

**Chuck Drago**, Interim Secretary

**Charlie Crist**, Governor

**Minutes of  
THE FLORIDA REAL ESTATE COMMISSION  
April 15 and 16, 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 15<sup>th</sup> day of April, 2008.

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.

Department and Division staff present at the meeting: Chuck Drago, Interim Secretary; Thomas O'Bryant, Jr., Division Director and Executive Director for the Commission; Juana C. Watkins, Deputy Director; James P. Harwood, Chief Attorney; Kathleen Koeberich, Bureau Chief of Enforcement; Joe Solla, Shiv Persaud, Robert Minarcin, Patrick Cunningham, Jason Holtz and Allison C. McDonald, Senior Attorneys; 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 March 18 and 19, 2008, General Meeting, as written.

**Interim Secretary Drago**

Interim Secretary Drago addressed the Commissioners providing highlights of the improvements within the Department including Customer Contact Center (CCC), Central Intake Unit (CIU), and the Document Imaging Project. Interim Secretary Drago explained that some current processes are being streamlined and new processes are being set in place. Interim Secretary Drago reported that he was pleased with how smoothly the CCC handled the recent real estate renewal deadline.

Interim Secretary Drago stated that the Department's approach is that the industries and licensees we regulate are our customers. He further stated that the Department is committed to having a good working relationship with the Commission and that the Department is interested in the Commission's input to make things better for the industry.

Commissioner Guju stated that he was very fortunate to visit the Call Center and was very impressed with their earnestness, dedication and creativity. He further stated that he learned quite a bit.

Interim Secretary Drago provided a brief Legislative update relating to the budget.

Chair Ellis thanked Interim Secretary Drago for his report and for attending the meeting.

### **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.

### **Duties of Unlicensed Assistants**

Chair Ellis inquired about the list relating to activities unlicensed assistants may perform. Mr. Randy Schwartz, Counsel, Florida Association of Realtors and Attorney James Mitchell explained how the original list came about in 1991. The Commissioner requested the Division schedule a workshop to discuss this issue for Wednesday, June 18, 2008 beginning at 1:00 p.m.

### **FREC Newsletter**

Director O'Bryant reported that the newsletter is in the Office of Communications for final review. Chair Ellis inquired about the status of the newsletter and formatting. Commissioner Hornsleth stated that he would like to see the newsletter distributed via mail as he feels a hard copy has more effect. Vice-Chair McCoig suggested polling licensees to determine their preference. Dick Fryer of IFREC suggested sending an email blast. Director O'Bryant stated that the Department does not require licensees to provide email addresses. Ms. Linda Crawford suggested that the Department put a link in Secretary's newsletter "The Bottom Line". Several members of the audience weighed in on this topic. Director O'Bryant requested to bring this issue back at the June meeting.

### **Rules Development Workshop**

Deputy Director Watkins stated that the following rules were published for a rule development workshop and that the Commissioners may have:

- ◆ 61J2-10.023 – Branch Office

Commissioner Guju inquired about the fee for a branch office. Deputy Director Watkins addressed questions from the Commissioners. Comments were received by Ray Glenn and Dick Fryer regarding the language. Commissioner Ruffier moved that the language reflect the following:

(1) No change.

(2) A mere temporary shelter, such as one located in ~~on~~ a subdivision being sold by ~~the~~ a broker, for the protection of salespersons associates and customers and at which neither offers or contracts are written or ~~transactions are not~~ closed and salespersons associates are not permanently assigned, is not deemed to be a branch office. ~~The permanence, use, and character of activities customarily conducted at the office or shelter shall determine whether it~~

~~must be registered.~~

(3) If a broker closes a branch office and, ~~at about the same time,~~ establishes another at a different location, the registration of the office which was closed may not be transferred. Such new location is a new branch office which must be registered with the Department and the fee paid ~~as though the other had not been closed. Upon application to the BPR, the broker may reopen the first office at any time during the license period without payment of an additional fee.~~

Commissioner DeNapoli seconded the motion. The motion carried unanimously.

◆ 61J2-10.025 – Advertising

Director O'Bryant offered this rule for discussion. The Commission received comments from the audience. Commissioner Ruffier moved to adopt the language as follows:

(1) No change.

(2) No change.

(3)(a) When advertising on ~~an site on the Internet~~ site, the brokerage firm name as required in subsection (1) above shall be placed on every web page ~~adjacent to or immediately above or below the point of contact information. "Point of contact information" refers to any means by which to contact the brokerage firm or individual licensee including mailing address(es), physical street address(es), e-mail address(es), telephone number(s) or facsimile telephone number(s).~~

(b) The remaining requirements of subsections (1) and (2) apply to advertising on ~~an site on the Internet~~ site.

Commissioner Guju seconded the motion. The motion carried unanimously.

◆ 61J2-17.011 – School Instructor Requirements and Qualifications

Director O'Bryant presented this rule for discussion. Commissioner Hornsleth moved to adopt the language as follows:

A person shall qualify for an instructor's permit by meeting the qualifications for practice set forth in Section 475.451(2)(c), Florida Statutes. "Extensive real estate experience" shall be defined as a minimum of three years of ~~full-time~~ experience as a broker. This experience must include having participated in closing at least five real estate transactions as a licensee, or as the employing broker of licensees, for either party to the transaction, within the 12-month period immediately preceding the filing of an instructor's application.

Vice-Chair McCoig seconded the motion. The motion carried unanimously.

### **Ratification of Suspended Licenses**

Director O'Bryant requested the Commission ratify reinstatement of the real estate licenses of James M. Burbach, Roy G. Godwin, Janet S. Hurst, Barry Kutun, Aaron Janke, William R. Landis, Richard Mineo and David Stuart, who have met all requirements for reinstatement. The Commission ratified the actions unanimously.

### **Escrow Disbursement Orders**

Chief Attorney Harwood presented 46 Escrow Disbursement Orders (EDO) and 5 Orders for Commission consideration. Upon recommendation of the Legal Section, the Commission issued 46 Escrow Disbursement Orders and 5 Orders.

**Recovery Fund Claim**

**RFC Case No. 2007008226** – Jeffrey Powell v. Nestor Mendoza. Mr. Solla stated that the claimant qualified to receive payment from the recovery fund and recommended the Commission approve the request. Claimant Jeffrey Powell provided a brief statement in support of the recommendation. Commissioner Hornsleth moved to approve payment from the recovery fund. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

**DOAH Recommended Order - Applicant****Dawn J. Ellis v. FREC – DOAH Case No. 07-4522**

This matter is continued to the May FREC meeting.

**Legal Docket**

The Commission addressed the Legal Agenda, consisting of 35 docket items. The Commission considered 24 docket items and approved the continuance or withdrawal of 11 docket items. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

**Consent Agenda**

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

The Chair adjourned the meeting at approximately 4:00 p.m.

**April 16, 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 16<sup>th</sup> day of April, 2008.

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; Juana C. Watkins, Deputy Director; James P. Harwood, Chief Attorney; Denise Johnson OMC II; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407.896.1813) provided court reporter services.

**Summary of Applicants**

Denise Johnson, OMC II, presented 31 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:

- **Exam Pass/Fail Report** – Provided an update of the report reflecting the exam pass/fail rate.
- **Association of Appraiser Regulatory Officials (AARO)** – Provided an brief overview of the meeting he attended recently in California, in which representatives from all fifty states participated in discussions with the federal regulators relating to the appraiser issues, including broker price opinions and how it affects federally related transactions.

### **Chair's Remarks**

Chair Ellis thanked everyone for their participation and attendance and asked whether anyone from the audience had any comments.

### **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 12:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for May 20 and 21, 2008, in Orlando, Florida.

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S.W. Ellis, Chair  
Florida Real Estate Commission

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

Respectfully submitted,

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