fed.R.Civ.P. 37 only if it has “a
 5 reasonable basis in both law and fact.” *Pierce v. Underwood*, 487 U.S. 552, 565 (1988).
 6 Sanctions are appropriate where, as here, Defendants cannot provide a reasonable basis
 7 in either. *Id*; see also *Langer v. McHale*, 13CV2721 CAB NLS, 2014 WL 4924331, at *8
 8 (S.D. Cal. Sept. 2, 2014), aff’d, 13CV2721-CAB-NLS, 2014 WL 5422973 (S.D. Cal. Oct.
 9 20, 2014) (ADA accessibility action where the court granted plaintiff’s motion for
 10 sanctions relating to defendant’s attempts to delay and deprive plaintiff from access to an
 11 inspection site, reasoning that that defendant was not substantially justified in cancelling
 12 its Rule 34 site inspections without citing to legal authority to justify the same).

13 As a result of Defendants’ inflexible refusal to allow the parties to return to Shiloh
 14 Christian on March 31, 2022, the Arizona Center for Disability Law (“ACDL”) – a legal
 15 services non-profit with a mandate is to serve Arizonans with disabilities, and provide
 16 representation without charge to its clients – has incurred the additional expenses of filing
 17 this discovery dispute so that it may adequately rebut Defendants’ central defense in this
 18 action. ACDL will be further required to send an attorney and Dr. Odell’s survey team
 19 back down to Sierra Vista at significant cost to the organization. ACDL’s funds are finite,
 20 and when resources are expended as a result of an opposing party’s sanctionable conduct,
 21 other Arizonans with disabilities then go without ACDL’s necessary services. As in
 22 *Langer*, Defendants here did not provide, and can rely on no legal or factual authority to
 23 substantially justify their position in this discovery dispute. Accordingly, Plaintiff asks
 24 this Court to award Rule 37 sanctions in favor of Plaintiff.

25 **CERTIFICATION OF GOOD FAITH CONFERRAL**

26 Undersigned counsel hereby certifies the movant has in good faith conferred with
 27 counsel for Defendants in an effort to complete the inspection without court action. *See*
 28

1 Kramer Decl. at ¶ 42. Counsel for Plaintiff has made sincere efforts as required by L.R.
2 7.2(j) to personally consult and resolve this disputed matter, as detailed above. As these
3 efforts have not been successful, this motion is substantially justified, such that attorneys'
4 fees should not be assessed against Plaintiff under Fed. R. Civ. P. 37(a)(5)(A).

5 **CONCLUSION**

6 For the reasons set forth herein, Plaintiff seeks an order: (A) compelling
7 Defendants to permit Plaintiff to complete her inspection of Shiloh Christian; (B) granting
8 Plaintiff permission to supplement Dr. Odell's Expert Report within ten days of
9 completion of the inspection; (C) awarding Plaintiff sanctions and requiring Defendants
10 to pay attorneys fees' and costs, and expert fees and costs, associated with this motion
11 and securing this discovery; and (D) granting any other relief this Court deems proper.

12 A proposed form of order is filed with this Motion.

13 DATED this 11th day of May, 2022.

14 **ARIZONA CENTER FOR DISABILITY LAW**

15 /s/ Meaghan K. Kramer

16 Rose Daly-Rooney

17 Maya Abela

18 Tamaraingsey In

Meaghan Kramer

19 *Attorneys for Plaintiff Kathleen Hoffard*
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing, and sent a copy by email, to the following:

COCHISE COUNTY ATTORNEY
CHRISTINE J. ROBERTS
Chief Civil Deputy County Attorney
Arizona Bar No. 033718

PAUL CORREA
Civil Deputy County Attorney
P.O. Drawer CA
Bisbee, AZ 85603
CVAttymeo@cochise.az.gov

*Attorneys for Cochise County, and Lisa Marra, in her
official capacity as Cochise County Elections Director*

By: /s/ Raquel Castro

Rose Daly-Rooney, AZ Bar #015690
Maya Abela, AZ Bar #027232
Tamaraingsey In, AZ Bar #035208
Meaghan Kramer, AZ Bar #029043
ARIZONA CENTER FOR DISABILITY LAW
5025 E. Washington Street, Suite 202
Phoenix, AZ 85034
(602) 274-6287
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mabela@azdisabilitylaw.org
sin@azdisabilitylaw.org
mkramer@azdisabilitylaw.org

Attorneys for Plaintiff Kathleen Hoffard

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kathleen Hoffard,

Plaintiff,

vs.

Cochise County, Arizona; Lisa Marra,
in her official capacity as Director of
Cochise County Elections
Department,

Defendants.

Case Number: 4:20-cv-00243-SHR

**DECLARATION OF MEAGHAN K.
KRAMER IN SUPPORT OF
PLAINTIFF'S MOTION TO COMPEL
INSPECTION**

(Assigned to the Hon. Scott H. Rash)

I, Meaghan K. Kramer, declare as follows:

1. I am an attorney licensed to practice in the State of Arizona. I am a Managing Attorney at the Arizona Center for Disability Law, and I am an attorney of record for the Plaintiff, Kathleen Hoffard, in this action. If called as a witness, then I could and would testify competently to the facts stated below, all of which are within my personal knowledge.

2. The parties scheduled an inspection for March 31, 2022, at three vote centers in Sierra Vista, in accordance with the Court's order. *See* Ex. "A", email from Christine Roberts sent March 29, 2022 at 10:52 AM; [Doc. 50-2, at 2].

3. Though the first two vote centers were only a seven-minute drive from one another, the County built in 38 minutes of travel time between them. *See* Ex. A and Ex. "B", Waze directions from Shiloh Christian to United Methodist Church.

4. The County also built in a two-hour break for lunch, though the second and third vote centers were separated by only an eight-minute drive. In other words, the total time in Sierra Vista was preliminarily scheduled to last five and a half hours, but the parties were only scheduled for three hours of inspection time:

Vote Ctr	City	Facility Name	Time	Minutes There	Travel Between	Physical Address
8	Sierra Vista-	Shiloh Christian Ministries	9:30 - 10:30	1hr	38 min	1519 Avenida Del Sol
9	Sierra Vista-	SV-United Methodist Church	11:00 - 12:00	1hr	7 min	3225 S. St. Andrews Dr
		LUNCH 12:00 - 1:30 p.m. in Sierra Vista				
7	Sierra vista	SV-Kino Hall/ St Andrews Church	2:00-3:00	1hr		800 Taylor Dr NW

See Ex. A, and Ex. "C", Waze directions from United Methodist Church to St. Andrews Church.

5. Though the parties agreed to a preliminary schedule wherein inspection of each vote center would take place in one hour, the parties repeatedly agreed that they would be flexible if the inspection lasted longer or shorter. In emails dated March 7, 2022, undersigned counsel wrote to counsel for Defendants:

[W]e'd prefer not to include the proposed times in the stipulation. Omitting [inspection] times will allow us the flexibility to mutually agree to a change in case something arises that is out of either party's control.

See Exhibit "D", email from Meaghan Kramer sent March 7, 2022 at 3:43 PM.

6. Defendants' counsel responded, agreeing with the sentiment that the parties should be flexible. Copying her colleague Paul Correa, Christine Roberts stated: "Everyone understands that an inspection may run long or short. That is fine." *See* Ex. D.

1 7. Before the inspection began at Shiloh Christian, Ms. Roberts again
2 reiterated that the inspection may run short or long at each site, which would be fine.

3 8. Shiloh Christian is a large campus, and there were several bathrooms
4 available to guests aside from the restrooms to be inspected. Unlike the other sites, which
5 only had one restroom available to women voters on election day, Shiloh Christian had
6 three restrooms available to women voters – two large multi-stall restrooms, and one
7 family/companion restroom.

8 9. Because the inspections took place at third-party vote centers, Plaintiff's
9 counsel was mindful of the fact that third-party coordination is essential. Notwithstanding
10 the foregoing, however, Plaintiff's experts and counsel were supervised only by Ms.
11 Roberts, Mr. Correa, and four County employees, one of whom recorded the entire
12 inspection (in total, six County employees).

13 10. At no time at any of the inspection locations, were Plaintiff's counsel and
14 experts supervised by third-party staff or representatives from the vote center locations.

15 11. Counsel for Plaintiff observed the pastor from Shiloh Christian only three
16 times: (1) when he let everyone into the building, (2) when he left his office to use the
17 restroom, and (3) when he was informed that everyone was leaving the building.

18 12. The pastor otherwise remained in his office, was not supervising the
19 inspection, and seemed to be present only to grant the parties access to the building.

20 13. Dr. Odell indicated early in the inspection of Shiloh Christian that she may
21 need additional time to complete the inspection.

22 14. When it was clear that the inspection at Shiloh Christian may run long,
23 Defendants informed undersigned counsel that they were no longer willing to be flexible
24 with the timing of the inspection.

25 15. Dr. Odell and Plaintiff's counsel were ushered out of Shiloh Christian by
26 Counsel for Defendants at 10:38 a.m. and were given limited time to complete the
27 inspection of the parking lot outside of the building.

1 16. When asked why the inspection could not be completed as the parties had
2 agreed, Ms. Roberts responded “[t]he Pastor has to leave,” and “this is private property.”

3 17. Both Ms. Roberts and Mr. Correa also emphasized that Plaintiff’s expert
4 had chosen to devote time to inspection of restrooms, which Defendants’ counsel did not
5 deem to be relevant or appropriate.

6 18. As a result of Defendants’ refusal to continue the inspection, Dr. Odell was
7 unable to finish the evaluation of a multi-stall women’s restroom, a family/companion
8 restroom, and a portion of the accessible parking in the lot, including the path of travel
9 therefrom. *See* Ex. I, Expert Report of Nanette Odell at p. 7.

10 19. Several church volunteers were present during the inspection at the second
11 inspection location, the United Methodist Church, and Cochise County simply asked that
12 everyone be respectful of the church representatives – an instruction that all parties abided
13 without issue.

14 20. On the parties’ lunch break, undersigned counsel emailed counsel for
15 Defendants to reach a resolution that would allow the parties to complete the inspection
16 of Shiloh Christian the same day. *See* Ex. “E”, email from Meaghan K. Kramer sent
17 March 31, 2022 at 1:10 PM.

18 21. Undersigned counsel reiterated that the parties had agreed to be flexible if
19 the inspection ran long, and proposed that the inspection be completed later that day
20 during either of two events which were scheduled to be held at Shiloh Christian between
21 3:30 p.m. and 7:00 p.m. that evening. *See* Ex. E.

22 22. Since the pastor merely provided access to the building, rather than
23 supervision during the inspection, Plaintiff’s proposal would have allowed the inspection
24 to be completed at a time when access to the church could have easily been granted,
25 without disturbing anyone else on the campus. *See* Ex. E.

26 23. Plaintiff’s counsel finally noted, “if we can reach this agreement today, this
27 will avoid the unnecessary cost of experts returning ... for an inspection.” *See* Ex. E.
28

1 24. Pursuant to this Court’s Scheduling Order, undersigned counsel sent an
2 email to the Court, and copied counsel for Defendants, seeking assistance so that the
3 Shiloh Christian inspection could be completed that day. *See* Ex. “F”, email from
4 Meaghan Kramer to chambers dated March 31, 2022 at 2:32 p.m.

5 25. Counsel for Defendants elected not to submit a written position to the Court.
6 *See* Ex. F.

7 26. The Court conducted a telephonic discovery conference at approximately
8 4:00 p.m. on March 31, 2022.

9 27. After hearing arguments, the Court declined to decide the matter, but
10 encouraged the parties to work out the dispute. Alternatively, the Court noted, the parties
11 could file a motion and seek sanctions for costs incurred in this discovery dispute.

12 28. Following the conference, undersigned counsel emailed Defendants’
13 counsel in a final attempt to seek a cost-effective resolution. *See* Ex. “G”, email from
14 Meaghan Kramer to Defendants’ Counsel sent March 31, 2022 at 4:11 PM.

15 We are willing to compromise and have our experts complete the inspection
16 within a half-hour (internally) if we can get it done today. We will of course
17 encourage them to complete this sooner, if possible.

18 We ask that you please contact the pastor at [Shiloh Christian] and ask that
19 we be able to complete the inspection today. The reason we raised that there
20 are activities going at the church tonight is to show that there would already
21 be access to the facility. Our use of the bathrooms will not prevent folks on
22 campus from having access to other bathrooms, which are nearby.

23 If we can’t reach an agreement today, we intend to file a motion and seek
24 sanctions, which will include time for attorneys and experts to travel to and
25 from Sierra Vista. We’d much prefer to work this out if possible. Please
26 give me a call if you’d like to discuss.

27 *Id.*

28 29. Undersigned counsel also sent a text message to Defendants’ Counsel
seeking to inform them of the offer of compromise: “This is Meaghan Kramer. Just sent
one last email your way in attempt to resolve this today. Please let me know your thoughts,

1 either way.” *See* Ex. “H”, Meaghan K. Kramer text message to Defendants’ Counsel sent
2 March 31, 2022 at 4:17 PM.

3 30. When Defendants’ counsel did not respond to the email or text message by
4 4:30 p.m., undersigned counsel attempted to call Ms. Roberts, who did not answer.

5 31. Undersigned counsel then called Mr. Correa, who declined to answer as to
6 whether the County would agree to the compromise offered, and notified undersigned
7 counsel that he did not believe that the Court would allow Plaintiff’s counsel to return to
8 Sierra Vista to complete the inspection, and even if it did, the Court would not award
9 sanctions.

10 32. On Monday, April 11, Plaintiff served on Defendants Plaintiff Kathleen
11 Hoffard’s expert reports from Jason Frankovitz and Dr. Nanette Odell. *See* and Ex. “I”,
12 Email from Meaghan Kramer dated April 11, 2022 at 10:53 PM (attachment of Jason
13 Frankovitz Expert Report omitted), and Doc. 51.

14 33. Plaintiff’s software expert, Mr. Frankovitz received all the data he needed
15 to complete his report on the day of inspection.

16 34. At Shiloh Christian, Dr. Odell was also unable to complete her survey of
17 the accessible parking spaces and the paths of travel therefrom. Notwithstanding the
18 foregoing, however, Dr. Odell noted at least four areas of noncompliance related to the
19 same. *See* Ex. I, at pp. 4-5.

20 35. In her Expert Report dated April 11, 2022, Dr. Odell found that the muti-
21 stall women’s restroom she inspected at Shiloh Christian was not accessible and
22 noncompliant with the ADAAG – noting 21 specific areas of noncompliance. *See* Ex. I,
23 pp. 7-9.

24 36. Her cursory review of the family/companion restroom was not complete,
25 due to time constraints, but Dr. Odell identified that there are a minimum of four
26 compliance violations in that restroom. *Id.*

37. Dr. Odell estimates that she would require approximately another hour to complete her inspection of Shiloh Christian, including a thorough review of the parking lot, paths of travel from the accessible parking spaces to the voting location, the family/companion restroom, and the second of the two women's multi-stall restrooms.

38. While Defendants have not yet articulated their position in writing, when asked why the inspection could not be completed as the parties had agreed, Ms. Roberts responded “[t]he Pastor has to leave,” and “this is private property.”

39. Both Ms. Roberts and Mr. Correa also emphasized that Plaintiff's expert had chosen to devote time to inspection of restrooms, which Defendants' counsel did not deem to be relevant or appropriate.

40. Counsel of record from the Arizona Center for Disability Law traveled from both their Phoenix and Tucson offices for the inspection in Sierra Vista, Arizona – 370 and 155.2 roundtrip miles, respectively.

41. While Plaintiff's software expert is local to Cochise County, Plaintiff's ADA accessibility expert traveled 440 miles roundtrip, from her office in New River, Arizona.

42. Undersigned counsel hereby certifies the movant has in good faith conferred with counsel for Defendants in an effort to complete the inspection without court action Counsel for Plaintiff has made sincere efforts as required by L.R. 7.2(j) to personally consult and resolve this disputed matter, as detailed above.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 11th day of May, in Phoenix, Arizona.

/s/ Meaghan K. Kramer
Meaghan K. Kramer

Exhibit A to Kramer Decl.

Meaghan Kramer

From: Meaghan Kramer
Sent: Tuesday, March 29, 2022 1:06 PM
To: Roberts, Christine
Cc: Rose Daly-Rooney; Maya Abela; Maura Hilser; Sey In; Correa, Paul
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Thank you, Christine. Confirmed on our end as well. We will see you then and will be sure to direct any communications to you and Paul.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
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Phone: (602) 274-6287, Ext. 223
Fax: (602) 274-6779

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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Tuesday, March 29, 2022 10:52 AM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Hi Meaghan,

This e-mail will reconfirm the vote center inspections scheduled for this Thursday, March 31, 2022, as follows:

Vote	Ctr	City	Facility Name	Time	Minutes There	Travel Between
8		Sierra Vista-	Shiloh Christian Ministries	9:30 - 10:30	1hr	38 min
9		Sierra Vista-	SV-United Methodist Church	11:00 - 12:00	1hr	7 min
			LUNCH 12:00 - 1:30 p.m. in Sierra Vista			
7		Sierra vista	SV-Kino Hall/ St Andrews Church	2:00-3:00	1hr	

Should you arrive at any vote center location before we do, please do not enter the location. Our Elections Director needs to make the initial contact with the representative of the facility before we enter. Also, please do not direct any questions to County staff. Should you have any questions, direct them to either Paul or me. See you on Thursday.

Best regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

Civil Division

100 Higgins Hill

P.O. Drawer CA

Bisbee, Arizona 85603

(520) 432-8754 Direct

(520) 432-8700 Main

(520) 432-8778 Fax

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Thursday, March 10, 2022 11:18 AM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*


Hi Christine,

It appears that Judge Rash beat us to the punch on Tuesday morning, so we don't believe it's necessary to file anything else on the matter. I want to reiterate that we agree to the proposed times outlined in the schedule you circulated Monday morning. If the inspection schedule changes for any reason, please let us know as soon as possible as we are coordinating multiple professionals.

We are planning to file a notice of lodging today, which will just memorialize the entry upon land discovery issue and subsequent order for the record. Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
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5025 E. Washington Street, Ste 202
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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Monday, March 7, 2022 6:19 PM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: Re: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

I want the times in the stipulation and order. Please add the footnote and file it as a joint stipulation. Not a motion. The court already gave us permission to adjust the dates. It was obvious that this would need to be done considering the fact we were looking at inspection dates that were clearly after the March 4 deadline. Thus, your motion was unnecessary.

Christine J. Roberts, Esq., MBA, CPCU
Chief Civil Deputy
Cochise County Attorney's Office
Sent from my iPhone

Get [Outlook for iOS](#)

From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Monday, March 7, 2022 5:47:35 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Christine,

I received your three emails, thank you. Procedurally, what we're filing is a stipulated or joint motion because we can't move deadlines without the court's permission, pursuant to Judge Rash's Scheduling Order at paragraph J ("Counsel cannot, without the Court's approval, extend the deadlines imposed by the Court,") and the local rules. Because the request requires the court's approval, it's technically a motion. However, if you disagree with this analysis, we will file it as a stipulation.

As I've mentioned before, we are willing to agree to inspection times. We are simply looking to avoid having to seek relief from the court on the date of the inspection if an unforeseeable event occurs, including by one of your contracting voting centers. To that end, by this email, we agree to the proposed times outlined in the schedule you circulated this morning. If this is acceptable to you, please let me know and we'll get the stipulation filed.



If it's critical to your client that the agreed upon times are entered into an order, we'd propose adding the following footnote to the filing:

These times have been agreed to by the Parties. The Parties agree to work together to resolve any unforeseen scheduling issues that may occur on or before the date of the Inspection. If any of the site visits runs short or long, the Parties agree to attempt to work together to mutually resolve such scheduling issues without seeking intervention from the Court.

Our motion is pending. We are happy to withdraw it as soon as we have agreed to language for our joint filing. Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
Email: mkramer@azdisabilitylaw.org
Phone: (602) 274-6287, Ext. 223
Fax: (602) 274-6779

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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Monday, March 7, 2022 4:31 PM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Please remove "Motion" from the title. Thanks.

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

Civil Division

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Bisbee, Arizona 85603

(520) 432-8754 Direct

(520) 432-8700 Main

(520) 432-8778 Fax

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Monday, March 7, 2022 3:43 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Hi Christine,


Thank you for your email. We didn't want to let a deadline pass without getting something on file. We're happy to withdraw our motion.

I've attached a redline to the stipulation. Your revisions are acceptable with one exception – we'd prefer not to include the proposed times in the stipulation. Omitting times will allow us the flexibility to mutually agree to a change in case something arises that is out of either party's control. Please let us know if we have your permission to sign and file as drafted. We will also file a notice withdrawing our motion with the stipulation.

I'd also like to clarify an issue that arose in our meet and confer discussion. You mentioned that the inspection will be recorded on video. Could you please clarify the details? Who will be filming and what is the purpose of recording the inspection? Thank you.

Best,

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
Email: mkramer@azdisabilitylaw.org
Phone: (602) 274-6287, Ext. 223
Fax: (602) 274-6779

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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Monday, March 7, 2022 10:54 AM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meghan,

Attached are our revisions to the Stipulation. I incorporated the inspection date and times and adjusted the remaining deadline dates to conform with your recommendations. Let me know if you have any questions.

We make it a point to respond to all e-mails as soon as reasonably possible. As is evidenced by the fact that I responded to your e-mail as soon as I got into the office this morning. Yes, Paul forgot to put on his out-of-office reply, but even if he was in the office on Friday, it does not mean that he would have immediately seen your e-mail in the limited time frame that you sent it and requested a

response. We attend meetings, hearings, etc. and aren't continuously at our desks. In the future, we would appreciate the professional courtesy of a quick phone call to our office to see if we received your e-mail (or are even in the office) before you file such a motion, especially without a meet a confer. My out-of-office reply has alternate phone numbers to call should your e-mail need immediate attention, and as you stated in your e-mail, you definitely received my out-of-office reply.

Please confirm whether you have any additional changes to the Stipulation and that you will be withdrawing your Motion.

Best regards,
Christine J. Roberts, Esq., MBA, CPCU
Chief Civil Deputy
Cochise County Attorney's Office
Civil Division
100 Higgins Hill
P.O. Drawer CA
Bisbee, Arizona 85603
(520) 432-8754 Direct
(520) 432-8700 Main
(520) 432-8778 Fax

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Sent: Monday, March 7, 2022 9:06 AM
To: Roberts, Christine <CRoberts@cochise.az.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Hi Christine,

Thank you. I did not receive an out of office message from Paul and assumed he was receiving my emails. I know you had not taken the position that you would not extend deadlines – I believe we accurately conveyed that in the motion. We would be happy to withdraw our motion if we can agree to a stipulation today. Because one of the deadlines we sought to extend was on Friday, we wanted to get something on file before close of business on Friday.

Thank you for confirming March 31. I will take a look at your proposed schedule and get back to you if there are any issues.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Monday, March 7, 2022 8:53 AM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meaghan,

Paul and I were both out of the office on Friday, March 4, 2022. You did not send your e-mail until after close of business on Thursday, March 3, 2022, after we had both left the office. Therefore, I am just now seeing this e-mail. I will review the stipulation today and get back to you. However, I see that you already filed a motion with the Court. Could you not have waited until Monday to hear back from us? You should have received my out-of-office reply. In any event, I can either get back to you about the stipulation later today and you can withdraw your motion, or I can file a response with the Court explaining how you did not wait for our response. How would you like to proceed? Just a point of clarification, Defendants never stated they would not stipulate to extending dates. However, we did state that we would not stipulate to your first stipulation *as drafted* because you added a fourth vote center.

Additionally, on Friday, March 4, 2022, my Elections Department confirm March 31 as the inspection date. Not long ago, I sent you an e-mail confirming the date and attaching the schedule. Another copy is attached for your review.

Best regards,
Christine J. Roberts, Esq., MBA, CPCU

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Sent: Thursday, March 3, 2022 5:24 PM
To: Roberts, Christine <CRoberts@cochise.az.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Hi Christine,

Following up on our conversations about the inspection, I am attaching a revised stipulated motion that contemplates moving our inspection to an agreeable date. I've noted that we're still working out the date, and confirmed that the inspection will consist only of the three voting sites in the court's email order. We also propose to move the expert report dates out to follow the inspection, whenever it is scheduled.

Please let me know what revisions you have, if any, and we will get it filed tomorrow. Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
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From: Meaghan Kramer
Sent: Tuesday, March 1, 2022 8:02 PM
To: Roberts, Christine <CRoberts@cochise.az.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Thank you, Christine. We will get this filed.

Our experts are all available on March 30, March 31, April 1, and April 13. Please let us know which of these dates work for you.

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
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5025 E. Washington Street, Ste 202
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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Tuesday, March 1, 2022 11:13 AM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Hi Meaghan,

Our revisions to the Joint Settlement Report are attached. At this time, Defendants are not interested in settlement discussions.

As for the Court's ruling, we are not under the same impression. Our argument to the Court was based on proportionality. We did not ask the court to limit inspection to *all* of the vote centers in Sierra Vista. Rather, we asked the Court to limit inspections "to a total of three voting centers in Sierra Vista, instead of each of the seventeen voting centers located throughout Cochise County." See February 16, 2002 e-mail to Judge Rash's chamber, Defendant's Statement, ¶ 1, Ins 1-3. That is exactly what the Court did. When we offered inspections of three vote centers, it was to offer one additional vote center along with the two that Ms. Hoffard visited in 2016. That is proportional for this litigation. We do not agree to an inspection of a fourth vote center.

You miss understood that anytime during the week of March 21 or March 28 would work. We said these were better weeks than what you had previously noticed. However, we need to work on trying to schedule the inspections with various non-parties (of which we have no control) and County employees. Arguably, your experts have control over their own schedules. As the Court's order stated, the inspections must be mutually agreed upon. If you let us know what dates your experts are available, we can try to schedule around their availability. Based on my discussion with Elections, March 30, 2022, is not available. We will not be contacting any of the vote centers again, until you provided us with several possible inspection dates.

Best regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Tuesday, March 1, 2022 10:05 AM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Hi Christine,



Thank you for your email. I understood that any time during these two weeks that you proposed would work on your end. We are also coordinating complex schedules, so I appreciate you sending us more dates as well. I'll aim to get you more dates today.

Regarding the fourth Sierra Vista Voting Center, we believed that the judge was left with the impression that there were only three Voting Centers in Sierra Vista, given the language in the order (the court used the language "the three voting centers in Sierra Vista"). The fourth site between seven and ten miles from the other three voting sites, so it can easily be accomplished the same day as the others and shouldn't cause much additional cost, if any. Ms. Hoffard is as likely to be near the Moson Road location on election day as any of the other Sierra Vista Voting Centers.

I've attached a draft of our Joint Settlement Status Report. Please add an update from your end and we'll get it filed today. Please let us know what works for you to have a discussion regarding settlement and we will get something on the calendar. Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Monday, February 28, 2022 3:44 PM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meaghan,

Our Elections Department worked very hard to coordinate that date and time. And, we can assure that it is a firm date. I do not know if March 30, 2022, is available and will need to check with Elections. Before I contact Elections, can you provide us with other dates that may work when your experts are available other than March 30, 2022? These are not County owned or maintained facilities and we do not have control over their schedules.

The Court's ruling on our discovery dispute limited Plaintiff's inspection to three vote centers, based on proportionality. Those are the ones that are in the City of Sierra Vista and where Ms. Hoffard would most likely vote. Proximity of the Moson Road location to Ms. Hoffard's friend's home is irrelevant. We do **not** agree to offer a fourth vote center for inspection and will not be signing the proposed stipulation, as drafted.

While you find out other possible dates when your experts are available, I will check to see if my client wants to engage in settlement discussions. I look forward to hearing back from you with additional dates.

Bet regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Monday, February 28, 2022 3:19 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Christine and Paul,

I hope you had a nice weekend.

As a point of clarification, we see that there are four voting sites in Sierra Vista, not three. The fourth, Mountain Vista Baptist Church is located at 5499 S Moson Rd, Sierra Vista, AZ 85650. The location is in Sierra Vista and just five blocks from the home of Ms. Hoffard's close friend.

Unfortunately, our experts are not available on March 29 to conduct the inspections, but they are available the following day. Please confirm that works on your end. I've attached a draft stipulation for your review. Let me know if you have any questions or would like to discuss.



I also note in our scheduling order that our first Joint Settlement Status Report is due on tomorrow, Tuesday, March 01, 2022. We remain open to the possibility of settlement and would welcome a conversation about ways to allow our client to vote curbside in future elections. As you are aware, we are not seeking damages in this action. We'd like to schedule a separate call to discuss settlement this week, at your convenience. Please let us know what works for you.

I will circulate a draft Joint Status Report this afternoon.

Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
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Fax: (602) 274-6779

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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Friday, February 25, 2022 1:55 PM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Good afternoon, Meaghan,

Our Election Department has contacted the three (3) non-party facilities that serve as vote centers in Sierra Vista (VC7, VC8, and VC9) to determine their availability for inspection. The Department was able to coordinate inspections for Tuesday, March 29, 2022, from 9:30 a.m. to 3:00 p.m. I have also confirmed that the necessary County personnel from IT and the County Attorney's Office are also available on this date. A proposed schedule is attached for your review. Let us know if Plaintiff agrees to this date and time.

Best regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

Civil Division

100 Higgins Hill

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Bisbee, Arizona 85603

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Exhibit B to Kramer Decl.

Driving directions to Shiloh Christian Ministries, 1519 S Avenida del Sol, Sierra Vista, Arizona, United States of America

Seirra Vista United Methodist Church

3225 Saint Andrews Dr, Sierra Vista, United States of America

Leave now

Save to app

Routes

7 min

Arrive 8:47 AM

E Snyder Blvd Sierra Vista; SR-92

Best route, typical traffic

3.8 miles

8 min

Arrive 8:48 AM

Calle Mercancia Sierra Vista; SR-92

Typical traffic

3.7 miles

8 min

Arrive 8:48 AM

E Avenida Cochise Sierra Vista; SR-92

Typical traffic

3.8 miles

Starting point

Destination

Shiloh Christian Ministries

1519 S Avenida del Sol, Sierra Vista, Arizona, United States of America

Exhibit B to Kramer Decl.

<https://www.waze.com/live-map/directions/seirra-vista-united-methodist-church-saint-andrews-dr-3225-sierra-vista?to=place.w.163643707.163663367...>

1/1

Exhibit C to Kramer Decl.

Driving directions

Seirra Vista United Methodist Church

3225 Saint Andrews Dr, Sierra Vista, United States of America

St. Andrew the Apostle Catholic Church

800 Taylor Dr, Sierra Vista, AZ 85635, USA

Leave now ▾

Save to app

Routes

8 min

4.9 miles

Arrive 8:52 AM

Buffalo Soldier Trl, W Taylor Dr Sierra Vista

Best route, typical traffic

10 min

5 miles

Arrive 8:54 AM

Buffalo Soldier Trl, S Carmichael Ave Sierra Vista

Typical traffic

11 min

5.2 miles

Arrive 8:54 AM

Buffalo Soldier Trl, 7th St Sierra Vista

Typical traffic

Starting point

Destination

Seirra Vista United Methodist Church

3225 Saint Andrews Dr, Sierra Vista, United States of America

Exhibit C to Kramer Decl.

<https://www.waze.com/live-map/directions/us/az/sierra-vista/st.-andrew-the-apostle-catholic-church?to=place.ChIJ6dNspUgo14YRFD82y4AVXdg&fro...>

1/1

Exhibit D to Kramer Decl.



Meaghan Kramer

From: Meaghan Kramer
Sent: Monday, March 7, 2022 4:26 PM
To: Roberts, Christine
Cc: Rose Daly-Rooney; Maya Abela; Maura Hilser; Sey In; Correa, Paul
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Christine,

We can absolutely mutually agree to a schedule – we have proposed that all along. We just don't want to have to file something if there needs to be an adjustment to the schedule due to an unforeseen circumstance. Let's get the stipulation filed as drafted and move forward with the inspection.

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
Email: mkramer@azdisabilitylaw.org
Phone: (602) 274-6287, Ext. 223
Fax: (602) 274-6779

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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Monday, March 7, 2022 4:11 PM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meghan,

Those are the times that are reserved with each of the vote centers. That is the schedule. I understand the need for flexibility, but I cannot burden these non-parties with an unspecified time on

March 31. Everyone understands that an inspection may run long or short. That is fine. However, I would rather have the times listed in the stipulation.

Yes. Just you like you, we plan to record the inspections to preserve evidence. The recording will be done by County IT.

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy
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Bisbee, Arizona 85603
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(520) 432-8778 Fax

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Monday, March 7, 2022 3:43 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL *

Hi Christine,

Thank you for your email. We didn't want to let a deadline pass without getting something on file. We're happy to withdraw our motion.

I've attached a redline to the stipulation. Your revisions are acceptable with one exception – we'd prefer not to include the proposed times in the stipulation. Omitting times will allow us the flexibility to mutually agree to a change in case something arises that is out of either party's control. Please let us know if we have your permission to sign and file as drafted. We will also file a notice withdrawing our motion with the stipulation.

I'd also like to clarify an issue that arose in our meet and confer discussion. You mentioned that the inspection will be recorded on video. Could you please clarify the details? Who will be filming and what is the purpose of recording the inspection? Thank you.

Best,

Meaghan K. Kramer (she/her)

Managing Attorney, Healthcare
Arizona Center for Disability Law
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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Monday, March 7, 2022 10:54 AM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meghan,

Attached are our revisions to the Stipulation. I incorporated the inspection date and times and adjusted the remaining deadline dates to conform with your recommendations. Let me know if you have any questions.

We make it a point to respond to all e-mails as soon as reasonably possible. As is evidenced by the fact that I responded to your e-mail as soon as I got into the office this morning. Yes, Paul forgot to put on his out-of-office reply, but even if he was in the office on Friday, it does not mean that he would have immediately seen your e-mail in the limited time frame that you sent it and requested a response. We attend meetings, hearings, etc. and aren't continuously at our desks. In the future, we would appreciate the professional courtesy of a quick phone call to our office to see if we received your e-mail (or are even in the office) before you file such a motion, especially without a meet a confer. My out-of-office reply has alternate phone numbers to call should your e-mail need immediate attention, and as you stated in your e-mail, you definitely received my out-of-office reply.

Please confirm whether you have any additional changes to the Stipulation and that you will be withdrawing your Motion.

Best regards,
Christine J. Roberts, Esq., MBA, CPCU

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Cochise County Attorney's Office
Civil Division
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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Sent: Monday, March 7, 2022 9:06 AM
To: Roberts, Christine <CRoberts@cochise.az.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Hi Christine,

Thank you. I did not receive an out of office message from Paul and assumed he was receiving my emails. I know you had not taken the position that you would not extend deadlines – I believe we accurately conveyed that in the motion. We would be happy to withdraw our motion if we can agree to a stipulation today. Because one of the deadlines we sought to extend was on Friday, we wanted to get something on file before close of business on Friday.

Thank you for confirming March 31. I will take a look at your proposed schedule and get back to you if there are any issues.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
Email: mkramer@azdisabilitylaw.org
Phone: (602) 274-6287, Ext. 223
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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Monday, March 7, 2022 8:53 AM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meaghan,

Paul and I were both out of the office on Friday, March 4, 2022. You did not send your e-mail until after close of business on Thursday, March 3, 2022, after we had both left the office. Therefore, I am just now seeing this e-mail. I will review the stipulation today and get back to you. However, I see that you already filed a motion with the Court. Could you not have waited until Monday to hear back from us? You should have received my out-of-office reply. In any event, I can either get back to you about the stipulation later today and you can withdraw your motion, or I can file a response with the Court explaining how you did not wait for our response. How would you like to proceed? Just a point of clarification, Defendants never stated they would not stipulate to extending dates. However, we did state that we would not stipulate to your first stipulation *as drafted* because you added a fourth vote center.

Additionally, on Friday, March 4, 2022, my Elections Department confirm March 31 as the inspection date. Not long ago, I sent you an e-mail confirming the date and attaching the schedule. Another copy is attached for your review.

Best regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

Civil Division

100 Higgins Hill

P.O. Drawer CA

Bisbee, Arizona 85603

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Thursday, March 3, 2022 5:24 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL *

Hi Christine,

Following up on our conversations about the inspection, I am attaching a revised stipulated motion that contemplates moving our inspection to an agreeable date. I've noted that we're still working out the date, and confirmed that the inspection will consist only of the three voting sites in the court's email order. We also propose to move the expert report dates out to follow the inspection, whenever it is scheduled.

Please let me know what revisions you have, if any, and we will get it filed tomorrow. Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
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From: Meaghan Kramer

Sent: Tuesday, March 1, 2022 8:02 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Thank you, Christine. We will get this filed.

Our experts are all available on March 30, March 31, April 1, and April 13. Please let us know which of these dates work for you.

Meaghan K. Kramer (she/her)
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Fax: (602) 274-6779

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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Tuesday, March 1, 2022 11:13 AM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Hi Meaghan,

Our revisions to the Joint Settlement Report are attached. At this time, Defendants are not interested in settlement discussions.

As for the Court's ruling, we are not under the same impression. Our argument to the Court was based on proportionality. We did not ask the court to limit inspection to *all* of the vote centers in Sierra Vista. Rather, we asked the Court to limit inspections "to a total of three voting centers in Sierra Vista, instead of each of the seventeen voting centers located throughout Cochise County." See February 16, 2002 e-mail to Judge Rash's chamber, Defendant's Statement, ¶ 1, Ins 1-3. That is exactly what the Court did. When we offered inspections of three vote centers, it was to offer one

additional vote center along with the two that Ms. Hoffard visited in 2016. That is proportional for this litigation. We do not agree to an inspection of a fourth vote center.

You miss understood that anytime during the week of March 21 or March 28 would work. We said these were better weeks than what you had previously noticed. However, we need to work on trying to schedule the inspections with various non-parties (of which we have no control) and County employees. Arguably, your experts have control over their own schedules. As the Court's order stated, the inspections must be mutually agreed upon. If you let us know what dates your experts are available, we can try to schedule around their availability. Based on my discussion with Elections, March 30, 2022, is not available. We will not be contacting any of the vote centers again, until you provided us with several possible inspection dates.

Best regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Tuesday, March 1, 2022 10:05 AM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Hi Christine,



Thank you for your email. I understood that any time during these two weeks that you proposed would work on your end. We are also coordinating complex schedules, so I appreciate you sending us more dates as well. I'll aim to get you more dates today.

Regarding the fourth Sierra Vista Voting Center, we believed that the judge was left with the impression that there were only three Voting Centers in Sierra Vista, given the language in the order (the court used the language “the three voting centers in Sierra Vista”). The fourth site between seven and ten miles from the other three voting sites, so it can easily be accomplished the same day as the others and shouldn’t cause much additional cost, if any. Ms. Hoffard is as likely to be near the Moson Road location on election day as any of the other Sierra Vista Voting Centers.

I’ve attached a draft of our Joint Settlement Status Report. Please add an update from your end and we’ll get it filed today. Please let us know what works for you to have a discussion regarding settlement and we will get something on the calendar. Thank you.

Best,
Meaghan

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From: Roberts, Christine <CRoberts@cochise.az.gov>
Sent: Monday, February 28, 2022 3:44 PM
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Meaghan,

Our Elections Department worked very hard to coordinate that date and time. And, we can assure that it is a firm date. I do not know if March 30, 2022, is available and will need to check with Elections. Before I contact Elections, can you provide us with other dates that may work when your experts are available other than March 30, 2022? These are not County owned or maintained facilities and we do not have control over their schedules.

The Court's ruling on our discovery dispute limited Plaintiff's inspection to three vote centers, based on proportionality. Those are the ones that are in the City of Sierra Vista and where Ms. Hoffard would most likely vote. Proximity of the Moson Road location to Ms. Hoffard's friend's home is irrelevant. We do **not** agree to offer a fourth vote center for inspection and will not be signing the proposed stipulation, as drafted.

While you find out other possible dates when your experts are available, I will check to see if my client wants to engage in settlement discussions. I look forward to hearing back from you with additional dates.

Bet regards,

Christine J. Roberts, Esq., MBA, CPCU

Chief Civil Deputy

Cochise County Attorney's Office

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Sent: Monday, February 28, 2022 3:19 PM

To: Roberts, Christine <CRoberts@cochise.az.gov>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

CAUTION: EXTERNAL EMAIL*

Christine and Paul,

I hope you had a nice weekend.

As a point of clarification, we see that there are four voting sites in Sierra Vista, not three. The fourth, Mountain Vista Baptist Church is located at 5499 S Moson Rd, Sierra Vista, AZ 85650. The location is in Sierra Vista and just five blocks from the home of Ms. Hoffard's close friend.

Unfortunately, our experts are not available on March 29 to conduct the inspections, but they are available the following day Please confirm that works on your end. I've attached a draft stipulation for your review. Let me know if you have any questions or would like to discuss.


I also note in our scheduling order that our first Joint Settlement Status Report is due on tomorrow, Tuesday, March 01, 2022. We remain open to the possibility of settlement and would welcome a conversation about ways to allow our client to vote curbside in future elections. As you are aware, we are not seeking damages in this action. We'd like to schedule a separate call to discuss settlement this week, at your convenience. Please let us know what works for you.

I will circulate a draft Joint Status Report this afternoon.

Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
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From: Roberts, Christine <CRoberts@cochise.az.gov>

Sent: Friday, February 25, 2022 1:55 PM

To: Meaghan Kramer <mkramer@azdisabilitylaw.org>

Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Correa, Paul <PCorrea@cochise.az.gov>

Subject: Hoffard v. Cochise County, 4:20-CV-00243-SHR - Vote Center Inspections

Good afternoon, Meaghan,

Our Election Department has contacted the three (3) non-party facilities that serve as vote centers in Sierra Vista (VC7, VC8, and VC9) to determine their availability for inspection. The Department was able to coordinate inspections for Tuesday, March 29, 2022, from 9:30 a.m. to 3:00 p.m. I have also confirmed that the necessary County personnel from IT and the County Attorney's Office are also available on this date. A proposed schedule is attached for your review. Let us know if Plaintiff agrees to this date and time.

Best regards,

Christine J. Roberts, Esq., MBA, CPCU

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Exhibit E to Kramer Decl.

Meaghan Kramer

From: Meaghan Kramer
Sent: Thursday, March 31, 2022 1:10 PM
To: Paul Correa; Christine Roberts
Cc: Rose Daly-Rooney; Maya Abela; Sey In; Maura Hilser
Subject: Hoffard v. Cochise County - meet and confer re inspection

Counsel:

As you know, the accessibility experts did not finish one of the women's bathrooms and the family bathroom and a closer examination of the portions of the parking lot within the 60 minutes specified in the inspection schedule. Our written and oral communications about planning the inspections included flexibility for additional time if an inspection ran long. In an email dated March 7, 2022 to ACDL's legal team and copying Paul, Christine stated: "Everyone understands that an inspection may run long or short. That is fine." This morning before the first inspection, Christine reiterated the same sentiment that there was flexibility with the inspection schedule. However, when we asked for more time to finish the first inspection you withheld cooperation and ended the inspection.

One of the reasons you cited was that if you allowed extra time, the facilities hosting the voting center would be burdened. Now that we have completed the inspection of the second voting center on time, we have had time to develop a proposal to complete the inspection of the first voting center without any burden to the Shiloh Christian Ministries Church of Sierra Vista. Shiloh's [events calendar](#) shows that there will be two events at the church this afternoon from 3:30 p.m. – 7 p.m. We propose that immediately after the third inspection is done, the experts and ACDL staff and the County designated representative(s) return to Shiloh Church where the experts will finish the parking lot and when the church opens for the afternoon events, go inside to complete the two restrooms. We anticipate that this can be completed before close of business at 5 p.m. and within 60 inspection minutes. Inspection minutes do not include time waiting for the church to reopen.

With respect to your argument that the restrooms are irrelevant to accessibility of a voting center, you are free to argue relevance during dispositive motion briefing and at trial, but we should be able finish the inspection as planned and set forth in our original Request for Inspection and Entry Upon Land. In our request, we expressly stated that we would be inspecting the restrooms and you did not object to the inspection of restrooms. You only objected the number of voting centers. If we can reach this agreement today, this will avoid the unnecessary cost of experts returning to the Sierra Vista date and the facility making an additional trip to open the church for an inspection.

Meaghan K. Kramer
Managing Attorney, Healthcare
Arizona Center for Disability Law
(602) 274-6287, Ext. 223

Exhibit F to Kramer Decl.

Meaghan Kramer

From: Meaghan Kramer
Sent: Thursday, March 31, 2022 3:49 PM
To: AZDdb_Rash Chambers
Cc: Rose Daly-Rooney; Maya Abela; Maura Hilser; Sey In; Christina Gutierrez; Roberts, Christine; Correa, Paul
Subject: Re: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Discovery Issue

Thank you. We have reached out to Defendants' counsel and will conference in the Court when we receive their phone number(s).

Meaghan K. Kramer
Managing Attorney, Healthcare
Arizona Center for Disability Law
(602) 274-6287, Ext. 223

On Mar 31, 2022, at 3:38 PM, AZDdb_Rash Chambers <rash_chambers@azd.uscourts.gov> wrote:

Please give us a call as soon as you can with counsel for Defendants on the line and Judge Rash will be happy to discuss.



Zoey Kotzambasis
Law Clerk for Hon. Scott Rash
United States District Court, District of Arizona
Desk (520)205-4652
Zoey_Kotzambasis@azd.uscourts.gov

From: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Sent: Thursday, March 31, 2022 3:19 PM
To: AZDdb_Rash Chambers <rash_chambers@azd.uscourts.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Christina Gutierrez <cgutierrez@azdisabilitylaw.org>; Roberts, Christine <CRoberts@cochise.az.gov>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: Re: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Discovery Issue

CAUTION - EXTERNAL:

Dear Zoey,

As an update, Counsel for Defendants indicated at the third inspection site that they do not intend to respond to Plaintiff's email to chambers and that their position remains the same.

Meaghan K. Kramer
Managing Attorney, Healthcare
Arizona Center for Disability Law

(602) 274-6287, Ext. 223

On Mar 31, 2022, at 2:32 PM, Meaghan Kramer <mkramer@azdisabilitylaw.org> wrote:

Dear Zoey:

Plaintiff Kathleen Hoffard submits this request for emergency consideration regarding a discovery dispute taking place today in Cochise County. The parties have met and conferred about this dispute, but have been unable to reach an agreement. Plaintiff has summarized her position below (please also see attached, Plaintiff's counsel's request to Defendants to meet and confer on the issue).

Plaintiff served a Request for Entry Upon Land on Defendants. Defendants objected to Plaintiff's request, and after consideration, the Court limited Plaintiff's Inspection to three voting centers in Sierra Vista. See Notice of Lodging [Doc. 50]. The parties agreed to a preliminary schedule wherein inspection of each voting center would take place in one hour, but agreed that the parties would be flexible if the inspection lasted longer or shorter. Our written and oral communications about planning the inspections included flexibility for additional time if an inspection ran long. In an email dated March 7, 2022 to Plaintiff's counsel and copying Mr. Correa, Ms. Roberts stated: "Everyone understands that an inspection may run long or short. That is fine." This morning before the first inspection, Ms. Roberts reiterated the same sentiment that there was flexibility with the inspection schedule.

As set forth in Plaintiff's request for a meet and confer, the experts were not able to complete their inspection of the first site within the 60 minutes specified in the schedule. Plaintiff's counsel requested additional time to complete the inspection, which counsel for Defendants did not agree to and ended the inspection of the first site. The basis for the denial was that the pastor had to leave the voting site, which is a church. The second site was able to be completed within the hour allotted. Plaintiff's counsel proposed returning to the first site, which according to the church event calendar, will be open this afternoon for other meetings, in order to complete the inspection of the remaining areas (a women's and family restroom available to voters on election day, and accessible parking spaces). Plaintiff's experts estimate that they will finish in 60 minutes or less. Only a portion of the remaining areas to be inspected are located inside the facility; the rest would be completed in the parking lot. This could be accomplished immediately following the completion of the third site inspection, which is ongoing now. Completing the inspection today would allow the experts, who have traveled from Phoenix, to completed the inspection without having to return on a future date. Counsel for Defendants verbally told counsel for Plaintiff that they do not agree to allow Plaintiff's experts return to the first site to complete the inspection.

We request the court's assistance in resolving this dispute on an urgent basis, as all parties and the experts are currently in Cochise County conducting the site inspections. The third site inspection is estimated to be complete at approximately 3:00 p.m., after which counsel for Plaintiff can be available for a telephonic conference today.

Counsel for Defendants are copied on this correspondence, and their position will follow.

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
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Exhibit G to Kramer Decl.

Meaghan Kramer

From: Meaghan Kramer
Sent: Thursday, March 31, 2022 4:11 PM
To: Roberts, Christine
Cc: Correa, Paul; Rose Daly-Rooney; Maya Abela; Maura Hilser; Sey In
Subject: Re: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Discovery Issue

Christine and Paul,

We are willing to compromise and have our experts complete the inspection within a half-hour (internally) if we can get it done today. We will of course encourage them to complete this sooner, if possible.

We ask that you please contact the pastor at the voting center and ask that we be able to complete the inspection today. The reason we raised that there are activities going at the church tonight is to show that there would already be access to the facility. Our use of the bathrooms will not prevent folks on campus from having access to other bathrooms, which are nearby.

If we can't reach an agreement today, we intend to file a motion and seek sanctions, which will include time for attorneys and experts to travel to and from Sierra Vista. We'd much prefer to work this out if possible. Please give me a call if you'd like to discuss.

Meaghan

Meaghan K. Kramer
Managing Attorney, Healthcare
Arizona Center for Disability Law
(602) 274-6287, Ext. 223

On Mar 31, 2022, at 3:49 PM, Roberts, Christine <CRoberts@cochise.az.gov> wrote:

Call Paul at 520-353-5724.

Call me at 520-432-8754.

Christine J. Roberts, Esq., MBA, CPCU

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(520) 432-8700 Main
(520) 432-8778 Fax

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From: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Sent: Thursday, March 31, 2022 3:43 PM
To: Correa, Paul <PCorrea@cochise.az.gov>; Roberts, Christine <CRoberts@cochise.az.gov>
Subject: Fwd: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Discovery Issue

CAUTION: EXTERNAL EMAIL*

Christine and Paul,

Please provide us with your preferred phone number ASAP.

Meaghan K. Kramer
Managing Attorney, Healthcare
Arizona Center for Disability Law
(602) 274-6287, Ext. 223

Begin forwarded message:

From: AZDdb_Rash Chambers <rash_chambers@azd.uscourts.gov>
Date: March 31, 2022 at 3:38:55 PM MST
To: Meaghan Kramer <mkramer@azdisabilitylaw.org>, AZDdb_Rash Chambers <rash_chambers@azd.uscourts.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>, Maya Abela <mabela@azdisabilitylaw.org>, Maura Hilser <mhilser@azdisabilitylaw.org>, Sey In <sin@azdisabilitylaw.org>, Christina Gutierrez <cgutierrez@azdisabilitylaw.org>, "Roberts, Christine" <CRoberts@cochise.az.gov>, "Correa, Paul" <PCorrea@cochise.az.gov>
Subject: RE: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Discovery Issue

Please give us a call as soon as you can with counsel for Defendants on the line and Judge Rash will be happy to discuss.



Zoey Kotzambasis
Law Clerk for Hon. Scott Rash
United States District Court, District of Arizona
Desk (520)205-4652
Zoey_Kotzambasis@azd.uscourts.gov

From: Meaghan Kramer <mkramer@azdisabilitylaw.org>
Sent: Thursday, March 31, 2022 3:19 PM
To: AZDdb_Rash Chambers <rash_chambers@azd.uscourts.gov>
Cc: Rose Daly-Rooney <rdalyrooney@azdisabilitylaw.org>; Maya Abela <mabela@azdisabilitylaw.org>; Maura Hilser <mhilser@azdisabilitylaw.org>; Sey In <sin@azdisabilitylaw.org>; Christina Gutierrez <cgutierrez@azdisabilitylaw.org>; Roberts, Christine <CRoberts@cochise.az.gov>; Correa, Paul <PCorrea@cochise.az.gov>
Subject: Re: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Discovery Issue

CAUTION - EXTERNAL:

Dear Zoey,

As an update, Counsel for Defendants indicated at the third inspection site that they do not intend to respond to Plaintiff's email to chambers and that their position remains the same.

Meaghan K. Kramer
Managing Attorney, Healthcare
Arizona Center for Disability Law
(602) 274-6287, Ext. 223

On Mar 31, 2022, at 2:32 PM, Meaghan Kramer <mkramer@azdisabilitylaw.org> wrote:

Dear Zoey:

Plaintiff Kathleen Hoffard submits this request for emergency consideration regarding a discovery dispute taking place today in Cochise County. The parties have met and conferred about this dispute, but have been unable to reach an agreement. Plaintiff has summarized her position below (please also see attached, Plaintiff's counsel's request to Defendants to meet and confer on the issue).

Plaintiff served a Request for Entry Upon Land on Defendants. Defendants objected to Plaintiff's request, and after consideration, the Court limited Plaintiff's Inspection to three voting centers in Sierra Vista. *See* Notice of Lodging [Doc. 50]. The parties agreed to a preliminary schedule wherein inspection of each voting center would take place in one hour, but agreed that the parties would be flexible if the inspection lasted longer or shorter. Our written and oral communications about planning the inspections included flexibility for additional time if an inspection ran long. In an email dated March 7, 2022 to Plaintiff's counsel and copying Mr. Correa, Ms. Roberts stated: "Everyone understands that an inspection may run long or short. That is fine." This morning before the first inspection, Ms. Roberts reiterated the same sentiment that there was flexibility with the inspection schedule.

As set forth in Plaintiff's request for a meet and confer, the experts were not able to complete their inspection of the first site within the 60 minutes specified in the schedule. Plaintiff's counsel requested additional time to complete the inspection, which counsel for Defendants did not agree to and ended the inspection of the first site. The basis for the denial was that the pastor had to leave the voting site, which is a church. The second site was able to be completed within the hour allotted. Plaintiff's counsel proposed returning to the first site, which according to the church event calendar, will be open this afternoon for other meetings, in order to complete the inspection of the remaining areas (a women's and family restroom available to voters on election day, and accessible parking spaces). Plaintiff's experts estimate that they will finish in 60 minutes or less. Only a portion of the remaining areas to be inspected are located inside the facility; the rest would be completed in the parking lot. This could be accomplished immediately following the completion of the third site inspection, which is ongoing now. Completing the inspection today would allow the experts, who have traveled from Phoenix, to completed the inspection without having to return on a future date. Counsel for Defendants verbally told counsel for Plaintiff that they do not agree to allow Plaintiff's experts return to the first site to complete the inspection.

We request the court's assistance in resolving this dispute on an urgent basis, as all parties and the experts are currently in Cochise County conducting the site inspections. The third site inspection is estimated to be complete at approximately 3:00 p.m., after which counsel for Plaintiff can be available for a telephonic conference today.

Counsel for Defendants are copied on this correspondence, and their position will follow.

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
Email: mkramer@azdisabilitylaw.org
Phone: (602) 274-6287, Ext. 223
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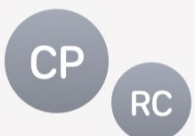
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This E-mail is from an **EXTERNAL** address. **DO NOT click on links or open attachments unless you trust the sender and know the content is safe.** If you suspect this message to be phishing, please report it using the Phish Alert Button at the top of the email, or forward to cochise.az.gov@missedspam.com or contact IT support at 520-432-8301.

Exhibit H to Kramer Decl.

12:40



2 People >

Text Message
Thu, Mar 31, 4:17 PM

This is Meaghan Kramer. Just sent one last email your way in attempt to resolve this today. Please let me know your thoughts, either way.



Text Message 



Exhibit I to Kramer Decl.

Meaghan Kramer



From: Meaghan Kramer
Sent: Monday, April 11, 2022 10:53 PM
To: Correa, Paul; Roberts, Christine
Cc: Rose Daly-Rooney; Maya Abela; Sey In; Maura Hilser; Christina Gutierrez
Subject: Hoffard v. Cochise County, 4:20-CV-00243-SHR, Expert Report Disclosure
Attachments: Expert Report of Jason Frankovitz.pdf; Expert Report of Dr. Nanette Odell.pdf

Paul and Christine,

I've attached Plaintiff Kathleen Hoffard's expert reports from experts Jason Frankovitz and Nanette Odell. A *Notice of Service of Discovery (Expert Reports)* will follow. Thank you.

Best,
Meaghan

Meaghan K. Kramer (she/her)
Managing Attorney, Healthcare
Arizona Center for Disability Law
5025 E. Washington Street, Ste 202
Phoenix, AZ 85034
Email: mkramer@azdisabilitylaw.org
Phone: (602) 274-6287, Ext. 223
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Expert Report of Dr. Nanette Odell

Hoffard v. Cochise County

4/11/2022

The following pages include the Executive Summary for ADA compliance findings at three voting locations in Sierra Vista, Arizona, which are located in Cochise County. The three voting locations (listed in order of their visits) include Shiloh Christian Ministries, Sierra Vista United Methodist Church and St. Andrews Church. On the date of the ADA surveys, March 31, 2022, each of these locations presented with their standard programming layout and were not set up as voting sites. Elements surveyed at each location included at least some portion of the parking lots, paths of travel from these to the main voting center entrances, the voting center areas and restrooms that would be available during voting.

In reaching my conclusions, I relied on the 2010 Standards for Accessible Design (<https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#pgfld-1009823>) and the Department of Justice's ADA Checklist for Polling Places (<https://www.ada.gov/votingchecklist.pdf>).

There were some elements surveyed that could potentially fall under "construction tolerance". For example, there is a .5% tolerance for concrete and 1% for asphalt. Other elements could fall under Safe Harbor. Per the 2010 Standards for Accessible Design, Safe Harbor applies, *"If a public entity has constructed or altered required elements of a path of travel in accordance with the specifications in either the 1991 Standards or the Uniform Federal Accessibility Standards before March 15, 2012, the public entity is not required to retrofit such elements to reflect incremental changes in the 2010 Standards solely because of an alteration to a primary function area served by that path of travel."* For example, the 1991 Standards did not specify the reach of 7-9" from the front of the toilet to the centerline of the dispenser.

Still, my overall findings concluded that, for each of the three locations surveyed, several elements were found that were not in compliance with the 1991 and/or 2010 Standards for Accessible Design, regardless of potential construction tolerance and/or safe harbor exceptions. While some of these issues may be simple to address (stall door handles, for example) there were many that will require a good deal of effort to ameliorate and would not be able to be addressed through day-of modifications.



Examples of these include:

- Paths of travel that exceed the requirements of running slope and/or cross slope
- Doors that either require more than 5 lb. and/or close in less than 5 seconds
- Restroom stalls that do not meet the minimum requirements for width and/or depth
- Toilets that do not meet the centerline requirements
- Grab bars that are either not the proper length and/or not correctly positioned
- Clear floor and maneuvering space at doors, changing tables, etc.

While most of the element findings will be unchanged at the time of voting, surveying the locations when they are set up for voting would provide additional information regarding compliance and non-compliance. For example, it would allow for surveying any temporary fixes (e.g., additional ADA parking that may be temporarily set-up), and potential election day barriers (e.g., paths of travel that may include signage that can act as protruding objects, tables used for registration, voting tables and machines, the path of travel between the voting elements, etc.).

The following pages include a summary of findings at each of the three locations surveyed, including pictures and links to videos, when available.

Pursuant to Federal Rule of Civil Procedure 26(a)(2)(B), I have not authored publications in the previous 10 years, and I have not testified at trial or by deposition in the last four years. My rate is \$175 per hour and my testifying rate is \$250 per hour. Attached in Exhibit A is my resume.

Despite the inability to assess certain day-of changes, and the lack of time to complete the review, I was able to conduct sufficient surveys to determine that there are components at each of the three surveyed facilities that are not compliant with the ADA standards, and could not be made compliant on the day-of voting without significant investment made in modification.



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VC8: SHILOH CHRISTIAN MINISTRIES

The scope of work at this location was much greater than the time allotted to complete an ADA compliance survey on all areas. Elements surveyed included a portion of the parking lot (surveyed last), the side entrance to and the voting area, one of the two public women's restrooms, one family restroom and the paths of travel between much of these.

PARKING



While the total numbers of parking spaces are unknown, the parking that was designated for ADA parking included a total of seven spaces, all of which have a sufficient width for accessible and/or van accessible parking. Due to time constraints, the parking lot was only partially completed. Of the spaces surveyed, the following elements were found to be out of compliance with the 1991 and/or 2010 Standards for Accessible Design:

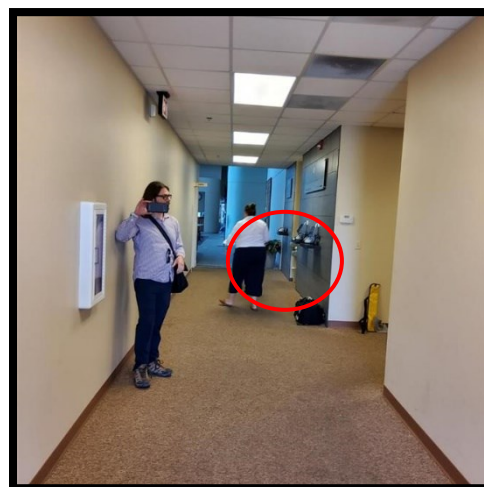
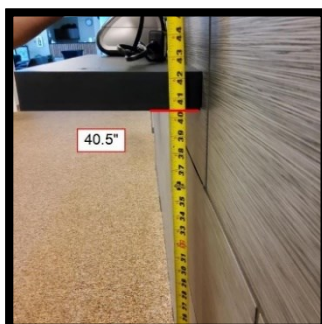
1. Parking signs did not meet the requirement for a minimum height of 60" to the bottom of the sign. ADAAG 502.6
2. Some spaces were found to have running slopes that exceed the 2.08% max required. ADAAG 502.4
3. Some spaces were found to have cross slopes that exceed the 2.08% max required. ADAAG 502.4
4. At least one access aisle was found to be below 5' in width. ADAAG 502.3



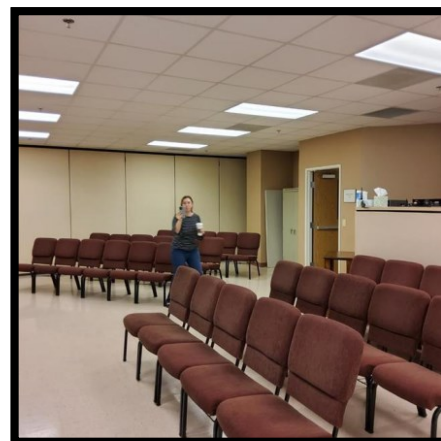
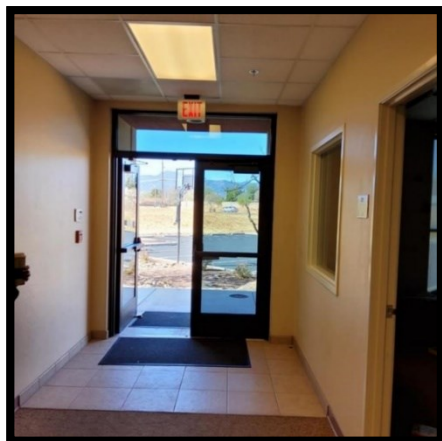
PATHS OF TRAVEL

The path of travel from the parking lot access aisles to the side entrance seemed relatively flat though there was insufficient time to determine any potential concerns with the running or cross slopes, etc.

The path of travel from the entrance and voting area to the restrooms included protruding objects.



VOTING SPACE



The external side entrance into the building includes double glass doors with approximately 14 lb. push/pull force. While external fire rated doors are exempt from the 5 lb. force of internal doors, some may find the 14 lb. heavy.

The voting space itself is made up of several adjoining rooms. The rooms were arranged for Church programming so it was not possible to determine the level of the paths' access between elements when the rooms are set up for voting. However, there was still noncompliance found in an element that would be the same regardless of how the room is set up.

1. The voting room doors were found to have a push/pull force that exceeded 5 lb. ADAAG 404.2.9
2. Additionally, other potential noncompliance was identified, depending on the unknown configuration of the room during voting. There was at least one object in the room that protrudes into a circulation path. ADAAG 307.2

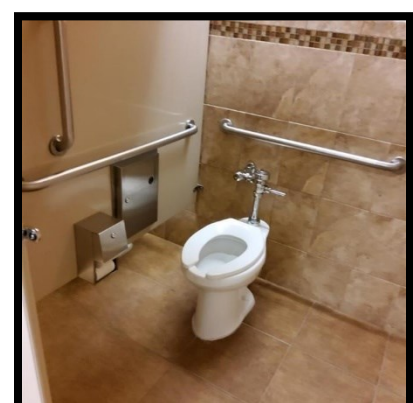


RESTROOMS

A total of three restrooms are available for females near the voting site. These include two public restrooms and one family restroom. Due to strict time constraints, only one public women's restroom was surveyed. This was the public restroom next to the family restroom and just off from the main lobby.

Another women's restroom was at the end of the hall, near the voting center, but was not surveyed, due to time constraints. It is recommended that this be surveyed for accessibility also and added as a supplement to this report.

Women's Lobby Restroom:





The following is a list of the items found to be noncompliant with the ADAAG. This restroom was found to have stalls designated as wheelchair accessible and ambulatory accessible.

Please note that they are not listed in order of importance.

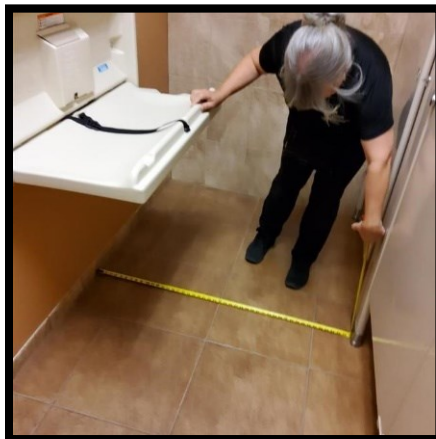
1. Opening the door requires more than 5 lb. ADAAG 404.2.9
2. There are two doors from the lobby into the actual restroom. Each move from a position of 90 degrees to a position of 12 degrees from the latch in under 5 seconds. ADAAG 404.2.8.1. Video showing the door from lobby:
<https://photos.app.goo.gl/yNkfFV1f6UPPAMzh6>
 Video showing door into the restroom:
<https://photos.app.goo.gl/oNGA8ZuJxK7vuDWT6>
3. The front edge of the sink or counter surface is more than 34" above the floor. ADAAG 606.3.
4. Activating the faucet requires more than 5 lb. ADAAG 309.4
5. There is not clear floor space at least 30" x 48" for a forward approach to the baby changing station. ADAAG 305

Wheelchair Stall Related Items

6. Maneuvering clearance is not provided on the pull side of the stall door. ADAAG 604.8.1.2
7. The stall door is not equipped with hardware on both sides that is operable without tight grasping, pinching, or twisting of the wrist. ADAAG 604.8.1.2
8. The coat hook is mounted higher than 48" above the floor. ADAAG 603.4
9. The compartment is not at least 60" wide. ADAAG 604.8.1.1
10. The partition does not provide proper toe clearance that extends the full length of the toilet compartment. ADAAG 604.8.1.4
11. The centerline of the toilet is more than 18" from the side wall. ADAAG 604.2
12. The side grab bar does not extend at least 54" from the rear wall. ADAAG 604.5.1
13. The side grab bar is not mounted between 33" and 36" high, measured to the top of the gripping surface. ADAAG 609.4
14. The rear grab bar is not mounted between 33" and 36" high, measured to the top of the gripping surface. ADAAG 609.4

Ambulatory Stall Related Items

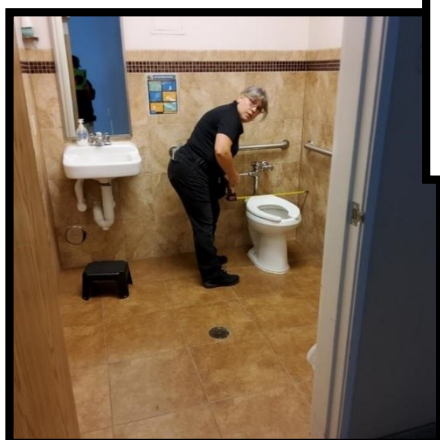
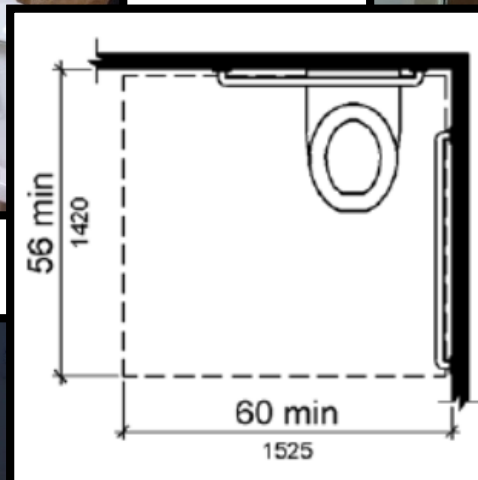
15. The ambulatory accessible stall door opening is not at least 32" wide. ADAAG 404.2.3
16. The stall door is not equipped with hardware on both sides that is operable without tight grasping, pinching, or twisting of the wrist. ADAAG 604.8.1.2
17. The stalls' coat hook is mounted higher than 48" above the floor. ADAAG 603.4
18. The stall compartment is not at least 60" deep. ADAAG 604.8.2.1
19. The top of the toilet seat is not between 17" and 19" above the floor. ADAAG 604.4
20. The grab bars in the ambulatory accessible stall do not extend at least 54" from the rear wall. ADAAG 604.5.1
21. The grab bars are not mounted between 33" and 36" high. ADAAG 609.4



Lobby Family/Companion Restroom:

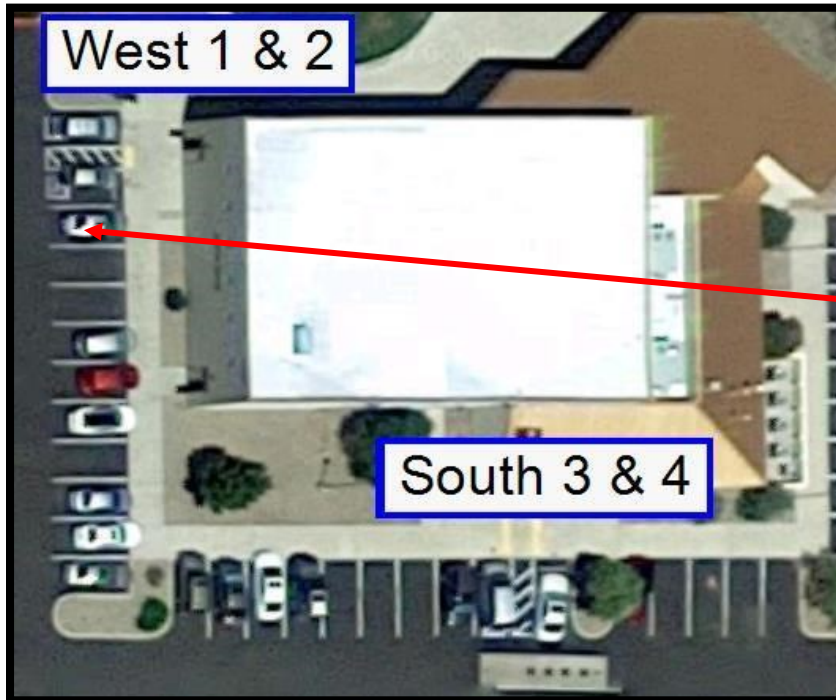
Due to the same time constraints, this single-user restroom was not formally surveyed but overview pictures and some measurements were taken and the following was found, based on this incomplete evaluation. Note: there may be other elements in and/or not in compliance but there was insufficient time to determine this.

1. Opening the door requires more than 5 lb. ADAAG 404.2.9
2. The door moves from a position of 90 degrees to a position of 12 degrees from the latch in under 5 seconds. ADAAG 404.2.8.1
3. The side grab bar does not extend at least 54" from the rear wall. ADAAG 604.5.1
4. There is not at least 60" of clearance around the toilet measured perpendicular to the sink. ADAAG 604.8.1.1



VC9: SIERRA VISTA UNITED METHODIST CHURCH

PARKING



Two spaces, designated as accessible, were found in front of the main doors to the voting entrance, on the west side. A third space was next to #2 but did not include an access aisle or signage. This may be confusing to those who need the features of accessible parking (access aisle, curb ramp, etc.) but will not find it there.

Two additional spaces, designated as accessible, were found on the south side of that voting entrance. While this may meet the needs for entering the building from the south side, these spaces are not on the closest accessible route to the voting entrance and there were issues with slopes on the path of travel from there to the main entrance.

Sierra Vista United Methodist Church did not have any van accessible parking, required by ADAAG 208.2.4.

As these are two separate areas, at least one space in each would be required to be van accessible and include an 11' space with 5' access aisle, or an 8' space and 8' access aisle (though not a best practice). Either way, neither of these options were found.

The following is a list of the items found that are not compliant with the ADAAG Standards. Please note that they are not listed in order of importance.

1. There are openings larger than 0.5" in floor or ground surfaces along the accessible route. ADAAG 302.3
2. The bottom of the accessible parking sign is less than 60" above the ground. ADAAG 502.6
3. Of the accessible spaces, fewer than 1 in 6 are van accessible. ADAAG 208.2.4

PATHS OF TRAVEL

External paths of travel, from the parking lot to the voting center, included the following noncompliance:

1. There are openings larger than 0.5" in floor or ground surfaces along the accessible route. ADAAG 302.3
2. There are changes in level greater than 0.25" high or, if beveled, 0.5" high. ADAAG 303.2
3. The cross slope of the accessible route is steeper than 2.08%. ADAAG 403.3



Internal paths of travel, from the building entrance include the following noncompliant elements:

1. There is not an unobstructed smooth surface at least 10" above the ground that extends the full width of the push side of the door or gate. ADAAG 404.2.10
2. The door contains one or more glazing panels that permit viewing through the panels, but the bottom of the panel(s) is located more than 43" above the ground. ADAAG 404.2.11
3. Opening the door requires more than 5 lb. ADAAG 404.2.9
4. The door moves from a position of 90 degrees to a position of 12 degrees from the latch in under 5 seconds. ADAAG 404.2.8.1.

<https://photos.app.goo.gl/crWn1CxHUa6dKNT27>



VOTING SPACE

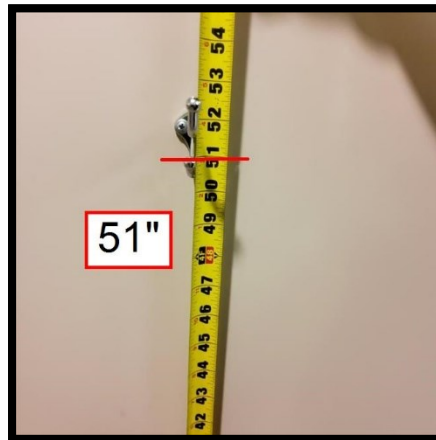
The voting space is a gymnasium and was not set up in the same configuration it would be for voting. As such, it is not possible to determine the level of path access between elements when the voting elements are set up in the space.

The following is a list of the items found that are noncompliant with the ADAAG Standards. Please note that they are not listed in order of importance.

1. There is not an unobstructed smooth surface at least 10" above the ground that extends the full width of the push side of the door or gate. ADAAG 404.2.10
2. Opening the door requires more than 5 lb. ADAAG 404.2.9

3. Both of the double doors move from a position of 90 degrees to a position of 12 degrees from the latch in under 5 seconds (ADAAG 404.2.8.1) as shown via these links: Left door: <https://photos.app.goo.gl/tiwwxJ1FyJTcvdX6> Right door: <https://photos.app.goo.gl/gNsWRt4PrSbTkKsa8>
4. There is at least one object that protrudes more than 4" into the circulation path with a leading edge between 27" and 80" above the floor. ADAAG 307.2

RESTROOMS



The following is a list of the items found that are noncompliant with the ADAAG Standards. Please note that they are not listed in order of importance.

1. There is not an unobstructed smooth surface at least 10" above the ground that extends the full width of the push side of the door or gate. ADAAG 404.2.10
2. Opening the door requires more than 5 lb. ADAAG 404.2.9
3. The door moves from a position of 90 degrees to a position of 12 degrees from the latch in under 5 seconds. ADAAG 404.2.8.1.
<https://photos.app.goo.gl/oNGA8ZuJxK7vuDWT6>
4. The sink is not provided with proper knee clearance. ADAAG 306.3
5. The operable parts of the hand dryer/towel dispenser are higher than 48".
6. While there an object that protrudes more than 4" with a leading edge between 27" and 80" above the floor, it is within 36" from a corner wall. ADAAG 307.2
7. The stall door is not equipped with hardware on both sides that is operable without tight grasping, pinching, or twisting of the wrist. ADAAG 604.8.1.2
8. The stall door is not self-closing. ADAAG 604.8.1.2
9. The coat hook is mounted higher than 48" above the floor. ADAAG 603.4
10. The wheelchair stall partition does not provide proper toe clearance that extends the full length of the toilet compartment. ADAAG 604.8.1.4



11. The centerline of the toilet is more than 18" from the side wall. ADAAG 604.2
12. The rear grab bar does not extend at least 24" from the centerline of the toilet to the open side. ADAAG 604.5.2

DRINKING FOUNTAIN

A pair of drinking fountains were located in the open area between the gymnasium (which acts as the voting area) and the two public restrooms. The standing drinking fountain was operable and the lower one, for wheelchair users, was not operational.

In addition to that, the following is a list of the items found that are noncompliant with the ADAAG Standards. Please note that they are not listed in order of importance.

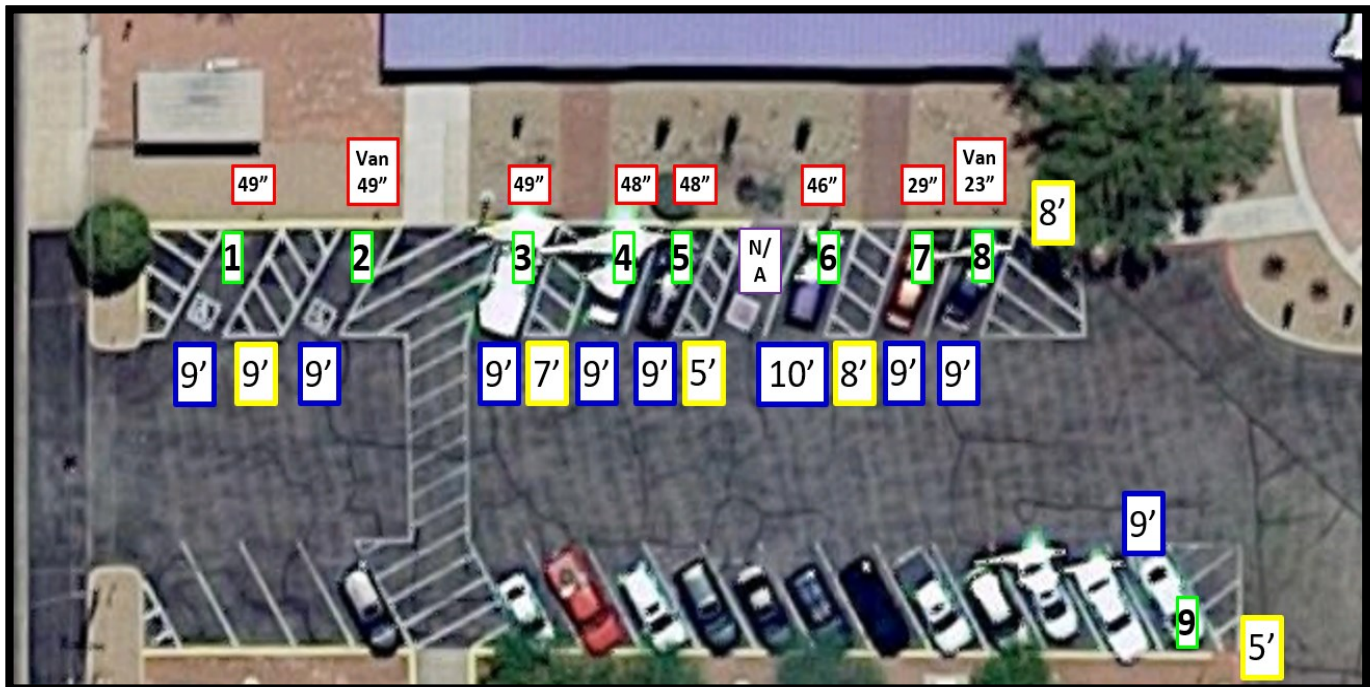


1. The lower drinking fountain does not have clear floor space for a forward approach at least 30" wide and 48" long. ADAAG 305
2. The lower drinking fountain is not provided with proper knee clearance. ADAAG 306
3. The lower drinking fountain is not provided with proper toe clearance. ADAAG 306

VC7: ST. ANDREWS CHURCH

PARKING

A total of nine parking spaces are designated for ADA parking, including two that have added signs to designate them as van accessible. The width of the spaces and access aisles is sufficient, however signage for these are lower than the minimum of 60" required from the ground surface to the bottom of the sign and therefore are noncompliance with ADAAG 502.6



PATHS OF TRAVEL

The path of travel from each of the parking spaces to the voting center entrance presented noncompliance related to the cross slopes and the running slope. There were some areas in the route where ground surfaces had openings that exceeded 0.5". The findings below show that an extensive amount of work would be required to remedy the number of issues related to both cross slopes and running slopes, in the path of travel between the parking lot and the voting center entrance.

1. The cross slope of various accessible routes is steeper than 2.08%. ADAAG 403.3
2. The running slope of various accessible routes is steeper than 5%. ADAAG 403.3



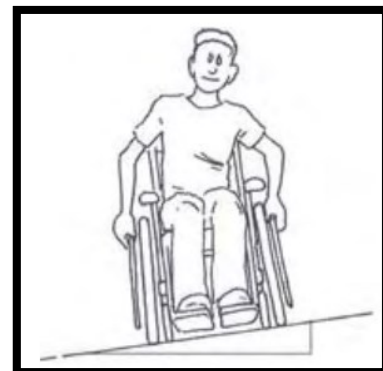
Training & Consulting, LLC

Nanette Odell Ed.D.

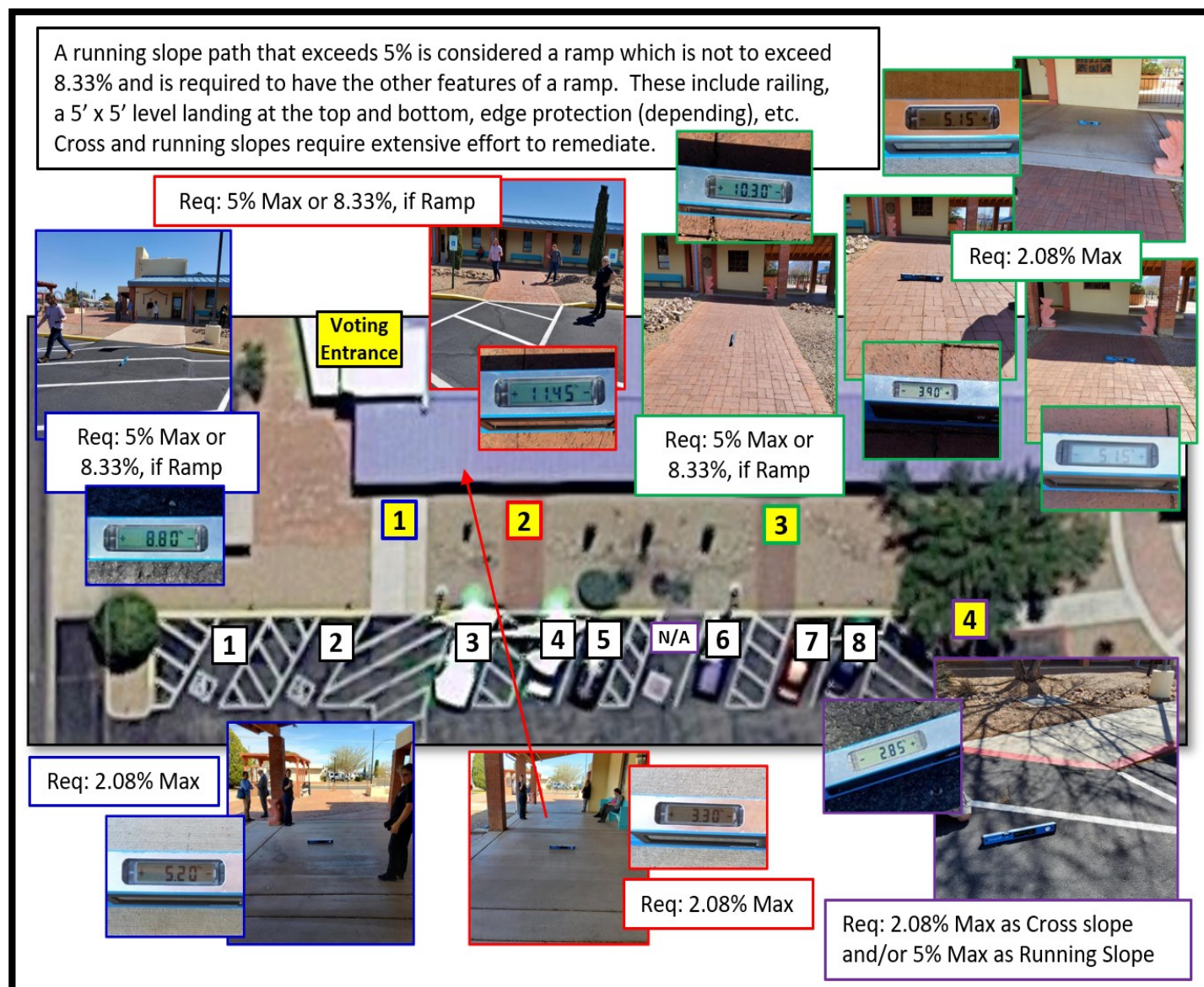
Nanette@ADALifeQuest.com

623-826-0140

ADAAG 403.3 states, “The running slope of walking surfaces shall not be steeper than 1:20 (5%). The cross slope of walking surfaces shall not be steeper than 1:48 (2.08%).” Illustrations from U.S. Department of Transportation, “Accessible Sidewalks and Street Crossings” resource show the importance of these requirements. For example, if a cross-slope is too steep, *a wheelchair user has to use more energy to offset the force of gravity that directs them towards the curb and into the street.*



(https://nacto.org/docs/usdg/accessible_sidewalks_and_street_crossings_boodlal.pdf)

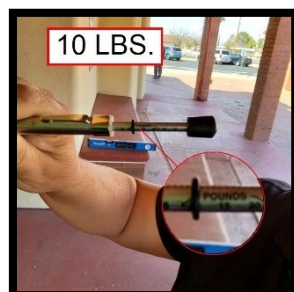


VOTING SPACE

The voting space was not set up in the same configuration it would be for voting. As such, it is not possible to determine the level of path access between elements when the voting elements are set up in the space.

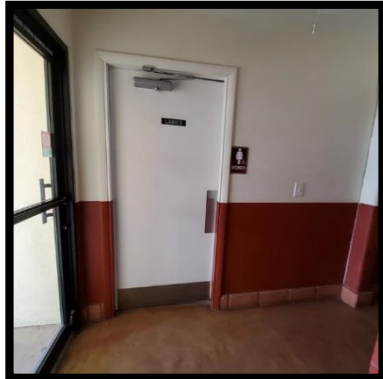
The following is a list of the items found that are noncompliant with the ADAAG Standards. Please note that they are not listed in order of importance.

1. There is not an unobstructed smooth surface at least 10" above the ground that extends the full width of the push side of the door or gate. ADAAG 404.2.10
2. Opening the door requires more than 5 lb. ADAAG 404.2.9
3. There is not a fire alarm system with both audible and visible indicators in the room. ADAAG 215.1



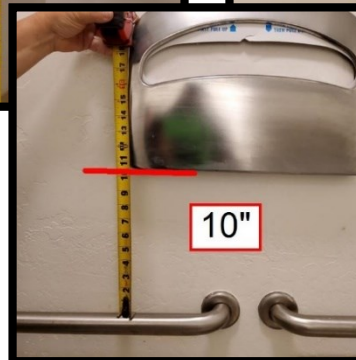
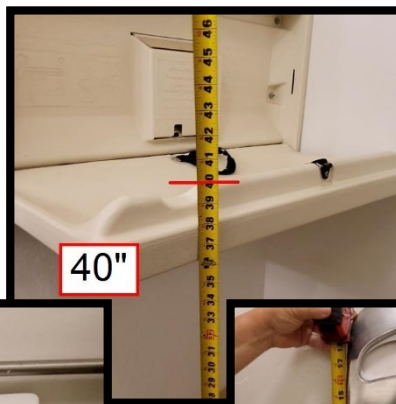
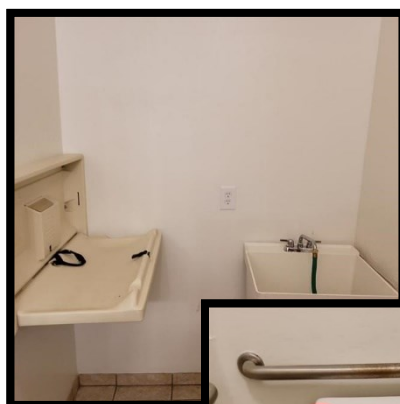
RESTROOMS

Restrooms for the voting area including one male and one female restroom. The female restroom was surveyed for the purposes of this effort. The following is a list of the items found are noncompliant with the ADAAG Standards. Please note that they are not listed in order of importance.



1. A movable object is located in the space required for maneuvering clearance on the pull side of the door. ADAAG 404.2.4
2. The door swings into the clear floor space required for one or more fixtures.
3. The sink is not provided with proper knee clearance. ADAAG 306.3
4. Pipes below the sink are not insulated or otherwise configured to protect against contact. ADAAG 606.5
5. The operable parts of the hand dryer/towel dispenser are higher than 48". ADAAG 308
6. There is not a fire alarm system with both audible and visible indicators in the room. ADAAG 215.1
7. The stall door is not equipped with hardware on both sides that is operable without tight grasping, pinching, or twisting of the wrist. ADAAG 604.8.1.2
8. The stall door is not self-closing. ADAAG 604.8.1.2
9. The stall compartment is not at least 60" wide. ADAAG 604.8.1.1

10. The wheelchair stall partition does not provide proper toe clearance that extends the full length of the toilet compartment. ADAAG 604.8.1.4
11. The centerline of the toilet is more than 18" from the side wall. ADAAG 604.2
12. The top of the toilet seat is not between 17" and 19" above the floor. ADAAG 604.4
13. There is not a grab bar at least 42" long mounted on the side wall. ADAAG 604.5.1
14. The side grab bar is not mounted between 33" and 36" high, measured to the top of the gripping surface. ADAAG 609.4
15. There is less than 12" of clearance above the side grab bar. ADAAG 609.3
16. The rear grab bar does not extend at least 24" from the centerline of the toilet to the open side. ADAAG 604.5.2
17. The rear grab bar is not mounted between 33" and 36" high, measured to the top of the gripping surface. ADAAG 609.4
18. The flush control is not on the open side of the toilet. ADAAG 604.6
19. The centerline of the toilet paper dispenser is not located between 7" and 9" from the front of the toilet. ADAAG 604.7
20. The toilet seat cover dispenser is not within reach. ADAAG 308
21. The baby changing station cannot be accessed without having to reach higher than 48" above the floor. ADAAG 308
22. There is not clear floor space at least 30" x 48" for a forward approach to the baby changing station. ADAAG 305
23. The work surface portion of the baby changing station is not between 28" and 34" above the floor. ADAAG 902.3





OVERALL SUMMARY

Overall, none of the locations surveyed could be considered fully compliant with the 1991 and/or the 2010 Standards for Accessible Design. Each present barriers that could prevent a person with a disability from voting inside the voting centers. None of the voting centers can be made compliant without significant investments made towards modifications.

Executed on April 11, 2022 by

Nanette Odell

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Attorneys for Plaintiff Kathleen Hoffard

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kathleen Hoffard,

Plaintiff,

vs.

Cochise County, Arizona; Lisa Marra,
in her official capacity as Director of
Cochise County Elections
Department,

Defendants.

Case Number: 4:20-cv-00243-SHR

**DECLARATION OF TAMARAINGSEY
IN IN SUPPORT OF PLAINTIFF'S
MOTION TO COMPEL INSPECTION**

(Assigned to the Hon. Scott H. Rash)

I, Tamaraingsey In, declare as follows:

1. I am an attorney licensed to practice in the State of Arizona. I am a Staff Attorney at the Arizona Center for Disability Law, and I am an attorney of record for the Plaintiff, Kathleen Hoffard, in this action. If called as a witness, then I could and would testify competently to the facts stated below, all of which are within my personal knowledge.

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 11 Kathleen Hoffard, 12 13 14 15 16	Case Number: 4:20-cv-00243-SHR PROPOSED ORDER GRANTING MOTION TO COMPEL INSPECTION <i>(Assigned to the Hon. Scott H. Rash)</i>
Plaintiff, vs. Cochise County, Arizona; Lisa Marra, in her official capacity as Director of Cochise County Elections Department, Defendants.	

17 Having considered Plaintiff Kathleen Hoffard's May 11, 2022 Motion to Compel
18 Inspection, and good cause appearing,

19 **IT IS ORDERED**, granting the Motion, and compelling Defendants Cochise
20 County, Arizona and Lisa Marra, in her official capacity as Director of Cochise County
21 Elections Department, to permit Plaintiff to complete her inspection of Sierra Vista
22 Central, Shiloh Christian Ministries (VC8), 1519 Avenida Del Sol, Sierra Vista, AZ
23 85635.

24 **IT IS FURTHER ORDERED** granting Plaintiff permission to supplement Dr.
25 Nanette Odell's Expert Report within ten days of completion of the inspection.

26 **IT IS FURTHER ORDERED** awarding Plaintiff sanctions and requiring
27 Defendants to pay attorneys fees' and costs, and expert fees and costs, associated with
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1 this motion and securing this discovery. After the completion of the inspection, Plaintiff
2 shall submit to the Court an application for attorneys' fees and costs, and expert expenses.
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4 Dated this ____ day of _____, 2022.
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