



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
November 18, 2013
3:30 p.m.

Present: Linda Krieger, Raymund Liongson, Kim Coco Iwamoto, and Artemio Baxa,
Commissioners; Livia Wang, Bill Hoshijo, and Marcus Kawatachi, Staff.

Wally Fukunaga, Commissioner, excused.

D. Purcell, Public/Guest.

Chair Linda Krieger called the meeting to order.

Approval of Minutes

The minutes of the October 11, 2013, meeting were approved, with a correction of a numerical typo on page two of the draft minutes. (m/s/p Liongson /Iwamoto; all in favor).

Executive Director's Report

Deputy Executive Director (DED) Marcus Kawatachi presented an FY 2014 HCRC Mediation Program Year-to-Date Summary.

Summary & Details (7/1/13 through 11/18/13)

Referrals:	10
Dispositions:	9
Settlements:	7
Non-agreements:	2
Settlement Rate:	77.8 %
Employment cases settled:	7
Non-employment cases settled:	0
Dual-filed (EEOC/HCRC) settlements:	7
State-only settlements:	0

Primary Bases for Complaints Settled in Mediation

Disability	2
Ancestry/National Origin	2
Retaliation	1
Age	1
Race	1

Dispositions by Mediation Center

Mediation Center of the Pacific	4/5	(settlement rate 80 %)
Private Mediators	3/3	(settlement rate 100 %)
West Hawaii Mediation Center	0/1	(settlement rate 0 %)
OVERALL	7/9	(settlement rate 77.8%)

DED Kawatachi presented a data and production report showing caseload data through November 18, 2013.

As of November 18, 2013, the report showed 413 open cases, an decrease of 1 case from the number reported as of October 11, 2013. Of those, 20 (4.8%) were filed in 2009, 44 (10.7%) filed in 2010, 45 (10.9%) filed in 2011, 79 (19.1%) in 2012, and 225 (54.5%) in 2013.

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

	2009	2010	2011	2012	2013	Total
Housing Cases	0	0	1	12	13	26
Intake Stage	0	2	3	11	154	168
Mediation	0	0	1	2	24	27
Pending Assignment	4	37	35	47	27	150
Active Investigation	16	7	5	7	7	42
TOTAL	20	45	45	79	225	413

It was reported that: 25.1% of all investigation cases were 2 years old or older (from date of filing); 7.6% were over 18 months but less than 2 years old; 10.4 % were over 12 months but less than 18 months old; 26.6% were over 6 months but less than 12 months old, and 30.3% were 6 months old or less.

DED Kawatachi noted that of the 14 oldest cases in investigation reported on October 11, 2013, 10 cases were assigned and in active investigation. The remaining 4 cases in pending status were all related, with four complainants and 5 respondents in a complex systemic case involving claims of race, sex, and ancestry/national origin discrimination.

The discussion of HCRC process was deferred until the January 2014 meeting, to allow time for Chair Krieger to meet with Executive Director (ED) Bill Hoshijo and DED Kawatachi as planned.

Chair Krieger expressed appreciation to ED Hoshijo and staff for work on the legislation before and during the special session. ED Hoshijo thanked the Chair and Commissioners for taking a clear position and for support leading up to and during the session.

Chair Krieger wondered whether the Commission should consider either rulemaking or gathering of data to document and report the impact of the newly enacted exemptions. ED Hoshijo and CC Wang said it would be good to see how the new law plays out, then decide if any action is needed.

Chair Krieger suggested that it would be valuable to look at the floor amendments that were offered and rejected, as expressions of legislative intent.

Old Business

ED Hoshijo reported on the status *Cervelli v. Aloha Bed & Breakfast*. On appeal to the Intermediate Court of Appeals, the Defendant-Appellant had filed its opening brief. The Appellees' answering brief was due on November 29, 2013, pursuant to an extension of time to file.

New Business

There was not new business.

Next Meeting

The next meeting was scheduled for December 16, 2013, subject to polling of and confirmation by the Commissioners.

Adjournment

ED Hoshijo reported that the Executive Director was considering the filing of an amicus brief in a Federal Court case in support of a motion to dismiss a declaratory relief action brought by a respondent in a state fair housing complaint. If dismissed, the case would be investigated by the Executive Director and could possibly be brought before the Commission, so ED Hoshijo said he would report on the litigation without discussing the facts or merits of the underlying fair housing case.

ED Hoshijo also reported that the HCRC had received preliminary notification of approval of a request for U.S. Department of Housing and Urban Development (HUD) Partnership Initiative (PI) funding. The requested HUD PI funding was approved for two purposes: for follow-up outreach to Compact of Free Association (COFA) immigrant communities, in partnership with the Medical Legal Partnership for Children in Hawai'i (MLPCH); and, to hire an attorney to conciliate and litigate fair housing cases for a term of one year.

Chief Counsel's Report

Chief Counsel (CC) Livia Wang reported that there was nothing to report on the *Lales* case pending before the Hawai'i Supreme Court.

CC Wang reviewed the compilation of the October 29, 2013, annual HCRC public training evaluations, which were mostly favorable. She thanked Adjudication Secretary Cathy Simmons for doing the bulk of the work on the registration, copying and preparation of materials, organizing the sign in table, and all the other work that made the event and program possible. She also thanked Commissioners Raymund Liongson and Kim Coco Iwamoto for doing the opening and welcoming remarks and the closing remarks.

CC Wang reported that there approximately 240 registered for the October 29 training, at or close to capacity for Blaisdell Center Pikake Room venue. Commissioner Iwamoto asked if the HCRC had considered other venues, bigger spaces that could accommodate more people. CC Wang said that in past years when there was high registration, the HCRC arranged for removal of tables and theater style seating, but attendees complained about the crowding and lack of tables.

Commissioner Iwamoto suggested that the use of a bigger space could increase participation, suggesting spaces at the University of Hawai'i, Chaminade, or the Hawai'i Convention Center. CC Wang said that cost was a factor, because the Blaisdell site was offered at little or no cost. She added that the HCRC used to hold its trainings at the Hawai'i Convention Center, which offered the use of the room without charge, but that the vendor charges for coffee, food, and audio-visual proved prohibitive, given the nominal registration fee for the training. Commissioner Iwamoto suggested that it might be worth looking into the use of a movie theater for a morning training.

Legislation -2014 Session

ED Hoshijo reported that the HCRC's supplemental budget request for restoration of investigation capacity was included in the DLIR's budget submission, pending review and action by the Department of Budget and Finance, the next step in the process of finalizing the administration's supplemental budget request to the legislature.

Special Session on Marriage Equality Legislation

ED Hoshijo reviewed S.B. No. 1, H.D.1, enacted as Act 1, providing for marriage equality. He went over the Act 1 exemptions for clergy and religious organizations.