



HAWAI'I CIVIL RIGHTS COMMISSION

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MINUTES

Hawai'i Civil Rights Commission Office
October 6, 2017
2:30 p.m.

Present: Linda Krieger, Liann Ebesugawa, Joan Lewis, and Joakim Peter, Commissioners; Robin Wurtzel and Bill Hoshijo, staff; Frances Lum and Doris Dvonch, Deputy Attorneys General; Peter Fritz, member of the public.

Chair Linda Krieger called the meeting to order.

Initially, three Commissioners were present: Chair Krieger, Commissioner Liann Ebesugawa, and Commissioner Joakim Peter.

Approval of Minutes

The minutes of the September 8, 2017, meeting were approved. (m/s/p Ebesugawa/Peter; 3-0).

Executive Director's Report

Deputy Executive Director (DED) Marcus Kawatachi's FY 2018 HCRC Mediation Program year-to-date report was deferred in his absence.

DED Kawatachi's data and production report was also deferred in his absence.

Chief Counsel's Report

Chief Counsel (CC) Robin Wurtzel presented her report.

She noted no change in the *Elento* appeal pending in the Hawai'i Supreme Court, and no change in the Shavelson appeal pending in the 9th Circuit Court of Appeals.

CC Wurtzel reported on the status of the *Bate* case. A status conference before Circuit Court Judge Ashcroft was held on September 26, 2017. Jury trial is set for October 15, 2018. Briefing on which issues are legal and which are equitable is due by August 15, 2018. A number of other housekeeping items are due at the end of the year, due December 29, 2017.

2018 Proposed Legislation

Executive Director (ED) Bill Hoshijo reported that there was nothing new to report on the two proposed bills that were reported on at the September meeting:

The first proposed bill had been submitted for inclusion in the administration package, a bill to provide for Executive Director discretion, when conciliation does not result in a settlement, to issue a final demand and docket the case for a contested case hearing, or dismiss and issue a notice of right to sue. The bill remained under review.

The second proposed bill, to correct flaws in Act 211, relating to movie theaters, was submitted by the Disability Communication Access Board (DCAB) for inclusion in the Department of Health administration package, so the HCRC would not have to submit a proposal

Old Business

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

On rulemaking, CC Wurtzel reported that she was preparing draft rules for discussion.

ED Hoshijo said there was nothing new to report on the Council for American-Islamic Rights (CAIR) Conference on American Muslims and Civil Rights scheduled for February 17-18, 2018.

Commission Discussion on Civil Rights in Hawai'i

ED Hoshijo's presentation, introducing the history of civil rights in Hawai'i, was deferred.

New Business

Chair Krieger and ED Hoshijo discussed recent Trump administration policy pronouncements and positions taken: the US DOJ position that federal statutory prohibitions against discrimination based on "sex" do not include sexual orientation and gender identity discrimination; and a new US DHHS rule providing a religious exemption for employer-provided health insurance policies from the requirement that such policies cover birth control contraceptives.

Chair Krieger said the HCRC should follow up on whether any civil rights advocacy groups were planning on proposing a bill to establish a state corollary to federal Title IX protections.

Commissioner Joan Lewis joined the meeting.

Announcements

ED Hoshijo reminded everyone that the HCRC would have a contingent in the 2017 Pride Parade, scheduled for October 21, 2017.

Next Meeting

The next meeting of the Commission was scheduled for November 16, 2017, at 1:30 p.m.,

subject to polling of and confirmation by the Commissioners.

CLOSED EXECUTIVE SESSION

The Commissioners voted to go into closed executive session to discuss an adjudication matter. (m/s/p Lewis/Peter; all).

The Commissioners went into closed executive session. Chief Counsel Wurtzel did not participate, because she was recused from the adjudication matter. The Commission was advised by Deputy Attorney General Doris Dvonch.

The Commissioners came out of closed executive session.

Adjournment