



TENNESSEE HUMAN RIGHTS COMMISSION
WILLIAM R. SNODGRASS TENNESSEE TOWER
312 ROSA L. PARKS AVENUE, 23RD FLOOR
NASHVILLE, TN 337243-1102
www.tn.gov/humanrights

March 20, 2015
Board of Commissioners' Meeting
Minutes

Commissioners Present:

Commissioner Crafton
Commissioner Horne
Chair Houston (Phone)
Commissioner Selberg
Commissioner Sloss

Commissioners Absent:

Commissioner White
Commissioner Martin

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Matthew Stephenson, Title VI Compliance Director
Richard Gadzekpo, Housing Coordinator
Shalini Rose, General Counsel
Erica Kesse, Special Assistant to Executive Director/Communications Specialist
Lisa Lancaster, Executive Assistant

Guests:

Allen Staley, F & A Centralized Accounting
Candice Combs Bass, Investigator
Tonya Thomas, THRC Intern
Brian Fesler, Church of Scientology

Call to Order

Chair Houston called the meeting to order at 9:09 a.m. and asked for a moment of silence. Executive Assistant, Lisa Lancaster, called the roll. The minutes of the January 23, 2015, Commission meeting were reviewed, and Commissioner Horne made a motion to approve and Commissioner Sloss seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director, Beverly Watts, reported that staff attended three budget hearings which included two in the House and one in the Senate, and our proposed budget was approved in all three hearings.

The NAACP Day on the Hill and the Affordable Housing Day on the Hill were held and both attended by Executive Director Watts. Chair Houston added that she was also in attendance at the Senate Budget hearing.

Commissioner Selberg made a motion to approve the Executive Director's report and Commissioner Horne seconded the motion. A vote was taken and passed.

Employment Case Report

Deputy Director, Sabrina Hooper, reported on the period January 1, 2015 to February 28, 2015. During this time we received 94 inquires which resulted in 44 charges being accepted for investigation, 40 dual filed and 4 THRC only. Within the same timeframe the agency closed 55 cases with an average of 406 days of investigation. Our open inventory at the end of February 2015 was 206 cases. Three mediations closed within this timeframe, resulting in \$6,450 in monetary benefits to the Complainant. One settlement closed with \$1,500 in monetary benefits to the Complainant.

When compared to last year, we received 144 inquiries which resulted in 66 charges being accepted for investigation. The agency closed 51 cases with an average of 306 days of investigation. Our open inventory at the end of February 2014 was 289 cases. Four mediations were closed with the total monetary benefits to the complainants of \$27,995. As of July 1, 2014 we have conducted 31 mediations where seven complainants were represented by counsel and twenty-one respondents were represented by counsel.

The comparison reflects the charges received and accepted decreased by 34% and 16% respectively. The case closures saw a slight increase however the amount of days a case was in investigation increased by 32% during this timeframe. The days of investigation will continue to fluctuate as we resolve cases in mediation and continue to close age cases.

The witness customer service surveys for July 1, 2014 to February 28, 2015 details that we placed 100 calls and interviewed 34 witnesses.

For the ten question surveys for Employment, Public Accommodation and Housing, 234 surveys for were sent out and 50 were returned.

In July of 2014, we implemented the use of Survey Monkey for the 10 question surveys. We sent out 192 surveys via email and we received 34 responses. Of those responses 97% responded positively. The comments received were in line with previously reported comments. Complainants felt our investigators were nice but wanted a better result and respondents were satisfied with the process and feel our investigators are very professional.

Deputy Director Hooper then introduced the newest addition to staff, employment investigator, Candice Bass who joined the staff in December of 2014. Ms. Bass thanked the Commission for the opportunity to work with the Employment Division. She noted she comes from a journalist background working with newspapers and television around the state.

She also introduced Tonya Thomas who is part of the internship program carried out by Tennessee State University (TSU) FHIP/EOI: Regional/Local Community Based (EOI-R/L/C-B)-Higher Education Component (EOI-HEC) Proposal "Sustainable Fair Housing Education & Collaborative Outreach".

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

Housing Case Report

Richard Gadzekpo, Housing Coordinator, reported that during period of January 1, 2015 to February 28, 2015 45 inquiries were received and 17 were accepted for investigation. Shelby, Knox and Rutherford counties were the areas that received the highest number of complaints. The top bases for complaints were disability and race. Ten dual filed cases were closed during the period and 60% of those were administrative closures. Two of those were closed due to failure to cooperate by the complainants. Four of the closed cases were found to be no cause.

In reviewing the statistics between 2014 and 2015 shows that inquiries received and accepted have improved. The HUD efficiency goal currently stands at 64% and last year we were at 60%. Next Tuesday housing will resume its outreach at the Knoxville Courthouse and the dates are listed in the report.

Two housing investigators have resigned. This means there will be challenges moving forward with regard to our HUD efficiency goals. All staff are committed to working to meet this goal. Two new staff have been hired to begin this month. Executive Director noted that the challenge will be to get staff trained as housing requires 5 weeks of HUD training costing \$3,500 per person.

Commissioner Crafton asked how we lost staff and whether it was a funding issue. It was explained that we did not lose funding, but both staff resigned and have already been replaced and will begin employment this month.

Commissioner Sloss asked about cross trained investigators. Executive Director Watts noted that one investigator was cross trained in employment and housing but she recently retired after 30 years of service, and we have one investigator in Chattanooga who is cross trained. HUD requires us to dedicate staff.

Commissioner Sloss asked if HUD required a minimum number of staff for housing. Executive Director Watts answered no and noted that our HUD contract is based on cases we close in the year. Our EEOC contract is a set contract amount and we have to ask for an upward modification if we surpass that number.

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

Legal Report

General Counsel, Shalini Rose, reported that legal staff has been out of the office for a couple of months but continued to work from home reviewing agreements and answering questions and preparing fiscal notes for legislation, and they closed 10 housing cases.

With regard to the cause case report, we are required by our statute to attempt to mediate the case, and the first case has been around for years. It involves an African American Corrections officer who was fired and other Caucasian officers were not fired but committed, what we believe, were more serious infractions. The hearing was held on November 29, 2012, and the ALJ took it under advisement. Proposed Findings of Fact were submitted on February 25, 2013. We are still waiting for an order.

In housing, the first case is a disability case about failure to grant a reasonable accommodation where the tenant requested a first floor apartment due to a mobility impairment. The respondent did not grant her request and also required the requests be in writing which is not compliant with the law. Both the complainant and respondent are represented, and we will try to set up mediation with their counsel.

The second housing case is also a failure to grant a reasonable accommodation because the respondent felt the Complainant was a nuisance due to emergency responders being called to her residence often, and she also requested a companion animal. They added an additional fee to her monthly rent to cover damage by the animal. Respondent did not believe that Complainant had a disability. This case has been assigned for mediation to a staff mediator, and will be set for mediation soon.

The Legislative updates are on page two of the Legal report. Senate Bill 1159 is the Tennessee Pregnant Workers Fairness Act and basically requires reasonable accommodations for pregnant employees. The bill has been referred to General Sub in the Senate as we were told it requires more work.

Senate Bill 1192 requires homeowners be notified when state owned group homes for people with disabilities are planned. This bill would require people with disabilities to go through additional steps that others are not be required to do, and we consider this to be in violation of fair housing laws. This bill also went to General Sub.

Senate Bill 0371 adds sexual orientation and gender identity or expression to our statute. It has passed on Second Consideration and been referred to Senate Judiciary Committee.

Senate Bill 1062 removes conviction related questions from job applications for employment with certain state agencies and political subdivisions. It has been assigned to State general subcommittee.

The last three on the list, we have not added fiscal notes on, and we are just watching them. They are Senate Bill 1138 which prohibits employers from asking applicants about expunged offenses, assigned to Human Resources subcommittee in the House and goes to the Senate commerce and labor committee; Senate Bill 0006 is the Racial Profiling Prevention Act requiring state and local law enforcement agencies to adopt a written policy

that prohibits racial profiling before January 1, 2016. It goes to Criminal Justice Subcommittee next week; Senate Bill 1011 offers compassionate aid to persons in economic distress, which is going through committee.

Executive Director Watts noted that we have contacted Senator Gardenhire about changing the 90-day election date for our housing law. It was too late to get the bill filed this year, and we will pursue it during the next session.

We have talked to Senator Massey about changing our statute to include reasonable accommodations in employment. We thought we would be able to amend the Tennessee Pregnant Workers Fairness Act, but as it was proposed, it was not part of the Tennessee Disability Act so we sent her a proposal for that. She will look at that for next session as they did not want it to interfere with the Tennessee Pregnant Workers Fairness Act which went to General Sub. We have also talked with the Tennessee Disability Coalition to develop a bill and will ask Senator Massey to sponsor it next year.

Commissioner Horne asked if there was timeframe about changing the 90 days to 100 days. Executive Director Watts noted that it could come back up in our Performance Assessment next year. HUD requires 100 days and has asked us to change our statute. We do not think it affects our substantial equivalency this year but could next year. Commissioner Horne suggested speaking with Senator Janice Bowling from Tullahoma too.

Commissioner Sloss asked if THRC ever runs things through the Legislative Director in the Governor's office as it is something that could affect our substantial equivalency. General Counsel Rose also noted that might be a good idea because the Governor recently issued an Executive Order creating a task force to help people with disabilities get employment around the state.

Chair Houston asked about Senate Bill 1159 indicating that employers grant reasonable accommodations for pregnant employees and how that would affect Higher Education. General Counsel Rose clarified that it would only affect employees which could include student employees. Executive Director Watts noted that it may not come back out of General Sub this session, but it could be reintroduced next year.

General Counsel Rose noted that it almost mirrored the ADA reasonable accommodation language for employees with disabilities but in this case, it only applied to pregnant employees.

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

Communications Report

Erica Kesse reported on the period January 1, 2015 to February 28, 2015. The staff participated in seventeen education and outreach events. Three of the events were speaking engagements. We reached 4, 480 people for the period and the year to date total of people reached is 21,841. We have completed 79 events for the year.

There were three articles which included an editorial by Executive Director Watts about the film "Selma" which was about the voting rights act. Title VI Director, Matthew Stephenson was quoted in another article about our outreach program.

There were 21 new likes on FaceBook with 9 posts and on YouTube there were 2 new subscribers.

April is Fair Housing Month and there are seven events that we will be providing speakers and attending. We have the West Tennessee Fair Housing event on April 10, 2015; the Employment Law Seminar in June and registration will begin on April 24, 2015.

Executive Director Watts added that the Chair of the EEOC Jennie Yang will be the speaker for the Employment Law Seminar; Fair Housing Matters Conference will be in Franklin; ECHO will hold their Knoxville Fair Housing Event on April 17, 2015.

Conversations on the Status of Human Rights will be in Knoxville on April 16, 2015 with 25 attendees for feedback and on Saturday morning April 18, 2015 tentatively scheduled for Johnson City. Former Commissioners Davis and Coleman are assisting with setting up this event. Information will be shared with Commissioners and they are welcome to attend. We are working to schedule Chattanooga, Memphis and Nashville events before June.

Thanks to Chair Houston who is also the Director of the Office of UT Disability Services for providing staff to assist with making the Status of Human Rights in Tennessee report was accessible to the disabled community. Both versions are now posted on the THRC website.

Our website will be changing around May 1, 2015 and we will share that information with you at the next meeting.

Commissioner Crafton noted that on the Communications report the box titled Outreach Event Attendance shows that amount as being 17 but in the report 4,480 people were reached. He noted that maybe we should add another box for people attending to show people reached.

Chair Houston also requested a list of upcoming events be provided at the end of the Communications report in the future.

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

Title VI Compliance Report

Matthew Stephenson, Title VI Compliance Director, reported on the January 1, 2015 to February 28, 2015 timeframe during which 47 inquiries were received, 9 of which were accepted for investigation. Six cases were closed all of which were from the Department of Corrections. He indicated that we currently have 20 open cases all of which are Department of Corrections.

In comparison to last year there were 101 inquiries and 22 of those became complaints and there were 70 closures in that time period. There were 10 open cases at the end of the time period.

We were jointly investigating a case with the Department of Transportation Office of Civil Rights and that is largely completed and is in regards to a road extension project in Chattanooga. We will issue a letter to the parties involved about our determination. We have opted to continue monitoring the project. It has not been officially submitted yet.

In compliance review for Department of Education was completed in December and in January we issued their corrective action plan and are currently monitoring their progress regarding staff training.

We began and completed a compliance review of the Tennessee Commission on Children and Youth and issued our initial findings and await their final comments about putting one sign up. They are in perfect compliance.

We have begun our compliance review of the Administrative office of the Courts. They have submitted their initial response on March 16, 2015 and we will do the onsite evaluation next Monday.

We have planned compliance reviews for the Alcohol Beverage Commission in May and Finance and Administration in April.

We received two requests for technical assistance during the period, one from the Department of Labor about their adult education program guidelines and testing. And the Audit division of the Office of Comptroller needed guidance on determining when Title VI applies.

Commissioner Crafton asked about being covered by Title VI. It was explained by Compliance Director Matthew Stephenson that if they receive no Federal Funding they do not subject to Title VI regulations.

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

Announcements

Executive Director Watts thanked Deputy Director Hooper for her diligence during the absence of the legal staff. She also thanked legal staff for their help with the legislative pieces.

Commissioner Sloss asked about the cause case from November 2012 and whether it was a state corrections officer. General Counsel Rose noted it was a Coffee County officer. He also questioned why there has been no decision by the ALJ in two and a half years. Executive Director Watts noted that we will follow-up and try to get an answer before the next Commission meeting. General Counsel Rose noted that the County's attorney

recently sent a letter to the ALJ inquiring as to the status of the case, but we have not yet heard back.

Commissioner Sloss also questioned why the THRC was restructured by the Legislature. Executive Director Watts noted that the question was asked, and the answer that was given by the bill's sponsor was that is we do Affirmative Action so they wanted to change our name to reflect that. She noted that there is some language about Affirmative Action plans in our statute, but for over 20 years we have not done it. She noted that Former Chairs of the Commission Francis Guess and Spencer Wiggins were questioned about the subject and confirmed that the Commission has not done Affirmative Action in over twenty years. The Executive Director also clarified that our Commission was not the only one that was restructured to 9 members.

Chair Houston noted that the next Commission meeting will be May 15, 2015, and will be an in-person meeting. She also expressed her pride in being associated with an agency that is involved in touching lives the way that THRC does and in such a professional manner. She extended her gratitude to the staff and welcomed the new staff and intern. She thanked the Commissioners for their work and moved to adjourn the meeting at 10:00 a.m. CDT.