



HAWAI'I CIVIL RIGHTS COMMISSION

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MINUTES

Hawai'i Civil Rights Commission Office

December 15, 2016

1:00 p.m.

Present: Linda Krieger, Liann Ebesugawa, and Joan Lewis, Commissioners; Livia Wang, Bill Hoshijo, and Marcus Kawatachi, Staff.

Chair Linda Krieger called the meeting to order.

Newly appointed Commissioner Joan Lewis was introduced and welcomed to her first Commission meeting.

A motion to add a closed executive session to the agenda, for discussion of a personnel matter, was approved. (m/s/p Lewis Ebesugawa; 3-0).

Approval of Minutes

Approval of the minutes of the November 22, 2016, meeting was deferred and tabled, until next meeting, because only two commissioners present were at the November meeting. (m/s/p Lewis Ebesugawa; 3-0).

Executive Director's Report

Deputy Executive Director (DED) Marcus Kawatachi presented a FY 2017 HCRC Mediation Program year to date summary.

Summary & Details (7/1/16 through 12/14/16)

Referrals:	16
Dispositions:	19
Settlements:	12
Non-agreements:	7
Settlement Rate:	63.2 %
Employment cases settled:	12
Non-employment cases settled:	0
Dual-filed (EEOC/HCRC) settlements:	8
State-only settlements	4

Primary Bases for Complaints Settled in Mediation

Sex	3 (2 pregnancy)
Ancestry	3
Disability	2
Race	2
Arrest and Court Record	1
Color	1

Dispositions by Mediation Center

Mediation Center of the Pacific	8/11	(settlement rate 72.7 %)
Mediation Services of Maui	1/2	(settlement rate 50%)
Private Mediators	1/1	(settlement rate 100%)
Ku'ikahi Mediation Services (Hilo)	2/4	(settlement rate 50 %)
West Hawaii Mediation Center	0/1	(settlement rate 0%)
Kauai Economic Opportunity, Inc.	0	
OVERALL	12/19	(settlement rate 63.2%)

DED Kawatachi reported that there was continuing progress on the fair housing mediation pilot project.

DED Kawatachi also presented a data and production report showing caseload data through December 14, 2016.

As of December 14, 2016, the report showed 193 open cases, a decrease of 19 cases from the number reported as of November 22, 2016. Of those, 2 (1%) were filed in 2012, 2 (1%) in 2013, 3 (1.6%) in 2014, 21 (10.9%) in 2015, and 165 (85.5%) in 2016.

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

	2012	2013	2014	2015	2016	Total
Housing Cases	1	0	0	4	18	23
Response Monitoring	0	1	3	6	91	101
Mediation	1	0	0	6	14	21
Pending Assignment	0	0	0	0	6	6
Active Investigation	0	1	0	5	36	42
TOTAL	2	2	3	21	165	193

The report included year to date data for the past five fiscal years:

Category	7/1/12 – 11/22/12	7/1/13 – 11/22/13	7/1/14 – 11/22/14	7/1/15 – 11/22/15	7/1/16 – 11/22/16
PCQ Received	347	340	323	316	302
Intake Decision	378	321	321	335	291
Complaint Filed	159	140	144	179	164
Investigation Closed	159	177	140	180	199
Notice of Cause	4	0	5	10	9
Enforcement Closure	3	3	7	10	6

DED Kawatachi reported that there were no actions or pending actions for subpoena enforcement.

ED Hoshijo reported that the Office of the Attorney General offered to demonstrate the legal case management software that they use, that demonstration to be scheduled.

Chief Counsel's Report

Chief Counsel (CC) Livia Wang reported that there was nothing new to report on the *Bate* appeal or the *Elento* appeal.

2017 Legislation

CC Wang reported on status of the two HCRC bills proposed for inclusion in the administration package, one to amend HRS §489-5 to remove conspiracy as a required element of prohibited retaliation in public accommodations, and the other to amend HRS §368-1.5 to add a prohibition against retaliation in state and state-funded services. CC Wang continued to engage in discussion over Attorney General comments and recommendations on the draft bills.

ED Hoshijo reported that the executive budget request would include the addition of an HCRC legal secretary, to provide support for its enforcement attorneys.

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.

On the subject of the implementation of Act 135, ED Hoshijo suggested that the HCRC should request meetings with HMSA, Kaiser, and other health insurance providers, to discuss their implementation of the prohibition against discrimination in health insurance.

ED Hoshijo reported that the HCRC issued its statement calling on Hawai'i to oppose the national trend of discriminatory harassment in the wake of the Presidential election. The statement was posted on the HCRC webpage, and was picked up by Civil Beat. Chair Krieger was invited to appear on "The Conversation" on Hawai'i Public Radio.

On rulemaking, Chair Krieger reported her fall semester seminar students continued their work, with work on draft rules scheduled for the spring semester.

New Business

ED Hoshijo reported that he invited Nanci Kreidman, CEO of the Domestic Violence Action Center (DVAC), to join the Commissioners for a discussion about the effectiveness of the Act 206 (2011) protections for victims of domestic violence and sexual violence. Ms. Kreidman would not be available to meet in January 2017, so it was agreed that she be invited to a Commission meeting to be scheduled in late February 2017.

Announcements

The Commissioners were invited to join the HCRC contingent to march in the Dr. Martin Luther King, Jr. Holiday Parade, on January 16, 2017.

Next Meeting

The next meeting of the Commission was tentatively scheduled for January 20, 2017, with a continuation on January 27, 2017, *subject to polling of and confirmation by the Commissioners.*

CLOSED EXECUTIVE SESSION

The Commissioners voted to go into closed executive session to discuss a personnel matter. (m/s/p Lewis/Ebesugawa; all).

The Commissioners went into closed executive session.

The Commissioners came out of closed executive session.

Adjournment