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Enjoy the Gallery of Photos throughout the Newsletter!

1st Qtr. Luncheons & Seminars

- 3/24— Joint SCCAI Membership Lunch (E-vite coming soon)
- 4/21—Valuation Seminar (see flyer inside this newsletter))

Luncheons are held at Stevens Steakhouse and Seminars are held at Quiet Cannon.

90-Day Course Look Ahead

- ◆ C-200; Principals of Real Estate Negotiations, March 9-10, (2 Days)
- ◆ SR/WA Review Study Session, April 1-3 (2 Day Instruction & 1 Day Testing)
- ◆ C-506; April 6-7 (2 Days)

February 2009

Volume 1, Issue 2

President's Message—Vivian D. Howell, MBA, SR/WA, R/W-RAC, R/W-NAC



The state of our economy is not all doom and gloom, as shared by both of the January luncheon speakers. The City of Los Angeles is facing a challenging budget and Councilman Parks invited us to attend the Los Angeles City Council and the Budget & Finance Committee meetings to experience the decision making process. Go to "www.cityofla.org", click on Council Calendar for the date and time of Council meetings.

MAI and Banker, Allen Greer's presentation centered on awareness of commercial real estate and financial trends to watch that are indicators of the economy. It was fascinating and his PowerPoint may be found at Chapter 1's website "www.irwa-chapter1.org" under Links and Downloads.



Your Education Co-Chairs, Keith Dang, SR/WA and Tom Hanley, SR/WA are providing key educational opportunities for both IRWA members and non-members. We are providing those courses that assist you in meeting the needs and requirements of the public/private sectors. Particularly as we all await a Stimulus Recovery Package that translates into continuing and new projects being undertaken resulting in right of way expertise, in many disciplines, to support the projects.

There is still room for attendees to reg-

ister for the March 9-10, 2009, Course 200, Principals of Real Estate Negotiations. No late fees will be charged if your registration form is received by the Course Coordinator, Ken Stansbury, by February 25th! For IRWA members working on their designation or certification, C-200 is in the required series.



Have you earned your SR/WA and are a member of **Chapter 1**? Well if the answer is yes, the March 24th Membership Luncheon joint with Southern California Chapter of the Appraisal Institute will be **\$5.00 per SR/WA** to honor your commitment to your personal and the chapters continued professional growth by holding the SR/WA designation. The presentation will be delivered by a panel of four industry experts and the topic is: *Issues in Valuation in Eminent Domain During the Current Market*.



It is exciting how IRWA is building partnerships with other strong professional organizations that you know. At the March 18, 2009 Urban Land Institute's Marketplace, IRWA will have a booth and we need two volunteers to staff it during the hours of 9:30AM to 1:30PM.

Contact Andrew Thompson, SRWA, at (213) 244-5032.



Welcome New CHAPTER 1 MEMBERS—Our Ranks Are 307 and Growing

Member	Job Title	Company/Affiliation	Sponsor
Steven Vollucci	Acquisition Manager	Los Angeles County MTA	Jim Blackman
Ryan Dobbins	Real Estate Appraiser	Integra Realty Resources – LA	William Larsen
Terry Lease	Real Property Manager	County of Kern	Jennifer James
Dawn Hunter	Management Analyst	Los Angeles World Airports	Vivian Howell
Neal Malabuyoc	Management Analyst	Los Angeles World Airports	Vivian Howell
Aaron Aftergut	Real Estate Appraiser	Integra Realty Resources—LA	William Larsen
Daniel Coffey	Project Manager	Overland, Pacific & Cutler	Victoria Cook
Raymond Barrera	Attorney	Lewis Brisbois Bisgaard & Smith	Joyce Riggs



FROM LEFT TO RIGHT: Steven Vollucci, Dan Kazden (Membership Chair), Raymond Barrera, Aaron Aftergut, Angelo Anthony Tepedino, Dawn Hunter, Neil Malabuyoc and Vivian Howell (President)

Chapter 1 is proud to welcome new members to this chapter. Each month, we continue to list those new members as their applications are completed, sponsors are noted and approved by the Board of Directors. Please contact the Membership Chair, Dan Kazden, at (805) 578-2400 X104

Updating your IRWA Membership Information is Easy to help Ensure That You Receive IRWA Mailings

Go to www.irwaonline.org ; highlight "Resources" in the upper right hand corner and then click on "Membership Directory". Click on Update Member Profile.

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 be sure to capitalize the first letter and leave the rest of the letters in lower case. Update your information and click on "Submit. A new page will come up and you can choose to "Exit" or "Logout".

That's it! Your information will be automatically updated on the headquarters master list, which is also used for communications. If you do not have access to the Internet or have any questions about updating membership information, call Bonnie Gray at 310-538-0233.



Professional Development Committee (PDC)



James L. Jacoby, SR/WA; Angela C. Wright, SR/WA and Michael Popwell, SR/WA, PDC Chair

CONGRATULATIONS!



Linda Hamil, 2008 Chapter 1 Scholarship Recipient and Michael Popwell, SR/WA, PDC Chair

To learn more about Chapter 1's Scholarship Award and / or PDC's individual Chapter 1 members' mentoring program, which offer guidance in achieving your SR/WA Designation and/ or R/W Certifications, call anyone of the members below to start reaching your goals.


- Chair Michael Popwell, SR/WA, Community Redevelopment Agency * 213.977.2620 Email mpopwell@cra.lacity.org
- Co-Chair Gary Valentine, MAI, SR/WA, Valentine Appraisal & Associates * 661.288.0198 Email gsv@valentineappraisal.com
- Co-Chair Gus Parcero, SR/WA, City of Los Angeles * 213.847.5592 Email augusto.pacero@lacity.org
- Co-Chair Joyce Riggs, MAI, SR/WA, Riggs & Riggs, Inc. * 805.578.2400 Email jriggs@sbcglobal.net
- Co-Chair Vivian Howell, SR/WA, R/W-RAC, R/W-NAC, Los Angeles World Airports * 310.417.0450 Email vhowell@lawa.org



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2008 Award Recipients Photo Gallery



From the Left: Professional of the Year Gary Peck, SR/WA with Brian Riggs, SR/WA, Nominations Committee



From the Left: Large Employer of the Year—Los Angeles County Department of Public Works, accepted by Pat Proano, Assistant Deputy Director with Duncan Robb, SR/WA, Nominations Committee



From the Left: Small Employer of the Year—Sempra Utilities, accepted by Jon Taylor with Tom Hanley, SR/WA, Nominations Committee



From the Left: Professional of the Year Mark Brusca (Chapter 1's Webmaster Chair) with Gary Valentine, SR/WA, Nominations Committee

January 27th Luncheon Speaker Photos



Councilman Bernard Parks, Los Angeles City Council



Allen Greer, MAI, SR/WA, Keynote Speaker, with Councilman Bernard Parks



MARCH 24, 2009 Noon MEMBERSHIP LUNCHEON

11:30 AM—Noon Networking



Sydney Hawran, MAI
Dandrea, Hawran & Mads, LLC



David Graeber, Esq.
Newman, LLP



Rick Rayl, Esq.
Newman, LLP



Daniel Curran, ASA, CRA
Zarmanian, Curran, Hoffman & Hensel

“Valuation Issues in Eminent Domain in the Current Market”

Joint Luncheon – March 24, 2009

International Right of Way Association, Chapter 1
and
Southern California Chapter of the Appraisal Institute

Steven’s Steakhouse
5332 E. Stevens Place
Commerce, CA 90040

PRICE PER PERSON: \$5.00 Chapter 1 SR/WA ; \$16.00 All Other Attendees

CONTACT: Aaron Aftergut @ (818) 593-7200 X 18 or Email @ aaftergut@irr.com





Case of the Month February 2009

Is Your Post-acquisition Tenant Agreement an Illegal Contract?

Limitations on Recovery of Rent-due from Tenants

Espinoza v. Calva

Filed 1/07/09

Cite as 2009 SOS 215

(California Court of Appeal, Fourth Appellate District, Division 3)

by: Michael F. Yoshiba, Esq., Richards Watson & Gershon, a Professional Corporation

The Appellant-plaintiff Maria de Jesus Lagunas Espinoza (Landlord) owned property rented to Respondent-defendants Gudelia Calva and Jorge Soqui (Tenants). The Tenants vacated the premises prior to the trial. The only issue before the trial court was whether an unlawful detainer money judgment in favor of Landlord was proper against Tenants. The thrust of Tenants' appeal was that the rented unit was uninhabitable and that various procedural irregularities occurred during the trial. The appellate court concluded that the trial court erred and reversed the judgment. Here, we only review the aspects of the appellate court's reversal of the monetary judgment award specifically related to the Tenants' 'habitability' defense to the unlawful detainer action.

FACTS

Landlord testified she had rented the building to tenants under a written lease. Tenants failed to pay the monthly rent of \$750 for three months and had been served with a three-day notice to pay \$2250 or vacate the premises. Tenants did neither. When Tenants' counsel attempted to cross-examine Landlord on issues relating to habitability of the building, the court sustained Landlord's objections on grounds "they were irrelevant since there was a default in rent."

Tenants introduced records of the Planning and Building Agency of the City of Santa Ana; they indicated that no occupancy permit (i.e. certificate of occupancy) had been issued for the rented premises.

"...verify the existence of a 'certificate of occupancy...'"

The trial court awarded possession of the rented premises, \$2,350 for rent due, and court costs to [the] Landlord.

DISCUSSION

Section 109.1(1) of the Santa Ana municipal code prohibited the use or occupation of a building "until the building official has issued a certificate of occupancy." No certificate of occupancy had been issued for the building area rented to Tenants.

The appellate court found that the absence of a certificate of occupancy rendered the Landlord-Tenants lease illegal, the occupancy was therefore unlawful, and therefore the lease constituted an illegal contract. The general rule requires the courts to withhold relief under the terms of an illegal contract or agreement that violates public policy. *Tri-Q, Inc. v. Sta-Hi Corp.* (1965) 63 Cal.2d 199. But the court also has both the power and duty to ascertain the true facts in order that it may not unwittingly lend its assistance to what public policy forbids,



here an illegal contract to rent. The *Tri-Q* court stated that the rules on illegal contract enforcement were intended to prevent the guilty party from reaping the benefit of his wrongful conduct, or to protect the public from the future consequences of an illegal contract. Here there was no proof that Tenants were aware of the legal requirements for occupancy, thus Tenants were not found to be a “guilty party”.

To fashion a remedy, this appellate court then cited to *Gruzen v. Henry* (1978) 84 Cal.App.3d 515 which dealt with the same issue. The *Gruzen* case concerned a property that similarly didn’t have a certificate of occupancy, the property was illegally leased for an occupancy, and that landlord also brought an action for unlawful detainer. The *Gruzen* court stated that “the question before us is whether [the ordinance requiring a certificate of occupancy], which is silent as to the effect on leases of a violation of its requirements, but expressly imposes only a criminal sanction on violation, can be construed as permitting enforcement by way of a defense to an action for unlawful detainer. We conclude that it can.” (Id. at pp. 517- 518.) The *Gruzen* court held that “[p]aintiff [was] entitled to an order of eviction, **but not to an award of rent.**” (Id. at p. 519.)

This appellate court then determined that the trial court’s award of rent to Landlord was improper under the *Gruzen* standard. Since Landlord and Tenants agreed at trial that the unit had already been vacated, the trial court should only have been concerned with a potential money judgment. The *Gruzen* standard precluded an award of rent to Landlord because of the illegal contract and the trial court erred when they awarded a judgment to Landlord for past due rent. The judgment was reversed and the case was returned to the trial court for entry of judgment in favor of Tenants-appellants, including an award of costs.

COMMENT

Agencies should be particularly alert when acquiring residential properties with tenants residing in buildings lacking the “certificates of occupancy” issued by the governing jurisdiction. Under the holding of this case, although the unlawful detainer court is empowered to order an eviction, the court will not enforce a claim for money damages under an illegal contract.

When an agency rents property lacking a “certificate of occupancy”, the agency and the proposed occupant inadvertently or otherwise enter into an illegal contract. Acquiring agencies routinely enter into post-acquisition short-term rental agreements with the existing residential occupants. It is not common for agencies to verify “certificates of occupancy” for property acquired. As stated above, if there is no “certificate of occupancy” for the space rented, it is an illegal contract. The illegal contract will not be enforceable in an unlawful detainer action and habitability will be a complete defense to a monetary claim. The agency won’t be able to collect the delinquent rents through the unlawful detainer process. Nor will the agency be allowed to use the delinquent rents as an offset to relocation assistance payment benefits.

This case is a friendly reminder to verify the existence of a “certificate of occupancy” for rental space before entering into a post-acquisition rental agreement.



IRWA CHAPTER 1

ANNUAL VALUATION CONFERENCE

Tuesday, April 21, 2009

Quiet Cannon Montebello
901 North Via San Clemente, Montebello (TG 636-A7)

CONFERENCE SCHEDULE

Table with 2 columns: Time and Session Title/Description. Sessions include: 8:00 AM CHECK-IN, 8:30 AM WHEN APPRAISAL ISSUES OVERLAP (REAL PROPERTY, GOODWILL, & FF&E), 9:40 AM ACQUISITION APPRAISAL FROM W TO Z, 10:25 AM BREAK, 10:45 AM WORKING WITH APPRAISERS AND OTHER EXPERTS - MAKING IT REAL FOR THE JUDGE AND JURY, 12:00 PM Chapter 1 Monthly Lunch Program & Keynote Address: LEGAL ISSUES IN A DECLINING REAL ESTATE MARKET, 1:30 PM SQUARE PEGS, ROUND HOLES, AND EASY TARGETS: WHAT'S WRONG WITH THE VALUATION OF SPECIAL PURPOSE NON-PROFIT PROPERTIES IN EMINENT DOMAIN, 2:15 PM BREAK, 2:30 PM LOST BUSINESS GOODWILL: WHERE CREATIVITY MEETS REALITY, 3:25 PM TOOLS FOR QUANTITATIVE ADJUSTMENTS IN A WEAKENING MARKET, 4:30 PM CLOSE.

PENDING APPROVAL - State of California, Office of Real Estate Appraisers for 7.5 Continuing Education Hours, 90% seminar attendance is required.

PENDING APPROVAL -Minimum Continuing Legal Education (MCLE) credit of 7.0 Hours, 100% seminar attendance is required.

APPROVED - International Right of Way Association for Senior Designation Re-certification Credits (SR/WA) 7.5 Course Hours, 100% seminar attendance is required.

REGISTRATION FOR ANNUAL VALUATION CONFERENCE

Name _____ Chapter No./Member No. _____
Firm _____ Email _____
Address _____
Phone _____ Fax _____

California Appraisal License No. _____ SR/WA Recertification Credit Needed? Yes or No (If applicable)

Make check payable to IRWA Chapter 1 and send to:
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\$95 Member; \$105 Non-Member Lunch Only - \$25

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Chapter 1 2009 Education Schedule—Remaining

IRWA Course	Date	Location	Coordinator/Facilitator
200 – Principles of RE Negotiations	3/9 and 3/10	Port of LA	Ken/Ralph Brown, SRWA
SR/WA review study session	4/1 to 4/3	Sempra/ Downey	Mark/Ralph Brown, SRWA
506 – Advance Business Relocation	4/6 to 4/7	Sempra/ Downey	Kirk/William Von Klug, SRWA, R/W-RAC
401 – Appraisals of Partial Acquisition	9/14 to 9/18	Port of LA	Ken/Ralph Brown, SRWA
205 – Bargaining Negotiations	10/5 to 10/6	Sempra/ Downey	Kirk/Ralph Brown, SRWA
900 – Principles of RE Engineering	10/29 to 10/30	MTA	Diane/Ralph Brown, SRWA



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OPPORTUNITIES

March 18, 2009

Two (2) volunteers needed to staff the IRWA Booth at the Urban Land Institute's Marketplace 2009 to be held at the Los Angeles Convention Center (for information on the event go to website www.uli-la.org/urbanmarketplace/)

When: March 18, 2009 from 9:30AM to 1:00PM.

Contact Andrew Thompson, SRWA, at (213) 244-5032.

Get involved with the Chapter!

Are you wondering how to become more involved? Well there are always opportunities and we invite you to look over the 2009 Board of Directors' Roster at the end of this newsletter. Contact any of the Chairs to lend your assistance and perhaps even volunteer as a speaker at one of the two 2009 seminars: Valuation or the Fall Education Seminar.

IRWA Events

Chapter 1 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 \$100 and increases \$10 for each month that there is not winner.

MUST BE PRESENT TO WIN!

Current Prize: \$110

Sponsorship Opportunities at the Region 1 Spring Forum

April 3-4, 2009

Chapter 1 is hosting the IRWA Region 1 Leadership Spring Forum that will be held at the Hilton Universal City, in Los Angeles CA.

For more information for this opportunity, you may contact Vivian Howell @ (310) 417-0450.

55th IRWA Annual International Education Conference in Indianapolis, Indiana on June 28—July 1, 2009

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IRWA Chapter 1
2009 Officers and Executive Board

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President-Elect, International Director & 2009 Tri-Chapter Luncheon Liaison	William Larsen Integra Realty Resources	818-593-7199 X19	wilarsen@lrr.com
Treasurer	Konstantin Akhrem Paragon Partners, Ltd.	714-379-3375	kakhrem@paragon-partners.com
Secretary	David Graeler, Esq. Nossaman LLP	213-612-7800	dgraeler@nossaman.com
Professional Development	Michael Popwell, SRWA Community Redevelopment Agency - City of LA	213-977-2620	mppopwell@cra.lacity.org
Nominations and Awards	Andrew Thompson, SRWA Southern California Gas Company	213-244-5032	athompson@semprautilities.com
2009 APPOINTED BOARD CHAIRS			
Education	Keith Dang, MAI, SRWA, Co-Chair AFI Valuation Group, Inc.	310-378-0309	kfdvaluation@aol.com
	Tom Hanley, P.E., SRWA, Co-Chair Paragon Partners	714-379-3376 X284	thanley@paragon-partners.com
Engineering/Survey	Art Cordero, PLS, SRWA City of Los Angeles	213-482-7192	apcor75a@yahoo.com
Environmental	Mohammed Estiri, Ph.D Eco & Associates, Inc.	714-289-0995	mestiri@ecoinc.info
Fall Seminar October 20, 2009	David Graeler, Esq., Co-Chair Nossaman LLP	213- 612-7801	DGraeler@Nossaman.com
	Kelly Kitasato, Co-Chair City of Pasadena	626-744-7356	kkitasato@cityofpasadena.net
Historian	Heather Riggs Riggs & Riggs, Inc.	805-578-2400	hnriggs@sbcglobal.net
Right A Way and the Law Seminar	Michael Yoshiba, Esq., Co-Chair Richards, Watson & Gershon	213-626-8483	myoshiba@rwqlaw.com
	Rescheduled to May 18, 2010	John E. Mackel, III, Esq. - Co-Chair Demetriou, Del Guercio, Springer & Francis, LLP	213-624-8407 JMackel@DGSFFIRM.COM
		Michael Yoshiba, Esq. Richards, Watson & Gershon	213-626-8484 myoshiba@rwqlaw.com
Liaison	Holly Rockwell, SRWA, R/W-RAC Epic Land Solutions	310-626-4848	hrockwell@epicland.com
Luncheon	Aaron Aftergut - Chair Integra Realty Resources - Los Angeles	818-593-7200 X18	aaftergut@lrr.com
	Cheryl DeMucci - Advisor to Chair	310-626-4849	CDEMUCCI@epicland.com
Membership	Dan Kazden Riggs & Riggs, Inc.	805-578-2400 X104	dankazden@sbcglobal.net
Newsletter Editor	Natalie Michelson JP Studios, Inc.	818-634-6932	auntitailea@aol.com
Pipeline	Gary Valentine, SRWA, MAI Valentine Appraisal & Associates	661-288-0198	gsv@valentineappraisal.com
Property Management	Duncan Robb, SRWA, R/W - AMC MTA - Retired	909-627-2590	duncaroy@msn.com
Relocation	Dionisio (Dio) Marquez Del Richardson and Associates	310-645-3729 X226	dionisio.marquez@drainc.com
Title	Teri Kortens	310-210-6741 cell	Teri.kortens@verizon.net
Valuation Seminar April 21, 2009	William Larsen - Co-Chair Integra Realty Resources	818-593-7199 X19	wilarsen@lrr.com
	Keith Settle, MAI - Co-Chair Keith Settle & Associates	(818) 707-1981	keithsettle@roadrunner.com
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