

# Commission on Human Rights

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## **Kentucky Human Rights Commission ruled today on discrimination complaints including probable cause and pre-probable cause cases**

Press Release Date: Thursday, January 17, 2013

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Louisville, Ky. Jan. 17, 2013 – The Kentucky Commission on Human Rights (KCHR) Board of Commissioners met today at its headquarters in Louisville, Ky., to rule on discrimination complaints on behalf of the people of the Commonwealth of Kentucky.

Since the commission's last meeting, which was in October 2012, the executive director has issued two determinations of probable cause indicating there is evidence to believe discrimination occurred. These pertained to the matters of *Young v. Comprehensive Neurological Services, PLLC*, KCHR No. 874-PA, and *Buschmann v. Eye Associates of Danville*, KCHR No. 877-PA.

The commission ruled today to accept six conciliation agreements, accept three case withdrawals giving complainants the right to file a private suit, accept 10 case withdrawals with private settlements, and dismiss 32 complaints with findings of no probable cause to evidence that discrimination occurred.

Since November, the agency has received 10 cases for mediation. The agency has successfully mediated three cases with private settlements during this period. Mediation is an option offered to any interested complainant in order to seek a quick resolution to a discrimination complaint. The commission provides a neutral mediation attorney to assist the complainant and respondent in face-to-face negotiations to resolve a complaint. Otherwise, complainants opt to have their complaints investigated.

The following is a summary of the conciliation agreements approved by the commission today:

*Lexington Fair Housing Council v. Meadowview Apartments LP*, in Highland Heights, Ky.: On May 4, 2012, Lexington Fair Housing Council alleged that Meadowview Apartments, 100 Meadow Trail Drive, in Highland Heights, discriminated based on the protected class of disability in the area of housing. This would be a violation of the Kentucky Civil Rights Act and the U.S. Fair Housing Act. The council claimed the property was inaccessible to people with disabilities and not compliant with design and construction requirements of the federal Fair Housing Act. After an investigation by commission staff, the agency prepared to issue a

probable cause determination, which indicates there is evidence to believe discrimination occurred. Prior to the issuance, the parties decided to resolve the matter with a conciliation agreement, which the commission negotiated. The respondent denied any violation of the law. The property company agreed to comply with civil rights law, bring up to design requirements within 120 days any usable doorways within ground floor units concerning width and adjust thermostat height from the finished floors. The respondent agreed to provide reasonable accommodations to tenants with disabilities, not raise the rent for the units in which the corrections are made, pay \$1,000 to the council, \$1,000 to the commission, and \$500 to a charity that assists people with disabilities, undergo fair housing compliance training and for two years submit to compliance monitoring by the commission.

Lexington Fair Housing Council v. Glenwood Apartments in Cave City, Ky.: On Jan. 13, 2011, the Lexington Fair Housing Council alleged that Glenwood Apartments, 9451 Happy Valley Road, in Cave City, discriminated based on the protected class of disability in the area of housing. This would be a violation of the Kentucky Civil Rights Act, the U.S. Fair Housing Act and the U.S. Americans with Disabilities Act. The council claimed the rental property was not providing a reasonable accommodation to people with disabilities who use support animals because it permitted the animals but required an additional "pet deposit" from the individuals. The commission issued a probable cause determination, indicating there was evidence to believe discrimination occurred. The respondent elected to proceed to circuit court, and on Jan. 5, 2012, the commission filed a civil complaint in Barren Circuit Court. Prior to the matter proceeding to trial, the parties agreed to resolve it with a conciliation agreement, which the commission negotiated. The respondent denied any violation of the law. It agreed to make a donation of \$1,000 to the Arc of Barren County, a non-profit organization offering support and services to individuals with disabilities, comply with civil rights law, undergo fair housing training, and for three years submit to compliance monitoring by the commission.

Community Options Inc. v. the City of Benton, Ky.: Community Options, a non-profit organization that provides supervised residential housing for people with disabilities, alleged on Dec. 6, 2011, that the City of Benton discriminated based on the protected class of disability in the area of housing. This would be a violation of the Kentucky Civil Rights Act and the U.S. Fair Housing Act. Community Options claimed the city notified it that it would not be allowed to operate its supportive housing for people with disabilities in residential areas of the city. The city asserted it only questioned whether the complainant could operate its services in a residential area of the city and therefore filed a complaint for declaratory relief in Marshall Circuit court. After an investigation by the commission, the agency prepared to issue a probable cause determination, which would indicate there was evidence to believe discrimination occurred. Prior to the issuance, the parties decided to resolve the matter with a conciliation agreement, which the commission negotiated. The respondent denied any violation of the law. The respondent agreed to withdraw its complaint for declaratory relief and that Community Options is authorized to operate a residential care facility in Benton, and that the city will allow the complainant to utilize the subject property at 202 Merrywood Drive without further legal action. The respondent agreed that its city attorney and zoning administrator will undergo fair housing training and thereafter advise the city council as issues arise regarding the statutory

right of residential care facilities operated for people with disabilities to operate in any residential area. The respondent agreed to submit to commission compliance monitoring for two years.

Tonya Merida v. Franklin American Mortgage Company and Star Mortgage LLC, in Richmond, Ky.: On April 4, 2012, Tonya Merida alleged that American Mortgage and Star Mortgage discriminated based on the protected class of disability in the area of housing. This would be a violation of the Kentucky Civil Rights Act and the U.S. Fair Housing Act. Merida claimed the companies' underwriting requirements imposed higher levels of income verification on disabled persons that receive social security disability than those required of non-disabled persons. On April 10, 2012, Star Mortgage filed a response to the complaint denying the allegations and any violation of the law. On April 30, 2012, American Mortgage filed a similar response. After investigation by staff, the commission prepared to issue a determination of probable cause, which indicates there is evidence to believe discrimination occurred. Prior to the issuance, the parties decided to resolve the matter with a conciliation agreement, which the commission negotiated. The respondents agreed to comply with civil rights law, to pay Merida \$10,500 and in a separate check pay \$500 to the commission to offset a portion of the commission's expenses. The respondents agreed to undergo fair housing training and for two years submit to compliance monitoring by the commission.

Tamara Durham v. Popp Brothers Inc. doing business as KFC, in Henderson, Ky.: On Oct. 2, 2008, Tamara Durham alleged the KFC in Henderson discriminated against her based on sex in the area of employment. This would be a violation of the Kentucky Civil Rights Act and the U.S. Civil Rights Act. She claimed the company forced her to take leave when she was pregnant. After its investigation, the commission issued a determination of probable cause, which indicated there was evidence to believe discrimination occurred. Prior to holding a final hearing on the case, the parties decided to resolve the matter with a conciliation agreement. The company denied any violation of the law. The company agreed to comply with civil rights law, to rescind all mandatory leave policies regarding pregnant women and to employ pregnant women and members of other protected classes, undergo employment civil rights compliance training and for three years submit to compliance monitoring by the commission.

Jennifer Vermillion v. Process Equipment Company Inc., doing business as Proheat Inc., in La Grange, Ky.: On Sept. 9, 2010, Jennifer Vermillion alleged that Proheat discriminated against her based on the protected class of sex in the area of employment. This would be a violation of the Kentucky Civil Rights Act and the U.S. Civil Rights Act. She claimed the employer discriminated, harassed and retaliated against her based on her gender. After staff investigation, the commission issued a determination of probable cause, which indicates there is evidence to believe discrimination occurred. Prior to holding a final hearing on the case, the parties decided to resolve the matter with a conciliation agreement. Proheat denied any violation of the law. The company agreed to compensate Vermillion in the amount of \$45,000, revise its written policy describing its prohibition of discrimination of any kind and to implement serious disciplinary actions if discrimination occurs. The company agreed to undergo employment civil rights compliance training and for two years to submit to compliance monitoring by the commission.

The Kentucky Commission on Human Rights is the state authority that enforces for the Commonwealth of Kentucky laws against discrimination. The Kentucky Civil Rights Act protects people from discrimination in the areas of housing, employment, public accommodations and financial transactions. People are protected from discrimination in these areas based on race, color, religion, national origin, disability and gender. In housing, people are further protected on the basis of familial status, which covers women who are pregnant and families with children under age 18 in the household. In employment, people are further protected based on age (40-years and over) and on tobacco-smoking status.

For more information or help with discrimination, contact the commission at 1.800.292.5566. The TDD telephone number is 502.595.4084. Visit the website for detailed information on the law and the commission's activities at [kchr.ky.gov](http://kchr.ky.gov). From the homepage, link to the Facebook and Twitter pages, which provide civil rights-related news and announcements.