



**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
April 19 and 20, 2005
Meeting
(as amended)**

Chairman Guy Sanchez, Jr. 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 April, 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, S.W. Ellis, Bob Beals and James D. Varnado. The Chairman declared a quorum present. Ms. Barbara R. Edwards appeared as counsel for the Commission.

Department and Division staff present at the meeting: Andy Edwards, Deputy Secretary; Elizabeth P. Vieira, Director, Sharon Thayer, Deputy Director; James P. Harwood, Interim Chief Attorney; Kathleen Koeberich, Bureau Chief; Alpheus C. Parsons, Jason W. Holtz and Alfonso Santana, Prosecutors; Fred Clanton, Investigator Supervisor; Fred Seli, OPS Supervisor for Unlicensed Activity; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant; Nick Seamster, Regulatory Specialist II. American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Chairman Sanchez welcomed newly appointed Commissioners S. W. Ellis and James D. Varnado to the Florida Real Estate Commission. Deputy Secretary also welcomed the new Commissioners on behalf of the Department. Commissioners Ellis and Varnado provided brief summaries of their professional experience and background.

The Commissioners stated that they wished Juana Watkins well in her endeavors and that she will be missed.

Approval of the Minutes

The Commission unanimously approved the Minutes of the March 15 and 16, 2005, General meeting, as written.

Legal Matters

At approximately 8:40 a.m., the Commission took up the Legal Agenda, consisting of 40 items. The Commission heard 33 items, continued 4, withdrew 2 and 1 item was not considered due to lack of jurisdiction. The Commission's decisions on these matters are attached to the official minutes and maintained at the Division of Real Estate headquarters.

The Commission held a discussion regarding the documents the Petitioner provides to support the allegations of the case the Commission is considering for discipline. Commissioner Veissi inquired whether the Commission may consider the information provided in the investigative report when imposing a penalty. Commissioner Beals stated that the Commissioners may only consider what is in the ~~perimeters~~ parameters of the Administrative

Complaint and should not make a judgment based on what information the investigative report provides as he believes the Commission would be making an irreversible error. Ms. Edwards stated that the Administrative Complaint is presented to the probable cause panel to determine whether there is probable cause in the file to believe that the charges in the Administrative Complaint are supported by the evidence and it is up to the probable cause panel to ask the Department to conduct more investigation, but at this proceeding the Commission may only consider if this is an appropriate disposition for the matter charged.

Commissioner Varnado stated that he has had the advantage point of appearing before a number of boards in his previous incarnation with the Department and wanted to pay his compliments professionally to the prosecutorial and support staff on their good work. On that note, Director Vieira announced that Senior Attorney Jason Holtz was leaving the Division and moving back to New York and that she wanted everyone to know that she has appreciated his work here at the Division.

Commission Business

Report Regarding Financial Assistance to Research Privatization

Ms. Barbara Edwards presented her report regarding the Commission's request to research the legality of acquiring financial assistance from the Education and Research Foundation fund to educate the Legislature about the advantages of privatization. Ms. Edwards stated that she found additional information in Chapter 11.062, Florida Statutes which provides that the use of state funds for lobbying is prohibited. Ms. Edwards read portions of a letter from a colleague that listed the criteria under which a board member could lobby the legislature. Ms. Edwards stated that in her opinion the statutes do not provide that the Commission may allocate funds from the Education and Research Foundation fund to hire assistance to educate the Legislature as it is considered political advocacy. Ms. Edwards responded to various questions from the Commission. Commissioner Veissi inquired whether the Commission could get financial assistance from its budget to fund this request. Ms. Edwards stated that the Commission would have to obtain Department approval. Commissioner Veissi inquired whether she was permitted to attend the Legislative sessions. Ms. Edwards stated that she is permitted, but would recommend that Commissioner Veissi state on the record that she is a member of the Commission and she is attending as an individual.

Commissioner Hogan stated as a point of information that when she was appointed to the Commission she had to resign from various other real estate boards. Commissioner Veissi stated that she had to resign from certain committees and requested that Ms. Edwards research this issue and advise the Commission members of any possible conflicts. Ms. Edwards stated that she would research this issue and compile information for the Commissioners and would provide the information at a future meeting.

Review of Sunshine Law Provisions

Ms. Edwards directed the Commission members to review portions of the transcripts and manual that covers the Sunshine Law. Ms. Edwards briefly provided examples of what problems may occur when the business of the Commission is discussed outside the Commission meeting. Ms. Edwards added that the Commissioners are charged with conducting business in the sunshine, which means all business is conducted at a noticed and recorded meeting. Ms. Edwards further stated that Commission members could not use an

intermediary to discuss an issue, but they can talk to the staff of the department with the exception of the attorneys, reiterating that a Commissioner could not use department staff as an intermediary to relay issues to another Commissioner. Ms. Edwards stated that if there is a need to communicate with one another between meetings, it should be done in writing, copying the department staff to add to the next agenda and only if necessary. There was a discussion regarding if newspaper articles were within the public domain. Commissioner Bob Beals asked if he could e-mail a newspaper article to a Commissioner. Ms. Edwards stated that the article would have to be included in the agenda for the next meeting and copies given to all the Commissioners.

Unlicensed Activity Monthly Report

Mr. Fred Seli provided a summary for the month of March on enforcement activities regarding unlicensed real estate activity. Mr. Seli noted that since the last meeting in March, two additional unlicensed activity investigators have been hired, trained and are currently investigating unlicensed activity cases. Mr. Seli addressed various questions from the Commissioners regarding the statistics for March and for the quarter. Mr. Seli noted that the Department has begun to receive several \$500.00 citation payments. Chairman Sanchez and Commissioner Veissi inquired about the increase of the number of citations issued, the money being received and the response of individuals receiving the citations. Mr. Seli commented that the response to compliance with the citations has been good and it is proving to be an effective tool. Chairman Sanchez requested an example of an unlicensed activity citation. Mr. Seli and Ms. Kathleen Koeberich provided several examples of unlicensed activity citations. Ms. Edwards stated that citation offenses are listed in the Florida Administrative Code rules.

Ms. Koeberich provided a report regarding unlicensed activity advertisements which are being placed in various home magazines throughout the state, explaining that a half page color advertisement will be in various Home and Lands magazines. Ms. Koeberich further reported that the Florida Association of Realtors (FAR) will run the advertisement in a future issue of their magazine. She added that these magazines are mailed nationwide to individuals looking to buy real estate in the State of Florida. Chairman Sanchez suggested contacting FAR and individual real estate corporations for more thorough coverage on unlicensed activity. The Commissioner also suggested using the advertisement as a press release through the Public Affairs Office. Chairman Sanchez stated that he feels that the printed ads would be much more effective than the PSAs on the radio and it would target the right market. The Commission thanked Ms. Koeberich for her report.

Report regarding Real Estate Scholarship Disbursements

Director Elizabeth Vieira reported that Ms. Sandra Hartley, Executive Director of Communities In Schools of Putnam County, Inc. (CISPCI), would be completing this program by the middle of May when the students receive their final grades. Director Vieira reported that this program is now at \$41,645.00 in scholarships. Vice-Chairman Hogan commented on the small number of colleges utilizing the scholarships and questioned whether Florida International University (FIU) had been contacted. Director Vieira stated that she would contact Ms. Hartley for that information.

New Business

Rule Discussion

1. Meeting attendance guidelines

Ms. Edwards presented a draft of proposed rule language addressing meeting attendance guidelines per the Commission's request. Ms. Edwards stated that at this time she is not certain where to place this in the rules and whether there is authority. The Commission discussed using the language "business attire" versus "casual business attire". The majority of the Commission suggested that Ms. Edwards change the language to "casual business attire". No motion made.

Correspondence

1. Communication from William Furlow, Esquire

Ms. Edwards advised the Commission that it does not have the authority to address this motion. The Commission declined to hear the Motion to Transfer. Ms. Edwards stated that she would provide the appropriate response.

2. Request for Mutual Recognition from Connecticut

Ms. Edwards stated that there is a law on reciprocity in Section 475.180, Florida Statutes. Ms. Edwards read the excerpt from Section 475.180 and stated that the request should be reviewed by the Department. Commission moved to send this to the Department for research and review. Commissioner Varnado moved to forward the request for mutual recognition to the Bureau of Education and Testing. Commissioner Hogan seconded the motion. The motion carried unanimously.

Ratification of Suspended Licenses

Director Elizabeth P. Vieira requested that the Commission ratify the reinstatements of Kenneth P. Close, James W. Glass and Estrella Zayes-Bazan who have met the requirements for reinstatement. The Commission ratified the actions unanimously.

Association of Real Estate License Law Officials (ARELLO)

Chairman Sanchez discussed the ARELLO Midyear Meeting that he and Commissioner Veissi attended in April. Chairman Sanchez stressed the importance of the Department's participation in ARELLO. Also, Chairman Sanchez reported that he was very impressed with Commissioner Veissi's involvement with ARELLO and the many committees she attends which are associated with that organization. Commissioner Veissi reported that many of the jurisdictions (states/countries) look to Florida and California, because of the number of licensees, to see what we are doing and how we are doing it. Commissioner Veissi further reported that the minimum services/alternative brokerages were addressed as it has been a tremendous problem with many jurisdictions and the fact that the Department of Justice has entered into this issue, which will bring more attention to the problem. Commissioner Veissi addressed the Disciplinary Data Bank as a source of information offered to ARELLO members.

Commissioner Veissi noted that the Department can get disciplinary information on people who are licensed in other jurisdictions and felt that this information may be useful for the Department staff in reviewing licenses held in various jurisdictions other than the State of Florida. Chairman Veissi was aware that the Department is contributing to the Disciplinary Data Bank, but she was not aware if the Department was utilizing the data bank.

Chairman Sanchez stated that he has been approached to get more involved in ARELLO, however, his term will be up in October and he does not plan to request a reappointment, but encouraged the other Commissioners to attend the ARELLO meetings. Chairman Sanchez suggested the Commissioners should coordinate with Director Vieira and Deputy Director Thayer to get more involved. Chairman Sanchez further stated that ARELLO looks to Florida as one of the premier jurisdictions. Chairman Sanchez and Commissioner Veissi discussed the variety of training sessions offered at the ARELLO meetings. Commissioner Sanchez requested that the Department send the names of the new Commissioners and counsel to the Commission to ARELLO for insertion in their annual directory.

Commissioner Varnado commented on the statistics listed in the Service Operations Report provided by Scott Stewart. Commissioner Varnado was amazed by the volume of service calls and applications received in the Department. Chairman Sanchez discussed the volume of work generated because of the large population of Florida. Commissioner Varnado commended the Department on their hard work and complimented the staff for their endeavors.

Commissioner Veissi requested that the Commission receive reports on the number of current licensees per county on a quarterly basis. Director Vieira agreed that a quarterly report of licensees per county would be compiled for the Commission in the future.

Escrow Disbursement Orders

Upon recommendation of the Legal Section, the Commission unanimously issued 167 Escrow Disbursement Orders and 4 Orders. Commissioner Hornsleth inquired about several Orders to which Mr. Solla responded. A list of the Orders is attached to the official minutes maintained at the Division headquarters.

Consent Agenda

The Commission considered the Summary of Applicants Consent Agenda, requiring appearances from 18 applicants from the Consent Agenda.

Ms. Edwards stated that she prepared a form, as a tool for the Commission's use when the considering the applicants on the agenda, which would be very helpful in drafting the Commission's Orders. Ms. Edwards explained that the form lists the most frequent reasons for denying an applicant permission to sit for the real estate examination. Ms. Edwards further explained that the form cites the statute giving the Commission the authority to deny the applicant.

Commissioner Veissi asked to discuss the issue of Chapter 215.37 at the next meeting. Commissioner Veissi requested that the Commission have involvement in the budget for the Division of Real Estate. Ms. Edwards stated that she believes the Division can request input from the Commission and that the Commission can make suggestions. There was a discussion

as to whether the Commission can file an exception to budget. Commissioner Veissi would like the Commission to be able to discuss the budget prior to its completion. Commissioner Varnado commented that he has seen other boards get bogged down in the budgetary process. Commissioner Veissi stated that she understands that, but does not suggest to get bogged down in budgetary decisions, but she would just like to see where the money is spent. Commissioner Hogan discussed how the funds were allocated and Commissioner Veissi expressed concerns regarding the best utilization of the monies. Ms. Edwards said she would study Chapter 215.37 and get back with the Commission at the next meeting.

Director Vieira stated that Jean Whitten, Director of the Office of Budget and Financial Management and Bruce Topp will be attending a Commission meeting to discuss the quarterly budget report and that Ms. Whitten and Mr. Topp would be able to answer the Commissioners' questions at that time.

Chairman Guy Sanchez, Jr. recessed the meeting at approximately 5:05 p.m., April 18, 2005.

April 20, 2005

Chairman Guy Sanchez, Jr. reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:35 a.m., at Orlando, Florida, on this 20th day of April, 2005.

The following Commission members were in attendance: Guy Sanchez, Jr., Chairman; Nancy B. Hogan, Vice-Chairman; Matey H. Veissi, Poul Hornsleth, S.W. Ellis, and James D. Varnado. Commissioner Bob Beals was excused. The Chairman declared a quorum present. Ms. Barbara R. Edwards appeared as counsel for the Commission.

Division staff present at the meeting: Elizabeth P. Vieira, Director; Sharon Thayer, Deputy Director; James P. Harwood, Interim Chief Attorney; Kathleen Koeberich, Bureau Chief; 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 8:40 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 to the official minutes maintained at the Division of Real Estate headquarters.

Chairman's Comments

Chairman Sanchez again welcomed newly appointed Commissioners S. W. Ellis and James D. Varnado to the Florida Real Estate Commission. Chairman Sanchez acknowledged former Chairman Carlos Valdes and Commissioner Noel McDonnell for their service with the Commission. Chairman Sanchez stated that plaques would be forwarded to past Chairman Valdes and Commissioner McDonnell with thanks for their participation on the Commission.

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 May 17 and 18, 2005, at the Division Headquarters in Orlando, Florida.

Guy Sanchez, Jr.
Chairman

Elizabeth P. Vieira
Division Director

Prepared by:

Virginia Gordon, Administrative Assistant II

Lori L. Crawford, Deputy Clerk