

Charles W. Drago, Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
March 17 and 18, 2009
General Meeting**

Chair Ralph McCoig called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 17th day of March, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Richard "Dick" Fryer, Poul Hornsleth, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Department and Division staff present at the meeting: Charles W. Drago, Secretary; Thomas O'Bryant, Jr., Director and Executive Director; Juana C. Watkins, Deputy Director; Patrick Cunningham, Jennifer Blakeman, Jason Holtz, Allison McDonald, Robert Minarcin and Joseph Solla, Senior Attorneys; Denise Johnson, OMC II; Zack Hayhurst, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Approval of the Minutes

The Commission unanimously approved the Minutes of the February 17 and 18, 2009, General Meeting, as amended.

Secretary Drago Addresses the Commission

Secretary Drago provided a brief overview of the department's initiatives which include:

- **Accelerate Florida** – Governor Crist asked the department to find ways to get out of the way of businesses and shorten the licensing process.
- **ezApply** – Created a committee representing 5 professions, including real estate, to evaluate and streamline the application processes.
- **On the Road to Better Business** – Secretary Drago visited 5 major metropolitan cities and invited licensees to sit with him and talk one on one about their issues or concerns, i.e. what problems they might have with their applications, etc. The turnout was very successful. The people shared their concerns and also provided possible solutions and ideas for the department's consideration.

- **Customer Call Center (CCC) and Central Intake Unit (CIU)** – Secretary Drago reported that the department has made many improvements and will continue to make improvements relating to various issues involving the CCC and CIU. There have been a lot of successes as a result of many individuals that work for the department.
- **Unlicensed Activity** – The department continues to work very hard to protect the consumers against unlicensed activity, which includes educating folks through the web and media and conducting sweeps and stings.

Secretary Drago addressed questions and comments from the Commissioners including: application format/process, a service window at the department for licensing needs and Commission input relating to the budgeting process.

Ralph McCoig thanked Secretary Drago for attending the meeting.

Commissioner DeNapoli requested to address a proposal made by a former member requesting to use Education and Research Foundation Account Funds to send the Commissioners to ARELLO in the future. Commissioner DeNapoli moved to withdraw the request based on the appearance of impropriety. Vice-Chair Enzor seconded the motion. The motion carried six to one.

Unlicensed Activity Report

Executive Director O'Bryant presented the Unlicensed Activity Report and the Enforcement Report and addressed questions from the Commissioners. Secretary Drago reported that he would be attending the State Attorneys annual meeting in May to discuss the agency's need for them to work with us and offer our assistance to the State Attorney's Office to do what is necessary make it easier for them to prosecute for unlicensed activity. Commissioner DeNapoli moved to accept the report. Vice-Chair Enzor seconded the motion. The motion carried unanimously.

Financial Reports

Director O'Bryant presented financial reports regarding the Operating, Education and Research Foundation and Unlicensed Activity accounts. Director O'Bryant provided an overview of the reports and addressed questions and comments from the Commissioners.

Commissioner Guju requested that the forms include historical financial information in the future. Director O'Bryant said that future reports will reflect historical financial information.

61J2-3.011 – Continuing Education for School Instructors

Director O'Bryant presented the Statement of Estimated Regulatory Costs for proposed amendments relating to Rule 61J2.3.011 for the Commission's review. The Commission reviewed the rule amendments and statement reflecting the proposed change will not have an impact on small businesses. Commissioner Guju moved to accept the proposed rule

determination of impact on a small business. Commissioner Ruffier seconded the motion. The motion carried unanimously.

Review and Consideration of the Real Estate Continuing Education Courses

Director O'Bryant presented the following continuing education courses for the Commissions' consideration:

1. Mold, Grow Houses, and Clandestine Drug Labs

Commissioner Hornsleth moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner Guju seconded the motion. The motion carried unanimously.

2. Where Does the Time Go?

Commissioner Hornsleth moved to deny the continuing education courses listed above as it does not comply with Section 475.182, *F.S.* Commissioner Guju seconded the motion. The motion carried five to two.

3. Converting Technology into Cash

Commissioner Hornsleth moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner Guju seconded the motion. The motion carried unanimously.

Ratification of Suspended License

Director O'Bryant requested the Commission ratify reinstatement of the real estate license of Brandy Lynne Meek Stephenson who has met all requirements for reinstatement. The Commission ratified the action unanimously.

Email Newsletter in PDF Format

Director O'Bryant reported the FREC newsletter is available online. Commissioner DeNapoli inquired whether or not there was any possibility of sending the discipline by a separate email blast. Director O'Bryant stated that there is a link to the discipline report in the newsletter and the Division piggy-backed the Secretary's newsletter email blast. Director O'Bryant reported that requiring email addresses is one of the issues being reviewed as a part of the ezApply process.

Chair McCoig thanked Commissioner DeNapoli for his article and invited all the other Commissioners to submit articles for future newsletters.

Director O'Bryant requested that Mr. Harwood provide the update relating to the letter to the State Attorney's Office next month.

Chair McCoig inquired about the Commission training session. Director O'Bryant stated that the training manual and PowerPoint is complete and the session will be scheduled for April or May.

Chair McCoig requested Director O'Bryant provide an update regarding the legal representation of the Commission. Director O'Bryant reported that Secretary Drago, Chair McCoig and he met to discuss various board related issues, which included board counsel representation. However, the department concluded that the contract service agreement will work within the confines of appropriation.

Escrow Disbursement Orders

Senior Attorney Joe Solla presented 43 Escrow Disbursement Orders and 2 Orders for the Commission's consideration. Number 5 of the Escrow Disbursement Orders has been settled. Upon recommendation of the Legal Section, the Commission issued 42 Escrow Disbursement Orders and 2 Orders. Commissioner Hornsleth moved to approve the Legal Section recommendation. Commissioner Guju seconded the motion. The motion carried unanimously.

Senior Attorney Cunningham reported that Chief Attorney Harwood will give the Commission a full presentation at the April meeting to explain the department's position relating to landlord tenant disputes.

SOA Recommended Order

Charles Caputo v. DBPR, FREC – DOAH Case No. 08-5461

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Mr. Villazon appeared on behalf of Petitioner Caputo. The Commission considered the Recommended Order of the Division of Administrative Hearings denying Petitioner's application for licensure as a real estate broker. Commissioner DeNapoli moved to adopt the Recommended Order. Commissioner Guju seconded the motion. The motion carried unanimously.

Legal Docket

The Commission addressed the Legal Agenda, consisting of 41 docket items. The Commission considered 33 docket items and approved the continuance or withdrawal of 8 docket items. The Commission's decisions on these matters are attached hereto and made a part of these minutes.

Consent Agenda

The Commission considered 32 applicants from the Consent Agenda and required 13 applicants to appear on the agenda at a future meeting.

There being no further business and no objection, the Chair adjourned the meeting at approximately 4:15 p.m.

March 18, 2009

Chair Ralph McCoig reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 18th day of March, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Richard "Dick" Fryer, Poul Hornsleth, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Jr., Director and Executive Director; Juana C. Watkins, Deputy Director; Patrick Cunningham, Senior Attorney; Denise Johnson OMC II; Jeannie Adkinson, Regulatory Specialist III; Zack Hayhurst, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Summary of Applicants

Denise Johnson, OMC II, presented 63 Summary of Applicants requesting to sit for the real estate examination.

Commissioner Remarks

Commissioner Ruffier stated that when reviewing the application the department might want to specify in the language to list violations of probations, since this issue often comes up where applicants list the original offense but not violations of probation.

Commissioner Guju said that it is crucial that background information be submitted with the application. Director O'Bryant stated that the applications are not presented to the Commission without the criminal information. Commissioner Fryer stated that he believes it would take a statutory change to require applicants to pull their own criminal background information. Commissioner Guju suggested that every opportunity should be taken to ease the burden on applicants so as to streamline things and give people an even better chance to tell the truth and fully disclose things. Director O'Bryant stated that when the department revises the application they will take the Commissions comments into consideration.

Commissioners welcomed Commissioner Fryer to the Commission. Commissioner Fryer stated that he had a very pleasant experience his first meeting and that he is looking forward to fours years of service to the real estate industry and citizens of the State of Florida.

Chair McCoig requested Director O'Bryant draft a resolution on behalf of the Commission thanking former Commissioner S.W. Ellis for her long service to the real estate industry. Chair McCoig read into the record a Resolution of the Florida Real Estate Commission to Commissioner S.W. Ellis in recognition and appreciation of Commissioner Ellis' service as a member of the Florida Real Estate Commission beginning March 15, 2005 through March 16, 2009.

Public Comments

Commissioners received comments from the audience.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for April 21 and 22, 2009, in Orlando, Florida.

Ralph McCoig, Chair
Florida Real Estate Commission

Thomas W. O'Bryant, Jr.,
Executive Director
Florida Real Estate Commission

Respectfully submitted,

Lori Crawford
Regulatory Supervisor/Consultant