

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
January 16 and 17, 2007
Meeting**

Chair Poul Hornsleth called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, Florida, on this 16th day of January, 2007.

The Chair introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Chair Poul Hornsleth, Vice-Chair S. W. Ellis, Nancy B. Hogan, Denver Stutler, Matey Veissi and James Varnado. Tom Barnhart, Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Acting Executive Director; James P. Harwood, Chief Attorney; Sorin Ardelean, Liz Hickman, Chris Lindamood, Shiv Persaud and Joseph Solla, Senior Attorneys; Kathleen Koeberich, Bureau Chief of Enforcement; Brian Piper, Investigator Supervisor; Fred Seli, Supervisor Unlicensed Activity, JoEllen Peacock, Education Coordinator; Donna Salters and Lori Crawford, Regulatory Supervisor/Consultants; Jocelyn Pomales, Regulatory Specialist II; Jeannie Adkinson, Regulatory Specialist III. American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Approval of the Minutes

The Commission unanimously approved the Minutes of the December 12 and 13, 2006, General Meeting and Workshop, as written.

Legal Docket

At approximately 8:35 a.m., the Commission addressed the Legal Agenda, consisting of 36 docket items. The Commission considered 34 docket items. The Commission approved the continuance of two 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

Senior Attorney Joe Solla addressed questions from the Commission. Upon recommendation of the Legal Section, the Commission issued 96 Escrow Disbursement Orders and two Orders.

Mr. Solla presented a letter received from a broker requesting an escrow disbursement order when a title company was holding the deposit reporting that the Division receives many calls and letters similar to this. Mr. Solla stated he wanted to bring this issue to the Commission's attention that it appears there is a misunderstanding by many

licensees that the Florida Real Estate Commission does not have authority over funds being held by an attorney or title company. Chair Hornsleth suggested that the Commission have a workshop to discuss how to address this issue and mortgage fraud. The Commission requested that the workshop be held in March 2007.

Recovery Fund Claims

Senior Attorney, Joe Solla, presented the Recovery Fund Claim styled Hernandez v. Stark, Case Number RFC 2004046160. Mr. Solla stated that the attorney for the claimant was unable to attend and requested a continuance. Commissioner Varnado moved to continue this matter. Commissioner Stutler seconded. The motion carried unanimously. Mr. Solla addressed questions from the Commission.

FREC Business

Unlicensed Activity Report

Bureau Chief of Enforcement, Kathleen Koeberich and OPS Investigator Supervisor Fred Seli, presented the monthly report regarding unlicensed activity and the Enforcement Report. Mr. Seli and Ms. Koeberich addressed questions from the Commission.

Commissioner Hogan expressed concerns relating to mortgage fraud stating that this issue is of great concern within the real estate industry. Ms. Hogan reported that Florida now leads the nation in mortgage fraud and is concerned that the honest people will be affected when the prices go down. Mr. O'Bryant stated that the Appraisal Board also brought up this issue and the Division is in the process of setting up a meeting with the Department of Financial Services (DFS). Commissioner Veissi requested that the Commission also send a representative to meet with DFS. Mr. O'Bryant requested the Chair to appoint a Commissioner to meet with DFS together with the FREAB representative. Chair Hornsleth appointed Commissioner Hogan to this task force.

Reinstatement of Null and Void Licenses

Acting Executive Director O'Bryant presented a form for reinstatement of a null and void license. Mr. O'Bryant stated that this is a business process issue and there are times the Department must reinstate null and void licenses due to misinformation provided by a department employee. Mr. O'Bryant requested the Commissioners review the form and respectfully requested they provide a blanket approval to reinstate null and void licenses. Ms. Salters explained that this document would help the Department substantiate supporting documents received to facilitate approval or denial of reinstatement.

Commissioner Veissi stated that she has concerns with giving blanket approval, however, feels that some circumstances may warrant reinstatement. Mr. O'Bryant stated that the Department requires the requesting individuals substantiate their request. He further stated that the form assists the licensee by outlining the requirements and also assists the department in its review. Commissioner Hogan expressed concerns that she has heard repeated complaints about the call center and the fact that the department must create a form to contend with this issue. Mr. O'Bryant stated that this is requested to improve business processes and raise standards. Commissioner Hogan stated that she

has not heard one good remark about the call center since it has been set in place. Ms. Hogan further stated that she would like to see the information on all licenses that need to be reinstated due to business process error. Commissioner Hogan further stated that she would like a report of how many licenses are reinstated each month. Commissioner Varnado stated that he also has concerns with giving blanket authority. The Commission received comments from the audience.

Commissioner Varnado moved to deny the request for approval authority at this time. Vice-Chair Ellis seconded the motion. The motion carried unanimously. The Commission requested that the reinstatement applications be presented to the Commission for review.

Correspondence received from Richard Branscomb

Acting Executive Director O'Bryant stated that the Division received correspondence from Richard Branscomb suggesting the Commission address various issues relating to the real estate industry. Chair Hornsleth stated that this is one of the more thoughtful letters that he has reviewed. The Commission directed Mr. O'Bryant to thank Mr. Branscomb for his letter and that they have taken his suggestions under advisement. The Commission further directed Mr. O'Bryant to refer Mr. Branscomb to the Department of Elderly Affairs.

Request for FREC approval to schedule Workshop for Rule 61J2-3.009

Education Coordinator JoEllen Peacock reported that the Department needs clarification for the providers, so that they may develop course materials and topics for reactivation education. Commissioner Hogan moved to schedule a workshop for February. Commissioner Veissi seconded the motion. The motion carried unanimously.

Education and Research Foundation Initiatives Update

Acting Director O'Bryant provided a brief update regarding the following topics:

- Newsletters – Mr. O'Bryant reported that the Winter 2007 FREC Newsletter is being finalized and will be distributed very soon. Mr. O'Bryant stated that the newsletters will be funded through the Education Foundation and are scheduled to be distributed in January, April, July and October and provided an overview of the policy recently developed. Mr. O'Bryant emphasized that the Division needs articles from the Commissioners to facilitate putting together some really good educational newsletters. Mr. O'Bryant addressed questions from the Commissioners.
- Sales Associate and Broker Syllabi – Mr. O'Bryant stated that the contract was awarded to Design Café and is in the process of being finalized.
- Educate the Educator – Mr. O'Bryant reported that the Division is putting together a program, which will include large and small workshops and will be traveling throughout the state. Mr. O'Bryant stated that he would call on the Commissioners as subject matter experts.

➤ Scholarship Program – Mr. O’Bryant reported that Communities in Schools in Putnam County is willing to organize and facilitate the program and requested the Commission authorize the program and the amount of funds to allocate to the program. Commissioner Varnado moved to authorize the scholarship program. Commissioner Hogan seconded the motion. The motion carried unanimously. Commissioner Veissi moved that \$150,000.00 be allocated to the scholarship program. Commissioner Hogan seconded. The motion carried unanimously.

Education and Research Foundation Annual Report

Mr. O’Bryant presented a draft of the Annual Report for the Commission’s review as a point of information and reported that the draft has been forwarded to the Secretary’s office for approval. A copy will be available for publication upon approval.

Ratification

Mr. O’Bryant requested that the Commission ratify reinstatement of the real estate license of Suzanne Pinto, who has met all requirements for reinstatement. The Commission ratified the action unanimously.

Consent Agenda

The Commission considered 67 applicants from the Summary of Applicants Consent Agenda, requiring nine applicants from the Consent Agenda to appear at a future meeting.

Chair Hornsleth suspended the general meeting at approximately 3:00 p.m.

General Workshop – 3:00 p.m.

The purpose of the workshop is to discuss three issues, which include: 1) Term “Qualifying Broker”; 2) Rule 61J2-5.014, *Florida Administrative Code*; and 3) Rule 61J2-14.008, *Florida Administrative Code*.

Chair Hornsleth called the meeting to order at 3:15 p.m. The following Commission members were in attendance: Chair Poul Hornsleth, Vice-Chair S. W. Ellis, Nancy B. Hogan, Denver Stutler, Matey Veissi and James Varnado. Tom Barnhart, Assistant Attorney General, appeared as counsel for the Commission.

The following Division staff was present at the workshop: Thomas O’Bryant, Acting Executive Director; James P. Harwood, Chief Attorney; Kathleen Koeberich; Donna Salters, Regulatory Supervisor/Consultant; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Discussion of Term “Qualifying Broker”

Commissioner Veissi inquired why the term “qualifying broker” is used on form “DBPR RE-2050 – Request for Change of Status”. Mr. Ray Glynn stated this term is not referred to anywhere in the statutes or rules relating to real estate, however, FAR uses the term “designated Realtor”. Mr. Ray explained that as far as FREC is concerned all brokers

within the company are qualifying brokers. Commissioner Veissi inquired whether the term “qualifying broker” should be deleted. Chair Hornsleth requested that the Division provide a draft of the definition of “qualifying broker”. Mr. O’Bryant responded that the Division would complete this request.

Discussion of Rule 61J2-5.014

FREC Counsel Tom Barnhart provided a status and summary of this rule. The Commission received comments from the audience relating to the proposed language, specifically the addition of “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.” Commissioner Veissi stated she would prefer this language be included in the rule. The Commission received comments from the audience. The general consensus of the audience is to not include the language regarding written notification. Chair Hornsleth requested to place this issue on the agenda next month to try and negotiate a compromise to address this issue.

Discussion of Rule 61J2-14.008 – Definitions

Commissioner Hogan stated that she asked her legal team to draft questions, which she provided. The general consensus of the audience was to delete the second sentence of 2(b), which states, “The licensee shall obtain and retain written verification of said deposit upon delivery of the funds to the title company or attorney,” until the rule can be better defined and addressed at the workshop scheduled for March. The Commission received additional comments from the audience. Upon further discussion, Commissioner Hogan moved to suspend any discipline on any licensee failing to get any written confirmation until this issue is discussed at the workshop for a period of sixty days. Commissioner Veissi seconded the motion. The motion carried unanimously.

Workshop Adjourned

General meeting reconvened

The general meeting reconvened at approximately 4:15 p.m.

Public Comments

Mr. Randy Schwartz inquired as to the status of the list “unlicensed assistants” may perform. Chair Hornsleth requested that Mr. O’Bryant address this issue at the February meeting.

Chair Comments

Chair Hornsleth stated that he spoke with Secretary Benson and that they discussed at length the issue of FREC meetings traveling around the state. Chair Hornsleth reported that Secretary Benson was enthused about bringing government to the people. He stated that however, we will wait to see how much public interest there is in Pensacola Beach before moving forward with plans to have a FREC meeting in Jacksonville.

Acting Executive Director’s Comments

Mr. O'Bryant reported that he prefers to manage by consensus, and has formed a management team of eight people, which will meet each week to discuss what each section is doing.

Mr. O'Bryant reported the following:

- The Governor established two executive orders: 1) open government relating to ensuring government is brought to the people; 2) plain language initiative wherein, the Department of Business and Professional Regulation was selected as the pioneer for this project, to simplify correspondence distributed to the general public.
- The Performance Improvement Board is scheduled to meet next week and hopes the Commission will see great things resulting from these meetings. Mr. O'Bryant stated that Secretary Benson is not one to rest on her laurels as she is a go-getter and will do what is necessary to make sure that this department and division is the best in the state.
- The division has submitted five new positions to the Secretary's office for the Governor's Budget proposal, in addition to the five we received last fiscal year.

The Commission thanked Mr. O'Bryant for his report.

Public Comment

Ms. Linda Crawford inquired about a time for the workshop in February. Chair Hornsleth set the time for 2:00 p.m. CST, Tuesday, February 20, 2007.

The Chair recessed the meeting at approximately 5:00 p.m., January 16, 2007.

January 17, 2007

Chair Poul Hornsleth reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, Florida, on this 17th day of January, 2007.

The following Commission members were in attendance: Chair Poul Hornsleth, Vice-Chair S. W. Ellis, Nancy B. Hogan, Denver Stutler, Matey Veissi and James Varnado. Mr. Tom Barnhart, Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Acting Executive Director; James P. Harwood, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; Sorin Ardelean and Shiv Persaud, Senior Attorneys; JoEllen Peacock, Education Coordinator; Jeannie Adkinson, Regulatory Specialist III; Janis Dodd, Regulatory Specialist II; Donna Salters, Regulatory Supervisor/Consultant; Lori Crawford, Deputy Clerk. 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.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 12:40 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for February 20 and 21, 2007, at the Hilton Garden Inn, Pensacola Beach, Florida 32561.

Poul Hornsleth, Chair
Florida Real Estate Commission

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

Respectfully submitted,

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