



**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 17 and 18, 2004
Meeting**

Chairman Carlos L. Valdes called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, Florida, on this 17th day of August, 2004.

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

Department and Division staff present at the meeting: Mark Whitten, Acting Deputy Secretary; Michael Martinez, Special Counsel to the Secretary; Juana C. Watkins, Acting Director; Sharon Thayer, Deputy Director; Christopher J. DeCosta, Acting Chief Attorney; Kathleen Koeberich, Bureau Chief; James Harwood, Alpheus Parsons and Alfonso Santana, Prosecutors; Fred Clanton and Brian Piper, Investigator Supervisors; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Legal Matters

At approximately 8:30 a.m., the Commission took up the Legal Agenda, consisting of 24 items. It heard 18 items and continued 6. The Commission's decisions on these matters are attached to the official minutes maintained at Division of Real Estate headquarters.

Unfinished Business

Acting Deputy Secretary Whitten reported that in the event of a disaster the Department of Business and Professional Regulation becomes the emergency hotline for the state adding that the Call Center has fielded over 8,000 telephone calls in a short period of time. Mr. Whitten further stated that the Secretary was unable to attend due to matters relating to this issue. Mr. Martinez, Special Counsel to the Secretary, stated that he wanted to emphasize that the Department is very involved in the hurricane response. Mr. Martinez added that the Secretary wanted to make it clear that the Department in no way has slacked off its commitment to the Commission and sends her regrets that she was unable to attend.

Unlicensed Activity

Mr. Whitten provided a brief report regarding unlicensed activity. Mr. Whitten reported that an arrest warrant was executed on an individual who was subsequently convicted on July 15, 2004, and that there were additional prosecutions pending. Mr. Whitten further reported that because the Department takes this issue very seriously it is providing additional resources to the Complaint Section. Mr. Whitten added that the Commission would begin seeing more arrests and convictions on the monthly Unlicensed Activity Report.

Mr. Piper provided a report reflecting the Department's public outreach efforts and recent milestones regarding unlicensed which include the following:

- In July, Enforcement conducted compliance sweeps in the Central and Southern regions.
- On July 19, 2004 Commissioner Sanchez, DBPR Program Administrator Mark Reddinger, DRE's Unlicensed Activity Coordinator Brian Piper and three other investigators attended an unlicensed activity presentation at IFREC in Orlando, Florida.
- On July 27, 2004, Sharon Wilf was arrested for unlicensed real estate activity and taken to the Okaloosa County jail.
- On July 31, 2004 Senior Attorney Alfonso Santana and Investigator Sandra Cabrera taped a television broadcast with WLRN TV which aired throughout Monroe, Miami-Dade, Broward and Palm Beach Counties on August 1, 2004, at 9:00 p.m. providing information on how to prevent and report unlicensed real estate activity. Mr. Whitten stated that future televised PSAs would be fine-tuned.
- On August 4, 2004, Investigator John Platt and Investigator Supervisor Brian Piper gave a presentation to the Jupiter-Tequesta-Hobe Sound Association of Realtors regarding how to prevent and report unlicensed real estate activity.
- The Division hired seven of the nine approved unlicensed real estate investigators, which are receiving one-on-one training. Mr. Whitten stated that upon completion of training the Department would hopefully be reporting several arrests per month.

Mr. Whitten reported that PSAs were advertised in the Miami Herald. Chairman Valdes and Vice-Chairman Sanchez commented on how unlicensed activity continues to be rampant among the Spanish-speaking communities. Chairman Valdes requested that the Department translate the article into Spanish.

Mr. Whitten further reported he has received phone calls from State Attorney offices throughout the state regarding this issue, offering to help in any way they can. Mr. Whitten added that all agencies and consumers need to come together and coordinate their effort in order to effectively fight against unlicensed activity.

Chairman Valdes requested that the monthly report reflect specific details relating to the geographic regions and types of cases. Mr. Piper reported that the monthly report currently identifies the investigator and the region. Chairman Valdes requested that the report also identify the scenarios of what violations are occurring.

Commissioner Hogan requested to discuss the report regarding the PSAs. Commissioner Hogan stated that the report reflects that Tallahassee received a large portion of the unlicensed activity funds the Commission approved for expenditure. Mr. Martinez stated that the Department would readdress where the funds are being focused, as the Department understands that the Commission feels that South Florida is most affected by unlicensed activity. Chairman Valdes stated that from the onset he opposed spending money on PSAs.

Mr. Whitten stated that at Chairman Valdes' request he would provide a market breakdown relating to real estate in lieu of the Department-wide breakdown. Chairman Valdes stated that the Commission should have input as to how the funds are spent as the Department receives most of its revenues from real estate fees. Chairman Valdes requested that the remaining funds be frozen until someone explains how the remaining funds are going to be allocated. Vice-Chairman Sanchez stated that in past meetings he has suggested that the Department contact people via e-mail.

Chairman Valdes inquired as to how the Department is going to manage the license renewals of the individuals affected by the hurricane or more specifically if there is a procedure in place the Department follows to determine which licensees need an extension to renew in September due to the storm. Mr. Martinez stated that this is always an issue in this situation and generally the rule is when in doubt the Department would give the licensees the benefit of the doubt.

Education Scholarship Program

Acting Director Watkins reported that the money would be disbursed in August. Ms. Watkins further reported that Ms. Sandra Hartley, of Communities In Schools of Putnam County, would be awarding the scholarships in December and would provide the first written report to the Commission in January.

Computer-based testing

Acting Director Watkins provided the complaint report to the Commissioners. Vice-Chairman Sanchez inquired when the contract with Promissor expires. Ms. Watkins replied that the contract is not due for renewal until 2006, adding that the contracts are drafted by the Bureau of Education and Testing and then reviewed and approved by the leadership of the Department. Vice-Chairman Sanchez further inquired whether the Commission would have any input for future contract negotiations. Ms. Watkins stated that she would forward the Vice-Chair's written comments to the Department. Vice-Chairman Sanchez inquired if the contract could be cancelled at any time. Ms. Watkins explained that Mr. Mike Murphy, Director of Division of Service Operations addressed this issue at the April and May FREC meetings. Ms. Watkins stated that she could not represent that the Department has the ability to get out of the contract, but would convey his request to the contract manager. Ms. Watkins further explained that the contract is Department-wide affecting all professions and that the language specific to the profession is in the form of an addendum.

Board Deregulation

Chairman Valdes presented a proposal from Language Resource, Inc. to research the deregulation for the Commission's consideration. Commissioner Hornsleth moved to expend \$3,250 from the Education Foundation Fund to explore deregulation. Commissioner Hogan seconded. The motion carried unanimously.

Agenda Materials Provided Electronically

Chairman Valdes stated that he has been requesting electronic material since his initial appointment and requested the status of this request. Commissioner Hornsleth stated that he would prefer to continue to receive his information in paper form. Ms. Watkins stated that last month Secretary Carr explained that the Department would be reviewing the cost benefits in

developing a Department-wide procedure. Chairman Valdez stated that he would like to keep this issue on the agenda.

Commissioner Hogan inquired if it was a requirement that the Commission receive a copy of the supporting documentation relating to the consent agenda and summary of applicants. Acting Chief Attorney DeCosta stated that the Legal Section is evaluating the current process to determine whether the applicant may choose an informal or formal hearing from the onset, which may alleviate the amount of paperwork the Commission must review.

FREC Newsletter

Acting Director Watkins presented the billing summary of the Spring 2004 News & Report to the Commission. The Commission expressed concerns relating to some of the itemized charges. Ms. Watkins provided a brief explanation of the charges and the selection process. The Commissioners inquired if the Department analyzes the vendor service in relation to the charges. Ms. Watkins stated that the Department does assess the billing before submitting the payment for services rendered.

New Business

The Commissioners expressed their concerns relating to companies offering 100% commissions. The Commissioners feel that brokers are not properly supervising the sales associates and are basically just loaning their licenses for a small fee. Chairman Valdes stated that the fee does not support the training and supervision of part-time agents. Vice-Chairman Sanchez agreed that most brokers do not have enough funds to cover overhead expenses to open and manage a large enough operations office to accommodate the number of employees listed with some brokers. Commissioner Hornsleth inquired if we could suggest legislation to change the statutory language requiring the broker to keep records in a centralized location. Mr. Villazon stated that the Commission should propose legislation that would hold the broker directly responsible for actions of the sales associate. Commissioner Veissi stated that this is addressed in the statutes. Mr. Villazon stated the language is under the definition of a sales associate and should also be addressed under the definition of a broker. Mr. DeCosta stated that the statute regarding appraisers is clearer, that it is an affirmative duty in the statute that says certified general appraisers shall supervise the activities of the appraiser trainees.

Chairman Valdes and Vice-Chairman Sanchez discussed at length concerns regarding the lack of support and stronger legislative lobbying efforts by FAR regarding various issues of concern to the Commission. Mr. Randy Schwartz explained the process of how issues are presented to several committees and stated that the FAR agenda would not always be the same as the Real Estate Commission's agenda. Chairman Valdes stated that he would like to see stronger lobbying efforts by FAR relating to issues that the Commission feels the Legislature should address. Commissioner Veissi stated that she actively attends all FAR meetings stated that she was appointed as Chairman of Risk Management. Commissioner Veissi further stated that at the meetings they began to discuss unlicensed activity at every single meeting, wherein she also advises everyone who attends the meetings what issues the Commission discusses at the preceding FREC meeting. Commissioner Veissi stated that FAR is very much aware of the Commission's issues pointing out that FAR lobbied very heavily with Commissioner Sanchez to upgrade unlicensed activity to a third degree felony. The Commissioners discussed at length several issues that they would like FAR to lobby for during the Legislative session.

Chairman Valdes requested that the Commissioners write down the issues that they would like to present to FAR's Legislative Committee. Mr. Villazon suggested that Chairman Valdes appoint a Commissioner to Chair a FREC Legislative Committee. Chairman Valdes appointed Vice-Chairman Sanchez as Chair of the Committee and further requested that all members of the Commission participated on the Committee. Chairman Valdes requested that a meeting of this Committee be held on September 13, 2004. Mr. Randy Schwartz of FAR and Mr. Dick Fryer of IFREC stated their positions regarding Chairman Valdes' comments.

Rule Development Workshop

FREC Counsel Daniel Villazon presented Rule 61J2-2.029, *Florida Administrative Code* for discussion. Mr. Villazon stated that Ms. Linda Crawford requested and the Department agreed to add language to the rule clarifying the requirements of the prerequisite education course syllabus for licensure and examination of a real estate broker. Commissioner Hornsleth moved to approve the proposed language for rulemaking. Commissioner Hogan seconded. The motion carried unanimously.

General Correspondence

Mr. Villazon presented correspondence from Ms. Jeanne Askew requesting that the Commission reinstate her real estate broker license as active. Mr. Villazon stated that the Commission does not have the statutory authority to reinstate a null and void license. Mr. Villazon stated that with the Commission's permission he would provide an appropriate response.

Mr. Villazon presented correspondence from Mr. Ed Goldfarb explaining a situation in South Florida he feels the Commission should address regarding the practice of listing brokers sabotaging listings so other agents will not show their property. Mr. Villazon stated that with the Commission's permission he would advise Mr. Goldfarb to take this issue to the MLS Committee.

Ratification of Suspended Licenses

Acting Director Watkins requested the Commission ratify the reinstatement of Mohan C. Anand, Randal F. Anglin, Kerry Michael Cameron, Mario C. Campos and James P. May, Jr. who have met the requirements for reinstatement. The Commission ratified the actions unanimously.

Approval of the Minutes

The Commission unanimously approved the Minutes of the July 20 and 21, 2004, General meeting, as amended.

Escrow Disbursement Orders

Upon recommendation of the Legal Section, the Commission unanimously issued 1 Escrow Disbursement Order (EDO) and 1 Order. A list of the Orders is attached to the official minutes maintained at the Division headquarters.

Summary of Applicants

Consent agenda

The Commission considered the Summary of Applicants Consent Agenda, requiring 9 applicants from the Consent Agenda to appear before it.

Director's remarks

Acting Director Watkins reported that the Division is in the process of developing an instruction sheet for the Uniform Complaint Form pursuant to the Commission's request, which should be ready for the Commission's review at the September meeting.

Acting Director Watkins announced Sharon Thayer as the new Deputy Director. Ms. Watkins stated that Ms. Thayer came to the Division from Regulation and has been with the Department for approximately 18 years.

Ms. Watkins reported that Rule 61J2-1.011, *Florida Administrative Code* would be addressed at the September meeting.

Chairman Valdes inquired about the status of the FREC letterhead. Ms. Watkins stated that the Department does have letterhead for the FREC, which she would provide to Chairman Valdes.

Recovery Fund Claim Order

Acting Chief Attorney DeCosta presented Recovery Fund Claim styled Thomas W. Kainer v. Douglas R. Apperson, Case Number RFC 2003087439. Mr. James R. Mitchell, Esquire, appeared on behalf of Mr. Apperson. Mr. Kainer appeared via phone. Commissioner Hogan moved to deny payment from the recovery fund. Commissioner Veissi seconded. The motion carried unanimously.

Task Force Meetings

Vice-Chairman Sanchez requested to advertise the Education Taskforce Committee meeting for 9:00 a.m. on Monday, September 13, 2004, and the Legislative Issues Taskforce meeting at 3:00 p.m. on Monday, September 13, 2004. Vice-Chairman Sanchez further requested that the Division notify the educators and FAR.

The Chair recessed the meeting at approximately 2:45 p.m., August 17, 2004.

Chairman Carlos L. Valdes reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, Florida, on this 18th day of August, 2004.

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

Department and Division staff present at the meeting: Juana C. Watkins, Acting Director; Sharon Thayer, Deputy Director; Christopher J. DeCosta, Acting Chief Attorney; Kathleen Koeberich, Bureau Chief; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant; Jeannie Adkinson, Regulatory Specialist II. American Court Reporting (407-896-1813) 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.

New Commission Business continued

Vice Chairman Sanchez requested a report listing all licensees with multiple licenses and all branch offices. Ms. Watkins stated that she would provide a list to Vice-Chair Sanchez.

Chairman Valdes requested the Department check the Division's records to determine when nominations for Chair and Vice-Chair are held.

Mr. Villazon stated that this was his last meeting as Counsel for the Commission. The Commission thanked Mr. Villazon for the exemplary service he provided to the Commission the last four years.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 2:45 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for September 14 and 15, 2004, at the Division Headquarters in Orlando, Florida.

Carlos L. Valdes
Chairman

Juana C. Watkins
Acting Division Director

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