



# HAWAI' I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 • HONOLULU, HI 96813-5095 • PHONE: (808) 586-8636 • FAX: (808) 586-8655 • TDD: (808) 586-8692

## MINUTES

Hawai'i Civil Rights Commission Office  
June 12, 2013  
2:00 p.m.

Present: Linda Krieger, Mark G. Valencia, Kim Coco Iwamoto, and Wally Fukunaga, Commissioners; Livia Wang, Bill Hoshijo, and Marcus Kawatachi, Staff.

Raymund Liongson, Commissioner, excused.

Tony Benebese, and Kari Noborikawa, Public/Guests.

Chair Linda Krieger called the meeting to order.

### Approval of Minutes

The minutes of the May 2, 2013, meeting were approved. (m/s/p Iwamoto/Fukunaga; 4-0 all in favor).

### Executive Director's Report

Deputy Executive Director (DED) Marcus Kawatachi presented an FY 2013 HCRC Mediation Program Year to Date report, from July 1, 2012, through June 11, 2013.

#### **Summary & Details (FY 2013 year to date)**

Referrals:	58	
Dispositions:	58	
Settlements:	40	
Non-agreements:	18	
Settlement Rate:	69.0 %	
Employment cases settled:	33	
Non-employment cases settled:	7	(Public Accommodations)
Dual-filed (EEOC/HCRC) settlements:	27	
State-only settlements:	13	



**Primary Bases for Complaints Settled in Mediation**

Sex	14 (incl. 3 pregnancy and 4 sexual harassment cases)
Disability	9
Retaliation	4
Arrest & Court Record	3
Sexual Orientation	3
Age	3
Marital Status	2
Ancestry	1
Color	1

**Dispositions by Mediation Center**

Mediation Center of the Pacific	23/32	(settlement rate 71.9 %)
Private Mediators	9/10	(settlement rate 90 %)
Mediation Services of Maui	4/7	(settlement rate 57.1 %)
West Hawaii Mediation Center	3/5	(settlement rate 60%)
Ku'ikahi Mediation Services (Hilo)	1/2	(settlement rate 50 %)
Kauai Economic Opportunity, Inc.	0/2	(settlement rate 0%)
<b>OVERALL</b>	<b>40/58</b>	<b>(settlement rate 69%)</b>

DED Kawatachi presented a data and production report showing caseload data through June 11, 2013.

As of June 11, 2013, the report showed 477 open cases, an increase of 2 cases from the number reported as of March 22, 2013. Of those, 22 (4.6%) were filed in 2009, 51 (10.7%) filed in 2010, 58 (12.2%) filed in 2011, 207 (43.4%) in 2012, and 139 (29.1%) in 2013.

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

	2009	2010	2011	2012	2013	Total
Intake Stage	5	5	12	91	117	230
Housing Cases	1	0	4	17	13	35
Pending Assignment	12	37	34	29	0	112
Active Investigation	4	9	8	70	9	100
<b>TOTAL</b>	<b>22</b>	<b>51</b>	<b>58</b>	<b>207</b>	<b>139</b>	<b>477</b>

It was reported that: 20.5% of all investigation cases were 2 years old or older (from date of filing); 6.1% were over 18 months but less than 2 years old; 13.7% were over 12 months but less than 18 months old; 28.9% were over 6 months but less than 12 months old, and 30.8% were 6 months old or less.

DED Kawatachi presented a request for a six month extension of time to investigate open cases, from July 31, 2013 through January 31, 2014.

Chair Krieger said she would support the request, but with a heavy heart, with the hope that the HCRC could find ways to maximize efficiencies.

Commissioner Kim Coco Iwamoto asked what would happen if the requested extension were not approved.

Executive Director (ED) Bill Hoshijo indicated that denial of an extension of time would result in dismissal of complaints without regard to merit of the complaints, with some older cases being meritorious. He noted the direct relationship between loss of capacity and growth of the backlog – with the loss of 3 of 11 investigators, furloughs, and 5% STO hours dating back to 2008, the size of the inventory had grown from less than 250 to 477.

Chair Krieger said there was serious concern over the number of aged cases, and that the backlog was a serious issue that staff should address by improvement of efficiencies. She indicated that she wanted to hear from staff about backlogged cases.

Commissioner Iwamoto suggested that a letter be sent to complainants explaining the backlog of cases and asking if they want to pursue their complaints or withdraw.

Commissioner Wally Fukunaga agreed that there was a need to address the backlog question, that a strategy was needed.

Commissioner Mark Valencia suggested a breakdown by types of cases, reasons for aging of cases. Citing concern for parties, he said he appreciated the important discussion.

Chair Krieger suggested the possibility of seeking the assistance of a consultant, or looking to the EEOC model for ideas.

Commissioner Fukunaga asked what the role of the Commissioners would be.

ED Hoshijo suggested two possible approaches: a strategic planning process involving all commissioners and staff, or a single commissioner working with staff, then reporting back to the Commission

Chair Krieger said she was willing to work with staff.

ED Hoshijo said it would make sense to have that discussion after a walk-through of process.

**The Commissioners approved an extension of time to investigate all cases through July 31, 2013. (m/s/p Fukunaga/Iwamoto; all in favor).**

### **Chief Counsel's Report**

Chief Counsel (CC) Livia Wang reported that the draft proposed rules to conform to the amendments to HRS chapter 515 were approved by Small Business Regulatory Review Board and that the public hearing on the proposed rules would then be scheduled for July 16, 2013.

CC Wang reported that there was no word on the *Lales* case pending before the Hawai'i Supreme Court.

She also reported that the *Taylor* case had settled after U.S. District Court Judge Kobayashi's decision on summary judgment was published.

### **Legislation -2014 Session**

ED Hoshijo reported that the timetable for submission of proposals for 2014 administration package bills called for proposals by the end of September 2013.

### **Old Business**

ED Hoshijo reported that there was nothing new to report in *Cervelli v. Aloha Bed & Breakfast*.

### **Next Meeting**

The next meeting was scheduled for July 30, 2013, for closed executive session only, subject to polling of and confirmation by the Commissioners.

### **Adjournment**