



**TENNESSEE HUMAN RIGHTS COMMISSION
CENTRAL OFFICE**

ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY, SUITE 100
NASHVILLE, TENNESSEE 37243-1219
(615) 741-5825 FAX (615) 253-1886
www.tn.gov/humanrights

July 20, 2012
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Cocke
Commissioner Davis
Chair Garrett
Commissioner Hewitt
Commissioner McDaniel
Commissioner Miller
Commissioner Osborne
Commissioner Pierce (Phone)
Commissioner Walker (Phone)
Commissioner Wiggins
Commissioner Wurzburg

Commissioner's Absent:

Commissioner Blalock
Commissioner Jones
Commissioner Pride
Commissioner Starling

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Rachel Appelt, Associate General Counsel
Marcus Thomas, Title VI Compliance Director
Susannah Taylor, Special Assistant to Executive Director/Communications Specialist
Lisa Lancaster, Executive Assistant

Guests:

Nancy Brown, First TN Bank
Tracey McCartney, TN Fair Housing Council
Hulya Arih, THDA
Shara D. Taylor, THDA
Mick Nelson, THDA
Kaleda Bentley, THRC (Phone)
LaShondia Chambers, THRC
Tracy Davidson, THRC
David Berenbaum, NCRC
Paula Casey, Contractor

Call to Order

Chair Garrett called the meeting to order at 9:00 a.m. CDT. Roll Call was taken. Chair Garrett asked that we observe a moment of silence for the victims of the Aurora Colorado Theater shooting and also Commissioners Blalock and Jones who are facing health challenges. Minutes of the May 2012 meeting were reviewed. Commissioner Wiggins made a motion to accept. Commissioner Davis seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director, Beverly Watts noted that back in March we received a partnership agreement with the National Community Reinvestment Coalition and she met with them in April. NCRC is one of the leading experts in Housing and housing issues in the country and their Vice President is David Berenbaum who is with us this morning to make a presentation to this body. It was noted that several guests were in attendance. Each attendee gave a brief introduction of themselves which included staff, commissioners and guests. David Berenbaum of the National Community Reinvestment Coalition (NCRC) was introduced by the Executive Director Watts where he serves as Chief Program Officer, responsible for implementing NCRC's legislative, research, compliance, community lending, minority business and civil rights programs and NCRC's fair housing and fair lending compliance initiatives, which in 2008 was launched under the historic name "National Neighbors".

Mr Berenbaum began by thanking and acknowledging the partnership with THRC. He noted that the NCRC mission is to increase fair & equal access to credit, capital, and banking services/products for low- and moderate-income communities, because discrimination is illegal, unjust and detrimental to the economic growth of underserved communities in the United States and around the world. Mr Berenbaum presentation included an overview Home Mortgage Disclosure Act (HMDA) data in four of the largest Metropolitan Statistical Areas (MSA's) in the state of Tennessee and to help commissioners understand how to identify lenders originating high volume loans and pricing disparities in each jurisdiction. He noted these findings will enable the commission to make general observations about the mortgage lending activities that have taken place over the past eight years throughout the state and help in defining existing and emerging civil rights/ consumer protection issues relating to mortgage lending, mortgage backed securities and securitization principles, including structures and prepayment issues, definitions. This data he noted could serve as a basis for developing policy issues. The power point presentation was detailed with specifics on emerging trends, data and facts about fair lending in general and specific on several Tennessee regions. The full power point will be posted on the THRC web site.

Tracy McCartney of the TN Fair Housing Council asked about looking at mobile home parks in the Memphis area due to Vanderbilt being a mobile home lender. Mr. Berenbaum noted that NCRC was not aware of that fact and asked if mobile home parks were not in the city? Tracy noted that she did not know about the zoning of mobile home parks in Memphis. Mr. Berenbaum noted that the mobile home data was not captured in the survey. Executive Director Watts noted that it was pre-manufactured homes and they are a little different than mobile homes.

Commissioner Wurzburg asked if NCRC was an NGO and who finances it to which Mr. Berenbaum answered, that the National Community Reinvestment Coalition is a not for profit with a board of directors that includes 24 community leader agencies from across the country many of whom are Executive Directors of not for profit community based organizations. Funding this year in the amount of approximately \$10M and there are many different funding sources including fundraising efforts, national conference, HUD, Department of Commerce, Small Business Administration, several states fair housing councils, foreclosure prevention programs and other corporations.

Commissioner Wurzburg noted that some people don't know who they pay their mortgage payments to and asked "what is the situation about lost instrumentality and fraudulent papers?". Mr. Berenbaum noted that this is a real problem and has been brought to the attention of the AG's office. In regards to the transition to electronic documents and robo signature issues have not been resolved but the Consumer Financial Protection Bureau is trying to address and clarify.

Commissioner Hewitt noted that she is on the board of Tennessee Citizen Action and asked if there had been communication between NCRC and Mary Mancini. Mr. Berenbaum was not sure but recognized the name. Commissioner Hewitt asked if she could share the Power Point slide show document with this board. He noted that this is a public document and could be shared with anyone.

Commissioner Wurzburg asked that a glossary be included in future printings.

Executive Director Beverly Watts noted that on July 3, 2012 Housing Investigator Lamont Bell left state government to work for Metro Board of Education. Mr. Bell recently received his Masters in guidance and counseling and will be working in his field of training. This position will be moved to the Knoxville office. She also reported that on August 10, 2012, Marcus Thomas will be leaving the Title VI Directors position to work for the Social Security Administration and Samelta Glenn will be transferring to the Department of Human Services in Jackson on August 3, 2012.

We are currently recruiting for the housing investigator position and will ask for approval to hire the director and secretary positions in Title VI.

Our budget requires us to revert funds every year and our reversion amount is \$124,000 and it looks like we will be reverting closer to \$150,000. Our federal dollars are down slightly, the contract from EEOC is down from last year even though we received an upward modification but we anticipate meeting our contract numbers. Our HUD contract is a little less but we are still meeting our timelines.

Charts for the surveys related to the ongoing audit of witnesses on cases were handed out to those attending. It was noted that the surveys being returned is still low. In housing one case per investigator is audited and in employment two cases per investigator is audited. In September we will have an in-depth report on number of calls made, surveys returned and any comments made and will include a written explanation of the chart.

Executive Director Watts noted and shared a thank you note from Commissioner Miller thanking the commission for their thoughts concerning the loss of her father.

Commissioner Osborne made a motion to accept the Executive Directors report and Commissioner Hewitt seconded the motion. A vote was taken and passed.

Education & Outreach Committee

Chair McDaniel reported that the Education and Outreach committee met on July 16, 2012 via teleconference and Susannah Taylor gave a summary of the meeting which included a plan for the education and outreach events scheduled for the 2012-13 timeframe. She noted that we intend to continue the types of events we have supported in the past with a special emphasis on the yearlong celebration of the THRC 50th Anniversary that will occur in 2013. Suggestions from commissioners are welcomed with the broad goal being to increase visibility and understanding of the Tennessee Human Rights Commission and its work.

Our objectives are to utilize the timely opportunity to share the commissions past and present and to engage the Tennessee community in discussion related to its future; to engage the board of commissioners in a new and more individually involved capacity; to create new and strengthen existing partnerships with other state agencies and community organizations; and to increase opportunities to interact with and educate youth communities in the commission's work.

Our actions are pretty basic as we want to utilize all the resources that we have and one of the ways we talked about is to utilize the human resources we have and to develop a 50th Anniversary committee which might look like the education and outreach committee; a sub-committee; a sub-committee of the entire board of commissioners; or an external advisory committee composed of members from across the state.

We would like to compile a complete list of all former staff and commissioners over the past 50 years. We could engage them throughout the year and capture their history and experiences. We would also like to explore the possibility of being able to explore grants from foundations and to look at possibly even individual donations to use that fiscal resource to really engage for the 50th Anniversary.

We talked about creating a graphic theme that will be consistent throughout the year on all of our publications, presentations and anything that you are going to look at we want it to look similar and to have a feel of the 50th anniversary. A logo was pitched with a new look that is specific to the 50th anniversary and elements that will continue into the future. Consistent talking points will be developed that will be incorporated into all publications and speaking engagements throughout the year

Committee members have given suggestions for taglines and ways to change the purposed logo and this process will continue. We will look at the past, examine the present and looking to the future. We need to reflect on our history and move forward. Additionally we will address the issue of the community understanding who we are, what we do and how the complaint process works and what constitutes discrimination. We hope to include this in a webinar that could be placed on our website and be converted to a video that could be used throughout the year at events to summarize those same talking points.

We talked about unique events that are available such as partnering with the Tennessee state museum when they have the emancipation proclamation on display in February and

we have had discussions with museum staff about what a partnership might look like with us. We could potentially do a high school or college seminar with graduating students to educate them of what their rights are when joining the workforce, showing civil rights themed films; creating an exhibit at the Public library in the civil rights room; and the National civil rights museum; utilizing the MLK celebrations in January; partnering with the UT Martin Civil Rights Annual Seminar; Roundtable schedule for the upcoming year in possibly Martin, Dyersburg or Paris for the West TN event sometime in early December; in Middle Tennessee in Murfreesboro in February and Knoxville in May for the east TN event.

Mini ELS for ½ day events in January in Memphis and in March in Chattanooga were also discussed. Chair McDaniel noted that the discussion continued at the Commissioner Retreat last evening and when decisions are made they will be shared with the full board. We are looking at a September 2012 kick off for the yearlong celebration. There will be an anniversary committee created by the Education and Outreach committee and staff.

Commissioner Miller made a motion to accept the report. Commissioner Hewitt seconded the motion. A vote was taken and passed.

Employment & Housing Case Reports

Deputy Director, Sabrina Hooper reported on the period May 1, 2012 to June 30, 2012 during which time 186 inquiries were received and 111 were accepted for investigation. We closed 52 cases with a closed charge age of 271 days which is right at our goal of 270 closures. There were 4 successful mediations resulting in \$57,180 in monetary benefits and 4 settlements resulted in \$1,260 in monetary benefits and non-monetary benefits such as not appealing unemployment benefits or letters of reference to the complainants.

It was explained by Commissioner Wurzburg that she was concerned that we were measuring our success by just money and that a lot of times mediation success is not about money and that we should explore other ways of determining our success than just by a dollar figure.

In comparison to last year, we received 118 inquiries which resulted in 87 charges being filed and we closed 86 cases with an average case age of 312 days. There were 3 mediations and one settlement closed for a total of \$31,000 monetary benefits to the complainant. It appears that the closed cases are down but I have about 37 cases on my desk ready to be closed. Once these are processed this year's May and June closures (89) would be comparable to last year.

In Housing, during the same timeframe, we received 41 inquiries which resulted in 13 charges being filed with race and disability being the top bases for complaints. There were 16 cases closed of which: 4 were no cause, 9 were conciliated and 3 were administrative closures. Eleven of those cases were closed within the HUD goal of 100 days.

In comparison to last year there were 47 inquiries resulting in 22 charges, 23 cases were closed and 69% of cases were closed within 100 days which is exceeding the HUD goal of 50%.

Lamont Bell has resigned and it was decided to move this position to the Knoxville office. The plan is to have the investigator position filled by September.

A motion to accept the Employment and Housing reports was made by Commissioner Osborne and seconded by Commissioner Hewitt. A vote was taken and passed.

Legal Report

Associate General Counsel, Rachel Appelt noted that she is filling in for Shay Rose who delivered a baby boy on May 22. Mom and baby are doing fine. She reported on the May 1, 2012 to June 30, 2012 time period during which legal reviewed and recommended for closure 29 cases which is down from our last period due in part to being short staffed. Of those cases 4 were closed administratively, 2 were failure to cooperate, 1 was not jurisdictional due to being untimely and 1 case was filed in court. There was 1 withdrawal with settlement and 6 closed as mediations.

The one employment case where the corrections officer was terminated will mediate with ALJ Ann Johnson on August 9, 2012 and we will update you at the next board meeting of the results. Legal also reviewed 10 investigative plans and completed 5 reconsiderations in employment during the period.

In housing legal reviewed 16 cases of which 2 were administrative closures which were failure to cooperate and this number is up from the last report. We had 8 conciliations which is also up. We also have a new cause case based on reasonable accommodation and both parties have agreed to conciliate so formal charges have not been filed.

We met with the Government Operations committee on May 7, 2012 and they approved our final draft of the rules to go into effect on June 21, 2012 they were filed with the Secretary of State's office and there is a 90 day waiting period. In the legal report materials you will find a copy of the changes that were made and in the back of your notebooks you will find a complete set of the rules as updated.

Our Employment Law Seminar was held on June 21, 2012 assisted by staff and she has completed week one of the National Fair Housing Training Academy online.

Cause Case updates included the three housing cases with the first one being the stir fry case which went to hearing on May 18, 2012 with ALJ Steven Darnell who found that discrimination had taken place with regard to refusal to rent and discriminatory statements on the bases of national origin and as a result he awarded \$1,000 in civil penalties to THRC. He also awarded the complainant who was denied housing \$1,500 in compensatory damages and the complainant that made the phone call \$750 and ordered the respondent to attend the Fair Housing Conference in 2013 at his own expense and he was ordered to pay court costs not to exceed \$2,000.

Since the judge issued his order in this matter there have been 2 appeals filed one by the respondent which was untimely and the judge kicked it out and the second one was filed by the complainant that made the phone call who thought that he was entitled to more money. At this meeting I need to get the commission's authorization to send this appeal to the Law and Legislation committee and let them hear the case. The commission will be represented by Shay Rose or Marcus Thomas.

I need to ask for a motion to authorize the law and legislation committee to consider the appeal and to report back with a recommendation to the full board at the next board meeting. Commissioner Cocke made the motion and it was seconded by Chair Garrett. A vote was taken and passed.

The last cause update was the reasonable modification case where the child needed a ramp to get into the home and was denied and was caused on May 9, 2012 and on June 5, 2012 we filed charges with the Secretary of State but an ALJ has not been assigned yet.

Commissioner Cocke made a motion to accept the legal report. Commissioner Davis seconded the motion. A vote was taken and passed.

Outreach & Education

Special Assistant, Susannah Taylor gave the Communications report. She reported that for the timeframe of May 1, 2012 to June 30, 2012 we participated in 14 events and reached 3,263 individuals which brings our year to date total to 93 events and 20,376 individuals reached.

Highlights include our Columbia Roundtable on May 22, 2012; the Employment Law Seminar on June 21, 2012 with 157 attendees; Executive Director Watts was honored at the EEOC Equal Fair Pay Day event; there were copies of articles written by Commissioner Wiggins that ran in the Tennessean and an article run in the Columbia Daily Herald which was a story about the roundtable and this paper also ran an announcement about the event. The Nashville Ledger ran a piece about the ELS in their event section and we had an inquiry from a reporter in Bristol Tennessee who wanted to know what the ADA is and what constitutes discrimination based on disability.

On May 10, 2012 THRC conducted an all staff training at which EEOC staff conducted a segment on best practices and investigations and Francisco Guzman answered 19 calls from the Hispanic community.

Commissioner McDaniel asked about how we arrived at the 20,000 number of individuals reached and it was noted that any event that we attend where a staff person was there, we exhibited or a staff member was a presenter. Executive Director Watts noted that we could give a more in-depth explanation in future reports.

Commissioner Miller made a motion to accept the Communications report. Commissioner McDaniel seconded the motion. A vote was taken and passed.

Title VI Compliance Report

Marcus Thomas, Title VI Compliance Program Director reported on the time frame of May 1, 2012 to June 30, 2012 noting that on July 12, 2012 the annual training event was held and 37 agencies out of 42 were represented with 4 department heads attending. Compliance review for Department of Corrections will be complete in about a week and the Tennessee Wildlife Resources Agency in about two weeks. There will be corrective action for the Tennessee Arts Commission

During the timeframe we received 49 inquiries and closed 8 cases and the comparison numbers are noted in the chart.

Executive Director Watts noted that Mr. Thomas came to THRC in November of 2009 and offered thanks for his development of process and procedures for implementation plan review which means that agencies are being held accountable for outlining what they have done and what they plan to do. He has developed a compliance review process, he has expanded staff and started those processes and left us with policy guidelines that are consistent with the Department of Justice.

Mr. Thomas thanked “the Executive Director for the opportunity and I have had a pleasure, privilege and an honor to serve in this role to push this mission forward for safeguarding individuals from discrimination through enforcement and education”. Commissioner Cocke requested that the minutes reflect a motion of commendation for Mr. Thomas on behalf of the Commissioner’s. Commissioner Miller seconded the motion. A vote was taken and passed.

A motion was made to accept the Title VI report by Commissioner Osborne and seconded by Commissioner Davis. A vote was taken and passed.

Special Presentations

Chair Garrett made a presentation to Samelta Glenn for 10 years of service and a job well done and to Leon King for 30 years of service to the state he was presented a plaque. It was mentioned that Investigator, Renee Smith was receiving her 5 years of service award even though she was not present. Executive Director Watts was also awarded her 5 years of service award.

Commissioner Wurzburg said “there has been such a turnaround of this commission in the last five years, which I know we can attribute to our Director. Our Director has just taken this commission and made it become what it was intended to be for the last fifty years. It is a shame it took so long for it to get there, but it has.

My only concern is, I am just wondering, Is our director just training people so fabulously that they get raided by every other agency in state government after she spends so much time and energy and brings them to a point where everybody else wants them and that is my concern.

On your fifth anniversary, I personally want to thank you so much for seeing this body become the enforcement agency that it is supposed to be. And as an aside I want for all of us to thank Chair Garrett for hosting a lovely retreat yesterday.”

Announcements

Chair Garrett asked attendees to continue to remember the Colorado victim’s families in their thoughts.

Chair Garrett adjourned the meeting at 10:50 a.m.