



**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 15, 2005
Task Force Meeting**

Chairman Guy P. Sanchez, Jr. called the meeting of the Florida Real Estate Commission to order, at approximately 9:00 a.m., at Orlando, Florida, on this 15th day of August, 2005.

The Chairman introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Chairman Guy P. Sanchez, Jr.; Vice-Chairman Nancy B. Hogan; Matey H. Veissi and S. W. Ellis. Ms. Barbara R. Edwards appeared as counsel for the Commission.

Division staff present at the meeting: Michael E. Murphy, Acting Division Director; Sharon Thayer, Deputy Director; Bennett M. Miller, Chief Attorney; Kathleen Koeberich, Bureau Chief of Investigations; JoEllen Peacock, Education Coordinator; Denise Johnson, Complaint Analyst II; Lori Crawford, Regulatory Supervisor/Consultant; and American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Other attendees

Valerie Churchillo
Linda Crawford
Cheri-Lynn Diamond
Wendell Davis
Dick Fryer
Trey Goldman, Esquire
Randy Schwartz, Esquire
John Sebree
Gina Stuart
Lori Walters
Juana Watkins, Esquire

Rule Review

61J2-1.011 – License Fees and Examination Fees

After discussion members present did not recommend changes.

61J2-1.016 – Review of Fees

After discussion members present did not recommend changes.

Commissioner Veissi requested to address reducing fees or imposing a fee holiday pursuant to 475.0212, *Florida Statutes* at a general FREC meeting. This issue will be discussed at a future general meeting of the Florida Real Estate Commission.

61J2-3.010 - License Reactivation for Brokers and Sales Associates

Ms. Linda Crawford suggested that the two courses required for reactivation are two *different* courses. Commissioner Veissi moved that the language in subsection (3) be amended to read in part "...by satisfactorily completing a two different 14-hour Commission-prescribed continuing education courses for each 2-year license period." Vice-Chair Hogan seconded the motion. Motion carried.

61J2-10.024 – Office Entrance Signs

Ms. Linda Crawford stated that this language should be deleted because it is addressed in Chapter 475, F.S. Commissioner Veissi moved to repeal the rule. Vice-Chairman seconded the motion. Motion carried.

61J2-10.025 – Advertising

Chairman Sanchez stated that he has concerns with real estate signs reflecting the name of the real estate company, however, the sign does not reflect the a phone number of the broker and the public is unable to reach the broker. Chairman Sanchez requested the Florida Association of Realtors (FAR) address this issue at its Legislative Committee meeting. Vice-Chair stated that often the signs appear like a Realtor is advertising the property. Mr. Fryer stated that this may be a legislative issue and the work group is scheduled to meet next week. Chairman requested that FAR address this issue at the meeting. Attorney Trey Goldman, FAR representative, suggested looking at Chapter 475.25(1)(c), F.S., which may give the Commission authority to address advertising. Mr. Miller stated that Rule 61J2-10.025 places some specific limits on how items may be advertised and how contact information may be advertised.

Commissioner Veissi moved to amend subsection (1) to read in part "All real estate advertisements must include the licensed name and phone number of the brokerage firm." Vice-Chair Hogan seconded the motion. Motion carried.

61J2-10.031 – Time for Payment of Administrative Fines and Costs

Commissioner Ellis stated that she feels this rule should be changed to 30 days from the date an actual decision is rendered because the orders are not being filed in a timely manner. Ms. Edwards addressed the Commission on this matter stating some individuals are unaware of the penalty until they receive a copy of the Final Order.

Ms. Edwards explained that most of the attorneys in the Assistant Attorney General's Office assist more than one board and that she is responsible for six boards. Vice-Chairman Hogan asked Ms. Edwards which six boards she assists. Ms. Edwards responded that she has the Electrology Counsel, Dietetics and Nutrition Counsel, Board of Funeral Directors and Embalmers (which will only have one more meeting), Board of Professional Geologists, Community Association of Managers Counsel, and FREC. Ms. Edwards further stated that she is streamlining the process and anticipates bringing all Final Orders current very soon.

Mr. Fryer read Section 120.569, F.S., which in part states "that Final Orders must be in writing within 90 days after the hearing is concluded by the agency." Ms. Edwards restated that she will be up to speed with the Final Orders very soon. Vice-Chairman Hogan inquired

whether someone could challenge the Final Order if it is not rendered within 90 days. Ms. Edwards responded that they may and if someone does then we would deal with that when it happens.

After discussion the Commission members present did not recommend changes.

Vice-Chairman Hogan and Commissioner Veissi inquired of the Legal Section's organizational structure to which Mr. Miller provided a brief response.

61J2-10.028 – Kickbacks or Rebates

Vice-Chairman Hogan requested to address this rule. After discussion Commission members present did not recommend changes.

61J2-10.038 – Mailing Address

Chairman Sanchez requested whether licensees could use a post office box as a mailing address. Mr. Fryer responded affirmatively. Mr. Fryer added that Federal law requires that the user keep a current physical address on file with the post office. After further discussion Commission members present did not recommend any changes.

61J2-5.014 – Registration of Corporation

Commissioner Veissi moved to add a sentence at the end of the rule to read: “No corporation shall operate as a real estate broker until they have received written notification from the Department that the corporation has been properly registered.” Vice-Chairman Hogan seconded the motion. Motion carried.

61J2-4.009 – Incorporation by Reference

After discussion Commission members present did not recommend changes.

61J2-14.008 – Definitions

Mr. Fryer suggested amending subsection (2) to read: (b) When escrow funds are placed with a title company or an attorney the licensee shall indicate on the sales contract the name and address of said entity. The licensee shall obtain and retain written verification of said deposit upon delivery of the funds to the title company or attorney.

Existent paragraph will become (2)(a).

Commissioner Veissi moved to approve the new language. Vice-Chairman Hogan seconded the motion. Motion carried.

61J2-14.011 – Rights of Broker in Deposits

After discussion Commission members present did not recommend changes.

61J2-14.012 – Broker's Records

After discussion Commission members present did not recommend changes.

Chapter 61J2-17.014

After discussion Commission members present did not recommend changes.

61J2-20.049 – Commission Member Compensation

Chairman Sanchez suggested raising the compensation fee from \$50.00 to \$100.00. Ms. Edwards stated that the Commission does not have the authority to amend the compensation fee as the authority is in Section 455.207 (4), F.S. Mr. Fryer stated that amending the compensation fee would require a legislative change.

Commissioner Veissi moved to go forward with obtaining a legislative change to raise the daily compensation. Vice-Chairman Hogan seconded the motion. Motion carried.

61J2-26.002 – Residency

Mr. Fryer briefly provided some background as to the creation of this rule. In discussion it was suggested that this issue be evaluated to possibly recommend new additions to this rule.

61J2-24.003 – Notice of Compliance

Ms. Crawford recommended removing paragraph (1)(l) because 61J2-10.035 has been repealed. Commissioner Veissi moved to delete paragraph (1)(l) of 61J2-24.003 which refers to 61J2-10.035. Commissioner Ellis seconded the motion. Motion carried.

Other matters discussed

Commissioners entered into a brief discussion regarding inactive licensees and unlicensed activity.

Vice-Chairman Hogan requested whether the Department would cross reference the sexual predator list with the licensees. Mr. Murphy stated that this is an issue that the Division is monitoring.

Commissioner Veissi moved to submit all these changes as new rules with new numbers. Vice-Chairman Hogan seconded the motion. Motion carried. Ms. Edwards stated that she will find a way to add these accordingly.

LLP and LLC Registration Guidelines

Ms. Thayer stated that request was made that the Commission consider defining LLC and LLP as set forth in Chapter 475.15, F.S., to explain how the broker or sales associate could be registered within these entities. Ms. Denise Johnson explained in detail the issues relating to LLP and LLC registrations. Vice-Chairman Hogan moved that the LLC member managed and LLC manager managed be defined in rule. Commissioner Veissi seconded the motion. Motion carried. Ms. Edwards requested that the Division provide guidance as to the language.

Review of Minutes From the October 2004 Taskforce Meeting

Chairman Sanchez referred to the minutes from the October 2004 Taskforce meeting to address the previously recommended changes.

Mr. Sanchez commented on Commissioner Hornsleth's concerns regarding brokers and agents keeping files at home or places other than the qualifying broker's office and it being difficult in obtaining copies.

Chairman Sanchez addressed 61J2-10.038 – "Change of Mailing Address", stating the Commission members that attended the meeting discussed increasing the citation fine from \$100.00 to \$1,000.00. Commissioner Veissi stated that rules currently reflect \$100.00 citation.

Chairman Sanchez addressed brokerage home offices and inquired what the Commission discussed. Commissioner Veissi stated that basically they discussed that the individual should rely upon zoning laws and requirements where they reside.

Discussion of Statutory Revisions

Chairman Sanchez, Jr. addressed the issue under Chapter 494, F.S. relating to corresponding lending which may be an issue that could be adopted by the FAR. Chairman Sanchez stated that mortgage companies are falsely educating licensees in our industry claiming that they will pay a fee to individuals who bring in possible loan prospects. Chairman Sanchez stated that the companies are also enticing realtors to work as mortgage brokers/independent contractors offering them a commission. Mr. Sebree, FAR representative, stated that they could look into this at their meeting next week or do the groundwork between now and the FAR Annual Convention. Commission members present discussed possible statutory revisions for the next legislative session.

Vice-Chairman Hogan addressed the issue of multiple licenses explaining that brokers are selling their licenses. Chairman Sanchez stated that the recommendation was to bring the broker's request before the Commission to determine whether it is for good cause. Chairman Hogan inquired whether that has been put into place. Mr. Murphy said that issue could be researched.

Ms. Linda Crawford stated that she noticed in the October 2004 Taskforce minutes that a recommendation was made to increase several of the citations. Ms. Crawford stated that the highest citation amount is \$500.00 and Section 455.224, which provides the authority to issue citations, does not provide a maximum amount. FAR Attorney Juana Watkins suggested that since the citation becomes a Final Order once it has been paid, the maximum could be the same as the maximum administrative fine which is \$1,000.00. The Commission recommended increasing the maximum fine of \$1,000.00 to \$5,000.00 for each count. Chairman Sanchez referred this to Mr. Sebree to look into proposing legislation.

Vice-Chairman Hogan inquired whether the \$100 citations could be changed to \$1,000. Ms. Edwards stated that the Commission could look at changing them. Vice-Chairman Hogan stated that the Commission needs to raise the standards and increasing the citations would be a place to start.

Chairman Sanchez stated that he wanted this meeting today bring everyone together reach a general consensus of ways to protect the public and the FAR representatives can take it back to FAR leadership. Mr. Sebree stated that the timing of this is very good as FAR has a workgroup meeting next Wednesday and FAR will have thousands of Realtors at its convention next week. Mr. Sebree stated that the biggest issue that FAR hears from its members is creating minimum service standards as other states have. Mr. Sebree presented a chart of

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minimum service standards that FAR formulated. Mr. Sebree provided a general overview the chart. Trey Goldman and Gina Stuart also provided insight as to some of the issues FAR plans to address.

The Commissioners entered into discussion relating to additional issues. Chairman Sanchez thanked everyone for attending.

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:30 p.m.

Guy P. Sanchez, Jr.
Chairman

Michael E. Murphy
Acting Division Director

Respectfully submitted:

Lori Crawford
Deputy Clerk