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### 1st—2nd 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

### 90-Day Course Look Ahead

- ♦ SR/WA Review Study Session, April 1-3 (2 Day Instruction & 1 Day Testing)
- ♦ C-506—Advanced Business Relocation; April 6-7 (2 Days)
- ♦ C-400—Principals of Real Estate Appraisal, May 11-12 (2 Days)

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

Chapter 1's Board has been very busy on your behalf. In this issue of the monthly newsletter, while it is devoid of the wonderful pictures we had in the February edition, we continue to provide a transparency to the members of what the Board is actually accomplishing.

The Membership Chair, attended a telephonic meeting with all other membership chairs throughout IRWA to discuss how each is promoting this organization to existing, new and potential members. IRWA is looking at branding and the best vehicle to do so. It is...redefining itself.

Hopefully, you had an opportunity to respond to a survey about IRWA, our name and what people think and say when you let them know that you are in the right of way business. This organization has come a long way from its days of inception making the definition of Right of Way far-reaching and inclusive of a myriad of different types of real estate projects.

Your Educational Chairs hear you and are responding. With the Board's unanimous approval, they have added two additional IRWA courses to the 2009 Education Schedule; Principals of Real Estate Appraisals (C-400) and Principals of Real Estate Law (C-800). A member called and wondered if Chapter 1 was canceling any courses...No Indeed! And there is still time to register for the SR/WA Review Study and/or C-506.

The Law Chair provides the Case of the Month as a way to inform the membership of matters decided or before the courts that are germane to the Right of Way profession. Has your agency every thought about condemning private property **before** they actually have a use for it....of course not...but one agency did.

Twice a year, in Spring and Fall, the IRWA Region Forums are held in the respective regions. Region 1's Spring Forum business meeting is on April 4th in Los Angeles. To prepare for this meeting of an exchange of ideas, information gathering and yes, action items, each chapter prepares a SWOT (Strengths, Weakness, Opportunities, Threats) Analysis on their chapter. All of the reports are posted on Region 1's website. For your convenience, Chapter 1's report starts on Page 13 of this newsletter. To recapitulate, Chapter 1 is strong because of its members.

We look forward to seeing you at the March 24th Membership meeting that is being held jointly with SCCAI. This is an annual tradition and a good partnership.

Oh! Remember to register for the annual Valuation Seminar on April 21st. There is a full agenda of excellent presenters and topics.

Until next month!





**Welcome New CHAPTER 1 MEMBERS—Our Ranks Are 309 and Growing**

Member	Job Title	Company/Affiliation	Sponsor
Yu Tea (Eugene) Chow	Real Estate Officer	Los Angeles World Airports	Vivian Howell
Michael Strouse	Management Analyst II	Los Angeles World Airports	Vivian Howell

We will have pictures of our new members in the April Newsletter.

### MEMBERSHIP DUES

**Have you or your employer paid your 2009 Membership Dues? Chapter 1 recently received a list of members who may have forgotten to do so. Your annual dues are easier than every to pay. Just go to the website: “www.irwaonline.org” and click on “Members” click next on “Dues Renewal Invoice” and Log-in. You will be able to pay your dues on at the secure site before a penalty is assessed.**

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](http://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)

In case you have not heard, as a result of the International Professional Development Committee's January 2009 meeting, discussions have ensued about revisiting the IRWA Credentialing Program, SR/WA Designations and Facilitator (Instructor) requirements. The objectives are to continue to strengthen our professional designations and quality of instruction to the membership. As a matter of fact, the International Committees will also be involved in bolstering IRWA courses based on each of the committees' educational disciplines. All committees will be charged with meeting the "Four Rs" - Renew, Revise, Replace and rebuild. The objective and expectation is continuous improvement and new design.

**Did you know that Chapter 1 has a Mentoring Program through its Professional Development Committee? That's right! If you are currently a candidate for a certification or your SR/WA designation or you just need to talk to someone on the PDC to learn more about the application process; please give anyone of the members of the committee listed below a call or send them an email. You will find that they are responsive and each one has earned the SR/WA designation.**

**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 <a href="mailto:mpopwell@cra.lacity.org">mpopwell@cra.lacity.org</a>
Co-Chair	Gary Valentine, MAI, SR/WA, Valentine Appraisal & Associates * 661.288.0198 Email <a href="mailto:gsv@valentineappraisal.com">gsv@valentineappraisal.com</a>
Co-Chair	Gus Parcerero, SR/WA, City of Los Angeles * 213.847.5592 Email <a href="mailto:augusto.pacero@lacity.org">augusto.pacero@lacity.org</a>
Co-Chair	Joyce Riggs, MAI, SR/WA, Riggs & Riggs, Inc. * 805.578.2400 Email <a href="mailto:jriggs@sbcglobal.net">jriggs@sbcglobal.net</a>
Co-Chair	Vivian Howell, SR/WA, R/W-RAC, R/W-NAC, Los Angeles World Airports * 310.417.0450 Email <a href="mailto:vhowell@lawa.org">vhowell@lawa.org</a>



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MARCH 24, 2009 Noon MEMBERSHIP LUNCHEON

Joint with Southern California Chapter of Appraisal Institute

11:30 AM—Noon Networking



Sydney Hawran, MAI  
Daniels, Horton & Mills, LLC



David Graeter, Esq.  
Norman, LLP



Rick Rayl, Esq.  
Norman, LLP



Daniel Curran, ASA, CRA  
Zimmerman, Curran, Hoffman & Harshbarger

“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 with an RSVP; \$16.00 All Other Attendees

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



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 Description. Rows 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; 4:15 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.

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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## Case of the Month March 2009

### “Condemn First, Decide what to do with the property later” *Public Use*

CITY OF STOCKTON v. MARINA TOWERS LLC et al.

Filed 2/13/09

Cite as C054495

(California Court of Appeal, Third Appellate District)

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

California’s eminent domain law permits property acquisition only for “a particular use,” to wit: a “proposed project.” (Code Civ. Proc., §§ 1240.020, 1240.030.) A public entity desiring to condemn private property must also pass a “resolution of necessity” (§ 1240.040) that specifically describes the proposed project and contains findings that the proposed project is necessary for the greater public good (§ 1240.030). This appellate court stated that this was a case of “condemn first, decide what to do with the property later.”

The City of Stockton’s (City) city council held a hearing seeking to adopt a resolution of necessity to acquire certain Marina Towers LLC et al. (collectively Marina) property by condemnation. A Marina representative appeared at the hearing to contest the adoption. The representative asserted that the public interest and necessity did not require the taking of Marina’s property, that the only project plans for the property called for private apartments, and questioned how condemnation could benefit the public when the intent appeared to be to take the property from one private owner and give it to another.

“...Later, City  
decided to  
build a  
parking lot  
and...”

Despite Marina’s assertion that there was no defined project necessitating the taking of Marina’s property for public use, no one at the hearing identified the specific public project that was the object of the proposed taking. Instead the City passed what the appellate court described as “nondescript, amorphous resolutions of necessity” approving the condemnation of two parcels of land abutting the Stockton Deep Water Channel. City filed an eminent domain action seeking to acquire the properties owned by Marina. Marina challenged the complaint and the City’s right to take alleging that City had improperly adopted a resolution of necessity without identifying the specific public purpose and public use.



City obtained a prejudgment order for possession and acquired the property. Later, City decided to build a parking lot and a baseball field on the property, a public purpose and use. The case went to trial, where the trial court granted City's motion for nonsuit and overruled all of Marina's right-to-take objections. It also denied Marina any compensation for precondemnation activities. Marina appealed from the judgment, contending that the trial court erred in granting nonsuit, in determining that the resolutions of necessity were not the product of a gross abuse of discretion.

The appellate court concluded that the project description in the resolutions of necessity was "so vague, uncertain and sweeping in scope that it failed to specify the 'public use' for which City sought acquisition of the property." This crucial defect precluded an intelligent inquiry into whether City had a legal right to condemn the property and fatally flawed the condemnation process. Marina's challenge to the validity of the resolutions was determined meritorious by the appellate court and that City had no right to take the property.

In fashioning a remedy, the court looked to Code of Civil Procedure Subdivision (c) of section 1260.120 which states in relevant part:

"[A]n order made under this paragraph [conditional dismissal] may impose such limitations and conditions as the court determines to be just under the circumstances of the particular case including the requirement that the plaintiff pay to the defendant all or part of the reasonable litigation expenses necessarily incurred by the defendant because of the plaintiff's failure or omission which constituted the basis of the objection to the right to take." (§ 1260.120, subd. (c)(2)).

Marina wanted the trial court to issue an unconditional dismissal, with the apparent consequence that the property acquired by City and since put to public use would revert to Marina. City argued for a conditional dismissal, contending that an unconditional dismissal would be "neither feasible nor equitable," would waste taxpayer money, and would cause a massive disruption of what is now a legitimate public use of the property. The court agreed with City.

There was no dispute that, having acquired the two parcels, City had put them to public use. City prepared a new EIR for the Stockton Event Center (albeit after the subject resolutions were passed) and had constructed municipal projects on both parcels. An unconditional dismissal would result in Marina reacquiring property that had possibly increased in value by hundreds of thousands of dollars as a result of improvements it did not make. It would involve enormous cost to the taxpayers and cause significant disruption to ongoing City-run operations.

Marina's proposed solution was both inequitable and unnecessary. The court stated that the Legislature foresaw the possible calamitous consequences of unconditional dismissal in a situation such as the one here, and it created the safety valve of conditional dismissal. The court reversed the trial court decision with directions to order a conditional dismissal of the action so City would have another opportunity to get it right at the resolution of necessity hearing, but also awarding litigation expenses to Marina.



## Chapter 1 2009 Education Schedule—Remaining

IRWA Course	Date	Location	Coordinator/Facilitator
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
400—Principals of Real Estate Appraisals <i>NEW</i>	5/11 to 5/12	TBD	TBD
800—Principals of Real Estate Law	7/30 to 7/31	TBD	TBD
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



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## OPPORTUNITIES

### 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 a winner.

MUST BE PRESENT TO WIN!

Current Prize: \$110

### IRWA Events

#### 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 Indianapo-  
lis, Indiana on June 28—July 1,  
2009

#### The Benjamin S. Crocker Symposium 2009

May 5th is the **38th Annual Crocker Symposium on Real Estate Law and Business** being held at the Los Angeles Convention Center. The symposium, *Building the New Real Estate Paradigm*, will provide important information on developments in real estate law and business, and forward thinking views on survival and opportunities in troubled times. **IRWA is one of the sponsors and our members will receive special discounted registration rate.**

Visit [www.crockersymposium.com](http://www.crockersymposium.com) to register.

### 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.

Aaron D. Amster, ASA  
President

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<b>2009 APPOINTED BOARD CHAIRS</b>			
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	<b>Tom Hanley, P.E., Co-Chair</b> Paragon Partners	714-379-3376 X284	<a href="mailto:thanley@paragon-partners.com">thanley@paragon-partners.com</a>
<i>Engineering/Survey</i>	<b>Art Cordero, PLS, SR/WA</b> City of Los Angeles	213-482-7192	<a href="mailto:apcor75a@yahoo.com">apcor75a@yahoo.com</a>
<i>Environmental</i>	<b>Mohammed Estiri, Ph.D</b> Eco & Associates, Inc.	714-289-0995	<a href="mailto:mestiri@ecoinc.info">mestiri@ecoinc.info</a>
<i>Fall Seminar October 20, 2009</i>	<b>David Graeler, Esq., Co-Chair</b> Nossaman LLP	213-612-7800	<a href="mailto:dgraeler@nossaman.com">dgraeler@nossaman.com</a>
	<b>Kelly Kitasato, Co-Chair</b> City of Pasadena	626-744-7356	<a href="mailto:kkitasato@cityofpasadena.net">kkitasato@cityofpasadena.net</a>
<i>Historian</i>	<b>Heather Riggs</b> Riggs & Riggs, Inc.	805-578-2400	<a href="mailto:hnriggs@sbcglobal.net">hnriggs@sbcglobal.net</a>
<i>Right A Way and the Law Seminar May 19, 2009</i>	<b>Michael Yoshiba, Esq., Co-Chair</b> Richards, Watson & Gershon	213-626-8483	<a href="mailto:myoshiba@rwqlaw.com">myoshiba@rwqlaw.com</a>
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<i>Valuation Seminar April 21, 2009</i>	<b>William Larsen</b> Integra Realty Resources	818-593-7199 X19	<a href="mailto:wlarsen@irr.com">wlarsen@irr.com</a>
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**Spring Forum Report**  
**Chapter #: 1; City: Los Angeles County - Bakersfield**  
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**Strengths:**

- Membership is over 300 as of March 13, 2009
- The Chapter holds:
  - SR/WA Designations: 53                      SR/WA Candidates: 24
  - R/W Certifications: 14                      R/W-Certifications Candidates: 6
- Strong Professional Development Chair and Committee that review and turn around applications for candidacy and designation/certification in a timely manner.
- PDC mentoring program comprised of SR/WAs for Chapter members seeking their designation or certification to encourage and assist the member in understanding the process, requirements and adding through the paperwork.
- Chapter membership has the opportunity to compete for two annual education scholarships redeemable for two – three day courses offered by Chapter 1.
- A healthy mix of seasoned Board Members and newly appointed members to committees/chairs.
- Financially solvent
- All Chapter 1 Course Coordinators are certified!
- As of March 13, 2009, the Chapter has offered 2 courses C-100 and C-200 with 8 and 15 participants, respectively. Additional Spring offerings are C-506 and the SR/WA Review, to be held April 1-3rd and April 6-7<sup>th</sup>.
- Chapter Members and local Chapters 57 and 67 look forward to supporting each Chapters seminars and events, particularly out joint annual Tri-Chapter Installation Luncheon.
  - Chapter 1 historically holds a Valuation Seminar in the Spring and a Fall Education Seminar open to members and non-members alike and we extend an invitation to Chapter 57 & 67.

**Weaknesses:**

- Availability of Leadership training – online – or mentoring for those assuming new Board positions and to assist the Nominations and Awards Committee an opportunity to identify additional members that would and could serve for the good of the Chapter.



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- At the Chapter level through speakers and seminars, we expose our membership to the development side of right of way. However, HQ does not offer a formal course in R/E Development to teach members, what numbers are important, how to calculate the numbers, what the subdivision requirements include, NEPA, CEQA and planning process that are coupled with the public outreach component associated with development projects. This should go beyond the appraisal, acquisition, relocation and property management phases.

**Opportunities:**

- Provide unplanned IRWA education courses when and if another local Chapter is unable to or cancels. Local is either Chapter 57 or 67.
- Participate in HQ's local collaborations with other professional organizations, i.e., Urban Land Institute's 2009 Marketplace by staffing a booth with HQ and providing information about IRWA.
- Since January 2009, the Chapter is experimenting with the monthly Newsletter and reduced its carbon footprint by providing it as an online publication. Due to the sluggish economy and levels of unemployment, the Chapter will advertise local public agency sector job opportunities. We also include periodic volunteer opportunities that are available within the Chapter.
- Continue to build on the Chapter's established relationship with the Southern California Chapter of the Appraisal Institute.
- The President and President-Elect are both on International Right of Way Committees, Relocation Assistance Committee and Transportation Committee, respectively. There is a lot of information that is more going on at the International level that Chapter members and many times some of the .
- Educate members and non-members in the right of way profession. As entities are realigning their workforce, more employees are being placed on teams to perform some form of right of way work. Since their prior assignments may have been far remote, the C-100 and introductory classes become attractive them in order to limit the learning curve.

**Threats:**

- Member delay in the renewal payment of membership dues. The Chapter would like to work a lot closer with HQ so that we may begin the cultivation of members earlier on concerning dues.
- Economy and the realignment of agencies, companies and budgets. This has a ripple effect, since support for external organizations, i.e. IRWA, and education often wanes. In fact, Chapter 1 rescheduled a Law and The Right of Way Seminar planned for May 2008 to May 18, 2009, as a precursor to the increase in right of way work that we hoped would be the product of President Obama's Stimulus Package.



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- Leadership in governmental agencies not understanding how the International Right of Way Association can and does prepare their staff for not just eminent domain work but
- Unknown affect of the impending change in the requirements for earning ones SR/WA Designation or Certification(s) and the tiered approach to earning these credentials.
- Affect on the revamping of Facilitator education, experience and requirements and having a sufficient number of locally trained Facilitators.
- Various federal partners are reviewing credential requirements for their employees and consultants to perform certain contract work for their respective agencies. Will IRWA be able to provide the resources (courses at an affordable price, etc.) to prepare members to compete on those projects?

**General Condition of Chapter:**

Overall the Chapter is healthy and focused on offering our membership the types of courses that will not only satisfy their designation or certification requirements but adapts their skills to the possible changing job responsibilities.