

**AMERICANS WITH DISABILITIES ACT
GRIEVANCE PROCEDURES¹**

**CITY OF RANCHO MIRAGE
RANCHO MIRAGE REDEVELOPMENT SUCCESSOR AGENCY
RANCHO MIRAGE HOUSING AUTHORITY
RANCHO MIRAGE LIBRARY**

Section 1. Purpose.

The purpose of these procedures is to provide clear and concise instructions to any aggrieved person or persons who believe he or she or they have been discriminated against by the City of Rancho Mirage or any of its affiliated agencies including but not limited to the Rancho Mirage Redevelopment Successor Agency, Rancho Mirage Housing Authority and Rancho Mirage Library (collectively referred to as the "City") on the basis of any American with Disabilities Act ("ADA") recognized disability in the provision of services, programs or activities.

Section 2. Grounds.

Any qualified person with a disability or qualified persons with disabilities or his or her or their authorized representative may file an ADA grievance complaint with the City for any of the following reasons:

(a)The City is not in compliance with the physical access requirements of the ADA related to its public facilities, land, or rights-of-way;

(b)The City has denied you or a specific class of qualified persons with disabilities access to participate in any City services, programs or activities on the basis of any ADA recognized disability;

(c)The City has subjected you as a qualified person with a disability or a specific class of qualified persons with disabilities to discrimination on the basis of any ADA recognized disability; or

(d)The City has violated the ADA.

Section 3. ADA Grievance Complaint Filing.

ADA Grievance Complaints must be filed pursuant to the following:

¹ This may be made available in alternate formats by the ADA Coordinator to accommodate any qualified person with a disability.

(a)An ADA Grievance Complaint must be filed via mail, personal delivery, facsimile, electronic mail, telephone, or in person with the City's designated ADA Coordinator:

Charles Nesbit, ADA/504 Coordinator
City of Rancho Mirage
69-825 Highway 111
Rancho Mirage, California 92270
Telephone: (760) 343-0561 EXT.523
Facsimile: (760) 343-3792
Email Address: charlesn@ranchomirageca.gov

(b)An ADA Grievance Complaint should be submitted by as soon as possible but not later than 60 calendar days after the alleged.

(c)An ADA Grievance Complaint should be in writing (with exceptions) and contain the following information:

- Complainant:
 - i. Name
 - ii. Mailing address
 - iii. Email address (if any)
 - iv. Phone number
 - v. Facsimile number (if any)
- Complainant's Representative:
 - i. Name
 - ii. Mailing address
 - iii. Email address (if any)
 - iv. Phone number
 - v. Facsimile number (if any)
- Incident/Violation:
 - i. Description
 - ii. Location
 - iii. Date(s)
 - iv. Time(s)
 - v. Name and contact information of witnesses
 - vi. Name of any City employee involved
- Remedy or action requested

(e) Within 15 calendar days after receipt of the ADA Grievance Complaint by the ADA Coordinator, Complainant(s) will be notified that the ADA Grievance Complaint has been received and it is being investigated.

Section 4. ADA Grievance Complaint Processing.

ADA Grievance Complaints shall be processed as follows:

(a) The ADA Coordinator or his or her designee will investigate the complaint and meet with the Complainant(s) to discuss the complaint and possible resolutions.

(b) The investigation may include interviews with: (i) Complainant(s); (ii) the person(s), if any, who allegedly discriminated against Complainant(s); and (iii) any other person the ADA Coordinator or his or her designee believes to have relevant knowledge concerning the subject ADA grievance.

(c) The ADA Coordinator or his or her designee will prepare a written report ("Complaint Determination") that will include: (i) the results of the investigation; (ii) a determination as to whether any ADA discrimination occurred or ADA access requirements have been violated; and (iii) any appropriate remedy which the City will provide.

(d) A copy of the Complaint Determination will be sent to Complainant(s) within 90 days of receipt of the ADA Grievance Complaint.

Section 5. Appeal Procedures.

If the response of the ADA Coordinator or his/her designee does not satisfactorily resolve the issue, Complainant(s) may appeal the decision within 15 calendar days after the receipt of the Complaint Determination to an administrative appeals officer pursuant to the appeal pursuant to the following:

(a) Duties of Administrative Hearing Officer. The Administrative Hearing Officer ("Hearing Officer") shall conduct all Administrative Appeal Hearings of any timely and properly filed appeal from a Complaint Determination pursuant to the procedures set forth in this resolution. The Hearing Office shall review all evidence, documents, and written testimony and hear all oral testimony submitted by the parties and render all decisions and findings in writing to the appellant with a duplicate copy to the ADA Coordinator. The Hearing Officer may decide to uphold the Complaint Determination or rescind the Complaint Determination in part or in its entirety.

(b) Limitations on authority of Administrative Hearing Officer. The Hearing Officer's authority to hear and consider appeals shall be limited to passing on only those appeals pertaining to matters within his or her subject matter jurisdiction. The Hearing Officer shall consider at the hearing on the appeal only those matters or issues which are specifically raised by the appellant in his or her appeal and which are relevant to the issues of the hearing. The Hearing Officer shall not have the authority to waive any requirements of the Municipal Code and/or any applicable statutes, rules, codes or regulations, except as otherwise provided in this resolution.

(c) Obtaining an Administrative Hearing Officer.

(1) Within five (5) business days after it has been determined that a timely and complete appeal of a Complaint Determination has been filed, the ADA Coordinator or his or her designee shall provide written notice by first class mail or facsimile to the Desert Bar Association requesting a Hearing Officer.

(2) As soon as practicable, the Desert Bar Association will provide to the ADA Coordinator and the person or entity who filed the appeal, a notice listing three randomly selected names of hearing officers who are practicing and retired attorneys and judges who have agreed to join a panel from which Hearing Officers are selected by the Desert Bar Association.

(3) Each party shall have the opportunity to reject one of the three proposed Hearing Officers provided by the Desert Bar Association. In the event that two out of the three listed Hearing Officers are rejected by the parties to the hearing by the deadline stated in the notice, the remaining Hearing Officer shall become the selected Hearing officer for purposes of presiding over that particular hearing. In the event that only one or none of the three listed Hearing Officers are rejected by the parties to the hearing by the deadline stated in the notice, the first Hearing Officer on the top of the list who has not been rejected shall become the selected Hearing Officer for purposes of presiding over that particular hearing.

(d) Scheduling the Administrative Appeal Hearing. Once the Hearing Officer is selected, the ADA Coordinator or his or her designee shall contact the Hearing Officer to schedule a date, time, and location for the Administrative Appeal Hearing. The Administrative Appeal Hearing shall be scheduled as soon as practicable but allowing sufficient time for providing notice of the hearing.

(e) Preparation and form of Notice of Administrative Appeal Hearing. Once the date, time and place for the Administrative Appeal hearing is determined, the ADA Coordinator or his or her designee shall prepare a Notice of Administrative Appeal Hearing ("Hearing Notice"), which shall be in substantially the same form as follows:

"You are hereby notified that a hearing will be held before the Administrative Hearing Officer at _____ on the ____ day of _____, _____, at the hour of _____ to hear your appeal of the Complaint Determination. You may be present at the hearing. You may be, but need not be, represented by an attorney. You may present any relevant evidence at the hearing and you will be given a full opportunity to cross-examine all witnesses testifying against you."

(f) Time for and methods of service of Notice of Administrative Appeal Hearing. The ADA Coordinator or his or her designee shall cause a copy of Hearing Notice to be provided to the appellant either by causing a copy of said Notice to be delivered to the appellant personally or by causing a copy of said Notice to be delivered by certified mail, postage prepaid, return receipt requested, and addressed to the appellant at the address shown on the appeal.

(g)Proof of service of Notice of Administrative Appeal Hearing. Proof of service of the Hearing Notice shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration shall be affixed to a copy of the Hearing Notice and retained by the citing officer or his or her designee.

(h)Proof of service of Notice of Administration Appeal Hearing. The ADA Coordinator shall prepare an administrative hearing packet for the Hearing Officer to review prior to the hearing. The packet shall include a copy of the Complaint Determination, a staff report, and any evidence of the violation(s).

(i)Admissibility of evidence at Administrative Appeal Hearing. At the Administrative Appeal Hearing, the Hearing Office shall review all evidence, documents, and written testimony and hear all oral testimony offered either in support of appellant's claim or in support of the Complaint Determination, provided such evidence and testimony is relevant to the issues of the hearing. The Hearing Officer has the authority to determine the relevance of any evidence to the issues of the hearing. The Hearing officer also has the authority to exclude unduly repetitious and cumulative evidence, regardless of its relevancy.

(j)Rights of parties at Administrative Appeal Hearing. Each party appearing at the hearing shall have the following rights: (a) to call and examine witnesses; (b) to introduce documentary and physical evidence; (c) to cross-examine opposing witnesses; (d) to impeach any6 witness regardless of which party first called the witness to testify; € to rebut evidence; and (f) to be represented by anyone who is lawfully permitted to do so.

(k)Failure to attend Administrative Appeal Hearing. If the appellant or his or her representative fails to participate in the scheduled Administrative Appeal Hearing, the hearing will proceed without appellant and he or she will be deemed to have waived his or her rights to be heard at the Appeal Hearing.

(l)Hearing Officer's Determination on Appeal. Following the appeal of a Complaint Determination, the Hearing Officer may decide to uphold the Complaint Determination, overturn some or all of the findings of the ADA Coordinator and/or rescind the Complaint Determination in part or in its entirety.

(m)Duty to prepare and serve Notice of Decision. The Hearing Officer shall prepare and serve a written Notice of Decision upon the appellant and the ADA Coordinator following the Administrative Appeal Hearing. The decision of the Hearing Officer shall be final, except as otherwise provided by this resolution.

(n)The Hearing Officer shall serve the written Notice of Decision to the appellant within twenty (20) calendar days from the date the hearing is deemed closed. The Hearing Officer shall also provide or cause to be provided a copy of the Notice of Decision to the ADA Coordinator.

(o)Form of Notice of Decision. The Notice of Decision shall state whether the Complaint Determination has been either upheld, in full or in part, or rescinded, in full or in part. In addition, the Notice of Decision shall contain a brief summary of the evidence considered,

findings of fact, a determination of the issues presented, the effective date of the decision, and an alternative Complaint Determination, if applicable, which shall specifically describe the action which shall be required to be taken and shall require the actions to be completed within a specified time period and by a specified deadline.

(p)Service of Notice of Decision. The Hearing Officer shall cause a copy of the Notice of Decision to be provided to the appellant either by causing a copy of the Notice of Decision to be delivered to the appellant personally or by causing a copy of the Notice of Decision to be delivered to the appellant by certified mail, postage prepaid, return receipt requested, and addressed to appellant at the address shown on the appeal. A copy of the Notice of Decision shall also be provided to the ADA Coordinator.

(q)Effective date of Notice of Decision. The effective date of the Hearing Officer's Notice of Decision shall be as stated therein or, if none provided, the date of the Notice of Decision.

Section 6. Alternate Formats.

In lieu of any written document or in addition to any written document referenced hereinabove, any qualified person with a disability or qualified persons with disabilities may, upon request, submit or receive any⁶ such document(s) in an alternate format to reasonably accommodate his or her or their ADA-recognized disability without a surcharge being imposed by the City of such reasonable accommodations.

Section 7. Records Retention.

All ADA Grievance Complaints, Complaint Determinations and Notice of Decisions shall be retained by the City for at least three years.