



**TENNESSEE HUMAN RIGHTS COMMISSION  
CENTRAL OFFICE**

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**March 11, 2016**  
**Board of Commissioners'**  
**Meeting Minutes**

**Commissioners Present:**

Commissioner Crafton  
Commissioner Derryberry-Phone  
Commissioner Horne  
Chair Houston  
Commissioner Selberg-Phone  
Commissioner Sloss  
Commissioner White-Phone

**Commissioners Absent:**

Commissioner Martin

**Staff Present:**

Beverly Watts, Executive Director  
Sabrina Hooper, Deputy Director  
Matthew Stephenson, Title VI Compliance Director  
Shalini Rose, General Counsel  
Saadia Williams, Housing Coordinator  
Lisa Lancaster, Executive Assistant

**Guests:**

Caroline Sellers, TN Comptroller, State Audit  
Chris Kelly, TN Comptroller, State Audit  
Vee Cooper, THRC, Knoxville  
Richard Gadzekpo, THRC Housing Office-Phone  
Kaleda Bentley, THRC, Nashville-Phone  
Bridget Cartier, THRC, Nashville-Phone  
Suzanne Land, THRC, Nashville-Phone  
Candice Bass THRC, Nashville-Phone  
Barbara Gardner, THRC, Chattanooga-Phone

**Call to Order**

Chair Houston called the meeting to order at 9:14 a.m. and asked for a moment of silence for the tragedies in Tennessee, the state of the Nation and the family of former First Lady, Nancy Reagan. Executive Assistant, Lisa Lancaster, called the roll. The minutes of the January 22, 2016, Board of Commissioners meeting were reviewed, and Commissioner Selberg noted that her name was omitted from the commissioners present. Commissioner Horne made a motion to approve the minutes with the correction and Commissioner Crafton seconded the motion. A vote was taken and passed.

### **Employee of the Year Presentation**

Chair Houston read the Resolution that awarded the 2015 Employee of the Year award to Barbara Gardner, Regional Coordinator and Investigator of the Chattanooga THRC office. Congratulations were offered to Ms. Gardner, who thanked the THRC staff for honoring her with the award.

### **Executive Director's Report**

Executive Director Watts recognized Richard Gadzekpo, Housing Coordinator for his outstanding leadership for the last five years. She noted that during his time with the agency the team has met the HUD 50% efficiency goal every year. Mr. Gadzekpo thanked the Commission noting it was a privilege to work at THRC and expressed thanks to Executive Director Watts, Deputy Director Hooper, the Legal department and Housing investigators for working with him over the years. He noted he will always cherish the time he spent with the agency.

Executive Director Watts reported that there are currently five vacancies in the agency. There are two investigator positions open in the Housing Division and advertising and interviewing for them is in progress. In the Employment division Intake Supervisor, Dianna Ruch is retiring and her position will be filled by Employment Investigator, Kaleda Bentley effective April 1, 2016.

This leaves an Employment Investigator position open which will need to be filled as soon as possible. There are two Customer Service positions open since the Retirement of Leon King in February. The ASA II position will be advertised and filled within the next couple of months. The Title VI Compliance Officer position is still open as well as the Executive Director's Assistant position which we hope to fill within the next 45 days.

We have also had two staff extended absences one in Nashville and one in Memphis and it is expected that they will both return in April. Commissioner Crafton asked if there were sufficient funds to fill the vacancies that affect the EEOC and HUD contract work. It was noted that there were.

Executive Director Watts shared that staff have attended Budget hearings on February 12, 2016, before House State Government, February 23, 2016, before Senate State and Local and March 2, 2016, House Finance Ways and Means and our budget request was passed at all three hearings.

At the hearing with the House State and Government Committee, Rep. Todd spoke about an aged case where the Jackson business owner was one of his constituents who had come to him about why the case was 2.5 years old and still being investigated. Executive Director Watts noted that staff has met with Rep. Todd and explained that the attorney for the Respondent was slow to respond to requests from the investigator for information and also that THRC staff extended absences had caused the case to be delayed. Commissioner Crafton asked if the case files are documented in a way that correspondence and emails track our activity on the case. It was noted that they are, and that gaps in the case have been identified and resolved the issues so the case will close soon.

At another hearing on a bill, Rep. Todd also brought up the same issues with General Counsel Rose. We have since looked at all the aged cases and prioritized them to close as soon as possible.

The Budget that we submitted to the Commission in January has been submitted and was approved. We asked for \$78K for staff raises and for \$20K for Outreach and Education. In House Ways and Means they indicated that they are going to try to help us find something. It could mean money for the raises or people such as interns so we will see what happens.

The Legislation issues will be reported by General Counsel Rose in her Legal report. The current challenges are the vacancies to be filled. Commissioner Crafton had asked for data on fees that we could charge for our services. Staff will be attending a conference next week with colleagues from around the country and will gather information about what other government agencies are doing. Changes may have to be made via legislation.

Commissioner Crafton noted that when people see attorneys they are charged, and we should charge for services if we can. Executive Director Watts noted that state governments charge for licenses and such but not for services. We will gather the information and report back to the Commission at the next meeting.

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

### **Budget & Audit Committee Report**

The Budget & Audit Committee Chair, Commissioner Selberg reported that the Budget and Audit Committee met on March 9, 2016 with all committee members present. The purpose of the meeting was to review the 2016 HUD Performance Assessment document and THRC's response and to notify the committee members that the 2017 Sunset Audit has begun.

After their review of the documents and discussion Commissioner Sloss made a motion to approve the THRC response document for submission. A vote was taken and passed with Commissioner Horne recusing herself from the vote due to her employment with CHA.

Deputy Director Hooper then reported that the state auditors have begun the 2017 Sunset Audit and on March 1, 2016 the audit team held an entrance meeting with executive staff. The audit will review the agency from June 1, 2014 to present and would roll in the findings of the previous suspended audit which were the housing 100 day letters and the Title VI follow-up with referred complaints. It was noted that several documents have already been shared with the audit team to include organizational chart, staff phone listing, annual reports and minutes of meetings as requested.

Executive Director Watts added that Caroline Sellars and Chris Kelly are present with us today. She also noted that Valeria Stadelman is the Audit manager. They are housed on the 23<sup>rd</sup> floor with us and have met with staff and could meet with commissioners. They anticipate completing their work by the end of April.

Commissioner Selberg noted that the staff should be commended for the good work that they have done, especially the limited staff in the housing unit over the past few months.

Commissioner Sloss made a motion to accept the Budget and Audit Committee report and it was seconded by Commissioner Derryberry.

### **Employment Case Report**

Deputy Director, Sabrina Hooper, reported on the period January 1, 2016 to February 29, 2016. During this time we received 94 inquires which resulted in 43 charges being accepted for investigation. There were 40 cases closed with an average age of 272 days of investigation. Our open inventory at the end of January 2016 was 268 cases. Two mediations were closed with monetary benefits to the complainant of \$8000 and three settlements were closed with \$9000 in benefits.

In comparison to last year the charges received and the complaints received remained relatively the same. Even though complaints closed decreased by 27% we expect to meet the EEOC contract by federal fiscal year-end. Our inventory at the end of February 2015 was 206 and we closed three mediations and one settlement with \$7550 in benefits. As of July 1, 2015 we had conducted 31 mediations and complainants were represented 7 times and respondents 21 times.

The Work Plan shows that the measurement period for the EEOC contract closes on March 28, 2016 and we are on track to close 31 dual filed cases to meet the 75% standard and we anticipate requesting an Upward Modification of 27 cases which will meet last year's contract number.

For the Witness Customer Service survey for Employment, Public Accommodation and Housing from July 1, 2015 to March 2, 2016 65 calls were placed and 20 interviews were completed. All witnesses responded to the questions that they strongly agree and there were two new comments. One witness was dissatisfied with the results of the investigation and the other noted that they had recommended several employees to THRC.

On the 10 question survey 382 were sent out and 34 were returned. Two complainants and 4 respondents felt they would not recommend others to THRC but gave no other comments. Two hundred and six surveys were sent via Survey Monkey and twelve were returned with no new comments. There were two comments one said the investigation took longer than they were told and the other respondent thought the investigator was professional.

As for staffing, Saadia Williams was introduced at the last meeting is now the Housing Coordinator in the Knoxville office and Dianna Ruch will be retiring at the end of May. Her position will be filled by Kaleda Bentley who is currently an employment investigator. There are two housing positions that we are interviewing for at the end of March. The ASA II Front Desk position and ASA III Title VI/legal position will post on Wednesday.

Commissioner Crafton asked about supplying surveys to mediation and settlement participants at the time those deliberations are completed. He noted that we are doing a

good job and the responses would be positive if a survey was requested at the time of the agreement.

Commissioner Horne made a motion to accept the Employment report and Commissioner Selberg seconded the motion. A vote was taken and passed.

### **Housing Case Report**

Saadia Williams introduced Vee Cooper a new housing investigator that started in December. Her report covered the January 1, 2016 to February 29, 2016 time frame noting that there were 84 inquiries resulting in 27 complaints accepted for investigation. Knox County was the top producer with 7 complaints received followed by Hamilton County and Rutherford County tied with 5 complaints each. Disability remains the number one basis followed by race and familial status.

Eighteen dual filed cases were closed with nine or 50% were administrative conciliations case closures. In comparison to last year benefits received increased from nearly ten-fold in 2015 at \$2,064 to \$23,346 in 2016.

The HUD efficiency goal stands at 47% and last year we were at 64% and there are currently 2 housing vacancies.

Commissioner Crafton asked if we could put an asterisk next to the 47% HUD efficiency goal in the report and note that we have two investigator vacancies to denote it as an extenuating circumstance so that others reading the report would be aware of why the goal has not been reached.

Commissioner Selberg made a motion to accept the Housing report and Commissioner Sloss seconded the motion. A vote was taken and passed.

### **Title VI Compliance Report**

Matthew Stephenson reported on the January 1, 2016 to February 29, 2016 timeframe during which 54 inquiries were processed, 22 of which were accepted for. Fourteen cases were closed during the period leaving 49 in open inventory to include 48 with the Department of Corrections, and 1 with the Board of Regents.

In comparison to last year we have had slightly more activity than last year. During the timeframe we had to return two complaints for corrections.

There were five internal complaints reported to us. Three were from the Board of Regents; two were from the Department of the Treasury. He clarified that these are not necessarily jurisdictional and could be inquiries as well.

We are also starting a plan where the Department of Corrections sends monthly spreadsheets of their complaints. They receive more Title VI complaints than any other agency.

There were three requests for training or technical assistance. The Arts Commission asked about the training of sub-recipients, the Department of Intellectual Disabilities has a new Title VI Coordinator and we provided training for them and the Board of Regents was assisted with reporting their Title VI complaints at the Federal level.

The Department of Safety and Homeland Security has been given new reporting requirements from the Federal Motor Carrier Safety Administration and we are assisting in the process. Most of their requests are comparable to what we already require.

We have just completed the compliance review of the Tennessee Human Rights Commission and the exit review has already been completed. All was good and the details will be reported to the sub-committee. The agency was in full compliance.

Adoption of the accelerated compliance review schedule has been postponed due to the loss of staff but we are still committed to completing eight reviews each year as soon as the staff member has been replaced.

Executive Director Watts noted that Frank Guzman is the agency's Title VI Coordinator. Title VI Compliance Director, Matthew Stephenson also noted that the Title VI department acts as an outside agency when conducting its review for compliance.

A motion was made to accept the Title VI report by Commissioner Crafton and seconded by Commissioner White.

### **Legal Report**

General Counsel, Shalini Rose reported on the January 1, 2016 to February 29, 2016 period when legal closed 32 employment cases. Twelve were administrative closures and five were conciliations. Legal has been focused on closing out aged cases.

In housing, 18 cases were closed, two were administrative closures and ten were conciliations or settlements. She commended the housing group for having so many conciliations because that is a good way to close cases to have both parties come to the table and they are both generally happy about the outcome. Commissioner Crafton noted that this was another great place to get some surveys with positive responses.

Legal completed 2 copy requests and have three in inventory.

In the Legislative Updates, a chart was provided to show some of the 50 bills that Legal is tracking. The first two are being watched closely. SB 1884 is the Election of Remedies bill that was requested by HUD to make our law more like the federal law. It would eliminate the requirement that a party remove a case to state court within 90 days of the complaint being filed. The bill has gone through the House and will be set for the House floor next week and in the Senate it will go to State and Local most likely on March 22, 2016.

The second bill is Senate Bill 2358 which would add reasonable accommodations to employment under the TN Disability Act mirroring the federal law is set for Senate State and Local and State Government subcommittee also next week.

The next bill on the chart refers to retaliatory discharge actions which is not something the Commission deals with but the statute falls under our law. It would put caps on damages after filing in court. SB 1618 allows witnesses to have comfort animals for children and people with intellectual disabilities when ordered by the Judge. The bill has been referred to the Administrative Office of the Court.

SB 2377 requires that attorney's fees be awarded for state government employees when they are sued in an individual capacity and are the prevailing party. So if the state wins the case for the parties then they could ask for attorney fees. Also SB 2387 requires students in public schools to use restrooms and locker rooms that are assigned to persons of the same sex noted on their birth certificates. Both bills are in committee right now.

SB 2280 is a fair pay bill that prohibits a state employer from discriminating between employees by paying employees unequal wages on the basis of sex. This bill is in General Sub and is not moving.

Chair Houston asked about SB 1618 and wanted to know if it only applies to comfort dogs. General Counsel Rose noted CASA has already been doing this, and they have just left it up to the judge's discretion. It is usually used for children to make them more comfortable when they have to testify. The statute calls for dogs only, but a person with a disability could ask for an accommodation if it needed to be a different animal. This bill concerns some of the disability community because they don't want you to think that it should be a choice when it comes to people with intellectual disabilities because the ADA has some requirements that you have to follow for accommodating people with disabilities. They want this to go back to the Judge's discretion, and they would prefer to educate the judges instead of having this bill become law.

Executive Director Watts noted that she has just been appointed to the Access to Justice Commission and said that they are trying make sure that this does not become a law but that it is consistent with the ADA and ADA requirements and that at some point AOC needs to get involved and the Supreme Court Justices are on the Commission as Ad Hoc members. Justice Clark is on the Commission and others are Ad Hoc members and this is something that they are discussing also. We will have to wait and see if this gets through the Legislative session because there is a concern about whether or not that would be in compliance with the ADA.

Commissioner Sloss asked about the cause case with the accommodation issue with the snake, and the type of snake involved. It is a reticulated python that was kept in a glass case.

Legal Counsel Rose reported that the cause cases are in housing, and the first one is where the Complainant was charged a late fee every month because her disability check did not come in by the 5<sup>th</sup> and she was charged a \$50 late fee when she could not pay before that. She asked for an accommodation to move the date to pay her rent after her check arrived, and the landlord would not respond to her request. After she filed the complaint the landlord threatened to not fill out her THDA voucher paperwork when she said she could not do anything about the complaint he issued her an eviction notice. The

mediation was to be held today but has been cancelled and will be rescheduled. There is a hearing scheduled for April 5, 2016, in Jackson.

The second cause case is the one with the two emotional support animals. It goes to hearing in May. It has been over a year since this case was filed and the landlord's defense was that it was not reasonable. The parties did not enter into an interactive conversation about the issue. When the landlord heard that one of the animals was a snake, they immediately denied the request.

Executive Director Watts noted that when she does training for the Affordable Housing Coalition, she gets a lot of stories about comfort animals such as snakes, ducks, squirrels, rabbits, pigs. Landlords always ask if they can kick them out if they have those and the answer is not if they have the appropriate documentation for a comfort animal. In Florida, they have comfort alligators. General Counsel Rose noted that this area is a big one for complaints, and the law should be fleshed out in the next few years.

In the cases against THRC that are being represented by the Attorney General's office, the Holsey case is the first one, and it will be tried in Chancery Court of Davidson County. The second case is the Ruff case that will be heard in Chancery Court of Shelby County. This was a public accommodation case where Mr. Ruff went to Denny's and felt the food was served in a manner against his religion, and he wanted a whole new meal and they just replaced the pancakes. They have had a hearing on it, and we are waiting for an order.

In the Little vs THRC case, it is in Chancery Court of Tipton County. Mr. Little was a water meter reader and was not very professional with the customers and management got a lot of complaints about him. We "no caused" the complaint and he appealed it. We have not talked to the Attorney General about this one recently.

The Clovis case is two cases. Both are against THRC, but the first one is a public accommodation case involving the Downtown Nashville Public Library where he became threatening and hostile, and they banned him for a year. The year has passed, and he can now use the facility again. However he appealed our decision to Davidson County Chancery Court. The second case is against THRC filed with the Division of Claims Administration. Mr. Clovis claims that we were negligent in our investigation of his case, and he has asked for \$20million. The first one goes to Chancery Court on June 14, 2016 and the second case has not been set for a hearing date yet.

The partnership with the UT Law class about our online complaint form is still going on. We are giving feedback, and Chair Houston's office is reviewing it to make sure it is accessible.

Our Employment Law Seminar will be Tuesday, June 21, 2016 so mark your calendars. If you would like to attend, we would like to schedule you to introduce some of the speakers and welcome your attendance.

Chair Houston noted that she has had an opportunity to look at the complaint form that is being worked on at the UT Law department, and we've suggested putting a place at the beginning of the form to call THRC if it is not accessible for the person using the form.



Commissioner Derryberry made a motion accept the Legal report. It was seconded by Commissioner Sloss. A vote was taken and passed.

### **Communications Report**

Executive Director Watts reported on the period January 1, 2016 to February 29, 2016. The staff participated in 19 outreach activities to include the MLK activities across the state. There were also two speaking engagements. We were in Knoxville on the 15<sup>th</sup> for the MLK Commission where Saadia Williams attended a seminar and Executive Director Watts attended the Luncheon. There was breakfast on that Friday at Lipscomb and also a groundbreaking ceremony on Jefferson Street. The Executive Director also attended the "Let Freedom Ring" concert at the Symphony and also a lecture series and someone read King's letter from the Birmingham jail. Both the Youth and Adult Community Choirs participated.

The Symphony is doing something in Antioch this summer and have asked us to participate and they also asked us to participate in the Fall festival. It is called Symphony in the park. On February 9, 2016 the NAACP had their annual Day on the Hill. Information about our legislation was put in their packet to their members so that they could talk about that with their Representatives and Senators.

On MLK day there was a breakfast at the Music City Center then attended TSU where Martin Luther King. III walked through. I finished the day at Vanderbilt University with Rev. James Lawson. Sabrina Hooper, Deputy Director also attended a brunch at Vanderbilt University where Rev. James Lawson spoke about his experiences here.

There were ads in the Pride. There were no media releases. There was an opinion article in the Nashville Pride done by Executive Director Watts. We have posted upcoming events on our website and on Face Book. We are currently not doing anything on Twitter but we continue to gain people. Commissioner Derryberry noted that if you would like to have a subcommittee to help you with communications she would be happy to help. Staff will call to get something set up. If there are other commissioners that would like to serve in this capacity please let us know.

An upcoming event sheet has been passed out to those present which will be made available to those on the phone via email. April is Fair Housing Month and on April 1, 2016 there is an event in Knoxville where the Chair will do opening remarks and the April 4<sup>th</sup> Foundation event is in Memphis and we have a table and an ad in their booklet. If you are interested in attending please let us know.

Fair Housing Matters Conference is April 7, 2016 in Nashville, Executive Director Watts will give a State of the State presentation on Fair Housing and Fred Cloud will be recognized. He was the Chair of the TN Fair Housing Council for 10 years and recently passed away. He was also the Metro Director and helped to create legislation to create the Commission.

The West Tennessee Fair Housing Celebration will be on April 15, 2016 and will be partnered with HUD, THRC, THDA, West TN Legal Services and the City of Memphis and Shelby County Government. Stella Adams who is the Director of Civil Rights for the

National Community Reinvestment Coalition will be speaking. We are working to get Mayor Lutrell and Mayor Strickland to attend and we have asked Congressman Cohen to come and make remarks. We will talk about Affirmatively Affirming Fair Housing. The event will take place at the University of Memphis Law School in downtown Memphis. Attendees will receive CLE's and Real Estate Credits.

Commissioner Crafton asked what challenges are foreseen as they relate to fair housing. Executive Director Watts noted that they would be related to disability. She noted that Affirmatively Affirming is challenging local and state government because HUD has now issued its rules and they are looking for definitive plans of how people will address barriers to affirmatively further. That means developments, where do you put them and why and what are the barriers to doing that. That is going to be the new challenge as people become more educated.

The court case in Westchester County Connecticut where they lost the case prompted this. They said they were going to do things that were never done and the development was consistently done in the same poor and minority neighborhoods. HUD has issued its rules for local government and we hope to get local governments to come to that. We don't know if HUD will allow us to investigate those issues or not. It is possible that they will pull those cases and investigate them themselves.

Commissioner Crafton noted that it might be a chance to partner with local governments with property tax abatements small amount or reduction in building permit fees if they design new apartments and housing with disabilities in mind. In working with the Department of Veterans Affairs and disabled veterans and helped them get a grant from the government to help renovate their homes and make them handicap accessible.

A lot of builders are doing that on the front end as the population ages it might be a way to incentivize local government to help with a bigger pool of housing.

Executive Director Watts noted that there is a committee meeting coming up and she will see if they can get someone who is doing this in Veterans Affairs. We will talk with you about some resources. This is an education initiative that is quite important and Affirmatively Furthering is one of those that we think education is the key to moving forward. Commissioner Crafton noted that widening hallways to a minimum of four feet wide can be done on the front end. In addition to making all the doors three feet wide, having roll in showers with no steps also handrails and some minor things done on the front end are not that costly but they are quite expensive is you have to go back and retro fit them.

THDA is one of our partners in West Tennessee and they are putting together a booklet. Commissioner Crafton will supply the veterans design standards handbook which should be helpful. Commissioner White asked if there have been discussions with anyone in the Mayor's office in Memphis. It was noted that Paula Casey works with the mayor and Commissioner White also has a direct contact.

The 2016 Join Hands for Change Gala which is part of the Benjamin Hooks Institute will be held on April 21, 2016 and we will be attending again this year. The Employment Law Seminar will be June 21, 2016.

The National Community Reinvestment Coalition who we partnered with did an analysis of data and they found issues with the First Tennessee's Mortgage Lending practices. A complaint was filed with us. HUD looked at it and said that it was a mortgage lending case and they wanted to handle it and they settled the case for \$25K which was awarded to NCRC. We were not mentioned anywhere in it. I will see John Adams next week and I will tell Stella Adams when she comes for the West Tennessee Fair Housing Celebration that they need to let them know the genesis of all this.

We did a lot of work with groups and then we are left out of the party that hands out checks. Commissioner Crafton noted we need to find a way to capture that. Maybe future partnership agreements need to have a settlement sharing clause in them.

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

The next Commission meeting will be May 20, 2016 is an in person meeting. Commissioner Crafton made a motion to adjourn and Commissioner White seconded the motion. A vote was taken and passed. The meeting was adjourned at 10:30 a.m. CDT.