



CITY OF CORTLAND  
OFFICE OF COMMUNITY DEVELOPMENT  
THOMA DEVELOPMENT CONSULTANTS

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**MEMORANDUM**

TO: Mayor Brian Tobin and Members of the Common Council,  
FROM: Thoma Development Consultants  
RE: Adoption of a Section 504 Grievance Policy/Procedures and publication requirements  
DATE: January 25, 2012

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Linda Armstrong of my staff met with Mack Cook to discuss a number of policies that the City should consider adopting as the recipient of federal funding, in order to comply with certain federal rules and regulations. One of the policies we discussed, and which Mack agreed should be adopted, is a grievance procedure for complaints related to disability as required under Section 504 of the Rehabilitation Act of 1973, as amended.

Section 504 of the Rehabilitation Act of 1973 (hereinafter referred to as Section 504) prohibits discrimination on the basis of disability in programs and activities conducted by the U.S. Department of Housing and Urban Development (HUD) or by grantees of HUD financial assistance. The Programs covered by Section 504 include the New York State Community Development Block Grant Program (CDBG) and the HOME Program, both of which the City has received and utilized on a relatively consistent basis.

Sections 53 and 54 of Part 8, Title 24 of the Code of Federal Regulations (24 CFR) require federal funding recipients to adopt an internal "Section 504 grievance procedure" if they have 15 or more employees, which, according to the NYS CDBG includes all paid full-time, part-time, seasonal employees, and paid Board members. It does not include elected officials or elected Board members.

The New York State Office of Community Renewal, which administers the CDBG Program (OCR) recently starting requesting documentation of compliance with the federal Section 504 requirements and issued "findings letters" to those communities that did not have one in place. Accordingly, we suggest the City take a proactive step to adopt a grievance procedure. The law requires that you (1) adopt a policy or procedure by resolution, (2) designate a Grievance Coordinator as part of the grievance procedure, and (3) notify employees and the public of the grievance procedure on an initial and continuing basis. The amount of detail required in the notification process depends on whether you have 15-49 employees, or 50+ employees. Information with respect to that is provided below.

*"The Crown City"*

**Proposed Grievance Procedure for Section 504 (ADA) Compliance:** We've prepared and attached a Section 504 grievance procedure for your adoption. Mack Cook has agreed to act as Grievance Coordinator (GC) assuming approval by the Council. The attached grievance procedure reflects the position of Director of Administration and Finance as the GC so it does not have to be changed as personnel changes are made. We've also attached a proposed resolution for your use. Please send us a copy of the certified resolution and the signed grievance procedure so we can make sure it goes in your CDBG files. The City should also keep copies of the procedure with other adopted policies and procedures.

**Public Notice Requirements for grievance procedures:** Section 504 notification requirements are more extensive for employers with 50 or more employees. The Americans With Disabilities Act of 1990 (ADA) grievance actions are implemented by 24 CFR, Part 8 for HUD purposes. However, 28 CFR Part 35 implements ADA grievance actions for the Justice Department. The difference in the two statutes is the extent to which an employer must go notify its employees, the public, and potential beneficiaries of CDBG and/or HOME Programs about the adoption of a grievance procedure under Section 504.

Section 54(a) of 24 CFR, Part 8 states in part, " A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to §8.53. A recipient shall make the initial notification required by this paragraph within 90 days of July 11, 1988. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications."

Based on our conversations with the State's CDBG offices, it appears employers with 15-49 employees can meet notification requirements by publishing a general statement of adoption of a grievance procedure and prohibition of discrimination based on disability. However, employers with 50 or more employees are required to **publish the entire procedure verbatim** to meet the U.S. Department of Justice's requirements at 28 CFR Part 35.

Based on Linda's meeting with Mack, the following activities will be undertaken to comply with the notification requirements: (1) A copy of the procedures will be sent to all City employees or heads of the bargaining units; keep a copy of the transmittal letter(s) in City file; (2) Publish the adopted grievance procedure verbatim on the City's website; (3) Place copies of the written Procedure in the Clerk's Office for the public to pick up. Keep copies of letters, newspaper ads, and other means of notice in the Section 504 file in your CDBG files that you decide to publish. We will add a notification of the City's adoption of the grievance procedure to any and all program brochures for CDBG and/or HOME Programs so "potential beneficiaries" of the covered programs are notified. Other activities are encouraged at your discretion.

Please contact Linda Armstrong of my staff if you have any questions. She can be reached at 607-753-1433 or via email at [Linda@thomadevelopment.com](mailto:Linda@thomadevelopment.com)

Attachments: Section 504 grievance procedure and proposed resolution

## ***SECTION 504 RESOLUTION/CITY OF CORTLAND***

**WHEREAS**, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by the U.S. Department of Housing and Urban Development (HUD) or by grantees that receive financial assistance from HUD, and

**WHEREAS**, Part 8 of Title 24 of the Code of Federal Regulations (24 CFR) requires adoption of grievance procedures to address complaints of those who feel they may have been discriminated against on the basis of disability and also requires the provision of notice of said grievance procedures, and

**WHEREAS**, it is the policy of the City of Cortland not to discriminate against any individual, person or group on the basis of disability and the intent of the City to address any complaints that may arise pursuant to Section 504,

**NOW, THEREFORE, BE IT RESOLVED** that the City of Cortland does hereby adopt by resolution internal grievance procedures (the "Procedure") providing for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 of the U.S. Department of Health and Human Services regulations implementing the Act, and

**BE IT FURTHER RESOLVED**, that the City of Cortland does hereby designate the City's Director of Administration and Finance as the Grievance Coordinator who shall be responsible for receiving and addressing complaints pursuant to the Procedure adopted hereby and attached hereto, and

**BE IT FINALLY RESOLVED**, that the City of Cortland will place its employees, the public and potential beneficiaries of certain federal public programs on notice by undertaking certain actions that will include, but may not be limited to (1) providing a copy of the grievance procedure to its employees, (2) placing the grievance procedure on the City's website subsequent to adoption, (3) placing copies of the Procedure in the City Clerk's Office located in City Hall, 25 Court Street, Cortland, NY for review and dissemination, and (4) adding language to federal program brochures to insure all potential program beneficiaries are aware of the City's adopted grievance procedure.

**CITY OF CORTLAND**  
**SECTION 504 GRIEVANCE POLICY**

***Procedure for Filing Complaints***

**BACKGROUND:** Section 504 of the Rehabilitation Act of 1973 (the "Act") as amended, prohibits discrimination on the basis of disability in programs and activities conducted by the U.S. Department of Housing and Urban Development (HUD) or that receive financial assistance from HUD. This includes the New York State Community Development Block Grant Program (CDBG) funded by HUD, and under which the City of Cortland has received financial assistance. The Act specifically provides that no qualified individual shall, solely by reason of his or her handicap, be excluded from program participation, including employment, be denied program benefits, or be subjected to discrimination. The Americans with Disabilities Act of 1990 (ADA) establishes provisions for assuring equality of opportunity, full participation, independent living and self-sufficiency of disabled persons relative to employment, benefits and services, accommodations, commercial facilities and multi-family housing.

**SECTION 504 POLICY/COMPLIANCE:** Part 8 of Title 24 of the Code of Federal Regulations (24CFR) requires the adoption and notice/publication of ADA grievance procedures for municipalities with 15 or more employees, Sections 8.53 and 8.54, respectively. Therefore, be it known that it is the policy of the City of Cortland not to discriminate on the basis of disability. Towards that end, the City has adopted by resolution an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) of the U.S. Department of Health and Human Services regulations implementing the Act. The subject law and implementing regulations may be examined in the City Clerk's Office located in City Hall, 25 Court Street, Cortland, NY. The City's Director of Administration and Finance has been designated to coordinate the efforts of the City of Cortland with respect to Section 504 compliance. This information can also be accessed on the World-wide Web at the following address: <http://www.ada.gov/taman2.html#II-8.2000>. The City of Cortland's Director of Administration and Finance's Office is also located in City Hall, 25 Court Street, Cortland, New York. The Section 504 Coordinator can be reached at 607-756-7312.

**GRIEVANCE PROCEDURE:** Any person who believes he or she has been subjected to discrimination on the basis of disability may file a grievance under the procedure adopted by the City of Cortland outlined below.

- Grievances must be submitted to the Section 504 Coordinator within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
- A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.

- The Section 504 Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of the City of Cortland relating to such grievances.
- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the City's Common Council within 15 days of receiving the Section 504 Coordinator's decision. The City's Common Council shall issue a written decision in response to the appeal no later than 30 days after its filing.
- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights.

The City of Cortland will make appropriate arrangements to ensure that disabled persons are provided accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

It is against the law for City of Cortland to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

DATE ADOPTED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

TITLE: \_\_\_\_\_