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

**A Befitting Tribute to Chapter 1's Past Presidents** at the July 28th Past Presidents' Luncheon held in Marina Del Rey. Each leader has a rich history with the Chapter and each leader demonstrably contributed to Chapter 1's continued growth and success. Every Past President infused innovation, professionalism, and leadership to the International Right of Way Association during their time as CEO of Chapter 1.



*Left to Right: Jim Wiley (1995), Gary Peck (1988), Michael Murray (2001), Kathy Friedman (1990), Gary Valentine (1996), Allan Rothman (1992), Andrew Thompson (2008), Holly Rockwell (2005), Michael Popwell (2003), Albert Schlinger (1975), Tom Lemm (1997), and Tom Hanley (2006).*

*Not pictured but in attendance: Neilia LaValle (1994).*

*A list of all of the Chapter 1 Past Presidents' follows in this newsletter.*

Common characteristics that all of the Past President have, besides competence and leadership qualities, are a sense of humor., integrity and accomplishment. **Past President, Tom Hanley**, graciously emceed the Chapter's recognition of those in attendance. He piqued everyone's interest about the history of not only his own presidency but also the Chapters, hence the IRWA. That's right, Chapter 1 started it all in 1934 and this October we are turning 75 Years Old! **Heather Riggs**, Chapter 1 Historian, is authoring an article that will be published in October to commemorate Chapter 1's history building on the facts Tom presented in July.

Speaking of upcoming events, be sure to RSVP for the **September 22nd** Joint Membership Luncheon with ASA and to the **October 20th**, Annual Fall Seminar. Thumb through the newsletter for information on the great speaker line-up.

**Until Next Month!**

**IRWA Course Look Ahead**

- ◆ **C-401—Appraisals of Partial Acquisition, September 14-18 (5 Days)**
- ◆ **C-205—Bargaining Negotiations, October 5 –6 (2 Days)**
- ◆ **C-900—Principals of Real Estate Engineering, October 29 – 30 (2 Days)**

**NEXT MEMBERSHIP MEETING**

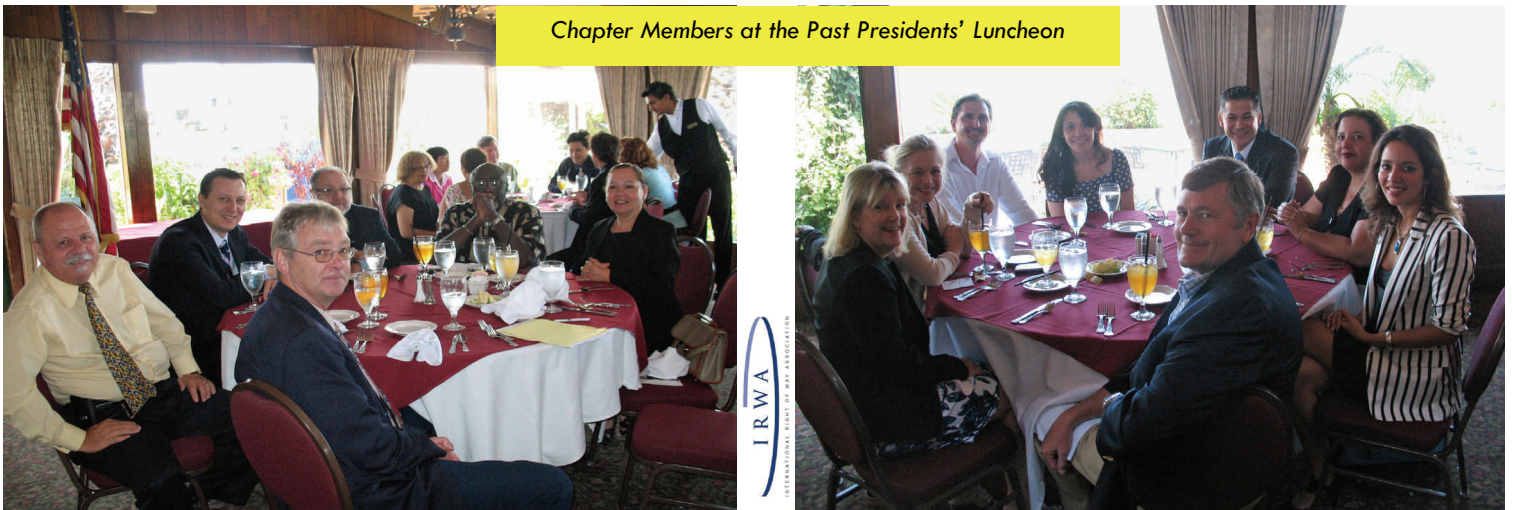
September 22nd—Joint meeting with American Society of Appraisers (ASA) to be held at Stevens' Steakhouse in Commerce, CA.





*We thank you, Chapter 1 Past Presidents, for your legacy, lasting imprints and dedication to the right of way profession and for contributing to Chapter 1's evolution in the best interest of the membership.*

1935	Franck C. Balfour	1960	E. F. Wagner	1985	Robert A. Martin, Jr.
1936	George A. Mitchell	1961	Austin M. Hill	1986	H. J. "Skip" Dearing
1937	Robert I. Plomert	1962	Frank M. Lathrop	1987	Eldon "Ray" Jackson
1938	Joseph A. Gallagher, Sr.	1963	Paul H. Van Loon	1988	Paul A. Widrig
1939	Daniel W. Rosengrans	1964	James W. Greathead	1989	Gary L. Peck
1940	Harry Higgs	1965	Charles W. Elam	1990	Kathryn L. Friedman
1941	Gifford G. Todd	1966	Stanley E. Krause	1991	Sharon D. O'Rourke
1942	William B. McKesson	1967	Milnor E. Gleaves	1992	Allan Rothman
1943	Leo J. McCarthy, Sr.	1968	Lewis W. White	1993	Donald E. Bender
1944	Francis J. Van Lohn, Sr.	1969	Hal L. Heilman	1994	Neilia A. LaValle
1945	J. J. Schillenger	1970	Thomas C. Stowe	1995	James D. Wiley
1946	Mark A. Green	1971	James W. Whitbord	1996	Gary S. Valentine
1947	Melvin B. Ogden	1972	A. L. Hovanec	1997	Thomas E. Lemm
1948	Paul W. Axe	1973	Donald A. Reynolds	1998	Jeffrey "Jed" Springer
1949	Frank Randall	1974	Robert R. Stone	1999	Brian C. Brooks
1950	Kenneth M. Trenholm	1975	Albert C. Schlinger	2000	Joyce L. Riggs
1951	William C. Meek	1976	Henry P. Smolich	2001	Michael G. Murry
1952	Gerald G. Kelly	1977	Garth G. Gardner	2002	Rudy M. Romo
1953	H. William Grane	1978	Joseph J. Perez	2003	Michael M. Popwell
1954	Dexter D. MacBride	1979	George H. Stein	2004	Linda Cunningham
1955	Thomas N. Miranda	1980	John W. Hein	2005	Holly Rockwell
1956	Den M. Acres	1981	John Dalis	2006	Tom Hanley
1957	A.C. Cooke	1982	David F. Brown, Jr.	2007	Bryan G. Riggs
1958	Thomas F. Mason	1983	Len A. Corwin	2008	Andrew I. Thompson
1959	J. J. F. Hanemann	1984	Lee Moussafir		



*Chapter Members at the Past Presidents' Luncheon*



**Welcome New CHAPTER 1 MEMBERS**

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, Daniel Kazden, at (805) 578-2400 X104.

NAME	Job Title	Company / Affiliation	Sponsor
Myla Wyatt	Senior Real Property Agent/ Asset Manager	Los Angeles County Department of Beaches and Harbors	Vivian Howell, SR/WA



*Top (left to right): Dan Kazden (Membership Chair), Charles Kuan, Alan Casebier, William Caldwell, Frederick Gutierrez, and Vivian Howell (President)*

*Bottom (left to right): Deborah Gaut, Alecia Simona, Sharon Warfield, and Angela Yueng*

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)

### NEW CREDENTIALING PROGRAM APPLICATIONS

We invite you to go to [www.irwaonline.org](http://www.irwaonline.org) to learn more about the New Credentialing Program and Applications affecting your Professional Development Designation and Certifications.

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 some-

one 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	Marilyn Stuart, SR/WA, R/W- , Los Angeles Sanitation District 562.908.4288	Email <a href="mailto:mstuart@lasd.org">mstuart@lasd.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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## Joint Luncheon with American Society of Appraisers @ Stevens' Steakhouse

September 22, 2009

### “Perils of Prejudgment”



**Speaker: Rick Friess, Esq.**, is the Chair of Nossaman's Eminent Domain and Valuation Practice Group, among the largest in California. He has a proven track record as a successful trial attorney and has represented both landowners and public agencies in some of the biggest, multi-million dollar cases in the state. With more than 18 years of real estate litigation experience – and an emphasis on eminent domain and inverse condemnation – Mr. Friess is adept at negotiating creative and valuable settlements for his clients. Given his comprehensive perspective on eminent domain, clients frequently seek his advice on strategic planning regarding land acquisition before litigation arises.

## Annual Fall Education Seminar Speaker Topics and Highlights

October 22, 2009—Quiet Cannon—Montebello, CA

### Environmental-Redevelopment of oil fields:

David Henry, P.G., Senior Project Scientist, Eco & Associates, Inc.

### Real Estate Values: Have We Hit the Bottom Yet?:

John Ellis, MAI, Managing Director, Integra Realty Resources

### HUD-Monitoring federally funded acquisition and relocation projects:

Jana Bickel, Relocation Specialist, HUD

### Current Legal Topic:

Michael G. Thornton, Partner, Nossaman LLP

Gary Kovacic, Partner, Sullivan, Workman & Dee, LLP

### Going Green:

Alice Sterling, Sr. Project Manager, City of Pasadena

### Mediation / Settlement:

Joseph S. Avila, Managing Partner, Avila & Putman

Honorable Lawrence W. Crispo, Retired Judge

### Wind Energy Projects:

David Guder, Project Manager, Southern California Edison



## Case of the Month August 2009

### “Month to Month Tenants Not Precluded From Claiming Loss of Business Goodwill” Entitlement to Claim Lost Goodwill

Los Angeles Unified School District (LAUSD) v. Pulgarin

Filed 6/23/09

Cite as B206892

(California Court of Appeal, Second Appellate District)

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

Elisa and Juan Pulgarin, doing business as Mid Town Recycling (collectively Mid Town) appealed from an order dismissing their claim for loss of goodwill, under Code of Civil Procedure section 1263.510, allegedly caused by the Los Angeles Unified School District's (LAUSD) acquisition by eminent domain of the real property upon which Mid Town's recycling business was conducted. Mid Town occupied the property under a month-to-month tenancy and did not have a written lease.

Shortly before trial on the issue of just compensation, LAUSD filed a motion pursuant to Code of Civil Procedure (CCP) Section 1260.040 for a pretrial issue determination that in the absence of a lease, Mid Town had no legally enforceable interest in the property and thus was not entitled to compensation for loss of business goodwill. Mid Town opposed the motion, asserting a written long-term lease was not necessary to satisfy the conditions. The trial court granted the LAUSD motion and entered an order of dismissal against Mid Town. The appellate court reversed the lower court ruling and concluded that neither the month to month tenancy nor the lack of a written lease precluded Mid Town's entitlement to claim compensation for loss of business goodwill.

The relevant portion of CCP Section 1263.510 provides that: "The owner of a business conducted on the property taken...shall be compensated for loss of goodwill if the owner proves all of the following: (1) The loss was caused by the taking of the property..."

What the CCP requires is that "[t]he owner of a business conducted on the property taken" prove that the loss was caused by the taking of the property. The appellate court found no requirement in the plain language of the aforementioned code section that the owner of a business seeking lost goodwill compensation prove that they have a written lease on the property that is taken.

The appellate court did however state that evidence of the probable remaining term of a tenancy can be used when valuing goodwill loss. And "[e]vidence of the remaining length of a lease and the existence of an option to renew a lease are, of course, relevant for determining the amount of compensation, if any, to be paid for loss of goodwill. (See *Attisha*, supra, 128 Cal.App.4th at p. 373.)" Thus, although the trial court erred in concluding, as a matter of law, that Mid Town was not entitled to compensation for goodwill because it was a month-to-month tenant, the valuation fact finder may ultimately determine that the claimant sustained no loss of goodwill or even that no goodwill existed at the time of the taking.

#### CCP Section 1263.510, continued

- (2) The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
- (3) Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
- (4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner"



## Chapter 1 2009 Education Schedule—Remaining

IRWA Course	Date	Location	Coordinator/Facilitator
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

**Are there specific IRWA Courses that your Company would like to offer its employees? Give the Education Chair, Tom Hanley, a call at (714) 379-3376 ext. 284 or send him an email at [thanley@paragon-partners.com](mailto:thanley@paragon-partners.com) to discuss the opportunities.**



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## OPPORTUNITIES

### Chapter 1 Membership Drawing

At each Chapter General Membership 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: \$130

### County of Los Angeles Beaches and Harbors

**See Next Page for Excerpted Job Bulletin**

Instructions for Filing Online: The Standard County of Los Angeles Employment Application for this examination can be completed Online and submitted electronically. Applications electronically received after 6:00 p.m., PST, on the last day of filing will not be accepted.

TO APPLY ONLINE go to “ [https://sjobs.brassring.com/1033/asp/tg/cim\\_jobdetail.asp?partnerid=25082&siteid=5045&areq=431br](https://sjobs.brassring.com/1033/asp/tg/cim_jobdetail.asp?partnerid=25082&siteid=5045&areq=431br) “

**Open Until Filled**

### IRWA Events

#### Region 1 Fall Forum

Hosted by Chapter 2, San Francisco Bay Area  
October 2-4, 2009

Watch for more Information Coming Soon.

### 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.



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**POSITION INFORMATION** Negotiates and administers the most complex, sensitive, and highest revenue generating leases for the Department of Beaches and Harbors. The one position allocable to this class reports to a Division Chief, Beaches and Harbors, and is responsible for managing the negotiation of non-standard, highly-complex leases in the Marina del Rey Small Craft Harbors and on beaches owned and controlled by the County of Los Angeles.

This position serves as Section Head for the Asset Development section of the Asset Management/Planning Division

**ESSENTIAL JOB FUNCTIONS** Manages all aspects of negotiations of the most complex non-traditional ground leases in Marina del Rey for redevelopment of various leasehold parcels, which include hotels, shopping centers, apartment and anchorage communities, and mixed-use projects. Coordinates the determination of rents due under the renegotiated leases, option and lease extension fees; calculate participation proceeds from sales or refinancing, deferred rent payments, rent credits, and other complex lease administration calculations.

Develops complex lease management procedures for review of lease administration issues, computerizes accounting procedures for management of clients' reimbursement accounts, calculates deferred payments, reviews lessee cost accounting and determines rental credits due to the lessee or annual lease extension payments to the County. Enforces the terms of complex leases in relation to revenue collection, submission by lessee of various reports, and conducts or assists in the conduct of periodic lease negotiations.

Negotiates with major lessees regarding interpretation and proper application of lease terms to specific leasehold situations. Reviews and makes recommendations regarding County approval of subleases, assignment of leases/subleases or financing of leases/subleases.

Writes contracts and lease amendments related to major leases for review by County Counsel, financial and other legal advisers. Assists the Division Chief responsible for Asset Management in negotiations regarding significant new major leases. Carries out major projects, investigations, studies, surveys and other confidential matters as directed by the department management. Prepares memoranda, briefs, position papers, Board letters, and reports to the Board of Supervisors and constituents. Supervises staff engaged in lease negotiations, property management, or other related special assignments.

**MINIMUM REQUIREMENTS** Four years' experience in selling, leasing or managing major government-owned institutional or investment grade real properties, two years of which must have been directly related to administering complex leases involving percentage rent, and one year of which must have been in negotiations on major projects with real property developers, lessees, lenders, and their respective legal counsels.

**DESIRABLE QUALIFICATIONS** One year of experience in a supervisory capacity managing marina properties, concessionaires and matters relating to boating and beaches or a basic knowledge in Maritime Law and boating issues. Ability to work effectively under a tight schedule with last minute instructions from multiple sources and to resolve potential conflicts from amongst various advisors to produce an agreeable work product in a timely manner. Experience in negotiating multimillion dollar agreements for redevelopment of real property. An understanding of boating issues and coastal development requirements. Ability to work effectively with political offices, other departments, agencies, and other community stakeholders, including the lessees and boaters.



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<i>Fall Seminar October 20, 2009</i>	<b>David Graeler, Esq., Co-Chair</b> Nossaman LLP  <b>Kelly Kitasato, Co-Chair</b> City of Pasadena	626-744-7356	<a href="mailto:kkitasato@cityofpasadena.net">kkitasato@cityofpasadena.net</a>
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<i>Right A Way and the Law Seminar Note New Date of June 22, 2010</i>	<b>Michael Yoshiba, Esq., Co-Chair</b> Richards, Watson & Gershon  <b>John E. Mackel, III, Esq. - Co-Chair</b> Demetriou, Del Guercio, Springer & Francis, LLP	213-626-8483  213-624-8407	<a href="mailto:myoshiba@rwqlaw.com">myoshiba@rwqlaw.com</a>  <a href="mailto:JMackel@DDSFIRM.COM">JMackel@DDSFIRM.COM</a>
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