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Next Meeting:
Tuesday
October 12, 2010

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PRESIDENT'S MESSAGE

By Michele Folk, SR/WA, R/W-RAC

Members:

I warned you – the heat is here. Hopefully you are all staying cool and comfortable. What a great September luncheon attendance! The speaker's forecast was a little depressing but very interesting. Working in real estate services, we're all pretty used to the ups and downs though.

I've received several SR/WA candidacy applications over the past few weeks, so I know at least some of you are taking advantage of the applying under the old program rules before the increased requirements beginning October 1, 2010. Congratulations, and please let your PDC Chair (me) or your Education Chair (Mike Williams) know if we can assist you with meeting your education goals.

We meet again on Tuesday, October 12th. Barry McDaniel, CEO of Overland, Pacific & Cutler, Inc. and Daniel Belliveau, P. E. will be educating us on "**A Different Approach to Complex Business Relocations.**" Mr. McDaniel has over three decades of experience with relocation consulting, project planning and engineering and construction management. Since 1982, Mr. McDaniel has directed large scale relocation programs including program development, budgeting, relocation planning, relocation case implementation, property management, housing inspections, staff and client training, and quality control. These relocation activities were undertaken while employed with a public agency and while consulting to over 150 public agencies.

Mr. Belliveau has over twenty-three years of experience in engineering and operations management for consulting firms to industry leaders in consumer products manufacturing. He has consistently demonstrated business development, engineering and project management competency through the successful delivery of comprehensive projects in the addition of manufacturing and distribution capacity, including national rollouts of a variety of consumer products and complete facilities from design through operation. Mr. Belliveau is recognized for the ability to provide strategic and tactical solutions to complex manufacturing, engineering and support operations. He has an expertise that integrates engineering, process, facilities, equipment, information technology and people resources.

Please join us at 11:30 a.m. at the Santa Ana/OC Airport Holiday Inn, located at 2726 South Grand Boulevard, Santa Ana, CA 92705, and please remember to RSVP to Joe Munsey at jmunsey@semprautilities.com. We'd love to see a huge turn-out again.

Looking forward to seeing you all on the 12th!



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Case of the Month:

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CHAPTER BUSINESS MEETINGS – SUCCESS IS OUR GOAL

Your Chapter's Executive Board continues its duties and obligations to chart the success of the premier IRWA Chapter. We encourage members to attend and see your Executive Board in action.

The Executive Board meets immediately after the general IRWA 67 luncheons
Next Board Meeting is: October 12, 2010.

October 2010 SPEAKER

Barry McDaniel, CEO of Overland, Pacific & Cutler, Inc.
Daniel Belliveau, P. E.

"A Different Approach to Complex Business Relocations"



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EDITOR'S CORNER

Katherine Contreras, Esq.

I hope everyone enjoyed the presentation by John Ellis last month. There's no doubt we face an interesting economic climate these days. And your IRWA chapter continues to be the place for you to keep up-to-date, not only at our lunches, but also on our website and newsletter. For example, check out the current article from Nossaman. Looking for education opportunities? We can help with that too. Our newsletter and website also keep current listings of the courses offered by our chapter as well as other nearby areas. These are just a few ways the IRWA can work for you!

Raffle Sponsors

Thank you to the sponsors of our September raffle:

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Have something from your firm for the raffle? Bring it to the lunch and let Joe Munsey know. Thanks!

Board News

Our new executive board is up and running. Our board meets right after the monthly lunch meeting. All our welcome.

Attendance Raffle

Sorry Cynthia Gomez, you missed your chance to win \$100. Don't worry, you (and everyone else) have another chance next week. All you need to do is show up! Good luck.

Hope to see everyone at the lunch on October 12, 2010.

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CASE OF THE MONTH

New Court Decision Addresses Eminent Domain Issues

by Brad Kuhn

The California Court of Appeal issued an interesting unpublished decision addressing a number of eminent domain issues, ranging from right to take challenges, entitlement to goodwill, severance damages, and jury instructions. The case, City of San Luis Obispo v. Hanson, garnered enough attention that several third parties filed Amicus briefs with the Court.

By way of background, the City of San Luis Obispo decided to realign a road partly in order to accommodate a newly approved Costco development. The realignment required right-of-way acquisition from a property on which the Rose Garden Inn operated. After Costco was unable to reach an agreement with the property's owner on the acquisition price, the City adopted an appraisal (which found no severance damages) prepared by an appraiser hired by Costco, made an offer based on that appraisal, and passed a resolution of necessity to acquire the property by eminent domain.

The property owner's right to take challenge was unsuccessful, and the case proceeded to trial on compensation. The trial court found the Inn was not entitled to lost business goodwill, and the jury returned a verdict finding only about a quarter of the amount of severance damages claimed by the owner.

On appeal, the following issues were decided:

- The Road Realignment Met the "Public Necessity" Test: While the road realignment was partly caused by Costco's project, and Costco would clearly benefit from the realignment, the project still met the "public necessity" test in that the road was needed by the public and the City had considered realignment regardless of the Costco development.
- The City's Adoption of Costco's Appraiser's Value Was Appropriate: The Court held that the City could adopt the opinion of the appraiser retained by Costco (instead of hiring its own appraiser to value the take), as long as the appraiser was independent and impartial, and the City was not required to turn over the full appraisal on which its offer was based (it was only required to provide a copy of the summary basis of appraisal).
- The City was not Precommitted to Taking the Property by Eminent Domain: Even though the Costco project was already approved (which required the realignment), the City did not abuse its discretion in adopting the resolution of necessity because it was not precommitted to the taking; the City substantially debated the issue and ultimately could have modified the realignment had it chosen to do so.



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- The City's Severance Damages Determination Was Appropriate: The City's appraiser determined the severance damages suffered solely based on the cost to cure method of valuation, and it assumed that the City would build driveways on the remainder of the property. The Court held that the appraiser was not required to value the remainder of the property before and after the taking, and that a condemning agency may agree to do work on the owner's property to reduce compensable damages (as long as it does not contradict the resolution of necessity).
- The Trial Court Appropriately Declined to Allow Testimony on the Business' Alleged Lost Goodwill: The business' goodwill appraiser determined that the business possessed goodwill equal to ten percent of total income, and that all the goodwill would be lost because of the uncertainty of the project. The court appropriately excluded this testimony because it was already part of the appraiser's calculation of severance damages the business would suffer, and because the appraiser's ten percent figure was arbitrary and could not be supported.
- The Jury Instruction Stating the Costs of the Acquisition Would be Borne by the Public Was Appropriate: The jury was not told that Costco would be paying the ultimate costs of the acquisition, but instead that the public must pay the compensation. The Court held this instruction was appropriate, as the jury need not be made aware of Costco's role, and ultimately, Costco may be partly reimbursed by the City if Costco paid more than its fair share of the roadway (since other property owners benefiting from the project must pay a portion as well through assessments/development impact fees).

In all, this was an exciting case for us in the eminent domain field, as it dealt with many issues that rarely occur in one case. Although the case is unpublished, and therefore cannot be cited as law, it is useful to see how at least one Court of Appeal panel views these issues.



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NEWS AND EVENTS

NEW MEMBERS AND TRANSFERS

NEW MEMBERS

Nothing to Report

TRANSFERS

Nothing To Report

NEWS

Congratulations to Linda Mansfield and Scott Burns on receiving their SR/WA designation

EVENTS

Board Meeting:

The next board meeting October 12, 2010 immediately following the luncheon.

Tri-Chapter Luncheon:

December 7th at the Mission Inn, Hosted by Chapter 57.

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ARTICLES

Latitude & Longitude – Practical Relationships

James “Mike” Hart, PLS, CFedS

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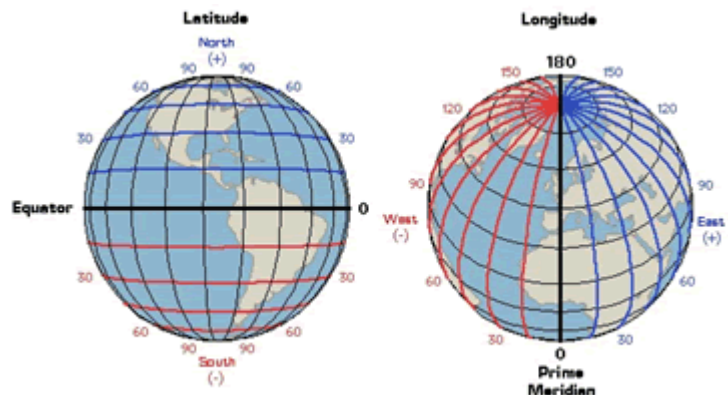


With the ready availability of inexpensive and reasonably accurate Global Positioning System (GPS) receivers, it seems that everyone is getting in on the act of using GPS for many things. Many people have vehicle navigations systems in their cars and on their phones that guide them to destinations very quickly and accurately. Right of Way (ROW) professionals are using recreational grade, handheld GPS receivers in increasing numbers. There are a wide variety of manufacturers offering rugged handheld GPS units for under \$200 that, in addition to being able to provide navigation on background maps, provide very accurate positions on the face of the Earth. All basic units will display position on the Earth’s surface in terms of geographic coordinates – Latitude and Longitude.

Latitude is the angular distance north or south of the equator as measured from the center of the earth with the equator having a Latitude of 0° and the North and South Poles having a latitude of +90° and -90°, respectively. The latitude of San Diego, for example, is approximately 32.7152778° North (of the Equator).

Longitude is the angular distance measured from the center of the earth and east or west of the Greenwich Meridian that passes from the North Pole, through the Royal Observatory in Greenwich England, to the South Pole. The Greenwich meridian has a longitude of 0°. The longitude of San Diego is approximately 117.0405556° West (of the Greenwich Meridian).

Recreational grade GPS receivers can output the Latitude/Longitude (Lat/Lon) position in a variety of formats: degree decimal (DDD.dddd) , degrees and decimal minutes (DM.mmmm), or degrees-minutes-seconds (D-M-S).





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The Lat/Lon of San Diego, for example, expressed in the various formats is as follows:

DDD.dddd = N32.7152778° W117.0405556°

DM.mmm = N32°42.9167' / W117°02.4333'

D-M-S = N32°42'55" / W117°02'26"

What do these various units actually equate to distances in feet on the ground?

The length of one degree of latitude is the same all over the Earth – approximately 69 miles. Therefore, one minute of latitude equals approximately 1.15 miles (6081 feet) and one second of latitude equals approximately 0.02 miles (101 feet). At the equator, one degree of longitude equals the same distance as a degree of latitude but that distance decreases as one progresses north or south away from the equator with the distance being zero at each pole.



At the latitude of San Diego, one degree of longitude equals about 58 miles (as opposed to 69 miles at the equator), one minute of longitude equals about 0.97 miles (or 5116 feet – as opposed to 6081 feet at the equator), and one second of longitude equals about 85 feet (as opposed to 101 feet at the equator).

Note that the distances and relationships presented are approximate only. Hopefully this will help broaden your understanding of what the GPS unit is telling you when working in geographic coordinates. Subsequent articles will address other aspects of GPS that should prove useful to the ROW professional that uses GPS.

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Mike Williams, Education Chair

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