



TENNESSEE HUMAN RIGHTS COMMISSION
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May 17, 2019
Board of Commissioners'
Meeting Minutes

Commissioners Present:

Commissioner Arnwine (Phone)
Commissioner Behler
Commissioner Crafton (Phone)
Commissioner Crider
Commissioner Derryberry
Chair Houston
Commissioner Martin (Phone)
Commissioner Sloss

Commissioners Absent:

Commissioner White

Staff Present:

Beverly L. Watts, Executive Director
Sabrina Hooper, Deputy Director
Veronica McGraw, Communications Director
Lynn Cothren, Special Assistant to the Executive Director
Dawn Cummings, General Counsel
Williams Wade, Associate General Counsel
Gabrielle Lyons, Title VI Compliance Director
Saadia Williams, Housing Coordinator
Lisa Lancaster, Executive Assistant
Gretchen Reese, Compliance Officer

Guests:

Allen Staley, Fiscal Officer
Brice Hobby, The Capitol Strategy Group LLC

Call to Order

Chair Houston called the meeting to order at 9:11 a.m. CDT and following a moment of silence roll call was taken.

The minutes of the March 22, 2019 Board of Commissioners' meeting were reviewed. Commissioner Derryberry made a motion to approve the minutes and Commissioner Sloss seconded the motion. A vote was taken and passed.

Cause Case Deliberation:

Associate Counsel, William Wade began the discussion by explaining the three possible outcomes that the Commission could choose after deliberations in the THRC v. Larry

Mitchell and Freddie Mitchell case. The first would be to affirm the ALJ's Initial Order; the second to reverse the Administrative Law Judge's (ALJ's) Initial Order; or third, remand back to the ALJ for further proceedings.

Commission Crider asked when the original order was received. Associate Counsel Wade noted that the original order was issued by Judge Cambron in December of 2018 and the initial order incorporates her Findings of Facts and Conclusions of Law. A hearing was held about six months prior to the Initial Order being issued. It recites her Finding of Facts and her interpretation of the law.

The Judge found in her initial order that the Commission had a prima facie case of religious discrimination and found that the Respondents, the Mitchell's, had a legitimate non-discriminatory reason for eviction and did not find pretext by preponderance of the evidence. The initial order did rule in favor of the Respondents.

Commissioner Derryberry made a motion to affirm the ALJ's Order and Commissioner Sloss seconded the motion. There was no discussion and a vote was taken and passed.

Strategic Plan Discussion

Commissioner Derryberry reported that there was no update regarding the strategic plan goals.

Education and Outreach Committee Report

Chair of the Committee, Commissioner Derryberry noted the committee met via conference call to discuss the Wurzburg Award which is the most prestigious award that the Commission gives annually. Commissioner Martin nominated Rosetta Miller Perry and the committee voted by acclamation to accept the nomination.

Commissioner Martin stated that Rosetta Miller-Perry has been very active in Civil Rights and Human Rights for a very long time both locally in Nashville and on the Federal level. She worked with Jocelyn Wurzburg on some projects. She has served in the Navy and worked for civil rights, specifically for females and minorities.

Commissioner Martin made a motion to accept Rosetta Miller-Perry as the recipient of the Jocelyn Dan Wurzburg Civil Rights Legacy Award for 2019. Commissioner Sloss seconded the motion. A vote was taken and passed.

Commissioner Sloss made a motion to accept the Education and Outreach Committee report. It was seconded by Commissioner Martin. A vote was taken and passed. Executive Director Watts noted that THRC staff will work with Commissioner Martin to make arrangements for the presentation.

Chair Houston asked the Executive Director, Beverly Watts to present her report. Due to her medical leave the Executive Director Watts return the meeting over to Deputy Director Sabrina Hooper to provide the report and then provide her employment case report.

Executive Director's Report

Deputy Director Hooper reported, on April 9, 2019 a Budget hearing was scheduled for State Government Committee. Due the committee calendar being full, the Chair of the committee Senator Kesling's office called and postponed it until next session.

The staffing update notes one position is vacant in Nashville within Customer Service Division. The announcement will post on Wednesday. The Special Commission Legal meeting was held last evening and I believe all went well.

For legislation, the Landlord Tenant bill passed. The Commission reviewed in its final form and believe state laws remains equivalent to the fair housing laws. General Counsel Dawn Cummings will provide additional updates in her report.

The agency has a Sunset date of June 30, 2020. Auditors will be requesting information around August 2019. We have been tentatively notified that it will not be an onsite audit but questions and answers will be asked regarding our three finding from the 2016 Audit findings. It was noted that we are currently in compliance with all issues. Executive Director Watts noted that the Budget and Audit Committee will need to meet before the September Commission meeting to review the questions and our responses before they are submitted to the Legislature in October.

In housing, we submitted a proposal to received FY2019 Partnership Funds. Communications Director McGraw proposed an Education campaign in the amount of \$40K to communicate our message on buses in each region. We will report during the next commission meeting.

In addition, HUD implemented an internal assessment to determine their monitoring focus. The Risk Assessment Analysis allows them to assess "High Risk" as 65 points or more; "Moderate" as 33 to 64 points; and "Low Risk" with 32 and under points.

They developed a 13 criteria report from the CRF that applies to Fair Housing performance. Our initial report shows that we have met 10 of the 13 standards. We did not meet 1.) moving cause cases to an administrative hearing/Judicial proceedings; 2.) Aged cases 3.) Average processing time; staff responded to HUD and requested that criteria for cause cases to be moved directly to an administrative hearing or judicial proceedings to be removed. All of our cases have moved according to our statute and we found resolution for those cases without having to go to an administrative hearing. This request was submitted two weeks ago and we are waiting for their response. Upon receipt of the final report information will be shared with the Commission. The onsite performance assessment is set for July at the Housing office in Knoxville.

Commissioner Crider made a motion to accept the Executive Report and Commissioner Martin seconded the motion. A vote was taken and passed. Chair Houston thanked Deputy Director Hooper for her leadership and guidance during the absence of the Executive Director.

Employment Case Report

Deputy Director, Sabrina Hooper reported that the online complaint form has been available since the last week in January 2019 to April. During this period, the Commission has received a total of 287 inquires; 97 or 34% inquiries were received from the online form. In reviewing the numbers without the January data the percentage is 42%. In April, inquiries received were 81 and about 50% or 41 were received online.

The case management system update, we met with SharePoint staff and they are confident that they can provide a schedule in approximately three weeks that will meet our needs.

Commissioner Behler noted that the numbers for the online complaint form are encouraging and would like to know what the plans are to promote the online form. Deputy Director Hooper noted that we will work with the communications director to use social media; press releases and a newsletter announcement.

Commissioner Behler made a motion to accept the Employment Case Report. Commissioner Derryberry seconded the motion. A vote was taken and passed.

Housing Case Report

Housing Coordinator, Saadia Williams reported on the March 1, 2019 to April 30, 2019, time frame noting that 74 inquiries were received and 17 were accepted for investigation and disability continues to be the number one basis.

Regarding conciliation and benefits it was shared that one complainant received \$25K in benefits with the total for the month of April being \$28,600. At the end of the reporting period, the HUD efficiency goal of closing 50% of cases within 100 days we currently stand at 38%

She stated that timing milestones for sending out acceptance and notification letters within ten days were met. The HUD efficiency goal of closing 50% of cases within 100 days currently stands at 38%.

Commissioner Derryberry asked about the uptick in housing complaints from Hamilton County and Housing Coordinator Williams noted historically Hamilton County complaints are pretty high.

At the end of the period we had closed 99 housing cases and as of a few days ago we have closed 111. Our goal is 100 cases per year and we project to close another 10 cases before the end of fiscal year. She affirmed staff and legal and the Deputy Director for helping make that happen.

Acceptance and notification letters have gone out within the 10 days per our SOP. Because of the turnover in staff our cases have aged. In February of 2019 a plan was developed to address those 41 dual filed cases. As of April 30 we have closed or caused 24 or 58% of those cases. Our goal is have the remaining cases closed by the end of the fiscal year.

Commissioner Behler asked how many positions are open in the housing unit and Coordinator Williams responded there have not been any openings since February 2019.

Commissioner Arnwine made a motion to accept the Housing Report and Commissioner Derryberry seconded the motion. A vote was taken and passed.

Title VI Compliance Report

Title VI Compliance Director, Gabrielle Lyons reported that the compliance review of Department of Safety and Homeland Security was recently completed and submitted our initial findings to them a few weeks ago and are awaiting their response.

The next compliance review will be of the Department of Intellectual and Developmental Disabilities which is a large department and will require both Compliance Officer Jesse Madsen and the Compliance Director to complete.

Work continues on the training and technical assistance issues and are close to completing the content of the training to be loaded into Edison and we expect to test it along with the Edison team and launch it by August 1, 2019.

Our Annual Training will be conducted on Tuesday July 30, 2019 at Tennessee Towers Multi Media room on the 3rd floor and in the afternoon will focus on sub-recipient monitoring and Limited English Proficiency. Possible video streaming and recording are being reviewed for those unable to attend. Commissioner Behler asked how many attend the training. Compliance Director Lyons noted that each state agency is required to have a Title VI coordinator and last year there were 85 in attendance.

On the morning of training Commissioners and department heads are invited and receive report cards and the afternoon is used for coordinator training. Online training and webinars are also available throughout the year.

Commissioner Sloss asked if the complaints closed were consistently the Department of Corrections cases. Compliance Director Lyons noted that is still the case along with colleges. There has been a consistent decline in the number of complaints received over the year. Complaints do come in against other state agencies such as Safety and Homeland Security regarding not receiving language assistance.

Commissioner Sloss asked if any complaints were received regarding minority contracts. Executive Director Watts noted that Title VI Compliance does not cover contracts.

With no questions a motion was made by Commissioner Behler to accept the Title VI Report and seconded by Commissioner Sloss. A vote was taken and passed.

Legal Report

General Counsel, Dawn Cummings updated the Commission on legislative bill activity. The landlord tenant bill did pass with THRC purposed language changes regarding confidentiality and took out the language regarding medical documentation must be from an in-state provider.

The two caption bills that we were watching did not move; both pregnancy bills died; of the harassment bills on page two, one died and one went to summer study; the Title VI bill on page four will probably come back next session.

Commissioner Crider noted that a person can go online and for \$40 get a medical need certificate and General Counsel noted that the instate requirement was too restrictive and citizens need to be able to choose who their physician is no matter where they are located. His concern was noted regarding this issue.

The cause case report includes the harassment case number 1 the agreement has been executed and we are waiting on compliance.

Pertaining to cases in decision, the Olise case has been updated earlier. The Commission will be receiving the Hayes v. East Tennessee Periodontics LLC case within the next week or two. Summary judgement was issued in favor of the Commission in February 2019 and there was a damages hearing in February 2019. The ALJ issued a judgement to the Complainant for lost damages, but the Commission settled with the Respondent. The Commission will be reviewing only the Judge's ruling concerning the Complainant's damages.

The Echevarria hearing was held on May 1, 2019 and post hearing briefs will be submitted by June 21, 2019. The Judge will make a ruling within 30, 60 or 90 days, and then the Commission will receive this case as well.

Updates on the pending cause cases: Housing case number 4 has a hearing set for July 30, 2019 and on case number 6, a hearing is scheduled for June 26, 2019.

During the time period we caused five housing cases. Commissioner Crider asked about the \$25K settlement that was received noted by Housing Coordinator Williams in her report. General Counsel Cummings noted that was a pre-cause case and was done with the investigator and not in the cause process.

There were no additional questions for legal and Commissioner Derryberry made a motion to accept the Legal Report and Commissioner Martin seconded the motion. A vote was taken and passed.

Budget Update Report

Allen Staley gave a budget update report through April 30, 2019 and stating that 73% of the budget has been spent. We are on track for closing with no problems and are still looking into the amount of revenue from cases processed. The budget passed and we did not receive any of the cost improvements we requested but we also did not receive any budget reductions.

A motion was made to accept the report by Commissioner Behler and seconded by Commissioner Derryberry. A vote was taken and passed.

Communications Report

Veronica McGraw, Communications Director reminded the Commission that the Annual THRC Employment Law Seminar will be June 12, 2019 and if commissioners would like to attend please contact her by May 31, 2019 and she will register you.

The Education and Outreach calendar was sent out a recently and covers activities through the end of the fiscal year. Those interested in attending any of the events should contact her as soon as possible to make those arrangements.

A division highlight includes the milestone of reaching 2M persons as of April 30, 2019 through events and advertising. Executive Director Watts was honored at the CABLE Power of Inclusion Luncheon as she was presented the Inaugural Champion Award for her

advocacy work as a True Champion of Inclusion. CABLE is a premier leadership organization for women's professional advancement. An article appeared in the Tennessean newspaper on May 14, 2019 which will be shared via email with Commissioners.

The Education and Outreach Committee will be scheduled for a meeting to make arrangements for the presentation of the Wurzburg award in the near future.

Commissioner Crafton congratulated the Commission for reaching 2M people and asked if we see more challenges in certain zip codes and then focus more outreach in those areas or are we area neutral in advertising to reach that many people. Communications Director McGraw shared that all of our efforts are statewide and we are very strategic with Fair Housing Campaign and advertised in all 63 stations around the state. Each city is contacted to request information about advertising in every metro city that reaches out to suburban areas such as Memphis that has the Mississippi reach and Johnson City.

Executive Director Watts added we do pick and choose by specifically targeting employers, housing providers, individuals who service clients in the housing arena, immigrants and certain client bases, women's groups, minority groups, lawyers. Our advertising is statewide or within a specific region and is not targeted. We use i heart media for our general market but also use Cumulus which has 92Q; Shaw Broadcasting in West Tennessee; Tennessee Tribune.

Commissioner Derryberry added that the Chattanooga area is looking for a different venue for the International Human Rights Day event in January and she has reached out to Rev. Ann Weeks at the Episcopal Church in Downtown Chattanooga to see if they would be willing to host the event in an effort to increase the number of participants and make it more diverse.

Chair Houston thanked Communications Director McGraw for keeping the Commission very well informed about events.

A motion was made to accept the Communications Report by Commissioner Derryberry and seconded by Commissioner Sloss. A vote was taken and passed.

Chair Houston was going to share the speech that was given when Executive Director Watts received the CABLE award and note that is a very prestigious award and shines a very positive light on the agency.

Chair Houston announced it is time to choose a Chair, Vice Chair and Secretary for the Commission and she has contacted Commissioners to determine their willingness to serve in this endeavor. Commissioner Martin has agreed to serve as chair of the committee. The committee will meet before the July meeting and present a proposed slate of officers. Anyone interested in serving in any of these roles should contact Chair of the Committee, Commissioner Martin.

As always be mindful of the Sunshine Law and do not discuss any agenda items that will be voted on at the next Open meeting Commission meeting. Chair Houston will email Commissioners the remaining members of the committee via email.

There were no public comments.

The next Commission Meeting will be on July 19, 2019 and is an in person meeting.

Chair Houston thanked Commissioners for the dedication and participation with the Legal deliberations on the case and noted there will be more coming in the future.

Commissioner Sloss made a motion to adjourn and it was seconded by Commissioner Martin. The meeting was adjourned at 10:09 AM CDT.