



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

Chairman Nancy B. Hogan called the meeting of the Florida Real Estate Commission to order, at approximately 8:40 a.m., at Orlando, Florida, on this 19th day of September, 2005.

The Chairman introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Chairman Nancy B. Hogan, Vice-Chairman S. W. Ellis, Matey H. Veissi, Poul Hornsleth, Bob Beals and James D. Varnado. The Chairman declared a quorum present. Ms. Barbara R. Edwards appeared as counsel for the Commission. Mr. Gary Asbell, Assistant Attorney General also appeared.

Department and Division staff present at the meeting: Andy Edwards, Deputy Secretary; Michael E. Murphy, Acting Division Director; Sharon Thayer, Deputy Director; Bennett M. Miller, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; James P. Harwood, Alpheus C. Parsons, Alfonso Santana and Joe Solla, Senior Attorneys; Fred Clanton, Investigator Supervisor; Fred Seli, OPS Supervisor for Unlicensed Activity; JoEllen Peacock, Education Coordinator; Dan Combs, Examination Development Specialist; Lori Crawford, Regulatory Supervisor/Consultant; Laurie A. Roessler-Solis, Regulatory Supervisor/Consultant; Jeannie Adkinson, Regulatory Specialist III; Jan Dodd, Regulatory Specialist II; and American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Legal Matters

At approximately 8:45 a.m., the Commission took up the Legal Agenda, consisting of 20 items. The Commission heard 18 items and continued 2. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

Escrow Disbursement Orders

Upon recommendation of the Legal Section, the Commission unanimously issued 165 Escrow Disbursement Orders and 5 Orders. A list of the Orders is attached to the official minutes.

Commission Business

Unlicensed Activity Report

OPS Supervisor, Fred Seli, and Bureau Chief of Enforcement, Kathleen Koeberich, presented the monthly report regarding unlicensed activity. Mr. Seli addressed several questions from the Commissioners regarding the report, including the procedures of the investigation of unlicensed activity.

Ms. Koeberich reported that Vivia Palmer has been convicted and sentenced to 20 years incarceration for charges including unlicensed activities.

Ms. Koeberich added that several ads have been published in several areas and more are scheduled for publication in other areas of the state.

Clarification Regarding Tie Votes Relating to Applicants

Chief Attorney Miller respectfully requested, in light of the Commission having new Board Counsel, for this issue to be tabled. Mr. Miller added that this would allow him and Mr. Asbell time reach a concurrence of an opinion before providing the Commission specific legal advice regarding the operative effect of a tie vote. Mr. Miller cited to Section 120.60(1), *Florida Statutes*, for clarification in how to proceed in this situation and explained that this section provides for a default provision and outlines the procedures the applicant must follow. There was further discussion as to whether the Commission has the authority to interpret the law in this subject. Commissioner Veissi moved to defer this matter to next month's agenda. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

Unlicensed Activity Report

Counsel Barbara Edwards addressed the Commission and provided a summary of her research regarding the issue of identifying what activities constitute unlicensed activity. Chairman Hogan thanked Ms. Edwards. Chairman Hogan stated that they wanted to be able to provide this information to the Florida Association of Realtors to distribute to its members via the Realtor Magazine and via the web so that people would be informed.

Chief Attorney Miller cautioned the Commissioners that they may not want to provide a formal written statement as it may be viewed as unadopted policy. Chairman Hogan stated that it does not have to be a policy statement other than just an explanation. Mr. Miller deferred to FREC Counsel and reiterated using caution. Acting Director Murphy suggested perhaps methods less formal than a policy statement, as alternative educational opportunities such as speaking engagements or the newsletter in lieu of a formal vote on this statement. Assistant Attorney General Gary Asbell stated that he would research the issue and present his findings at a future meeting.

Next, Mr. Murphy asked for articles from the Commissioner for the next newsletter. Chairman Hogan inquired whether there were ways to publish the newsletter quarterly. Mr. Murphy stated that he would explore this with the Department.

Applicant Reconsideration Guidelines

Chairman Hogan addressed the issue of the Commission reconsidering an application after a denial at a previous meeting. Ms. Barbara Edwards stated that there is no provision in the law regarding reconsiderations and it is at the discretion of the Commission. Ms. Edwards state that her opinion may be different than Mr. Asbell's opinion and since he would be FREC's Counsel beginning next month they may want his opinion. Ms. Edwards further stated that it is her opinion the Commission should grant them sparingly. Chairman Hogan suggested that the Commissioners provide guidelines as to what criteria the applicant must meet to be reconsidered by the Commission. Several Commissioners provided their opinions. Ms. Edwards provided several pros and cons relating to this issue. Ms. Edwards suggested that if the applicant requests a reconsideration, the Division forward the request to the Commission's counsel to make a determination whether the application should be reconsidered. Several

Commissioners shared comments relating to this issue. Mr. Asbell stated that from his perspective he may prefer to hear the applicant as a method of discovery.

FREC Meeting Conduct Guidelines

Chief Attorney Miller stated that he and Mr. Asbell will work together to discuss all options relating to this issue.

Report Regarding the Education Foundation Scholarship Program

Deputy Director Sharon Thayer reported that the Commissioners have been provided a copy of the contract and proceeded to briefly explain the provisions. She also reported that the Chief Attorney recently made a presentation to the FSU Real Estate Society, who expressed quite an interest and that Mr. Miller provided them with information how to obtain and apply for a scholarship. Mr. Murphy stated that the contract is more performance based than last year. Ms. Thayer provided the website for Communities In Schools for Putnam County.

Summary of Applicants

At approximately 2:00 p.m. Jan Dodd, 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 part of these minutes.

Consent Agenda

The Commission considered 241 applicants from the Summary of Applicants Consent Agenda, requiring 18 applicants from the Consent Agenda to appear before it at a future meeting.

The Chairman recessed the meeting at approximately 5:45 p.m., September 20, 2005.

October 19, 2005

Chairman Nancy B. Hogan 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 October, 2005.

The following Commission members were in attendance: Chairman Nancy B. Hogan; Vice-Chairman S. W. Ellis, Matey H. Veissi, Poul Hornsleth, Bob Beals and James D. Varnado. The Chairman declared a quorum present. Ms. Barbara R. Edwards appeared as counsel for the Commission. Mr. Gary Asbell, Assistant Attorney General, also appeared.

Department and Division staff present at the meeting: Michael Murphy, Acting Director; Sharon Thayer, Deputy Director; Bennett M. Miller, Chief Attorney; Alpheus Parsons, Senior Attorney; Lori Crawford, Regulatory Supervisor/Consultant; Jeannie Adkinson, Regulatory Specialist III; Jan Dodd, Regulatory Specialist II; and American Court Reporting (407-896-1813) provided court reporter services.

Approval of the Minutes

The Commission unanimously approved the Minutes of the September 20 and 21, 2005, General meeting, as amended.

Budget Committee Report

Commissioner Varnado provided an overview of the Budget and Finance reports discussed at the Budget Committee meeting. The Commission entertained many questions including issues relating to fines, technology support and online status change forms. Mr. Murphy responded to the queries and then stated that he would relay all of these issues to the Secretary and provide a monthly report as to the progress of the improvements.

Summary of Applicants

At approximately 9:30 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 part of these minutes.

Sexual Predator List

Chairman Hogan requested to discuss the possibility of the Department researching the ability to compare the licensee database with the FDLE's sexual predator list. Ms. Hogan stated that licensees have access to houses and today there are more latch-key kids. Commissioner Hornsleth moved to instruct the Department to be proactive and match the lists together. Chairman Hogan seconded the motion. Acting Director Murphy responded that the Commission would not need to place a motion on the table as he would be open to this issue upon consulting with both counsels and possibly move forward with this issue. Mr. Murphy stated that he would give a report of the preliminary assessment and any plausible action at a future meeting. Commissioner Hornsleth withdrew the motion. Chairman Hogan withdrew the second. Mr. Murphy stated that the Department will keep FREC Counsel informed of the progress of this issue.

Petition for Declaratory Statement Regarding 475.011(2), Florida Statutes, received from Jennifer L. DeSantis, Esquire on behalf of DeSantis Commercial, Inc.

Counsel Edwards asked the Commission to address the Petition for Declaratory Statement regarding Section 475.01(1)(a), Florida Statutes. Ms. Edwards provided a summary of the request. The Commission provided guidance to Ms. Edwards, which she will inform the Petitioner.

2006 Meeting Calendar

The Commission unanimously approved the 2006 FREC Meeting Calendar.

Ratification of Suspended Licenses

Acting Director Murphy requested that the Commission ratify the reinstatement of real estate licenses of Jay E. Hasner and Lloyd Hasner.

Other matters

The Commission addressed correspondence from Wes Hodges regarding kickbacks and rebates. The Commission stated that this issue is addressed in Chapter 475 and in Rule 61J2-10.028, Florida Administrative Code.

Commissioner Varnado wanted to pass a resolution complementing Ms. Edwards for her services she provided to the Commission. Commissioner Hornsleth seconded. The motion carried unanimously.

Adjournment

There being no further business and no objection, the Chairman adjourned the meeting at approximately 3:30 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for November 15 and 16, 2005, at the Division Headquarters in Orlando, Florida.

Nancy B. Hogan
Chairman

Michael E. Murphy
Acting Director, Division of Real Estate

Respectfully submitted,

Lori L. Crawford