



TENNESSEE HUMAN RIGHTS COMMISSION
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May 20, 2016
Board of Commissioners
Meeting Minutes

Commissioners Present:

Commissioner Crafton
Commissioner Crider
Commissioner Derryberry
Commissioner Horne-Phone
Chair Houston
Commissioner Martin-Phone
Commissioner Sloss-Phone
Commissioner White-Phone

Commissioners Absent:

Commissioner Selberg

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
Kaleda Bentley, Intake Supervisor
Bridget Cartier, Employment Investigator
Brigette Cartwright, Customer Service
Lauren Speer, Legal/Title VI Assistant

Guests:

Allen Staley, F&A, Director – Accounts Payable

Call to Order

Chair Houston called the meeting to order at 9:05 a.m. and asked for a moment of silence. Executive Assistant, Lisa Lancaster, called the roll. Chair Houston introduced and welcomed newly appointed Commissioner Chris Crider to the Board.

The minutes of the March 11, 2016, 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.

Executive Director's Report

Executive Director Watts reported that there were seven vacancies but we have filled the following: the Housing investigator positions in Knoxville; the Intake Supervisor (a result of Diana Ruch retirement); the Front Desk Receptionist; an Administrative Specialist which will be shared by Title VI and Legal. We still have vacancies for an employment investigator, a housing investigator, an administrative position and the special assistant to the director.

Executive Director noted that we still have one staff member on extended leave and one staff just back from personal leave.

She then turned the meeting over to Allen Staley, Fiscal Officer to report on the current budget which was handed out to all attendees present. It was emailed to all board members the day before the meeting. This document shows the current spending for FY 2015-2016 which end on June 30, 2016. It includes the budgeted amount, the actual expenditures/revenues, end of the year projections and the variance. He noted that we anticipate closing the year within the budget/spending authority with a projected amount of savings in the amount of \$24,621. He noted that the FY 2016-2017 Budget has passed with no changes to the Governor's recommended budget.

Executive Director Watts noted that as a new year begins we are still experiencing a reduced inventory in employment intake but the housing case inventory is up. We will begin work on the 2017-18 Budget in September, 2016 which will be submitted on October 1, 2016 and will keep the board updated during the process. The Budget and Audit Committee will be updated prior to submission to the Board at the September meeting. We will also submit the results of the Audit once we receive them. There have been no significant issues brought to our attention at this point in the audit. We continue to respond to auditors questions and provide request information.

In Legislation we have two bills that went through the legislature during its session. The bill introduced to cure a HUD concern passed and affect when people can take a case to court. This change was requested by HUD. The second bill addressing disability accommodations in employment was sent to summer study in the House and the Senate sent the bill to General Sub Committee.

Agency work plans and updates will be provided to the Board at the July meeting following preliminary meetings to determine where we are YTD and projections for the next fiscal year.

Staff provided orientation to Commissioner Crider on Thursday, May 19, 2016.

We have received a HUD fair housing partnership grant in the amount of \$30K to complete three initiatives which will include training on service animals in partnership with West TN Legal Services in Knoxville and Chattanooga; Affirmatively Furthering Fair Housing Training in partnership with Jeffrey May in West TN; and \$10K for ads and webinars. This is a six month program and will start on July 1, 2016 and end on December 31, 2016.

Commissioner Derryberry asked if the advertising would only be radio and Executive Director Watts indicated yes. She noted that FaceBook advertising for \$25 would be a great investment. Executive Director Watts indicated she would talk with her about this.

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

Employment Case Report

Deputy Director, Sabrina Hooper began her report by introducing Kaleda Bentley who has been promoted to Intake Supervisor; Brigette Cartwright, Front Desk Receptionist; Bridget Cartier, Employment Investigator who may be trained to mediate and cross trained in Housing; Lauren Speer, Title VI/Legal Assistant. All noted they were glad to be here and the Board welcomed them.

Reporting on the period from March 1, 2016 to April 30, 2016 Deputy Director Hooper noted that 101 inquiries were received resulting in 59 charges, 49 dual filed and 7 THRC only. During the period 56 charges were closed with an average case age of 372 days and there are 257 charges in inventory. Six mediations were successful in receiving benefits for the complainants in the amount of \$36,878. Two settlements were also processed and netted complainants \$16K in monetary benefits.

As of July 1, 2015 35 mediations were conducted and the complainants were represented 7 times and the respondent 28 times. Open inventory at the end of April 2015 was 237 cases. One mediation and two settlements closed for a total monetary benefit to the Complainant of \$33,087. The previous year comparison shows that accepted charges decrease 39% and the complaints closed increased by 20%. It was noted the days of investigation will fluctuate as older cases are closed.

Investigators have been informed via email of the upcoming EEOC contract closure on September 30, 2016 and where we need to be. We continue to offer education and outreach services to the public with regard to increasing the inventory of employment cases.

Due to discrepancies in the numbers used in the witness surveys a review is being done to insure the accuracy of the information shared with the board. A complete report will be given at the July meeting.

At the last meeting Commissioner Crafton suggested that we supply surveys to participants in mediation and we have drafted a survey for use at those times and will implement that process on July 1, 2016.

Some of the staff members that have left our employment were Rule 31 mediators and we currently only have 7 mediators on staff. We are looking to identify staff that should be trained as mediators and that training will take place in the fall.

Commissioner Crider asked what the \$16K received from mediation and settlements was for. Deputy Director Hooper noted it could be for back pay and non-monetary benefits could be a neutral reference for a job, another job or other requests by the complainant.

Commissioner Crafton asked about possible fees for administrative work done by staff when settlements are reached. It was noted that General Counsel Rose will give that information during her department report. Deputy Director Hooper noted that the HUD partnership funds will include \$3K for administrative costs.

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

Housing Case Report

Housing Coordinator, Saadia Williams' report covered the March 1, 2016 to April 30, 2016 time frame noting that there were 68 inquiries resulting in 18 complaints accepted for investigation. Disability was the number one basis in 12 cases or 66.6% followed by familial status and race. The HUD efficiency goal stands at 51%.

It was explained that reaching the 50% goal of efficiency is an important milestone mandated by HUD and THRC has attained this goal for the last 5 years.

Commissioner Crafton asked for explanation of the challenges that disabled people face with reference to housing. Housing Coordinator Williams noted that service/support animals are the biggest challenge for housing providers who have difficulty understanding this issue. Commissioner Crafton noted that licensed contractors and realtors would be a great tool to start the discussion on the front end with education and outreach pertaining to outfitting housing for the elderly and handicapped.

Chair Houston also noted that education is also necessary where service/support animals are concerned noting that housing providers have difficulty understanding snakes, frogs and pigs as support animals.

It was noted that of the 8 closures for the period 2 of those were conciliations resulting in \$300 in monetary benefits to the complainant. She noted that one of the staff vacancies has been filled and the other will be re-advertised in June. A correction in the reported benefits reported in January and March should have been \$10,381 and \$6,796 respectively.

Commissioner Crider asked if THRC received a reward from HUD for reaching the efficiency goal. It was explained that if it is not reached it reflects negatively on the yearly Performance Assessment performed by HUD.

He also asked what animals are currently permissible as support/comfort animals. There are no limitations with reference to the type of animal it could be, it just had to be backed up by a medical provider statement. Chair Houston noted that when the ADA began many years ago, support animals were commonly a dog or miniature pony, and the group now is very broad and that is what is causing the confusion.

Executive Director Watts offered thanks to Saadia Williams and Laura Burch for their work in keeping the department productive since last November. They were assisted by Richard Gadzekpo through March of this year. Saadia Williams was promoted to Housing Coordinator in January 2016 in addition to carrying a full caseload for investigation.

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

Title VI Compliance Report

Matthew Stephenson reported on the March 1, 2016 to April 30, 2016 timeframe during which 64 inquiries were received, 32 were received each month. 33 of which were accepted for investigation. Five cases were closed during the period leaving 57 in open inventory to include 55 in Corrections, 1 at TennCare and 1 in Board of Regents.

Continued monitoring of two cases being investigated by TN Board of Regents and Department of Treasury is ongoing.

It has been a very busy time for training or technical assistance as Department of Safety and Homeland Security are dealing with a new requirement to report to the Federal Motor Carrier Safety Administration. They have new requirements for Title VI Compliance Reporting and since the Department of Safety is a primary recipient of their funds they have redone their entire system and the report has been filed and seems to have been accepted with no comment.

The Federal Highway Commission reviewed the TN Department of Transportation for Title VI compliance the first week of April and TDOT is awaiting their initial report but no problems have appeared.

There were eleven instances of technical assistance requested and were resolved via telephone and email contact.

Training was conducted in the Civil Rights and EEO officers in the Board of Regents on April 21, 2016. The primary concern was how to deal with sub-recipients and how to monitor their compliance, LEP issues on campus and compliance reviews.

Implementation Plan season is beginning. On April 30, 2016 the policy guidelines were issued and all plans are due on October 1, 2016. Annual training will be held in July. The compliance review of THRC was completed and the Commission was found to be in full compliance with Title VI.

In the absence of Chair Houston, Commissioner Crafton received a motion to accept the Title VI report by Commissioner Derryberry and seconded by Commissioner Crider. A vote was taken and passed.

Legal Report

General Counsel, Shalini Rose, reported on the March 1, 2016, to April 30, 2016, period during which legal closed 45 employment cases. Twelve were administrative closures, and

four were conciliations. In housing, eight cases were closed, two were administrative closures, and four were conciliations. Legal completed three copy requests and have five cases in inventory.

The Legislative Update was reviewed. As reported by Executive Director Watts, SB1884, dealing with our election of remedies requested by HUD, passed and was signed by the Governor on April 19, 2016.

SB2377 also passed. This bill regards attorney fees awarded to state employees if they are sued in individual capacity and are the prevailing party. This was signed into law on May 2, 2016.

SB1785 was signed into law and changes our specific THRA law but does not apply to what we do. It puts caps on damages to employees for retaliatory discharge against employers with less than eight employees.

General Counsel Rose noted the cases which have been appealed to state court. THRC is represented by the Attorney General's office in these cases:

1. Coffee County Sheriff's Department v. THRC: Chancery Court Davidson County
2. Ruff v. THRC: Chancery Court Shelby County
3. Little v. THRC: Chancery Court Tipton County
4. Clovis v. THRC: Chancery Court Davidson County
5. Clovis V. THRC: Division of Claims Administration – was dismissed on April 25th.

Rachel Wright from Vanderbilt Law School will be Legal's intern for about one month starting in June.

The Employment Law Seminar will be on June 21, 2016. Commissioners were invited to attend and participate. This event is co-hosted with the Department of Human Resources each year, and it will be from 8 a.m. to 4:30 p.m. Attorney and HR CLE credits are offered, and the cost is \$150.

THRC's partnership with the UT Law Class is continuing to be worked on by a student from that class and will be checked for accessibility by Chair Houston's office staff and should be ready by the summer.

The Cause Case update includes an employment case retaliation complaint when the complainant applied for a job with a Police Department and his application moved forward until a Police Officer was told by an employee for the Respondent that the complainant had filed a civil lawsuit against the Respondent. After that, he was not hired. The case was successfully mediated in April and was finalized yesterday. The Complainant received \$11,333.34 and will receive a character letter, and they will remove the "do not rehire" from his employment file. The Respondent will send six employees to the Employment Law Seminar, and all supervisors will receive discrimination training that will include at least three hours on retaliation. The supervisor that called the Police Officer and gave him the information will also receive additional training.

With regard to housing cases, the first failure to grant a reasonable accommodation case has been settled. The Complainant requested that her rent due date be adjusted because she was being charged \$50 every month late fees because her Social Security check did not come in by the 5th of the month when the rent was due. After she filed the complaint, the landlord threatened to not fill out her THDA voucher paperwork until she dismissed her discrimination complaint. When she said she could not do anything about the complaint, he served her a notice to vacate. This case was mediated on May 6, 2016, and the Complainant received \$5,000, a letter of apology, the Respondent is required to attend training about reasonable accommodations, Respondent must revise their lease to provide fair housing information for tenants, and THRC received \$2,000 for Outreach and Education funds.

The second failure to grant reasonable accommodation case is the case where the Complainant requested two emotional support animals. One dog and a snake, and she had a doctor's statement explaining the need for both animals. The Respondent just denied her request outright when they should have entered into an interactive process. The parties are working with HUD to complete the process.

The Commissioner request for information about the Commission collecting fees for services provided during Conciliation was reported with a memo from General Counsel provided to those attending. Research was conducted on eight of our neighboring states, and the general consensus was that they do not charge those types of fees. There was no information in the HUD workshare agreement that related to charging fees. It was noted that you can collect fees for public outreach and public interest relief, but no fees for service. We believe that in order to charge those fees we would have to change our law.

Commissioner Crafton was glad we did the research and is unaware of how our law works. He wondered if it was not expressly prohibited if we have the authority to do it. He was not concerned that the bordering states don't charge service fees because that could be because they have never thought about it.

General Counsel Rose explained that it was not expressly prohibited, but the Commission tries to be more conservative in its actions when our law does not expressly prohibit something. Commissioner Crafton voiced that he felt on a \$36K settlement that we could invoke a 1% Administrative Service Fee especially since we are underfunded and understaffed.

Executive Director Watts noted that the Commission currently charges for records fees, and half the legislature says we should not charge and the other half says we should. We do get requests from complainants to receive those for free, and it has been a contentious issue. We can always put something together and take it to them and see what they say. The other issue is "other services," and those are license fees charged by state agencies. We can do more research on the issue. Commissioner Crider suggested that the issue go through the Law and Legislation committee. Executive Director Watts noted that staff will do more research and share information with the Law and Legislation Committee and bring back a report to the Board.

Commissioner Crafton suggested that we could scan all the documents that can be emailed to those requesting.

Commissioner Crider asked what the motivation is to charge the fees. Commissioner Crafton explained that part of the reason is that the Commission is understaffed and the fees could generate revenue to supplement incoming funds.

Chair Houston inquired if the Board had enough information to refer this matter to the Law and Legislation Committee, so that they can answer the questions raised. Commissioner Sloss agreed that the Committee will take up the issue.

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

Communications Report

Executive Director Watts reported on the period March 1, 2016 to April 30, 2016. April is Fair Housing month and Executive Director Watts has been in Memphis four times during the month. There were two exhibits; 23 non-speaking engagements for education and outreach; one radio advertisement for Fair Housing Month. There were 23 total events reaching 7,283 individuals and the ad reached 1 million plus.

There were no media releases during the period and on FaceBook we had 26 new users; Twitter had 49 followers even though we are not tweeting; YouTube we had 68 views. Our agency website had 12, 473 views lasting over a minute in length.

The most significant views were from Nashville, Memphis, Knoxville, Chattanooga, Atlanta GA, Clarksville, Murfreesboro, Umbato and Washington DC. During Fair Housing Month Chair Houston was our speaker at the Knoxville event. THDA partnered with us and Shelby County to host the West Tennessee Fair Housing Event in Memphis and there were 96 registered and 86 showed up. The reviews were good for the event and we will probably go back next year.

Commissioner Derryberry asked who serves as the agency social media channels. Executive Director noted that we do not have designated staff for those tasks but our IT person Tracy Davidson has our credentials and checks for updates regularly. She noted that when a staff member is hired to assume those duties, her assistance will be requested.

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

The next Commission meeting will be July 22, 2016 will be an in person meeting. Commissioner Crafton thanked Lisa Lancaster for the great job she does keeping the Commissioners informed and prepared.

Commissioner Derryberry made a motion to adjourn and Commissioner Crafton seconded the motion. A vote was taken and passed. The meeting was adjourned at 10:10 a.m. CDT.