



### Mission Statement

The mission of the Civil Rights Division is to reduce discrimination in employment and housing through education and enforcement of state and federal laws.

### Vision

The vision of the Civil Rights Division is to help create an environment in which the people of the State of Texas may pursue and enjoy the benefits of employment and housing that are free from discrimination.

### Texas Commission on Human Rights Commissioners

Thomas M. Anderson, JD, SPHR  
Chair

Michelle Diggs  
Commissioner

Toni Rhodes Glover  
Commissioner

Shara Michalka  
Commissioner

Danny L. Osterhout  
Commissioner

Veronica Stidvent  
Commissioner

Sharon Breckenridge Thomas  
Commissioner



### In this issue:

Celebrating the 25th Anniversary of the Americans with Disabilities Act .....	1
Office of the Governor-Greg Abbott.....	2
84th Texas Legislative Wrap-Up.....	3
Recent Fair Housing Texas Case Summary .....	4
Change of Role.....	4
Testing .....	5
CRD Issues Charges .....	6
New Chapter Of CRD History .....	7

## Celebrating the 25th Anniversary of the Americans with Disabilities Act

This year is the 25th Anniversary of the signing of the Americans with Disabilities Act (ADA). The ADA will turn twenty-five on July 26, 2015. The ADA is an important milestone in the history of the disability rights movement in the United States.

The vision and leadership for bringing about the ADA came straight from the heart of Texas. Proud Texan and former Chair of the Texas Governor’s Committee on People with Disabilities, Justin Dart’s passion is the heart and soul of the ADA. Lex Frieden, a disability policy expert from Houston, defined the vision for Congressional action, which paved the way for the passage of the ADA. Thousands of Texans—from members of Congress

to people living in state institutions—worked tirelessly to make the dream a reality. And another Texan, President George H. W. Bush, signed the ADA into law. The ADA is a key piece of civil rights



President George Bush signs the Americans with Disabilities Act at the White House July 26, 1990. (file photo © AP/WWP)

legislation that applies to all sectors of life. It guarantees equal access for millions of individuals to goods, services and opportunities. It has opened doors and changed lives in the first 25 years of its existence.

The ADA became law in 1990. It prohibits discrimination against individual with disabilities in all areas of public life, including employment, housing, schools, transportation and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else.



## Texas Workforce Commission Civil Rights Division

**Mailing Address:**  
101 East 15th St.  
Room 144T  
Austin, Texas 78778

**Physical Address:**  
1117 Trinity St.  
Room 144T  
Austin, Texas 78701

**Phone:** 512-463-2642  
or 888-452-4778  
**Fax:** 512-463-2643

**EEOC National Contact:**  
800-669-4000

For more information or to  
subscribe to this newsletter,  
please visit:  
[civilrightsreporter@twc.state.tx.us](mailto:civilrightsreporter@twc.state.tx.us)

Equal Opportunity Employer/  
Program Auxiliary aids and  
services are available upon  
request to individuals with  
disabilities.

Relay Texas: 800-735-2989  
(TTY) and 711 (Voice).

Copies of this publication  
(11/2014) have been  
distributed in compliance  
with the State Depository  
Law, and are available for  
public use through the Texas  
State Publication Depository  
Program at the Texas State  
Library and other state  
depository libraries.

[www.texasworkforce.org](http://www.texasworkforce.org)



Throughout the year and on the ADA's Anniversary – July 26th, celebrate the Americans with Disabilities Act in your community. While much progress has been made, much remains to be done.

### Resources:

No-cost Outreach and Education Programs: TWCCRD representatives are available on a limited

basis at no cost to make presentations and participate in meetings with stakeholders, and their representative groups, as well as community organizations and other members of the general public.

### TWCCRD Education Training & Technical Assistance:

TWCCRD provides low-cost, fee-based trainings

and technical assistance programs via webinars and in-person sessions throughout the State of Texas.

For more information, availability and training designed specifically for your needs, contact TWCCRD at (888) 452-4778, (512) 463-2642 or [CRDTraining@twc.state.tx.us](mailto:CRDTraining@twc.state.tx.us). ■

## Office of the Governor – Greg Abbott Committee on People with Disabilities



The Atlantic Hurricane Season began on June 1 and continues through November 30th of every year. An individual's ability to recover from an emergency tomorrow may depend on the planning and preparation done today. The following information provides tips that individuals with disabilities and the people who assist and support them can take to prepare for emergencies before they happen.

**Get Ready: Planning for a Disaster: Individuals with disabilities and others with Access and Functional Needs** - <http://www.ready.gov/individuals-access-functional-needs>

**Video: (Captioned) Preparing Makes Sense for People with Disabilities and Other Access and Functional Needs** - <http://www.fema.gov/media-library/assets/videos/78827>

### Preparedness Videos and Information

- Importance of Preparedness for the Disability Community– Marcie Roth, Director of FEMA's Office of Disability Integration and Coordination [www.fema.gov/media-library/assets/videos/78827](http://www.fema.gov/media-library/assets/videos/78827).
- Northeast Texas Public Health District Accessible Emergency includes Braille and Large Print versions of documents.
- Get valuable information on **Making a Plan, Building a Kit that meets your families' needs and viewing Texas specific Videos on importance of preparation:** [www.texasprepares.org](http://www.texasprepares.org).
- Texas Key Laws and Resources related to Emergency Management - [gov.texas.gov/disabilities/resources/emergency\\_management](http://gov.texas.gov/disabilities/resources/emergency_management).

### Additional Emergency Supplies

[www.ready.gov/individuals-access-functional-needs](http://www.ready.gov/individuals-access-functional-needs)  
**State of Texas Emergency Assistance Registry (STEAR) Call 2-1-1** for a voluntary registry called State of Texas Emergency Assistance Registry or STEAR for people who need assistance and evacuation in the case of a hurricane or natural disaster. The public may register year-round. Registry information will be forwarded to local Offices of Emergency Management (OEMs). Local OEMs have the responsibility for coordinating evacuations. You can also register online at [publicregistry.csr.utexas.edu/enroll/newuser](http://publicregistry.csr.utexas.edu/enroll/newuser).

### Any Texan is eligible to register.

- Dial 2-1-1 to register in advance for a ride.
- If you have a disability or a medical health care need which requires assistance to get out.
- If you cannot drive and cannot arrange transportation.
- If you do not have a vehicle and you have no one else to help you evacuate. ■

# 84th Texas Legislative Wrap-Up

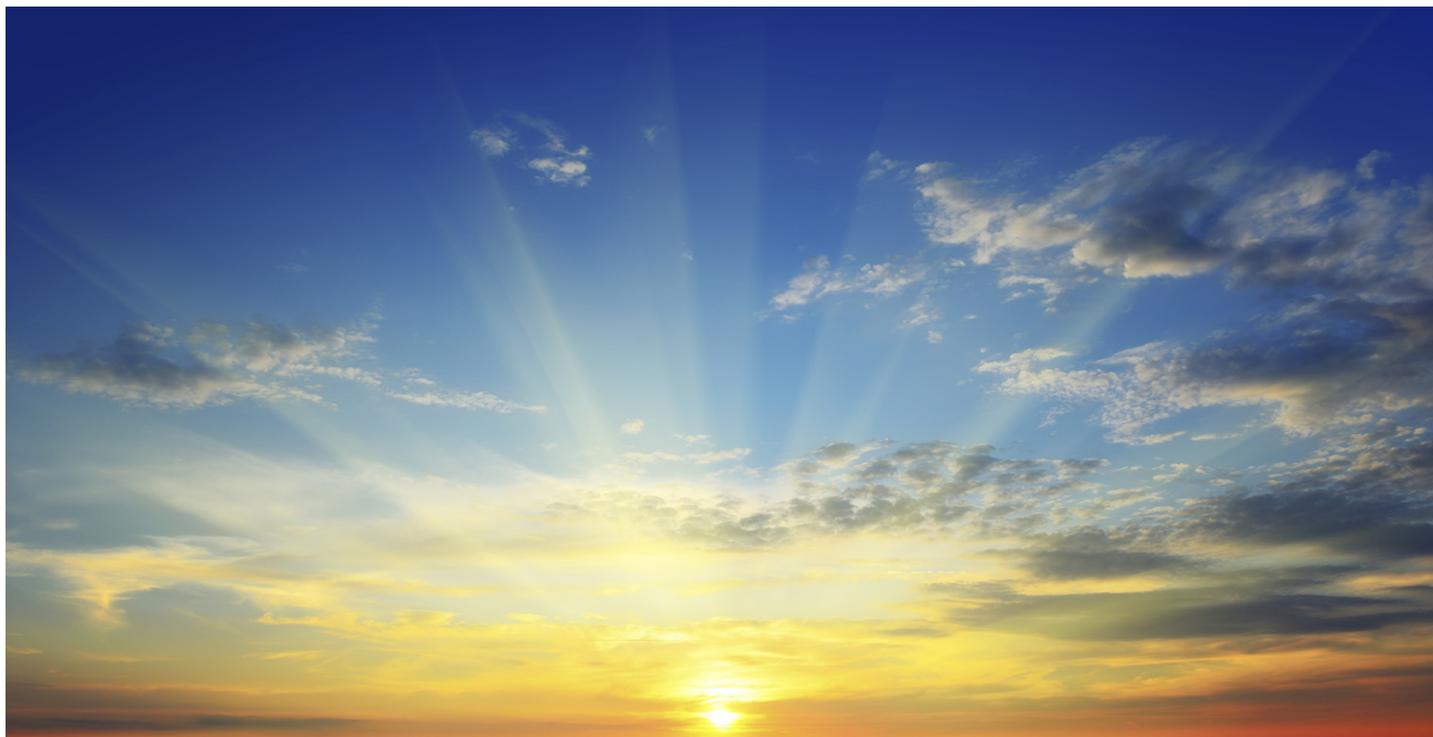


Photo courtesy of Thinkstock

Senate Bill 208 is the “Sunset” bill for the Texas Workforce Commission in which the Legislature approved continuing TWC until 2027. The bill makes several changes affecting CRD as follows:

- Transfers the powers and duties exercised by the Commission on Human Rights to the Texas Workforce Commission;
- Directs TWC to develop rule-based risk-assessment criteria to determine when TWC may review a state agency’s personnel policies and procedures systems (PPPS) more often than the required six-year time period, which must include:
  - o data on complaints against a state agency;
  - o previous review findings; and
  - o other information collected and maintained by TWC;
- Mandates that TWC annually review reimbursements received for conducting PPPS reviews and make adjustments as needed to recover reasonable and necessary expenses (which codifies current practice);
- Requires CRD to collect and analyze information on state agencies and annually report the following:
  - o discrimination complaints, other than complaints determined to be without merit, including number and type; and
  - o key findings or trends CRD identifies during PPPS reviews (which codifies current practice); and
  - Removes the requirement that CRD conduct reviews of initial testing conducted by fire departments. ■



# Recent Fair Housing Texas Case Summary

## *United States v. Dawn Props* *2015 U.S. Dist. LEXIS 11892* *(S. Dist. Miss., February 2, 2015)*

The federal government brought suit alleging that various owners, developers and builders of several residential multifamily dwellings on the Mississippi Gulf Coast engaged in a pattern or practice of design and construction violations of the Fair Housing Act (FHA). One of the defendants, Inn by the Sea Homeowner's Association (HOA), did not engage in design and construction of the buildings, but was the current owner of the common property at the Inn by the Sea complex. The government contended that it included the HOA as a necessary party to the lawsuit and maintained that, in the HOA's absence, complete relief could not be afforded.

No FHA violations were alleged against the HOA. The government sought

an order enjoining the defendants, including the HOA, from engaging in conduct that would deny access to public and common use areas and from engaging in actions to impede any retrofits, among other things. The government asserted that it would need to inspect common use areas as part of the discovery process, and that if the Court found design and construction violations, the HOA would be necessary to ensure that inaccessible conditions will be remedied. The HOA filed a motion asking the court to sever, or separate, the claim against it from the other defendants.

The Court concluded that the severance would not be granted. Among the arguments proffered, the Court considered the HOA's contention that the claims against each property were unique to each. The Court pointed out that the government had alleged

a pattern and practice theory and all deficiencies did not need to be identical, which satisfied the requirement that the claims must arise out of the same transaction or occurrence. In addition, the Court addressed the HOA's argument that if the claims involving Inn by the Sea are not severed, the HOA would be required to expend significant cost and time litigating claims that simply do not pertain to Inn by the Sea. The Court stated that the government had made it clear that it was not alleging any violations by the HOA; therefore, there were no claims for the HOA to litigate. Instead, the Court said, the government included the HOA in the lawsuit solely for the purposes of access, obtaining documents, and effectuating injunctive relief if the owner and/or developer of Inn by the Sea were found to be liable. ■

## Change of Role

CRD's long-time Fair Housing Manager, Vickie Covington, recently came to the CRD Director and said it was time for a change in role for her. She had served as a Manager in the Division since 2004. Ms. Covington also was the Interim Director of the Division and the Interim Executive Director of the Texas Commission on Human Rights (TCHR) when the operations were transferred from TCHR as a separate agency to TWC. At TCHR, she started as an HR Policy Reviewer and was promoted to Manager in 2002. Prior to TCHR, Vickie served our country in the U.S. Army, including capping her military

career with a three year stint as an Equal Opportunity Advisor before her retirement.



*Photo courtesy of CRD*

But, Ms. Covington said it was time for her to move on by downsizing her job, so that she can spend more time on personal and family matters. She is now serving in a part-time position with the Division as an experienced investigator and an outreach coordinator.

Ms. Covington considers succession planning to be very important. She has been assisting the new Fair Housing Manager, Bridget Sharphorn, with transitioning into the position and has been providing a wealth of historical knowledge in the on-boarding of Ms. Sharphorn. ■

# Testing

## Fair Housing

In the late 1970s, the Department of Housing and Urban Development (HUD) began to monitor trends in racial and ethnic discrimination in both rental and sales markets. Approximately once each decade since the 1970s, HUD has conducted studies using paired-testing to measure the incidence and forms of discrimination experienced by renters and buyers of a particular protected class.

Both the Fair Housing Act and the Texas Fair Housing Act prohibit discrimination in housing based on race, color, religion, sex, familial status, national origin, or disability.

The HUD sponsored Housing Discrimination Against Racial and Ethnic Minorities 2012 study was released in 2013 and was based on race and national origin. Race and national origin paired-testers were used.



Photo courtesy of Thinkstock

According to the Study, when well-qualified minority home seekers (Blacks, Hispanics, and Asians) contacted housing providers to inquire about recently advertised housing units, they generally were just as likely as equally qualified white home seekers to get an appointment and learn about at least one available housing unit. However, when differences in treatment did occur, white home seekers were more likely to be favored than minorities. Most important, minority home seekers were told about and shown fewer homes and apartments than whites. The entire study can be found at: [portal.hud.gov/](http://portal.hud.gov/)

[hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/library](http://hudportal/HUD?src=/program_offices/fair_housing_equal_opp/library).

### So what is testing?

Approved by the U.S. Supreme Court in 1982, testing is a means to uncover evidence of discrimination. For example, in housing rental or sales markets, a test can be conducted by an organization or a person. Two people who have “comparable” backgrounds, employment history, rental history, and educational characteristics arrive at a property within minutes of each other. They are looking for similar housing. The testers are of different protected statuses. Each tester independently records the treatment he or she experienced, including information about all the homes or apartments recommended and shown.

The majority of fair housing testing complaints filed in the State of Texas are filed by organizations. Both HUD and TWCCRD investigate these testing cases, where the organization alleges a tester of one protected class was treated less favorably than a tester of another protected class.

In one recent rental test complaint investigated by TWCCRD, the analysis showed:

- Both Testers saw the same agent
- The White Tester was told there was a unit ready now for move in and two more the following month
- The White Tester was asked about the Tester’s personal information
- The White Tester was shown three apartments
- The White Tester was given numerous rental documents and asked for information that would facilitate a quick move in
- The White Tester was sent a follow-up email asking tester to come back to the property and to bring a friend or family member
- The Black Tester was advised a unit would be available weeks later

- The Black Tester was quoted a higher rental rate
- The Black Tester was shown one unit
- The Black Tester was given limited documentation and did not receive a follow-up email

People who are looking for a place to call home should be given equal access to and equal opportunity to live where they can afford to live if they meet the qualifications. When housing providers give less information, show fewer units, or give different pricing information because of a protected status, that may be discrimination.

Housing providers never know when a tester will show up at a rental or sales office. If there are questions regarding how to treat people who are searching for a home so that all will have equal opportunity to rent or buy, TWCCRD is available for technical assistance and training.

### No-cost Outreach and Education

**Programs:** TWCCRD representatives are available on a limited basis at no cost to make presentations and participate in meetings with employees and employers, and their representative groups, as well as community organizations and other members of the general public.

### TWCCRD Education Training &

**Technical Assistance:** TWCCRD provides low-cost, fee-based trainings and technical assistance programs via webinars and in-person sessions throughout the State of Texas.

For more information, availability, and training designed for your needs, contact TWCCRD at (888) 452-4778, locally (512) 463-2642, or [CRDTraining@twc.state.tx.us](mailto:CRDTraining@twc.state.tx.us). ■

# CRD Issues Charges

## Three Charges of Disability Discrimination Issued

The Texas Fair Housing Act is substantially equivalent to the Fair Housing Act in that it gives people with disabilities greater freedom to choose where they will live and greater freedom to visit friends and relatives. Both have broad implications in that they proactively address the needs of an evolving population and look ahead at future needs. With the aging of the Texas population and the increase in incidence of disability that accompanies aging, significant numbers of people will be able to remain in and safely use their dwellings longer because of the Fair Housing Act and the Texas Fair Housing Act.

### Two Charges of Discrimination Issued Regarding Design and Construction

Housing designed in accordance with the Acts will have accessible entrances, wider doors and provisions to allow for easy installation of grab bars around toilets and bathtubs, i.e., features that make housing safer and more responsive to all users.

The Fair Housing Council of Greater San Antonio (FHCOGSA) is a private, non-profit organization with a mission to promote fair housing and non-discrimination in housing.

In 2012, staff of FHCOGSA conducted an on-site survey of the public and common use areas at Tigoni Villas and filed a complaint alleging the following:

- A pet waste disposal station was not located on an accessible route because it was located in the grass;
- The parking area at the mailbox area did not have at least one

designated handicapped parking space and the curb cut could be obstructed by parked vehicle;

- Buildings #1, unit #s 111, 112, 113, 114, 115, 116, 117, and 118 were not located on an accessible route because there were no curb cuts and steps in route;
- Building #2, access to ground floor units was obstructed because the route narrows to less than 36 inches due to car encroachment into the sidewalk;
- The route to Building #3 was not the best option for creating a direct route and the distance was very far because it imposed different parking privileges for people with disabilities;
- Building #6, access to ground floor units was obstructed because the route narrows to less than 36 inches due to car encroachment into the sidewalk; and
- All sidewalks at residential Buildings narrow to less than 36 inches due to car encroachment into the sidewalks.

FHCOGSA further alleged that Tigoni Villas, L.P. was in violation of the state and federal Fair Housing Acts and that the Respondent frustrated its mission by requiring FHCOGSA to divert valuable time and resources to conduct fair housing educational and outreach to residents of the Tigoni Villas and to conduct research to determine violations of the Acts.

Tigoni Villas, L.P. was built for first Certificate of Occupancy in 2005.

Upon review of all the evidence, the Director of the Texas Workforce

Commission Civil Rights Division charged the Respondent with engaging in discriminatory housing practice in violation of Tex. Prop. Code 301.025(c)(3).

In another complaint filed by Albert and Essie Morris, the Director of the Texas Workforce Commission Civil Rights Division charged The Galilean Apartments with engaging in a discriminatory housing practice in violation of Tex. Prop. Code. 301.025(c)(3). During the investigation, it was determined that the cross slope of a ramp from the parking lot to the sidewalk (a/k/a a “curb cut”) exceeded the maximum degree of slope. Upon review of the investigation results, the Director of the Texas Workforce Commission Civil Rights Division charged the Respondent with engaging in discriminatory housing practice in violation of Tex. Prop. Code 301.025(c)(3).

### Charge of Discrimination Issued Regarding Reasonable Accommodation

Under the Fair Housing Act and Texas Fair Housing Act, it is unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy the dwelling.

Shelly Dehn operates two licensed assisted living facilities in a neighborhood called Teravista. She opened one facility and then subsequently opened a second one next door. The assisted living facilities serve elderly, disabled individuals.

On February 27, 2014, Ms. Dehn received notice from the Teravista Community Association that operating a second assisted living facility violated Teravista's deed restrictions. Teravista asserted that Dehn could not operate a business, provide housing to individuals not compromising a single family, and operate two facilities within a mile of each other. The notice demanded that she discontinue operation of the second assisted living facility or face a lawsuit by Teravista.

Following the notice, on April 21, 2014, Ms. Dehn attended a meeting

of the Teravista board where she explained the circumstances of the home, explained the disabled residents need for assistance to enable them to live in an area/neighborhood of their choosing, and requested a reasonable accommodation be made for the disabled residents, in the form of Teravista not enforcing the deed restrictions. In a letter dated May 6, 2014, Teravista rejected her request for a reasonable accommodation.

On July 16, 2014, Dehn filed a complaint with the Texas Workforce Commission Civil Rights Division. On

May 18, 2015, the complaint was amended to include Norma Kelso, a resident of the assisted living facility. Ms. Kelso uses a wheelchair and needs assistance with daily life activities.

Upon review of all the evidence, the Director of the Texas Workforce Commission Civil Rights Division charged the Respondent with engaging in discriminatory housing practice in violation of Tex. Prop. Code 301.025(c)(3). ■

## New Chapter Of CRD History

### New Fair Housing Manager Bridget Sharphorn



Photo courtesy of CRD

CRD welcomed Bridget Sharphorn as the new Fair Housing Manager on April 15, 2015. Ms. Sharphorn came to us from the General Land Office (GLO) where she was a Program Specialist. She is a licensed attorney who served as the GLO's Fair Housing

subject matter expert, providing advice and program services, compliance determinations and technical assistance to stakeholders.

Ms. Sharphorn also has strong legislative experience, having served as a Legislative Aid to a Texas State Senator, for whom she analyzed legislation, developed bills and drafted speeches.

She has a Bachelor's Degree in both Economics and Political Science from the University of Michigan, a Master's Degree in Public Health Services and Policy from UT Health Science Center in Houston and a Juris Doctorate Degree from the University of Kentucky College of Law. ■



Photo courtesy of Thinkstock