



Director Steele stated that the Department has mandated electronic fingerprinting as of 2006. Commissioner McDonnell stated one thing that may take legislative action, but something to consider when going forward, is putting some teeth into the prohibition against fraudulent application by making it a misdemeanor to knowingly send an application to the State with false information.

Chairman Valdes stated that he is concerned with the amount of staff turnover and that there are issues that just hang over the Commission. The Chair asked Deputy Secretary Julie Baker if she could give an estimate of when a decision would be made on some issues, such as the scholarship program. Deputy Secretary Baker stated that they should have a decision by the next meeting.

Chairman Valdes also inquired about the issue of receiving the agenda material electronically and if or when the Division can somehow move toward the electronic process so that the Commission does not have to carry around so much paper. Director Steele stated that he thinks that is an excellent idea and that this is the first that he has heard of this request. He further stated that he would personally look into this issue. Deputy Secretary Baker stated that she did meet with the vendor that does the electronic agendas for the Board of Medicine and other Boards under the Department of Health. Deputy Secretary Baker stated that the Department needs to know whether it would be the wish of the entire Commission to have an electronic process adding that other boards have discussed the issue and do not wish to go that way.

Commissioner McDonnell requested to discuss the issue of having three-day meetings stating that when she was asked to join the Commission, the meetings were only one day and now the meetings are moving into three days. She further stated that this an unreasonable request when one thinks about the fact that they are unpaid positions. Chairman Valdes stated that Commissioner McDonnell has a very valid point.

Chairman Valdes addressed the issue of privatizing investigations and prosecution and inquired about the Department's position on this matter. Chairman Valdes stated that the Board of Engineers did it about 6 years ago. Deputy Secretary Baker stated that the Department would prepare a summary of what's going on in the Board of Engineers and the Board of Architecture along with a report of how it would affect the Division.

Chairman Valdes reported that a task force meeting was held yesterday to discuss unlicensed activity and also to evaluate possibly setting standards for real estate instructors and schools in an effort to increase the pass rate for real estate applicants. **A copy of the Task Force meeting minutes is attached hereto and made part of these minutes.** Chairman Valdes and Commissioner Veissi provided a brief summary of the various concerns and possible remedies that were discussed. Director Steele stated that we have a tremendous amount of people applying for real estate licenses and there are several factors that contribute to a lower pass/fail ratio, which may include incompetent instructors opening schools teaching poor students. Commissioner McDonnell agreed that there is no dearth of people applying for licenses and she would agree that test statistics are alarming and it may be beneficial to look at the source of the teaching. Director Steele stated that the Department has a year-to-year contract with Promissor and there is nothing in the contract that states that they need to keep a statistical analysis in regard to the schools. He added that he would make that recommendation to Gus Ashoo and to the Bureau of Education and Testing for next year's contract.

Vice-Chairman Sanchez stated that one of the issues addressed at the Task Force meeting which may be a possible factor is that the Division is short staffed, thus the regulations are not being properly enforced. Commissioner Hornsleth concurred.

Chairman Valdes requested that the minutes from the Task Force meeting be incorporated with the General meeting. Commission Hornsleth moved. Commissioner Veissi seconded the motion. The motion carried unanimously.

Chairman Valdes suggested that the money allocated for advertisements regarding unlicensed activity be used to conduct a sting operation to chase down violators similar to the Board of Cosmetology. He also suggested that the Department create a system which rewards professionals that report unlicensed activity provided that the investigation leads to a conviction, such as the program the Department of Financial Services offers for insurance fraud. Chairman Valdes stated that there are resources out there to assist the Department provided that the contributors, such as the National Association of Realtors, feel that the program is worth the money and effort. Commissioner Hogan stated that there is real frustration among the professionals on the street because they see that there are fewer investigators with an increasing amount of licensees on the street. He stated that everyone in the real estate industry should organize and let the state attorney's office and legislators know that unless this becomes a priority, we will take action on our own because it is severely harming the industry.

Commissioner McDonnell expressed that the staff is less equipped now than when she started and it continues to diminish. The Commission expressed concern over dealing with the backlog of discipline cases because of insufficient staff. The Commission stated that they would like to see some staff here and need to see that staff put in the type of dedicated work the current staff puts in now. Chairman Valdes stated that real estate puts more money into the pot than any other board and the money is spent elsewhere. Commissioner McDonnell suggested that in an effort to diminish the caseload, the Commission should provide a consistent set of guidelines and that the Commission simply ratify stipulations for minor cases, similar to how simple DUI cases are handled.

Chairman Valdes and Vice-Chair Sanchez suggested that the Department issue real estate licenses with picture identification so the public can confirm the identity of a licensee during a transaction, which may help protect the public from unlicensed activity.

Chairman Valdes requested that the Department consider having one FREC meeting a year in the panhandle and one meeting in South Florida to bring a meeting to the people. The Director stated that the Department would look into allowing the FREC to conduct a meeting in Tallahassee during the Legislative days.

Last, Commissioner McDonnell addressed the issue of needing a seventh Commissioner for purposes of quorum. Deputy Secretary Baker assured the Commission that this issue is being addressed and the Governor's office should be appointing a new Commissioner very soon.

Deputy Secretary Baker stated that the Commissioners briefed her very well on several issues that she will take to the Department and added that the Commissioners have several good ideas that the Department will look into, but that hiring investigators for unlicensed activity would probably not be possible this year because the Department can only work with what the Legislature allocates. Deputy Secretary Baker confirmed that this year the Department is working on an unlicensed activity campaign, which she will share with the Chair once it is in place. Several Commissioners expressed their concerns regarding this stating that the money

would be more effectively spent on a rewards program. Commissioner Hornsleth inquired about the unlicensed activity funds being swept. Deputy Secretary Baker stated that is governed by the Legislature. Director Steele stated that discussions are in place to provide information to the public regarding unlicensed activity on the Department web site.

Chairman Valdes directed Attorney James R. Mitchell to present his Motion for Continuance on behalf of Respondent David Rohten. After considerable discussion, Commissioner Hornsleth moved to deny the Motion for Continuance. Commissioner Hogan seconded the motion. Motion carried unanimously.

Director Steele reported that the Division will be conducting an Investigative Seminar, December 8 – 12, 2003. Bureau Chief Kathleen Koeberich provided a brief summary of the agenda.

Chairman Valdes presented an Education and Research Foundation proposal titled Forecasting Housing Demand and Housing Development Patterns in Florida submitted by Professor G. Stacy Sirmans and David A. Macpherson for the Commission's consideration. Vice-Chair Sanchez moved to deny the funding for the education research proposal, Commissioner Hogan seconded the motion. Motion carried unanimously.

The Commission approved the following rules for rulemaking:

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|----------------|-----------------|
| 1. 61J2-2.029  | 11. 61J2-10.022 |
| 2. 61J2-2.032  | 12. 61J2-10.029 |
| 3. 61J2-3.011  | 13. 61J2-14.009 |
| 4. 61J2-3.012  | 14. 61J2-14.010 |
| 5. 61J2-4.007  | 15. 61J2-14.011 |
| 6. 61J2-4.010  | 16. 61J2-14.012 |
| 7. 61J2-5.018  | 17. 61J2-24.001 |
| 8. 61J2-5.019  | 18. 61J2-24.002 |
| 9. 61J2-5.020  | 19. 61J2-24.003 |
| 10. 61J2-6.006 | 20. 61J2-24.005 |

Upon recommendation of the Legal Section, the Commission unanimously issued 125 Escrow Disbursement Orders (EDO) and 6 orders of denial. A list of the Orders is attached to the official minutes.

Director Steele requested the Commission ratify the reinstatement of Richard Hehl, Edwin A. Hotz, Michael J. Mellion and Gregory A. Ness, who have met the requirements for reinstatement. The Commission ratified the action unanimously.

The Commission considered four requests for disbursement from the Recovery Fund; the Commission's decisions on these matters are attached to the official minutes.

### **Summary of Applicants-Bureau of Licensing**

The Commission considered the Summary of Applicants Consent Agenda, requiring 26 applicants from the Consent Agenda to appear before it. At approximately 1:15 p.m., November 18, 2003, Jeannie Adkinson, Regulatory Specialist II presented the Summary of Applicants requesting to sit for the real estate examination. The Commission's orders on these matters are attached hereto and made a part of these minutes.

The Chair recessed the meeting at approximately 5:00 p.m., November 18, 2003.

Chairman Carlos Valdes reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at the Division of Real Estate Headquarters, Orlando, Florida, on this 19<sup>th</sup> day of November 2003.

The following Commission members were in attendance: Carlos Valdes, Chairman; Guy Sanchez, Jr., Vice-Chairman; Matey Veissi, Poul Hornsleth, Noel McDonell and Nancy B. Hogan. The Chair declared a quorum present. Daniel Villazon appeared as counsel for the Commission.

Division of Real Estate staff present at the meeting: Deputy Secretary Julie Baker; Nancy P. Campiglia, General Counsel; Jason Steele, Director; Keith Chapman, Deputy Director; Juana C. Watkins, Chief Attorney; Kathleen Koeberich, Bureau Chief, JoEllen Peacock, Education Coordinator; Chris DeCosta, Sven Smith and Joseph Solla, Prosecutors; Fred Clanton, Brian Piper and David Guerdan, Investigator Supervisors; Jonathan Platt, Investigator; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting Service (407-324-4290) provided court reporter services.

### **Legal Matters**

At approximately 8:30 a.m., the Commission took up the Legal Agenda, consisting of 46 items. It heard 39 items, withdrew 5 and continued 2. The Commission's decisions on these matters are attached to the official minutes.

There being no further business and no objection, the Chair adjourned the meeting at approximately 5:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for December 16 and 17, 2003, at Division Headquarters in Orlando, Florida.

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Carlos L. Valdes  
Chairman

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Jason Steele  
Division Director

Respectfully submitted:

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Lori Crawford  
Deputy Clerk