



Minutes of
THE FLORIDA REAL ESTATE COMMISSION
March 16 and 17, 2004
Meeting

Chairman Carlos L. Valdes called the meeting of the Florida Real Estate Commission to order, at approximately 8:45 a.m., at the Division of Real Estate Headquarters, Orlando, Florida, on this 16th day of March, 2004.

The Chair introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Carlos L. Valdes, Chairman; Matey H. Veissi, Poul Hornsleth, Noel P. McDonell and Bob Beals. Vice-Chairman Guy Sanchez, Jr. and Commissioner Nancy Hogan were excused. The Chair declared a quorum present. Daniel Villazon appeared as counsel for the Commission.

Department and Division of Real Estate staff present at the meeting: Julie Baker, Deputy Secretary; Michael Murphy, Director of Service Operations; G. W. Harrell, Special Counsel to Secretary Carr; George Ayrish, Senior Management Analyst Supervisor; Juana C. Watkins, Acting Director; Keith Chapman, Deputy Director; Christopher DeCosta, James Harwood, Alpheus Parsons, Alfonso Santana and Jason Holtz, Prosecutors; Brian Piper and David Guerdan, Investigator Supervisors; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting Service (407-324-4290) provided court reporter services.

Commission Business

Unfinished Business

Deputy Secretary Julie Baker introduced the Director of the Division of Service Operations Mike Murphy. Mr. Murphy provided a brief overview of the functions of the Customer Contact Center, Central Intake Unit and Bureau of Education and Testing. He reported that the Bureau of Education and Testing (BET) is continuously evaluating its processes to provide optimum efficiency in customer service. He added that BET is working on several issues at the request of the Commission which include providing larger monitors at the testing sites, reducing the amount of time it takes to provide exam reviews through Promissor and allowing pass candidates to receive photo licenses and electronic finger printing at the Promissor sites.

Mr. Murphy further reported that the Contact Center IVR has had approximately 42,000 customers of which 35% were self-service. He also reported that the Central Intake Unit processed about 44,000 applications from January 1 to February 29, 2004, and that the majority of the applications were via the portal. Mr. Murphy added that his primary focus would be the Customer Contact Center and he would be challenging the team to look for innovative ways to improve daily processes to extend a better level of service to the customer. The Commission expressed various concerns regarding the Contact Center. Mr. Murphy responded that he is aware of their concerns and gave his assurance that the Department is continually taking steps to improve customer service.

Commissioner McDonnell asked Mr. Murphy what details he had in regards to electronic fingerprinting. Mr. Murphy explained that the Department is looking into whether the costs can be absorbed into current expenses. Commissioner Hornsleth inquired whether the Contact Center would benefit in having a certain number of Contact Center employees specialize in questions specific to real estate. Mr. Murphy stated that they are identifying specific areas of need and they plan to provide intensive training in order to have a group that could provide specialized knowledge as needed. Deputy Secretary Baker added that the Department would also have staff available with specialized training to accommodate increased incoming calls during the renewal periods relating to each profession in order to maximize usage of the full-time employees.

Chairman Valdes requested the Department provide more details relating to real estate licenses being issued with photo identifications. Acting Director Watkins stated that there are numerous aspects that require research relating to this issue and she would provide a written update. Commission received comments from the audience regarding this issue.

Chairman Valdes inquired about the computer-based testing specifically as to how many days under the current contract Promissor has to provide an exam review. Ms. JoAnne Cahill, Regional Director from Promissor, stated that from the date the request is submitted it takes about 11 days for the applicant to be able to review the exam. Ms. Cahill added that starting May 1st Promissor is going to complete computer-based testing which means that the applicant will be able to review the test the day after the test is completed. Commissioner Veissi commented that a review costs \$75.00 and retaking the test costs \$45.00 and that for obvious reasons most people would opt to retake the test instead of paying more for a review. Ms. Cahill stated that was correct and added that the Department is negotiating to lower the fees under the new contract.

Chairman Valdes inquired if there was any way that the Department could hold an application in which the applicant marked yes to question nine until it has received all information relating to the disclosure. Ms. Watkins stated that pursuant to Chapter 120.60, *Florida Statutes*, the Commission has ninety days to approve or deny an application once the Department has received the complete application package from the applicant. Chairman Valdes asked if the Commission could require the applicant to submit a background report with the application. Mr. Villazon stated that he believes that the rule relating to the application gives the Commission the discretion for that requirement. Ms. Watkins said that she and Mr. Villazon would meet to discuss and determine whether it would require a statute or rule change.

Deputy Secretary Baker introduced Special Counsel G.W. Harrell. Mr. Harrell provided a brief overview regarding privatization. Mr. Harrell stated that Governor Bush initiated the Governor's Center for Efficient Government, which is an oversight board that will review all outsourcing requests to make sure they meet specific criteria. He added that this would apply to all state institutions contracting out-side services. He stated that the privatization initiative must require Legislative approval for any appropriation and that the board is subject to budget approval by the Legislature on an annual basis no matter how much money the board has in its account. Mr. Harrell added that the key to privatizing is the development of a business case outlining a needs assessment, specific performance standards and a measurable outcome. Chairman Valdes stated that it appears that there are various hurdles involved with privatization and he further stated that the Commission would like a summary report reflecting the pros and cons relating to this issue. Mr. Harrell stated that the Board of Engineers has a very stable model and that this is the model the Department has used to rewrite the statute. It is also the model the Department would be in favor of if a board wishes

to privatize. Mr. Harrell briefly explained the parameters within which the board must operate and what the Department and Legislature would maintain control over. Deputy Secretary Baker added that privatization is an option every board has under Chapter 455, *Florida Statutes*; however, the Department feels that it can provide better service to the Commission. Chairman Valdes stated that he would like the Commission to participate in a workshop within the next ninety days to research this issue to review the pros and cons. Commissioner Veissi stated that the Commission should also review models of the Architects and Engineers including budget information. Mr. Harrell stated that he would send any information that he has of the privatization models.

Investigator Supervisor Brian Piper provided a report regarding unlicensed activity. He reported what the Division is currently investigating and what has been forwarded to Legal. Ms. Watkins stated that the Division would also be reporting unlicensed activity in the FREC Newsletters. Commissioner McDonell stated that the Florida Prosecuting Attorneys Association (FPAA) meets in July and it might be effective to have the Department present a 15-minute report regarding white-collar crimes relative to unlicensed activity. Chairman Valdes asked Commissioner McDonell to make a presentation at the FPAA meeting. Mr. Piper reported that the newsletter would explain how to check a license on-line. He further reported that by June 1st the Division would set up a time-line to meet with all the state attorney's offices.

Acting Director Watkins reported that she met with Mr. Villazon to discuss the Education Scholarship Program to identify the universities throughout the state with real estate majors in keeping within the objectives of the education foundation rules as advised by Mr. Villazon. Chairman Valdes inquired as to the status of the review of the contract by the Department. Ms. Baker stated the Department is working on the contract. Ms. Watkins stated that the contract presented to the Department relates to the delivery and operation of the scholarship and how it will be awarded to the student. She added that she has concerns in that a university may not allow students to perform certain activities that would allow the student to comply with the requirements outlined in Section 475.045, *Florida Statutes*, as it relates to giving back to the community. Ms. Watkins further stated that she would meet with Mr. Villazon to contact key members from the qualifying universities to obtain information or assistance regarding this issue.

Chairman Valdes inquired as to the status of the FREC meeting in Miami. Ms. Watkins stated that an e-mail was sent out with all the specific information and it is also on the Division's web page. Chairman Valdes inquired if the Board of Realtors in the Miami area have provided this information to its members. Mr. Randy Schwartz, Counsel for the Florida Association of Realtors, stated that he has asked his staff to get this information and added that he will make sure it has been done.

Chairman Valdes addressed the letter draft regarding property manager legislation and suggested that Mr. Villazon make a few changes. Mr. Villazon stated that he would make the requested changes. Commissioner Beals stated that he believed that the bills have been withdrawn. Deputy Secretary Baker confirmed that both bills have been withdrawn. Chairman Valdes stated that as the bills have been withdrawn the letter does not need to be submitted to the Legislature.

Ms. Watkins stated that the FREC newsletter has been drafted and submitted to Communications in Tallahassee for review. She added that the newsletter would be ready for printing as soon as we get it back from Communications and would be ready for mailing by the end of April.

Chairman Valdes tabled the discussion regarding computer based testing issue to the April FREC meeting.

Ms. Watkins asked Chairman Valdes to address the FREC meeting in the Panhandle as to the venue and date. Chairman Valdes suggested the month of October and added that he would suggest a location within the next 30 days.

Legal Matters

At approximately 10:45 a.m., the Commission took up the Legal Agenda, consisting of 25 items. It heard 19 items, withdrew 2 and continued 4. The Commission's decisions on these matters are attached to the official minutes.

Commission Business

New Business

FREC Counsel Daniel Villazon presented Rules 61J2-3.008, 3.009 and 3.020 for a rule development workshop. George Ayrish appeared via phone. Mr. Ayrish stated that the Department would like to incorporate the Item Writing Guidelines by reference into the rule. The Commission received comments from the public supporting the change. Commissioner McDonell moved to amend the language for Rules 3.008, 3.009 and 3.020 to incorporate the Item Writing Guidelines and move forward with rulemaking. Commissioner Hornsleth seconded. The motion carried unanimously.

FREC Counsel Daniel Villazon presented the following correspondence for consideration:

- Correspondence from Mr. Patrick Monaghan requesting the Commission's opinion as to the legality of an advertisement he received from a lending group. Mr. Villazon stated that it sounds like unlicensed activity. Commissioner Veissi moved that the letter should be sent to the Complaint Section for review. Commissioner Hornsleth seconded. The motion carried unanimously.
- Correspondence from Dr. Bernard D. Ivey requesting the Commission opinion regarding whether a broker can list a certain property. Mr. Villazon stated that he would contact him and let him know that the facts are insufficient and advise him that he must petition for a Declaratory Statement to receive an official opinion from the FREC.
- Correspondence from Ms. Oretha Houser requesting the Commission's opinion whether an individual would need a real estate license to operate a company that finds properties used for the film industry. Mr. Villazon stated with the Commission's permission he would contact Ms. Houser to explain to her what services require a real estate license.

Chairman Valdes addressed House Bill 1435. The Chair suggested that the Commission take no position relating to this bill. Commissioner McDonell moved to take no position regarding this

bill. Commissioner Hornsleth seconded. Commissioner Veissi expressed concerns relating to this bill.

Acting Director Watkins requested the Commission ratify the reinstatement of Ian Balthazar, Joseph Luis and Santiago Taveras who have met the requirements for reinstatement. The Commission ratified the actions unanimously.

Upon recommendation of the Legal Section, the Commission unanimously issued 136 Escrow Disbursement Orders (EDO) and 9 orders of denial. A list of the Orders is attached to the official minutes.

Senior Attorney Christopher J. DeCosta presented Recovery Fund Claim styled Cook v. Elbadramany, case number 2004008088. Commissioner McDonell moved to deny the request for payment from the recovery fund. Commissioner Hornsleth seconded. The motion carried unanimously.

The Commission considered the Summary of Applicants Consent Agenda, requiring 21 applicants from the Consent Agenda to appear before it.

Chairman Valdes reported that he recently met with Secretary Carr and stated that the meeting went very well adding that he left the meeting with the impression that the Department has a sincere interest in addressing the Commission's concerns. Chairman Valdes stated that he is encouraged at how the Division has been following through with their requests in the past 90 days. He added that Ms. Watkins is wearing two hats and she will have the cooperation of the whole Commission. The Chair stated that he also recognizes that the staff is overworked and the Commission appreciates their efforts. He further stated that he appreciates Mr. Piper's effort with unlicensed activity. The Commission echoed the Chair's sentiments.

Investigator Supervisor Mr. Brian Piper requested clarification from the Commission regarding unlicensed activity referring to discussions at the last commission meeting relating to the different perspectives that contribute to unlicensed activity. The Commissioners confirmed that they have no jurisdiction over mortgage brokers. Ms. Watkins stated that a telephone conference is scheduled for March 23rd with the Department of Financial Services and Department of Insurance. The Division will prosecute those in violation for unlicensed activity of real estate before the Department. The Division will establish a referral program so that the Final Orders are immediately sent to the Department of Financial Services and Department of Insurance for violations of their Practice Act or Chapter 455, *Florida Statutes*. Commissioner Veissi stated that she does not know how the Commission can provide a specific answer other than determining if it is not within the Department's jurisdiction, it would have to be referred to the appropriate authority. Mr. Piper added that the Division is actively pursuing the toll-free line and filling the OPS positions to provide support.

Chairman Valdes addressed the ARELLO conference scheduled for next month. Commissioner McDonell moved to send Commissioner Hornsleth to the ARELLO Conference in Nebraska upon approval from the Department. Commissioner Veissi seconded. The motion carried unanimously.

The Chair recessed the meeting at approximately 4:00 p.m., March 16, 2004.

Chairman Carlos L. 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 17th day of March 2004.

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

Division of Real Estate staff present at the meeting: Keith Chapman, Deputy Director; Christopher J. DeCosta and James Harwood, Prosecutors; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant; Jeannie Adkinson, Regulatory Specialist II; Maxine Carter, Regulatory Specialist I. American Court Reporting Service (407-324-4290) provided court reporter services.

Summary of Applicants-Bureau of Licensing

At approximately 8:30 a.m. 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.

Education Coordinator JoEllen Peacock provided a report regarding the real estate exam pass/fail statistics.

Approval of the Minutes

Commissioner Poul Hornsleth moved to approve the Minutes of the February 17 and 18, 2004, General meeting, as amended. Commissioner Beals seconded it. The motion carried unanimously.

There being no further business and no objection, the Chair adjourned the meeting at approximately 2:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for April 20 and 21, 2004, at Division Headquarters in Orlando, Florida.

Carlos L. Valdes
Chairman

Juana C. Watkins
Acting Division Director