

Charles W. Drago, Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
July 14 and 15, 2009
General Meeting**

Chair Ralph McCoig called the meeting of the Florida Real Estate Commission to order, at approximately 8:45 a.m., in Orlando, Florida, on this 14th day of July, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Michael Guju, and John Ruffier. Commissioner Hornsleth was excused. 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: Michelle Franckhauser, Systems Project Analyst; Michelle Milnes, Systems Project Administrator; Thomas O'Bryant, Jr., Director and Executive Director; James Harwood, Chief Attorney; Jennifer Blakeman and Joseph Solla, Senior Attorneys; Bradford Koshland, Bureau Chief of Enforcement; Denise Johnson, OMC II; JoEllen Peacock, Education Coordinator; 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

Commissioner Ruffier moved to approve the Minutes of the June 16 and 17, 2009, General Meeting, as written. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

Commission Remarks

Chair McCoig stated that Commissioner Hornsleth's absence is excused due to the passing of his father-in-law, R.W. Caldwell, passed away. The Commission expressed their condolences.

Chair McCoig announced, regrettably, that Commissioner Fryer resigned due to a previous ethics ruling stating that it is a conflict of interest for a person with an active instructor's license to sit on the Commission. The Commission expressed their regrets and thanked Mr. Fryer for his outstanding services during his tenure.

Mr. Fryer stated he was proud to have served on the Commission for the short time. Mr. Fryer requested the Commission ask the legislative assistant to the Department work on a proposal to change the language in Section 475.02, F.S. to rectify this issue. Chair McCoig pledged that he would help in any way he can to change the statutory language.

Additionally, Mr. Fryer wanted to address the Commission's review of CE courses placed on the agenda. Mr. Fryer suggested that the providers be notified in advance that the course is being presented to the Commission for consideration so that they may have the opportunity to attend in support thereof.

Unlicensed Activity Report

Executive Director O'Bryant presented the Unlicensed Activity Report and the Enforcement Report. Director O'Bryant addressed questions from the Commissioners.

Director's Comments

Additional Position – Director O'Bryant reported that he authorized an additional position within the Division for an unlicensed investigator for the Tampa Office.

Legislative Agenda Items – Director O'Bryant reported that as part of Commission/Division discussions two additional items have been included in the Division's Legislative Proposal. These items address; expanding the post and pre licensing education exemption to include individuals who have master degrees in real estate; and allowing the holder of a school or instructor permit to sit on the Commission.

Director O'Bryant provided a summary of the Legislative Proposal process explaining that the Department, which includes all professions, is allotted a certain number of proposals each year and this year it has 20. Director O'Bryant reported that there are many ways to get proposals on the Legislative agenda: through the Department; through the individual's local Legislator; and through professional associations that have their own Legislative agenda. Director O'Bryant addressed questions from the Commission.

Broker Practicum Experience – Director O'Bryant reported that Commission and the Florida Association of Realtors (FAR) has expressed thoughts regarding increasing the experience requirements for licensure. After reviewing various reports, including a survey the FAR commissioned, the Division has had discussions with both FAR and the Department to determine how to address this issue economically and practically. Director O'Bryant stated there has been discussion on how we can effectively enhance the practicum experience for brokers with the least amount of economic impact and additional regulation. Director O'Bryant reported one proposal the Division would like to offer is to work with the Bureau of Education and Testing to enhance the state examination for brokers and increase the number of questions that pose real life situations, which could be accomplished under Rule 61J2-2.029, F.A.C. To ensure the enhancements relating to brokerage management are the most relevant, a job-task survey analysis of licensed real estate professional will be conducted.

Several representatives of FAR including Dean Asher, Secretary, Trey Goldman, Legislative Counsel and Dick Fryer, member, all spoke in favor the practicum examination. Mr. Asher offered their assistance to move forward with this proposal to help the industry as a whole. Mr. Goldman stated that they would be happy to share the Commission's comments with FAR. Mr. Fryer provided additional comments as to the things that should be included in the practicum examination.

The Commission requested to receive a copy of the FAR study. Commissioner Guju applauded FAR's efforts to address this issue and suggested increasing not only the practical levels but also the theoretical levels. The Commissioners provided additional comments. Director O'Bryant stated he would continue to work with FAR to get this into place.

The Commission received additional comments from Ray Glenn, real estate broker and Linda Crawford, of Dearborn.

Legislative Budget Request

Chair McCoig read excerpts from the letter he received from the Secretary and requested that the Commission address this topic next month.

Rule Discussion

Director O'Bryant requested that the Commission conduct a rule development workshop regarding Rule 61J2-23.001, *F.A.C.* Director O'Bryant reported that in particular 61J2-23.001(1)(d), *F.A.C.* is in direct conflict with Chapter 721, *F.S.* Commissioner DeNapoli moved to notice the rule for a rule development workshop. Commissioner Guju seconded the motion. The motion carried unanimously.

FREC Review of Determination of Impact on Small Business

61J2-3.015 – Notice of Satisfactory Course Completion

Director O'Bryant presented for the Commission's consideration the Statement of Estimated Regulatory Costs relating to Rule 61J2-3.015, which the Commission previously approved in January 2008. The Commission considered the Statement of Estimated Regulatory Costs and agreed that there are no costs in association with the change to this rule. Commissioner Ruffier moved to accept the proposed determination of impact on small businesses. Commissioner DeNapoli 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 Commission's consideration:

1. Credit and Its Effects (Distance)

Commissioner Ruffier moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner DeNapoli seconded the motion. The motion carried three to two.

2. Credit and Its Effects (Classroom)

Commissioner Ruffier moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner DeNapoli seconded the motion. The motion carried three to two.

Ratification of Suspended Licenses

Director O'Bryant requested the Commission ratify reinstatement of the real estate license of Darlene Burke who has met all requirements for reinstatement. The Commission ratified the actions unanimously.

Escrow Disbursement Orders

Senior Attorney Joe Solla presented 37 Escrow Disbursement Orders and 2 Orders for the Commission's consideration. Upon recommendation of the Legal Section, the Commission issued 37 Escrow Disbursement Orders and 2 Orders. Vice-Chair Enzor moved to approve the Legal Section recommendation. Commissioner Ruffier seconded the motion. The motion carried unanimously.

Legal Docket

The Commission addressed the Legal Agenda, consisting of 36 docket items. The Commission considered 29 docket items and approved the continuance or withdrawal of 7 docket items. The Commission's decisions on these matters are attached hereto and made a part of these minutes.

Consent Agenda

The Commission considered 56 applicants from the Consent Agenda and required 17 applicants to be placed on the Summary of Applicant Agenda.

Public Comments

The Commission received comments from the public.

Commission Remarks

- State Attorney's Office – Commissioner DeNapoli asked whether there was any update relating to the State Attorney's Offices. Director O'Bryant responded there was none.
- Mortgage Fraud Taskforce – Commissioner DeNapoli whether there were any updates. Director O'Bryant reported that the Miami Dade Police Department (MDPD) is trying to set up a 501(c)(3) tax exemption account and the MDPD and DBPR continue communicating back and forth. Upon resolution of the obstacles the funds will be disbursed. Director O'Bryant further reported that the first Town-hall meeting in August in Tampa. The Department/Division is working with Attorney General's Office, Florida Bar and other agencies in order to have in place attorneys that will be able to assist with issues relating to mortgage fraud.
- Legislative Proposal – Commissioner Guju thanked Director O'Bryant for a copy of the Division's proposal. Director O'Bryant addressed questions from the Commission.
- Vice-Chair Enzor inquired whether the applicants are increasing. Director O'Bryant stated he would provide a report to the Commission reflecting the licensee count.

There being no further business and no objection, the Chair adjourned the meeting at approximately 2:50 p.m.

July 15, 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 15th day of July, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Michael Guju and John Ruffier. Commissioner Hornsleth was excused. 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: Michelle Franckhauser, Systems Project Analyst; Michelle Milnes, Systems Project Administrator; James Harwood, Chief 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 36 Summary of Applicants requesting to sit for the real estate examination.

Director's Comments

Director O'Bryant provided the following information to the Commissioners:

- Licensee Count for FY 2008 – 2009 – Financial projections for both revenue and expense are generated from those numbers.
- Florida Association of Realtors Executive Report – This report summarizes the results of a study commissioned by FAR to ascertain differences in licensing requirements across states. Commission Guju requested this item be placed on the FREC agenda for August.
- Letter Chair McCoig received from Secretary Drago outlining the Department's hallmarks for the year and included the Legislative Budget Request for FY 2009 – 2010 Professional Regulation Program. Director O'Bryant stated that the Legislative Budget Request for FY 2010 – 2011 is due to the Governor's office October 15, 2009 and Commission input is requested.

Chair McCoig requested the Commission provide the Director direction regarding the Legislative Proposals which is due July 17, 2009. Director O'Bryant stated that if he were to prioritize the proposals he would prioritize them in the order of one, two and six. Several Commissioners agreed.

Director O'Bryant reported that the Department is in the final stages of streamlining the application and upon completion he will provide copies of the applications to the Commission for information purposes. The Department is targeting October or November to have the new applications in place.

Director O'Bryant addressed questions and comments from the Commission.

Commission Comments

The Commissioners wished Zack Hayhurst well in his endeavors going on to graduate school and commended him for his service to the Department.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 12:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for July 14 and 15, 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 L. Crawford
Deputy Clerk