

**Chuck Drago**, Interim Secretary

**Charlie Crist**, Governor

**Minutes of  
THE FLORIDA REAL ESTATE COMMISSION  
February 19 and 20, 2008  
General Meeting**

Chair S.W. Ellis called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 19<sup>th</sup> day of February, 2008.

The Chair introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Chair S.W. Ellis, Vice-Chair Ralph McCoig, Richard DeNapoli, Roger P. Enzor, Poul Hornsleth, Michael Guju, and John Ruffier. 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, Jr., Division Director and Executive Director for the Commission; James P. Harwood, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; Joseph Solla, Shiv Persaud, Patrick Cunningham, and Bob Minarcin, Senior Attorneys; Brian Piper, Investigator Supervisor; JoEllen Peacock, Education Coordinator; Zack Hayhurst, Regulatory Specialist III; Debra Smith, Complaint Analyst; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting (407.896.1813) provided court reporter services.

**Approval of the Minutes**

The Commission unanimously approved the Minutes of the January 15 and 16, 2008, General Meeting, as written.

**Unlicensed Activity Report**

Bureau Chief of Enforcement, Kathleen Koeberich presented the Unlicensed Activity Report. Ms. Koeberich and Investigator Supervisor Brian Piper presented the Enforcement Report. Director O'Bryant, Ms. Koeberich and Mr. Piper addressed questions from the Commission.

Director O'Bryant reported that the Division has had great success with the Mortgage Fraud Task Force in the South Florida/Miami-Dade area. This has enabled other agencies to talk about the issues and to work collaboratively in the sharing of information and prosecution of cases. There is currently a bill that has been introduced into the Legislature to duplicate what has occurred in the Miami-Dade area. This bill would require the South Florida Mortgage Fraud Task Force program to be mirrored state-wide in the Regional Domestic Security Task Force (RDSTF) zones. Part of that bill provides that a member of the Florida Real Estate Appraisal Board serve on the task force and enable DRE staff to serve on their local RDSTF. Director O'Bryant expressed his hope that we will get the positive results state-wide that we have seen

with Miami-Dade. Director O'Bryant addressed questions from the Commission. Former Commissioner Matey Veissi provided additional information relating to this topic.

### **Rule Review Workshop**

The purpose of this workshop is to review the Florida Administrative Code, Chapter 61J2, for possible changes to ensure compliance with the newly adopted statutory changes. The Commission addressed the following rules:

#### **Chapter 24**

##### ◆ 24.001 – Disciplinary Guidelines

Director O'Bryant requested the Commission add disciplinary guidelines for violation of 61J2-14.008. The recommendation of the Division is to make it a citable offense under Rule 61J2-24.002. Commission received comments from the audience. Director O'Bryant suggested a citable fine of \$200.00 for failure to include the name and address of the title company on the contract and a citable fine of \$800.00 for failure to notify. The Commission received additional comments from the audience. Commissioner Hornsleth suggested citations in the amount of \$200.00 for failure to include the name and address of the title company on the contract and \$500.00 for failure to notify. Vice-Chair McCoig moved to split the citation in two parts as recommended with one citation in the amount of \$200.00 and one citation in the amount of \$500.00. Commissioner Guju seconded the motion.

(3)(x) – Commissioner Ruffier moved to strike the language in its entirety. Commissioner Guju seconded the motion. The motion carried unanimously.

##### ◆ 24.002 – Citation Authority

Director O'Bryant requested the Commission review the fine amounts. The Commission reviewed the fine amounts and agreed to create a citation for violation of 61J2-14.008.

(1)(e), (g) and (h) – Commissioner Hornsleth moved to increase the fines to \$500.00. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

(1)(i) – Commissioner Hornsleth moved to strike the language in its entirety. Chair Ellis seconded the motion. The motion carried unanimously.

(1)(k)1, 2 and 3 - Commissioner Hornsleth moved to repeal the language in its entirety. Chair Ellis seconded the motion. The motion carried unanimously.

(1)(p) – Commissioner Ruffier moved to increase the fine to \$500.00. Vice-Chair McCoig seconded the motion. The motion carried unanimously.

(1)(y) – Vice-Chair McCoig moved to increase the fine to \$500.00. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

(1)(z) – Vice-Chair McCoig moved to increase the fine to \$500.00. Commissioner Guju seconded the motion. The motion carried unanimously.

(1)(ee) – Vice-Chair McCoig moved to increase the fine to \$500.00 and to change language to reflect “timely notify”. Commissioner Ruffier seconded the motion. The motion carried unanimously.

(1)(ff) – Commissioner Guju moved to increase the fine to \$500.00. Vice-Chair McCoig seconded the motion. The motion carried unanimously.

(1)(jj) – Vice-Chair McCoig moved to increase the fine to \$500.00. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

(1)(mm) – Commissioner Hornsleth moved to strike the language in its entirety. Vice-Chair McCoig seconded the motion. The motion carried unanimously.

Refer to discussion under 61J2-24.001 to add language to address violations of 61J2-14.008.

◆ 24.003 – Notification of Noncompliance

(1)(s) – Commissioner Guju moved to strike the language in its entirety. Commissioner Enzor seconded the motion. The motion carried unanimously.

### **Review of FREC-Approved Guidelines for Department Approval of Real Estate Applications**

Director O’Bryant requested the Commissioners review the current list and the revisions the Division recommends. The Commission discussed the list of penalties. Commissioner Ruffier moved to approve the list of guidelines as recommended by the Division. Commissioner Guju seconded the motion. The motion carried unanimously. A copy of the guidelines is attached to the official minutes maintained at the Division of Real Estate headquarters.

### **Ratification of Suspended Licenses**

Director O’Bryant requested the Commission ratify reinstatement of the real estate licenses of Colleen Armbruster, Walter A. Devenne, Allan Futterman, Joseph A. Grano and Joshua Keglovits, who have met all requirements for reinstatement. The Commission ratified the actions unanimously.

### **Escrow Disbursement Orders**

Senior Attorney Solla presented 40 Escrow Disbursement Orders (EDO) and 4 Orders for Commission consideration. Upon recommendation of the Legal Section, the Commission issued 40 Escrow Disbursement Orders and 4 Orders.

### **Recovery Fund Claim**

**RFC Case No. 2008002493** – Hazel and Shelia Hahn v. Lawrence D. Meek, Jr. Mr. Solla stated that the claimant does not qualify to receive payment from the recovery fund and recommended the Commission deny the request. Mr. Parker Smith appeared on behalf of the Hahns to present mitigation. Commissioner DeNapoli moved to deny payment from the recovery fund. Commissioner Ruffier seconded the motion. The motion carried unanimously.

**RFC Case No. 2006042060** – Andrew Feldman and Eric Van Der Vlugt v. Nestor Mendoza. Mr. Solla stated that the claimant qualified to receive payment from the recovery fund and recommended the Commission approve the request. Mr. Steven Johnson appeared on behalf

of Mr. Mendoza to present mitigation. Commissioner Guju moved to approve payment from the recovery fund. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

**RFC Case No. 2006061539** – Pablo Fernandez and Agnes Meszaros v. Nestor Mendoza. Mr. Solla stated that the claimant qualified to receive payment from the recovery fund and recommended the Commission approve the request. Mr. Johnson appeared on behalf of Mr. Mendoza. Commissioner DeNapoli moved to approve payment from the recovery fund. Commissioner McCoig seconded the motion. The motion carried unanimously.

**RFC Case No. 2007032899** – Robert Fitzsimmons v. Ronald Belkin. Mr. Solla stated that the claimant qualified to receive payment from the recovery fund and recommended the Commission approve the request. Vice-Chair McCoig moved to approve payment from the recovery fund. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

### **Legal Docket**

The Commission addressed the Legal Agenda, consisting of 48 docket items. The Commission considered 32 docket items and approved the continuance or withdrawal of 16 docket items. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

### **Director's Comments**

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

- **Legislative Report** – Presented a brief overview of proposed House and Senate bills which will have a direct or indirect impact on the real estate industry including:
  - ◆ **HB 3915/SB 2422** – related to reform of mortgage practices to provide accountability for such practices
  - ◆ **HB 643** – relating to foreclosure fraud which provides legislative findings and intent relating to the need to protect homeowners who enter into agreements designed to save homes from foreclosure; prohibits foreclosure consultants from engaging in specified acts or failing to perform contracted services; requires all agreements for foreclosure-related services and foreclosure-rescue services to be in writing; specifies required information in written agreements; requires statements in written agreements to be in bold type, uppercase letters, and specified size; provides homeowners with right to cancel agreement for specified period and specifies right may not be waived; provides homeowner has specified period during which to cure defaults; requires equity purchasers to verify homeowner's ability to make payments under repurchase agreement; provides that foreclosure-rescue transactions involving lease option or other repurchase agreement create rebuttable presumption that transaction is loan transaction and conveyance from homeowner to equity purchaser is mortgage; provides that persons who violate specified provisions commits unfair and deceptive trade practice.

- ◆ **HB 743** – relating to real property fraud which will require law enforcement agencies to notify property appraisers of incidents of mortgage fraud; require property appraisers to reconsider property assessments under specified circumstances; increases penalties for specified types of mortgage fraud; creates Statewide Mortgage Fraud Council within DLA; provides for membership and duties of council; provides for regional mortgage fraud councils; provides for membership and duties of regional councils; provides for reimbursement of members' per diem and travel expenses.
- ◆ The Department is proposing a bill which will increase the experience requirement for sales associates applying for a broker license from 12 months to 24 months.
- **Department Secretary Appointment** – Governor Crist appointed Secretary Benson as Secretary over the Agency Health Care Administration and has appointed a new Press Secretary for the Department. There has been no announcement for a new Secretary.
- **March FREC meeting in Tallahassee** – The March FREC meeting will be held in Tallahassee at the University Center Club and the FREC members have will tour the Customer Contact Center and Central Intake Unit at the Department. Chair Ellis reported that the Mayor of Sligo, Ireland will be a special guest at the March meeting.

### **Public Comments**

The Commission received comments from the audience.

Chair adjourned the meeting at approximately 5:15 p.m.

### **February 20, 2008**

Chair S.W. Ellis reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at Orlando, on this 20<sup>th</sup> day of February, 2008.

The Chair introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Chair S.W. Ellis, Vice-Chair Ralph McCoig, Richard DeNapoli, Roger P. Enzor, Poul Hornsleth, Michael Guju and John Ruffier. 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, Jr., Division Director and Executive Director for the Commission; James P. Harwood, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; JoEllen Peacock, Education Coordinator; Donna Salters, Operations Management Consultant II; Jeannie Adkinson, Regulatory Specialist III; Janis Dodd, Regulatory Specialist II; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting (407.896.1813) provided court reporter services.

### **Consent Agenda**

The Commission considered four applicants from the Consent Agenda and required one applicant to appear at a future meeting.

**Summary of Applicants**

Ms. Jeannie Adkinson, Regulatory Specialist III, presented 30 Summary of Applicants requesting to sit for the real estate examination. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

**Director's Comments continued**

Director O'Bryant requested the Commission's direction as to whether they would like the Division to change the approval process relating to applicants failing to disclose criminal history and the Division receiving information to the contrary. Currently it is the Division's responsibility to place these applicants on the agenda for the Commissioners' review and consideration. The concern is that the Commission is not holding the applicant to the standard of disclosure. Therefore the question is whether the Commissioners prefer that the Division approve these applications if it falls within the guidelines of Department approval. Director O'Bryant stated that he has compassion for people who are willing to make amends and believes people deserve a second chance, but if they are going to be dishonest from the beginning then they do not deserve to hold a real estate license, it is not a right it is a privilege. Commissioner Guju concurred but would like to get an FDLE prior to application. Director O'Bryant stated he would consult with the Department attorneys. Chair Ellis agreed that the Commissioners need to be more firm with this particular circumstance. The Commissioners agreed that they wish to continue to see applicants who do not disclose.

**Chair's Remarks**

Chair Ellis reiterated that the Mayor from Ireland will be attending the FREC meeting next month in Tallahassee.

**Public Comments**

The Commission received comments from the audience.

**Adjournment**

There being no further business and no objection, the Chair adjourned the meeting at approximately 11:40 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for March 18 and 19, 2008, in Tallahassee, Florida.

---

S.W. Ellis, Chair  
Florida Real Estate Commission

---

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

Respectfully submitted,

---

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