



## Upcoming Events

### November 15

SR/WA Recognition and Membership Luncheon at Steven's Steakhouse

### December 15

Tri Chapter Installation Luncheon at the Huntington Library, 1151 Oxford Road, San Marino

Education Calendar - See Page 24



## President's Message

By: Holly Rockwell, Epic Land Solutions, Inc.

Congratulations to Michael Popwell, SR/WA, Professional Development Chair and Lynette Overcamp, Education Chair for a very successful SR/WA Review Course and Exam.

We had 22 people participate in a very intense 3 days of review and exams. Many of your Chapter 1 officers and board members (including myself) were there. The Professional Development Committee worked hard to get everyone's SR/WA candidacies processed in time. No small feat – in the last two months, they processed 3 SR/WA Applications, 2 Certification Applications, and 15 Candidacy Applications for Chapter 1. The course went well and we have several people well on their way to completing their SR/WA. If you have any questions about getting your SR/WA, please see Michael Popwell or anyone else on the Professional Development Committee.

## Fall Seminar and Membership Luncheon

Date: Wednesday, October 19

Time: 11:45am

Speaker: Bradley Pierce, Esq.

Topic: Goodwill & the Taking of a Business

Location: Quiet Cannon  
901 Via San Clemente,  
Montebello, CA 90640

Luncheon choice: Beef, Chicken or Vegetarian \$20 before October 12, \$25 after October 12. Payments to be made at check-in. Make checks payable to the IRWA.

RSVP: Rudy Romo at [rudromo@aol.com](mailto:rudromo@aol.com) or 951-662-7997

This year is our turn to host the Tri-Chapter Installation Luncheon. Occurring in December, this is the one formal event each year where the three chapters get together to celebrate the holidays and install new officers. Tom Hanley, Chapter 1's President-Elect, and his very impressive Tri-Chapter Committee have been busy planning this event for the last few months. Save the date for Thursday, December 15<sup>th</sup> to join us at the Huntington Library.

On Wednesday, October 19<sup>th</sup>, IRWA Chapter 1 will present the Annual Fall Seminar, featuring a variety of right of way related topics, such as Environmental, Engineering, Legal, Appraisal, Acquisition/ Relocation, Property Management, and the Economy. If you are unable to join us for the full day, please come for the luncheon at the Quiet Cannon. Chapter business will include voting on next year's officers and approving the revised by-laws.

From October 31<sup>st</sup> – November 4<sup>th</sup>, Chapter 1 will be hosting Course 404 – Appraisal Theory and Principles. If you are interested in getting your IRWA Appraisal Certification, this is a great way to quickly meet your requirements!

November 5<sup>th</sup> – 7<sup>th</sup> is the Uniform Act Symposium in Anaheim. See additional information in the newsletter. If you sign up by October 21<sup>st</sup>, you receive a \$50 discount on the price.

On a separate note, the Chapter 1 Board has noted that there has been decreasing attendance at our regular membership luncheons. While some of this may be related to reduced budgets for Professional Development, the Chapter 1 Board would like to hear what we can do to make these luncheons as beneficial to you as possible. I've already received some feedback that the luncheons need to stay to a one hour timeframe to ensure members can get back to their offices in a timely manner. We are taking this feedback very seriously and will work with our agenda and speakers to end the luncheon by 1:00 pm. Included in this month's newsletter is a survey for you to complete and return. We'd love to hear from you!

**IRWA Chapter 1  
2005 Officers and Executive Board**

<i>President and International Director</i>	<b>Holly Rockwell</b> Epic Land Solutions, Inc.	310-378-0771	<a href="mailto:hollyrockwell@epicland.com">hollyrockwell@epicland.com</a>
<i>President-Elect and International Director</i>	<b>Tom Hanley</b> Metrolink	213-452-0256	<a href="mailto:hanleyt@scrra.net">hanleyt@scrra.net</a>
<i>Vice-President</i>	<b>Bryan Riggs, MAI</b> Riggs & Riggs, Inc.	805-578-2400	<a href="mailto:riggsinc@sbcglobal.net">riggsinc@sbcglobal.net</a>
<i>Treasurer</i>	<b>Michael Fischer</b> Metropolitan Trans. Auth.	213-922-2413	<a href="mailto:fischerm@metro.net">fischerm@metro.net</a>
<i>Secretary</i>	<b>Joyce Riggs, SR/WA, MAI</b> Riggs & Riggs, Inc.	805-578-2400	<a href="mailto:jlriggs@sbcglobal.net">jlriggs@sbcglobal.net</a>
<i>Professional Development</i>	<b>Michael Popwell, SR/WA</b> LA Community Dev. Com.	323-890-7195	<a href="mailto:michael.popwell@lacdc.org">michael.popwell@lacdc.org</a>
<i>Nominations and Awards</i>	<b>Joyce Riggs, SR/WA, MAI</b> Riggs & Riggs, Inc.	805-578-2400	<a href="mailto:jlriggs@sbcglobal.net">jlriggs@sbcglobal.net</a>
<i>Education</i>	<b>Lynette Overcamp</b> Epic Land Solutions, Inc.	310-378-1178	<a href="mailto:lynetteovercamp@epicland.com">lynetteovercamp@epicland.com</a>
<i>Membership</i>	<b>Bill Larsen</b> Integra Realty Resources	818-593-7200	<a href="mailto:wlarsen@irr.com">wlarsen@irr.com</a>
<i>Luncheon</i>	<b>Nancy Ocampo</b> Century Law Group	310-642-6900 ext. 16	<a href="mailto:nancy@centurylawgroup.com">nancy@centurylawgroup.com</a>
<i>Communications</i>	Lecia Shorter	310-663-7973	<a href="mailto:leciashorter@yahoo.com">leciashorter@yahoo.com</a>
<i>Webmaster</i>	<b>Mark Brusca</b> Riggs & Riggs, Inc.	805-578-2400	<a href="mailto:markbrusca@sbcglobal.net">markbrusca@sbcglobal.net</a>
<i>Newsletter</i>	<b>Natalie Michelson</b> JPI Studios, Inc.	818-634-6932	<a href="mailto:aunttaliee@aol.com">aunttaliee@aol.com</a>
<i>Law</i>	<b>Bradley Pierce Esq.</b> Demetriou, Del Guercio, Springer & Francis	213-624-8407	<a href="mailto:bpierce@ddsffirm.com">bpierce@ddsffirm.com</a>
<i>Valuation Seminar</i>	<b>Paul Norlen, MAI</b> Metropolitan Water District	213-217-7765	<a href="mailto:pnorlen@mwdh2o.com">pnorlen@mwdh2o.com</a>
<i>Relocation Seminar</i>	<b>Bill Von Klug, SR/WA, R/W - RAC</b> LA Community Dev. Com.	323-890-7434	<a href="mailto:bill.vonklug@lacdc.org">bill.vonklug@lacdc.org</a>
<i>Fall Seminar</i>	<b>Rudy Romo</b> Independent Consultant	951-662-7997	<a href="mailto:rudromo@aol.com">rudromo@aol.com</a>
<i>Tri-Chapter Installation Chair</i>	<b>Tom Hanley</b> Metrolink	213-452-0256	<a href="mailto:hanleyt@scrra.net">hanleyt@scrra.net</a>
<i>Historian</i>	<b>Gus Parcero, SR/WA</b> City of Los Angeles – BOE	213-847-5580	<a href="mailto:aparcero@eng.lacity.org">aparcero@eng.lacity.org</a>
<i>Engineering/Survey</i>	<b>Tony Pratt, PLS</b> City of Los Angeles – BOE	213-482-7180	<a href="mailto:tp Pratt@eng.lacity.org">tp Pratt@eng.lacity.org</a>
<i>Environmental</i>	<b>Mohammed Estiri, PhD</b> Eco & Associates, Inc.	714-832-5427	<a href="mailto:mestiri@panenv.com">mestiri@panenv.com</a>
<i>Local Public Agency</i>	<b>George Koury, SR/WA</b> Port of Los Angeles	310-732-3865	<a href="mailto:gkoury@portla.org">gkoury@portla.org</a>
<i>Pipeline</i>	<b>Gary Valentine, SR/WA, MAI</b> Valentine Appraisal & Assoc.	661-288-0198	<a href="mailto:gsv@valentineappraisal.com">gsv@valentineappraisal.com</a>
<i>Property Management</i>	<b>Duncan Robb, SR/WA, R/W - AMC</b> Metropolitan Trans. Auth.	213-922-2435	<a href="mailto:robbsd@mta.net">robbsd@mta.net</a>
<i>Relocation</i>	<b>Fred Arevalo, R/W – RAC</b> LA Community Dev. Com.	323-890-7473	<a href="mailto:fred.arevalo@lacdc.org">fred.arevalo@lacdc.org</a>
<i>Title</i>	<b>Teri Kortens</b> Lawyers Title	310-210-6741	<a href="mailto:terikortens@msn.com">terikortens@msn.com</a>
<i>Transportation</i>	Vacant		
<i>Utilities</i>	<b>Andrew Thompson</b> Sempra Utilities	310-244-5032	<a href="mailto:athompson@semprautilities.com">athompson@semprautilities.com</a>

## October 2005 Membership Luncheon

**Date:** October 19, 2005

**Time:** 11:45am

**Topic:** Goodwill and the Taking of a Business  
Presented by Bradley Pierce, Esq.

**Location:** Quiet Cannon in Montebello  
901 Via San Clemente, Montebello, CA 90640  
Garfield Exit from the 60 Freeway (Thomas Guide: 636-A-7)  
TEL 323-724-4500

**Luncheon choice:** Beef, chicken or vegetarian

**Price:** \$20 before October 12, 2005  
\$25 after October 12, 2005  
Payments to be made at check-in. Make checks payable to the IRWA.

**RSVP:** Rudy Romo at [rudromo@aol.com](mailto:rudromo@aol.com) or 951-662-7997



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San Francisco, CA 94104  
Tel: (415) 439-8390  
E-mail: [aamster@dmavalue.com](mailto:aamster@dmavalue.com)

Aaron D. Amster, ASA  
President

### Chapter 1, IRWA New Members Approved In September 2005

<b>Sarine A. Abrahamian</b>	Attorney	Orbach, Huff, Suarez
<b>Dorothy J. Balandis</b>	Relocation Specialist	Paragon Partners
<b>James A. Boger</b>	Senior Relocation Agent	Shober Consulting, Inc.
<b>Artemis Manos</b>	Right of Way Agent	San Diego Gas & Electric
<b>Georgia Marquis</b>	Project Manager	Shober Consulting, Inc.
<b>Julia M. Miranda</b>	Relocation Consultant	Shober Consulting, Inc.
<b>Jesse Perez</b>	Relocation Agent	Paragon Partners



Chapter 1 – *Los Angeles County Presents*

## 2005 ANNUAL FALL SEMINAR

**Date/Time:** Wednesday, October 19, 2005, 8:30 a.m. – 5:00 p.m.

**Place:** Quiet Cannon, Montebello, 901 Via San Clemente,  
Montebello, CA 90640

Garfield Exit from the 60 Freeway (Thomas Guide: 636-A-7)  
TEL 323-724-4500

**Schedule:**

7:30 am-8:30 am

**Registration and Continental Breakfast**

8:30 am-8:35 am

**Opening Remarks:** Rudy M. Romo (Seminar Chair)

8:35 am-9:35 am  
(60 minutes)

**Session I: Environmental Engineering: Lessons learned during Investigation of Redevelopment Contaminated Sites**

Moderator: Mohammad Estiri, PhD.

Speakers: Mohammad Estiri, PhD. / David Guth

9:35 am-9:45 am

**Morning Break and Refreshments**

9:45 am-10:45 am  
(60 minutes)

**Session II: Engineering/Design: Preliminary Engineering, Final Design and affects of Environmental Study at each Stage**

Moderator: Joanne Kulachok

Speakers: Joanne Kulachok / Harley Martin

10:50 am-11:50 am  
(60 Minutes)

**Session III: Appraisal – Damages During a Taking**

Moderator: Gary Valentine MAI

Speaker: Orell Anderson MAI

12:00 noon-1:00 pm  
(60 Minutes)

**Lunch/Session IV: Legal – Goodwill and the Taking of a Business**

Speaker: Bradley Pierce, Esq.

1:00 pm-2:00 pm  
(60 Minutes)

**Session V: Acquisition/Relocation; Various Issues and Topics, Policy v. Procedure**

Moderator: Rudy M. Romo

Speakers: Kent Melton / Karen Larson, Esq.

- 2:05 pm–3:05 pm      **Session VI: Asset/Property Management – Managing Agency Assets and Railroad Right of Way**  
 (60 Minutes)      Moderator:      Duncan Robb  
                          Speakers:      Claudia Chase / Chuck Waddell / Joel Sewell
- 3:05 pm–3:20 pm      **Afternoon Break and Refreshments**
- 3:20 pm–4:30 pm      **Session VII: Real Estate Economy: What direction are we headed?**  
 (70 Minutes)      Moderator:      Lecia Shorter  
                          Speaker:      Henry Nunez / Craig Carter
- 4:30 pm–4:35 pm      **Closing Remarks:**      Holly Rockwell, President  
    Rudy Romo, Fall Seminar Chair
- 4:35 pm–5:00 pm      **Distribution of Completion Certificates**

***Approvals:***

- Approved by State of Calif. Dept. of Real Estate for 8 Consumer Protection Hours,  
100% seminar attendance is required.

State D.R.E. Disclaimer & Evaluation Form:

This course is approved for continuing education credit by the California Department of Real Estate. However, this approval does not constitute an endorsement of the views or opinions which are expressed by the course sponsor, instructors, authors or lecturers.

The Dept. of Real Estate has a course and instructor evaluation form available on their web site at [www.dre.ca.gov](http://www.dre.ca.gov).

- Approved by State of Calif. Office of Real Estate Appraisers for 8 Continuing Education Hours,  
90% seminar attendance is required.
- Approved by International Right of Way Association for Senior Designation Recertification Credits (SR/WA) of 7 Course Hours,  
100% seminar attendance is required.
- Minimum Continuing Legal Education (MCLE) credit pending.

**Please bring identification of designation for each credit desired for seminar completion certificate (i.e. verification of DRE or OREA License no.)**

***Fall Seminar Speakers:***

**Mohammad Estiri PhD.** is a doctor of environmental science engineering. He has been a professor of environmental remediation, risk management, Phases I,II, and III studies and has taught at the University of California at Riverside. He is qualified as an expert witness and has testified in the Superior court for cases involving hazardous waste. Dr. Estiri has worked for public agencies where evaluation of clean up is necessary in determining the clean up and respective costs and methods.

**Joanne Kulachok**, is a licensed Civil and Traffic Engineer and has been a member of IRWA since 1999 when she joined the Alameda Corridor as the Right of Way Engineering Manager for the south end of the Corridor. Currently she continues to work on the Alameda Corridor working on State Route 47 in addition to her primary assignment as a Project Manager for security projects at Los Angeles International Airport. Throughout her 24 year career, property acquisition has been a vital component in the projects she has managed. She will discuss how the type of utility relocation is more than an engineering decision and how it is affected by environmental process constraints and right-of-way considerations.

**Harley Martin** will discuss the NEPA/CEQA processes as they relate to acquisitions and displacements and focus on Section 4(f) compliance. Mr. Martin is a Planning Project Manager with CH2M HILL with over 20 years of experience managing environmental assessments of proposed public transportation infrastructure projects in accordance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), Department of Transportation Act (DOTA), and California Environmental Quality Act (CEQA). Technical studies and analysis include air and water quality, noise and vibration, hazardous materials, transportation, cultural resources, wetlands, protected species permitting, economics, and acquisitions/relocations. Mr. Martin's interests are in projects involving compliance with Section 106 of the NHPA and Section 4(f) of DOTA.

**Orell C. Anderson, MAI** is Principal with Bell Anderson & Sanders LLC, Real Estate Damages Practice. Mr. Anderson is an expert witness with experience in valuation and diminution-in-value issues involving commercial, industrial, subdivisions and vacant land properties, as well as single-and multi-residential family residences. Diminution issues include environmental contamination, eminent domain, soil, or geotechnical construction conditions, natural disasters, construction defects, and tragedy, among others.

**Bradley Pierce, Esq.**, is a partner at the downtown Los Angeles law firm of Demetriou, Del Guercio, Springer & Francis, LLP. His practice focuses on litigation of issues unique to public entities, with particular emphasis on condemnation. He has acted as special counsel to counties, cities, redevelopment agencies and special districts throughout California. His other work involves environmental and land use issues and includes representing and advising clients in litigation in state and federal courts, as well as litigation avoidance. He is the Chairman of the Inverse Condemnation/Eminent Domain subsection of the Real Property Law section of the State Bar of California and the law chair for IRWA Chapter 1.

**Kent Melton, SR/WA** is the Southern California Area Manager for Universal Field Services, Inc. He is responsible for client relations and project management for the Southern California region. Kent graduated from Appalachian State University in North Carolina with a Bachelor's Degree in Public Administration in 1989. He began his right of way career with the North Carolina Department of Transportation (NCDOT) immediately after college and has been in the business now for 15 years. He spent 10 years in the NCDOT's Right of Way Department involved in acquisition and relocation. Kent left the NCDOT in 1999 to work for Universal in their Colorado Springs office. Kent worked on projects for the Colorado Department of Transportation and the Denver Regional Transportation District's TREX multi-modal project, which included the widening of Interstate 25 and a Light Rail Project. In January of 2002, Kent was transferred to Universal's office in Southern California to manage their portion of the Los Angeles Unified School Districts New Facilities program where he managed the acquisition of over 60 parcels and 200 relocations. He has now moved into business development and manages Universal's other projects in the Southern California area. Kent began his IRWA membership in Carolinas Chapter 31 where he served on the membership committee. He joined Chapter 6 when he moved to Colorado where he was the Membership Chairperson. He has been a member of IRWA for over 14 years and obtained his SR/WA in 2003.

**Karen Larson, Esq.** is an attorney with the Century Law Group in downtown Los Angeles. Ms. Larson is a 1974 graduate, *cum laude*, of Brown University with a Master of Arts degree in Teaching and a 1973 graduate, *cum laude*, of Vassar College (Bachelor of Art in History). After teaching for ten years, Ms. Larson graduated with honors in 1988 from the University of Florida Levin College of Law, Gainesville, Florida. Ms. Larson founded her own firm in Florida where her practice included real estate transactions, litigation, and land use. Ms. Larson presently splits her time between the two states handling real estate cases and general counsel for a cable company provider. The cable company is Marco Island Cable, Inc., based in Marco Island, Florida. When in California, Ms. Larson practices eminent domain.

**Claudia Chase** is the Property Agent for the Riverside County Transportation Commission. She has worked for RCTC for 17 years and served in a variety of positions since joining the Commission. Claudia has managed RCTC's Metrolink Stations and the San Jacinto Branch Line since 1994. In addition to managing the five RCTC Rail Stations and 38 miles of rail right-of-way she manages an additional 300 RCTC-owned parcels and 1,000 License Agreements. Claudia is a board member of the International Right of Way Association, Chapter 57, and has recently become a founding member of the Women's Transportation Seminar, Inland Empire Chapter.

**Joel N. Sewell** is Executive Vice President and co-founder of Paragon Partners Ltd. In addition to nearly 30 years of experience in the right of way field and major project management he has spent more than fifteen years in document management system design and system integration.

**Charles W. Wadell, Jr.**, Vice President & Corporate Broker of Paragon, has more than 30 years of experience in urban real property analysis, due diligence, acquisition, disposition, finance, and property management. In addition to serving as Project Manager for Railroad Property Management for rail properties jointly owned by the Port of Los Angeles and the Port of Long Beach, Mr. Wadell spent three years managing the Orange County Transportation Authority's railroad rights of way.

**Henry Nunez**, Broker and founder of Henry Nunez Real Estate Co. Inc., has over 19 years experience in all aspects of the Real Estate Industry. In 2001, he earned his Masters in Real Estate Development from the School of Policy, Planning and Development at the University of Southern California. The firm consists of: 1. Traditional Real Estate Services with a roster of 35 licensed agents. 2. Public Real Estate Services with a staff of over 25, performing public acquisition and relocation services, project management, due diligence, title research etc. 3. Development Services focused on smart growth, infill projects and urban development including mixed-use. 4. Founder and President of P.A.R.S.A., The Public Acquisition and Relocation Society of America. This organization conducts training and seminars in all relevant aspects of Public Real Estate. 5. H.C.N. Financial Inc., a mortgage company specializing in residential mortgage brokerage. Henry was recently elected to President of the Arcadia Association of Realtors for 2007 and is an active member of the I.R.W.A. with an emphasis on training and education.

**Craig Carter**, is a licensed real estate agent who has purchased and sold residential, commercial, and industrial property in the Los Angeles and Long Beach communities. He has also assisted clients on the property management front by managing residential and commercial properties. Mr. Carter keeps abreast of the lending market and financial institution in order to inform potential buyers and sellers of the types of loans available to meet their needs. He is familiar with the eminent domain process and has assisted displacees with relocation and referral sites.

Please mail this portion:

**Seminar Registration and Luncheon Reservation Form**

**SEMINAR AND LUNCHEON**

- \_\_\_ IRWA Members, \$75 before October 12, 2005
- \_\_\_ IRWA Members \$100 after October 12, 2005
- \_\_\_ Non-IRWA Members, \$100 before Oct. 12, 2005
- \_\_\_ Non-IRWA Members \$125 after Oct. 12, 2005

***No refunds after Oct 12, 2005. No shows that do not cancel as of Oct. 12, 2005 will be billed.***

**LUNCHEON ONLY RESERVATION (12:00 noon):**

- \_\_\_ IRWA Members and Guests \$20 before October 12, 2005
- \_\_\_ IRWA Members and Guests \$25 after October 12, 2005

***Refreshments & Luncheon Choice:***

Continental Breakfast at 7:30 a.m.	Coffee, Decaffeinated Coffee, Hot Tea and Breakfast Pastries.
Luncheon at 12:00 noon	Selection of: TBD Dessert: TBD
Afternoon Break at 3:05 p.m.	Cookies, Soft Drinks and Bottled Water.

Please choose one of the following: \_\_\_ Chicken \_\_\_ Beef \_\_\_ Vegetarian

Make checks payable to **IRWA Chapter One** and mail to:

Rudy M. Romo  
5585 E. Pacific Coast Highway Unit 110  
Long Beach, CA 90804  
(Tel.#951-662-7997)  
(Fax. 562-986-9512)  
email: [mailto: rudromo@aol.com](mailto:rudromo@aol.com)

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**AMOUNT ENCLOSED:\$** \_\_\_\_\_

# Uniform Act Symposium Scheduled for November 7-9, 2005

## Hilton Hotel Anaheim, CA

### Greetings!

The International Right of Way Association (IRWA) will sponsor the "U.S. Uniform Act Symposium- 2005" November 7-9, 2005 at the Hilton Hotel in Anaheim, CA. The symposium will focus on the revisions to regulations implementing the **Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs**. More than 18 federal agencies, including the Federal Highway Administration, United States Corps of Engineers, Federal Aviation Administration and others must adhere to the rules and regulations in working with state and local governmental entities as well as private consulting firms.

A major revision of the regulations was released January 3, 2005, the first major revamping since it was issued in 1989. The symposium will expand on how the new regulations are impacting right of way related programs as well as provide a showcase for best practices within the industry.

The Symposium includes **three full days of educational sessions** devoted to the United States Uniform Act as well as an opportunity to network with other right of way professionals involved in administering and implementing the Act. Registrants may choose from among 72 workshops presented during the three days.

Go to <http://www.irwaonline.org/> for additional info

### 2005 Annual Fall Seminar

By: Rudy M. Romo

As you all know, Chapter 1 has always put on great seminars such as the Valuation, Relocation, and Fall seminars. This fall, on October 19, 2005, the Chapter is proud to announce the "2005 Annual Fall Seminar" which is lined up with a great variety of guest speakers from all facets of the real estate and eminent domain fields. The seminar is scheduled for Wednesday, October 19, 2005 at the Quiet Cannon Country Club in Montebello from 8:30 A.M. to 5:00 P.M and the cost is only \$75.00 for members and \$100.00 for non-members.

A quick line up of the speakers include Mohammad Estiri, Phd., to speak on Environmental Science Engineering; Joanne Kulachok P.E. and Harley Martin to discuss the NEPA/CEQA process and project design changes; Orell Anderson, MAI to discuss appraisal damages; Bradley Pierce Esq. to discuss business goodwill and the taking of a business; Kent Melton SR/WA and Karen Larson Esq. to speak on acquisition and relocation issues; Claudia Chase, Chuck Waddell, and Joel Sewell to speak on Asset/Property Management and Managing Railroad Right of Way; and Henry Nunez to speak on the Real Estate economy of Southern California.

We have also been successful in obtaining 8 hours of State of California Department of Real Estate (DRE) and 8 hours of State of California Office of Real Estate Appraisers (OREA) approval for continuing education credit and 7 hours of IRWA - SR/WA Re-certification credit at this time. An application has also been submitted to the State Bar for Minimum Continuing Legal Education Credit (MCLE) also, and we expect this approval shortly.

Please mark you calendars for this date and be looking for the brochure to come within the next week or so. If you have any questions or would like further information, please contact Rudy Romo at e-mail "rudromo@aol.com" or telephone (951) 662-7997. We look forward to seeing you there.



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**BYLAWS of LOS ANGELES CHAPTER NO.1  
INTERNATIONAL RIGHT OF WAY ASSOCIATION**

**ARTICLE I – GENERAL**

Section 1. The name of this Chapter shall be Los Angeles Chapter No. 1, International Right of Way Association.

Section 2. This Chapter is a chapter of the International Right of Way Association, a corporation formed under the laws of the State of California and all of its rights and powers are subject to the laws of said State, the Articles of incorporation of said Association, and the Bylaws, Rules and Regulations of said Association, including the requirement that all bylaws and amendments thereto are not effective until their approval by the International ~~Executive Committee~~ General Counsel of said International Right of Way Association.

Section 3. Each member of this Chapter must conduct himself or herself in such a manner as to reflect honesty and the integrity of the International Right of Way Association and each is bound by the code of Ethics and Rules of Professional Conduct of said Association. A member may be suspended or expelled from this Chapter and from said Association on such grounds and in the same manner provided for in the International Bylaws.

Section 4. This Association being non-political, non-partisan, and non-sectarian, no member shall represent himself or herself as a representative of the Association in respect to any religious or political activity without proper authorization from the Association. In any presentation wherein a member is in any way identified as a member of the Association, said member shall specifically indicate that the opinions expressed represent only private opinions and are not intended to reflect policy positions of the Association or this Chapter.

**ARTICLE II – MEMBERSHIP**

Section 1. The classes of membership in this Chapter and the requirements for such membership shall be those established in the International Bylaws of the International Right of Way Association.

**ARTICLE III – MEETINGS**

Section 1. Regular meetings of this Chapter shall be held at the time and place designated by the President. Regular meetings shall be held at least four (4) times each calendar year at intervals not less than 28 days apart. A scheduled regular meeting, except the annual meeting, may be postponed by the President with the concurrence of a majority of the Chapter Executive Board.

Section 2. An annual meeting of the members of this Chapter shall be held prior to the fifteenth day of November of each year. Annual reports of all officers and committees will be presented at that time. Chapter officers including International Directors, shall be elected at said meeting and such other business as may be presented may be conducted.

Section 3. Special meetings may be called at any time by the President and shall be called upon receipt of a written request signed by four (4) members of the Chapter Executive Board or by ten (10) active members of the Chapter.

Section 4. Notice of all meetings shall be given to the active members in writing or by telephone at least five (5) days prior to such meeting. ~~or by telephone prior to such meeting.~~

Section 5. A majority of the active members or twenty (20), whichever is the smaller, shall constitute a quorum.

**ARTICLE IV – OFFICERS**

Section 1. The officers of this Chapter shall be a President, President Elect, ~~Vice President~~, Treasurer, and Secretary, ~~Treasurer,~~ and together with such other officers as may be appointed by the President with the concurrence of the Chapter Executive Board. In addition to the officers listed, there shall be elected each year from the active membership of the Chapter a member of the International Board of Directors of the International Right of Way Association. Said Director shall be elected for a two-year term so as to comply with the International Bylaws providing for two Directors from each Chapter. The President Elect, on assuming the duties of that office, shall at the same time assume the duties of International Director, which latter duties he or she shall retain for two (2) consecutive years.

Section 2. Except for officers appointed by the President as provided in Section 1 of this Article, and further except for the President, who shall be succeeded in office by the President Elect, all officers shall be elected from the active membership of the Chapter; the officers so elected and appointed shall serve for one (1) year beginning the following January 1 or until their successors are duly elected or appointed and installed. ~~Each year, the President shall be that member who during the prior year served as President Elect.~~

Section 3. If the office of International Director shall become vacant, the Chapter shall, at an election scheduled for and held at the next regular meeting of the Chapter following the date the vacancy occurs, elect a Director to hold the office during the unexpired term. If the Chapter fails to elect a new Director and to certify such election to the International Secretary prior to the next meeting of the International Board of Directors, said Board, by a majority vote of those Directors in attendance, shall elect a Director from the membership of the Chapter present at the Board of Directors' meeting who shall hold office for the unexpired term.

If the office of President shall become vacant, the President ~~E~~elect shall immediately succeed to the duties and office of the President. In the event of a vacancy in any other office, said office shall be filled by appointment by the President from the active members of the Chapter, with the concurrence of the Chapter Executive Board.

Section 4. No officer may be re-elected to the same office until two (2) years have elapsed following the end of the term to which elected, provided, however that this limitation shall not apply to the offices of Secretary, Treasurer, or International Director, who shall be eligible to succeed himself or herself for one (1) additional term, nor to a President who is filling out the term of a predecessor and succeeded to office to fill a vacancy.

Section 5. The officers of this organization shall perform the duties as hereinafter set forth.

A. International Directors. The International Directors shall act as liaison between the International and Chapter structures of the Association working in close cooperation with the Regional Chairperson and Vice Chairperson. They shall inform the Chapter Executive Board of all actions and activities occurring at meetings of the International Board of Directors and of such other matters as may come to their attention.

B. President. The President shall be the Chief Executive Officer of the Chapter and ex-officio member of all committees and shall, subject to the control of the Executive Board, have general supervision, direction and control of the business and officers of the Chapter. The President shall preside at all meetings of the Chapter and of the Executive Board, and shall have the general powers and duties usually vested in the office of President, and such other powers and duties as may be prescribed by the Bylaws of the Association, this Chapter, or the Chapter Executive Board.

C. President Elect. The President Elect shall have the general powers and duties of a President Elect; shall act as President in the case of absence or disability of the President; shall advise and assist the President when called on to do so, and shall perform such other duties as may be required by the Executive Board. In case the office of President becomes vacant, the President Elect shall become President. In addition to other duties the President Elect shall perform such duties in connection with the supervision of standing committees as may, from time to time, be directed by the President.

D. Treasurer. The Treasurer shall receive all the funds of the Chapter and keep a proper record thereof; shall deposit said funds in a convenient, responsible bank; and shall disburse them only upon receipt of proper authority from the Chapter Executive Board. The Treasurer shall perform such other duties as are delegated to that officer by the Chapters Executive Board.

E. Secretary. The Secretary shall keep a book of all minutes of all the meetings of the Chapter and the Executive Board; shall carry on all correspondence of the Chapter; and shall perform such duties as may be required by the Executive Board.

## ARTICLE V – EXECUTIVE BOARD AND COMMITTEES

Section 1. Executive Board. The elected Chapter officers, immediate Past President, and the Committee Chairpersons shall constitute the Executive Board of this Chapter.

The Executive Board shall have the power and duty to conduct and direct all the business and affairs of this Chapter.

Section 2. Professional Development Committee. There shall be in this Chapter a Professional Development Committee consisting of a minimum of three (3) members. The Chairperson of the Professional Development Committee shall be elected at the same time and in the same manner as the officers of this Chapter are elected. All members of said Chapter Professional Development Committee must have attained the designation of Senior Member – International Right of Way Association.

Section 3. Committee on Nominations and Elections. A committee on Nominations and Elections shall be appointed by the President not later than the July regular meeting and shall consist of a Chairperson and at least three members. This committee shall present and recommend a slate of officers to the membership for their consideration not later than the September regular meeting.

Section 4. Advisory Committee. All Past Presidents of Los Angeles Chapter No.1, International Right of Way Association, so long as they remain members of the Chapter in good standing, shall constitute the Advisory Committee. The Advisory Committee shall be available to counsel and make recommendations with respect to any matter that may be referred to the Committee by the President. Members of the Advisory Committee shall receive notice of and may attend all meetings of the Chapter Executive Board and may take part in the deliberations, but unless also serving as International Director or in some other capacity carrying a vote, shall not have a vote.

Section 5. There may be such other standing committees as the Executive Board shall from time to time determine to be necessary, provided, however, that there shall be established Chapter committees corresponding to those International Committees for Chapter counterparts established by the International Board of Directors or the International Executive Committee.

The Chairpersons and members of all standing committees shall be appointed by the President of the Chapter, or by the President Elect, or the Vice President, as may be directed by the President, subject to the concurrence of the President in the appointments made. They shall be appointed from the active members of the Chapter to serve at the pleasure of the President, or of such of the other officers of the Chapter as the President may have delegated the supervision of the committee in question. The President, or such other officer of the Chapter as designated by the President, shall be an ex-officio member of each standing committee.

## ARTICLE VI – DUES

Section 1. Annual dues of Active Members of this Chapter shall be such sum as is provided by the International Bylaws of this Association as and for the annual per capita assessment plus the sum of \$20.00 for Chapter dues.

Section 2. Annual dues of Associate Members of this Chapter shall be \$20.00.

Section 3. No dues shall be required of Honorary Members.

Section 4. Annual dues of Retired Members of this Chapter shall be such sum as is provided by the International Bylaws of this Association as and for the annual per capita assessment and an optional subscription to “Right of Way” at said amount set by the International Board of Directors.

Section 5. Delinquencies. Any member who has not paid his or her dues prior to March 1 of the year for which dues shall be delinquent. A member paying his or her dues for the year between the first day of March and the fifteenth day of April, shall pay in addition to the regular Chapter dues, a delinquency penalty of \$1.00. If such dues and penalty are not paid by April 15<sup>th</sup>, the member shall be suspended. In the event the member applies for reinstatement within two years thereafter, the member may be reinstated, but only upon payment of the penalty and a reinstatement fee of \$4.00, in addition to payment of the Chapter dues and International dues. The reinstatement fee shall be divided equally between the Chapter and the Association.

## ARTICLE VII – RULES OF ORDER

Section 1. Except as otherwise provided for in these Bylaws, “Robert’s Rules of Order, Revised” are hereby adopted as the rules for the procedures and conduct of all meetings of the Chapter, its Executive Board and Committees.

## ARTICLE VIII – AMENDMENTS

Section 1. These Bylaws may be repealed, amended, or new Bylaws adopted at any regular meeting of the Chapter by an affirmative two-thirds vote of the active members present after the same has been submitted in writing and read at a previous regular meeting or a copy thereof sent by mail to the active members of the Chapter at least ten (10) days prior to the meeting. Said action by the Chapter shall not become effective until approved by the International ~~Executive Committee~~ General Counsel.



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## Case of the Month

### *City of San Diego v. Barratt American Incorporated et al.* (2005) DJ D.A.R. 4730

By: Isabel Birrueta, Demetriou, Del Guercio, Springer & Francis, LLP

This month's case of the month was decided before the Court of Appeal for the Fourth Appellate District. The central issue of the case was *how* to value the condemnee's property interest disregarding the influence of the project, as required by Code of Civil Procedure section 1263.330.<sup>1</sup>

In 1965, California approved the middle segment of State Route 56, the so-called Central Alignment, for a proposed freeway within an area known as the North City Future Urbanizing Area (NCFUA). The proposed Central Alignment would not cross the land owned by, among others, Barratt American Incorporated (collectively the "Owners"). The land within the NCFUA, including the Owners' land, was temporary zoned agricultural and was composed predominately of undeveloped land. The City of San Diego ("City") temporary zoned the land agricultural to conserve open space and avoid premature urbanization. However, for many years, no further steps were taken to implement the construction of the freeway.

Several years later, to plan the development of the NCFUA and respond to the shortage of available land, the City adopted a plan that provided a blueprint for future urbanization of the NCFUA. The plan called for significant upzoning for the NCFUA, including the Owners' land, and continued to propose the Central Alignment for the State Route 56. However, the precise footprint and configuration for State Route 56 within the NCFUA had not been finalized.

Subsequently, the City prepared a Draft Environmental Impact Report (DEIR) for State Route 56 that evaluated the proposed Central Alignment and an alternative alignment. Ultimately, the City abandoned the Central Alignment and selected an alignment for the project that would require the City to condemn the Owners' land. Accordingly, the City filed an action to condemn the property and made the deposit of probable just compensation on November 16, 2001, thereby fixing that date as the valuation date for the taken property.

Both parties offered expert testimony valuing the taken property without considering the impact on value attributable to the project. However, the methodology employed by the respective experts to disregard the impact of the project was significantly different.

The City factored out the impact of the project on the value of the property by asserting that the project was abruptly abandoned on the valuation date (the abandoned project construct). The City argued that the taken property should be valued based on its "agricultural use" zoning (the zoning in place at the time it became probable the taken property would be acquired for the project). As of the valuation date there was no probability the taken property would be upzoned in the near future. The City argued that the abandoned project had been central to the NCFUA planning process because of its irreplaceable role in handling the traffic that would accompany higher density development in the NCFUA.

Without the project, the City argued, there would be no system to handle the traffic created by higher density development in the NCFUA and, therefore, the City would have to suspend all upzoning until a new traffic system was developed. Because it would be at least five years after the valuation date before a transportation and circulation system to replace the abandoned project could be designed and implemented, there was no reasonable probability that, without the project, the taken property would have been upzoned in the near future.

On the other hand, the Owners argued that the impact of the project on the value of the property should be disregarded because the project had never been conceived or planned (the no project construct). They asserted that developmental pressures and the need to implement the City's priorities would have caused the City to remove the NCFUA from its agricultural *holding* status to permit higher density development even without the project. Moreover, the traffic circulation needs for this higher density use would have been solved through an alternative design of surface streets. Accordingly, the Owners' experts believed it was reasonably probable that the taken property would have been upzoned by the valuation date even without the project.

The Owners' proffered theory disregarded the impact of the project only after June 1998 by asserting the *Woolstenhulme* exception. The *Woolstenhulme* exception provides that, under limited circumstances, a property owner may be compensated for the increase in the value of the property experienced in anticipation of the benefits of a proposed improvement so long as it was not reasonably probable that the property being evaluated was anticipated to be taken for the improvement. (*Merced Irrigation Dist. v. Woolstenhulme* (1971) 4 Cal.3d at p. 478).

The Owners' experts argued that the taken property was enhanced in value by the proposed project up until the probable inclusion date, when the City adopted another alignment, which required condemning the taken property. Owners' experts sought to testify that any appreciation in value of the property, insofar as it was attributable to probable upzoning facilitated by the project, had already attached

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<sup>1</sup> All statutory references are to the Code of Civil Procedure unless otherwise specified.

before the project was changed to include the taken property, and that appreciated value was compensable under the *Woolstenhulme* exception.

The City asserted the *Woolstenhulme* exception did not apply to a project that requires compliance with CEQA because there can be no project until the environmental review process is final. Therefore, the taken property was never outside the project. The City also argued that unless there was a reasonable expectation the taken property would be outside the scope of the project before it is included in the project, the *Woolstenhulme* exception cannot apply.

Although the Appellate Court recognized the project may not be set in stone before a final EIR under CEQA has been satisfied, it did not believe the marketplace entirely ignores the probable configuration of a project when evaluating whether to place a premium on specific property because it is reasonably probable the property will be outside of, and hence be benefited by, a project. Here, the Court explained, the facts of the case suggest the marketplace had every reason to place a premium on the value of the taken property notwithstanding the uncertainty inherent in CEQA because the taken property was not expected to be part of the project. Under this construction, CEQA does not abolish the *Woolstenhulme* exception.

The Appellate Court also concluded that the trial court correctly barred the City's experts from relying on the abandoned project construct when valuing the taken property. This is so because the abandoned project construct did *not* disregard the impact of the project on the value of the taken property. Rather, the City argued that the project's existence—e.g. its presence up to the valuation date, and the consequences caused by its abandonment (the five-to-seven year moratorium)—negatively impacted the probable upzoning of the Owners' land because the project's existence preempted the development of the alternative transportation plan essential to making it reasonably probable the taken property would have been upzoned by (or shortly after) the valuation date. Thus, the City's approach was inconsistent with section 1263.330 and, therefore, the City could not rely on the abandoned project construct when valuing the taken property.

In sum, this opinion provides that the abandonment of the project cannot be used to prove a decrease in the value of the taken property. Established law is that condemned property is to be valued as if the project for which land is taken did not exist. Developmental constraints based on the very project for which the land was condemned are irrelevant to the valuation of the taken property. Also, the Court made clear that despite the uncertainty inherent in CEQA, the marketplace may place a premium on specific property when it is reasonably probable that it will be outside, and hence benefited by, the project.

## **MONTHLY ARTICLE**

### **A CLOSER LOOK AT THE *KELO* DECISION AND THE RESPONSE BY THE CALIFORNIA LEGISLATURE**

By: Lecia L. Shorter

There has been a great deal of outrage and concern nationwide since the United States Supreme Court rendered its decision in *Kelo v. City of New London*. After listening to our keynote speaker during the September membership luncheon and after reading the actual *Kelo* decision, many questions continued to loom in my head. For instance, how will the *Kelo* decision impact the California redevelopment industry? Why did traditionally liberal justices vote in favor of the City's redevelopment plan and seemingly against the individual homeowners? Why are conservatives so outraged? Why are those who are traditionally defenders of the poor, under privileged and under served supportive of the transfer of private property to private real estate developers for economic development? What is the meaning of the term "economic development" and should there be any limitations on its application where eminent domain powers are involved?

Answers generally come when one delves into the motivations of the respective parties from an economic and political perspective. An argument can be made that Republicans are generally motivated by capitalism and free market enterprise. On the other hand, an argument can be made that Democrats generally seek to protect the interests of the poor, underprivileged and underserved. So why the seeming shift? Have Democrats now become the capitalists and the Republicans the defenders of the underprivileged? Or do we need to take a closer look at the issues presented by *Kelo* and determine how they impact the redevelopment community and the citizenry of California, if at all.

The *Kelo* decision virtually allows public agencies to exercise their eminent domain powers to force the sale of private homes for the economic development of distressed neighborhoods. It appears that a great deal of the hostility that has arisen stems from the perception that under *Kelo*, public agencies are allowed to force the sale of private homes for the ultimate use and profit of private real estate developers as long as the term "economic development" is utilized. Many Americans are now fearful that the Supreme Court has permanently jeopardized their constitutionally protected property rights. According to critics, *Kelo* is nothing more than forcing the sale of private homes for the benefit of commercial real estate developers without providing what has traditionally been considered a justifying public purpose.

The State of California currently has approximately 771 redevelopment projects underway. These projects have a significant impact on the economy in California. According to the Center for Economic Development, the combined construction in redevelopment agency activity project areas and participation in construction outside project areas during the 2002-03 fiscal year, increased production

(output) for the California economy by \$31.84 billion. For the same year, income was increased by \$16.56 billion. Redevelopment agency construction activity was responsible not only for creating 310,000 jobs but significantly higher tax revenues for State and local governments. Given the significant impact of redevelopment activity on California's economy, a serious inquiry must be made regarding the State legislature's proposed responses to the *Kelo* decision and whether they have the potential of adversely affecting California's current and future redevelopment projects. This is not to mention consideration of the complications that will be presented to the State judiciary in its attempt to interpret and apply these laws if enacted.

In order to fully understand the Supreme Court's rationale for its decision in *Kelo* and whether it has any implications for the California redevelopment community, we must not only look at the bottom line ruling of the Court but we must consider the factual circumstances of the *Kelo* case and the applicable law which led to its conclusion.

## **FEDERAL EMINENT DOMAIN LAW**

It is generally understood that the Takings Clause of the Fifth Amendment of the United States Constitution provides that "private property" shall not be taken for "public use" without "just compensation." The implication contained in the Takings Clause is that private property cannot be taken under the guise of eminent domain even with the payment of just compensation if the taking is for a non-public use. Federal and State courts are often required to interpret what in fact constitutes a "public use" and what does not.

The scope of the inquiry engaged by the United States Supreme Court in *Kelo* was narrowly limited to the question of whether the city's proposed disposition of property that was owned and occupied by private individuals qualified as a "public use" within the meaning of the Takings Clause of the Fifth Amendment to the United States Constitution. It is undisputed that a State may transfer property from one private party to another if the future "use by the public" is the purpose of the taking. This includes railroads that will operate as a common carrier, highways, schools, power lines or libraries. In *Kelo*, the Court acknowledged that the "use by the public" test has become antiquated in the twenty first century in light of the ever evolving needs of society. The Court therefore focused upon whether the city's redevelopment plan, which was to be implemented and ultimately owned and operated by a private commercial real estate developer, served a constitutionally permissible "public purpose." After engaging in a three part analysis, the Supreme Court concluded that the city's proposed disposition of the property did in fact qualify as a "public purpose" and therefore a "public use" within the meaning of the Takings Clause because it involved a one to one transfer of property within the confines of an integrated economic development plan.

In 2000, the city of New London approved a development plan that was projected to create in excess of 1,000 jobs, increase tax and other revenues, and revitalize an economically distressed city, including its downtown and waterfront areas. In assembling the land for the project, the city's development agent purchased property from willing sellers and proposed to use its power of eminent domain to acquire the remainder of the property from unwilling owners. There was no allegation that any of the properties were blighted or in poor condition; rather, they were being condemned solely because they were located in the targeted development area.

A significant factor not often mentioned in discussions regarding *Kelo* is that the city of New London invoked a Connecticut statute that specifically authorizes the use of eminent domain to promote economic development. The property owners argued that the concept of economic development constituting a public use is not supported by logic or legal precedent and requested the Supreme Court invoke a bright line rule forbidding such. The Court rejected the proposition of the property owners to altogether preclude economic development as a public use and resolved the challenges of the property owners in light of the entire community redevelopment plan. The Court stated "[c]learly, there is no basis for exempting economic development from our traditionally broad understanding of public purpose." The Court also rejected the property owners proposal for a requirement that there be a reasonable certainty that the public agency's stated public benefits will actually accrue.

The Court concluded that promoting economic development is a traditional and long accepted government function. In reaching its decision, the Court noted that local public needs are likely to vary depending on a State's "resources, the capacity of the soil, the relative importance of industries to the general public welfare, and the long-established methods and habits of the people." The Court reasoned that there is a long standing policy of providing deference to State legislatures and State courts in discerning local public needs and they will allow the tradition of deference to continue. According to the Court, the focus must be upon the redevelopment plan as a whole not a piecemeal lot by lot, building by building basis. The Court emphasized that nothing in their *Kelo* opinion precludes any State from placing further restrictions on its exercise of their eminent domain power. The Court furthermore noted that many States already impose "public use" requirements that are stricter than the federal baseline and specifically referred to California Health and Safety Code Sections 33030-33037 and *Redevelopment Agency of Chula Vista v. Rados Bros.*, 95 Cal.App.4<sup>th</sup> 309 (2002) as allowing a city to only take land for economic development purposes in blighted areas.

Congress immediately reacted to the *Kelo* decision by introducing a bill that would stop the flow of all federal economic aid to any state or local government that seizes private property for use by another private party, including federal aid for projects unrelated to the property seizure. The bill is slated for a vote this fall.

## **CALIFORNIA EMINENT DOMAIN LAW**

There are differences of opinion regarding *Kelo*'s application in California. *Kelo* critics suggest that the State Legislature act immediately to protect California property owners because *Kelo* jeopardizes the property rights of all Californians given its broad reach allowing eminent domain to cover the taking of private property to be given to other private parties under the guise of economic development. The opposing view questions whether a State legislative response to *Kelo* is necessary because 1) California has statutory protections in place to regulate the takings of property for economic development purposes; and, 2) California does not have a law which establishes *per se* that economic development is a public use.

The California Constitution currently provides that private property "may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner." [Cal. Const. art. I, 19.] Code of Civil Procedure Section 1240.040 provides that private property may only be taken through eminent domain for projects that are "necessary," "in the public interest," and "planned and located in the manner that will be most compatible with the greatest public good and the least private injury." The law also provides that the specific private property taken must be "necessary" to the project. Health & Safety Code Section 33037 declares that the redevelopment of "blighted areas" is in the public interest, and may be accomplished using eminent domain. A blighted area is defined as an area "that is predominantly urbanized," and where specified physical and/or economic conditions are so prevalent and substantial that they reduce or prevent proper use of the area to such an extent that the conditions constitute "a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment." [Health & Safety Code Section 33030-31.] The interpretation of these concepts are generally made by public agencies and elected officials but can also be challenged in a court of law.

Almost in defiance of the United States Supreme Court, the California legislature has introduced four bills that are currently pending: SCA 12, SCA 15, AB 1162 and AB 590. SCA 15 contains the most drastic response and is entitled "The Homeowner and Property Protection Act." This bill would amend the State Constitution to preclude public entities from taking private property by eminent domain for any "private use." All takings would be considered a "private use" under the bill, except situations where the property is both owned and occupied by the entity responsible for the condemnation, or another public entity pursuant to an agreement with the condemning entity. The bill would relax this occupancy requirement only to permit entities regulated by the Public Utilities Commission to lease the property. In essence, eminent domain will not be used to acquire any property that would be occupied, even via a lease agreement, by a private party.

SCA 15 would also amend the California Constitution to specify that private property may only be taken by eminent domain for a "stated public purpose." If a public entity other than the condemning entity were to take ownership of the property, that entity would be required to enter into an agreement with the condemning entity to use the property only for its original "stated" purpose. Moreover, if the property ceases to be used for the stated public purpose the bill would prevent the property from being sold or transferred without "the former owner of the property or a beneficiary or an heir" being granted a right to reacquire the property for fair market value.

These broad limitations on the use of eminent domain in California are proposed despite *Kelo's* recognition that California law does not contain a rule like Connecticut's, which establishes *per se* that economic development is a "public use" in the "public interest," and the Supreme Court's recognition that California has statutory protections in place to regulate the taking of property for economic development purposes.

AB 590 is also a direct response to *Kelo* and seeks to amend Section 1240.010 of the Code of Civil Procedure to state "[i]n the exercise of eminent domain, 'public use' does not include the taking or damaging of property for private use, including, but not limited to, the condemnation of property for economic development."

AB 1162 would place a two-year moratorium on the use of eminent domain to take owner-occupied residential property for private use and would require a study to be conducted to identify actual uses and abuses of eminent domain.

SCA 12 would modify the State Constitution to preclude altogether the use of eminent domain to take owner-occupied residential property for private use.

All elected officials and right-of-way professionals must consider how these proposed amendments will impact current and future redevelopment projects because many of California's redevelopment projects that are currently pending involve agreements between a redevelopment agency or municipality and private parties. These agreements pertain to financing, ownership and occupancy. In fact, many redevelopment agencies select private developers based upon the predetermined occupancy agreements of private anchor tenants. As presented, the proposed amendments would have a chilling effect on pending and future public development projects in California not to mention the complexity they will bring to eminent domain litigation.

Proponents suggest that these amendments will prevent widespread abuse of eminent domain powers by redevelopment agencies and municipalities. Allowing purely economic development motivations to coincide with eminent domain projects will supposedly have a disparate impact on communities that contain largely ethnic minority populations. The argument goes on to suggest that economic development under the guise of eminent domain primarily displaces the poor and systematically transfers wealth while simultaneously increasing the debt that is caused by tax deferred benefits to private developers.

On the other hand, California's current statutory scheme for redevelopment requires specific findings to be made, and specific conditions to be met, by a redevelopment agency as it seeks to create a redevelopment area and to justify the public acquisition of property at fair prices. Code of Civil Procedure Sections 1240 et seq. provides a means for a property owner to challenge a proposed exercise of eminent domain prior to any consideration of "just compensation" by the Court. One critic suggests that "just compensation" is a misnomer in that there are often trapped values contained in properties that have not yet been identified by the market at the time of the proposed taking. However, purchases made by private developers according to the market workings of free enterprise do not afford unsophisticated property owners the constitutional protections of "just compensation" or relocation assistance benefits made mandatory by federal, state and local laws.

In sum, the *Kelo* case unquestionably presents the redevelopment industry and the public with pertinent issues to consider as related to eminent domain. AB 1162 proposes to institute a study of the use of eminent domain in California to identify weaknesses in the State's legal eminent domain proceedings and this may very well be the best course. Somehow a balance must be reached so that redevelopment agencies and municipalities can continue to address conditions of blight in urban areas through economic development by providing affordable housing, schools, jobs and healthcare while preserving neighborhoods and limiting its intrusion upon one of the most sacred benefits of American citizenry, property ownership.

### ***Membership Drawing***

At each chapter luncheon we draw a name from the Chapter 1 roster and if that person is in attendance, they win a cash prize. The drawing starts at \$50 and increases \$10 for each month that there isn't a winner. We haven't had a winner in a while. October's drawing will be for \$170 so be sure to be there in case your name is drawn!

## **CHAPTER ELECTIONS NOTIFICATION**

The Nominating Committee, consisting of Gary Valentine, MAI, SR/WA, Gary Peck, SR/WA, Michael Murray, and chaired by Joyce L. Riggs, MAI, SR/WA, is pleased to announce its nominations of the 2006 Executive Committee for the IRWA Chapter 1 Board of Directors as follows:

President:	Thomas Hanley
President Elect:	Bryan G. Riggs, MAI
Treasurer:	Michael A. Fischer
Secretary:	Andrew I. Thompson
Professional Development Chairperson:	Michael M. Popwell, SR/WA

Elections will take place during the General Lunch Meeting during the Fall Seminar, on Wednesday, October 19, 2005 at the Quiet Cannon in Montebello. If anyone wishes to run from the floor for any office, other than President, please notify Joyce Riggs by Monday, October 17, 2005 at email: [jlriggs@sbcglobal.net](mailto:jlriggs@sbcglobal.net) or (805) 578-2400 x 102.

### **Updating your IRWA Membership Information**

1. Visit [www.irwaonline.org](http://www.irwaonline.org)
2. Highlight "Resources" in the upper right hand corner and then click on "Membership Directory".
3. Click on Update Member Profile.
4. Enter your User Name and Password and click on Login. Your User Name is your membership number (contained on your membership card and dues renewal notice) and the Password is your last name. The Password is case sensitive, so ensure you capitalize the first letter and leave the rest in non-caps.
5. Update your information and click on "Submit. A new page will come up and you can choose to "Exit" or "Logout".
6. That's it! Your information will be automatically updated on the headquarters master list, which is also the one the Chapter uses for communications. Going forward, Chapter 1 monthly newsletters will be sent out via e-mail so it's important to ensure your e-mail address is current.
7. If you do not have access to the Internet or have any questions about updating membership information, call Bonnie Gray at 310-538-0233.







***Chapter 1 – Los Angeles County***

*Invites you to join us for the*

**2005**

***Tri-Chapter Installation Luncheon***

***December 15, 2005***

***The Huntington Library, Art Collection, and Gardens  
San Marino, California***

*Private Docent Tours of the Gardens 10:00 – 11:00, Self-Guided Tours after Lunch*

***\$40 / Person***

***Lunch and Installation of 2006 Officers from***

***Chapter 1, Los Angeles County***

***Chapter 57, Inland Empire***

***Chapter 67, Orange County***

**RSVP by: December 8, 2005**

**To: Joe Damm**

**At: (310) 378-1178 or**

**JoeDamm@epicland.com**

***More details and registration form to follow.***

Appraisal Theory and Principles is an advanced course designed for right of way and real estate practitioners interested in entering the appraisal field. Non-appraisers who desire an increased understanding of valuation theory and principles are welcome. Emphasis is placed on skills required for preparing appraisal reports for governmental agencies and public or quasi-public companies. Students perform analysis and calculations required for each approach to value.

This course covers the following topics: introduction to appraisals and appraising, appraisal reports, nature and importance of value, legal considerations in appraising, principles of valuation, understanding real estate markets, impact of financing, data collection and analysis, area and neighborhood analysis, property analysis, "highest and best" use analysis, site comparison approach, site valuation, cost approach, income approach, reconciliation, final value estimate, valuation of partial interests, and condemnation appraisals.

### TOPICS:

- Introduction to Appraisals & Appraising
- The Appraisal Report
- Nature and Importance of Value
- Legal Considerations in Appraising
- Principles of Real Property Valuation
- Understanding Real Estate Markets
- Impact of Financing
- The Valuation Process
- Data Collection - Sources
- Data Analysis
- Area and Neighborhood Analysis
- Property Analysis
- Highest and Best Use Analysis
- Sales Comparison Approach
- Site Valuation
- Cost Approach
- Income Approach
- Reconciliation
- Final Value Estimate
- Valuation of Partial Interests
- Condemnation Appraisals

## APPRAISAL THEORY AND PRINCIPLES COURSE 404

Recertification Credit: 40 hours  
Required Materials: Hand-held calculator

### INSTRUCTOR:

**Ralph C. Brown, SR/WA**, has been in the right of way field for over 40 years. As a Senior Right of Way agent with Caltrans he was involved with negotiations and appraisals. He testified in court as an expert appraiser, prepared appraisals in anticipation of condemnation and supervised the preparation of narrative appraisal reports. For 16 years as a Staff V.P. with IRWA Mr. Brown managed the Association's education program. He developed courses, monitored outside course developers, conducted Instructor Certification Clinics, taught IRWA courses and presented seminars. Mr. Brown currently is an independent review appraiser specializing in partial take appraisals.

Oct 31 - Nov 4, 2005 Downey, CA

Course 404

Appraisal Theory and Principles



REAL ESTATE APPRAISAL

INTERNATIONAL RIGHT OF WAY ASSOCIATION  
Harbor Business Center  
19750 South Vermont Avenue, Suite 220  
Torrance, CA 90502-1144

INTERNATIONAL RIGHT OF WAY ASSOCIATION



# FAX REGISTRATION FORM

FOR CREDIT CARD PAYMENTS, REGISTER ONLINE USING EXTRAWEB AT IRWAONLINE.ORG OR IRWA FAST FAX AT (310) 538-1471

Name \_\_\_\_\_ Title \_\_\_\_\_ Membership # \_\_\_\_\_  
Company \_\_\_\_\_ Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_ E-mail \_\_\_\_\_

Registration Fees:	Member	Non-Member	Fill In Amount
Advance	\$670.00	\$850.00	\$ _____
After Deadline	\$695.00	\$875.00	\$ _____
<b>Optional</b>			
1) Principles of Right of Way Textbook	\$50.00		\$ _____
2) Real Estate Dictionary	\$5.00		\$ _____
	Total Enclosed		\$ _____

Please confirm my credit card registration by:  Fax  E-mail  
 AMEX  M/C  Visa Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

NAME AS IT APPEARS ON CARD: \_\_\_\_\_

Signature: \_\_\_\_\_ Amount to be Charged: \_\_\_\_\_

All classes scheduled by the IRWA are subject to cancellation. Although every effort is made to run each class as scheduled, occasionally a class must be cancelled due to insufficient enrollment or unavailability of instructor. Payments made to IRWA, for tax purposes, are not deductible as charitable contributions; but may qualify as a usual and necessary business expense.

## 4 WAYS TO REGISTER

EXTRA WEB at [www.irwaonline.org](http://www.irwaonline.org)

FAST FAX: 310-538-1471

PHONE: 310-538-0233 x138

MAIL TO: class coordinator's address

### REGISTRATION DEADLINE:

October 10, 2005

### MAKE CHECK PAYABLE TO:

INTERNATIONAL RIGHT OF WAY ASSOCIATION

### MAIL CHECK TO CLASS COORDINATOR:

Andrew I. Thompson

555 West 5th Street, M.L. 26C2

Los Angeles, CA 90013

Phone: (213) 244-5032

Fax: (213) 226-4233

Email: [athompson@semprautilities.com](mailto:athompson@semprautilities.com)

For further information about IRWA courses, please visit our

Web site at: [www.irwaonline.org](http://www.irwaonline.org)

Email: [education@irwaonline.org](mailto:education@irwaonline.org)

### CANCELLATION POLICY

Written notification of cancellation must be received by class coordinator 15 days prior to start of class. A 75% refund will be made if written notification is received less than 15 days prior to start of class. No refund will be made after the start of class. A \$25 fee will be charged for registrations received after deadline and for those registering on day of class.



## Appraisal Theory and Principles

Course 404

### SPONSORED BY

Chapter 1

**DATE**                      **TIME**                      **DAYS**

Oct 31 - Nov 4, 2005    8AM to 5PM Daily                      5

### LOCATION

Energy Resource Center

9240 East Firestone Blvd.

Downey, CA 90242

### ACCOMMODATIONS

Embassy Suites

8425 Firestone Blvd.

Downey, CA

Phone: (562) 861-1900

### RATES

Single/Double: \$149.00. Please contact the Embassy Suites directly for reservations and mention the IRWA.

Below are the classes Chapter 1 has scheduled for 2005-2006. If you would like to coordinate classes (and get the class free, close to your work/home, and on a date you select!), please let me know also. We have two classes below for which we need coordinators, so feel free to volunteer to coordinate one of those.

### Chapter 1 2005-2006 Education Schedule

Course/Seminar	Date	Coordinator	Instructor
Fall Seminar	October 18 <sup>th</sup>	Rudy Romo 951-662-7997 <a href="mailto:rudromo@aol.com">rudromo@aol.com</a>	Various
404 - Appraisal Theory and Principles	October 31 <sup>st</sup> – November 4 <sup>th</sup>	Andrew Thompson 310-244-5032 <a href="mailto:athompson@semprautilities.com">athompson@semprautilities.com</a>	Ralph Brown
802 – Legal Aspects of Easements	December 9 <sup>th</sup> , 2005	IRWA	Ralph Brown
213 – Conflict Management	February 24, 2006	Konstantin Akhrem	Vivian Howell, SR/WA
700 – Introduction to Property Management	March, 2006	Michael Fischer 213-922-2413 <a href="mailto:fischerm@metro.net">fischerm@metro.net</a>	TBD
203 – Alternative Dispute Resolution (new course – pending approval by IRWA)	May 15 <sup>th</sup> /16 <sup>th</sup>	TBD	Vivian Howell, SR/WA
900 - Principles of Real Estate Engineering	2006	Michael Fischer 213-922-2413 <a href="mailto:fischerm@metro.net">fischerm@metro.net</a>	TBD
602 – Project Development and the Environmental Process	2006	Konstantin Akhrem	TBD
140 – Principles of Wireless Site Development	2006	TBD	TBD

### Other IRWA Educational Events

Below is a list of courses/events being sponsored by International or other Chapters. Please check the IRWA website at <http://www.irwaonline.org/education/> for the most recent information.

Date	Course #	Course Name	Location
October 20-22		Region 1 Fall Forum	Oakland
October 20 - 21	502	Business Relocation	Orange County
November 7-9		Uniform Relocation Act Symposium	Anaheim
November 1	403	Easement Valuation	Riverside
November 1 - 2	801	Land Titles	Sacramento
November 4	503	Mobile Home Relocation	Orange County
January, 2006	103	Ethics and the Right of Way Profession	Riverside
February, 2006	500	Uniform Relocation Assistance Act – Executive Summary	Orange County
February, 2006	701	Property Management: Leasing	San Diego
March, 2006	201	Communications in Real Estate Acquisition	Riverside
April, 2006	202	Interpersonal Relations	San Diego
April, 2006	603	Understanding Environmental Contamination in Real Estate	Orange County
May, 2006	504	Business Relocation	Riverside
May, 2006	506	Advanced Relocation Assistance for Businesses	Orange County
June, 2006	402	Income Capitalization Approach	San Diego
June, 2006	800	Principles of Real Estate Law	Orange County
September, 2006	803	Eminent Domain Law Basics for Right of Way Professionals	Orange County
October, 2006	501	Relocation Assistance	San Diego
October, 2006	802	Legal Aspects of Easements	Riverside
November, 2006	902	Property Descriptions	Orange County

**This is not an unsolicited e-mail or spam message. You are receiving this e-mail because you are listed as requesting the IRWA Chapter 1 Newsletter by e-mail. To cancel your e-mail subscription to the IRWA Chapter 1 Newsletter, please notify us at the following address: [hollyrockwell@epicland.com](mailto:hollyrockwell@epicland.com)**