



**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
October 19 and 20, 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 19th day of October, 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, Noel McDonell, Nancy B. Hogan and Bob Beals. Commissioner Hornsleth was excused. The Chair declared a quorum present. Catherine Lannon, Senior Assistant Attorney General and John R. Rimes, Senior Assistant Attorney General appeared as counsel for the Commission.

Department and Division staff present at the meeting: Diane Carr, Secretary; James Blount, Chief of Staff; Michael Murphy, Acting Deputy Secretary; Michael Martinez, Special Counsel to the Secretary; Mark Reddinger, Senior Management Analyst II for Unlicensed Activity; Juana C. Watkins, Acting Director; Sharon Thayer, Deputy Director; Christopher J. DeCosta, Acting Chief Attorney; Kathleen Koeberich, Bureau Chief; James Harwood, Alpheus Parsons, Jason Holtz and Alfonso Santana, Prosecutors; David Guerdan, Investigator Supervisor; JoEllen Peacock, Education Coordinator; Dan Combs, Education Development Specialist; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Commission Issues

Chairman Valdes welcomed Secretary Carr to the meeting. Secretary Carr stated the last meeting she was able to attend was in July due to four hurricanes and the cancellation of the September FREC meeting. Secretary Carr further stated that the Department has been extremely busy providing services to assist all people affected by the hurricanes. Secretary Carr briefly touched on the following topics relating to this issue. Secretary Carr reported that the Governor and the Legislature are contemplating a special session in December to discuss several hurricane issues, which included:

- The Department's state-of-the-art call system – Secretary Carr stated that up to 100 volunteers were manning the phones on the weekend and occasionally experiencing call volumes as great as 750,000 calls per hour;
- Memorandum of Understanding with the Department of Community Affairs in operation of the Florida Emergency Information Line;
- Governor executing 3 executive orders that allows for relaxation of contractor requirements to meet the supply and demand of extensive damage from the hurricanes;
- Farm Labor Program – explaining that Florida now has a very stressed population and that the Department is seeking to help in light of the fact that farmers are not subject to relief under the FEMA statute;

- Special needs of other groups such as Catholic Social Services, Red Cross and many others;
- Mobile Home Relocation Program – Secretary Carr reported that this is an issue that needs to be addressed as Florida has a growing number of people residing in mobile home parks;
- Renewal dates extended in several professions, including real estate to assist licensees who have been adversely affected by the storms; and
- Proposed budget will be announced in January 2005 for consideration by the Legislature to offset the immense costs associated with the hurricanes including matching 10% of payments distributed by FEMA.

Education Scholarship Program

Secretary Carr advised the Commission that the Education Scholarship Program is moving along as planned. Secretary Carr reported that the Department has received an invoice from the vendor and does not anticipate any obstacles in moving forward.

Agenda Materials Provided Electronically

Secretary Carr briefly touched on the topic of providing agenda materials electronically advising that this project is ongoing at a very high level and involves a very broad spectrum. Secretary Carr added that the Governor has directed a number of agencies operating under his umbrella to work through his Center for Efficient Government to determine the most efficient and effective way to make the conversions for all interested parties.

Computer-based Testing

Secretary Carr explained that the computer-based testing contract with Promissor had been in effect three years prior to her appointment. Secretary Carr further explained that upon expiration of the contract, the Department followed the standard state procurement procedures prior to its final decision and renewal of the contract with Promissor. Secretary Carr added that in addition to being the lowest bid, the service offered by Promissor encompassed all of the Department's requirements. Secretary Carr stated that the Department is pleased with its service in total, however, the Department is always open to questions or suggestions on how the system might be improved. Secretary Carr also provided some details regarding the protest brought on by another vendor and the challenges that arose, over which the Department and Promissor successfully prevailed.

Deregulation

Secretary Carr commented that she is aware that Chairman Valdes has commissioned a study, which is in process and that she is looking forward to reviewing the results. Secretary Carr added further, that to the extent that the Commission decides to take the action to deregulate, and provided the Legislature enacts legislation, these points of discussion would no longer be an issue as there would no longer be a Real Estate Commission or Division of Real Estate.

Secretary Carr offered to answer any questions the Commission may have on these topics. Several members of the Commission made inquiries on various issues. Chairman Valdes thanked Secretary Carr for taking the time to attend today's meeting and to address the various issues.

Legal Matters

At approximately 9:00 a.m., the Commission took up the Legal Agenda, consisting of 47 items. It heard 38 items, withdrew 5 and continued 3. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

Unfinished Business

Unlicensed Activity

Mr. Mark Reddinger provided a report to the Commissioners on unlicensed activity investigations. Mr. Reddinger inquired if the Commissioners had any questions regarding the report. He received several questions to which he provided detailed responses. Commissioner Hogan suggested that the report have more detail on the types of violations being investigated. Mr. Murphy welcomed the Commission's comments, stated that it is the goal of the Department to accurately show the Commission the intentions of the Department and to provide the Commission with documentation that the Commissioners can read and utilize.

Chairman Valdes inquired as to the steps the investigators are taking to conduct the investigations so that the Commissioners may provide some input. Mr. Reddinger reported that the Department is compiling information to determine the quantifiable measures and whether the investigators are meeting acceptable standards of performance.

Commissioner Hogan inquired about how unlicensed activity complaints are processed. Mr. Reddinger, Ms. Watkins and Ms. Koeberich provided a detailed explanation as it relates to their prospective areas.

Public Service Announcements

Commissioner Hogan asked how the Department determined how much money should be allocated to each Division and why so much money was allocated to Tallahassee. Mr. Reddinger stated that a contract was procured with the Florida Association of Broadcasters explaining that the total contract was negotiated for \$125,000, which was disbursed between three Divisions. Mr. Reddinger further explained in detail as to particulars of the contract and that the actual stations have control over when the advertisements are aired.

Unlicensed Activity continued

Mr. Reddinger provided an example of two reports that the Department would soon be distributing to the Commission, explaining that the reports would reflect enforcement activities such as sweeps and the Department's outreach efforts to educate consumers. He added that this would allow the Commission to review the information and possibly provide input on where the Department may enhance its efforts or make changes.

Chairman Valdes provided a copy of a letter that was forwarded to Florida Association of Realtor, (FAR), President Russell Grooms outlining the Commission's concerns regarding several issues. Mr. Schwartz agreed that the Commission is entitled to a response and stated that he would relay Chairman Valdes' inquiry to President Grooms.

Commissioner McDonell suggested that the FAR provide updates on the law and inform the licensees of their obligations when they encounter unlicensed activity through the continuing education program. Ms. McDonell further stated that the Commission and FAR should accept its share of the responsibility of providing information to licensees. Vice-Chairman Sanchez stated that he has tried reaching the realtor members regarding this issue. Mr. Schwartz agreed that unlicensed activity should be high on FAR's priority list, if not the highest. The Commissioners discussed further other ways to possibly reach the people in the real estate industry.

Chairman Valdes inquired about the issues discussed at FAR's meeting on its legislative agenda. Commissioner Veissi reported that a suggestion was made to present the issue of mandating title companies to verify licensure prior to disbursing commission checks, however, the issue was not received well, probably because it was not presented correctly. Ms. Veissi further reported that they also discussed what the last legislative session covered and believed they might be addressing issues for the next legislative session at the next committee meeting. The Commission provided additional comments. Mr. Schwartz reiterated that he would provide the aforementioned letter to President Grooms and stated he would also suggest that FAR form an Unlicensed Activity Committee.

Commissioner Veissi requested that the Department provide the Commission with a report reflecting the number of licensees under each profession under its umbrella excluding real estate and the number of investigators employed under each profession.

Education Scholarship Program continued

Acting Director Watkins reported that the funds have been disbursed in the amount of \$205,000.

Computer-based testing continued

Acting Director Watkins provided the complaint report to the Commissioners. Mr. Murphy reported that Education and Testing is in the process of developing a survey to provide to applicants who complete the computer-based testing and editing a proactive survey to draw more information in.

Deregulation continued

Acting Director Watkins reported that the purchase order has been finalized and that Ms. Wright from Language Resource, Inc. confirmed that she has all of the material on this issue. Ms. Watkins further reported that Ms. Wright indicated that upon receipt of the check they would begin reviewing the material and provide an analysis.

Providing Agenda Materials Electronically continued

Commissioner Hogan reported that Commissioner Hornsleth expressed that he would prefer to receive his materials via hardcopy. Mr. Martinez stated that Secretary Carr touched on

this issue earlier and added that as far as going forward with the process of having the documents turned into a digital format, essentially each board member would have the opportunity to choose which format they prefer. Commissioner McDonell asked whether record retention obligations have been addressed, as government under the sunshine is a real concern, which includes e-mail record retention. Commissioner McDonell suggested that regardless of what electronic progress the Department makes at some point a workshop should be conducted to provide guidance. Mr. Martinez stated that he spoke with Ms. Cathy Lannon, Senior Assistant General Counsel, who indicated that there was going to be some training that would address these two particular issues. Mr. Martinez reported that they met with the Department of Health, who has digital paper system in place, to discuss the various issues. Mr. Murphy added that the Department is looking at several systems to determine which one would best serve the Department.

New FREC Business

Nominations for Chairman and Vice-Chairman

Chairman Valdes nominated Vice-Chairman Guy Sanchez as Chairman of the Real Estate Commission. Commissioner Hogan seconded. Motion carried unanimously.

Chairman Valdes nominated Commissioner Nancy Hogan as Vice-Chairman of the Real Estate Commission. Commissioner Veissi seconded. Motion carried 4 to 1.

Summary of the Education Taskforce Meeting

Vice-Chairman Sanchez asked Linda Crawford to provide a summary. Ms. Crawford provided a summary of the issues discussed at the meeting. A copy of the minutes of the Education Taskforce meeting is available on the web at the Division of Real Estate home page.

Mr. Murphy requested that the Department have some input at the next meeting.

Summary of the Taskforce Meeting Addressing FREC Legislative Issues

Vice-Chairman provided a brief summary of the issues discussed at the taskforce meeting. A copy of the minutes of the meeting is available on the web at the Division of Real Estate home page.

Rule Development Workshop

FREC Counsel John J. Rimes presented Rule 61J2-1.011, *Florida Administrative Code* for discussion. Commissioner McDonell moved to approve for rulemaking the proposed language as amended. Commissioner Hogan seconded the motion. The motion carried unanimously.

Proposed Rulemaking

FREC Counsel John J. Rimes presented Rule 61J2-2.027, *Florida Administrative Code* for discussion. Commissioner McDonell moved to go forward with rulemaking with the proposed changes. Commissioner Hogan seconded the motion. The motion carried unanimously.

FREC Counsel John J. Rimes presented Rule 61J2-2.029, *Florida Administrative Code* for discussion. Commissioner McDonell moved to add the cross-reference as suggested by Mr. Rimes. Commissioner Hogan seconded the motion. Commissioner McDonell moved to go forward with rulemaking with the proposed changes. Commissioner Hogan seconded. The motion carried unanimously.

General Correspondence

Mr. Rimes addressed communication from S. Catherine Tyrrell requesting clarification regarding receipt of payment for a referral. Mr. Rimes explained the policy and procedures of the Attorney General's Office regarding these types of requests. Commissioner McDonell recommended that Mr. Rimes advise Ms. Tyrrell to contact private counsel. Commissioner Veissi so moved. Commissioner Hogan seconded. The motion carried unanimously.

The Commission addressed communication from Mr. Roger Camio requesting an extension to complete the required continuing education for renewal. The Commission took no action.

Ratification of Suspended Licenses

Acting Director Watkins requested the Commission ratify the reinstatement of William L. Atteberry, Kelley Blosser Aderhold, Kevin E. Coit, Bessie Cotton, Richard Hasner, Home Hunters USA, Inc., Manuel A. Huerta, Jr., O'Neil Peralta, Larry A. Simons and Dwayne L. Stanley 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 August 17 and 18, 2004, General meeting, as written.

Recovery Fund Claim Order

Acting Chief Attorney DeCosta presented Recovery Fund Claim styled Michael J. and Pamela D. LeClerc v. Wallace L. Springstead, Case Number RFC 2002011133. Commissioner Hogan moved to deny payment from the recovery fund. Vice-Chairman Sanchez seconded. The motion carried unanimously.

Summary of Applicants

Consent agenda

The Commission considered the Summary of Applicants Consent Agenda, requiring 54 applicants from the Consent Agenda to appear before it.

The Chair recessed the meeting at approximately 6:55 p.m., October 19, 2004.

Meeting reconvened October 20, 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 20th day of October, 2004.

The following Commission members were in attendance: Chairman Carlos L. Valdes; Matey H. Veissi, Noel McDonell and Bob Beals. Commission members Guy Sanchez, Nancy Hogan and Poul Hornsleth were excused. The Chair declared a quorum present. Mr. John J. Rimes appeared as counsel for the Commission.

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.

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-Bureau of Licensing

At approximately 8:45 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.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 3:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for November 16 and 17, 2004, at the Division Headquarters in Orlando, Florida.

Carlos L. Valdes
Chairman

Juana C. Watkins
Acting Division Director

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