

Charles W. Drago, Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 11 and 12, 2009
General Meeting**

Chair Ralph McCoig called the meeting of the Florida Real Estate Commission to order, at approximately 8:45 a.m., in Orlando, Florida, on this 11th day of August, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Poul Hornsleth, Michael Guju, and John Ruffier. Tom Barnhart, Senior Assistant Attorney General appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Department and Division staff present at the meeting: Dave Ernst, Systems Project Analyst; Thomas O'Bryant, Jr., Director and Executive Director; Juana Watkins, Deputy Director; James Harwood, Chief Attorney; Patrick Cunningham, Jennifer Blakeman and Joseph Solla, Senior Attorneys; Denise Johnson, OMC II; JoEllen Peacock, Education Coordinator; Jocelyn Pomales, RS II; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Approval of the Minutes

Vice-Chair Enzor moved to approve the Minutes of the July 14 and 15, 2009, General Meeting, as written. Commissioner Ruffier seconded the motion. The motion carried unanimously.

Unlicensed Activity Report

Executive Director O'Bryant presented the Unlicensed Activity Report and the Enforcement Report. Commissioner Guju requested to receive the previous year's report to review together with the current report. Director O'Bryant addressed questions from the Commission.

Rule Discussion

Director O'Bryant requested that Rule 61J2-3.011, F.A.C. be withdrawn from the agenda. The Commission approved this request

Review and Consideration of the Real Estate Continuing Education Courses

Director O'Bryant presented the following continuing education courses for the Commission's consideration:

1. Getting Paid – How to Enforce Your Construction Lien in the Current Environment

Commissioner Ruffier moved to deny the continuing education course listed above as it does not comply with Section 475.182, F.S. Commissioner Guju seconded the motion. The motion carried three to two.

2. Getting the Contract to Closing

Commissioner Hornsleth moved to deny the continuing education course listed above as it does not comply with Section 475.182, F.S. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

3. Goal Setting for Real Estate

Commissioner DeNapoli moved to deny the continuing education course listed above as it does not comply with Section 475.182, F.S. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

CE Course Recommended Order

Jon D. Tremper v. FREC – DOAH Case No. 09-1771

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Petitioner was not present. The Commission considered the Recommended Order of the Division of Administrative Hearings denying Petitioner's applications for continuing education (CE) course approval titled "homeowner's Guide to Hurricane Protection & Insurance Discounts" and "Protecting Homes from Termites, Water Damage and Mold". Commissioner Ruffier moved to adopt the Recommended Order denying the CE course approval. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

Special Agenda

2010 Commission Meeting Calendar

Commissioner Hornsleth moved to approve the 2010 Meeting Calendar as presented. Vice-Chair Enzor seconded the motion. The motion carried unanimously.

Permitted Activities of Unlicensed Assistants

Director O'Bryant presented the list of permitted activities of unlicensed assistants approved by the Commission in 2006. The Commission reviewed the previously approved outline and recommended the following changes after receiving comments from the audience:

6. Have keys made for company listings; order surveys, termite inspections, home inspections and home warranties with the licensed employer's approval.
7. Write ads for approval of licensee and supervision broker, and place advertising (newspaper ads, update web sites etc.); prepare flyers and promotional information for approval by licensee and supervising broker.
9. Only type contract forms for approval by licensee and supervising broker.

18. Be at an open house for:
 - a. security purposes
 - b. hand out materials (brochures); ~~may not answer questions. Direct all questions to licensee.~~

The amended list will be presented to the Commission for final review and approval at the next scheduled meeting in September.

Review of FAR Survey

The Commission reviewed the report titled "Differences in Licensing Requirements Across States: An Executive Report". The Commissioners provided comments and received comments from members of the audience.

Legislative Budget Request for FY 2010/2011

Director O'Bryant reported that the Division is completing the Long Range Program Plan (LRPP) and provided a summary of how the report is put together. He further reported that the Division has just completed the spending plan for this fiscal year. Director addressed questions from the Commission.

Ratification of Suspended Licenses

Director O'Bryant requested the Commission ratify reinstatement of the real estate license of Valerie Kay Kreel who has met all requirements for reinstatement. The Commission ratified the actions unanimously.

Recovery Fund Claim Final Order

Ron Whittle and Bill Frye v. Ramon F. Abreu – DBPR Case No. 20090355944. Mr. Solla presented this matter to the Commission. Attorney Peter Valoroi and Claimant Bill Frye claimant appeared in support of the claim. The licensee was not present. Mr. Solla advised that the claimant does not qualify statutorily to receive payment from the recovery fund and recommended the Commission deny the request. The Commission considered the facts and mitigation. Commissioner Hornsleth moved to deny payment. Motion failed for lack of second. Commissioner Ruffier moved to approve payment in the amount of \$50,000.00 based on Claimants mitigation and testimony of intent. Vice-Chair Enzor seconded the motion. The motion carried 5 to 1.

Legal Docket

The Commission addressed the Legal Agenda, consisting of 38 docket items. The Commission considered 30 docket items and approved the continuance or withdrawal of 8 docket items. The Commission's decisions on these matters are attached hereto and made a part of these minutes.

Consent Agenda

The Commission considered 51 applicants from the Consent Agenda and required 14 applicants to be placed on the Summary of Applicant Agenda.

There being no further business and no objection, the Chair adjourned the meeting at approximately 4:00 p.m.

August 12, 2009

Chair Ralph McCoig reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 12th day of August, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Poul Hornsleth, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Department and Division staff present at the meeting: Dave Ernst, System Project Analyst; Thomas O'Bryant, Jr., Director and Executive Director; Juana Watkins, Deputy Director; James Harwood, Chief Attorney; Jennifer Blakeman and Joe Solla, Senior Attorneys; Denise Johnson, OMC II; Jeannie Adkinson, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Escrow Disbursement Orders

Senior Attorney Joe Solla presented 31 Escrow Disbursement Orders and 4 Orders for the Commission's consideration. Mr. Solla reported that items C, G, S, AC and AD have been resolved. Upon recommendation of the Legal Section, the Commission issued 26 Escrow Disbursement Orders and 4 Orders. Commissioner Hornsleth moved to approve the Legal Section recommendation. Vice-Chair Enzor seconded the motion. The motion carried unanimously.

Summary of Applicants

Denise Johnson, OMC II, presented 52 Summary of Applicants requesting to sit for the real estate examination.

Director's Comments

Instructor Seminars – Director O'Bryant reported that the Division has one seminar remaining which will be completed next week and the last class is full. He further reported that the seminars have been very successful to date.

Division Outreach – Director O'Bryant reported that the Division and Attorney General will be attending a town hall meeting in Tampa regarding mortgage fraud and the housing crises through out the state, wherein the Attorney General McCullough and Director O'Bryant will be speaking.

Director O'Bryant also reported that he has been conducting broker-type meetings through out the state in connection with instructor seminars and working with brokers to address questions. His next presentation is scheduled for August 17th Realtor Association of Lake and Sumter Counties and he has several more scheduled through the end of the year.

FAR 2009 Annual Convention & Expo – Director O'Bryant reported that the convention will begin August 18th, and he and select Division staff will be attending to run the Division's booth. Additionally, Director O'Bryant and select staff will be speaking on several occasions through out the convention.

Commission Remarks

Commissioner Guju reported that Mr. Barnhart answered his questions regarding licensure and U.S. citizenship and stated that statute states that an individual does not need to have citizenship to obtain a license.

Commissioner DeNapoli reported that he recently conducted a presentation for the Ft. Lauderdale Board of Realtors and commented that the most common questions regarded short sales.

Commissioner Hornsleth reiterated his thanks to the Department and members of the Commission regarding the passing of his Father-in-law for their thoughts and cards.

Chair McCoig stated the Commissioner's express their condolences for the passing of Commissioner Ruffier's father.

Chair McCoig reported that our good friend James Mitchell is going through some health issues and for the record wanted to express that the Commission's prayers are with him and his family.

Chair McCoig commented that Commissioner DeNapoli will write a good FREC newsletter article regarding short sales and the problems within the communities concerning short sales.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:45 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for September 15 and 16, 2009, in Orlando, Florida.

Ralph McCoig, Chair
Florida Real Estate Commission

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