

Rec'd

FILED
SID J. WHITE

MAY 6 1993

CLERK, SUPREME COURT
By Chief Deputy Clerk

*Reh. disp.
1-20-93*

IN THE SUPREME COURT OF FLORIDA

FILED
SID J. WHITE

MAY 6 1993

CLERK, SUPREME COURT
By Chief Deputy Clerk

THE FLORIDA BAR RE: NONLAWYER
PREPARATION OF AND REPRESENTATION
OF LANDLORD IN UNCONTESTED
RESIDENTIAL EVICTIONS

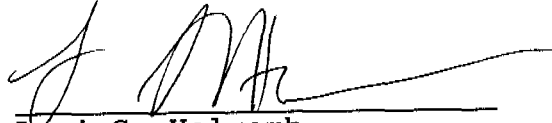
CASE NO. 79,084

COMMENTS OF STANDING COMMITTEE ON UNLICENSED PRACTICE OF LAW

On October 23, 1992 the Standing Committee on Unlicensed Practice of Law (hereinafter "the Standing Committee") filed a Motion for Clarification of this Court's opinion of October 8, 1992 in the above-styled matter. On January 20, 1993 this court denied the Standing Committee's Motion. However, this court invited the Standing Committee to file a proposed definition of the term "property manager" as used in the October 8, 1992 opinion. Consequently, the Standing Committee hereby adopts and proposes the definition of "property manager" as set forth in the comments filed by the Florida Real Estate Commission on November 6, 1992, a copy of which is attached hereto and incorporated herein as Exhibit "A".

WHEREFORE, The Standing Committee on Unlicensed Practice of Law respectfully requests that this Court define the term "property manger" as used in the October 8, 1992 opinion to include only those persons licensed as real estate brokers or salespersons as set forth in the comments of the Florida Real Estate Commission.

Respectfully submitted,



Lori S. Holcomb
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail this 5th day of May, 1993 to the following parties:

Ms. Doris Bunnell
802 11th Street West
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Mr. Jeffrey B. Marks
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Mr. Randall C. Mumper
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Mr. Jim Mitchell
Florida Real Estate Commission
400 West Robinson Street
Suite 107
Orlando, Florida 32801



Lori S. Holcomb

THE SUPREME COURT OF FLORIDA

RECEIVED

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The Florida Bar

THE FLORIDA BAR RE:	:	
ADVISORY OPINION-	:	
NONLAWYER PREPARATION	:	CASE NO. 79,084
OF AND REPRESENTATION	:	
OF LANDLORD IN UNCONTESTED	:	
RESIDENTIAL EVICTIONS	:	

COMMENTS BY INTERESTED PARTY

COMES NOW the Florida Real Estate Commission, by and through its undersigned counsel, and files Comments by Interested Party as follows:

1. On October 8, 1992, this Court issued its opinion in the above styled case. In the opinion, the Court stated that interested parties may file comments addressing unforeseen harm. The Florida Real Estate Commission (Commission), as an interested party, has directed the undersigned to file the instant comments.

2. The Commission was created by Chapter 475, Florida Statutes, to regulate real state brokers, salespersons and schools and to assure the minimal competence of real estate practitioners in order to protect the public from potential economic loss.

3. Among the various means granted to the Commission to carry out its statutory charge is the Florida Real Estate Recovery Fund (the Fund). The Fund is disbursed as provided for in s.475.484, Florida Statutes, to any person or corporation who is adjudged to have suffered monetary damages by a real estate licensee.

4. The opinion of the Court in the instant case was considered by the Commission at its October 21, 1992 meeting. The Commission expressed concern over the authorization for a property manager to carry on those activities discussed in the opinion (emphasis supplied).

5. Nowhere in Chapter 475, Florida Statutes, or any other statute is the term "property manager" defined. While the term "broker" is defined in s.475.01(1)(c), Florida Statutes, to include the leasing or renting of real property for compensation or a valuable consideration, the term "property manager" goes beyond the definition of a "broker."

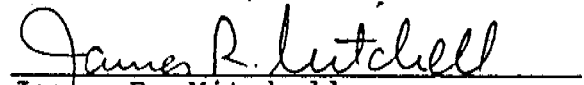
6. Specifically, a real estate license is necessary to place a tenant in rental property for compensation. However, those activities subsequent to placing the tenant in the property are not necessarily brokerage activities and need not be performed by a real estate licensee. Other than the limited area where a Community Association Manager's (CAM) license is required pursuant to s.468, Part VIII, Florida Statutes, the activities of a "property manager" subsequent to placing a tenant in the property are unregulated.

7. Therefore, the Commission is concerned that the use of the term "property manager" will allow individuals who have no specific level of minimal competence and no regulatory board overseeing the activities to perform those duties expressed in the opinion.

8. Since the Commission has the authority to discipline real estate licensees and to administer the Fund, the Commission suggests that the term "property manager" be narrowed to include only those persons licensed as real estate brokers or salespersons.


Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL


James R. Mitchell
Assistant Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by U.S. Mail to: Joseph R. Boyd, Chairman, Standing Committee on UPL, c/o Boyd and Branch, Post Office Box 14267, Tallahassee, Florida 32317; Lori S. Holcomb, Assistant UPL Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399; Doris A. Bunnell, 406 13th Street West, Bradenton, Florida 34205; Henry P. Trawick, Jr., Post Office Box 4019, Sarasota, Florida 34230; Alice M. Vickers, C. Martin Lawyer, III, 2121 Delta Way, Tallahassee, Florida 32303; Jeffrey B. Marks, 3000-8 Hartley Road, Jacksonville, Florida 32257; Randall C. Mumper, Post Office Box 13410, Pensacola, Florida 32591; this 6th day of November 1992.


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(407) 423-6048

Counsel for Florida Real
Estate Commission