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### Mission Statement

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

### Vision

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

### Texas Workforce Commission Commissioners

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

**Julian Alvarez**  
*Commissioner Representing Labor*

## End of an Era: CRD Stalwart Vickie Covington Retiring



Photo courtesy of CRD

Vickie Covington, the final Civil Rights Division staffer to be employed by both the Texas Commission on Human Rights (TCHR) and its successor, the Texas Workforce Commission Civil Rights Division (CRD),

is retiring in March 2018.

Vickie has held various positions with the former TCHR and CRD. Vickie is one of very few CRD employees to experience working in both the division's Employment and Housing sections. She began her tenure as a Policy Reviewer, then became the Employment Investigations Manager. Vickie also served as the Acting Director of Enforcement

for Housing and Employment. For a brief period during the transition to TWC in 2004, Vickie served as the Interim Director of the Civil Rights Division. Vickie was the Fair Housing Manager for almost 11 years before stepping down from her management position to become a part-time Investigator V and Outreach Coordinator with CRD in 2015. In her current capacity, Vickie investigates housing discrimination complaints, oversees

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*Let's Work Together  
for Fair Housing*

the Division's fair housing training and outreach initiatives, and assists in oversight of CRD's current Department of Housing and Urban Development grant.

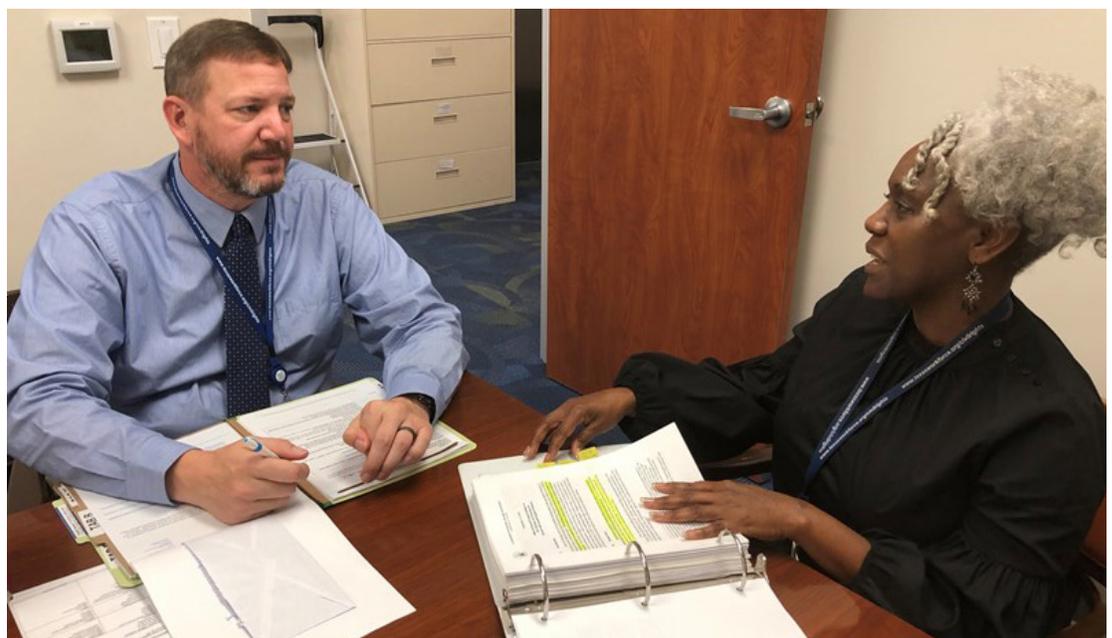
Prior to working for TCHR/CRD, Vickie proudly served our country for 22 years in the U.S. Army.

Vickie is a subject matter expert and master trainer in Texas equal employment and fair housing discrimination investigations and is one of a select few individuals in the country to have obtained the designation of Certified Fair Housing Investigator from the National Fair Housing Training Academy and the International Association of Human Rights Agencies (IAOHRA). In addition, she obtained her Professional in Human Resources (PHR) certification,

awarded by the Human Resource Certification Institute (HRCI).

CRD Division Director Lowell A. Keig commented, "It is impossible to measure what Vickie has meant to TWC-CRD all these years. And I know that I speak for everyone when I say this is a bittersweet moment. However, we are all happy that Vickie will have time to kick back and pursue new dreams."

Current CRD Housing Manager Michelle Goodwine remarked, "It has been such an honor to work with Vickie. Her institutional knowledge of CRD and her incredible grasp of fair housing issues has benefited the entire Division. Vickie has been an incredibly giving mentor to me—always willing to share her immense knowledge freely."



Vickie Covington training new investigator, Stephen Wells. Photo courtesy of CRD

# Director's Corner

## The First 50 Years of Fair Housing Enforcement

By: Lowell A. Keig, Civil Rights Division Director



Photo courtesy of Thinkstock

During April we celebrate Fair Housing Month, and this year we are reflecting on the 50th Anniversary of Title VIII of the Civil Rights Act of 1968—what we call, “the Fair Housing Act.” The Act was signed by a Texan, President Lyndon Baines Johnson, on April 11, 1968.

At that time, the Fair Housing Act prohibited discrimination based on race, color, sex, national origin and religion. It was amended in 1988 to extend coverage to prohibit discrimination based on disability and familial status.

The next year, the State of Texas passed the Texas Fair Housing Act. Texas was the first state to obtain approval from the Department of Housing and Urban Development for a law that was “substantially equivalent” to the federal act.

The road to passage of the federal Fair Housing Act was rather rocky. Then-U.S. Sen. Walter Mondale,

D-MN, and Sen. Edward Brooke, R-MA, were co-authors of the initial bill. Brooke was the first African-American ever to be elected to the Senate by popular vote. He spoke

personally of his return from World War II and his inability to obtain a home of his choice for his family because of his race.

To increase the potential for passing a fair housing law, Sens. Mondale and Brooke eventually tabled their bill to make way for a slightly less comprehensive bill introduced by Sen. Everett Dirksen, R-IL. On March 11, 1968, the Senate passed the Civil Rights Act of 1968, which included far-reaching fair housing requirements. The bill was sent to the House of Representatives, where it stalled.

The challenges of getting the bill passed in the House are highlighted in a gripping, eight-minute video called “Seven Days” (see link below). It was developed by the National Fair Housing Alliance in partnership with Nationwide Insurance and Animal productions.

In the video, President Johnson addresses the nation. He says,

“The life of a man who symbolized the freedom and faith of America, has been taken. And no words of mine can fill the void of the eloquent voice that has been still. But this I do believe deeply: The dream of Dr. Martin Luther King Jr. has not died with him.” Civil rights leader, Dorothy Height, in remembering the moment, said, “President Johnson was willing to speak up and say: ‘We have to pass a Fair Housing bill.’” The odds were long: Letters sent to Johnson about the bill were 150 to 1 against fair housing. However, on April 10, after much legislative wrangling, the full U.S. House passed the Civil Rights Bill with the housing section intact.

We should note that a young Texas Congressman named George H.W. Bush voted in favor of the bill.

In signing the law, Johnson said, “At long last, this afternoon, Fair Housing for all is now a part of the American way of life. Democracy’s work is being done, and the bell of freedom rings out a little louder. We have come some of the way, not near all of it.”

Since 1968, we have come a long way, but still, not near all of it. Let’s work together for fair housing!

Sources: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/abouttheo/history](https://www.hud.gov/program_offices/fair_housing_equal_opp/abouttheo/history) [http://moses.law.umn.edu/mondale/fair\\_housing.php](http://moses.law.umn.edu/mondale/fair_housing.php) <https://vimeo.com/68787849>

# CRD Successfully Conciliates Complaints of Reasonable Accommodation, Sexual Harassment and Discriminatory Lease Non-Renewal

During the second quarter of the Department of Housing and Urban Development Performance Period 2018 (Sept. 1 to Nov. 30, 2017), 55 of the 127 cases closed (43 percent) were because the parties signed a Conciliation Agreement with the Texas Workforce Commission Civil Rights Division (CRD). These cases were conciliated through 1) a formal mediation process conducted by a mediator, 2) conciliation negotiations conducted by a mediator, or 3) conciliation discussions facilitated by an investigator (collectively referred to below as alternative dispute resolution or “ADR” cases). Disability was the basis for a majority of those conciliated cases—a continuing trend.

A review of the settlement terms of these cases indicate that ADR closure settlement terms most often include policy changes and fair housing training. Below are the allegations, settlement terms, and lessons learned of selected ADR closures.

## Tenant Alleges Sexual Harassment, Receives Non-Renewal

**Allegation:** The tenant complained to the property manager that the maintenance man made sexual advances to her and sexually

assaulted her when he put his hand down the front of her shirt. The alleged sexual assault supposedly occurred at the time the inspector was also at the apartment. Shortly after reporting the sexual harassment, the complainant received a lease non-renewal.

**Background Information:** Shortly after the property manager was told about the alleged sexual assault, an internal investigation was conducted. Formal disciplinary action was not taken against the maintenance man because the allegations could not be corroborated. He was transferred, however, to a different property.

During the initial CRD investigation, it was discovered that the tenant did not mention to the inspector that the maintenance man touched her inappropriately. There were no witnesses to the alleged sexual assault.

It was also discovered during the CRD investigation that the reason the complainant received a non-renewal was because the housing authority refused to pay the increased rental rate that the property included in the new lease.

**Settlement Terms:**

- \$750, or about one month’s rent
- CRD-approved fair housing training

## Lesson Learned:

All allegations of sexual harassment made by a tenant against housing provider staff or contractors must be thoroughly investigated. Disciplinary actions, up to and including termination, must be taken if evidence of sexual harassment is found. Housing providers must also ensure that any adverse action taken against a tenant who has lodged sexual harassment allegations is based on non-discriminatory reasons.

## Tenant’s Request for Transfer Denied as a Reasonable Accommodation

**Allegation:** A tenant submitted a request to transfer to a larger unit that would allow his wife to maneuver her electric scooter. The complainants’ request was denied because they had been tenants for less than one year. Less than six months after making the request, the complainants received a lease non-renewal.

**Background Information:** After the initial transfer was denied by the respondents, the parties then agreed to allow the complainants to modify their current unit so that the wife could maneuver the scooter. Shortly after that verbal agreement, the complainants informed the respondents that they were going



Photo courtesy of Getty Images

to purchase a house and leave the property. The complainants later rescinded their move-out date, remained on the property, and began requesting a transfer to a larger unit again. The complainants were told that there were no available units.

**Settlement Terms:**

- \$2,000
- CRD-approved fair housing training

**Lesson Learned:**

A housing provider may have certain transfer requirements. However, if a tenant is requesting a reasonable accommodation to transfer, it may be necessary to waive those requirements. In addition, if a complainant informs a respondent that he or she will be moving after requesting a reasonable accommodation, it could constitute a termination of the interactive process by the complainant.

**Manager Makes Discriminatory Statement When Denying Lease Renewal**

**Allegation:** The complainant allegedly resigned from a position at an apartment complex because his Hispanic manager was racist. After his resignation, the complainant continued living at the apartment complex. When it came time to renew his lease, the manager told the complainant that his renewal was denied because, “I don’t like you people, and I have the power to deny you the opportunity to renew your lease.”

**Settlement Terms:**

- \$2,500
- Respondent waived any and all charges assessed when complainant moved out of his unit at the subject property.
- Respondent is required to implement a written policy stipulating that lease non-renewal actions require approval by both the property supervisor and regional director.

**Lesson Learned:**

Housing providers must ensure that lease non-renewal decisions are made in a non-discriminatory manner. Having more than one employee or manager make those decisions can help to reduce the likelihood of discriminatory non-renewal decisions.

**Lease Non-Renewal due to Reasonable Accommodation Request**

**Allegation:** The complainant resided in a rental house for six years with her disabled son. The complainant informed the respondent that her son had just received approval for a service/assistance animal. The next day she was informed that her lease would not be renewed.

**Settlement Terms:**

- \$6,800 for reimbursement of moving costs, the rental increase and security deposit expenses
- CRD-approved fair housing training

**Lesson Learned:**

The main issue in this case was the nexus between when the complainant requested approval of her son’s service/assistance animal and when she received a lease non-renewal. The complainant was a long-term tenant who had a good rental history and who did not have a record with respondent of any payment or conduct issues.

In the State of Texas, a housing provider has the right not to renew a tenant’s lease. The housing provider must make sure, however, that the decision was not based on any discriminatory reasons.

# Civil Rights Division Spreads Word About Fair Housing Online and On the Streets



J.R. Martinez (left) with Edward "Ed" Hill (right).  
Photo courtesy of CRD

From Nov. 30, 2017 to Dec. 31, 2017, the Texas Workforce Commission Civil Rights Division (CRD) continued its fair housing social media campaign on Facebook. The public service announcements (PSAs) targeted the following geographic areas: Austin, Dallas/Fort Worth, Gulf Coast, Midland-Odessa, Greater San Antonio area, and the Rio Grande Valley. According to the

Facebook statistics, these PSAs reached over 457,000 viewers during this period.

As part of its "Let's Work Together for Fair Housing" campaign to inform housing consumers and providers of the important mission of combatting housing discrimination. CRD also placed transit advertising on the interior and exterior of buses in Austin and Dallas-Fort Worth areas, on billboards in Houston, and on billboards and bus shelters in McAllen.

The Facebook and bus PSAs were funded by a generous grant from the U.S. Department of Housing & Urban Development.

CRD also actively pursued person-to-person outreach during January and February of 2018. The division's new Trainer and Outreach Coordinator, Edward "Ed" Hill, represented CRD at several community events, including the Annual Transportation Works

Summit in Waco and the Special Olympics Texas Winter Games in Austin. During these events, Ed distributed information about the CRD services available to the public that address housing and employment discrimination faced by individuals with disabilities.

At the Special Olympics event, Ed had the opportunity to meet special guest J.R. Martinez, an actor, author, motivational speaker, former U.S. Army soldier, and the winner of Season 13 of ABC's *Dancing With the Stars*. During his appearance, Martinez signed copies of his book, *Full of Heart: My Story of Survival, Strength, and Spirit*, and encouraged disabled Olympians with disabilities to triumph over tragedy, rather than set physical and mental limitations on their abilities. At the event, Martinez took time to talk with Ed about housing and employment difficulties wounded warriors and disabled veterans experience in their post-military lives.



Photo courtesy of CRD

# TWC Civil Rights Division Offers Great Fair Housing Training, Outreach Opportunities

The Texas Workforce Commission Civil Rights Division (CRD) is committed to providing training and technical assistance, outreach and education programs to assist employers, employees, housing providers, home buyers and other stakeholders in understanding and preventing discrimination. We believe that discrimination can be averted if everyone knows their rights and responsibilities.

## Fair Housing Computer Based Training

CRD began offering our *Fair Housing Overview* Computer-based Training (CBT) in January 2018. This CBT enables participants to learn about fair housing at their own pace and location, using their personal computers. The course is available and free of charge. For registration information, send an e-mail to [crdtraining@twc.state.tx.us](mailto:crdtraining@twc.state.tx.us).

## CRD, TDHCA Offering Joint Webinars

Mark your calendars and join the Texas Workforce Commission (TWC) and the Texas Department of Housing and Community Affairs (TDHCA) for two webinar presentations planned to celebrate fair housing in Texas. The series will feature training sessions that are designed to introduce, add to, or refresh your general fair housing knowledge.

### Fair Housing Overview

The 2018 webinar series is as follows: Tuesday, April 10, 2 p.m. to 3:30 p.m., CST

Learn the basics about fair housing in Texas including protected classes, discriminatory practices, exemptions, and fair housing testing. Participants will have a chance to apply their knowledge in a review of case scenarios.

Register here: <https://attendee.gotowebinar.com/register/1231859131382451970>

### Reasonable Accommodations and Accessibility

Tuesday, April 17, 2 p.m. to 3:30 p.m., CST

Learn the basics about the reasonable accommodation process. What is a reasonable accommodation? How should a property respond? This presentation will also include information on service and assistance animals.

Register here: <https://attendee.gotowebinar.com/register/3111164196786582274>

For further information please contact Suzanne Hemphill at [Suzanne.Hemphill@tdhca.state.tx.us](mailto:Suzanne.Hemphill@tdhca.state.tx.us).

Individuals who require auxiliary aids, services or sign language interpreters to participate should contact Suzanne Hemphill at 512-475-4595 or Relay Texas at 1-800-735-2989 at least three (3) days before the event so appropriate arrangements can be made.

CRD representatives are available on a limited basis at no cost to make presentations and participate in meetings with consumers and housing providers, and their representative groups, as well as community organizations and other members of the public.

## 2018 Fair Housing Summit

The City of Austin Equal Employment/Fair Housing Office is hosting the 2018 Fair Housing Summit in Austin, Texas from April 2-5, 2018. The 2018 Fair Housing Summit honors the legacy of President Lyndon B. Johnson's signing of the Fair Housing Act, an important amendment to the landmark Civil Rights Act of 1968. The Summit will celebrate the impact of the Fair Housing Act over the past 50 years, examine remaining barriers to fair housing, and share best practices to affirmatively further fair housing.

CRD is an active partner and participating organization during this event.

Visit the website [www.austinfairhousingsummit.com](http://www.austinfairhousingsummit.com) for more details.

# Recent Fair Housing Texas Case Summary

By Corra Dunigan, TWC Assistant General Counsel

***Walls, et al. v. Capella Park Homeowners' Association, Inc.***  
2017 Tex. App. LEXIS 11193 (Dallas)

This case comes on appeal following a trial court's judgment that granted a permanent injunction against appellants and in favor of Capella Park Homeowners' Association (Capella or HOA).

The case began in 2013, when Capella filed suit against Willie E. Walls, and Melody Hanson (appellants), who operated My Royal Palace, a for-profit housing program that services individuals with physical and intellectual disabilities. My Royal Palace consists of two group homes whose residents are comprised of individuals with severe intellectual and/or physical disabilities, requiring around the clock care.

The appellants sought an accommodation of Capella's Restrictive Covenant (which allows for community homes that meet the definition under Texas Human Resource Code, Chapter 123) asking that Capella not enforce it and to allow for the operation of the two group homes, which were located next to one another.

In the initial suit, Capella argued that its covenants and restrictions prohibited the use of properties

for commercial use, citing that community or group homes must comply with Chapter 123. Chapter 123 provides that community homes may not be established within a half of a mile of another community home. Both at the trial court and on appeal, appellants challenged that provision, arguing that residential services to individuals with disabilities are protected by the Fair Housing Act, independent of Chapter 123; specifically, they argued that the purpose of the fair housing statutes was to require "reasonable accommodations... in policies...to allow disabled individuals to use and enjoy housing in...the community they choose to live in." The trial court found in favor of Capella, resulting in this appeal.

The Dallas Court of Appeals examined the accommodation request made by appellants by first addressing the refusal by Capella, and then analyzing the reasonableness and necessity of appellant's claim.

To show a refusal of a requested accommodation, a plaintiff must establish that he or she requested an accommodation and the defendant refused it. The stipulated facts presented to the trial court show that the appellants requested a

"reasonable" accommodation by requesting that Capella refrain from enforcing the restrictive covenants, and that Capella refused such a request by filing the underlying lawsuit. The Court recognized that under similar facts, courts have found "that the attempted enforcement of restrictive covenants constituted refusals to make reasonable accommodations necessary to afford plaintiffs an equal opportunity to use and enjoy the dwellings of their choice." The appellate court therefore concluded that Capella refused the appellants' reasonable accommodation request.

As to the issue of reasonableness, the appellate court acknowledged that this determination is highly fact-specific and determined on a case-by-case basis. In making this determination, a court may consider whether the accommodation would undermine the legitimate purposes of the existing regulations; it may also consider whether there are alternatives to accomplish the benefits more efficiently.

Furthermore, courts have held that "reasonable accommodations do not require accommodations which impose undue financial and administrative burdens or changes, adjustments, or



Photo courtesy of Getty Images

modifications to existing programs that would be substantial, or that would constitute fundamental alterations in the nature of the program.”

Here, the stipulated facts showed that only three workers would be present at the group homes and no more than three vehicles would be parked at any given time.

Furthermore, the parties agreed that Capella permits group or community homes that comply with Chapter 123 of the Human Resources Code, which would allow as many as six residents and two supervisors to reside in one home at the same time to operate on properties that are subject to restrictive covenants.

In fact, Capella’s deed restrictions permit up to three “unrelated

[non-disabled] persons to live together as a single housekeeping unit.” The court found that this makes it more difficult for Capella to argue that an exception to the restrictions would cause a “fundamental alteration of the zoning scheme.” In this case, the facts suggest that the proposed use of the two group homes here is like the uses already permitted by the HOA, and the only notable difference is that the “unrelated” people living in the homes are disabled.

Finally, the appellate court analyzed the necessity element of the reasonable accommodation request. Capella argued that the appellants cannot satisfy this element because the care that these individuals with disabilities would require could be done “in a commercial

setting” or “anywhere” else. The appellate court rejected this argument stating that “...the essential question in reasonable accommodation cases is whether the disabled have an equal opportunity to live in the dwelling of their choice, not simply an opportunity to live somewhere....” The appellate court therefore concluded the “equal opportunity” the appellants sought is the opportunity for these individuals with disabilities to live on the lots that are subject to the restrictive covenant.

The appellate court then turned its analysis to whether the appellants demonstrated a direct linkage to the proposed accommodation and the equal opportunity for the disabled residents. As noted from the trial court’s decision, Capella obtained a permanent injunction, which called for the appellants to cease operating the two group homes on the lots in question. By forcing the group homes to cease operations, the residents would no longer be able to live in the “dwelling of their choice.” Therefore, the appellate court concluded that the necessity element was met, and thereby reversed and remanded the case for further proceedings. In so doing, the appellate court also dissolved the permanent injunction against the appellants.