



### 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 Workforce Commission Commissioners

**Andres Alcantar** - Chairman  
*Commissioner Representing the Public*

**Ruth R. Hughs**  
*Commissioner Representing Employers*

**Julian Alvarez**  
*Commissioner Representing Labor*



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## Civil Rights Division Fiscal Year 2015 Recap

The Texas Workforce Commission Civil Rights Division (CRD) receives, investigates and seeks to conciliate housing discrimination complaints based on the Texas Fair Housing Act, which is designed to protect individuals from discriminatory housing practices in the sale, rental and financing of dwellings based on race, color, national origin, religion, sex, physical or mental disability, or familial status (presence of a child under age 18 living with parents or legal custodians,

person securing custody of children under 18, or a pregnant woman). CRD investigated and closed 384 housing complaints in FY 2015. More than one-third of complaints were determined by CRD to have reasonable cause, were closed with successful conciliation or were closed by withdrawal after resolution. The majority of cases were closed by CRD with no reasonable cause. CRD issued two of the three statewide FY 2015 reasonable cause cases. The average processing

time for housing complaints resolved by CRD for FY 2015 was 161 days, down from 206 days in FY 2014. CRD also was able to meet stringent HUD timeliness performance measures for resolution of cases during the contract year 2015. At least half of cases were resolved within 100 days and 95% of aged cases pending as of July 1, 2014 were resolved before June 30, 2015. For more details, please see the tables and charts below. ■

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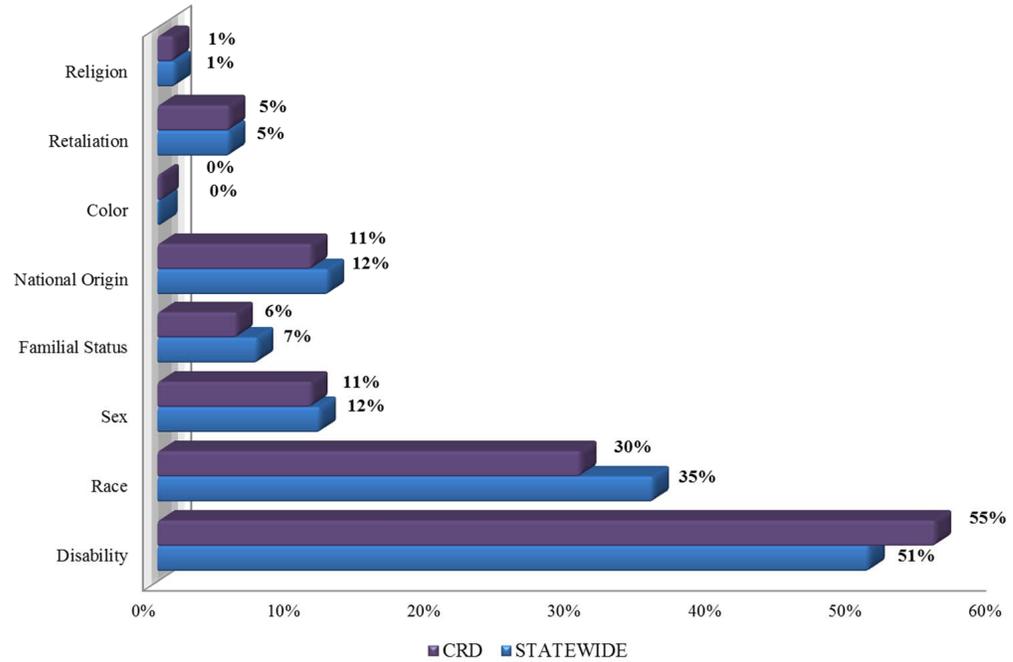
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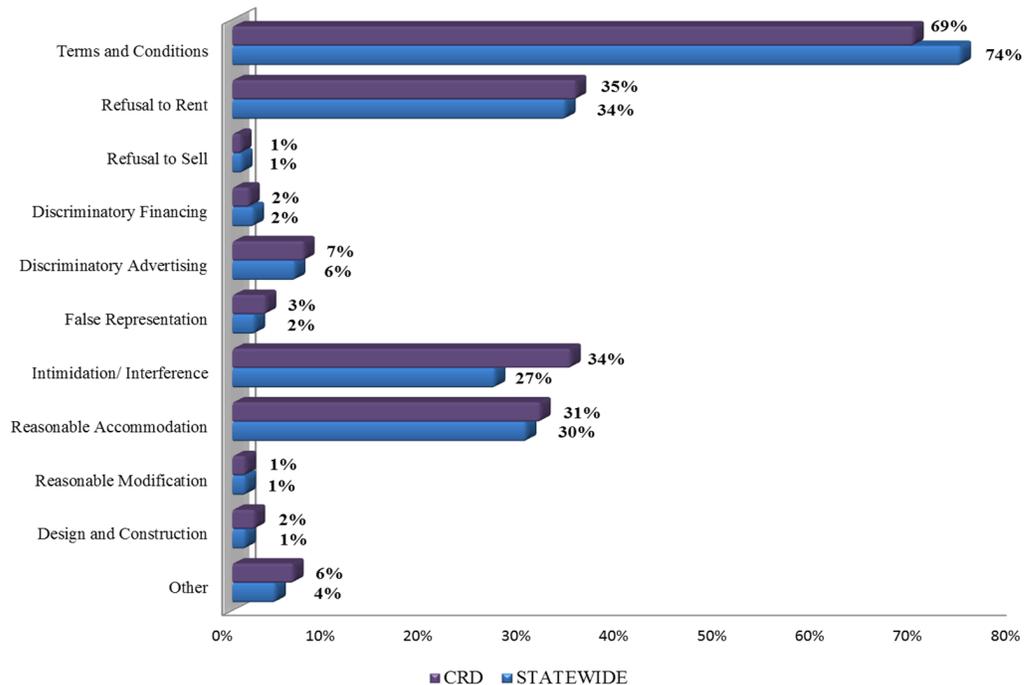


**Housing Complaints Filed by Basis**

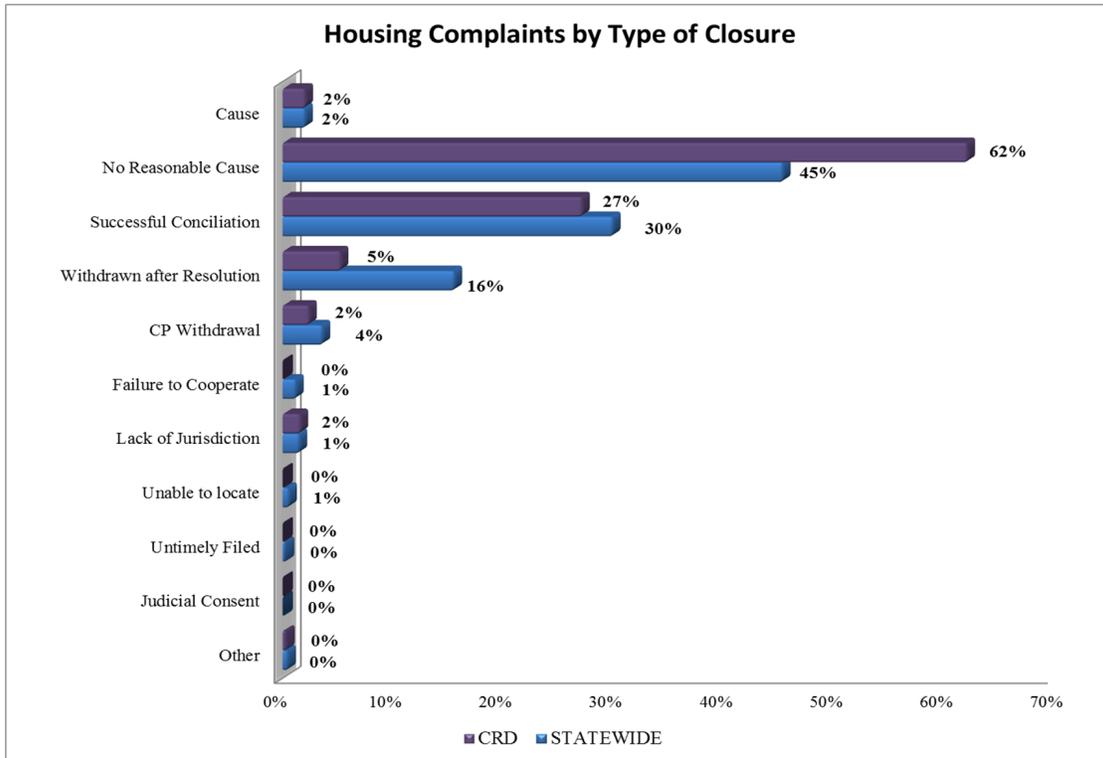


Note: There were a total of 357 cases filed with CRD and 852 cases filed statewide. Therefore, the percentages above were calculated based on the number of complaints filed. Since a complaint may have more than one basis, the percentages will total more than 100%.

**Housing Complaints Filed by Issue**



Note: There were a total of 357 cases filed with CRD and 852 cases filed statewide. Therefore, the percentages above were calculated based on the number of complaints filed. Since a complaint may have more than one basis, the percentages will total more than 100%.



Note: Cause cases reflected have not been closed. The fiscal year that a cause case is closed may differ and will be reflected as Successful Conciliation, Judicial Consent or other. Also, housing closure types do not include a Right to Sue issued category. Other includes Litigation Ending in No Discrimination and U.S. Department of Justice Dismissal.



Photo courtesy of Thinkstock.

# Fair Housing Mediation Program On The Rise

By Shalonda Inniss



Photo of Shalonda Inniss, Mediator  
Photo courtesy of CRD.

The Texas Workforce Commission Civil Rights Division has changed their internal process for mediations and as a result has noticed a rise in cases being resolved through the mediation program.

This rise, in large part is due to the new approach the Division has chosen to take by getting the word out on mediation early in the process through the Mediation Invitation

Letter. This letter invites each party to mediate their case before the case is transferred to investigations. After receiving the letter parties often call with questions regarding the mediation process and the differences between mediation and investigation.

It is explained that the mediation process is used to help the parties mutually come to an agreeable resolution with the help of a neutral party who will help facilitate the process. Through the process the parties either communicate with one another or through the neutral party to achieve some options for resolution. The parties are also informed that the mediation process is more cost effective because it provides a quicker way to find a resolution in the case and everything in mediation is kept confidential.

But, if the mediation fails, the case is transferred to investigations, which is a lengthier process and more costly for the parties due to document requests and reviews, witness and party interviews and on-site visits to inspect records. If a charge is issued the costs continue to rise due to litigation and attorney's fees.

The case may take years to resolve and everything disclosed in court will be public. Once parties receive these facts the mediation process becomes the least expensive way for them to try to resolve their case. As parties have come to the realization that mediations are more cost effective, more and more parties have elected to have their fair housing case resolved through the mediation program. ■

# Recent Fair Housing Texas Case Summary

By Corra Dunigan, TWC Assistant General Counsel

## **Bowman v. Western Rim Property Services**

**(U.S. Dist. E.D. Tex., February 9, 2016)**

Plaintiff filed this case against Defendants Western Rim Property Services, Inc., Newport Classic Homes, L.P. and Western Rim Investors (the “Western Rim Defendants”). Plaintiff alleges that the Western Rim Defendants were involved in the design and construction of an apartment complex called the “Estates of Frisco”, which do not comply with the accessibility requirements under the Fair Housing Act. On June 24, 2015, Plaintiff amended his complaint to join BRE MF Frisco, LLC, the current owner of the property. On November 16, 2015, the Western Rim Defendants filed a motion to join N.T.S. Architects and Planners Inc., (“NTS”) as an additional defendant under Rule 19 of the Federal Rules of Civil Procedure stating that NTS should be joined as a defendant because it participated in the design and construction of the property. NTS was the architectural firm on the property.

Joint tortfeasors are not considered “required” or indispensable parties under Rule 19. Plaintiff is not

required to name all possible joint tortfeasors in a single action. A joint tortfeasor is merely a permissive party. The fact that a defendant may be able to seek indemnity or contribution from NTS if Plaintiff prevails does not establish the first prong of Rule 19. Each defendant has a non-delegable duty under the FHA; other participants need not be joined in order to obtain full relief. Because each participant has a non-delegable duty, a plaintiff need not join each subcontractor of the builder. The Western Rim Defendants allege that they contracted with NTS to design the Property and, as such, they can bring a claim directly against NTS for breach of contract or other duties. The Western Rim Defendants have cited no authority requiring joinder of all participants in an FHA design and construction case. The Western Rim Defendants have failed to carry their burden under Rule 19.

Alternatively, the Western Rim Defendants seek joinder of NTS under Federal Rule Civil Procedure 20. Rule 20(a)(2) allows for permissive joinder of defendants if “any right to relief is asserted against them jointly, severally, or in

the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and . . . any question of law or fact common to all defendants will arise in the action.” Fed.R.Civ.P. 20(a)(2). “[A] defendant cannot use Rule 20 to join a person as an additional defendant.’ The permissive joinder of Rule 20 allows a plaintiff to decide who shall be parties to a lawsuit. A defendant has no right to demand permissive joinder of an absent person as a defendant.”

The Court here ruled that the Plaintiff’s motion to add NTS pursuant to Rule 19 and Rule 20 was denied. ■



# CRD Education, Training & Outreach

## Fair Housing Month

Each month of April is dedicated to reaffirming Texas' commitment to equality of opportunity in the housing industry. April was a busy month for TWC CRD, which participated in six events touching areas across the state.

## Texas Independent Living Council

TWC CRD's Investigator and Outreach Coordinator, Vickie Covington, attended the Texas State Independent Living Council (TXSIL) Conference on April 3-5, 2016, in San Antonio. The theme of the Conference was Collect, Collaborate, and Create change in communities. 226 people attended



Photo of TWC CRD's Investigator and Outreach Coordinator, Vickie Covington with SILC Presenter and Attendee. Photo courtesy of CRD.

the conference.

The goals for the conference were to empower attendees to learn about independent living, encounter new services, and create



Photo of Vickie Covington with SILC Staff. Photo courtesy of CRD.



Photo of Vickie Covington with a SILC attendee. Photo courtesy of CRD.

ideas to support independent living principles. The 2016 Conference focused on bringing individuals together to form ideas to help strengthen the Independent Living network and carry on TXSIL's mission to empower individuals with disabilities to live independently.

Ms. Covington hosted a booth, conducted equal employment opportunity and fair housing outreach and distributed EEO and fair housing outreach materials to attendees.

## TDHCA and TWC Co-Hosts Fair Housing Overview Training

On April 12, 2016, Texas Department of Housing & Community Affairs (TDHCA) sponsored and TWC CRD co-hosted a Fair Housing Overview Webinar Training attended by 235 property owners and managers, state and local governments, housing advocates, and other fair housing stakeholders from all over the state of Texas and other states. Designed to introduce, add to, and refresh fair housing knowledge, attendees learned how to apply their fair housing knowledge by reviewing case scenarios. Attendees also

gained general knowledge about HUD's new Affirmatively Furthering Fair Housing rule. The training was presented by Susan Hemphill, TDHCA's Fair Housing Project Manager, and Vickie Covington, TWC CRD's Investigator and Fair Housing Outreach Coordinator.

## TAA Lone Star Expo 2016

Vickie Covington attended the Texas Apartment Association's 2016 Play to Win Education Conference & Lone Star Expo, April 13-15, 2016, in Houston. This is the state's premier event for rental housing professionals. With more than 2,000 attendees, the conference broke attendance records.



Photo of Texas Apartment Association's 2016 Play to Win Education Conference & Lone Star Expo. Photo courtesy of CRD.

Ms. Covington hosted a booth, conducted equal employment opportunity and fair housing outreach, and distributed EEO and fair housing outreach materials to Conference attendees.



Photo of Vickie Covington at the CRD Booth. Photo courtesy of CRD.

## TDHCA and TWC Co-Host Fair Housing Reasonable Accommodations and Accessibility Training

On April 19, 2016, TDHCA sponsored and TWC CRD co-hosted a Fair Housing Overview Webinar Training attended by 268 property owners and managers, state and local governments, housing advocates and other fair housing stakeholders from all over the state of Texas and other states as well. Designed to provide attendees with knowledge of reasonable accommodations and accessibility for people with disabilities, attendees learned about the reasonable accommodation process. Attendees also gained knowledge about TDHCA properties' special requirements and HUD's new Affirmatively Furthering Fair Housing rule. The training was presented by Susan Hemphill and Vickie Covington.

## City of Austin Fair Housing Conference

The City of Austin Equal Employment/Fair Housing Office and TWC CRD hosted a Fair Housing Conference on April 20, 2016 at the Palmer Events Center, in Austin. One hundred and twenty people attended.

The theme of the conference was "Let's Work Together for Fair Housing." Keynote Speakers were Timothy Moran, Deputy Chief Housing and Civil Enforcement

Section, Civil Rights Division, US Department of Justice and Garry Sweeney, Regional Director, US Department of Housing and Urban Development.

The conference included timely topics such as Disparate Impact: A Standard not a Theory, Analysis of Impediments to Fair Housing Choice, Discussion of the HUD/DOJ Joint Statements on Reasonable Accommodations and Accessibility Requirements for Covered Multifamily Dwellings, Testing from Every Perspective: Tester, Respondent, Investigator, Diversity in Fair Housing, and the latest case law updates.

Michelle Goodwine, TWC CRD's Fair Housing Manager, presented Governor Abbott's Fair Housing Month Proclamation. Lowell Keig, TWC CRD's Director, was a



HUD Fair Housing Equal Opportunity Regional Director Garry Sweeney speaks on Affirmatively Furthering Fair Housing. Photo courtesy of CRD.

presenter for the case law updates panel, and Vickie Covington was a presenter for the testing panel.

## Fort Worth How to Be a Better Landlord Seminar

On April 26, 2016, Lowell Keig presented at the Fort Worth Fair Housing Seminar. 73 attendees were provided with information on fair housing and other issues



Photo of CRD Director Lowell Keig speaking at the Fort Worth How to be a Better Landlord Seminar. Photo courtesy of CRD.

landlords face. Mr. Keig served on a panel with Fort Worth Human Relations Commission Administrator Angela Rush and other housing leaders, and distributed fair housing outreach materials to attendees.

**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).** ■