

CITY OF SAN LUIS
RESOLUTION NO. 262

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, ESTABLISHING A COMPLAINT RESOLUTION PROCEDURE FOR PROMPT AND EQUITABLE RESOLUTION OF COMPLAINTS ALLEGING VIOLATIONS BY THE CITY OF SAN LUIS OF THE AMERICANS WITH DISABILITIES ACT.

WHEREAS, the Americans with Disabilities Act ("ADA") Title II regulations issued by the U.S. Department of Justice require a public entity that employs fifty or more persons to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging violations of the ADA or its regulations;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, as follows:

That the City Common Council adopts the following grievance procedure for receipt, investigation, hearing, and deciding complaints alleging that the City, or its officers employees, boards or commissions ("City"), have violated the ADA or regulations pursuant thereto.

Any person who believes that the City has discriminated on the basis of disability or that City facilities or programs are inaccessible or unavailable for qualified persons with disabilities are encouraged to bring their concerns to the attention of the persons or department of the City involved or the Cities Disabilities Assistance Officer. Resolution of complaints at this level is recommended as a first step to allow an opportunity to identify and discuss concerns and explore solutions.

1. Filing and receipt of ADA complaint

Any person who believes himself to be aggrieved by a discriminatory practice, program or facility prohibited by the ADA may file with the City Clerk a complaint in writing, under oath. The complaint shall be signed by the person claiming to be aggrieved, and shall state the name and address of the person or location alleged to have violated the provisions of the ADA, and shall further set forth the particulars of the violation, and may include such other information as may be required by the ADA Hearing Officer. Complaints filed under this resolution must be filed within one hundred eighty (180) days after the alleged violation.

2. Investigation, Conciliation procedures

The ADA Hearing Officer shall promptly conduct an investigation into each complaint filed with the City Clerk and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty (60) days shall be allowed for the purpose of investigation, conference and conciliation outlined in this section.

The investigation, should include, where appropriate, a review of the pertinent practices and policies of the Town, the circumstances under which the possible noncompliance with the ADA occurred, and other factors relevant to a determination as to whether the City has failed to comply with the ADA.

If it appears that the complaint has merit, the ADA Hearing Officer will so inform the City, by providing a copy of the complaint and setting a conference for conciliation within the time frame established by the Hearing Officer for the parties to resolve the matter by information means whenever possible.

If conference or conciliation or similar informal means do not result in compliance with the ADA, the ADA Hearing Officer shall cause to be issued and served a written notice, together with a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as respondent, to answer charges of the complaint at a hearing before the ADA Hearing Officer at a time and place to be specified in the notice.

If an investigation does not warrant action pursuant to this section, or a finding that a violation of the ADA occurred, the ADA Hearing Officer shall dismiss the complaint and notify the complainant and respondent in writing of the dismissal.

3. Hearings and Decisions

At the hearing provided for in this section, the complaint shall be heard by the ADA Hearing Officer. At the hearing, the complainant or person aggrieved may appear in person or by counsel, and the respondent may file a written answer to the complaint and may appear in person or by counsel. The ADA Hearing Officer, when conducting any hearing pursuant to this section, may permit amendments to any complaint or answer, and the testimony taken at the hearing shall be under oath, and shall be transcribed at the request of either party, or at the direction of the ADA Hearing Officer. The party requesting the transcription shall be responsible for the costs thereof.

If the ADA Hearing Officer finds at the hearing that the respondent has engaged in any discriminatory practice or practices, prohibited by this chapter, it shall advise the complainant of his rights under existing state and federal laws and try to achieve resolution of the complaint to the satisfaction of both parties.

If the ADA Hearing Officer, upon hearing, finds that respondent has not engaged in any discriminatory practice it shall state its findings of fact, and shall issue and file an order dismissing the complaint.

The ADA Hearing Officer shall establish rules and regulations to govern and expedite and effectuate the foregoing procedure and shall maintain the files provided for herein.

4. Appeals, ADA Compliance Appeals Committee

There is hereby created an ADA Compliance Appeals Committee of the City, hereinafter referred to as Appeals Committee, composed of three (3) members, appointed by the City Manager for such terms as are designated by the manager.

Appeals may be taken from the decision of the ADA Hearing Officer to the ADA Compliance Appeals Committee by filing a notice of appeal, and the grounds therefor, with the City Clerk no later than fifteen (15) days after the date of the decision of the ADA Hearing Officer. The Appeals Committee shall make its decision on the record established before the Hearing Officer and may affirm, reverse or modify the decision of the Hearing Officer. The decision of the ADA Compliance Appeals Committee shall be final.

The Appeals Committee shall adopt such rules as may be necessary to carry out its duties under this section. The State of Arizona rules of administrative procedure shall apply to proceedings before the Appeals Committee unless otherwise provided by the Appeals Committee.

5. ADA Hearing Officer, duties

The ADA Hearing Officer shall be appointed by the City Manager. It is the duty of the ADA Hearing officer to:

a. Initiate, receive, and investigate complaints charging unlawful practices under the ADA;

b. Seek conciliation of such complaints, hold hearings, make findings of fact, and publish its findings of fact; and

c. Adopt such rules and regulations as may be necessary within the limits of this resolution and carry out the purposes and provisions of this resolution.

6. Notices

Any and all notices required under this chapter to be served upon any person may be served personally on such person or by mailing a copy thereof by certified mail, with return receipt requested, to the most current business or residence address of such person.

7. Other remedies; retaliation prohibited

The filing of a lawsuit in state or federal court or a complaint with the appropriate state or federal official can occur at any time. The use of this grievance procedure shall be terminated and not apply where a complaint has been filed with a state or federal official or a lawsuit has been filed alleging the same or similar violations of the ADA.

The City nor any person shall intimidate, threaten, coerce or discriminate against any complainant or person for the purpose of interfering with any right or privilege secured by the ADA or because the complainant or person has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this resolution or the ADA.

The records of any complainant shall be kept confidential to the extent allowed by applicable law, including the conduct of any investigation, hearing or judicial proceeding arising under this procedure.

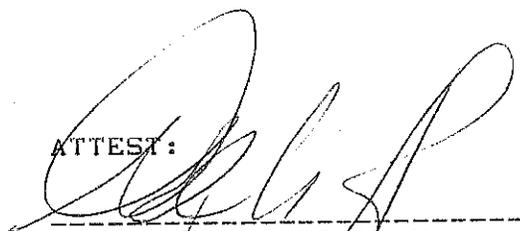
8. Exceptions

Nothing in this resolution shall apply to complaints alleging discrimination against any person, organization or entity other than the City of San Luis or an officer, employee or board or commission thereof.

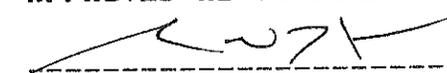
PASSED AND ADOPTED by the City Council of the City of San Luis, Arizona, this 26th day of August, 1992.



Marco Antonio Reyes, Mayor

ATTEST:


Alex U. Ruiz, City Manger

APPROVED AS TO FORM:


Gerald W. Hunt, City Attorney