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1 P R O C E E D I N G S

2 WEDNESDAY, JULY 20, 2011

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN ANDERSON: Okay. Good morning.

6 And it's -- it is Wednesday, July 20th, 2011, 9:00 a.m.,
7 and we'll go ahead and begin with the meeting. Welcome,
8 Everyone. Welcome, Guests. We're going to have a
9 report on housing investigations today and also our
10 regular items -- regular agenda items.

11 Anything before we get started that any of
12 the Commissioners have?

13 COMMISSIONER DIGGS: No.

14 AGENDA ITEM NO. 2

15 CHAIRMAN ANDERSON: Okay. Ms. Morrison
16 has requested public comment. Ms. Morrison is from
17 Austin, Texas. You have three minutes.

18 MS. MORRISON: Thank you. Okay. You have
19 a lot to discuss in executive session today, how to deal
20 with budget cuts, how to deal with another performance
21 plan from HUD, losing the appeal of my jury verdict. If
22 you eliminated the manager that handed my judgment award
23 to me on a silver platter due to an utter lack of
24 understanding of basic EEO law, I would not be here
25 today. The CRD cannot improve much with the current

1 management team in place. Read the HUD contract so that
2 you will get an understanding that this judgment can
3 actually void your HUD contract and all other federal
4 contracts in the state.

5 The agenda indicates that CRD staff is
6 slated to train Commissioners on HUD policy and
7 procedures. Because CRD has been on and off HUD
8 performance improvement plans for most of the last three
9 or four years, I wonder why a HUD official wasn't asked
10 to do the training. Then maybe the managers could learn
11 something, too. Obviously HUD does not want to
12 decertify the CRD. But how long can they give the CRD
13 to master just the basics? Obviously some of the
14 managers are simply incapable of learning, understanding
15 HUD's policies and procedures or relevant law and for
16 that reason are incapable of training and supporting the
17 CRD housing investigators. Managers are responsible for
18 reviewing and approving investigators' work product
19 before it is submitted to HUD and are, therefore,
20 responsible.

21 If you reviewed and actually verified the
22 educations and backgrounds of CRD managers, I believe
23 you will agree that some never qualified for their
24 positions. One current manager's ignorance of EEO law
25 and misrepresentation of facts has already cost the

1 State estimated millions due to inability to train and
2 manage in addition to a jury verdict which was just
3 recently upheld upon appeal. I would not be in front of
4 you today except for this manager's shortcomings. How
5 you wonder why things are in such -- how can you wonder
6 why things are in such disarray when you employ such as
7 this? It is unfair to respondents, employers, to
8 tenants and employees, and it costs all of us taxpayers.

9 Texas does not want the feds to have total
10 control of all investigations. Despite the errors in
11 the information submitted in the Texas Workforce
12 Commission, EEOC did have cause cases in 2010 in the
13 State of Texas. You can easily verify this on their web
14 site. Retaliation is a basis for discrimination that so
15 few seem to understand.

16 The Third Court of Appeals agreed with my
17 jury award. However, the same manager that was the
18 center of my discrimination/retaliation is still
19 employed and is primarily the reason for the CRD's
20 problems with HUD. I'm alarmed at the lack of knowledge
21 of employers and housing providers in the State of
22 Texas. They are not receiving the continual training
23 the Commission was once obligated to perform throughout
24 the State of Texas. The lack of knowledge for
25 employment and housing providers is detrimental to the

1 State, and you should be doing something about it.

2 Thanks.

3 And if you would just read the little 26
4 pages opinion by the Court of Appeals, I think you will
5 be enlightened. Thank you.

6 CHAIRMAN ANDERSON: Okay. Just one time
7 it would be refreshing if you could come and say
8 something positive, but I guess that's not in your
9 nature. So we'll move on.

10 MS. MORRISON: Oh, I did say something
11 positive. The Court of Appeals agreed with --

12 CHAIRMAN ANDERSON: That's enough
13 discussion. You've already had your time.

14 AGENDA ITEM NO. 3

15 CHAIRMAN ANDERSON: Mr. Babiak.

16 MR. BABIAK: Good morning, Chair Anderson.

17 CHAIRMAN ANDERSON: I believe you have
18 some good news.

19 MR. BABIAK: Well, I have information, and
20 you will decide if it's good or bad. Good morning,
21 Chair Anderson, Commissioners. I'm Jonathan Babiak, CRD
22 director. We are on Agenda Item 3, activities for the
23 third quarter. This covers the period beginning
24 March 1, ending May 31, 2011. We have received the
25 report from the work done by TWC Internal Audit. I will

1 go over the high points of that report. In addition, if
2 each of you would let Becky know your preference, if you
3 would like to receive that in hard copy, electronic copy
4 or both. She will make sure to get that to you.

5 The audit had three items and some
6 observations. The first item was a recommendation to
7 streamline the work that we do in policy reviews. I
8 agree with the recommendation. I'm working with also
9 the General Counsel to make sure that any changes that
10 we do in our work on policy reviews continues to satisfy
11 the requirements of the statute.

12 The next item, to standardize the
13 investigations and the mediations, this would cover 18
14 CRD staff, really the staff who perform the essential
15 functions of the CRD mission. I agree with the
16 recommendation of the auditors. And, in fact, to
17 standardize the work activities of the production
18 employees was something that was already in process by
19 the time the auditors started their work, and we
20 continue to pursue standardizing the investigations and
21 the mediation processes.

22 Finally, the third item, the auditors
23 believe that we could take advantage of emerging
24 technologies in how we deliver training. I agree with
25 the recommendation. We have already modified our

1 contract with Texas Department of Criminal Justice.
2 They are our largest customer in terms of training. We
3 will be delivering training for TDCJ through video
4 conferencing. This will reduce the cost that TDCJ
5 incurs because they will not have to pay for travel for
6 their staff who attend the training.

7 Other observations from the audit report
8 included an observation on our work environment. Our
9 staff spend a lot of time working on the phone, and we
10 don't use headsets; and so we have now made headsets
11 available to staff. And just to understand the --
12 what's going on with that, staff often perform
13 interviews on the telephone. The interviews are
14 documented, and it's simply easier for an investigator
15 to talk on the phone and type simultaneously while
16 wearing a wireless headset than to attempt to hold the
17 telephone handset between the ear and the shoulder.

18 Another observation was related to the
19 controls that we have on our employment intake
20 processes. Again, this was something that we had
21 observed on our own, and I'm working with the employment
22 manager to improve those controls. And, in fact, I
23 think we communicated to you after the last meeting some
24 of the new processes that the employment manager had
25 created to improve the controls and the efficiency with

1 which we process intake.

2 And then the final observation was simply
3 to be aware of any available automation that may be
4 available to us through TWC, and I'll continue to seek
5 opportunities to use available automation. One hurdle
6 that we have in that regard is that our two primary
7 tracking systems are provided to us by our federal
8 partners, EEOC and HUD and, therefore, are largely
9 outside of our control.

10 Other items during this quarter, we --

11 CHAIRMAN ANDERSON: Excuse me, Jonathan.
12 Is there any move on the part of the feds to upgrade
13 their software, these programs? Are you aware of that?

14 MR. BABIAK: I really don't know. We can
15 certainly find out, and if the managers have the
16 information on that question, they can report that to
17 you during their items later today.

18 CHAIRMAN ANDERSON: Are you-all pleased
19 from a user standpoint with the programs, the softwares?

20 MR. BABIAK: Again, I'd have to let the
21 managers respond to that. I think --

22 CHAIRMAN ANDERSON: There was kind of a
23 long silence there. I think you weren't
24 enthusiastically --

25 MR. BABIAK: Well, I think users often

1 accept what we're given, and to the extent that the
2 provider is open to input, we provide the input and we
3 partner with them to improve the tracking systems. I do
4 know that the HUD system does have issues from time to
5 time. HUD is aware of the issues. There are many other
6 agencies similar to CRD using that application. When
7 there is an issue, normally HUD is already aware of it
8 by the time we notify them simply because another agency
9 on the system has already notified them.

10 CHAIRMAN ANDERSON: I know from -- from
11 our work from where I work, the performance appraisal
12 system is very cumbersome. You have to go back and
13 forth between screens, and it's -- it's just awkward and
14 cumbersome to use. I didn't know if that was the case
15 with some of the software you're using or not. And
16 we'll -- you can go ahead and look into it and see. As
17 you said, there's nothing we can do. You use whatever
18 they give you.

19 MR. BABIAK: And we certainly continue to
20 communicate to them our needs and our issues when they
21 arise.

22 Next item, the managers and the men from
23 Budget and I met with Commissioners Diggs and Stidvent
24 in June to present interim briefing on the budget. I've
25 already spoken to the folks in Budget, and we are

1 prepared to do our next one in September for the results
2 through July 31. And we will be in contact with the
3 Commissioners to coordinate that.

4 CHAIRMAN ANDERSON: So we'll go ahead and
5 continue at least through this fiscal year. Your fiscal
6 year ends in September?

7 MR. BABIAK: Fiscal year will end on
8 August 31.

9 CHAIRMAN ANDERSON: Okay. So that
10 September report would be finishing up this current
11 fiscal year?

12 MR. BABIAK: Well, if we -- if we meet in
13 September, the August numbers will probably not be
14 available. We can postpone the briefing so that the
15 folks in Budget have an opportunity to close out the
16 fiscal year. That may push it to the point where it's
17 almost time for the quarterly commission meeting. So
18 we'll communicate with you and the two other
19 commissioners to address what -- your needs and what you
20 think is best.

21 CHAIRMAN ANDERSON: Just communicate with
22 Commissioner Diggs and Stidvent and deal with what they
23 decide. I know they've been involved in this process
24 all along. I think we want to continue to look at it
25 for a while longer, but at some point, we want to stop

1 and say, okay, we're not going to look over your
2 shoulder every single, you know, month --

3 MR. BABIAK: Okay. We will get it set up.

4 CHAIRMAN ANDERSON: -- particularly as the
5 numbers look good --

6 MR. BABIAK: Understood.

7 CHAIRMAN ANDERSON: -- which we'll see
8 soon.

9 MR. BABIAK: Yes, sir. You had asked to
10 have us review whether we will need to hire mediators or
11 to hire additional staff. We've spoken to the
12 mediators, and in assessing supervisory resources, I
13 would recommend that right now we do not hire additional
14 staff. Hiring staff oftentimes places great demands on
15 supervisors to get the new staff up to speed. And with
16 the number of new staff that we have and with two
17 vacancies in the process of being filled right now and
18 considering the kind of work we're doing on
19 standardizing our processes, I would like to complete
20 some of that work before we consider hiring additional
21 staff simply because of the supervisory resource
22 limitations that we have right now.

23 CHAIRMAN ANDERSON: But the mediator would
24 probably be internal, wouldn't it? Wouldn't that be an
25 internal hire normally?

1 MR. BABIAK: Certainly posting it internal
2 would be an option. In talking to the mediators, they
3 believe that they can process the work without
4 additional staff. And based on the standardization of
5 the processes that we're working on right now, we
6 believe that there's efficiencies to be found in the
7 mediation processes.

8 CHAIRMAN ANDERSON: Okay.

9 MR. BABIAK: Legislation. In your
10 materials at the "Director" tab on the second page,
11 you'll see a listing of bills that had potential impact
12 on CRD. With few exceptions, all of these bills were
13 left in some pending state and did not pass. Let me
14 cover the exceptions. First, House Bill 1178, this bill
15 amends Section 431 of the Government Code which already
16 provided for protections against adverse employment
17 actions to state military forces which includes the
18 State Guard and the National Guard when on state duty.
19 The effect of the bill is to add an administrative
20 complaint process to the existing cause of action.

21 We communicated with the Employer Support
22 of the Guard and Reserve, otherwise known as ESGR. ESGR
23 is a volunteer organization with the United States
24 Department of Defense. ESGR currently provides
25 mediation services to the United States Department of

1 Labor in connection with administrative complaints filed
2 under the Uniformed Services Employment and Reemployment
3 Rights Act of 1994, otherwise referred to as USERRA.

4 And we are working with General Counsel here at TWC to
5 create a memorandum of understanding to have ESGR
6 mediate any complaints arising under House Bill 1178.

7 In addition, the information that we got
8 from ESGR indicates that we anticipate a very, very
9 small number of complaints to arise under this bill.
10 ESGR estimates that we will see three to five per year,
11 and the circumstances under which a complaint would
12 normally arise would be a disaster somewhere in the
13 state where state military forces would be called to
14 duty. In my opinion, the biggest task in connection
15 with this bill is to educate the employer community on
16 their obligations so that they understand that they are
17 not allowed to take adverse employment action against
18 state military forces called to training or duty, and we
19 will work with the TWC communication staff to achieve
20 that.

21 CHAIRMAN ANDERSON: Probably be a good
22 idea to -- they've already had one in Dallas, veterans
23 symposium, and I believe in San Marcos. The one in
24 Houston which will be at Houston Community College on
25 September 28th, you-all may want to get in contact

1 with Dwain -- is it -- Dwain is the executive director
2 of ESGR for Texas?

3 MR. BABIAK: Mr. Dwain James is the
4 executive director, yes, sir.

5 CHAIRMAN ANDERSON: And you may want to
6 get in touch with him, but I understand they're also
7 going to have one in Corpus after the one in Houston.
8 And there should be employer -- this is a symposium for
9 the employers and not for veterans who are looking for
10 jobs but reemploying the veterans and the obligations of
11 employers. So you-all might want to do that, to touch
12 base and see if you-all can't participate, contribute,
13 whatever.

14 MR. BABIAK: We will do that.

15 CHAIRMAN ANDERSON: September 28th is the
16 one in Houston.

17 MR. BABIAK: Yes, sir. Any questions on
18 House Bill 1178?

19 (No audible response.)

20 MR. BABIAK: Next is Senate Bill 1327.
21 The companion to this bill was House Bill 3591. Senate
22 Bill 1327 provides that compliance officers at higher
23 education institutions may release information that they
24 have obtained in an investigation to organizations like
25 the Civil Rights Division and the EEOC. I will say that

1 I do not know what was the issue that this bill intended
2 to address for CRD. The only action for us to take is
3 to train staff and make staff aware that when we are
4 conducting an investigation with an institution of
5 higher education to make sure they are aware of the
6 effect of this bill so that they know that they can
7 release to us information that they consider
8 confidential that is relevant to the work that we're
9 doing.

10 Finally, one bill that is not on the list
11 but does indirectly impact CRD is House Bill 2463. This
12 was analyzed by the staff in Open Records here at TWC.
13 House Bill 2463 relates to the release of information in
14 our employment investigation files. From time to time
15 when we do an investigation, we request information from
16 the employer. The employer will oftentimes provide us
17 information that goes beyond what we need and what we
18 request. In a discrimination case, we need to determine
19 if the charging party was treated differently based on
20 protected class status. To do that, we ask for
21 information on similarly situated individuals. The
22 information that we receive from employers will
23 occasionally include personal identifying information
24 such as home addresses, home telephone numbers and in
25 some cases medical information.

1 When the case closes, the charging party
2 can request and receive a copy of the investigation
3 file. Until now the Attorney General has told us that
4 the Texas Public Information Act does not allow us to
5 redact the type of information that I just described.
6 House Bill 2463 amends Chapter 21 of the Texas Labor
7 Code, and it is effective September 1. We will be able
8 to redact personal identifying information and the
9 medical information that we've received about similarly
10 situated individuals in the course of our
11 investigations.

12 And I'd like to express appreciation to
13 TWC Open Records, particularly Lona Chastain, for the
14 work that she did in connection with this bill.

15 Any questions on House Bill 2463?

16 CHAIRMAN ANDERSON: I think it's probably
17 the same -- the same thing applies in House Bill 3591
18 and Senate Bill 1327 because higher education, those
19 records are under federal law, I believe, protected. I
20 mean, the parents can't even get grades and information
21 on -- on what's in there. So if that's part of an
22 investigation, that could be subject to open records, I
23 would assume, just like the information you're getting
24 would be greater than what you want, and you can't
25 redact it. I would guess that that's probably what this

1 was to address so that you can keep that information
2 confidential -- or is it supposed to be now available
3 under those two bills?

4 MR. BABIAK: I will follow up and find out
5 what is the impact on the higher education information
6 that would otherwise be considered confidential but is
7 presented to us in the course of an investigation,
8 whether it would then be subject to release by being in
9 our investigation file.

10 CHAIRMAN ANDERSON: Yeah, because we don't
11 even investigate those. We have General Counsel
12 investigate student complaints, and I think many -- they
13 keep a Chinese wall between, you know, what we
14 investigate and what our investigative by a student --
15 in the case of a student complaint. So that's probably
16 what this is addressing, but please -- you know, please
17 let us know.

18 MR. BABIAK: Yes, sir. At the two past
19 meetings, I had discussed the training on objectivity,
20 that we were working with TWC Training and Development
21 to create. I can report to you today that I
22 participated in a pilot of the training. TWC employees,
23 many individuals, classified as investigators, we have a
24 department called Labor Law. Primarily Labor Law
25 investigates claims for unpaid wages under state law.

1 We also have in our Unemployment Insurance Division a
2 department named Benefit Payment Control Investigations,
3 and that unit investigates individuals who are filing
4 claims for unemployment, working, being paid and failing
5 to report the work and the earnings to us. And staff
6 from those two offices participated in a pilot.

7 In the group I was in, some of the
8 comments included, "This is the first training I've had
9 at TWC where I know how I'm going to apply it when I go
10 back to do my job." The staff member from BPC
11 Investigations said, "Everybody in my department should
12 be required to take this training." Approximately half
13 of the CRD staff took the training last week on July 13.
14 The remainder will take the training next week on
15 July 27. Yesterday I had occasion to be on the phone
16 with the HUD regional director, Gary Sweeney, and told
17 him that we were training staff. Mr. Sweeney asked if
18 he could send somebody to sit in on the training on
19 July 27, and he asked me to put our training and
20 development unit in touch with him so that he could
21 discuss paying for the training for HUD staff. So I'm
22 very encouraged by what we've seen so far from that
23 training.

24 CHAIRMAN ANDERSON: So Brenda and this --
25 her HR staff did a pretty good job on this -- or is it

1 HR or is it a separate division?

2 MR. BABIAK: Training/Development is part
3 of HR here at TWC. Louis LeDoux is the director, and
4 his trainers, Roxanne and Lynnell, work together to
5 create the content. Lynnell is a former TCHR employee
6 in T&D. In my opinion, the content of the training is
7 fantastic, I would say that if any of the Commissioners
8 could be here on the 27th I'd -- I'd welcome you to come
9 and sit in on the training. And if you'd like, I'll
10 find out when there would be other sessions made
11 available, and if you'd like to attend, I can arrange
12 for that to happen.

13 CHAIRMAN ANDERSON: Is this a regular,
14 stable course, Brenda, now, or is this just the one
15 time?

16 MS. NICHOLS: It can be offered anytime.

17 CHAIRMAN ANDERSON: Okay. So it's a --
18 it's a developed and planned course of instruction?

19 MS. NICHOLS: Yes, sir.

20 CHAIRMAN ANDERSON: Well, convey -- convey
21 our congratulations for a job well done to the
22 individuals, and hopefully you will see some results.
23 Is there any way you can measure results from before and
24 after a training?

25 MR. BABIAK: One part of the training is

1 an individual action plan for each participant. In the
2 draft of the training, Roxanne had created content with
3 what I'll call indicators that show when objectivity is
4 being lost. Some examples are use of emotive language
5 resorting to fallback choices, resorting to rigid
6 choices, and all of these are fully developed in the
7 training. And I'll openly admit to you that I'm only
8 giving you a little sample of the content because I
9 really would like it if you would come and attend.

10 In the draft for the list of indicators,
11 the trainers had -- for one of the indicators created an
12 action that the individual can take to address that loss
13 of objectivity. When I sat down with the trainers to
14 discuss the draft, I said, "Giving people an action item
15 is fantastic," and they were very pleased. And I said,
16 "I want an action item for every single indicator," and
17 they did that. And as I mentioned before, the -- part
18 of the training is for the participant to create an
19 individual action plan. I believe that this will give
20 the staff member and the supervisor common terminology
21 to discuss any loss of objectivity that either of them
22 observe throughout the work. I suppose we could -- we
23 could track and try to document the loss of objectivity
24 in any kind of improvement that we see by applying the
25 action plan, and we can attempt to do that.

1 CHAIRMAN ANDERSON: Thank you.

2 MR. BABIAK: I don't have anything further
3 specific on my activities unless the Commissioners had
4 any questions on any of the items and the materials.

5 CHAIRMAN ANDERSON: How long is that
6 training, the objectivity training?

7 MR. BABIAK: The training is four hours.

8 CHAIRMAN ANDERSON: Four hours. Okay. Is
9 it in the morning or afternoon?

10 MR. BABIAK: The class -- last week's
11 class was a morning class, and I believe that next
12 week's class is a morning class.

13 CHAIRMAN ANDERSON: Commissioners, any
14 commissioners have any questions or comments?

15 (No audible response.)

16 CHAIRMAN ANDERSON: Seeing none, let's
17 move on.

18 AGENDA ITEM NO. 4

19 MR. BABIAK: Okay. We're on Agenda
20 Item 4 --

21 CHAIRMAN ANDERSON: 4, right.

22 MR. BABIAK: -- discussion, consideration,
23 possible action regarding quarterly report concerning
24 the TWC Civil Rights Division budget for third quarter
25 Fiscal Year 2011, and I think Daryl Steglich will come

1 join me for this. And if you will, turn to the page in
2 your materials with the slide titled "Expenditures by
3 Category, Fiscal Year Comparisons 2009, 2010, 2011 as of
4 May 31st." And before I start, I apologize for the
5 small typeface. I am working with the folks in Budget,
6 and we will have you a better presentation at the next
7 meeting.

8 I would like to start by drawing your
9 attention to the 2011 total projected revenue amount in
10 the upper left-hand corner, approximately \$2,666,000,
11 and then if you will look at the column for "Total,"
12 this is our equal expenditures through May 31,
13 \$1,952,000. Using that number, we make a straight line
14 projection for the fiscal year, and as of May 31, we
15 project that we will expend \$2,492,000 approximately,
16 which is about 93 percent of our projected revenue,
17 leaving a favorable variance of \$174,000. And as
18 comparison, we've provided the year-end expenditures for
19 each of 2010 and 2009 below, and so at this time we are
20 on course to not only spend less than we make, but, in
21 addition, spend less than we have spent in each of the
22 last two fiscal years.

23 CHAIRMAN ANDERSON: And that's somewhat --
24 I mean, you-all have done a great job. You've got the
25 revenues going up, and you're controlling cost. But

1 it's also a function of salaries, and salary and benefit
2 costs are a function of salaries because they're based
3 on a percentage; is that correct?

4 MR. BABIAK: Yes. Benefits are a
5 percentage of salaries.

6 CHAIRMAN ANDERSON: Okay. Just by not
7 filling some of these positions, obviously the
8 expenditures are less, and you feel that you --
9 obviously you're still making goals, and you're still
10 bringing in the revenue with the reduced staff.

11 MR. BABIAK: Yes, sir. Any other
12 questions about this slide?

13 CHAIRMAN ANDERSON: Commissioner Diggs, do
14 you-all have any comments or questions since you've been
15 participating in the --

16 COMMISSIONER STIDVENT: I would just add
17 my congratulations that this is consistent with the
18 meetings that we've been having, and things are on the
19 right track. And we're really pleased to see this.

20 MR. BABIAK: I will say that any
21 congratulations for the results so far has to go to the
22 production staff and the support staff. They are the
23 ones doing the work and getting us these results.

24 COMMISSIONER STIDVENT: A terrific team
25 effort.

1 MR. BABIAK: Thank you.

2 CHAIRMAN ANDERSON: Again, you-all are to
3 be commended for the work, the effort and results --
4 positive results as opposed to some comments we hear.

5 MR. BABIAK: Well --

6 CHAIRMAN ANDERSON: Some of the hard work
7 and the efforts are obviously paying off.

8 MR. BABIAK: And for those of you who will
9 join us for lunch later, you can talk to staff directly
10 and thank them personally.

11 Okay. Our next slide is the EEOC and HUD
12 cases closed and revenue earned for Budget Year 2011 as
13 of May 31, 2011 report. I think this report is
14 self-explanatory. I will say, on the EEOC cases based
15 on the adjusted contract amount, we now know that we
16 were behind pace through February. This is the last
17 column in each of the two reports. And just as
18 explanation, the table on the left is a count of cases,
19 and the table on the right is the dollar amounts
20 associated with those cases. The good news is that as
21 of May 31 we are ahead of pace on our HUD cases by 16,
22 and we are ahead of pace on the EEOC cases by 4. Also,
23 since the last commission meeting, EEOC has increased
24 the reimbursement amount per case from \$550 to \$600.

25 CHAIRMAN ANDERSON: Every little bit

1 helps, and that is a little bit. What -- go over again
2 the employment target from EEOC. And that was modified
3 at your request, their request? What was that about
4 again?

5 MR. BABIAK: The contract amount that I
6 was told when I arrived in November was approximately
7 800 cases. The -- and the projections were before
8 today's meeting based on that contract amount of roughly
9 800 cases. I believe that in connection with the
10 increase in the reimbursement amount EEOC modified the
11 contract and gave us more cases, and so we have
12 retroactively adjusted the status to reflect the higher
13 contract amount.

14 COMMISSIONER DIGGS: Is this outside of
15 the annual upward modification that we've asked for over
16 the past couple of years?

17 MR. BABIAK: Yes, that's correct.

18 COMMISSIONER DIGGS: Okay.

19 MR. BABIAK: The upward modification is
20 the process by which EEOC adjusts contract amounts and
21 for 75 percent of the year has been completed. The
22 federal fiscal year begins on October 1. 75 percent of
23 the federal fiscal year is completed as of June 30. The
24 liaison for EEOC, Mr. Jaime Valdez, has explained to me
25 that EEOC reviews all of the agencies. After June 30th,

1 those who have completed 75 percent or more of their
2 contract amount are eligible for an upward modification.
3 Of course, whether any agency actually receives an
4 upward modification depends upon whether any other
5 agency is subject to a downward modification. The
6 employment manager will have more information for you on
7 our status. I can tell you right now that we will not
8 be subject to a downward modification.

9 COMMISSIONER DIGGS: Thank you.

10 MR. BABIAK: Any other questions on these
11 two charts?

12 (No audible response.)

13 MR. BABIAK: Now we are on the BY 2011
14 projected revenues and expenditures as of May 31, 2011.
15 And, again, I apologize for the size of the font on this
16 presentation. I believe that Becky has distributed to
17 you a better copy, and I will say that as I learn more
18 about how we track revenue and expenditures -- I've
19 talked to Daryl in Budget about this. I believe that
20 we're trying too hard to capture too much information on
21 a single page.

22 What we're capturing on this page is three
23 different things. First we're capturing a comparison
24 between budgeted revenue and actual revenue. Next we're
25 capturing a comparison between budgeted expenditures and

1 actual expenditures. And then finally we're trying to
2 capture a comparison between actual revenue, actual
3 expenditure to date and the projections from those
4 actual results. And so I believe that in the future
5 we'll be taking this information that is now on one page
6 and breaking it out to three different pages. I think
7 it will be easier to understand, but let me go through
8 the information.

9 And, again, as background customarily our
10 HUD activities can be supported solely with HUD revenue;
11 normally do not need support by general revenue.
12 However, if necessary, we can expend general revenue to
13 support HUD activities. Our activities in EEOC
14 investigations and training and monitoring normally are
15 not self-funded by our reimbursements, and as a result,
16 we do expect to use general revenue to support those
17 activities. That's why we have separated the HUD
18 numbers from the next three columns. The next three
19 columns are total in the next to the last column on the
20 right. And at this point, we are right now projecting
21 to expend more than our revenue on the HUD side.

22 Talking to Daryl, he has made it very
23 clear that straight line projection may or may not hold
24 true by the time we get to the end of the fiscal year.
25 Our EEOC revenue, although we are ahead of pace on the

1 revenue side, again, we expect to expend more than the
2 amounts we are reimbursed. This is completely routine,
3 and we will make up that difference with general
4 revenue. The training and monitoring, again, we project
5 to spend more than the revenue it generates. We will
6 support that with the general revenue.

7 And then finally the important information
8 on this chart is the final column in the line for the
9 projection which is the same as we saw on the first
10 number. Right now we project that we will expend 93
11 percent of our revenue and end the year with a favorable
12 variance.

13 Were there any questions on this
14 information?

15 CHAIRMAN ANDERSON: And you're looking at
16 \$50,000 -- almost \$60,000?

17 MR. BABIAK: I think the \$59,600 is the
18 revenue variance.

19 CHAIRMAN ANDERSON: Okay.

20 MR. BABIAK: The total variance is what we
21 saw on the first slide which right now is projected to
22 be approximately \$174,000.

23 CHAIRMAN ANDERSON: Okay. So you would
24 carry that over to the next fiscal year?

25 MR. BABIAK: Yes, that's correct.

1 CHAIRMAN ANDERSON: Okay. And you said
2 HUD -- you were going to expend more in HUD than you're
3 receiving?

4 MR. BABIAK: That's the projection right
5 now. The -- the straight line projection, as I
6 mentioned before, is just that. It's a straight line
7 projection based on what we have expended. The
8 expenditures do not occur proportionally throughout the
9 year. And we may have made one-time expenditures
10 earlier in the year, that because we don't make them in
11 the last three months, we will come out with a favorable
12 variance on the HUD activities standing alone.

13 CHAIRMAN ANDERSON: The next biennium's
14 budget -- I mean, you're using general -- obviously
15 general revenue to support what goes on in training,
16 what goes on in employment. What's going to happen with
17 general revenue next year? Are we going to have to use
18 up all that -- the surplus we have this year to make up
19 for what there -- maybe not getting next year?

20 MR. BABIAK: From my discussion with staff
21 in Finance, the proposed budget right now balances for
22 CRD. I believe that standing alone that budget will not
23 need the carryover. We will have it if necessary, but
24 right now the budget for CRD is balanced. We will know
25 more once that proposal is presented to the TWC

1 commissioners.

2 MR. STEGLICH: Let me interject. For the
3 record, Daryl Steglich, Texas Workforce Commission. For
4 the civil rights program as far as the appropriation is
5 concerned, there was no reduction in general revenue
6 funding. That was proposed by TWC, and, therefore, the
7 funding is flat. There's no extra, but there -- the
8 funding is -- is flat. That was a decision --
9 management decision that was made by the Texas Workforce
10 Commission.

11 CHAIRMAN ANDERSON: And this includes -- I
12 know there's going to be -- because there is -- where I
13 work, which is state benefits, there's going to be some
14 increased costs there. There's going to be some
15 increased costs that you're going to have to absorb?

16 MR. STEGLICH: Yes, sir. There's one
17 percent of salaries -- expended salaries that will go to
18 ERS that will come out of the appropriated amounts.
19 Yes, that is a slight increase. The general revenue
20 portion of that, it's my understanding, does not impact
21 the dollars that -- for the civil rights program. Now,
22 it will -- it will impact the rest of the -- the funding
23 sources. However, like Jonathan stated, we've got --
24 we've got a balanced budget for 2012 based on the number
25 of cases closed and the expected revenue that we have

1 for EEOC, HUD and training and monitoring.

2 CHAIRMAN ANDERSON: And is there any
3 state-mandated salary increases for employees, or is
4 there -- is it zero?

5 MR. STEGLICH: I am not aware that there
6 are any mandated increases. We have, of course,
7 increases that occur for health insurance and, like I
8 said, the one percent that --

9 CHAIRMAN ANDERSON: I guess -- I guess the
10 question is if the benefit cost to the employees are
11 going up and there's no increase, essentially they'll --
12 employees will be losing money out of their paycheck as
13 a result of the increases and the benefits.

14 MR. STEGLICH: Yes, sir. There is some --
15 there is some impact. The State picks up 100 percent of
16 the employees' --

17 CHAIRMAN ANDERSON: Costs.

18 MR. STEGLICH: -- group insurance --

19 CHAIRMAN ANDERSON: Right.

20 MR. STEGLICH: -- and half of the
21 dependent group insurance. So there could be some
22 impact, yes, sir.

23 CHAIRMAN ANDERSON: In the pensions, is
24 there any modifications to that?

25 MR. STEGLICH: The retirement mandated by

1 the -- by the State of Texas is at 6 percent where it
2 was 6.5 percent last year.

3 CHAIRMAN ANDERSON: So they're cutting
4 back on that, but that's just what you're going to
5 receive, not what employees are paying out or anything.

6 MR. STEGLICH: That's -- that's correct.
7 Yes, sir.

8 CHAIRMAN ANDERSON: Any other -- any
9 questions from the commissioners on --

10 (No audible response.)

11 AGENDA ITEM NO. 5

12 MR. BABIAK: Okay. At this time, we are
13 at Agenda Item 5, Discussion, consideration, possible
14 action regarding the quarterly report concerning TWC
15 Civil Rights Division employment enforcement and
16 training and monitoring activities for third quarter of
17 Fiscal Year 2011. I will turn it over to Janet Quesnel.

18 MS. QUESNEL: Good morning, Chair
19 Anderson, Commissioners. For the record, I'm Janet
20 Quesnel, manager of Employment Investigations and
21 Training and Monitoring. In Employment, we closed 82
22 complaints in June, resulting in our contract coming
23 through with a total of 912. We were a little behind in
24 earlier months, as Jonathan mentioned earlier, but
25 because of our staff's hard work and extra efforts, we

1 have exceeded the requirement and are now eligible for
2 the board modification.

3 I'd also like to bring to your attention
4 that in September of 2010 we closed 80 complaints at an
5 average of -- average cost per case of \$1,032. Eight
6 months later in May of 2011, we closed 80 complaints at
7 an average cost per case of \$834. From September, 2010
8 to May 31st, 2011, the average cost per case was \$972.
9 This decrease in cost per case has eased the burden on
10 our general revenue by 19 percent. With EEOC's increase
11 of their payment per case from \$550 to \$600, we have --
12 our revenue increased this -- for June to more than
13 \$4,000 than it would have been at the old rate.

14 At the last commissioners meeting, we
15 discussed our plan to improve the efficiency of our
16 intake process. We implemented the changes in April,
17 and as our intake staff has gotten more familiar with
18 the process, they have stated that the process seems to
19 be much smoother and they are getting much better
20 controls on their workloads. So that's improving our
21 output.

22 In May Jonathan and I made the decision to
23 post our vacant team lead supervisor position as an
24 Investigator V position. With this change, we lowered
25 the salary level, and it became a revenue-producing

1 position. And we've completed the hiring process, and
2 Roy Minton was chosen for the position. He's right over
3 there (indicating).

4 Our cases over 300 days number 18 at this
5 time.

6 CHAIRMAN ANDERSON: He's moving from
7 Housing to Employment. Is that what you're saying?

8 MR. BABIAK: Yes, that's correct.

9 MS. QUESNEL: I'm sorry. Our cases over
10 300 days number 18 at this time. We are staying on top
11 of the issue and working to lower the number at every
12 opportunity. We're moving in the right direction, and
13 we will continue to do so. We are seeking opportunities
14 to further improve our deficiencies as we go along.

15 And does anyone have any questions about
16 the investigation part?

17 COMMISSIONER DIGGS: I do. What are you
18 attributing the reduction in the cost per case? Is it
19 solely based on the reclassification of that position?

20 MS. QUESNEL: Jonathan.

21 MR. BABIAK: Commissioner Diggs, I don't
22 know if I could tell you why the cost has gone down.

23 COMMISSIONER DIGGS: But about 20 percent
24 reduction in the cost per case, it would be a good
25 learning to have for us if we knew why the reduction in

1 cost. Is it a time thing? Have we reduced the time to
2 close cases?

3 MS. QUESNEL: We are making changes to the
4 process that has improved the hourly -- the hours that
5 they put towards investigations, and that's helped them
6 quite a bit. And we are still working on other things
7 to help cut that down so we can be even more efficient.
8 It's a slow process, but we're working on it --

9 COMMISSIONER DIGGS: Good work.

10 MS. QUESNEL: -- as fast as we can.

11 COMMISSIONER DIGGS: Good work.

12 MR. BABIAK: I suspect that without
13 looking in detail the reduction in cost per case can be
14 attributed to the manager position being vacant --

15 COMMISSIONER DIGGS: Reclassified.

16 MR. BABIAK: -- than the team lead
17 position being vacant while those personnel changes were
18 made. I will say that I hope the Commission doesn't
19 expect another 20 percent reduction to occur in three
20 months, but we will certainly try.

21 CHAIRMAN ANDERSON: In five months, it
22 will cost us nothing to do them, right?

23 MS. QUESNEL: Okay. In training and
24 monitoring, on the personnel policies and procedural
25 systems review slide, you'll notice that we have

1 conducted 23 on-site reviews, and we have 19 that have
2 been certified. The discrepancy of four is because the
3 other four have not had their recertification issued
4 yet, but we've had none that have been in noncompliance.
5 We have set up the scheduling for the next fiscal year's
6 monitoring, and we're continuing to look for
7 opportunities to increase our training revenue as we go
8 along.

9 That's all I have at this time. Do
10 you-all have any other questions?

11 CHAIRMAN ANDERSON: So what are you
12 looking specifically to do to increase the revenue for
13 training?

14 MR. BABIAK: Sir, one thing we're in the
15 process of doing right now is that in the past CRD
16 participated in the Texas Business Conference which is a
17 one-day labor and employment law seminar sponsored by
18 the office of the TWC employer commissioner. For some
19 reason, that relationship had been discontinued. I've
20 contacted the office of the employer commissioner, and
21 we will be allowed to have a booth at their conferences
22 going forward, and I think that we have to work at
23 improving the extent to which we market the training
24 that we have as opposed to simply stating we have
25 training. And then we're trying to develop marketing

1 strategies right now so that the booth generates further
2 training contracts for us.

3 MS. QUESNEL: Thank you.

4

5 AGENDA ITEM NO. 6

6 MR. BABIAK: Okay. We're at Agenda
7 Item 6, Discussion, consideration and possible action
8 regarding the quarterly report concerning TWC Civil
9 Rights Division housing enforcement, alternative dispute
10 resolution and outreach activities for third quarter of
11 Fiscal Year 2011, Vickie Covington.

12 MS. COVINGTON: Good morning,
13 Commissioners, TWC staff and guests. For the record, my
14 name is Vickie Covington, manager, Investigation Team 1.
15 This morning I'd like to share with you information
16 regarding our alternative dispute resolution section as
17 well as housing enforcement and what we've been doing
18 for outreach.

19 Our mediators continue to do a fantastic
20 job. Through the third quarter, they resolved 154
21 cases, and complainants have received more than a
22 million dollars in individual relief. We shared two
23 scenarios with you in your booklets. They can be
24 located behind the "ADR" tab.

25 As Jonathan stated earlier, we are 16

1 cases ahead as far as revenue in our fair housing cases,
2 and I would like to attribute that to the hard work of
3 our fair housing staff. You will hear from two of our
4 staff later on in the presentation. They will provide
5 you with some training.

6 As far as housing closures by type,
7 complainants have received more than \$90,000 in monetary
8 relief. Nonmonetary relief and public interest relief
9 was also received such as respondents agreeing to attend
10 fair housing training. Respondents have also agreed to
11 retrofit properties found to be out of compliance with
12 the design and construction requirements of the Texas
13 Fair Housing Act. In addition, respondents have agreed
14 to make reasonable accommodations in rules, policies,
15 practices or services when such accommodations were
16 necessary to afford complainants with a disability the
17 equal opportunity to use and enjoy a dwelling.

18 CHAIRMAN ANDERSON: Do the housing
19 investigators investigate both discrimination issues and
20 building and compliance issues?

21 MS. COVINGTON: Yes, Chair, they do.

22 CHAIRMAN ANDERSON: What's the difference
23 in the time to investigate a discrimination complaint
24 and one that has to do with building -- construction and
25 accommodations?

1 MS. COVINGTON: The time requirement for a
2 design and construction case is 300 days.

3 CHAIRMAN ANDERSON: On average or -- I
4 mean, that's -- that's typical?

5 MS. COVINGTON: For our complex cases, HUD
6 allows us 300 days absent extenuating circumstances. We
7 are allowed more days, but 300 days for design and
8 construction cases.

9 CHAIRMAN ANDERSON: And the discrimination
10 cases?

11 MS. COVINGTON: 100 days.

12 CHAIRMAN ANDERSON: There's no adjustment
13 for reimbursement based on the design compared to a
14 discrimination case, right? I mean, there's a flat --

15 MS. COVINGTON: Chair, there are
16 adjustments made as far as the timeliness if there are
17 extenuating circumstances. However, it depends on the
18 type of resolution how much we are actually reimbursed.
19 For design and construction cases, those are normally
20 resolved as either no cause or conciliation, and so we
21 get the full reimbursement rate of \$2,600.

22 CHAIRMAN ANDERSON: So if it takes you 300
23 days to do it, that's a lot of time and effort in those
24 particular type of cases. \$2,600 is probably not going
25 to cover our costs, I would assume, right, normally?

1 MS. COVINGTON: I think with the
2 information that -- well, I will share with you later on
3 in my presentation the average cost, give you a
4 comparison of where we were in September versus where we
5 were at the end of May as far as the average cost of the
6 case.

7 CHAIRMAN ANDERSON: If there's a big
8 difference, is that something we could go to HUD and
9 say -- I mean, obviously we're not the only ones that
10 face the same issues of design and construction compared
11 to straight discrimination, familial status or whatever.

12 MR. BABIAK: Sir, to my understanding, we
13 don't track the number of hours that we spend on each
14 individual case. And I believe -- well, one, I do
15 believe that overall our reimbursement amount exceeds
16 our average costs on HUD cases. From one individual
17 case to the next, it's difficult to know if we're
18 covering our costs on an individual case basis. And
19 based on my relative lack of experience with the
20 program, I suspect that although it takes 300 days to --
21 or we're allowed 300 days to complete a design and
22 construction case. That does not necessarily mean that
23 we are deploying a greater number of hours to complete
24 the case.

25 CHAIRMAN ANDERSON: And an investigator

1 may have how many typically discrimination cases and
2 design and construction? Is it just as they come in and
3 we say, okay, Roy Minton is going to get this next case
4 coming in" or "He is particularly good at design
5 construction. So he gets design and construction case,"
6 or how do you do that?

7 MS. COVINGTON: The design and
8 construction cases are assigned in the same manner as
9 the other cases. And I'll let Ms. Washington when she
10 comes up for her presentation during her overview
11 explain how the cases are assigned.

12 CHAIRMAN ANDERSON: Okay.

13 MS. COVINGTON: In September the average
14 case -- the cost per case average was approximately
15 \$2,900 compared to the end of May, just a little bit
16 over \$2,000, for a difference of approximately 32
17 percent. And I will attribute that to the hard work of
18 our staff, and I'll have to say that I'm really proud of
19 my fair housing staff. Are there any questions?

20 (No audible response.)

21 MS. COVINGTON: On June 10, we were asked
22 by Corpus Christi Apartment Association to be presenters
23 for their fair housing and accessibility seminar
24 scheduled for June 16th, and Mr. David Trinidad, our
25 investigator and outreach coordinator, took a break from

1 his investigative duties to take on this unscheduled
2 assignment. The majority of the surveys from the
3 training indicate the seminar exceeded the participant
4 expectations with comments such as "Learned a lot,"
5 "Very useful information," "Very insightful" and "Do it
6 again" for the Corpus Christi Apartment Association.

7 Afterwards the Rural Rental Housing
8 Association of Texas, a state rental association
9 dedicated to the enhancement of rural multifamily
10 housing through promotion of professionalism of
11 apartment management again invited TWC CRD to present at
12 their annual conference held in Irving, Texas. On July
13 the 13th, 2011, Mr. Trinidad presented an overview of
14 fair housing to its members as well. David informed me
15 that the people who attended both conferences basically
16 said "We want more." Are there any questions?

17 (No audible response.)

18 MS. COVINGTON: Thank you.

19 CHAIRMAN ANDERSON: I assume Mr. Trinidad
20 is doing more of these outreach than we have in the
21 past, or is it just because they came up?

22 MS. COVINGTON: For these two outreach
23 initiatives, they were actually presentations that came
24 up. Right now basically what we are looking at is
25 people to, you know, ask us to come out and give them an

1 overview of the fair housing training. What we're
2 trying to do is to affirmatively further fair housing
3 throughout the state. We do have, of course, the
4 training that we provide to respondents in conjunction
5 with the conciliation agreements. However, any
6 opportunity that's available for us to go out and let
7 people know about us and what we do, we certainly take
8 that.

9 MR. BABIAK: Vickie, would you be able at
10 this time to tell the Commissioners any information
11 about the meeting we had last week with the folks from
12 the Texas Department of Housing and Community Affairs,
13 or would you be -- or would it be better to wait till
14 October to report that to the Commissioners?

15 MS. COVINGTON: I think it would be better
16 to wait till October.

17 MR. BABIAK: We had a meeting with two
18 representatives of the state agency, TDHCA, Texas
19 Department of Housing and Community Affairs, and we can
20 report more on the results of that meeting to you in
21 October.

22 CHAIRMAN ANDERSON: Okay.

23 MS. COVINGTON: Thank you.

24 CHAIRMAN ANDERSON: Thank you.

25 MS. COVINGTON: I'll be followed by

1 Mr. Jonathan Babiak who will introduce the training
2 panel.

3 AGENDA ITEM NO. 7

4 MR. BABIAK: That brings us to Item No. 7,
5 training on how to conduct a housing investigation. I'm
6 going to move to the podium, and we will have Cynthia
7 Washington, our team lead; Roy Minton, Investigator V.
8 There is a last minute change. Mr. Martinez will not be
9 with us today, and in his place, we'll have Dannellia
10 Gladden-Green, an Investigator III.

11 CHAIRMAN ANDERSON: Okay. Apparently we
12 need this training, and we've been told that we're not
13 very knowledgeable about housing. So we look forward to
14 this training.

15 MR. BABIAK: You should have received some
16 materials stapled together. The front page is marked
17 "Intake." In this training, Cynthia will cover the
18 activities related to administration of the
19 investigation, Dannellia will give an overview of the
20 investigation activities, and then Roy will give you an
21 overview of conciliation activities. And I will turn it
22 over to Cynthia.

23 MS. WASHINGTON: Thank you. Good morning,
24 Chair Anderson, Commissioners and all that's present.
25 For the record, my name is Cynthia Washington. I am the

1 lead civil rights investigator for TWC CRD. I will be
2 presenting a brief overview of the intake process.

3 The Civil Rights Division enforces the
4 Texas Fair Housing Act as amended, investigating
5 complaints of housing discrimination based on race,
6 color, national origin, religion, sex, disability and
7 familial status. The housing program consists of 15
8 team members. That would be Jonathan, our director;
9 Vickie Covington, the housing program manager; two team
10 leads, Ray Hammarth and myself; ten investigators and
11 one administrative assistant. Most complaints received
12 are generated by the U.S. Department of Housing and
13 Urban Development, commonly referred to as HUD.
14 Occasionally CRD initiates and generates complaints
15 through telephone, mail-in or in-person inquiries. The
16 general principles and procedures for collecting,
17 screening and analyzing complaint information at intake
18 are essentially the same whether they're received by
19 telephone, mail-in or in-person inquiries.

20 The most important part of the
21 complaint -- intake -- I'm sorry -- is the most
22 important part of the complaint process. The primary
23 responsibilities at intake include to inform
24 complainants about the Texas Fair Housing Act, determine
25 jurisdiction, collect relevant information to perfect

1 the complaint by identifying the bases, the issues and
2 clarifying the allegations, also to discuss the
3 investigation and conciliation processes, advise
4 complainants of their role and responsibilities of CRD
5 and, if necessary, to refer complainants to other
6 agencies to address issues and concerns that are not
7 jurisdictional to CRD.

8 Are there any questions?

9 (No audible response.)

10 MS. WASHINGTON: Thank you. To have
11 jurisdiction, the complainant must be -- the complaint
12 must be timely filed. It has to be filed within 365
13 days beginning the -- one day after the alleged harm.
14 The complainant must have standing. The respondent and
15 the dwelling must be covered under the Act. The
16 allegations must have subject matter jurisdiction. And
17 a civil trial must not have commenced based on a claim
18 of discrimination under the act.

19 Okay. Perfected complaints are assigned
20 CRD numbers and then assigned to the housing
21 investigators. A determining factor of assigning cases
22 to an investigator is their current pending inventory.
23 It is suggested that the maximum number of cases
24 assigned to an investigators -- to an investigator for
25 an Investigative V would be 16; for an Investigator III

1 would be 12. These numbers are based on individual
2 performance, standards and organizational performance
3 measures and goals.

4 MR. BABIAK: Cynthia, can you address the
5 question earlier on how you determine the distribution
6 of discrimination complaints versus design and
7 construction cases when you make assignments to the
8 various investigators?

9 MS. WASHINGTON: Initially I run a report
10 to see where everyone's inventory is. I will also
11 occasionally look to see the number of complex cases
12 already in their inventory, and based on those two
13 items, cases are assigned on a rotational basis. I do
14 not look to see -- in most cases, I do not look to see
15 what the issues are. I just assign the next, first
16 come, first serve.

17 CHAIRMAN ANDERSON: I mean, you know when
18 it comes in, though, whether it's a design and
19 construction rather than a protected class
20 discrimination case?

21 MS. WASHINGTON: I can sometimes tell by
22 the name of the complainant because we get a lot of
23 design and construction cases from FHIP agencies. So
24 most of our design and construction come from FHIP
25 agencies.

1 MR. BABIAK: And just as background,
2 Cynthia is using an acronym, FHIP.

3 MS. WASHINGTON: I'm sorry.

4 MR. BABIAK: That is a fair housing
5 initiative program. These are organizations who can act
6 as advocates for recipients of housing, and it's common
7 for a FHIP to initiate a complaint of design and
8 construction.

9 CHAIRMAN ANDERSON: Because they don't
10 have the expertise to handle it themselves or it's too
11 complex?

12 MR. BABIAK: Well, a fair housing
13 initiative program can act as an advocate. A fair
14 housing initiative program does not have investigative
15 authority. And because of my relative inexperience with
16 the program, I'm looking very carefully at Vickie and
17 Cynthia to jump up and stop me if I'm saying something
18 that is inaccurate. It is a different sort of brand
19 from HUD, and I've -- in my experience, I believe that a
20 fair housing initiative program based on their program
21 expertise will have a better knowledge of whether an
22 apartment complex, for example, is out of compliance
23 with design and construction standards where members of
24 the public are likely not to know that there are other
25 requirements or that an apartment complex or other

1 housing provider is not in compliance.

2 CHAIRMAN ANDERSON: Is that true with the
3 Fort Worth FHIP and the Corpus Christi? I mean, are
4 those FHIPs, or are they under something else? I know
5 both of those cities happen to have, you know,
6 investigators or -- is it Dallas-Fort Worth?

7 MR. BABIAK: Vickie, why don't you come to
8 the podium and address that question?

9 MS. COVINGTON: To expand on the question
10 earlier about the difference between the FHIPs and the
11 FHAPs, we're a fair housing assistance program. They do
12 not have any enforcement power as far as discrimination
13 complaints. We have a -- we have local FHAPs who
14 basically have the same jurisdictional authority that we
15 have and, of course, here in Austin where Tony is the
16 director. We also have one in Corpus Christi. They are
17 currently, I believe, without a director which is why
18 they asked us to come give the seminar to the Corpus
19 Christi Apartment Association. There's also one
20 located -- there's a fair housing initiative program
21 located in Garland, there's one in Dallas and one in
22 Fort Worth. There are several FHIPs located within the
23 state. Some of them are currently funded. Some of them
24 are not funded.

25 As Cynthia alluded to earlier, most of our

1 design and construction cases come from the FHIP that's
2 located in San Antonio, which is the Fair Housing
3 Council of Greater San Antonio. We also have a FHIP
4 located right here in the City of Austin. That's Austin
5 Tenants Council. And there's one more in Houston, the
6 Greater Houston Fair Housing Center. So we do get lots
7 of complaints, I believe. We've received year to date
8 43 complaints from the FHIPs.

9 Does that answer your questions?

10 CHAIRMAN ANDERSON: Yeah, I think so. I
11 think so.

12 MS. COVINGTON: Thank you.

13 MS. WASHINGTON: Are there any more
14 questions?

15 CHAIRMAN ANDERSON: No.

16 MS. WASHINGTON: No.

17 MR. BABIAK: Okay. At this point, we'll
18 go to Danne to cover the investigation activities.
19 Danne.

20 MS. GLADDEN-GREEN: Good morning,
21 Commissioners, and all who are in attendance. My name
22 is Dannellia Gladden-Green, and I'm a Civil Rights
23 Investigator III for TWC CRD. I'm responsible for
24 investigating allegations of violations under the Texas
25 Fair Housing Act from an educational and an enforcement

1 perspective. Today I will highlight the typical housing
2 investigation process, and in doing so, I'll use the
3 simplified process diagram that you should have before
4 you. Prior to getting into the flow chart, I'd like to
5 emphasize several of the core competencies of an
6 effective investigator.

7 Such an individual should have a
8 comprehensive knowledge of the Texas Fair Housing Act,
9 strong critical thinking skills, be a neutral
10 fact-finder who remains approachable, trustworthy and
11 respectful of all parties to a complaint throughout the
12 process. The housing investigator should also be an
13 effective communicator both verbally and in writing.

14 Now, I call your attention to the first
15 element in the flow chart that is representative of the
16 completed intake process after which the assignment of a
17 complainant has been made to the investigator. The
18 investigator's first order of business is to review all
19 documents as it relates to the effort to produce a draft
20 investigative plan, and you see that noted in the second
21 element feature in the flow chart. The investigative
22 plan, or IP, is essentially a blueprint. It is used
23 throughout the investigative process. And it is a
24 living document. So it does evolve.

25 At this point in the process after the

1 investigator has assumed accountability for the accuracy
2 of all the information along with any subsequent entries
3 and findings into the Title VIII automated paperless
4 office tracking system, which we refer to as TEAPOTS.
5 This is a shared electronic resource between TWC CRD and
6 HUD. Although as you see in the chart the investigation
7 and the conciliation processes are going on in a
8 parallel framework, there is careful attention to making
9 sure that these activities are segregated, and my
10 colleague -- or former housing colleague, Mr. Minton,
11 will address that after my presentation.

12 Now, once all of the documents have been
13 perfected and the jurisdictional elements of the
14 complaint have been confirmed along with all of the
15 parties in the complaint being properly identified, the
16 investigator is armed with the draft IP and is prepared
17 to conduct an initial investigation with the complainant
18 as well as the respondent. And you see that referenced
19 by the -- in the second phase of the investigation
20 labeled "Interviews and Data Requests."

21 Now, when interviewing the complainant, a
22 key objective sought by the investigator is to ensure
23 that all of the bases and all of the issues of the
24 allegations have been identified along with any
25 references to materials or witnesses that can be used to

1 support the complainant's allegations. Likewise when
2 interviewing the respondent, the investigator is looking
3 to capture any stated defense regarding the allegations
4 that have been made whether or not the respondent
5 disputes an allegation, that it occurred at all or they
6 confirm it and then offer a nondiscriminatory reason or
7 explanation for why it transpired. This information is
8 recorded again with any witnesses or references to
9 documents that may support the Respondent's defense.

10 Now, as we get to this point in the
11 process, the interview statements have been taken, they
12 are analyzed within the context of identifying any
13 independent third-party documents and/or witness
14 testimony that may help to update the investigative plan
15 and to address the prima facie elements. An appropriate
16 response to the prima facie elements consist of factual
17 statements that altogether, once all the elements have
18 been addressed, render a reasonable recommendation
19 regarding the allegation of a violation. You can see
20 that as we enter into the third phase where we're
21 gathering evidence.

22 Now, according to Title VIII as mentioned
23 by my predecessor, protected classes are grouped by
24 color, disability, familial status, national origin,
25 race, religion and sex or gender. The issue cited in

1 the complaint is also a key component of the prima
2 facie. Now, according to 2010's TWC CRD's annual
3 report, the most common issue filed in a complaint was
4 based on differing terms and conditions or unequal
5 treatment. So a likely example of a housing complaint
6 that may be provided is different terms and conditions
7 for rental based on race. According to the prima facie
8 for these -- this particular element, the investigator
9 would seek to gather information that substantiates the
10 complainant's standing as previously described, the
11 complainant's intent or attempt to rent, occupy or
12 continue to occupy a dwelling. The complainant's
13 qualifications, readiness, willingness and ability to
14 occupy such a dwelling that is consistent with the
15 respondent's terms and conditions, and a respondent's
16 failure or refusal to offer the same terms and
17 conditions to all persons. The other components of the
18 updated IP include a summary of the allegations which
19 may have been amended based on, one, the initial
20 interview, a statement of the respondent's defense,
21 initial interviews of both parties along with any
22 questions or documents to be produced by other parties.

23 Now, as I mentioned before, in the third
24 phase of investigation, all of the statements that were
25 taken in the initial as well as any witness testimony

1 and any documents that have been analyzed are examined
2 for evidential relevance. It is important to note that
3 all information that we gather during an investigation
4 does not necessarily translate into evidence. Moreover,
5 any relevant statements that are in dispute between one
6 party and the other needs to have third-party
7 corroboration in order to be considered evidence.

8 Now, in most cases, the most critical
9 component of an investigation involves the analysis of
10 comparative data. In the flow chart, it's referenced in
11 the lower left-hand box under "Data Analysis." Such
12 data is comprised of the policies and procedures and
13 practices of the respondent as it relates to consistency
14 of application for all -- to all persons, those who are
15 within the complainant's protected class and others
16 outside of the protected class or basis.

17 Now, once we have the prima facie elements
18 as being answered, a predetermination summary of the
19 evidence gathered to date can be drafted in terms of a
20 pending recommendation. The investigator at this point
21 is entering into several case closing activities. Now,
22 a key point that I'd like to drive home here is that all
23 parties to the complaint have a burden of production,
24 statements, documents and/or witnesses thought to
25 support their particular assertion. Upon examination of

1 all of the evidence that is gathered in the
2 investigation, the investigator's threshold for
3 recommending an action regarding any alleged violation
4 is more likely than not -- more likely than not to have
5 or have not taken place as it relates to the reasonable
6 cause or no reasonable cause. The other specific
7 closure activities as relates to the predetermination
8 summary is to have an interview which is presenting a
9 summary of that evidence to the complainant when there
10 is a possible no reasonable cause finding or to the
11 respondent should there be a possible finding or
12 recommendation of reasonable cause. In either scenario,
13 the complainant or the respondent has the opportunity to
14 produce additional data.

15 The final report can be extracted from the
16 TEAPOTS software. It is a comprehensive collection of
17 the investigative findings minus any of the undisclosed
18 items, and then the recommendation for either a
19 reasonable cause or no reasonable cause is made in the
20 form of a memo. The entire case file is then shared
21 with the management team whose responsibility it is to
22 review and/or approve the recommendation as assembled by
23 the investigator. Thank you.

24 MR. BABIAK: Commissioners, at this point,
25 I would like to take an opportunity to thank Danni for

1 taking on this assignment at the last minute when
2 Mr. Martinez became unavailable. I'd also like to
3 commend Vickie and her team lead, Ray Hammarth. Danni
4 started in March, and what you've just heard is the
5 result of the training and guidance and resources she's
6 been provided in a little more than four months, and I
7 think that she just gave us an excellent presentation.
8 I really appreciate it.

9 Okay. That brings us to the next part of
10 the training which is the conciliation activities, and
11 for this we have Roy Minton. Roy.

12 MR. MINTON: Good morning, Commissioners.
13 My name is Roy Minton for the record. I've been
14 conducting housing investigations for the division for
15 approximately three years. In that time, I've probably
16 resolved about 30 percent or more of my cases through
17 conciliation, and so I'm going to speak with you briefly
18 just about the primary aspects of conciliation in
19 housing complaint investigations. If I look familiar to
20 some of you, my identical twin brother visited with
21 you-all recently on mediating employment cases.

22 So at any rate, conciliation is a
23 voluntary process attempting to resolve a housing
24 complaint through informal negotiations involving the
25 complainant, the respondent and TWC CRD. Unlike

1 employment investigations, conciliation in housing cases
2 is attempted for the duration of the investigation to
3 the extent feasible. In other words, we will attempt to
4 be open and facilitate negotiations for a settlement
5 from the very beginning of the investigation to the very
6 end as opposed to a certain time frame at the beginning
7 of an investigation as you'll see in employment cases.
8 Also, as noted by Danni, conciliation and information
9 activities occur concurrently. In other words, I may be
10 working on a case file where on one day I'm attempting
11 to work with a complainant or respondent about a
12 possible offer that they want to make, and the very next
13 day I could be drafting a letter requesting information
14 pertinent to move that case forward in the investigative
15 area.

16 TWC investigators are a neutral party
17 facilitating voluntary negotiations. The goal is
18 reaching a resolution that is acceptable to the
19 complainant, the respondent and to TWC CRD. Activities
20 include soliciting and conveying offers and
21 counteroffers among the parties, looking for areas of
22 agreement and keeping lines of communication open
23 whenever possible. My personal experience is that
24 keeping parties at the table or open to the idea of
25 conciliation is the most critical key. If you have one

1 party or the other that gets angry at the beginning
2 maybe because of an offer that's been made that they
3 find unacceptable and they simply put up a wall, then
4 you're not going to be able to resolve that. So I think
5 some tact as the conciliator, the investigator is
6 important in how you communicate the information that
7 you have to communicate regarding conciliation efforts.
8 We document all of our conciliation efforts, but
9 conciliation discussions are not used for investigative
10 purposes. In other words, any communication that I have
11 with a party specific to a conciliation offer is not
12 something that would be transferred or used in any way
13 with regards to the investigation.

14 Conciliation agreements may include
15 benefits such as a monetary sum, money for moving
16 expenses, the removal of a rental balance or the return
17 of a rental deposit or simply providing something like a
18 rental -- neutral rental reference or a lease extension.
19 The agreement may not include terms that take away a
20 complainant's right to pursue his or her complaint under
21 other laws. In other words, we will not engage in an
22 agreement whereby a complainant has to agree that they
23 won't file a complaint that may be covered under another
24 law as -- as a term for settlement of a TWC CRD
25 complaint.

1 Conciliation agreements may include relief
2 in the public interest when merited. This may occur in
3 cases where evidence reveals a possible or probable
4 violation of the Fair Housing Act actually occurred.
5 Terms related to public interest may include things like
6 fair housing training that we provide as well as formal
7 changes to a respondent's policies and procedures. When
8 an agreement is reached, detailed and enforceable
9 language must specifically describe the agreed-upon
10 resolution. It is incumbent upon the investigator to
11 make sure that the communication maybe that two parties
12 have had is put into language that is legally
13 enforceable. And so through our language and through
14 our guidance, we make sure that we are putting truly,
15 absolutely accurate and enforceable language in that
16 agreement to be absolutely sure what is being agreed to.

17 All agreements must be included by TWC CRD
18 management, and provisions of the agreement must
19 accurately vindicate public interest when appropriate.
20 In other words, if we have a case where evidence has
21 shown probable wrongdoing, then more likely than not TWC
22 CRD is going to want to have some public interest be a
23 part of that agreement.

24 Finally, TWC CRD monitors and enforces
25 terms of an agreement. For example, let's say that a

1 settlement has been reached, a conciliation has been
2 reached and part of that is an agreement that my
3 outstanding -- previous outstanding debt that maybe has
4 been waived would not be used against my credit or I
5 would not have some kind of a negative credit event. If
6 such an event occurred, that complainant could come back
7 to TWC CRD and have that complaint heard, and we would
8 look into that and pursue remedies through -- through
9 our division as to how that gets handled when a
10 violation has occurred.

11 Finally, I attached -- and you'll see in
12 your handout. At the very end of the package is just a
13 sample conciliation agreement to just kind of give you
14 an idea of the language that's been used and some of the
15 general provisions that are included in our agreements.
16 And that's all for my little overview of conciliation.

17 COMMISSIONER STIDVENT: I have a question,
18 and maybe this pertains to some of the objectivity
19 training that's going on as well. I was curious. It's
20 challenging if you're conciliating at the same time
21 you're investigating to keep those processes separate,
22 particularly when you're getting information during the
23 conciliation process that might inform an investigation?

24 MR. MINTON: It can --

25 MR. BABIAK: Roy, let me handle that one.

1 When we were preparing yesterday for this presentation,
2 that was the question that we anticipated, and staff
3 tells me that the answer to that question really is an
4 entirely separate topic.

5 COMMISSIONER STIDVENT: Okay.

6 MR. BABIAK: It -- it is a fairly complex
7 area, and I'd like to say that it's outside of the scope
8 of what we're prepared to present. But at the same
9 time, I would say that that is a topic that we would
10 like the Commission to consider for training -- or a
11 presentation in a future meeting. It is a -- it was a
12 question that I had. You know, as Roy told you, the
13 investigator is required to segregate investigative and
14 conciliation activities, how do you do that, and the
15 answer started to get to be a very, very long answer.
16 So if we can defer that, be happy to prepare a
17 presentation on that if you'd like that at a future
18 meeting.

19 COMMISSIONER STIDVENT: Okay.

20 CHAIRMAN ANDERSON: And why don't we go
21 ahead and do that for October?

22 MR. BABIAK: Okay. We will do that. Were
23 there any other questions on our presentation, how to
24 conduct a housing investigation?

25 CHAIRMAN ANDERSON: They did a great job.

1 They were all very articulate and obviously
2 knowledgeable and special recognition, I guess, to
3 Ms. Green who jumped in at the last minute. It sounded
4 like she had been working there for a couple of years.
5 When the conciliation doesn't work out, what happens
6 then?

7 MR. MINTON: You finish the investigation.
8 Well, just, for example, there may be --

9 CHAIRMAN ANDERSON: What's the next step?
10 Does it go through attorneys?

11 MR. MINTON: You mention the investigation
12 process. One thing that Cynthia has taught me -- and it
13 took me a while to learn this. I would attempt
14 conciliation and be committed believing that
15 conciliation could be reached and in some cases would
16 allow the investigation aspect, the gathering of
17 evidence such that I was ready to make a determination,
18 to lag. And so part of the training is, you don't just
19 assume that an agreement can be reached even if you
20 believe we're right on the verge of that. You need to
21 continue -- additionally and concurrently continue those
22 investigative aspects so that if a conciliation can't be
23 reached you finish your investigation and you make a
24 recommendation of either a cause or no cause.

25 CHAIRMAN ANDERSON: Is that -- do we make

1 that determination -- I forget -- or do you make the
2 determination and it goes to General Counsel or a
3 state's attorney?

4 MR. BABIAK: Well, we do it through RID
5 and the Attorney General as a review at each stage.

6 And, Roy, I think Chair Anderson was
7 asking the question, when we do achieve conciliation and
8 then later down the line hear from one side or the other
9 that the party on the other side is not complying with
10 the agreement what do we do. And in response to that,
11 first I believe that that circumstance is relatively
12 rare. When it does occur, we contact RID who either
13 directly or through the Attorney General takes action to
14 ensure compliance with the conciliation agreement.

15 CHAIRMAN ANDERSON: Ensure enforceability
16 of that conciliation agreement?

17 MR. BABIAK: Yes.

18 CHAIRMAN ANDERSON: And if not, filing a
19 lawsuit?

20 MR. BABIAK: And I don't know if that has
21 ever occurred, that one has gotten to that stage. I do
22 know that we currently have one of the lawsuits where
23 we're working with the Attorney General to ensure that
24 the training that was agreed to is -- is going to occur
25 because it has not occurred. Any other questions?

1 MR. MINTON: I'm sorry. I misunderstood
2 your question.

3 CHAIRMAN ANDERSON: Hey, Larry --
4 Mr. Temple, are you going to join us in the closed
5 session?

6 MR. TEMPLE: Yeah. I'll be right back.

7 CHAIRMAN ANDERSON: I just wanted to --
8 thank you. Okay. Is there any other questions or
9 comments for the panel?

10 COMMISSIONER DIGGS: Well done. It was a
11 good presentation. Well done. Thank you.

12 MR. BABIAK: Cynthia, Danni, Roy, thank
13 you very much.

14 AGENDA ITEM NO. 8

15 MR. BABIAK: And I guess that brings us
16 to --

17 CHAIRMAN ANDERSON: No. 8, Decisions --
18 Discussion, consideration and possible action regarding
19 the Commission on Human Rights duties, roles and
20 responsibilities concerning agenda development
21 procedures. No. 1, can we get permanent visitor's
22 badges or something like that, I mean, when we come?
23 And I know that the two commissioners in the local area
24 may, in fact, come over here to visit. Is there a
25 possibility we can get some badges for the

1 commissioners?

2 MR. BABIAK: I will find out from agency
3 staff if there's an alternative to the existing visitor
4 process.

5 CHAIRMAN ANDERSON: Okay. Because I don't
6 know that we're visitors in that sense, but I'm not sure
7 that --- obviously we're not employees.

8 The action items, Commissioner Diggs
9 inquired in the possibility of getting a copy of the
10 audit. Jonathan, you want to address that?

11 MR. BABIAK: Yes. Any commissioner who
12 would like a copy, please let Becky know if you'd prefer
13 hard copy or electronic copy, and she will make sure you
14 receive that.

15 CHAIRMAN ANDERSON: Mr. Babiak advised
16 that he would set up another conference call with
17 Commissioner Diggs and Commissioner Stidvent to discuss
18 the Division's budget that was held on June 7th, and
19 there will be another one in September.

20 MR. BABIAK: September or at a time
21 that --

22 COMMISSIONER DIGGS: We'll determine.

23 MR. BABIAK: -- the commissioners like.

24 CHAIRMAN ANDERSON: Okay. Look at hiring
25 a third mediator, I think we've already addressed that.

1 Is there any reason to discuss that any further on the
2 additional employee?

3 (No audible response.)

4 CHAIRMAN ANDERSON: Okay. Mister -- Chair
5 Anderson requests Mr. Babiak provide the legislative
6 update in July, and that is -- that was provided. I
7 requested that Mr. Babiak evaluate the hiring additional
8 employees to be hired to meet the goals. We've also
9 talked about that. You are satisfied with your staffing
10 right now -- your staffing levels right now, and going
11 into next fiscal year, you believe that you are staffed
12 adequately to handle your case load?

13 MR. BABIAK: Yes. We do have two
14 vacancies that we are in the process of filling right
15 now, and then, yes, subject to that, the answer to your
16 question is yes.

17 CHAIRMAN ANDERSON: Okay. And we just had
18 the training session which is the third item.

19 Becky, what do you have for action items
20 for next time?

21 MS. SMITH: You requested that we check to
22 see if the federal agencies will be updating their
23 computer systems wherein they will effect TCHR, CRD, the
24 budget meeting with Commissioner Diggs and Stidvent
25 which they will schedule at a later date. You requested

1 that we contact the veterans symposium, the director of
2 ESG --

3 CHAIRMAN ANDERSON: Yeah, ESGR.

4 MS. SMITH: ESGR. Okay. -- to -- so that
5 we can possibly schedule to attend one of their
6 conferences and do a separate booth or present. You
7 also requested that Mr. Babiak check into the open
8 records request dealing with higher education and
9 release of those type of documents.

10 CHAIRMAN ANDERSON: That's in conjunction
11 with those two bills that you discussed.

12 MS. SMITH: And then I think Commissioner
13 Diggs would like us to explain why the reduction in the
14 average cost has gone down, if there's a better -- if we
15 can provide a more concrete explanation.

16 COMMISSIONER DIGGS: That would be good.
17 Thank you.

18 MS. SMITH: And last I think -- or one of
19 the two last things, we were going to schedule the next
20 training session would be on the scope of how we keep
21 the items separate concerning investigations and
22 conciliations dealing with housing, and Mr. Babiak is
23 going to check into the possibility of getting permanent
24 visitors badges.

25 CHAIRMAN ANDERSON: Okay. Is there any

1 other items that the commissioners would like to have
2 for action for the October meeting? We also -- we'll
3 also set the meetings scheduled for 2012 at that
4 meeting. I think that covers all the items.

5 We -- is there anything else that we need
6 to discuss before going into executive session?

7 AGENDA ITEM NO. 9

8 MR. BABIAK: Well, Item 9 would be to set
9 a date for the October meeting, and just as a reminder,
10 I had mentioned during one of our weekly calls, Chair
11 Anderson, that I will not be available on October 19
12 which would be the default date for the October meeting.

13 CHAIRMAN ANDERSON: Okay. Talk to us.
14 What's a better date? And we'll see if the
15 commissioners will be able to -- we need to have you
16 there. So --

17 MR. BABIAK: Really that week I'm
18 unavailable. I don't have any other conflicts.

19 CHAIRMAN ANDERSON: When are the
20 financials normally ready? I mean, if we went the week
21 before which is the 12th, they're not going to be ready,
22 are they?

23 MR. BABIAK: Well, the financials for
24 September would not be available. However, the
25 financials for the fourth quarter of the fiscal year

1 ending August 31 will absolutely be available.

2 CHAIRMAN ANDERSON: The next one would be
3 the 26th of October.

4 COMMISSIONER MICHALKA: I'm out.

5 CHAIRMAN ANDERSON: You're out. What --
6 let me get a consensus up here from the commissioners.
7 Would would work or be a better date?

8 COMMISSIONER DIGGS: The following date.
9 I'd rather have the first quarter -- I'd rather have the
10 first month's financials rather than the previous year
11 than hold that off for another three months, so the
12 26th.

13 COMMISSIONER STIDVENT: That one is fine.

14 CHAIRMAN ANDERSON: What if we went --
15 you're out that whole week?

16 COMMISSINER MICHALKA: Yes.

17 CHAIRMAN ANDERSON: I guess we'll go
18 with -- try to go with the 26th, if that's okay. Does
19 everybody want to wait till we get the results from
20 September? Is that the preference, just to get those
21 numbers in addition to the fourth quarter?

22 (No audible response.)

23 CHAIRMAN ANDERSON: Okay. We'll go with
24 the 26th.

25

1 AGENDA ITEM NO. 10

2 CHAIRMAN ANDERSON: Okay. Is there
3 anything else that we need to discuss before I read the
4 agenda for the executive session? What do I -- well,
5 how much do I need to read on this, just the headlines,
6 or do I need to go down through all the detail?--because
7 I had been reading all the detail.

8 MS. HOLT: If you anticipate on the
9 litigation items discussing any of the specific cases,
10 you should read the style of the case. If there are any
11 other provisions of the Open Meetings Act that are
12 listed on the agenda that you also include -- intend to
13 include, read those general headings, please.

14 CHAIRMAN ANDERSON: Okay. The Commission
15 on Human Rights executive session, July 20th, 2011, are
16 now going into executive session pursuant to Government
17 Code, Section 551.074(a)(1) to discuss the appointment,
18 employment, evaluation, reassignment, duties,
19 accomplishments, performance, goals, and
20 responsibilities of the Texas Workforce Commission Civil
21 Rights Division director. We are also going in pursuant
22 to Government Code, Section 551.074 to discuss the
23 appointment, evaluation, reassignment, duties,
24 accomplishments, performance, goals, and
25 responsibilities of executive staff and other personnel.

1 I assume this could include any -- well, never mind.
2 We'll talk about that. We'll leave it the way it is.

3 Additionally, we are now going into
4 executive session pursuant to Government Code Section
5 551.071(1) and (2), concerning contemplated legislation
6 or pending litigation, Texas Commission on Human Rights,
7 David Powell and Robert Gomez v. Marilou Morrison; John
8 Benavides, et al. v. Texas Commission on Human Rights;
9 Texas Workforce Commission v. Cameron Overstreet, et al;
10 Texas Workforce Commission-Civil Rights Division v.
11 Raymond Henshaw and Mark Henshaw; Texas Workforce
12 Commission Civil Rights Division, on behalf of Gregory
13 Collins v. Saratoga Property Owners Association, et al.;
14 and the Texas Workforce Commission-Civil Rights
15 Division v. Spiros Tsokos.

16 And Agenda 11c where the commissioners
17 seek the advice of their attorney as privileged
18 communications under the Texas Disciplinary Rules of
19 Professional Conduct of the State Bar of Texas. And we
20 are adjourned at 10:50 to go into executive session.

21 (At this time, the Texas Commission on
22 Human Rights Commissioners went into
23 executive session from 10:50 o'clock a.m.
24 until 12:00 o'clock p.m., after which time
25 the proceedings continued as follows:)

1 CHAIRMAN ANDERSON: Okay. We're back on
2 the record. The Texas Commission on Human Rights
3 executive session concluded at -- July 20th, 2011 at
4 12:00 o'clock. We're back in open session at 12:04.
5 There was no action taken during the executive session.

6 AGENDA ITEM NO. 11

7 CHAIRMAN ANDERSON: And without any
8 objection, we'll conclude the July 20th, 2011 Commission
9 on Human Rights.

10 (No audible response.)

11 CHAIRMAN ANDERSON: Seeing none, the
12 meeting is adjourned.

13 (At this time, the proceedings were
14 adjourned at 12:04 o'clock p.m.,
15 Wednesday, July 20, 2011.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3 I, LYDIA L. EDWARDS, certified shorthand
4 reporter for the State of Texas, do hereby certify that
5 the above-captioned matter came on for hearing before
6 the TEXAS COMMISSION ON HUMAN RIGHTS as hereinafter set
7 out.

8 I FURTHER CERTIFY that the proceedings of said
9 hearing were reported by me, accurately reduced to
10 typewriting under my supervision and control, and, after
11 being so reduced, were filed with the TEXAS COMMISSION
12 ON HUMAN RIGHTS.

13 GIVEN UNDER MY OFFICIAL hand of office at
14 Austin, Texas, the _____ day of July, 2011.

15
16
17
18

Lydia L. Edwards
Certification No. 2567
My Commission Expires 12/31/12

Certified Shorthand Reporter
State of Texas

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