



Mission Statement

The mission of the Texas Workforce Commission Civil Rights Division is to make Texas an even greater place to live, work, play and raise our families by reducing discrimination in employment and housing through education and outreach programs, and the enforcement of Chapter 21 of the Texas Labor Code and Chapter 301 of the Texas Property Code.

Texas Commission on Human Rights

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HUD AWARDS \$500,000 TO TWC-CRD IN PARTNERSHIP FUNDS

Monies will fund enhanced enforcement and outreach

The U.S. Department of Housing and Urban Development (HUD) has awarded \$548,996 in partnership funds for a two-year period to the Texas Workforce Commission Civil Rights Division for fair housing enforcement and outreach activities. The grant monies will assist the Division in stepping up enforcement and outreach activities with additional staff,

including a mediator, intake investigator, additional legal assistance and an outreach coordinator. A Fair Housing Education and Outreach Initiative will be launched to target the “oil and gas boom” areas—Midland, Odessa, Laredo and Victoria, as well as small cities and towns in between. The Division will work closely with local community partners and state-wide

stakeholders, such as advocacy organizations and housing providers, including the Texas Affiliation of Affordable Housing Providers and the Texas Apartment Association. The Division hopes to better its customer service, increase the focus of cases, and assist in preventing housing discrimination in the target areas.

NEW EEO COMPUTER BASED TRAINING OPTION LAUNCHED

Face-to-Face training still an option

The Division launched a new computer based training (CBT) module for basic equal employment opportunity (EEO) training developed by the TWC’s

Training & Development Department. The module covers the requirements under Chapter 21 of the Texas Labor Code for State employees to take initial

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or (817) 978-5922

EEOC National Contact:

(800) 669-4000

For more information or to
subscribe to this newsletter,
please visit:

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).

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<http://www.texasworkforce.org>

EEO Training cont'd

EEO training and refresher training
every two years.

Users are tested on what they have
learned with questions along the way
and commonly complete the training
in 45-60 minutes. The CBT module is
offered at no charge to state agencies
and other public entities, and is available
to private businesses upon request for
a minimal fee.

The Division regularly pursues training
in appropriate cases as a condition
of settlement or conciliation for a
non-monetary remedy. Employers

also encouraged to request training from
the Division at low cost.

The Training & Development Department
and the Division are also working on
concepts for additional CBTs, such
the possibilities of an in-depth EEO
module and a housing training module.
In-person training continues to be offered
by the Division to public and private
bodies on employment and housing
issues upon request.

If you need additional information
on training, please send an email to
crdtraining@twc.state.tx.us, call toll free
at 888-452-4778, or call 512-463-2642.

CRD REACHES SETTLEMENT OF HOUSING RETALIATION LAWSUIT

Property Owners Association agrees to \$25,000 payment, removal of a special assessment and fair housing training

Gregory Collins is a homeowner and
resident in a Denton County subdivision
named Saratoga Estates, and a member
of the Saratoga Property Owners
Association (POA). Collins requested
permission from the POA and its
individual agents to make modifications
to his home to render it accessible for his
disabled parent. Collins submitted plans
on three occasions to the POA and/or its
Architectural Control Committee (ACC)
for approval. Each time, the POA and
its agents either denied the plans or
approved the plans with conditions that
were unacceptable to Collins.

Collins filed a fair housing complaint
in June 2009 against the POA and
its agents alleging denial of a reasonable
accommodation request in violation
of the Texas Fair Housing Act. The
complaint was resolved through
conciliation in November 2009. The
POA incurred \$5,797.50 in legal fees in

connection with defending the complaint.
In September 2010, the POA issued a
Special Individual Assessment against
Collins to recover its legal fees and
costs, which indicated that the Board
voted to levy the assessment.

Collins was in compliance with all
relevant governing documents of the
POA and the governing documents
did not authorize the levy of a Special
Individual Assessment against an
association member to recoup such
legal expenses incurred in defending
a fair housing complaint filed by an
association member.

Collins then filed a second fair housing
complaint in September 2010 based
upon the Special Individual Assessment,
alleging injury due to discrimination
and retaliation. CRD investigated the
complaint and issued a Determination
of Reasonable Cause/Charge of

Discrimination. The Office of the Attorney General filed a lawsuit by CRD on behalf of the State of Texas and Collins against the POA and its individual agents under the Texas Fair Housing Act and Texas Workforce Commission Rules.

The lawsuit alleged that the POA and its agents issued the Special Individual Assessment to intimidate Collins and to retaliate against him because he filed a fair housing complaint against them in 2009.

The lawsuit was settled in August on these terms:

- No admission of liability by the POA or its individual agents;
- A \$25,000 payment split into \$12,000 for Collins, \$7,600 for CRD in costs, and \$5,400 for the Attorney General in attorney's fees;
- Removal of the Special Individual Assessment against Collins of \$5,797.50; and
- Fair housing training for a representative of the POA.

The terms of the settlement have been satisfied and the lawsuit was dismissed.

FEDERAL DISTRICT COURT RULES ON HOUSING SEXUAL HARASSMENT CASE

Court in 5th Circuit addresses Quid Pro Quo and Hostile Environment Claims

A Louisiana federal district court has taken up the issue of fair housing sexual harassment in *Jane Doe, et al. v. Ore Duckworth, et al.*, 2013 U.S. Dist. LEXIS 113287. Doe rented an apartment from Duckworth for over two years. She alleged that Duckworth subjected her to sexual harassment for the entire time she lived there. Duckworth filed a motion for summary judgment. The Court noted up front that the Fifth Circuit has not yet addressed the issue of sexual harassment in the Fair Housing Act context.

Quid Pro Quo: Something for Something

The Court first looked at Doe's claim of *quid pro quo* harassment, in which housing benefits are conditioned on sexual favors or when the rejection of sexual advances by a landlord results in an adverse consequence for the tenant.

Doe alleged that Duckworth offered to pay her other bills or forgive rental payments

in exchange for illicit photographs or sexual activity. Doe also contended that Duckworth refused to make repairs to the apartment several times after she rejected his sexual advances. Further, Doe alleged that Duckworth started eviction proceedings against her after she refused his propositions.

In reviewing the evidence, the Court stated that Doe told the judge in her eviction case she was being evicted for failing to pay rent and for refusing to write an apology letter. Moreover, Doe admitted that despite her rejection of the alleged advances, Duckworth never took steps to evict her until she failed to pay rent. The Court also stated that the evidence showed Duckworth did make attempts to address many of the needed repairs, but not always to Doe's satisfaction, and that she admitted that he never suggested if she had sex with him any remaining repairs would be performed. The Court further pointed

CRD News

State Service and Retirements



CRD Director Lowell Keig (center) congratulates CRD Investigators Michael Campos (left) and David Pernell (right) on their years of State rights service.



CRD Investigator Toni Mead receives a recognition certificate for 15 years of service with the State.



Employment Investigator Trish Powell received a recognition award for her retirement after 27 years of State service.

Upcoming Events

Christmas Observance

Dec. 24-26

Offices Closed

New Year's Day

Jan. 1

Offices Closed

Martin Luther King, Jr. Day

Jan. 20

Offices Closed

CRD News, con't

Proposals for Rules

Revisions CRD has initiated a four-year top to bottom rules review to present proposed revisions to the Texas Workforce Commission Commissioners, which will be posted for public comment during 2014.

Website Improvements

TWC has remodeled pages relating to CRD on its website, including making resources more user-friendly, posting TCHR meeting materials and linking the Civil Rights Reporter.

out in her deposition testimony that the *quid pro quo* harassment occurred when she fell behind on other bills and asked if he would let her slide on rent payments. However, she admitted that it was possible he occasionally allowed her to pay the rent late or make payments twice a month.

Based on this evidence, the Court found that Doe failed to present evidence of a causal connection: there was no indication Duckworth actually conditioned any housing benefits on sexual favors or committed an adverse housing action against Doe for her alleged refusal of his advances. So the Court granted summary judgment on the *quid pro quo* claim.

Hostile Environment

The Court then addressed the issue of hostile environment, when offensive behavior unreasonably interferes with the tenant's use and enjoyment of the premises because it is so severe or pervasive as to alter the conditions of the housing arrangement.

The Court considered Doe's allegations that Duckworth harassed her for over a year, asked her to take illicit pictures of herself several times, suggested that she should come out and "play" with him, and frequently stated that he wanted to engage in sexual touching, all of which Duckworth denied. The Court, therefore, found that there was a material issue of fact for a

jury or judge to decide at trial because it was unclear exactly how often the alleged conduct occurred and whether it was sufficiently pervasive to state a hostile environment claim.

Doe also alleged that Duckworth engaged in unwanted sexual touching on one occasion, which he disputed. The Court asserted that touching an intimate area of another's body is conduct that can be sufficiently severe, even if it is an isolated incident, and concluded that whether it occurred was also an issue of material fact pertaining to severity for the ultimate trier of fact to determine.

Finally, the Court reviewed the allegation that another female tenant brought a sexual harassment complaint similar to Doe's against Duckworth, which could be evidence relevant to Doe's claim. The other tenant later recanted with an affidavit, but then continued, along with her fiancée, to maintain that the harassment had occurred. This tenant asserted that she did not word the affidavit, that she did not know it meant she was withdrawing her complaint, and that Duckworth paid her to sign it. He admitted paying her to sign, but denied the allegations and characterized the tenant and her fiancée's allegations as extortion. As a result, the Court ruled harassment of this other tenant was an issue of material fact, which would have to be decided at trial.



Happy
Holidays