



**Minutes of  
THE FLORIDA REAL ESTATE COMMISSION  
March 14 and 15, 2006  
Meeting**

Chairman Nancy B. Hogan called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, Florida, on this 14<sup>th</sup> day of March, 2006.

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, Marylin Guevara, Bob Beals and James Varnado. The Chairman declared a quorum present. Mr. Gary Asbell, Assistant Attorney General, appeared as counsel for the Commission.

Division staff present at the meeting: Michael E. Murphy, Division Director; Sharon Thayer, Deputy Director; Bennett M. Miller, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; James P. Harwood, Joseph Solla, Stacy Robinson Pierce and Shiv Persaud, Senior Attorneys; Fred Clanton and David Guerdan, Investigator Supervisors; Fred Seli, OPS Supervisor for Unlicensed Activity; JoEllen Peacock, Education Coordinator; Lori Crawford, Regulatory Supervisor/Consultant; Jocelyn Pomales, Regulatory Specialist II. American Court Reporting, Inc. (407-896-1813) provided court reporter services.

**Approval of the Minutes**

The Commission unanimously approved the Minutes of the February 14 and 15, 2006, General Meeting, as written.

**Legal Docket**

At approximately 8:35 a.m., the Commission addressed the Legal Agenda, consisting of 24 docket items. The Commission considered 22 docket items. The Division withdrew 2 docket items. 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 115 Escrow Disbursement Orders and 2 Orders. A list of the Orders is attached to the official minutes.

**FREC Meeting Conduct Guidelines**

FREC Counsel Gary Asbell provided changes to Rule 61J2-24.006 to reflect the FREC attendance conduct guidelines discussed at the last meeting for the Commission's

approval. Commissioner Hornsleth moved to adopt the guidelines as presented by Mr. Asbell. Commissioner Varnado seconded the motion. Motion carried unanimously.

### **Unlicensed Activity Report**

Mr. Seli presented the monthly report regarding unlicensed activity. DRE staff addressed questions from the Commissioners. Chief Attorney Miller stated that Ms. Tamayo, General Counsel and Mr. Murphy continue to work together to identify the most appropriate strategic communication to present the department's position to the State Attorney's Office. Mr. Miller further stated that the underlying cases the division refers to the State Attorney's Office may stem from unlicensed activity; however subsequent investigation may result in grand theft charges which carry significantly greater penalties.

### **Letter from Bob Young, Regional Director, U.S. Department of H.U.D.**

Deputy Director Thayer reported that Director Murphy requested this information be provided to the Commissioners for their edification. Commissioner Veissi moved that the department send representatives from the division and the Commission to the mortgage fraud symposium. Vice-Chairman Ellis seconded the motion. The motion carried unanimously.

### **Electronic Fingerprinting Presentation**

Deputy Director, Sharon Thayer, introduced Joanne Cahill and Al Turano from Promissor, who is the vendor for the department's Electronic Fingerprinting (EFP), which will be mandatory effective July 1, 2006. Mr. Turano provided a presentation briefly outlining the terms of service provided at the test sites and information relating to the background of the process, technology, implementation, locations, program performance and applicant experience. Promissor addressed questions from the Commissioners. Chairman Hogan thanked Joanne Cahill and Al Turano for their presentation.

Commissioners inquired as to what would happen to the applicants whose disclosure(s) differed from the results of the background check. Mr. Asbell responded that the Commissioners may establish guidelines for the initial review process as to which applicants the department may approve versus those that require Commission review and consideration for approval.

### **Legality of Paying Commission to Unlicensed Assistants for Services Outside Scope of Real Estate Practice**

Pursuant to Chairman Hogan's inquiry, FREC Counsel, Gary Asbell, reported that Section 475.01, Florida Statutes, broadly defines what duties require a real estate license. Mr. Asbell stated a determination must be made as to whether the services provided fall under the definition of practice; if so, whether the practice falls under the exemption; if not a licensee could be aiding assisting or abetting unlicensed activity regardless of how the unlicensed person is being paid.

### **Rulemaking Authority for Listing Tasks Unlicensed Assistants Can and Cannot Perform**

FREC Counsel Asbell stated he was unable to find the specific authority. Mr. Asbell stated that under Section 475.04, *Florida Statutes*, there may be authority to put this type of information in an educational program, however, was not certain this section authorizes rulemaking. Chairman Hogan requested this topic be added to the list of subheadings established at the Education & Research Foundation taskforce meeting which was held March 13, 2006. Mr. Asbell further stated that without seeing a list, he would certainly not advise the Commission to provide an approval.

### **Rule Development Workshop – Rule 61J2-3.009**

FREC Counsel Asbell requested the Commission consider amending Rule 61J2-3.009, Florida Administrative Code, to include language requiring the 3-hour core law course, as the current rule language does not specifically state the licensee must complete this requirement. Commissioner Varnado moved to amend the rule with the recommended changes and move forward with rulemaking. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

### **Proposed Rulemaking – 61J2-24.003**

FREC Counsel Asbell reported the FREC adopted and approved changes to 61J2-24.003 in September 15, 2003. Mr. Asbell stated the rule was filed for adoption, however, the circumstances did not allow the Joint Administrative Procedures Committee to adopt the rule. Mr. Asbell stated should the Commission desire these changes be made to the rule the Commission must make another vote. Commissioner Hornsleth moved to adopt the language as the Commission approved and adopted previously. Vice-Chairman Ellis seconded the motion. The motion carried unanimously.

### **Discussion of Rule 61J2-10.028**

The Commission debated this rule length. FREC Counsel Asbell suggested the Commission authorize noticing a workshop to discuss possible amendments, which would allow input from all interested parties. Commissioner Varnado moved to authorize publishing Rule 61J2-10.028 for proposed rule development. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

### **Consent Agenda**

The Commission considered 247 applicants from the Summary of Applicants Consent Agenda, requiring 27 applicants from the Consent Agenda to appear at a future meeting.

The Chair recessed the meeting at approximately 3:30 p.m., March 14, 2006.

**March 15, 2006**

Chairman Nancy B. Hogan reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, Florida, on this 15<sup>th</sup> day of March, 2006.

The following Commission members were in attendance: Chairman Nancy B. Hogan; Vice-Chairman S. W. Ellis; Matey H. Veissi, Poul Hornsleth, Marylin Guevara, Bob Beals and James Varnado. The Chairman declared a quorum present. Mr. Gary Asbell appeared as counsel for the Commission.

Department and Division staff present at the meeting: Michael E. Murphy, Division Director; Sharon Thayer, Deputy Director; Bennett M. Miller, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; David Guerdan, Investigator Supervisor; JoEllen Peacock, Education Coordinator; Jeannie Adkinson, Regulatory Specialist III; Jan Dodd, Regulatory Specialist II; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting (407-896-1813) provided court reporter services.

**Summary of Applicants**

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 orders on these matters are attached hereto and made part of these minutes.

**Other Matters**

FREC Counsel Gary Asbell announced that he has taken a position with another agency and this would be his last meeting. Commissioner Hornsleth moved to recognize and commend Gary Asbell for his contributions to the State of Florida and the real estate industry. Commissioner Varnado seconded the motion. 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 April 18 and 19, 2006, at the Division Headquarters in Orlando, Florida.

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Nancy B. Hogan  
Chairman

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Michael E. Murphy  
Director, Division of Real Estate

Respectfully submitted,

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Lori L. Crawford  
Deputy Clerk, FREC  
Regulatory Supervisor/Consultant