



HAWAII CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 FAX: 586-8655 TDD: 586-8692

MINUTES

Hawai'i Civil Rights Commission Office
September 17, 2014
1:30 p.m.

Present: Linda Krieger, Raymond Liongson, Wally Fukunaga, Artemio Baxa, and Kim Coco Iwamoto, Commissioners; Livia Wang, Marcus Kawatachi, and Bill Hoshijo, Staff. A member of the public was also in attendance.

Chair Linda Krieger called the meeting to order.

Approval of Minutes

The minutes of the July 24, 2014, meeting were approved. (m/s/p Fukunaga/Iwamoto; all)

Executive Director's Report

Deputy Executive Director (DED) Marcus Kawatachi presented a data and production report showing caseload data through September 17, 2014.

As of September 17, 2014, the report showed 375 open cases, a decrease of 6 cases from the number reported as of July 24, 2014. Of those, 5 (1.3%) were filed in 2009, 17 (4.5%) filed in 2010, 24 (6.4%) filed in 2011, 52 (13.9%) in 2012, 136 (36.3%) in 2013, and 141 (37.6%) in 2014.

The report also showed a breakdown of the status of the open cases by investigation stage.

	2009	2010	2011	2012	2013	2014	Total
Housing Cases	0	0	1	8	4	11	24
Intake Stage	0	0	2	0	76	109	187
Mediation	0	0	0	1	9	13	23
Pending Assignment	0	8	16	39	37	4	104
Active Investigation	5	9	5	4	10	4	37
TOTAL	5	17	24	52	136	141	375

It was reported that: 21.6% of all investigation cases were 2 years old or older (from date of filing); 8.5% were over 18 months but less than 2 years old; 16.5 % were over 12 months but less than 18 months old; 26.7% were over 6 months but less than 12 months old, and 26.7% were 6 months old or less.

DED Kawatachi said staff would pay particular attention to cases in the intake stage, with the retirement of one experienced investigator at the end of July 2014, and another anticipated retirement at the end of October 2014.

Chair Kreiger had questions about the fair housing caseload, asking about the length of time to investigate cases when the fair housing investigation caseload appeared to be only 12 per investigator. DED Kawatachi responded that the delays in investigation and disposition were case specific, and that HCRC staff dedicated to fair housing investigations were meeting monthly with the HUD Office of Fair Housing and Equal Opportunity (FHEO) to move those older cases to disposition.

In response to the Commissioners' request, DED Kawatachi noted that he added data of the number of investigation closures based on no cause determinations in FY 2014. Of 375 investigation cases closed in FY 2014, 237 closures were based on no cause determinations.

DED Kawatachi's Mediation Program report was deferred to the October Commission meeting.

Executive Director (ED) Bill Hoshijo reported that EEOC Honolulu Local Office Executive Director Tim Riera would be leaving after 17 years in Hawai'i, to take a promotion at EEOC Headquarters in Washington, D.C., with departure scheduled around the end of October. Before his departure, Riera would provide a two-day investigator training for HCRC staff.

ED Hoshijo reported on budget and staffing.

He reported that the HCRC was looking to fill four permanent positions: two Investigator IVs (due to anticipated retirements), an Office Assistant IV, and a Civil Rights Program Specialist (mediation coordinator).

He reviewed the Council on Revenues (COR) September 4, 2014, projection of state revenues for FY 2015. The COR adjusted FY 2015 projected revenues downward from 5.5% growth to 3.5% growth, which would result in a loss of \$ 55.5 million in revenues from earlier projections for each of FY 2014 and FY 2015.

In response to the COR's adjusted projection, Budget and Finance issued its Budget Execution Policies for FY 2015, releasing 90% of the FY 2015 GF appropriation.

The HCRC requested and received approval to fill the two Investigator IV positions.

In addition, the HCRC would be filling several temporary positions using federal funds.

ED Hoshijo also reported that the HCRC would renew its request for restoration of the three permanent investigator positions lost since 2008 through reduction in force and abolishment of positions. The preliminary indication from the DLIR administration was that the request would be included in the submission to B&F for consideration for inclusion in the FB 2015-2017 budget request.

Chief Counsel's Report

Chief Counsel (CC) Livia Wang reported that the Commission's decision in Bate was issued on August 26, 2014, and was reported in the Honolulu Star-Advertiser and Maui News. She said that Respondents indicated that they would appeal the decision and request a jury trial.

CC Wang also reported that a petition for declaratory relief had been filed by Petitioner TD Food Group, and that the Commission would take the matter up in adjudication.

Legislation

A member of the public identified himself as Dan Purcell, and offered a comment on legislation. He raised concern over the City and County of Honolulu and the Mayor's treatment of the homeless, and the proposal for a Sand Island facility. He said the homeless may not be able to access services and file complaints, due to lack of capacity. He added that the disabled are a protected class, and that he was concerned about the undercount of the homeless.

ED Hoshijo requested authorization to draft and submit an administration bill to provide authority for discretionary dismissal of complaints; this, he said, would allow for implementation of strategic enforcement priorities.

Chair Krieger asked if there were other things in HRS chapter 368 that needed to be modified.

Mr. Purcell offered comment, that there was concern over the HCRC being administratively attached to DLIR.

Chair Krieger offered guidance on what the Commission was being asked to support, the suggestion that the mandatory language in HRS § 368-13 should be amended to change "shall" to "may."

Commissioner Artemio Baxa said that when the legislature enacted the law establishing the HCRC, it intended that every case should be given attention, and that he was concerned that the amendment would weaken the Commission.

The Commission voted to authorize the Executive Director to draft and submit language to amend the statute to allow Commission discretion, after conciliation fails, to take cause cases to hearing or, in the alternative, to issue a right to sue and dismiss the case. (m/s/p Fukunaga/Iwamoto; all)

For future discussion, ED Hoshijo shared a draft anti-bullying bill forwarded to the HCRC by Equality Hawai'i Executive Director Todd Simmons.

Old Business

ED Hoshijo said there was nothing new to report on *Cervelli v. Aloha Bed & Breakfast*, which remained pending before the Intermediate Court of Appeals.

CC Wang reminded the Commissioners about the HCRC's annual public training program, scheduled for October 30, 2014, at the Blaisdell Exhibition Hall Pikake Room.

New Business

There was no new business.

Announcements

There were no announcements.

Next Meeting

The October meeting of the Commission was left to be scheduled by polling of and confirmation by the Commissioners.

Adjournment