



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:

Building Bridges	1
Texas Persons with Disabilities History and Awareness Month.....	2
CRD Stands up for Tenant in Race Case	3
Recent Fair Housing Case Summaries.....	4
Recent State Employment Case Summaries	4

Building Bridges

Texas Outreach and Education Campaign

The Texas Workforce Commission's (TWC) Civil Rights Division (CRD) has hit the road to assist and educate housing businesses and consumers on their rights and responsibilities, under the fair housing laws.

Focusing on areas that have been greatly affected by the oil and gas boom, CRD has organized an outreach and education campaign to establish contacts, assess needs and build positive working relationships.

This campaign is made possible through a Partnership grant from the U.S. Department of Housing and Urban Development.

CRD's anchor partners are the Texas Apartment Association and the Texas Affiliation of Affordable Housing Providers.

The Permian Basin is a prime example of the massive impact the oil and gas boom has brought to the area.

However, the affected area extends across hundreds of square miles of West Texas.

Due to extensive housing needs, the demand has driven up rental rates and sales prices for every type of residential property, which has affected everyone from renters, passerby travelers, and transient and temporary dwellers, to students in need

of housing, worker camps and all property owners.

So far CRD's outreach efforts have been directed at two main affected groups: the apartment and hotel associations and the hotel and lodging associations.

In coordination with TWC's Local Workforce Development Boards and Texas Workforce Solutions offices, an open invitation was sent to several associations and organizations to discuss areas of concern and how all groups may benefit from working together.

Interested parties include: the Permian Basin Apartment Association, the Permian Basin

**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

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



*Let's Work Together
for Fair Housing*



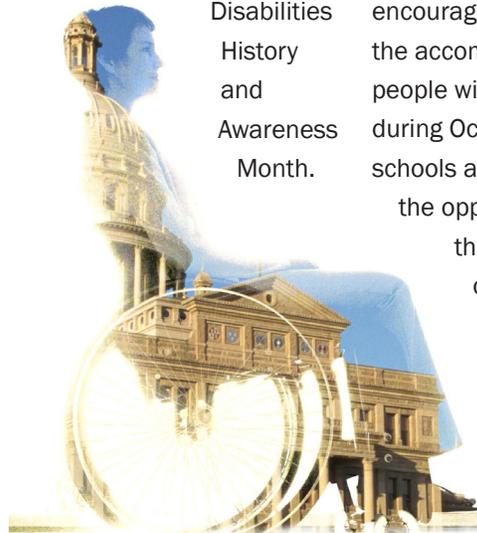
Gilda Bettis, fair housing coordinator of the Texas Workforce Commission Civil Rights Division, addresses the Permian Basin Hotel & Lodging Association's monthly meeting. *Photo courtesy of the Midland Visitors Bureau*

Hotel and Lodging Association will also continue building development corporations and
and the San Angelo bridges with chambers other stakeholders to further
Apartment Association. CRD, of commerce, economic fair housing. ■

Texas Persons with Disabilities History and Awareness Month

October marked Texas

Persons with
Disabilities
History
and
Awareness
Month.



Public schools and
state agencies were
encouraged to celebrate
the accomplishments of
people with disabilities
during October. Various
schools and agencies had
the opportunity to highlight
the achievements
of Texans with
disabilities who
made significant
contributions to
the state.

To celebrate

Texas Persons with
Disabilities History and
Awareness Month, the Texas
Governor's Committee on
People with Disabilities
posted daily bulletins
regarding disability history.
October was also National
Disability Employment
Awareness Month, which
highlighted the important
contributions, gifts and
talents Texas employees with
disabilities bring to the Texas
workforce. ■

CRD Stands up for Tenant in Race Case

Court Awards \$98,490.73 in Damages

Brenda Bang rented a home from Raymond Henshaw and had never had any issues with Henshaw – until, Bang said, Henshaw learned of her relationship with an African-American man. Henshaw began verbally harassing Bang, she claimed, to the point she no longer felt safe in her own home and feared for her daughter's, her boyfriend's, and her own safety.

Henshaw allegedly asked Bang “how long she had been sleeping with that [n----].” He also approached Bang and her boyfriend in a threatening manner holding a 2”x 4” piece of lumber and calling her a “stupid [b----].”

On one occasion, Henshaw blocked access to Bang's driveway with his trailer and spewed racial slurs until the Grayson County Sheriff was called to ask him to move the trailer blocking her residence. Henshaw turned off Bang's water and disabled the water pump until the Grayson County Sheriff was called again to have him reconnect the water pump and turn the water back on for the property.

Henshaw told Bang she was going to be evicted for having a “[n----]” boyfriend living with her.

Bang filed a complaint with the Texas Workforce

Commission Civil Rights Division (CRD) against Henshaw and the co-owner of the property alleging discriminatory terms, conditions, privileges, facilities, and the provision of services; making statements indicating a limitation; and intentionally threatening, intimidating, and interfering with Bang in connection with the rental and/or occupancy of her home. She alleged discrimination based on the race of her African-American boyfriend.

During the investigation, Bang's allegations were confirmed and CRD issued a Determination of Reasonable Cause and Charge of Discrimination.

The Office of the Attorney General filed a lawsuit by CRD on behalf of the State of Texas and Bang against Henshaw and the co-owner of the property under the Texas Fair Housing Act and Texas Workforce Commission rules. Henshaw and the other owner denied all of Bang's allegations.

On April 23, 2012, CRD filed a motion asking the court to grant summary judgment in its favor on all of Bang's claims. The court granted CRD's motion on June 6, 2012. CRD subsequently filed its Motion for Entry of Judgment, which

Discrimination

The prejudicial treatment or consideration of a person, racial group, minority, etc. based on category rather than individuality, excluding or restricting members of the group on the grounds of race, sex, or age.

the court also granted.

The State filed a motion for entry of judgment; the hearing took place September 24th, 2014; and the Motion was granted.

Final Judgment was issued on September 29, 2014, in favor of CRD against Henshaw. It was further ordered that within 90 days of the order, Henshaw shall:

- attend fair housing training and provide evidence of training was completed.
- pay \$98,490.73 in separate payments (\$2,240.73 to CRD, \$10,000 to Bang, and \$86,250.00 for attorney's fees and court costs).

In addition, a permanent injunction was ordered that Henshaw was permanently enjoined from:

Refusing to sell or rent, or to negotiate for the sale or rental of, or in any other manner make unavailable or deny to another because of race, color, religion, sex, familial status, or national origin; engaging in real estate transactions which

discriminate against another in the terms, conditions, or privileges of sale or rental of a dwelling because of race, color, religion, sex, familial status, or national origin; discriminating against another in the provision of services or facilities in connection with a sale or rental of dwelling because of race, color, religion, sex, familial status, or national origin; threatening, intimidating, or interfering with any person in the exercise or enjoyment of rights granted or protected by the Texas Fair Housing Act; contacting, or attempting to contact Bang, verbally or in writing; and operating, managing, or supervising the operation of residential rental property until he has attended fair housing training.

CRD Director Lowell Keig stressed that such conduct by a landlord is intolerable.

“We hope the relief ordered by the court sends a clear message to housing providers who engage in this type of behavior,” Keig said. ■

Recent Fair Housing Case Law Summaries

Tex. Dep't of Housing & Community Affairs (TDHCA) v. Inclusive Communities Project, Inc. (ICP)

(U.S. Supreme Court, Oct. 2, 2014)

The Fifth Circuit opinion was reported in Issue 4, July 2014. The State has appealed to the U.S. Supreme Court, which has granted certiorari on the sole question of whether disparate impact claims are cognizable under the Fair Housing Act.

Heinert v. Wichita Falls Housing Authority

2014 Tex. App. LEXIS 8241 (Tex. App.—Amarillo, July 29, 2014)

A tenant made threatening comments to the Wichita Falls Housing Authority

(WFHA) by telephone and in person. The WFHA sought to evict him. The tenant requested an accommodation due to a mental disability, asking that the WFHA abandon the eviction proceedings in favor of a mutually agreeable action plan.

The Court of Appeals stated that the tenant had to establish a nexus between the termination of his tenancy and his disability. Thus, the tenant needed to show that his threats were causally linked to his disability.

The record contained nothing to identify the nature of his mental disability or how it was causally linked to his threats. Rather, the record suggested his threats were not related

to his disability, and in fact were entirely inconsistent with conduct his mental health case manager described as typical for him. She testified that she did not consider him potentially dangerous, she had never felt threatened, and she had no concern that he posed a threat to others.

Based upon these facts, the Court of Appeals found in favor of WFHA by holding that a causal link was not established between the conduct forming the basis of the eviction and the tenant's disability. His tenancy was not terminated as a result of his disability, but instead was due to his failure to abide by the rules of the lease. ■

Recent State Employment Case Summaries

Adeshile v. Metro. Transit Auth.

2014 Tex. App. LEXIS 8041 (Houston [14th Dist.], July 24, 2014)

Adeshile filed a lawsuit alleging sexual discrimination. The Court of Appeals held that she failed to show that a disciplinary action was ever placed in her file, that she was denied a promotion, that she was suspended or terminated due to a verbal counseling, and that there was a causal connection between her participation in a protected activity and an adverse employment action to constitute retaliation. On the retaliation claim, the appellate court pointed out that a four-year span between a prior discrimination lawsuit she had filed and a verbal counseling suggested that the two events were not causally related.

KIPP, Inc. v. Whitehead

2014 Tex. App. LEXIS 8807 (Houston [1st Dist.], August 12, 2014)

Whitehead, a White woman, suffered a serious illness requiring hospitalization and Family Medical Leave Act (FMLA) absences from work while she was pregnant. Her duties as a teacher were

re-assigned while she was out on FMLA. When she came back after delivery at the beginning of December, she asked for her job back, but was told she would have to wait until after Christmas. When Whitehead followed up with the school's principal, an African American female, in early January 2014, the principal said, "You don't fit in. You just had a baby. You're an overpaid teacher. I can't afford your salary. I gave your job away. You cannot do this job having children. Things have changed around here. If you don't like it, you need to apply at Nordstrom."

Subsequently, the principal said Whitehead was not doing her job during a performance evaluation and terminated her in mid-February.

The appellate court pointed out that Texas Labor Code Chapter 21 does not require that a woman be pregnant at the time of an adverse action based on pregnancy. Women who have recently returned to work are within the protected class. The Court of Appeals said that such pregnancy cases must be determined on a case-by-case basis. In this lawsuit, the court held that

terminating her employment less than three months after she returned from maternity leave was sufficient to create a fact issue as to her membership in a protected class. Whitehead showed that her replacement and that person's subsequent replacement both were not pregnant.

(Editor's Note: The appellate court went on to state that Whitehead could state a claim for race discrimination because she was replaced with an African-American and then by a Hispanic, which were not within her protected class. Since Hispanic is not a race, this part of that determination may be questionable. In fact, a petition for review has been filed.)

Cook v. Morgan Stanley Smith Barney

2014 U.S. Dist. LEXIS 112681 (S.D. Tex. [Houston Div.], August 14, 2014)

The Court held that the employee's requested accommodation of a specific work location for an indefinite period of time was not reasonable. The employer had indicated a need for her to cross-train and improve communications with her supervisor by working at

another office.

The Court also stated that generally a request for a change in supervisors is not a reasonable accommodation request, and that here there was no evidence that a change would be reasonable. However, the Court held that there was conflicting evidence of the extent to which the parties engaged in the interactive process to determine the appropriate accommodation, and thus summary judgment could not be granted at that time. The Court further ruled that there was a fact issue on the claim of retaliation.

Jones v. Dallas County

2014 U.S. Dist. LEXIS 130802 (N.D. Tex., September 18, 2014)

The Court considered the summary judgment evidence and dismissed all of plaintiffs' claims except for racially hostile work environment. Plaintiffs alleged the following incidents constituted a hostile work environment:

- On one occasion during a departmental meeting, a supervisor put fake metal teeth in his mouth, "strutted around" and stated, "I got my bling" and "this is how we do it in the hood."
- A Coke Zero can was hung by a noose in a management common area

for about six months.

- For three to four days a bulletin board featured instructions that were drawn inside a caricature of an African-American male with an afro, goatee, and gold tooth.
- In a plaintiff's presence, a supervisor twice played a cell phone animation of a cooked and dressed turkey with the head of an African-American man that said "gobble, gobble, ni--r, ni--r, ni--r."
- A plaintiff discovered graffiti with the words "White Power" painted on the walls of the jail facility that was not removed until the next day. ■

Attention All Civil Rights Reporter Readers!

Beginning with the next issue, the Civil Rights Reporter is going to be split up into two reports:
Fair Housing and Employment.

Please click on the link below to sign up to receive just the Housing Report, just the Employment Report, or both.

www.texasworkforce.org/crrsubscribe