

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
May 15 and 16, 2007
General Meeting and Workshop**

Chair Poul Hornsleth called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Gulfport, Florida, on this 15th day of May, 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 and Denver Stutler. Commissioner Matey Veissi was excused. 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; Joseph Solla, and Patrick Cunningham, Senior Attorneys; Kathleen Koeberich, Bureau Chief of Enforcement; David Guerdan, Investigator Supervisor; Reneé Feldman and Martin Straw, Investigators; JoEllen Peacock, Education Coordinator; Alma Roberts, Operations Management Consultant II; Lori Crawford, Regulatory Supervisor/Consultant. Bay Park Reporting (727.823.8388) provided court reporter services.

Chair Hornsleth introduced the Honorable James "Jim" Frishe and welcomed Representative Frishe to the Florida Real Estate Commission meeting. Representative Frishe welcomed the Commissioners and members of the audience to Gulfport and Pinellas County. Representative Frishe took a brief moment to encourage everyone to contact their elected officials regarding Property Tax Reform to provide their support or ideas relating to this topic. Representative Frishe thanked everyone for attending the FREC meeting.

Chair Hornsleth introduced Marie Powell as past President of FAR and former Chair of the FREC. Ms. Powell stated it was great to attend and stated that Chair Hornsleth has gone above and beyond in his service to the Commission as Chair.

Approval of the Minutes

The Commission unanimously approved the Minutes of the April 17 and 18, 2007, General Meeting, as written.

Unlicensed Activity Report

Bureau Chief of Enforcement, Kathleen Koeberich, presented the Unlicensed Activity Report and the Enforcement Report. Ms. Koeberich reported that the Division is in the process of setting up the Southern Region office as a model office and reported that Brian Piper will be attending the June meeting to provide an update of the progress. Director O'Bryant reported that one change includes placing an unlicensed activity investigator

under the direct supervisor of that region. Chair Hornsleth inquired whether the Department is continuing to coordinate with the Department of Financial Services. Director O'Bryant stated that a meeting has been tentatively scheduled for June.

Chair Hornsleth suspended the general meeting.

Rule Development Workshop

Rule 61J2-3.010 – License Reactivation Education for Broker and Sales Associates

Director O'Bryant stated that the proposed changes were made upon request of the Commission. Director O'Bryant provided a brief summary of the changes. After discussion Commissioner Hogan moved to adopt the language as amended. Commissioner Stutler seconded the motion. The motion carried unanimously. A copy of the proposed changes is attached to the official minutes maintained at the Division of Real Estate headquarters.

Rule 61J2-14.008 - Definitions

Director O'Bryant reported that this proposed rule change is in response to the Commission's request to clarify a licensee's responsibility relating to earnest money deposits not being or to be held by a broker. Director O'Bryant further reported that Deputy Director Hickman and individuals from FAR worked together to develop language to address the Commission's concerns. Director O'Bryant read the previous and proposed language into the record. Chair Hornsleth stated that some responsibility should be placed on the licensee not just the broker. The Commissioners provided input as to the proposed language and what concerns they want addressed. Attorney Donna Ryan, Florida Association of Realtors, provided comments relating to issues the proposed language may raise and offered alternative language. Attorney Bill Haley stated he feels the Commission is going too far as to what is required of the licensees. Mr. Haley provided additional comments regarding the proposed language and suggestions to address the issues. Senior Attorney Solla responded to the comments. Chair Hornsleth stated that this is a good start as it is a serious issue, which needs further discussion. Director O'Bryant stated that this issue would be discussed further. Chair Hornsleth stated that he would like to be included in the next meeting with the individuals who have been involved in the discussions.

Chair Hornsleth adjourned the workshop and reconvened the general meeting.

Miscellaneous Matters

Chair Hornsleth recognized former Commissioner Herb Fisher and welcomed him to the FREC meeting.

Commissioner Hogan thanked Commissioner Stutler for his short service on the Commission and Chair Hornsleth stated that he felt that Mr. Stutler was an exceptional Commissioner. Vice-Chair Ellis agreed with their sentiments.

Director O'Bryant stated that the Division is working with the Governor's Office to fill the vacancies on the Commission.

Taskforce Meeting for Broker Qualifications

Director O'Bryant requested the Commission provide suggestions or set some parameters the Division may follow for increasing requirements to become a real estate broker. Director O'Bryant stated that this will have to be dealt with legislatively and the Division must be organized. Chair Hornsleth requested that this item be set on the agenda for the next meeting. Chair Hornsleth appointed Vice-Chair Ellis to the taskforce to address this issue. Commissioner Hogan suggested that the Commissioners review Section 475.17, *Florida Statutes*, prior to discussion at the next meeting and requested that Section 475.17, *Florida Statutes*, be included with the agenda materials.

Ratification

Director O'Bryant requested the Commission ratify reinstatement of the real estate licenses of Dennis E. Kutty and David Christopher Meyers, who have met all requirements for reinstatement. The Commission ratified the action unanimously.

Miscellaneous Matters

Commissioner Hogan wanted the record to reflect that mortgage fraud is an epidemic and it is vitally important to protect the consumer, the realtors and banking system and that the Commission looks at this as a very serious issue. Commissioner Hogan further stated that most real estate agents are uneducated regarding mortgage fraud. She challenges the Department to use all of its resources to address this issue.

Escrow Disbursement Orders

Senior Attorney Solla presented 53 Escrow Disbursement Orders (EDO) and 2 Orders for Commission consideration. Mr. Solla reported that item number 45 is continued. Upon recommendation of the Legal Section, the Commission issued 52 Escrow Disbursement Orders and 2 Orders. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

Recovery Fund Claim

Senior Attorney, Joe Solla, presented the Recovery Fund Claim Pierre Chrisphonte v. Habib Fadoul, Case Number RFC 200201114. Mr. Solla stated that the claimant qualified to receive payment from the recovery fund and recommended the Commission approve the request. Chair Hornsleth moved to approve payment from the recovery fund. Vice-Chair Ellis seconded. The motion carried unanimously.

DOAH Recommended Orders - Applicant

Shazhad Ahmed v. FREC – DOAH Case No. 06-4799

The Commission considered the Recommended Order of the Division of Administrative Hearings denying Petitioner's application for licensure as a real estate broker. Vice-Chair Ellis moved to accept the Recommended Order. Commissioner Hogan seconded the motion. The motion carried unanimously.

Legal Docket

At approximately 10:15 a.m., the Commission addressed the Legal Agenda, consisting of 20 docket items. The Commission considered 17 docket items and approved the continuance or withdrawal of 3 docket items. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

FREC Business continued

Chair's Remarks

Chair Hornsleth thanked everyone for attending the Florida Real Estate Commission meeting. Chair Hornsleth wanted to reiterate the sentiments of the Commissioners and thank Denver Stutler for his service on the Florida Real Estate Commission. Chair Hornsleth reported that Senator Dennis Jones called to give personal congratulations to the Commission and his regrets that he could not attend. Chair Hornsleth also thanked Secretary Holly Benson for allowing the meeting to be held in Gulfport and many others who have been involved in taking the FREC meetings to the people of the State of Florida.

Director's Comments

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

- **Legislative Budget Issues** – Director O'Bryant reported that House Bill 7163 is on the Governor's desk for signature and will be effective upon signature. This bill provides changes that affect both real estate licensees and real estate appraisers, which includes allowing continuing education credit for attendance at a FREC meeting.
- **Reports** – Director O'Bryant stated that the Division has recently changed its reporting procedures to include benchmarks and outcome measurements so that production measures within the Division may be referenced at a glance. Director O'Bryant stated that this new method of reporting should prove to be very successful.
- **Instructor Seminars** – Director O'Bryant reminded the Commissioners that the 2007 Instructor Seminars are coming up and reported that Commissioner Hogan will be conducting presentations to assist the Division.
- **Staffing Report** – Director O'Bryant reported that the Legislature approved 6 additional staff and that the Division has hired two new attorneys, who will be starting soon. He also reported that Senior Attorney Sorin Ardelean is going back to the Office of General Counsel in Tallahassee.
- **Staff evaluations** – Director O'Bryant reported that the staff evaluations have been completed. As a result of the evaluations the telecommuting program will be terminated. He stated that, under previous administration, telecommuting was tabbed as a way of more effective government, however, after evaluations were completed the Department determined that it is not as effective as initially believed it would be.

- FAR Trade Shows – Director O’Bryant reported the Division has partnered with FAR to attend FAR trade shows and have a booth where licensees can log onto the system and receive assistance from Division staff, so the Department and Division may continue its outreach program to licensees. The next FAR trade show is scheduled for August 23 and 24, 2007.
- Commission Participation During Legislative Days – Director O’Bryant reported that there is a formal legal opinion which states the Commissioners may not discuss issues with Legislators. Director O’Bryant stated that he will forward the opinion to the Ethics Committee for further clarity and report the findings upon conclusion. Vice-Chair Ellis stated that she was advised as long as the Commissioners do not go into the Legislature they can attend the festivities. Commissioner Hogan stated that she had to resign as FAR Director, so it would be helpful if the new Commissioners receive a welcome package outlining the do’s and don’ts.

The Commission thanked Director O’Bryant for his report.

Miscellaneous Matters

Chair Hornsleth stated that the caseload is less than half of what is normally considered, due to quorum issues. Chair Hornsleth provided additional closing remarks.

License Renewals

Commissioner Hogan stated she forwarded a memo she received to the Division informing her that a large number of licensees failed to renew this past renewal period and inquired whether the memo was accurate. Director O’Bryant reported that 84,495 real estate licensees were due for renewal and, of those, 73,871 renewed.

The Chair adjourned the meeting at approximately 2:45 p.m.

May 16, 2007

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

The following Commission members were in attendance: Chair Poul Hornsleth, Vice-Chair S. W. Ellis, and Nancy B. Hogan. Commissioner Matey Veissi was excused. 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; David Guerdan, Investigator Supervisor; Reneé Feldman and Martin Straw, Investigators; JoEllen Peacock, Education Coordinator; Jeannie Adkinson, Regulatory Specialist III; Alma Roberts Operations Management Consultant II; Lori Crawford, Regulatory Supervisor/Consultant. Bay Park Reporting (727.823.8388) provided court reporter services.

Consent Agenda

The Commission considered 27 applicants from the Consent Agenda and required 14 applicants to appear at a future meeting. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

Summary of Applicants

At approximately 8:45 a.m. Jeannie Adkinson, Regulatory Specialist III, presented 32 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.

Chair's Remarks

Chair Hornsleth thanked Stetson for allowing the Florida Real Estate Commission to hold a meeting in its facilities, that it has been an honor to bring the Florida Real Estate Commission to Pinellas County and also thanked the Division staff for their hard work.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 11:45 a.m. The next general meeting of the Florida Real Estate Commission is scheduled for June 19 and 20, 2007, at Orlando, Florida 32801.

Poul Hornsleth, 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