

Chuck Drago, Interim Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
March 18 and 19, 2008
General Meeting**

Chair S.W. Ellis called the meeting of the Florida Real Estate Commission to order, at approximately 8:45 a.m., in Tallahassee, Florida, on this 18th day of March, 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; Shiv Persaud and Patrick Cunningham, Senior Attorneys; Alma Roberts, Operation Management Consultant II; Zack Hayhurst, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. Accurate Stenotype Reporters, Inc. (850.878.2221) provided court reporter services.

Approval of the Minutes

The Commission unanimously approved the Minutes of the February 19 and 20, 2008, General Meeting, as written.

Chair Ellis recognized Johnathan McGoldrick, Mayor of Sligo, Ireland, former Commissioner James Varnado and past President of the Florida Association of Realtors Nancy Riley.

Escrow Disbursement Orders

Chief Attorney Harwood presented 36 Escrow Disbursement Orders (EDO) and 3 Orders for Commission consideration. Upon recommendation of the Legal Section, the Commission issued 36 Escrow Disbursement Orders and 3 Orders.

Recovery Fund Claim

RFC Case No. 2006046882 – Alice P. Feehrer v. Robert E. Haught, Jr. Mr. Harwood 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 Guju seconded the motion. The motion carried unanimously.

DOAH Recommended Order - Applicant

Barnes v. FREC – DOAH Case No. 07-4522

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Mr. Barnes presented mitigation in support of the Respondent's Exceptions. The Commission considered the Recommended Order of the Division of Administrative Hearings denying Petitioner's application for licensure as a real estate broker. Commissioner Ruffier 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 51 docket items. The Commission considered 41 docket items and approved the continuance or withdrawal of 10 docket items. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

Unlicensed Activity Report

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

Director O'Bryant reported that the Division's responsibility is to follow through with the investigation of the unlicensed activity and the Division has been working collaboratively with the State Attorney's Office state-wide. Director O'Bryant stated he believes that as a result of the Division's activity with the Miami/Dade Mortgage Fraud Task Force we have been able to get more involvement from the State Attorney's Offices in the Southeast areas. Additionally, there is currently a bill moving through the Legislature which would require the South Florida Mortgage Fraud Task Force program to be mirrored state-wide. Director O'Bryant and Ms. Koeberich addressed additional questions from the Commission.

Ratification of Suspended Licenses

Director O'Bryant requested the Commission ratify reinstatement of the real estate licenses of Elouise Mervin Collins, Tammie Pickard, Shelia Payerl Spencer and Dorothy Staples, who have met all requirements for reinstatement. The Commission ratified the actions unanimously.

Consent Agenda

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

Director's Comments

Director O'Bryant requested the Commission be prepared to discuss Chapter 475.278, *Florida Statutes*, relating to the transaction broker notice.

The Chair adjourned the meeting at approximately 3:00 p.m.

March 19, 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 19th day of March, 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; Alma Roberts, Operations Management Consultant II; Zack Hayhurst, Regulatory Specialist III, Lori Crawford, Regulatory Supervisor/Consultant. Accurate Stenotype Reporters, Inc. (850.878.2221) provided court reporter services.

Rules Discussion

Director O'Bryant stated that the following rules will be published for a rule development workshop for the April FREC meeting and that he would address any concerns that the Commissioners may have:

- ◆ 61J2-10.023 – Branch Office

Director O'Bryant stated that this will be on the April agenda for a rule development workshop.

- ◆ 61J2-10.025 – Advertising

Director O'Bryant reported that one of the issues the Division encounters with this rule in the ordinary course of business is ensuring that the division is dealing with the correct person. Commissioner Hornsleth stated that he appreciates the Department's position, however, he does not support putting the license number. Commissioner Enzor agreed. Director O'Bryant responded the Division would strike the reference to the inclusion of the license number and this rule will be on the April agenda for a rule development workshop at which time the Commission can address this issue further.

- ◆ 61J2-17.011 – School Instructor Requirements and Qualifications

Director O'Bryant presented this rule for discussion. Vice-Chair McCoig inquired whether the reference to "full-time" should be clarified. Director O'Bryant stated he was

bringing this to the Commission because the Division is having difficulty considering what is "full-time" and how it could be measured. Director O'Bryant also questioned what standard can be put on that experience and what qualifies as experience. Commissioner DeNapoli suggested that "full-time" be removed. The Commission discussed this further and requested guidance from Director O'Bryant. Director O'Bryant stated that this will be on the April agenda for a rule development workshop.

Summary of Applicants

Director O'Bryant presented 18 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

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

- **Central Intake Unit** – Several staff members from CIU Applications, attended the meeting to observe how their workflow product affects the final outcome relating to applications with affirmative responses on questions one through four.
- **Renewal Cycle** – Reported that the renewal cycle will end March 31st. The Division will be sending support staff to assist with the renewal at the end of the month. Additionally, this is the last renewal affected by the fee holiday.
- **Legislative Report** – As part of the Governor's Budget submission to the Legislature the Governor put 4 new positions into his budget for the Real Estate Appraisal Section as a result of additional Federal mandates. Hopefully, those positions will remain as it moves through the Legislature
- **Staffing** – The Division will be 100% staffed by the end of April.

Chair's Remarks

Chair Ellis reported that a number of Realtors attended the meeting yesterday. Chair Ellis inquired about receiving the procedural and organizational flow chart from the Department. Director O'Bryant responded if available, he will try to get that in a condensed form.

Director O'Bryant asked the Commissioners to review an email received from Glenn Sudnick regarding Chapter 475.278 relating to the transaction broker notice. The notice requirement expires July 1, 2008. Commissioner Guju stated that Mr. Sudnick brings up some great points. Chair Ellis agreed but stated that the Florida Association of Realtors (FAR) went to the Legislature to ensure that this requirement was dissolved in July 2008. Director O'Bryant stated that FAR has one voice and wanted to make it clear we are tremendous partners with FAR but there are other individuals that have a say in this including licensees who are not members of FAR and citizens of the state. Director O'Bryant stated that should this requirement expire, the Division will continue to fulfill its responsibility of serving and protecting the public.

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 April 15 and 16, 2008, in Orlando, 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