



TENNESSEE HUMAN RIGHTS COMMISSION
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March 27, 2009
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Cocke (Phone)
Commissioner Davis
Commissioner Garrett (Phone)
Commissioner Hakeem
Commissioner Hewitt
Commissioner Miller
Commissioner Osborne
Chair Pierce
Commissioner Pride (Phone)
Commissioner Starling
Commissioner Wiggins
Commissioner Wurzburg

Commissioner's Absent:

Commissioner Blalock
Commissioner Jones
Commissioner Walker

Staff Present:

Beverly Watts, Executive Director
Tiffany Baker Cox, Deputy Director
James. E. Davis, Housing Director
Shay Rose, General Counsel
Esperanza Soriano, Communications Director
Lisa Lancaster, Executive Director's Assistant

Guests:

Allen Staley, Shared Services Solutions
Frank Guzman, Communications
Kimyona Parker Hix, Communications
Frank Carr, Intake
Pat Ladd, Legal
Thierno Bah, Compliance Officer
Kelly Sheeman, Legal
Luis Torres, TDOT

Call to Order

Chair Pierce called the meeting to order at 9:00 a.m. She read a quote from Mother Teresa talking about time, love and service and asked the board to think about the time and service given to the Human Rights Commission. Roll call was taken. Staff from the Knoxville, Chattanooga and Memphis offices were in attendance via telephone and several in person from the Nashville office and all were welcomed. Minutes of the January meeting were reviewed. Commissioner Osborne made a motion to accept the minutes. Commissioner Miller seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director, Beverly Watts welcomed the commission members and updated them on the new Legislature, noting that our Sunset hearing with the House took place on March 18, 2009 and the bill moved to consent without questions.

Deputy Director Tiffany Baker Cox attended the Senate Government Ops Committee meeting and discussed the Special Investigation. Commissioner Starling noted that her presentation was well prepared and he was very proud of her delivery. Also on March 25th was the House budget presentation which was attended by Executive Director Watts, Allen Staley, Shared Services and Deputy Director Cox. (The Senate questions document and THRC budget document were handed out to those in attendance.) THRC was held harmless. It was noted that the \$200,000 reserve fund was taken back in October because it was no longer necessary as HUD and THRC have improved their methods of payments and drawdowns.

Executive Director Watts continued the review of the Senate Questions Document on page three which addressed performance measures and goals for the agency. It was noted that this continues to be a challenge as the staff turnover rates have been high. To improve performance Billie Haddock has been moved from Intake to employment investigator and Pat Ladd has been reassigned to Intake. Also Frank Carr has moved from Customer Service to Intake.

HUD has proposed tightening their standards and will only pay 100% if the case is closed in 100 days or less and that policy is expected to be retroactive to July 1, 2008. Average case age for HUD cases is 140 days. This will cause a shortfall in revenue of \$7,000. It was noted that Frank Guzman is working housing cases to help with these issues. We do not know if we will be allowed to fill the open positions and about the same number of charges have been filed in the last year but we sent out twice the number of forms.

Title VI questions were also asked and the response was if the appropriate resources were available we were willing to accept the responsibility for Title VI.

The Senate Questions will be presented at the April 28th Budget hearing and the Budget and Audit committee will meet prior to the Hearing. Chair Pierce asked when we might hear something about the Title VI bill. Executive Director Watts noted that the bill is set to be heard on Tuesday March 31 at the Senate State and Local committee.

Commissioner Hakeem asked why the empty positions were not filled. Executive Director Watts noted that the state was under a hiring freeze but hiring to fill the three empty positions will hopefully take place by June 30, 2009 if approved by Human Resources.

Commissioner Starling noted that both the Senate and House will vote on our Sunset bill on Monday March 30 which will continue THRC until 2012 if passed. He also questioned if there is a way to follow up on forms sent out. Executive Director Watts noted that we have trained 6 more investigators to process cases. Commissioner Cocke asked about robo calls as a means to follow up or possibly a post card to return when the complaint is received. Executive Director Watts will have the communications staff look into the possibilities and report back to the board.

Commissioner Wurzburg asked if the forms we send out are complaint forms and inquired as to why we cannot help complainants fill the forms out like EEOC does. Executive Director answered yes and noted that the majority of our inquiries are by phone and complaints must be in the complainants own words. Commissioner Cocke asked if we could get a list of volunteer organizations that might assist complainants with drafting their complaints. Executive Director Watts noted that communication with redress committees at NAACP has taken place but there is currently no date set for training.

Chair Pierce noted that THRC should have a developed process addressing the complaint form process. The Communication committee and commissioners should have input. Commissioner Cocke also noted that staff could tell callers that they will receive a follow up call within 10 days and please respond to it.

Executive Director Watts noted that staff would investigate these suggestions and report back to the Board at the May meeting. She shared with the Board a slide that indicates where complaints come from, what county and industry and noted that if commissioners would like a copy she would make those available.

Continuing with the budget document it was noted that THRC received no stimulus funds; the staff turnover rate on page 5, question #12 information was reviewed. A Budget & Audit committee meeting will take place before the April 28th Hearing. The Chair requested that Commissioners with questions or comments concerning the Senate questions document and forward those to the Chair of the Budget & Audit committee, Commissioner Osborne.

Executive Director noted that Commissioner Wurzburg was honored by the YWCA in Memphis and Linda Reed from the Memphis office attended the luncheon. She also thanked Commissioner Wurzburg for providing refresher training to all of our staff mediators.

Executive Director Watts, Commissioner Wurzburg and Commissioner Osborne met as an Ad Hoc Committee to discuss what commissioners can do to enhance or assist with the THRC process. The possibility of commissioners being hearing examiners was discussed; a commissioners retreat for training purposes on the law and procedures; and a possible Mediation Month event.

Commissioner Starling asked if the commissioners would be adjudicating cases. Commissioner Wurzburg answered, yes; the commissioners would be an impartial panel to hear cases The committee concluded that THRC did not want to model itself after Kentucky on this issue. The Ad Hoc Committee recommended that a commissioner retreat

be discussed further and that additional information be obtained about Mediation Month events.

Chair Pierce noted that she would like to survey all commissioners on issues such as the possible commissioner retreat. Executive Director Watts suggested that Executive staff along with Commissioners Osborne and Wurzburg meet to review and discuss the committee's recommendations and what is feasible and useful to the commission and what is cost effective and logistical.

Commissioner Davis made a motion to accept the Executive Director's report. Commissioner Wiggins seconded the motion. A vote was taken and passed.

Special Presentation

Chair Pierce thanked Commissioner Spencer Wiggins for his years of service to the Commission as Chairman and presented him an engraved gavel, Norman Rockwell "Do unto others as you would have them do unto you" print and a Letter of Appreciation from Governor Phil Bredesen and his signature stamp used by the commission during his tenure as Chairman.

Commissioner Wiggins said, "I just want to say thank you. It has been a pleasure working with the commission and working with all of you. I don't take for granted what I have been called upon to do. Often quoting my mother, she often said that as human beings we have two parts of our body that are important...one we sit on and the other we think with and which way we go and the goals we set determine which one we use the most. And so I feel that being a part of this commission you have stimulated me to use my brain and that will always be something that I remember."

Chair Pierce shared these words "lest we never forget that the highest appreciation is not to utter words but to live by them." Executive Director noted he would now be called Chair Emeritus.

Employment Case Report

Deputy Director Tiffany Baker Cox reported on the period from January 1 to February 28, 2009 and pointed out the chart at the top of her report comparing 2008 to 2009. Top three bases being title VII, ADA and ADEA and this continues to be the trend. Charges accepted totaled 69; closed 75 cases; average case age is 345 days. Two settlements were reached totaling \$23,100 in benefits. 21% of closed cases were administratively closed due to settlements, request of right to sue letters and withdrawals.

Goals for the upcoming year include Mediator Refresher course which has been completed and Commissioner Wurzburg was thanked for providing this service to the commission.

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

Executive Director Watts noted that Housing Director James Davis has completed the National Fair Housing Training Academy 5 week course and Deputy Director Tiffany Baker Cox has completed week one.

Housing Case Report

Housing Director, James Davis reported on the period January 1 to February 28, 2008. He noted that 32 inquiries were received and that 30 inquiries were accepted as complaints. During the timeframe 14 cases were closed. All were dual filed. Counties represented were Davidson, Sumner, Hamilton, Lake, McMinn, Montgomery, Rutherford, Sullivan and Washington.

The main basis of complaints closed was physical disability, 5 cases; race-black, 3 cases; national origin, 1 case; sex-female 1 case; sex-harassment, 1 case; familial status-child under 18 1 case and 2 multiple base complaints. 10 cases were closed as no cause, 3 closed as withdrawals with resolution and 1 case closed because complainant opted to file in court.

Average case processing age is 194 days and the current closed case inventory is 84 cases and total open inventory 101 cases with 1 case in Legal.

We will meet the goal for the upcoming year of sending housing investigators to some form of Fair Housing training by April of 2009; the goal to close 50% of all cases within 100 days has been addressed. All investigators with cases older than 100 days have prepared a plan to accomplish the goal complete with an expected date of closure and about 50% have been closed. Also a 75 day checklist has been drafted to assist with this goal.

Commissioner Davis requested data concerning Washington and Sullivan counties and the number of complaints and bases. Housing Director Davis will provide that information to him. Executive Director Watts will have charts provided with housing statistics.

Commissioner Wurzburg asked if landlords are required to modify apartments if they rent to disabled persons. Housing Director Davis noted that they are required to entertain any reasonable request for modifications from tenants. Requests are reviewed on a case by case basis.

Housing Director Davis will be presenting at the April 14th Fair Housing Month event at the Chattanooga Choo Choo sponsored by the Office of Multi Cultural Affairs office in Chattanooga.

Commissioner Hewitt made a motion to accept the housing report. Commissioner Osborne seconded the motion. A vote was taken and passed.

Legal Report

General Counsel Shay Rose gave the legal report covering the January 1 through February 28 time period. In employment legal closed 53 cases and 128 investigative plans were reviewed. Of the closed cases 4 were THRC only and 10 were administrative closures with the breakdown being: 2 withdrawals, 4 right to sue requested, 1 non-jurisdictional, 2 filed in court and 1 bankruptcy and two settlements were completed.

In housing 14 cases were reviewed and closed with none left in inventory; 1 pre-cause case, 2 investigative plans were reviewed with none left in inventory; 1 reconsideration in inventory and 2 cases sent back for corrections. Of the closed cases, none were THRC

only, 6 were administrative closures with the breakdown being: 2 failure to cooperate, 3 withdrawn with resolution, 1 withdrawn without resolution and 1 settlement.

Updates include the rules sent to the Secretary of State for approval are set to become final on April 30, 2009 after they receive approval from the Joint Government Operations Committee; Employment Law Seminar was held on March 18, 2009 at the Willis Conference Center. Crawford v. Metro Government of Nashville (U.S. Supreme Court) was decided on January 26, 2009. Holding: An employee who answers questions during an employer's internal investigation is protected against retaliation under Title VII. Legal responded to 6 fiscal notes.

The employment cause case update included the sexual harassment and hostile work environment case is set for hearing on May 13 in Knoxville. The race based harassment case was unsuccessfully mediated and the parties are attempting to settle or arbitrate.

The retaliation case is being suggested for mediation if parties are interested and the disparate treatment case in Hamilton County has requested a right to sue after failed mediation. This case has been closed. The public accommodations 2007 bond company case has settled for \$500 to complainant and training for company staff and change of policy.

The housing cause case update failure to rent based on familial status case is set for hearing on March 31, 2009 in Knoxville.

Commissioner Starling made a motion to accept the legal report. Commissioner Osborne seconded the motion. A vote was taken and passed.

Chair Pierce noted that the Employment Law Seminar was excellent and thanked staff for their time spent planning and carrying out the event.

Outreach & Education

Communications Director, Esperanza Soriano, reported on the period January 1 through February 28 where THRC participated in 18 outreach events. Events included Martin Luther King events, faith based and women's events that were held in conjunction with the Urban League, NAACP and TSU where THRC staff talked about the importance of our work with employment and housing discrimination. Events were held in Nashville, Knoxville, Cookeville, Jackson and Chattanooga.

Special projects coordinator, Frank Guzman, communications support officer, Kimyona Hix and myself have been trained to investigate employment cases. Frank Guzman continues to work housing cases as well.

A special invitation was given to all board members to attend the Fair Housing Matters Conference on April 2. One media contact was received pertain to proposed legislation allowing trans-gendered persons to change their birth certificates. This contact was referred to the Metro Human Relations Committee.

Executive Director Watts noted that Chair Pierce, Commissioner Wiggins and herself will be interviewed by Sam Latham from the Urban Journal to spotlight Fair Housing Month.

Commissioners in East Tennessee may be contacted to participate with the East Tennessee Black Pages email blast.

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

Executive Director Watts noted that there is a Fair Housing event in Knoxville on April 17th sponsored by ECHO at Rothschild's Conference center from 8:30 to 3:30. Also a Housing Event in Memphis on the 17th where Deputy Director Cox will be speaking. An email will be sent to Commissioners with attendance information.

Chair Pierce thanked the staff for their reports and asked the board about how they would like to receive the board meeting information via email or overnighting it Fed Ex. The board members noted that email was good.

Six Commissioners are scheduled to roll off the board on June 30th. Please notify Executive Director Watts if you would like to continue to serve another six year term so that we can notify the Governor's office of your desire to serve.

With no further business to address, Commissioner Hewitt made a motion to adjourn which was seconded by Commissioner Starling. The meeting was closed at 10:45 am.