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President's Message

Greetings Chapter 1 Members,

I hope you've enjoyed the first two months of 2019 and with the Super Bowl and awards season behind us, I hope your favorite team, artist or film has taken home an award. At Chapter 1, we have many stars of our own. And while we have not handed out any trophies or shiny awards over the last quarter, the good news is we also don't expect a thank you speech which we intend to interrupt with commercials. However, I would like to take this opportunity to thank our very own stars at Chapter 1 starting with our amazing board, our wonderful committee and industry chairs, and of course you, our members, without whom, all of the various events, education programs, social gatherings and seminars, would not be possible.

I'm most thankful because in addition to your day-jobs delivering much needed infrastructure projects, all of you contribute many hours to ensure Chapter 1's success and take the time to attend Chapter 1 events to ensure your success as a right-of-way professional. Kudos to my



Artin Shaverdian, Ch. 1 President

board, and our entire membership.

Speaking of events, I hope you were as impressed as I was with the lineup of speakers, and the recent attendance at our recent Valuation Seminar. Our Valuation Seminar Chair, Bill Larsen, is one of our stars who certainly deserves an award for consistently delivering a successful program. These types of well-planned and well-executed events don't happen overnight. So thank you Bill for a job well done.

So what's ahead you ask? Well, in addition to the various social events and education classes listed in our newsletter, in mid-March we will be sending delegates

from Chapter 1 to the Spring Forum in Reno. We also have our popular joint luncheon with the Appraisal Institute scheduled for March 21, 2019 with guest speaker Marisa Katnich of LAWA. Look for your invite and plan to attend and mingle with our colleagues from the AI and hear all about the City's planning efforts as we work towards the 2028 Olympics. And if that's not enough, the Annual Education Conference in Portland Oregon starts June 9th. Be sure to register for the conference and book your hotel rooms as it's selling out fast. Info can be found [here](#).

Finally and as always, we're looking to hear from our members and welcome any and all new ideas or comments, as well as articles for the newsletter, so please don't hesitate to approach any one of us at any of our upcoming events, or send me an email at ashaverdian@nossaman.com.

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Newsletter Chair's Message



**David Williams,
Newsletter Chair**

Springtime at Chapter 1 fills my appraiser's heart with gladness. In January, there was an excellent breakfast meeting, featuring speaker John Ellis of Integra Realty Resources - LA. John presented an expansive overview of the current state of the Southern California real estate market, along with projections of future performance. I always appreciate John as he avoids reading directly from his PowerPoint presentation and illustrates his discussion with on-the-ground examples that keep the information memory-fresh.

In February, Bill Larsen, SR/WA (also of Integra Realty Resources - LA) hosted the very well-received 26th Annual Valuation Seminar. The day-long event focused on issues of importance to many of us

in IRWA through the appraiser's lens, such as valuation matters relating to access, environmental issues and utilities takings.

And now, in March, there is the joint IRWA/Appraisal Institute luncheon on the 21st, where we get to hear about development plans for LAX by Marisa Katnish, Director of Strategic Commercial Management for Los Angeles World Airports (LAWA).

Of course, there's something for everyone in this newsletter edition. We have articles from our industry chairs, Ray Mehler's piece on project management, a summary of a current court case focusing on the impact of a possible CEQA determination by Brad Kuhn, and Marilyn Stuart bring us up to date on the goings-on in the Professional

Development Committee. And, we have a new feature, The Quarterly Q&A, in which I interview a chapter member with a story to tell.

It's really such a privilege to be around colleagues who excel in what they do. And Chapter 1 gives us ways to meet and get to know them, along with others who are rising in their fields. In turn, they get to know us and what we have to offer.

That's it from me. You know the drill: grab yourself a favorite caffeinated beverage and settle in for a good read...

David Williams is Director of Valuation Services at Colliers International Valuation & Advisory Services (CIVAS). He can be reached at dave.a.williams@colliers.com

Wanted: writers and editors! They said it couldn't be done, but the newsletter is growing. Whether you have just minutes or your entire lifetime to contribute, we would very much like to hear from you. Elevate your professional presence and branding - join the newsletter team! (newsletterchair@irwa1.org)

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DTLA Happy Hour Meeting

On January 10th, Chapter 1 hosted another happy hour get-together at Takami Sushi in Downtown LA. The Chapter covered the first drink for all members in attendance. Part networking, part socializing,

everyone in the group had time to unwind and chat with each other... even about non-ROW matters! All Chapter members are invited to the next one, time and place to be announced.



Left to right: Alex Berberian (SCE), Diane Dominguez (Metro LA), Stephania Calsing (LA Metro) and Casey Merrill (Colliers)

January Breakfast

On January 17th, Chapter 1 hosted the first of its breakfasts in 2019 at Luminarias Restaurant in Monterey Park. Forty-one members attended and had the pleasure of listening to John Ellis, MAI, CRE, FRICS discuss: "Real Estate and the Economy: Are We Still on Track?" The talk focused on the Southern California economy as it pertains to real estate. The takeaways were many. For one, while the la-

bor markets are tight, resulting in wages rising, the home affordability index is at or near an all-time low of 14% (down from 25% in 2007). For another, industrial construction in the Inland Empire is outpacing the Los Angeles market by a factor of 10 (25 million square feet versus 2.5 million square feet). Finally, government spending on infrastructure and other items is growing considerably

less than the Consumer Price Index (CPI) and growth in residential construction has been declining since 2012. These and some of the effects of the longest economic growth cycle in US history, which is nearing its end with a recession forecast in the next 12 to 24 months.

John Ellis is Senior Managing Director at Integra Realty Resources -- Los Angeles and can be reached at jellis@irr.com.



John Ellis, MAI, CRE, FRICS



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2019 Annual Valuation Seminar

William Larsen, SR/WA, Valuation Seminar Chair



Luncheon Keynote Speaker Mitchell Norton, Deputy County Counsel, County of San Bernardino

On February 12th, 141 members of the right of way community gathered at the Quiet Cannon restaurant in Montebello to attend Chapter 1's Annual Valuation Seminar. Luncheon Keynote Speaker Mitchell Norton, Deputy County Counsel, County of San Bernardino, led a speaker line-up which covered topics including severance damages, corridor valuation, date of value issues, atypical eminent domain valuation scenarios and Metro's current and future transportation projects.

mists on record who predicted the global economic recession that followed.

The strength of the speaker panels drew the record attendance, however we have many other parties to thank for the success of this event, starting with Valuation Seminar Committee members Stephania Calsing, Diane Dominguez, Maria Garcia, Doug Harman, Natasa Lenic and Nick Szamet.

The event was underwritten by Diamond Sponsor Curtis-Rosenthal, Inc.; Platinum Sponsor Bergman Dacey Goldsmith, Gold Sponsors Cushman & Wakefield, Integra Realty Resources - Los Angeles and OPC; Silver Sponsors AlvaradoSmith and Epic Land Solutions and Bronze Sponsors Albert Webb & Associates, Crimson Pipeline, Desmond, Marcello & Amster; Hodges & Lacey and Richards, Watson & Gershon.

private sector firms supported the seminar by encouraging their managers and staff members to attend - this year the biggest supporter was CalTrans District 7, with 12 attendees. MWD and Metro, our most consistent high volume supporters, came through again this year, each represented by a large number of attendees. Other agencies and firms that sent contingents of attendees included the Los Angeles County Public Works Real Estate Department, Riverside County Flood Control District, San Bernardino County Real Estate Services, Sanitation Districts of Los Angeles County, Integra Realty Resources - Los Angeles, Caltrans District 8 and CBRE.

I'd like to know the panel topics you would like to see featured in the February 2020 valuation seminar - please contact me at wlarson@irr.com with your recommendations.

Several public agencies and



William Larsen, SR/WA and Brian Everett, holding OPC's Gold Sponsorship Award

Among the day's highlights was the panel on econometrics in appraisal reporting, which featured Regina Danner, Esq.; Michael Yoshiba, Esq. and Christopher Thornburg, PhD. Dr. Thornburg, Founding Partner of Beacon Economics, is nationally known as one of the few economists who forecast the subprime mortgage market crash that began in 2007, and one of the few econo-



Michael Yoshiba, Esq. addressing attendees



Michael Yoshiba, Esq.; Regina Danner, Esq. and Christopher Thornburg, PhD.



Robert Kuhs, Esq. and Gary Valentine, MAI, AI-GRS, SR/WA, CCIM



Michael Waldron, MAI and Michael Leifer, Esq.

2019 Annual Valuation Seminar (continued)



Gary Weisberg, Esq.; Madeleine Mamaux, CFA, ASA;
Marcus Pigrom, ASA and Joyce Riggs, MAI, SR/WA



John Ellis, MAI, CRE, FRICS and Bradford Kuhn, Esq.



Alan Sozio, Esq.; Craig Justesen, Holly Rockwell, SR/WA, R/W-NAC and David Skinner, Esq.

WHAT'S NEXT IN VALUATION & ADVISORY

Fueled by ideas, expertise and passion across borders and beyond service lines, Cushman & Wakefield's Valuation & Advisory professionals create real estate solutions to prepare clients for what's next. Through greater connectivity, proprietary market intelligence and thought leadership, our Southern California Valuation Team leads the market in providing unparalleled insight.

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Upcoming Chapter 1 Education

Course No.	Days	Begin	End	Course Name	Location	Instructor
800	2	11-Apr	12-Apr	Principles of Real Estate Law	MTA - Union Station	Darryl Root
403	1	9-May	9-May	Easement Valuation	Public Works - Alhambra	Larry Castellanos
200	2	19-Jun	20-Jun	Principles of Real Estate Negotiation	MWD - Union Station	Faith Roland

Upcoming Meetings - Save the Dates

IRWA and SCCAI - Joint Luncheon & Program - March 21, 2019

Come join our annual luncheon with the Southern California Chapter of the Appraisal Institute at Luminarias Restaurant in Monterey Park. The speaker will be Marisa Katnich, Director of Strategic Commercial Management for Los Angeles World Airports (LAWA).

SCCAI has kindly provided the following program description: As Director of Strategic Commercial Management, Ms. Katnich is responsible for acquiring and assembling right of way for LAWA’s Landside Access Modernization Program, a \$5-billion-dollar program to reduce traffic congestion at Los Angeles International Airport (LAX) through development of an automated people mover, consolidated rental car facility (ConRAC) and intermodal transfer facilities. She led the team responsible for negotiating the concession and lease agreement for the ConRAC, a 13 tenant, 6 million square foot facility. Ms. Katnich is also responsible for directing revenue generating landside concessions including parking, rental cars, and shared ride van contracts.

Ms. Katnich was recently appointed as LAWA’s Lead Representative in the City’s Planning Efforts for the 2028 Olympic and Paralympic Games.



Attorneys You Can Count On

- John C. Murphy
- Douglas J. Evertz
- Jennifer W. Dienhart
- Jennifer Riel McClure
- Brad B. Grabske
- Emily L. Madueno

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Upcoming Events - Save the Dates



JUNE 9-12, 2019

2019 Conference Educational Sessions

EDUCATIONAL SESSIONS ANNOUNCED!

The IRWA Conference Education Planning Team has put together an amazing breakout session program to fit the needs of attendees at the 65th Annual International Education Conference. With over 50 sessions available over the course of 4 days, there's something for everyone!

Sessions include...

- What is the Future of Design Build in Our Current Economy and What is the Risk?
- Valuation Case Studies and Problems, Solved and Unsolved
- Opportunities and Challenges in the Energy Infrastructure Industry
- Innovations in Right of Way Project Delivery
- Managing Your (Survey) Contractor

...and many more!

[Click HERE to see the full list!](#)

REGISTER NOW!

The International Right of Way Association's 2019 Conference Planning Committee invites you to register for the Annual Education Conference, held June 9 - 12, 2019 in Portland, Oregon.

Don't miss out on this opportunity to network with other right of way professionals, learn the latest in right of way, and have a little fun while you're there!

[CLICK HERE TO REGISTER NOW!](#)

For more information, visit the conference website at www.irwaportland2019.org

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Highlights from Chapter 1 Professional Development Committee

Congratulations to the following Chapter 1 members who have been awarded their SR/WA Recertification in the past quarter:

Theresa A. Armistead, SR/WA, Right of Way Consultant

Diane H. Dominguez, SR/WA, LA County Metropolitan Transportation Authority

Gary Valentine, SR/WA, MAI, CCIM, Valentine Appraisal & Associates

Chapter 1 is among the top percentage of IRWA's national and international chapters when it comes to member credentialing! We have 55 members who hold the SR/WA designation and 28 members who hold specialty certifications! We also have many members who are diligently pursuing their designation and certifications and are close to reaching their goals. We are here to help you pursue your path to success as well!

What are the benefits of obtaining the SR/WA Designation?

The Senior Right of Way Professional (SR/WA), is the most prestigious professional designation granted to those right of way professionals who have achieved professional status through experience, education, and examination. While the SR/WA professional may be a specialist in one area, they must also be familiar with all disciplines associated with the right of way profession. The SR/WA designation is the only designation reflecting evidence of professional accomplishment in the right of way profession.

Stay Ahead of the Curve Today's marketplace is crowded and complex. To develop a solid, competitive advantage—and to remain ahead of that curve—you can rely on an IRWA designation to prepare you and your company for whatever lies ahead.

The Only Name That Counts IRWA stands for the highest standard of excellence. As such, an IRWA designation is a rigorous process that will work to differentiate you from other professionals. Our high standards have enabled us to create a distinction that is universally respected by customers, businesses and colleagues across most disciplines.

The Right Stuff Companies with employees who are IRWA certified report impressive results. Designation can often win business in competitive situations. Certified professionals often make better employees. They tend to exhibit higher productivity, reduced learning curves, increased technical competencies, lower error rate, and a higher level of job satisfaction.

Individual Benefits Earning the SR/WA Designation will help boost opportunities and salary potential. The SR/WA Designation expands employment opportunities, increases salary potential, boosts chances for career advancement and demonstrates professional commitment. Research shows that professionals who have earned the SR/WA Designation earn more throughout their career than those without it.

Benefits to Employer Employers benefit from the SR/WA Designation too. They will be rewarded with higher employee retention, increased productivity and a boost in employee morale and confidence. The Designation enhances employee skills through multidiscipline training and examination. Retaining experienced staff is an enormous competitive advantage for any employer.

Important News From the Professional Development Committee

IRWA Credentialing Program

<https://www.irwaonline.org/professional-development/credentialing/>

Get Credentialed in INDUSTRY

<https://www.irwaonline.org/professional-development/industry-path/>

IRWA's credentialing program consists of FOUR PATHWAYS that you can choose from to obtain your SR/WA designation depending on what industry experience you have or want to pursue:

- OIL & GAS
- TRANSPORTATION
- ELECTRIC & UTILITIES
- GENERALIST

Select an industry and go through the three simple steps:
LEARN, QUALIFY & CERTIFY

Get Credentialed in SPECIALTY

<https://www.irwaonline.org/professional-development/right-of-way-professional-career-path-specialist/>

You may also access information on how to obtain one of the Specialty Certifications:

- R/W-AC Appraisal Certification
- R/W-AMC Asset/Property Management Certification
- R/W-NAC Negotiation and Acquisition Certification
- R/W-RAC Relocation Assistance Certification
- R/W-URAC Uniform Act Certification
- Appraisal Cross Certification



Get Credentialed!



Do you have questions about IRWA certifications or which courses you should take to reach your goals?

We are available to provide guidance and assistance with your career path planning. We want to help you reach your professional goals! Feel free to contact one of the Professional Development Committee Chairs listed below for more information about the IRWA Professional Career Path programs or for questions about the scholarship program, requirements needed to attain your specific goals for professional development or are interested in having a mentor to guide you through your professional educational path. We're here to assist you!

Marilyn Stuart, PDC Chair marilyn.stuart.lb@gmail.com - (702) 250-2865

Gus Parcerero, PDC Co-Chair augusto.parcero@lacity.org - (213) 485-5775

Michael Popwell, PDC Co-Chair michael@mpopwell.com - (323) 874-2384

Joyce Riggs, PDC Co-Chair jriggs@sbcglobal.net - (805)578-2400

Andrew Thompson, PDC Co-Chair athompson@semprautilities.com - (213) 244-5032

Gary Valentine, PDC Co-Chair gsv@valentineappraisal.com - (661) 288-0198

As a Chapter 1 Member You are Eligible to Attend a FREE One-Day Chapter 1 Sponsored Class!

Here is your FREE COURSE VOUCHER for the 2018/2019 Fiscal Year!

This is a wonderful opportunity for all Chapter 1 members to help you fulfill your IRWA educational requirements for certifications, SR/WA designation, or to receive continuing education credit. Please check the chapter course listing in this newsletter to make plans to enroll in courses you need and take advantage of the free 1-day course credit.

How do you use the Free Course voucher?

- You will register directly with the course coordinator of any Chapter 1 sponsored class to register.
- First, send a copy of the voucher to the PDC Chair for authorization.

Next, send your registration form and voucher to the course coordinator to complete registration.

If you haven't redeemed your voucher yet, feel free to use the copy of the voucher provided below for your convenience.

Your voucher can be redeemed for a free 1-day Chapter 1 sponsored IRWA class or equivalent credit if applied to the tuition of a multiple day class. The Chapter 1 Professional Development Committee can help you develop a plan to reach your professional goals leading to the prestigious SR/WA designation or a specialist certification.



**IRWA CHAPTER 1
2018/2019**

FREE ONE DAY COURSE VOUCHER

THIS VOUCHER IS REDEEMABLE FOR A ONE DAY CHAPTER 1 SPONSORED IRWA COURSE OR EQUIVALENT CREDIT APPLIED TO ONE DAY OF A MULTIPLE DAY COURSE*

***Terms of Voucher Usage:**

Valid for IRWA Chapter 1 Members for attendance at Chapter 1 Sponsored Courses Only

Voucher Use is Limited to the First 10 Enrollees Per Each Chapter 1 Course

This Voucher NOT Valid for Online Courses, is NOT Transferrable and has NO Cash Value

Course Registration Must be Arranged in Advance Through Course Coordinator

MEMBER NAME _____

COURSE COORDINATOR SIGNATURE _____

PDC CHAIR SIGNATURE _____

Must be presented to course coordinator at registration - Expires JUNE 30, 2019

Don't Dig Yourself into Trouble (Part 2)

Question: As a pipeline operator, what actions must I take in response to a Dig Alert ticket?

Operators of underground utilities are required to become members and participate in the regional notification center (Dig Alert). Failure to participate may result in the operator forfeiting any claim for monetary damages stemming from injury to its lines



April Harvey,
Oil & Gas Chair

Upon receipt of a dig ticket, operators are required to mark the location of the utilities prior to the legal start date, or notify the excavator that a conflict does not exist. Not just any employee can perform this task. The individual who marks the line for the operator must be qualified and have received requisite training. When locating the line, the operator must use a single-frequency utility locating device and must have access to other sources for verification, such as maps and diagrams. As of January 1, 2018, operators may provide notice to excavators electronically via the Dig Alert system

The operator is required to keep updated plans and records of its underground utilities, including any abandoned lines. In the event of a transfer of ownership of the lines, all records must be shared with the new owner.

Failure to adhere to these procedures may prove costly to the operator. Any operator who fails to comply with the requirements related to marking underground lines may be deemed liable for any damages incurred by the excavator. Additionally, an excavator will not likely be held liable for damages to improperly marked lines.

Question: Other than marking the line, what other actions can an operator take to protect their line?

Simply put, the common phrase "an ounce of prevention is worth a pound of cure" definitely applies to protecting pipelines from careless damage. The cost of a diligent and observant line-rider is a mere fraction of the cost of remediation and litigation that typically follows the damage by a negligent excavator. Unfortunately, compliance with the Dig Alert requirements are often ignored by excavators. Observant and diligent line riders can prevent damage caused by careless digging. Even after providing notice to the excavators, operators should timely follow up with excavators to confirm when work will be performed if their lines are within or adjacent to the work area. It is not uncommon for an excavator to forget or fail to set up the onsite meeting. The operator should aggressively make sure that sure that excavators schedule these important steps. Lastly, proper record keeping, including photographs of markings and similar documentation can prove valuable if litigation is later necessary to recover damages against an excavator. Smart phones can easily be used to photograph and log markings.

April Harvey is a Right of Way Manager with Crimson Midstream, LLC and can be reached at aharvey@crimsonpl.com.

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The Art and Science of Appraisal Review

“Hey, can you take a peek at this appraisal and tell me what you think?”

How many times have you said this or had someone say it to you? If you’re an attorney or right-of-way agent, you’ve probably said it many times. If you’re an appraiser, you’ve probably had someone say it to you many times.

I get approached with such requests often. Here are some of the things that go through my mind. They should be going through your mind, too.

As a licensed appraiser, I’m bound by the Uniform Standards of Professional Appraisal Practice (USPAP). If I comment on the quality of another appraiser’s work product, either in writing or verbally, and those comments are communicated to a client, either by me or someone else, I’ve done an appraisal review and need to comply with USPAP Standards 3 and 4.

Those standards define the reviewer’s scope of work when performing an appraisal review. Note: It doesn’t matter whether the person calls it an “appraisal review” or uses a euphemism like “having a peek” or asks if he can “pick my brain about an appraisal report.” If I’m being asked to provide input about work product quality, and that information will be communicated to a client, that’s a review and the standards apply.

Whenever I’m approached, one of the first things I ask is, “What would you like to receive from me if I do have a look?” Do you want a report that evaluates the quality of the work product? Do you want me to discuss it with you verbally? Acquisition agents in the pre-condemnation phase providing either an agency’s appraisal report or a property owner’s appraisal report will often want something in writing that they can use in their

negotiations. And keep in mind that document will often be shared with the client during negotiation strategy discussions. If that written document focuses on factual differences only, and makes no comments on work product quality, USPAP does not apply.

Attorneys in the condemnation phase will often want to discuss it verbally, so nothing afterward will be discoverable. Regardless, if any comments are made about work product quality, it’s an appraisal review and USPAP applies.

I’ll often hear, “I don’t want a full review. I just want you to take a look and tell me a few things that I can use for my negotiation or my case.” Translation: I don’t want to incur the time or expense of an appraisal review or I don’t want any of this in writing lest it be discoverable.

These types of inquiries potentially set the stage for the appraiser to complete a review that only focuses on errors or points out flaws with appraisal methods. To take on such an assignment focused only on finding errors or weaknesses implies bias, which must be avoided. As a licensed appraiser, I’m required to advise that I must perform an appraisal review if I’m commenting on work product quality.

To be a reviewer, an appraiser must learn how to develop opinions of completeness, accuracy, adequacy, relevance, and reasonableness about the work under review. These opinions must be refined through tests of reasonableness in order to develop opinions of appropriateness and credibility.

For those who often need expert input on appraisal work product, such as right-of-way agents or attorneys, they should consider engaging a qualified review appraiser. The turnaround is typically

short and the cost a fraction of the original appraisal fee. Be advised though that not all licensed appraisers have appraisal review experience. Ask the appraiser about their appraisal experience and appraisal review experience. Does the reviewer have any designations that demonstrate specialized training or experience performing appraisal reviews? The Appraisal Institute issues two designations specific to appraisal review (AI-GRS and AI-RRS). The “AI” signifies “Appraisal Institute” and the “GRS” denotes “General Review Specialist,” which is training and experience with reviewing commercial property types (e.g. retail, office, industrial). The “RRS” designation denotes “Residential Review Specialist,” which is training and experience with reviewing residential property types (single-family, multi-family, apartment).

If the potential reviewer says to you, I’ve never done one of those, but I can figure it out, consider going in a different direction. Engaging someone who has those credentials, along with a proven track record performing appraisal reviews, will establish credibility of the analysis. If you don’t know anyone, ask other professionals or consider using these appraisal institute links to learn more about AI designations and to find a qualified appraiser or appraisal reviewer.

[https://
www.appraisalinstitute.org/our-
designations/](https://www.appraisalinstitute.org/our-designations/)

[http://
www.myappraisalinstitute.org/
findappraiser/](http://www.myappraisalinstitute.org/findappraiser/)

Steve Parent, MAI, SRA, AI-GRS, AI-RRS, S R / W A , P M P
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Steve Parent,
Appraisal Chair

Acquisition Project Management

I have heard that in the old days before the Uniform Act, the acquisition project manager would slide to the end of the bar and ask the guy swirling his drink if he'd like a job negotiating a stack of purchase agreements. I cannot claim any experience observing this as I was just a kid at the time.

I can claim experience observing the growing necessity of utilizing professional project management to ensure successful acquisition projects. The arrival of self-funded local agencies which successfully persuaded voters to pass large bond measures, and more generous federal participation, created many very large projects for our profession.

During development and implementation of the earlier projects, the *Kelo* decision prompted several legislative and initiative backlashes. The new laws effectively slowed the acquisition process and increased the negotiation strength of property owners, the sum of which has created significant challenges to acquisition timeframes.

The result: a stack of ambitious projects with right of way certification deadlines, but with new resistances to completing them. A construction agency executive expressed to me quite a few years ago that "We're just not accustomed to having right of way acquisition on the critical path."

The response: bring in people who have the skills and experience to manage project schedule, scope, budget and quality. To do this well, the acquisition project manager must have training and experience in both the right of way business and with professional project management methods. The Project Management Institute offers framework and terminology for the discipline of project management, encompassed in a matrix of 10 Knowledge Areas and 5 Processes. These Knowledge Areas and Processes establish control over projects so they are delivered on schedule, within budget, meet quality standards, and maintain support of the project stakeholders, among others. In my 14 years of right of way acquisition work, I have found the following project management Knowledge Areas and Processes are most frequently effective to ensuring project success.

- Project Planning with particular attention to:
 - ◇ Critical Path analysis
 - ◇ Delivery Schedule
 - ◇ Resource selection
- Monitoring and Controlling Project Work
 - ◇ Status frequently with Implementation Team
 - ◇ Status frequently with Stakeholders
- Controlling Scope

Project Planning is the most important, for a project manager's fundamental duty is to plan the project. I keep this quote in my office: "A Project Well Begun is a Project Half Done." A project is comprised of sequentially-locked and parallel tasks leading to the ultimate delivery of property rights required to construct the project. The Project Manager lists and plans all tasks in sequence and takes advantage of opportunities for parallel work activities where budget and resources allow. The PM also identifies the critical path toward achieving the project delivery objective. Software is very helpful for this task, particularly because the project's critical path is frequently dynamic as task schedules change during project implementation. Resource selection is also key, as acquisition projects are labor intensive and matching skills to the tasks makes project success. Projects where resource skills are well-matched to the tasks typically meet schedule, cost and quality objectives, and manage scope well.

Once Project Planning is complete, the project moves into the Execution phase, where experience has shown that frequent statuses with the implementation team and with the stakeholders make the difference. The frequency enables the project team to avoid problems caused by insufficient communication and empowers the team to respond promptly to inevitable problems which occur in every project lifecycle.

The last critical element of right of way project success is scope control. Many are the requests and expectations to complete the project, but it is imperative for the consulting and agency project managers to continuously monitor scope so it is known when scope has been exceeded. An agency PM may think it prudent for the agency to "ask favors" of the consultant at no charge, and some consultant PMs may think it prudent for marketing reasons to grant such favors, but the consultant's delivery schedule or quality will likely be affected.

Project Planning, Project Monitoring and Control and Scope Control are the most frequently recurring Project Management skills to apply to a right of way acquisition project. Every project has a unique set of project sponsors, stakeholders, budgets, schedules, scope, quality expectations and resource availability, among others, which will draw from different Knowledge Areas of the Project Management toolbox.

Ray Mehler, SR/WA, PMP is president of Right of Way Management Consulting, Secretary/Treasurer of IRWA Region 1 and can be reached at Raymond.D.Mehler@gmail.com.



Ray Mehler,
IRWA Region 1
Secretary/Treasurer

The Quarterly Q&A—Janella Cordova, Chapter 1 Communications Chair



Janella Cordova

Q: So, are you the person responsible for all those IRWA emails that are filling up our inboxes?

A: Yes, I am and am very happy to hear you are receiving all of them. I promise it's not a guerilla campaign. However, with so much going on, our emails have become reminders to take action on pending matters. I just want to make sure that people are getting the most out of their memberships.

Q: What does a Communications Chair do, exactly?

A: I serve at the pleasure of the President. I work with Dave who puts on this great newsletter and others in our organization to make sure we are sending pertinent information to Chapter 1 members. So that we are informed, can take advantage of courses and have an opportunity to sponsor and join events put on by colleagues many of whom volunteer their time to put on these events.

Q: How did you come to take on this position?

A: I was asked by Artin one late afternoon. He said I would have tremendous support and he was looking to shake things up a bit, that got me excited and, well, here I am. I also happen to be the Chair for the International Electric Utility Committee. I wanted to make sure I could do the job right.

Q: What is the benefit for you in volunteering your time and energy?

A: I believe in what we do as professionals and as colleagues. We uplift each other to be our best, whether it be by taking coursework, sharing best practices and learning from each other. Plus, I feel a sense of duty to volunteer when I am able to give back to our community.

Q: What do you like most about IRWA in general?

A: The respect we have for our craft and the deep belief that we can truly make a difference in the way infrastructure and its development can positively affect people's lives. Let's continue to elevate our profession and bring

everyone up with us.

Q: Anything that you would like to see improved?

A: The willingness to shake things up a bit across IRWA, making it more dynamic and contemporary. I think Chapter 1 has been a good role model by changing the venues, locations and times that meetings and events are held. It's proven to be successful and it's great to see new faces joining us at the various events.

Q: You have shown you can send us an email any time you like, but is there anything you would like to say to your fellow members right now?

A: I've said so much I should zip it. But I will say this, we are all connected in the vast network of professionals, may we strive to make every communication a positive one.

Janella Cordova is a Senior Project Manager at Overland, Pacific & Cutler and can be reached at jCordova@opcservices.com

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Dissecting the Litigation Appraisal (Part 1 of 2)



Michael F. Yoshiba, Esq.,
Law Chair

Appraisers who prepare valuation reports for attorneys to use during condemnation cases, necessarily include USPAP appraisal standards. However, besides USPAP, there are other California laws that require consideration, understanding, and inclusion. Specifically, the California laws contained in Government Code, Evidence Code, and Code of Civil Procedure each provide specific foundational information for appraisers when preparing their work product for use in litigation and at trial.

Reconciling the limits of just compensation and the fair market value is required when appraising for condemnation litigation. Government Code sect. 7267.2 directs that a public entity shall establish an amount which it believes to be just compensation. Appraiser's determine the "fair market value" for a property interest, and but not necessarily "just compensation". The Judicial Council of California Civil Jury Instruction in CACI 3501 states

"Just compensation **includes** the fair market value of the property as of the date of valuation.. Fair market value is the highest price for the property that a willing buyer would have paid in cash to a willing seller, assuming that there is no pressure on either on to buy or sell; and the buyer and seller know all the uses and purposes for which the property is reasonably capable of being used."

The Evidence Code provides direction on what information the court can and will allow the parties to show, display or cite for the jury to use and consider as admissible evidence. The court ultimately decides whether an appraiser's opinions, testimony and reporting, complies with the Evidence Code requirements. Valuation opinions that comply with the Evidence Code are "admitted into evidence" and available for the jury to use and consider. Opinions that do not comply are summarily excluded and deemed inadmissible for jury consideration.

A few important Evidence Code sections to be familiar with are as follows:

- 811 Value of Property
- 812 Market value – interpretation of meaning
- 813 Value of Property; Authorized opinions... admissible evidence
- 814 Matter upon which opinion must be based
- 815 Sales of subject property
- 816 Comparable sales
- 821 Conditions in general vicinity of subject property
- 822 Matter upon which opinion MAY NOT be based

Last but not least, Code of Civil Procedure provides the fairness and due process mechanisms between the parties and for presenting condemnation cases to the court. The specific procedural requirements for a fair resolution between the named parties, from the filing of the condemnation case up through the presentation of evidence to a court and jury. Here are a few of the Code of Civil Procedure sections appraiser should be familiar with:

- 1258.240 List of [expert] witnesses; contents
- 1258.250 Statement of valuation data; person, content
- 1258.260 Statement of valuation data; opinion evidence
- 1263.510 Loss of Business Goodwill
- 1258.210 1258.300 Statement of Valuation

In the next edition, Dissecting the Litigation Appraisal Part 2/2, will cover the specific areas of strength and weakness in appraisal reporting for condemnation litigation.



Regulatory Taking May Result From Improper CEQA Determination? Stay Tuned

By [Brad Kuhn](#) on February 8, 2019 POSTED IN [COURT DECISIONS](#)



Brad Kuhn, Esq.



A few months ago, Nossaman [reported](#) on a Court of Appeal decision, *Bottini v. City of San Diego*, where the Court held that delays resulting from a governmental agency's improper denial of a permit application for a new development did not result in a regulatory taking. The case involved a local agency's improper application of CEQA to a proposed residential development, and the property owner successfully securing a decision by the court to overturn the City's requirement to comply with CEQA where there was a clear exemption. The owner also sought damages due to a lengthy delay in development, but the Court held there had been no regulatory taking. The owner petitioned for review by the California Supreme Court, which is rarely successful. However, interestingly, the Court decided to take up the case, so we will now await a decision on the issue.

The Court will be faced with determining whether a developer who succeeds in overturning a city's improper application of CEQA (or development regulations generally) is entitled to secure just compensation from the public agency resulting from the development delay — i.e., a temporary "taking" of the property. (For us regulatory takings geeks, the Court will likely focus on whether to apply the *Penn Central* "investment-backed expectations" test or the *Landgate* "substantially advances" test.) Usually these decisions revolve around whether (i) the government's improper action can be categorized as "normal delay" during the permit approval process, and (ii) the government's actions were completely out of the realm of reasonableness. Rarely is there a bright-line that can be drawn in these types of cases, so it will be interesting to see how the Supreme Court renders a decision. We'll continue to follow the case as it unfolds.

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2019 Region 1 Spring Forum



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Continental Breakfast at 7:30am-Silver Baron Room C

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throughout the day!**



**Questions? Contact Chapter 46
2019 Region 1 Spring Forum Coordinator: Amanda Duncan
775-834-8035 or via email at aduncan@tmwa.com**



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**SOCIAL MIXER RSVP
 Friday, March 15th, 2019
 6:30 pm - 8:30 pm**

_____ [# Attendees] - Chapter International Directors, Region 1 Reps, Industry Committees, IEC and Headquarters—@ No Cost

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 BUSINESS MEETING LUNCHEON
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_____ **Yes, I will attend the Luncheon! Please find my payment of \$20 enclosed!**

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_____ **Yes, I will attend the Luncheon! I will pay the day of the Meeting!**

Please make your check payable to IRWA Chapter 46 and send no later than March 8th, 2019 to
IRWA Chapter 46 PO Box 11352 Reno, NV 89510
Need More Information? Please don't hesitate to contact Amanda Duncan at 775-834-8035
or via email at aduncan@tmwa.com