

professionals that reports unlicensed activity provided that the investigation leads to a conviction similar to the program used by the Department of Financial Services relating to insurance fraud. Mr. Villazon stated that part of the problem is that the Department is limited in its remedies under Chapter 455, Florida Statutes. He added that the only thing that is going to stop them is getting the State Attorney's Office to start prosecuting the individuals for committing a third degree felony and get a conviction. Chairman Valdes suggested that the Department look at how other boards handle unlicensed activity, such as the Board of Architecture.

Commissioner Veissi asked Chief Attorney Watkins if the Division reports the cases to the state attorney's office. Ms. Watkins explained that the Division does report the cases, but the State Attorney has not been interested in going out to pursue up to this point.

Chairman Valdes acknowledged Dick Fryer from IFREC School who stated that he was present when the unlicensed activity fee was presented to the Commission with the understanding that the fees would be used for enforcement. He stated that the money has never been used for enforcement, but since has been imbedded in Chapter 475, for advertisement, which in his opinion is a gross waste of the State's money. He further stated that the money should be used for enforcement as it was initially presented. Mr. Fryer added that of the money collected for unlicensed activity only a small portion is used for advertisement and the remainder is swept by the State.

Commissioner Veissi moved that the Division present a plan to the Commission, by the January FREC meeting, which utilizes the unlicensed activity dollars to enforcement, such as hiring more investigators and attorneys to strictly handle the civil injunctions, as opposed to using the allotment for advertising. Vice-Chair Sanchez seconded. The motion carried unanimously.

Chairman Valdes requested that Vice-Chair Sanchez sit down with the statewide prosecutors and present to them the issues we are facing. Commissioner Hornsleth moved to authorize the Chair to appoint a representative to meet with the state attorney's office. Commissioner Hogan seconded. The motion carried unanimously.

Commissioner Hogan stated that education regarding unlicensed activity to real estate licensees is also important. She added that some people become apathetic and look the other way or licensees do not make complaints in fear of retaliation by the subject. Commissioner Hogan stated that educating the people that care about the industry is a key component.

Next, Vice-Chair Sanchez inquired as to the purpose of multiple licenses. FREC Counsel Villazon responded that multiple licenses are used to make a distinction between several companies. Commissioner Hogan stated that the brokers are selling their licenses to several people. Director Steele stated that having a multiple license is not the problem, the problem is some of the individuals who have multiple licenses.

Ms. Linda Crawford agreed that eliminating multiple licenses is not the answer. Ms. Crawford stated that the problem is the lack of supervision of sales associates on the part of the brokers. Ms. Crawford further stated that Chapter 475, *Florida Statutes* should be modified to make it clear that the broker would be held responsible for the actions of the sales associates who have harmed the public. FREC Counsel Daniel Villazon stated it would take a statutory change be able to charge for lack of supervision. Chief Attorney Watkins added that the Department can charge a broker with not supervising the sales associates under Section

475.25(1)(b), *Florida Statutes*, but there is always the intent issue and that it would be easier if there was a specific Statute relating to this issue.

Director Steele stated that the Department has not been directed towards any specific program until the Commission provides its input. He added that \$291,750.00 has been appropriated for unlicensed activity.

Chairman Valdes presented for discussion the issue of creating minimum standards for permitting real estate instructors and schools. Vice-Chair Sanchez suggested that instructors should have a minimum of five years experience. FREC Counsel Daniel Villazon stated that would require statutory change.

Chairman Valdes presented the proposals submitted by John Greer and Linda Crawford. Mr. Dick Fryer stated that he respectfully disagrees with portions of Ms. Crawford's proposal, in particular, mandating the schools' use of the statutes and rules in the classroom. He added that the problem is the students do not read the textbook, much less Chapter 475 and Administrative Code. Mr. Fryer further stated that the textbook covers everything that needs to be covered if the students would read it. A school permit holder should bear full responsibility and should be held accountable for the quality of instruction provided by staff.

Chairman Valdes stated that the Department states that it recognizes the problems. The Chair added that the licensees pay the Department to regulate the industry, however, the investigators have been cut in half. Vice-Chair Sanchez stated that the only way to address these issues is to hire more manpower, specifically more investigators to regulate the industry. Chairman Valdes stated that he wants to hear from the people in the field who talk to the little guys, because it is they who have the answers. The Chair added that the Department always states that it is working on the issue, but that no one is giving directions that will make things happen and it is worse today than it was a year ago.

Commissioner Veissi agreed and stated that the only way to correct the problem is to hire more people so the Department can perform random audits and that fear will help keep people in line. She added that this profession is bringing in more licensing fees than ever before, so we are probably subsidizing the entire Department. It comes down to enforcement and we do not have the dollars and the Department keeps adding more regulation on top. Ms. Veissi asked Chief Attorney Watkins how many cases on average do the attorneys handle. Ms. Watkins stated that the attorneys are required to review for probable cause 40 cases a month and the attorney who strictly handles appraisal does 10 cases. She added that the more experienced attorneys manage approximately 100 cases monthly. Chairman Valdes inquired as to how the Department expects to regulate this large industry when it only has a small army. Director Steele stated that he understands the Commission's concerns. Chairman Valdes stated that he commends the employees seeing the amount of work that is presented to the Commission each month and the fact that the Division also handles the Appraisal Board as well. Director Steele stated that everything that the Commission directs the Division to do is sent to Tallahassee.

FAR Attorney Randy Schwartz stated that perhaps since the conception is that Tallahassee does not appear to be addressing the issues, then maybe the Commission should privatize or move to a different Department. Chairman Valdes stated that he intends to bring up that issue with the Deputy Secretary during the general meeting. He added that other agencies have privatized and it appears to be effective. Chairman Valdes stated that the Department should find out what other Departments are doing to see if there is a better way.

Ms. Crawford requested that the Commission consider 3 issues, stating that the Department should be able to provide these 3 things without much expenditure:

1. Resurrect the validation committee consisting of someone from the Bureau of Testing, a licensed Commissioner and Division legal staff and have a validation meeting to look at the questions that less than 20% of the students are answering incorrectly.
2. The Director of the Bureau of Testing to identify areas students are struggling with and place this information on the Division's home page.
3. The Bureau of Testing should provide a monthly report with the various statistics.

Commissioner Hornsleth moved to recommend to the Department to resurrect the validation committee. Commissioner Hogan seconded it. The motion carried unanimously.

Vice-Chair Sanchez moved to recommend to the Legislature to change the statutes to require experience before the licensees can take an instructor's exam. Commissioner Hogan seconded it.

Several educators in the audience stated that it should be up to the individual permit holder as to who should be an instructor and it would be an arbitrary requirement as to how much experience a person has and that it should be on an individual basis. They agreed that someone with a J.D. in real estate or 10 years of real estate experience might not make the best teacher. They also agreed that enforcement is really the key.

Ms. Lori Rodgers of Bert Rodgers Schools suggested that to find more money for enforcement the Commission might consider using an accreditation model, similar to that of the Board of Nursing. Ms. Rodgers stated that it would be a much more difficult process to become a real estate school in that the person must fill out a detailed application and submit sample courses instead of submitting every single course for evaluation. She added that the Department could then use some of the dollars used to evaluate every real estate course for auditing and enforcement.

Mr. John Greer of Gold Coast Schools stated that the Department should strengthen the rule requirements for the permit holder who would be responsible for its instructors, instead of a separate accreditation.

Mr. Fryer of IFREC stated that he agrees with Mr. Greer that what the Vice-Chair is referring to are the people operating schools because it is too easy to obtain a permit to open a school. He added that by setting high standards in order to obtain a permit to operate a school, it would be the permit holder's responsibility to see that the right people are teaching in the classrooms. Chairman Valdes appointed Vice-Chair Sanchez to chair the task force meetings to address this issue. The Chair directed the Vice-Chair to provide a report to the Commission after the task force meeting.

Commissioner Hogan stated that since the unlicensed activity fund has such a pot full of money, is it unreasonable to think that we could not attack this together. She added that if all the Associations from around the state and the Department Investigators talked to the licensees

about unlicensed activity, it could make a difference. Chairman Valdes stated that the Florida Association of Realtors (FAR) and National Association of Realtors has a big responsibility regarding this issue. He added that if there were any associations that want to put together a group of brokers and associates concerned about these issues, he would attend local Board offices to listen to their issues. The Chair further stated that any other Commissioner would be welcomed to do the same. FAR Attorney Randy Schwartz stated that he would get that information out to the local boards. Commissioner Hogan stated that if there were a big proactive campaign, the agents on the street would see that as a positive movement both from the Commission and the State.

There being no further business and no objection, the Chair adjourned the meeting at approximately 4:30 p.m.

Carlos L. Valdes
Chairman

Jason Steele
Division Director

Respectfully submitted:

Lori Crawford
Deputy Clerk