



**TENNESSEE HUMAN RIGHTS COMMISSION**  
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**November 20, 2015**  
**Telephonic Board of Commissioners'**  
**Meeting Minutes**

**Commissioners Present:**

Commissioner Crafton  
Commissioner Derryberry  
Commissioner Horne  
Chair Houston  
Commissioner Martin  
Commissioner Sloss  
Commissioner White

**Commissioners Absent:**

Commissioner Selberg

**Staff Present:**

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

**Guests:**

Karla Miller, Special Counsel for the Commission

**Call to Order**

Chair Houston called the meeting to order at 9:10 a.m. and asked for a moment of silence to remember the families of the victims in Paris. Executive Assistant, Lisa Lancaster, called the roll. The minutes of the September 25, 2015 and November 4, 2015 Commission meetings were reviewed. Commissioner Sloss made a motion to approve and Commissioner Derryberry seconded the motion. A vote was taken and passed.

**Executive Director's Report**

Executive Director Watts reported that she and Deputy Director Hooper were in the Knoxville office to conduct interviews for the vacancies in the Housing Unit - two investigators and coordinator position. Executive Director Watts will also attend the Landlord Summit held by the City of Knoxville where Saadia Williams, THRC investigator and Mark Rigsby of the City of Knoxville Community Development office made presentations.

Executive Director noted there is also an employment vacancy that should be filled by December. The long term Customer Service front desk position is still open and the Executive Director Assistant and Communication Specialist position is recently vacant. This position will not be filled until January of 2016 and we will continue to hold on the front desk position.

Executive Director Watts continued her report by stating, the Annual Report has been posted on our website. We attended a budget hearing earlier this month with Finance and Administration and made a presentation of our budget request. Salary upgrades for investigator positions were discussed and we received a request for that discussion to be made more formal via a memo detailing the cost. Our research involved the Affirmative Action position at DOT and two other positions as comparators. We are proposing a two tiered system with entry level starting out at \$2,611 and after the probationary period the opportunity to promote to upper level starting at \$3,333 per month. This information will be submitted to them before the holidays.

Our current challenge is that we have low inventory in employment where we are closing what is coming through the door in the same year. And three vacancies in our housing division with high inventory; both affect production of cases. Our strategies include Education and Outreach that will be shared during the Education and Outreach report later.

General Counsel Rose and I met with Senator Dickerson regarding adding the employment disabilities accommodation to our law, and he was quite receptive. We have shared details with him, and we will update you in January on our progress. Last year we transferred over 100 cases to EEOC and if this change in our law had been in place we would have had an economic boom in our budget.

The Bridge to Equality Fund in memory of Francis Guess is currently at \$270 and those wishing to make a donation should contact Executive Director Watts. We will update this information at the January meeting.

Our All Employee Meeting will be held on December 8, 2015 where we will announce the Employee of the Year winner. The International Human Rights Day will be December 10, 2015 where a posthumous recognition of Francis Guess; his daughter Maria will attend and former Chair of this Commission Spencer Wiggins will be present and make comments.

Commissioner Sloss asked for clarification of her statement that the Commission is experiencing low inventory. Executive Director Watts noted that staff put together a chart explaining the flow of cases from 2000 to present in response to Commissioner Sloss' inquiry about possibly hiring contract investigators. This will be discussed in the Deputy Director Hooper's report.

Concerning the Holsey case we have developed the final order with the recommendation from the November 4, 2015 meeting. The final order includes actual awards of \$25, 000 for the complainant; \$1,500 for THRC Education and Outreach and administrative cost

reimbursement for THRC of \$3,610. We have adopted the Findings of facts and conclusions of law from THRC in February 2013 and attached the affidavit. Special Counsel to the Commission Miller noted that the Final Order looked good and was ready for signature by Chair Houston.

Chair Houston asked for a motion to accept the Executive Director's report. Commissioner Martin made that motion and it was seconded by Commissioner Sloss. A vote was taken and passed.

Chair Houston entertained a motion to accept the Executive Director's report as it pertains to the Holsey Order. Commissioner Craft made that motion and it was seconded by Commissioner Horne. A vote was taken and passed. Executive Director Watt thanked Special Counsel Miller for all of her work with the Commission on this case and she was excused from the meeting.

### **Employment Case Report**

Deputy Director, Sabrina Hooper, reported on the period September 1, 2015 to October 31, 2015. During this time we received 96 inquires which resulted in 82 charges being accepted for investigation. There were 18 cases closed with an average age of 176 days of investigation. Our open inventory at the end of October 2015 was 268 cases and of those cases 47 were in Intake and 25 were in review. Two mediations closed within this timeframe resulting in \$1,475 in monetary benefits to the Complainant. As of July 1, 2015, 20 mediations have been conducted and complainants were represented 5 times and respondents 16 times.

When compared to last year, the charges received remained the same; there was a 30% increase in complaints accepted and a 67% decrease in complaints closed. As reflected in our inventory of 268 and the decreased average open charge from 311 to 176 for this time period, the staff is working diligently to close newly assigned complaints. We consistently hear that there are issues and concerns surrounding housing, employment and public accommodation but when the complaint is received it may not meet our jurisdiction. Therefore, we are discussing a plan for grassroots community outreach to educate the public on our work and its guidelines in effort to increase acceptable inquires.

For the witness surveys for Employment, Public Accommodation and Housing from September 1, 2015 to October 31, 2015, we placed 41 calls and interviewed 8 witnesses. All agreed that their contact with the agency was positive and that investigators were professional.

For the ten questions surveys for Employment, Public Accommodation and Housing for the same time period 117 surveys were sent out and 17 were returned. We emailed 64 surveys through survey monkey and received 6 responses. Two people commented that investigators need to listen to complainants better.

In reviewing the chart prepared to report the data since 2000, Commissioner Sloss admitted that he assumed that THRC was still receiving the large numbers of cases for investigation. Executive Director Watts noted that the numbers began to drop when EEOC

and HUD stopped sending THRC cases and there were more people calling and coming in to file charges than there are today. We probably have not received any cases from EEOC since 2002.

In 2009 total inventory for year was over 1000 cases but we have been consistently closing those cases and we received less incoming cases with a steady drop resulting in less inventory. Currently, we are closing what is received in the same year. At the highest, we had ten contractors on staff and we were able to verify in 2002 there were six contractors. The last contractor resigned in 2007 or 2008.

Commissioner Derryberry noted that Education and Outreach is the key to increase the number of charges received. Executive Director Watts noted increased Education and Outreach training with employers could also be causing case numbers to be lower which shows that THRC is educating employers very well.

Commissioner Sloss noted that the focus should now be on the average resolution age of the cases and that should be about 100 days per charge. It was noted that the four investigator staff vacancies are still contributing to longer case age.

Commissioner Sloss asked about state appropriated funds in our budget and asked if we would received an increase since the number of cases are down. Executive Director Watts noted that we were meeting the budget and closed in the black. This current year will be a concern if we do not close the contracted cases.

Commissioner Crafton asked about cases from HUD that we could investigate if we could reset the timeclock to supplement our caseload numbers. Executive Director Watts noted that this is the area where we have the least number of investigators right now and noted that cross training investigators in housing and employment is being considered as an option that might be available to us.

We are also considering strategies such as implementing mediation and triaging cases so as to close cases that will provide us the most income. Commissioner Crafton noted that cross training was an excellent suggestion and it will help solidify our funding mechanism and the community is better served in the long run.

Executive Director Watts noted we are doing follow-up phone calls for every form we send out within two weeks to find out if they have received the form and mailed it back to us. And we are also doing a mailing to those who have requested forms and not returned them to resend another form to them. We will be redirecting staff resources to focus on follow-up for those who have contacted us and requested a form and take the opportunity to provide any assistance they may need to complete the form and get them back to us.

Commissioner Crafton suggested that we could promote the drop in cases is directly related to the success of training the agency has provided to employers in the community. Executive Director Watts agreed and said that employers are looking at ways to avoid receiving a complaint from so learning how to work employees to resolve issues is a big contributor. We are hearing these things from people we talk to in the community during

outreach events we attend. Commissioner Crafton suggested that we find a way to capitalize on that and share the good news story of how THRC is helping employers. It should not go unnoticed.

Commissioner Derryberry suggested that it is time to look at a change in philosophy and tout the success that we have had and change how we are doing things so that we key in on keeping the caseload down and be more proactive rather than reactive. Executive Director Watts noted that she is focused on being reactive because it affects our budget which affects the current staff. It may involve redirecting staff from investigations to Education and Outreach responsibilities.

We will work on developing a good news story and we need to work toward training that will insure that the community knows its rights and that employers know their responsibilities. Commissioner Crafton noted that would help garner support from the House and Senate to be more receptive to granting more money to provide the stability.

Executive Director Watts noted that is the cause of our request for additional state dollars in the upcoming budget. Commissioner Crafton suggested we should show the trend line and begin discussions in order to prepare legislators for additional requests.

Chair Houston asked for a motion to accept the employment report. Commissioner Sloss made the motion and Commissioner Crafton seconded the motion. A vote was taken and passed.

For the Housing Report for the same time period 53 inquiries were received and 35 were accepted for investigation, 18 complaints were closed and five of those were under 100 days and all were conciliations resulting in \$500 for the complainants. Since July 1, 2015 we have closed 22 dual filed complaints of which 8 or 36% were closed within 100 days.

In comparison to last year inquiries have decreased but those accepted for investigation has slightly increased and case closures are relatively the same.

There have been many staff turnovers, as mentioned we are interviewing for those vacancies which we will try to fill before the first of the year. We have instituted mediation in housing with all staff mediators. Letters were mailed out approximately one month ago inviting parties to mediate and at this time seven complaints have been scheduled for mediation.

The Housing Coordinator, Richard Gadzekpo will be leaving us and has written a note of thanks to the staff and Commissioners found at the end of his housing report.

Commissioner Sloss asked how many vacancies in the Housing division and it was noted there are three that include two investigators and the coordinator position. That leaves 2 full time experienced staff in that office. Two of the investigators came on board in April and one left for more money prompting the discussion about upgrading salaries. We are looking at a two tiered system that would begin Fiscal Year July 1, 2016.

Chair Houston added that at the University they are struggling to keep investigators and this represents a challenge. Deputy Director Hooper noted that of the interviewees scheduled to be interviewed three had already accepted other positions and some with federal jobs that paid more.

In the housing division they are transitioning from TEAPOTS to HEMS which is a new HUD database for case management.

Executive Director Watts noted that Richard Gadzekpo was a jewel and his leadership will be missed by this organization. He is still working remotely and will be with us at least into January 2016. Chair Houston added that he will be missed in the community as well as he was a leader there also.

Commissioner Horne 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 September 1, 2015 to October 31, 2015 timeframe during which 46 inquiries were received, 18 of which were accepted for investigation. Twelve cases were closed during the period leaving 31 in open inventory to include 29 in Corrections, 1 at Board of Regents and 1 in Education.

Implementation plans from the 42 state agencies were due on October 1<sup>st</sup> and 41 were received timely with only the Department of Safety being late. All Implementation Plans were reviewed before October 30, 2015. There were 14 errors such as missing information like documentation of the Title VI training. In those cases they updated their information before the end of the month making all 42 plans in compliance.

We have reported the FFA for the agencies in the chart on page two of the report.

During the period we received nine requests for technical assistance with regards to Implementation plans. We will conduct our Title VI investigation training session with the help of Department of Human Resources staff on November 30, 2015 and we have 20 attendees enrolled.

Commissioner Crafton asked what happens to the cases that are not accepted for investigation. In most cases we do a referral close which is to say that it is not jurisdictional but we know to who it should be addressed. Most are letters from inmates in correctional facilities. A motion was made to accept the Title VI report by Commissioner White and seconded by Commissioner Sloss. A vote was taken and passed.

### **Legal Report**

The Legal report covers the time period from September 1 to October 31, 2015. In this two month period, we've closed 17 employment cases. This is less than usual, and it's a reflection of quite a few factors which we've already discussed. Eleven of the 17 were administrative closures. We also reviewed four investigative plans and completed two reconsiderations.

In housing, we closed 18 cases which is a good amount for two months in housing. This was when we still had 4 investigators. There were 4 settlements, and we had 3 administrative closures. There was 1 reconsideration.

We also completed 3 copy requests.

In legislation, Director Watts already discussed our meeting with Senator Dickerson. We should be meeting with him again in the next month or so.

The Commission-initiated case is the case where the owner posted an ad on Facebook which was brought to our attention. We felt the ad was discriminatory towards people with disabilities based on the questions it asked. They have already removed the ad from Facebook. The case has tentatively settled, and I should be reporting on the agreement at the next Board meeting.

Last meeting, I mentioned our partnership with the UT law class who's working on a project to put our complaint form online. I've been meeting with them. This week, they presented to me what they've been working on. It looked good. I provided feedback and they need to make some tweaks, but I think it's definitely a tool we'll be able to use.

In the past 2 months, Rachel or I attended 8 outreach or training events.

I also mentioned last meeting that we have an intern from Vanderbilt Law School. Her last day is December 1, and she's been a great help to us.

### **Cause case report**

The first cause case is the Holsey case which you all handled earlier in this meeting.

The second cause case was caused on June 1, 2015. The complainant worked for a temp agency and was assigned to work at a business. While there, she had some issues with a co-worker who she felt was harassing her, and she complained about the harassment regarding gender and race to her supervisor. The very next day the respondent called the temp agency and said they wanted to terminate her employment. We found that evidence supported retaliation. They have settled. \$4,000 to Complainant; \$400 to THRC's Education and Outreach; training to include retaliation; and Complainant will not apply for employment or accept temporary placement with the Respondent.

In housing, the first cause 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. The parties have settled: \$7,500 for Complainant, \$1,500 for THRC's education and outreach fund, training for staff and policy review by the end of January 2016.

The second housing case also involves a failure to grant a reasonable accommodation and retaliation. The Complainant asked her landlord to change the date that her rent was

due so she wouldn't be charged late fees. She always paid her rent in full each month once she received her disability check. It was just after the late fee date. The Respondent would not grant the accommodation request. When the Complainant needed a form filled out to get a voucher, we found Respondent told her that he would not fill it out unless she got us "off his back." When she indicated she couldn't do that, he then gave her a notice to vacate. We caused the case for failure to accommodate and for retaliation. A hearing is set for January 21-22, 2016, in Jackson, Tennessee. January 22<sup>nd</sup> is a board meeting so I should have an update by then because the hearing will likely wrap up on the 21<sup>st</sup>.

The last case is a failure to grant a reasonable accommodation for two support animals. One animal was a dog, and the other was a snake, and the Complainant had a doctor's statement stating her separate needs for the animals. The respondent denied her request for the snake, but approved her request for the support dog. Per our investigation, we felt she had shown a need for both animals, and the respondent should not have denied her request based on stereotypes of the snake. The parties are talking to try to settle, but if they don't by the end of the month, we'll docket it for a hearing.

Commissioner Sloss questioned Respondent's duties with the snake, and General Counsel Rose talked about the importance of entering an interactive process with the tenant and not relying on stereotypes about the animal.

Chair Houston inquired if the online complaint form would be accessible for persons with disabilities. She offered to have her office test the form if necessary. General Counsel Rose would inquire and get back to her.

Commissioner Horne 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 September 1, 2015 to October 31, 2015. The staff participated in ten education and outreach exhibits, eight speaking events and 45 education and outreach events and award events and five advertisements in targeted publications. We reached over 11,369 people for the period and the year to date total of people reached is 14,489. Total events for the fiscal year are 58.

In response to Commissioner Derryberrys' inquiry about education and outreach we will be sending out another form to anyone that requested the form and did not return it to us over the last six months or possibly nine months back. We will attach a letter asking them if they need help and we will designate staff to assist them if they call in.

We will continue our follow-up phone calls and if needed will add additional staff possibly investigators to assist. We will be looking at targeted advertising and public affairs programming such as radio programs, Hispanic radio, women's groups, disability groups and churches.



We will be looking at where we put brochures out in churches and other offices over the next 45 to 60 days. I will contact Commissioner Derryberry and discuss these proposed efforts with her.

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

The next Commission meeting will be January 22, 2016 is scheduled to be telephonic. Commissioner Crafton made a motion to adjourn and Commissioner White seconded the motion. A vote was taken and passed. The meeting was adjourned at 10:20 a.m. CST.