

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
January 18 and 19, 2005
Meeting**

Chairman Guy Sanchez, Jr. called the meeting of the Florida Real Estate Commission to order, at approximately 8:40 a.m., at Orlando, Florida, on this 18th day of January, 2005.

The Chairman introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Guy Sanchez, Jr., Chairman; Nancy B. Hogan, Vice-Chairman; Matey Veissi, Poul Hornsleth, Bob Beals and Noel McDonell. Commissioner Carlos L. Valdes was excused. The Chairman declared a quorum present. Mr. John J. Rimes appeared as counsel for the Commission. Ms. M. Catherine Lannon, Senior Assistant Attorney General also appeared.

Department and Division staff present at the meeting: Scott Stewart, Acting Director of Service Operations; Bruce Topp, Chief of Planning and Budget; Sharon Thayer, Deputy Director; Juana C. Watkins, Chief Attorney; Kathleen Koeberich, Bureau Chief; James P. Harwood, Alpheus C. Parsons, Jason W. Holtz, Joseph Solla and Alfonso Santana, Prosecutors; Fred Clanton and David Guerdan, Investigator Supervisors; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407-896-1813) provided court reporter services. Director Elizabeth P. Vieira was excused.

Approval of the Minutes

The Commission unanimously approved the Minutes of the December 14 and 15, 2004, General meeting, as amended.

Legal Matters

At approximately 8:45 a.m., the Commission took up the Legal Agenda, consisting of 21 items. The Commission heard 20 items and continued 1. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

New Commission Business

Chairman Sanchez introduced President Frank Kowalski, Florida Association of Realtors (FAR). President Kowalski introduced President Elect Michael Dooley and Chief Executive Officer of FAR John Frillington. President Kowalski stated that as a former Commissioner he certainly appreciates the contributions that the Commissioners give to the real estate industry and stated that FAR is willing to assist in any way that a professional organization can and thanked the Commission for giving him the opportunity come before it.

Commissioner Hornsleth asked President Kowalski about the issues stated in former FAR President, Russell Grooms' letter. President Kowalski stated that he and Chairman Sanchez met last week and that he shares the concern that there has not been a close enough

relationship between the Division of Real Estate (Division), the Florida Real Estate Commission (Commission) and FAR. President Kowalski stated that FAR has identified a work group taskforce that is being formed during the week of the FAR Convention which will be chaired by former Commissioner Virginia Stuart to address issues of concern the Commission may have. Discussion was held regarding the issues listed in the letter sent to former President Russell Grooms, along with other issues. Vice-Chairman Hogan stated that one issue is the number of cases regarding applicants not being up front with their criminal background. Mr. Kowalski stated that FAR is concerned and that this issue was recently a topic during the State President's Forum at the National Convention. Mr. Kowalski stated that after hearing that other states were successful in moving forward some standard minimum criteria, Mr. Grooms directed staff to investigate how FAR might develop a package the Legislature would consider. General discussion continued on this issue.

Vice-Chairman Hogan inquired if FAR could establish a compliance office to conduct routine inspections to assist the Department to file complaints if there was a violation. Mr. Kowalski stated that funding would present a challenge, but that a compliance officer is an interesting approach. Mr. Kowalski further stated that FAR has an individual who travels around the state to meet with executive officers at the local level to assure everything that they can do is in line with FAR's requirements. Mr. Kowalski added that conducting office inspections for over 125,000 members, however, would be difficult. Commissioner Veissi inquired if FAR could push legislation to raise the standard requirements to obtain a license, such as education and work experience. Mr. Kowalski responded that the standards from years ago have been raised, i.e. post-license education, which was the attempt to raise the standards. Mr. Kowalski stated he has been involved in adult education since 1968, so to put the responsibility solely on education will not resolve the issue. In closing, Mr. Kowalski stated that he shares the Commission's concerns and agrees that we need to raise the bar of performance, whether that is done through education or prosecution. Mr. Kowalski stated further that it would take a concerted effort through the members of this Commission, the Division, the Secretary of the Department and FAR. On behalf of the Commission, Chairman Sanchez thanked Mr. Kowalski for attending the meeting to address some their issues.

ARELLO Conference Information

Chairman Sanchez thanked the Division for all the materials he received.

Service Operations

Chairman Sanchez requested Director of Service Operations Scott Stewart to address the Commission's concerns regarding the Call Center. Mr. Stewart explained that the Call Center is structured primarily under Professions to handle Frequently Asked Questions (FAQs) which are developed by the individual divisions and if those questions are outside the parameters of the FAQs, then the calls are passed on to the appropriate Division. Mr. Stewart further explained the process by which the Call Center operates and reported that the Call Center has handled over ninety thousand calls for the Division of Real Estate from July 1 to December 31, 2004. Mr. Stewart further reported that the Division of Service Operations does receive complaints, which are recorded and evaluated to see if there is a process breakdown. Commissioner Veissi stated that it appears that the only way the consumers receive a quick response, is to contact a high government official otherwise the consumer waits for up to six weeks to receive a response. The Commission received comments from Linda Crawford regarding this issue. Mr. Stewart stated that being in his newly appointed position he is looking forward to working with the Commission and with the Division.

Board Member Training

Chairman Sanchez directed Catherine Lannon, Senior Assistant General Counsel to proceed with her presentation. Ms. Lannon provided a manual to the Commission Members and explained in detail the role of the Commission. The Commission made several inquiries to which she provided responses. The Commission thanked Ms. Lannon for her presentation.

Reports

Chief of Planning and Budget, Bruce Topp, provided the Commissioners with copies of the Financial Reports of the Florida Real Estate Commission, Real Estate Recovery Fund and Education and Research Foundation Account. Mr. Topp briefly explained that the Department puts together a financial statement each quarter. Mr. Topp added that just recently Secretary Carr reorganized the financial structure of the Department creating the Office of Budget and Finance, which places the Bureau of Finance and Accounting and Office of Planning and Budget, under one single individual, Director Jean Whitten. Mr. Topp stated that the Department could re-institute providing quarterly reports to the Commission. Additionally, Mr. Topp reported that the Department would be working with the Division staff to provide monthly reports. Mr. Topp addressed the reports providing a line-by-line detail. The Commissioners expressed their concerns regarding the difficulties in obtaining a proposed budget and the inability to provide input prior to the budget being submitted to the Legislature. Commissioner Veissi stated that she would like to receive the Budget Report prior to it being presented to the Governor, however, if the Commission must receive the report after then she would like to see more detail as to how the figures are calculated. Mr. Topp stated that he would convey this request to Secretary Carr. Mr. Topp further stated that the Office of Budget and Finance could provide that information, together with a detailed explanation. Mr. Rimes stated that he would identify the exact statutory language relating to the Commission's authority concerning budgetary matters. Mr. Topp provided a brief explanation of how the Department's budget is crafted and the difference between the available cash and the ability to spend.

Chairman Sanchez asked about available monies to use for self-regulation research. Mr. Topp explained that the funds for the Education Foundation and Recovery Fund is a combined line item, therefore the budget is limited for this fiscal year and funds need to be available to cover possible recovery fund claims. Mr. Topp stated that regardless of funds being available the Education Foundation, expenditures must meet the requirements of the statute.

Unlicensed Activity Report

Chairman Sanchez stated that he requested that Unlicensed Activity Coordinator Mark Reddinger attend the January meeting. Ms. Thayer responded that he was unable to attend and that Chief Attorney of Unlicensed Enforcement Laura Gaffney for the Department would be attending in February to address any questions the Commission may have regarding this issue.

Consumer Complaint Report from Service Operations

The Commission made no inquiries or comments regarding the Consumer Complaint Report.

Number of Licensees per Investigator

Commissioner Veissi raised a question of the comparison ratio stating that the comparison does not calculate equally. The Commissioners expressed their concerns about the Full Time Employee (FTE) ratio in comparison to the Division of Professions. Commissioner Veissi inquired whether the Divisions of Professions and Regulation generate more revenue than the Division of Real Estate. Mr. Topp explained that each division generates enough revenue to cover expenses. Commissioner McDonell inquired as to why the Commission is authorized to fund only the Division of Real Estate but is clearly funding other licensees. Commissioner McDonell also asked why the Division of Real Estate has over 331,000 licensees and only 34 professionals and the Division of Professions and Regulation has 402,000 and commands 114 professionals. Mr. Topp explained that that the Legislature makes the appropriations very carefully. Commissioner McDonell stated that it appears the Divisions of Professions and Regulation is more persuasive. Commissioner McDonell further stated that the Commission does not receive an explanation of why it is okay that with the numbers of real estate licensees who invest so much in this profession statistically are not represented equally between the divisions. Commissioner McDonell respectfully requested that a representative from the Department provide an answer as to why the Division of Real Estate has only 34 professionals from investigators, through OPS, through support staff and the rest of the Departments merit 114. Comments were received from members of the audience.

ARELLO Conference

Chairman Sanchez addressed the ARELLO Conference schedule. Chairman Sanchez asked how many people are budgeted to go to the meetings. Ms. Watkins responded that usually two members are budgeted to attend. Commissioner McDonell moved to allow three persons to attend the ARELLO Mid-Year Conference in Monterey, California, pending Department approval. Vice-Chairman Hogan seconded. Motion carried unanimously.

Commissioner McDonell stated that the ARELLO 2006 Mid-Year meeting will be held in Jacksonville and recommended that the Commissioners begin looking into how they can provide support, including whether the Commission could host or sponsor some type of welcoming event. Commissioner McDonell suggested that the entire Commission be approved to attend the meeting. Chairman Sanchez asked the Department to make a note of this request.

Chief Attorney Juana Watkins provided the information she received regarding the ARELLO data bank. Ms. Watkins stated that she would need to research the benefits verses the cost associated with subscribing to the data bank. Commissioner McDonell moved that the Division move forward with investigating the benefits verses the cost of subscribing to the ARELLO discipline data bank. Commissioner Veissi seconded the motion. Motion carried unanimously.

Probable Cause Panel

Commissioner McDonell moved to approve the Probable Cause Panel schedule as amended. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

Report Regarding the Education Foundation Scholarship Program

Deputy Director Thayer reported that Ms. Sandra Hartley, Executive Director of Communities In Schools of Putnam County, Inc., provided a summary of the activities of the Florida Real Estate Commissions' Education Scholarship Program.

Request for Translation of Real Estate Broker and Associate Exams into Russian

The Commission considered the request from Mr. Roman Groysman. Vice-Chairman Hogan moved to deny. Commission McDonell seconded the motion. Mr. Rimes informed the Commission that the statutes provide that an individual may request the test in another language. Mr. Rimes stated that before the Commission may consider the request the individual has to be given an amount as to what the cost would be to develop, translate, prepare and give the examination. Vice-Chairman Hogan moved to rescind the motion. Commissioner McDonell moved to rescind the second. Commissioner Hornsleth moved that counsel send a letter to Mr. Groysman explaining his options. Commissioner McDonell seconded the motion. The motion carried unanimously.

Ratification of Suspended Licenses

Chief Attorney Watkins requested that the Commission ratify the reinstatements of Wendy Doherty, Hubert Murray, Anna E. Owens, Joseph E. Stalls, Jr., Todor Stefan and Ceasar Vargas, who have met the requirements for reinstatement. The Commission ratified the actions unanimously.

Escrow Disbursement Orders

Upon recommendation of the Legal Section, the Commission unanimously issued 115 Escrow Disbursement Orders and 1 Order. A list of the Orders is attached to the official minutes maintained at the Division headquarters.

Mr. Solla asked to address the new FAR 8 contract. Mr. Solla stated that the FAR 8 form is not clear as to who is responsible for the escrow. Vice-Chairman Hogan stated that the reason that FAR took this under is because of the amount of mortgage fraud the lenders are committing and this contract puts the responsibility on the buyer. Commissioner Hornsleth stated that the FAR 8 contract is used 10 to 1 over the FAR/BAR contract. Commissioner Veissi moved that Senior Attorney Joe Solla meet with FAR Counsel Randy Schwartz to clarify the FAR 8 contract. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

Correspondence

Mr. Delmar requested to be recognized regarding the correspondence he provided to the Commission last month. Mr. Delmar suggested that the Commission request that the Department rewrite particular sections of Chapter 475, *Florida Statutes*. Vice-Chairman Hogan suggested that Mr. Delmar take this issue to FAR President Frank Kowalski.

Consent agenda

The Commission considered the Summary of Applicants Consent Agenda, requiring 36 applicants from the Consent Agenda to appear before it.

The Chairman recessed the meeting at approximately 5:40 p.m., January 18, 2005.

January 19, 2005

Chairman Guy Sanchez, Jr. reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:40 a.m., at Orlando, Florida, on this 19th day of January, 2005.

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

Department and Division staff present at the meeting: Scott Stewart, Acting Director of Service Operations; Gus Ashoo, Bureau Chief of Education and Testing; Alex Bosque, Examination Development Supervisor; Daniel P. Combs, Examination Development Specialist; Elizabeth P. Vieira, Director; Sharon Thayer, Deputy Director; Kathleen Koeberich, Bureau Chief; James P. Harwood, Senior Attorney; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant; Jeannie Adkinson, Regulatory Specialist III; Maxine Carter, Regulatory Specialist II; Nicholas Seamster, Regulatory Specialist II. American Court Reporting (407-896-1813) provided court reporter services.

Summary of Applicants- Bureau of Licensing

At approximately 8:50 a.m. Jeannie Adkinson, Regulatory Specialist III, 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.

Multiple Licenses

Commissioner Valdes addressed the report regarding brokers with multiple licenses. Commissioner Valdes stated that he had requested that the Division research the number of public complaints against the brokers with three or more licenses to capture the ratio of brokers with multiple

Consumer Complaint Report from Service Operations

Commissioner Valdes expressed several concerns, one of which was the complaint report from the Division of Service Operations and that it appears that the consumers contact the Governor's Office because their problems are not being resolved timely. Commissioner Valdes also expressed concerns regarding the amount of time it takes for the unlicensed complaints to be resolved. Mr. Valdes stated that these are the reasons he feels the Commission should research privatization.

Acting Director of Service Operations Scott Stewart stated that the complaint report is actually a log of inquiries from the Governor and/or legislative offices that are directed to the

Department's legislative group who then request us to provide a status of what stage the application process are these individuals. Mr. Stewart further stated that the Department does investigate all inquiries it receives regarding the processing of an application. Mr. Stewart added that of the 5,625 applications currently being processed for the Division, there were only 25 consumers who contacted the Governor's Office or a legislative office, so the ratio is very small. Mr. Stewart stated that he would work with the Division staff to provide statistics of the performance measures of applications being processed.

Vice-Chairman Hogan asked whether the \$5.00 fee for unlicensed activity could be used outside the services of the Department expressing concerns how the money is being handled. Commissioner McDonell stated that one thing the Commission was instrumental in doing was being supportive of the fact that unlicensed practice was a felony. Commissioner McDonell stated that however, the Department only has so much jurisdiction, which does not include criminal prosecution. General discussion followed.

Privatization/self-regulation

Commission Valdes stated that the Commission had voted to allocate the funds from the Education Foundation to pursue researching privatization/self-regulation. Commissioner Hornsleth stated that Mr. Topp informed the Commission that the discretionary funds are spoken for and there is no money. Commissioner Valdes stated that the Department has no say on the Foundation dollars. Deputy Director Thayer explained that Mr. Topp's discussion the day before with the Commission dealt with this issue. Deputy Director Thayer further explained that the Education Foundation and the Recovery Fund is a line item which shares four million dollars of which the spending authority for that line item is \$450,000 which is Recovery Fund money. The Department entered into a contract with Putnam County Communities and Schools, Inc. for \$400,000 for an education scholarship endeavor, which leaves \$50,000 and the Commission spent \$3,700 on the Language Resource, Inc., which leaves about \$47,000 for any recovery fund claims the remainder of this fiscal year.

Commissioner Valdes questioned if the contract can be amended and the \$400,000 for scholarships has not been spent would the Commission support amending the contract to reserve ten percent. Commissioner Valdes moved based on the information that has been given to the Commission that if they have no money to pursue that the Commission, to use forty thousand dollars from the scholarship fund to pursue the privatization issue, which may involve amending the contract. Seconded by Commissioner Veissi. The motion carried 6 to 1. Mr. Rimes stated that the statute provides that the reason for the Education Foundation is to explore analyses of the statutes and rules to determine whether modification is needed. Mr. Rimes added that the caveat is that it only can be done provided the Governor or head of the House and Senate asks for it to be done. Mr. Rimes further stated that if this is the only authority then it might be problematic. Commissioner Valdes stated that he was also told that the scholarship program could not be done and it was done.

The Commission requested a copy of the last five reports of the Education Foundation Annual Report.

Mutual Recognition Request from Pennsylvania

The Chairman opened discussion of the mutual recognition request from Pennsylvania. Bureau Chief of Education and Testing, Gus Ashoo stated that he and Exam Development Supervisor Alex Bosque were here to address any questions the Commission might have.

Commissioner Hornsleth inquired as to the findings of the Bureau of Education and Testing. Mr. Bosque provided a brief summary of the findings stating that the education is comparable, but suggested the Commission might want to direct its counsel to review the agreement and make any necessary changes. Vice-Chairman Hogan moved to approve the contract provided that the agreement meets all the requirements. Commissioner Veissi seconded the motion. The motion carried unanimously.

Adjournment

There being no further business and no objection, the Chairman adjourned the meeting at approximately 1:30 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for February 15 and 16, 2005, at the Division Headquarters in Orlando, Florida.

Guy Sanchez, Jr.
Chairman

Elizabeth P. Vieira
Division Director