



BUNDLE OF WRITES

INTERNATIONAL RIGHT OF WAY ASSOCIATION

18101 Von Karman, Suite 1800
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www.irwa67.org

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Next Meeting:
Tuesday
September 14, 2010

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PRESIDENT'S MESSAGE

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

Where did the summer go? They've been calling it the "bummer summer" due to the cooler temperatures, but the heat is here, and I think we're really in for it now. Hopefully, you've all had a great summer with fun vacations and are refreshed and ready to bring some new energy into our fall season.

We reconvene on Tuesday, September 14th as our monthly luncheons begin again. It will be good to see familiar faces, and our speaker's topic should prove to be very interesting and timely. John G. Ellis, MAI, CRE, FRICS, Managing Director of Integra Realty Resources – Los Angeles, will be discussing "current real estate market conditions; how did we get there; what are the trends moving forward; and did we hit bottom yet." 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.

A few of us, including your recent Past-President, Mike D'Angelo, and myself, attended the Annual International Education Conference at the end of June in Calgary, Alberta. There were 966 attendees, which was a great turn-out considering the current economic conditions and the out-of-country conference location. There were many interesting educational sessions, and it was an eye-opener to hear about Canadian right of way and expropriation rules and practices compared to our own eminent domain laws.

On your behalf, as your International Directors, we voted on various proposed International Board resolutions, including: 1) the use of IRWA credentials, 2) membership positions on the International Executive Committee and 3) the location/timing of the annual membership meeting. All three resolutions (International bylaws amendments) **passed**. (Details on each of the amendments can be found on the IRWA website: www.irwaonline.org.)

In addition, we voted on our preference for the host city of the 2015 Annual International Education Conference. San Diego won, so congratulations to our sister Chapter! Mike also presented a \$750 donation to the Right of Way International Education Foundation and a \$250 donation to the Canadian Right of Way Foundation on behalf of Chapter 67.

As your Professional Development Committee Chairperson, I attended a session on the new Right of Way Professional Career Path being launched by IRWA beginning October 1, 2010. It will offer our members the opportunity to obtain professional right of way "generalist" certifications in less time and/or prior to achieving the SR/WA designation. Please review the article titled "**New Right of Way Professional Career Path Being Launched by IRWA**" in this month's issue of the newsletter for a full description of the new certification program and upcoming changes to the SR/WA designation program.

Looking forward to seeing you all on the 14th!



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Mike D'Angelo
Katherine Contreras

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: September 14, 2010.

September 2010 SPEAKER

John G. Ellis, MAI, CRE, FRICS
Managing Director of Integra Realty Resources – Los Angeles

Current real estate market conditions;
How did we get there;
What are the trends moving forward;
And did we hit bottom yet.



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EDITOR'S CORNER

Katherine Contreras, Esq.

Welcome back. I hope everyone had a great summer. Although we have not had Chapter lunch meetings, there is still a lot going on in the IRWA. Our Education chair and committee has been working hard to bring courses to our members. Please check out the Education section of the newsletter for more information. And our Executive Board attended the International conference in June, so look for more information about that. We also have some great lunch speakers planned for this fall, so stay tuned and be sure to check our website for information.

Raffle Sponsors

Remember, each month we draw a member's name. If that member is there, he or she will win a cash prize. This month's winner could be you! So show up for your chance to win.

Board News

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

Looking forward to seeing you all at the lunch on September 14th.

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CASE OF THE MONTH

Relocation Expenses Not Compensable as "Mitigation" for Lost Goodwill
By: F. Gale Connor

Is it rational to spend in excess of \$1,000,000 to move and reestablish a business worth only \$126,000? Putting aside the rhetorical nature of this question, the owners of a catering truck supply company who spent more than \$1.3 million to move and reestablish their business, learned the hard way that it is not.

In *Los Angeles Unified School District v. Rudy Casasola* (opinion filed August 5, 2010), the Court of Appeal for the Second Appellate District waded into the murky relationship between the Eminent Domain Law (CCP §§1230.010, *et seq.*), which provides compensation for lost business goodwill in eminent domain actions, and the Relocation Assistance Act (Gov. Code §§7260, *et seq.*), which provides recovery for moving and reestablishment expenses caused by public projects in a separate administrative proceeding. The *Casasola* decision expanded on the statutory distinctions between relocation expenses and loss of business goodwill. As a result, despite the fact that many of the expenses incurred by the business owners were non-compensable under the Relocation Assistance Act, the *Casasola* court concluded that they were not recoverable in the eminent domain action either.

To understand how the *Casasolas* found themselves in this predicament, one must understand the interplay between the Eminent Domain Law and the Relocation Assistance Act. Under the Eminent Domain Law, the owner of a business conducted on property taken must take such steps as a "reasonably prudent person" would take to mitigate the loss of goodwill (C.C.P. §1263.510(a)(2)). This often involves a relocation of the business, for which compensation may be sought under the Relocation Assistance Act. Such compensation is, however, "independent of the condemnation proceedings." (*Baldwin Park Redevelopment Agency v. Irvine* (1984) 156 Cal.App.3d 428, 438.) But a business owner's effort to mitigate the loss of goodwill – such as relocating the business – may also become part of the claim for lost goodwill. (*People Ex Rel. Dept. of Transportation v. Muller* (1984) 36 Cal.3d 263, 271-272.)

Whether the Eminent Domain Law (§1263.510(a)) **requires** that moving and related expenses be paid **only** under the Relocation Assistance Act, or whether it merely prohibits double payment for expenses that could potentially be recouped under either statute, was addressed by the Court in *Redevelopment Agency of the City of Emerville v. Arvery Corporation* (1992) 3 Cal.App.4th 1357. The *Arvery* Court concluded that expenses which may be characterized as moving or reestablishment expenses under the Relocation Assistance Act are recoverable solely thereunder, and not in an eminent domain action. Thus, a business owner seeking compensation for mitigation expenses as part of a loss of goodwill claim must prove that such expenses are not recoverable under the Relocation Assistance Act. (*Id.* at 1364)

In *Casasola*, the business owners conceded that the expenses for which they claimed reimbursement were "relocation" expenses. That is, they were expenses incurred to



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relocate their catering business from the condemned property to the relocation site. A significant amount of these expenses were in the nature of "reestablishment expenses," meaning costs associated with setting up the new location to match the business' needs. Under the Relocation Assistance Act, compensation for such expenses are capped at \$10,000. (Gov. Code §7260(a)(4).) For this and other reasons, the School District disallowed the \$1.3 million claim, while paying only \$224,252 for relocation and reestablishment expenses.

In an attempt to circumvent the *Arvey* decision, the Casasolas argued that since their \$1.3 million in relocation expenses were not compensable under the Relocation Assistance Act, and were actually and reasonably incurred to mitigate loss of goodwill, they were compensable as mitigation expenses under *Muller* and §1263.510.

The courts in both the *Arvey* and *Casasola* cases wrestled with the fact that although the goodwill code section and the Relocation Assistance Act were codified in separate codes, they concern related subject matters. Both address compensation for a business forced to move when property is taken by eminent domain. In an effort to harmonize these statutes, the *Arvey* court concluded that a displaced business owner could not recover under the Eminent Domain Law expenditures expressly recoverable under the Relocation Assistance Act. The *Casasola* court took this analysis one step further. It concluded that a displaced business owner may not recover under the Eminent Domain Law expenditures expressly deemed *nonrecoverable* under the Relocation Assistance Act, either because they are part of a class of nonrecoverable expenses or because they exceed the \$10,000 cap on reestablishment expenses.

The *Casasola* court acknowledged an apparent disconnect between the Legislature's decision to make moving expenses fully compensable while capping reestablishment expenses at \$10,000. However, the Court noted that it could not second guess the way in which the Legislature fashions a statutory remedy. Thus, the Court concluded, the Casasolas' interpretation of the goodwill code section as permitting compensation for all actual and reasonably incurred, but otherwise uncompensated relocation expenses, "would render meaningless the carefully drawn statutory distinction between these categories of expenses."

The *Casasola* court left the door open for recovery of expenses incurred to mitigate loss of goodwill. However, if the "mitigation" expenses are in fact "relocation" expenses, they will either be compensable under the Relocation Assistance Act or not at all.



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NEWS AND EVENTS

NEW MEMBERS AND TRANSFERS

NEW MEMBERS

Bruce Hunsaker
Steve Knoblock
Cheryl Sanders

TRANSFERS

Julie Angle

NEWS


Chapter 67 Member Recognized:

The American Association of Professional Landmen held its annual seminar in Vail, Colorado this past summer. The Los Angeles Chapter of Professional Landmen was awarded the best newsletter [small chapter category]; Chapter 67 member Joe Munsey, RPL, holds the newsletter chair at LAAPL.

EVENTS

Board Meeting:

The next board meeting September 14, 2010 immediately following the luncheon.



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ARTICLES

New Right of Way Professional Career Path Being Launched by IRWA

By Michele Folk, SR/WA, R/W-RAC; President /PDC Chair for Chapter 67
Principal/Vice President - Overland, Pacific & Cutler, Inc.

IRWA is launching a new professional development program with several “generalist” certifications along the path to the SR/WA designation. The SR/WA designation will still remain the highest designation that can be achieved in the IRWA organization. In addition to the current *specialist* certifications (Negotiations/Acquisition, Relocation Assistance, Appraisal, Uniform Act, etc.), three new *generalist* certifications will be offered beginning October 1, 2010.

Right of Way Agent Certification (RWA) – has a minimum of one year of experience; requires a minimum of a two-year degree (or has met in lieu requirements in the form of additional course units); has completed 40 units in beginning IRWA approved courses or has successfully challenged the exams of the courses; has taken 8 units in an IRWA ethics course. No capstone exam. No recertification required.

Associate Right of Way Professional Certification (ARWP) – has achieved the Right of Way Agent certification or met the qualifications; has a minimum of two years of experience; has completed 88 units (cumulative) in beginning or intermediate IRWA approved courses or has successfully challenged the exams of the beginning courses; and has taken 8 units in an IRWA ethics course (within the past 5 years). No capstone exam. Recertification required every 5 years.

Right of Way Professional Certification (RWP) - has achieved the Associate Right of Way Professional certification or met the qualifications; has a minimum of three years of experience; has completed 144 units (cumulative) in beginning, intermediate or advanced IRWA approved courses or has successfully challenged the exams of the beginning courses; and has taken 8 units in an IRWA ethics course (within the past 5 years). No capstone exam. Recertification required every 5 years.

Members can begin declaring their candidacy for any of the certifications described above as of October 1, 2010. Members have 5 years from the date the candidacy application is approved to complete the certification requirements for the certification level for which they have applied.

The new career path being introduced will give members a chance to achieve certifications in less than the 5 years needed to obtain the SR/WA designation. Yet all the education and experience gained while achieving the lower tiered certifications can be used towards the SR/WA designation as well. A member who has fulfilled the requirements for any of the upper tier certifications does not have to apply for candidacy for the lower tier certifications but can jump right in to the level for which they qualify assuming they have met the requirements of the lower levels.

Benefits include motivating individuals new to our field, who can accomplish a certification within a year. Professional designations/certifications assist us with advertising our expertise in the right of way field and garner respect within the



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industry as well as from prospective clients and agencies, who understand the amount of education and experience that is required to achieve our designations and certifications. Right of way is a profession – not a trade.

In addition to the new generalist certification program, a couple of requirements to attain the SR/WA designation will change beginning October 1, 2010. The designation will then be known as “Senior Right of Way Professional.” Most of the requirements will remain the same, although there will be a greater number of course units required (40 additional units).

Senior Right of Way Professional (SR/WA) - has achieved the Right of Way Professional certification or met the qualifications; has a minimum of five years of experience; has a minimum of a four-year university/college degree (or a total of 9 years of experience, if substituting for education or an additional 256 units of coursework if substituting); has completed 208 units (cumulative) in beginning, intermediate or advanced IRWA approved courses over seven disciplines or has successfully challenged the exams of the beginning courses; has taken 8 units in an IRWA ethics course (within the past 5 years); and has successfully passed the capstone exam. Recertification required every 5 years.

Important to note:

Anyone, who is **currently** a candidate for the SR/WA designation, is grandfathered into the current program and requirements (as of the date of their candidacy approval) before they change on October 1, 2010.

Anyone, who applies for candidacy for the SR/WA designation **prior to** October 1, 2010, will be part of the current program and requirements – not the new program and requirements being implemented on October 1, 2010.

If a **current** candidate does not believe they will complete all requirements for the SR/WA designation before the end of their 5 year candidacy period, they can re-apply for candidacy **prior to** October 1, 2010, and they will be given an additional 5 years to complete the requirements for the SR/WA designation under the current program.

So in other words, if any member is even considering applying to be an SR/WA candidate, or if you are a current candidate who is running out of time to finish your remaining requirements, it would behoove you to apply, or re-apply, for candidacy **before October 1, 2010**, when the increased requirements will be implemented.

As for the new generalist certifications, there are many more details to the program, which will soon be available online at the IRWA website (www.irwaonline.org). The current SR/WA designation program guide is also available on the IRWA website. Or please contact your Professional Development Chair, **Michele Folk** (mfolk@opcservices.com), if you have any questions or need assistance with a candidacy application. **All candidacy applications must go through the PDC Chair prior to being forwarded to IRWA HQ.**

Mike Williams (Mike.Williams@hdrinc.com) is your Education Chairperson, and we urge to take a look at any remaining courses you may need to fulfill the requirements for a current candidacy or to complete the requirements for a new candidacy based on the new certification program launching in October. Please contact either of us with course requests.



The Boustrophedonic Pattern – What?

James “Mike” Hart, PLS, CFedS
Surveying & Engineering Chair for Region 1 and Ch. 11
Towill, Incorporated



The term *boustrophedonic* means “as the oxen plows” or “as the oxen turns,” and it is easy to see how that description nicely fits the boustrophedonic pattern shown to the left. So, how does this apply to those of us in IRWA?

As you may know, in the U.S. Public Land Survey System (PLSS), the foundational land fabric for most of the United States, the 6 x 6 grid of 36 sections in the township are numbered beginning with “1” in the northeast corner of the township, then alternating east to west then west to east until reaching the last section “36” in the southeast corner.

In Canada, the Dominion Land Survey (DLS) also uses boustrophedonic numbering, but its maps start numbering in the southeast corner.

This numbering scheme is not an invention of the modern era, but it is a characteristic of several early languages. It was used in ancient Egyptian hieroglyphics and Greek manuscripts prior to 600 B.C., and mirrored boustrophedonic writing is demonstrated in the Rongorongo language on Easter Island’s stone head statues. While Rongorongo has never been deciphered, anthropologists have determined its boustrophedonic pattern also rotates every other line of text 180° vertically. Because those of us in right of way so heavily rely on surveying maps, we can be thankful that the cartographers who designed the public land systems chose basic boustrophedon and not mirrored boustrophedon!

36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6



**Square Pegs, Round Holes, Easy Targets:
Valuing Special-Use Property in Eminent Comain**

By John C. Murphy, JD and Emily L. Madueno, JD

Please look for this article at the end of this newsletter.

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Mike Williams, Education Chair

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\$100 Course Discount Coupon: Bring your coupon to the monthly luncheons and once you've obtained three months of initials from our Treasurer, the coupon can be redeemed for \$100 off of any Chapter 67 offered course. Coupons can be found on the last page of the "Bundle of Writes", our chapter's monthly newsletter.

Both of these incentive programs are great deals, so take advantage of them while they're available!

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ABSTRACT

Fair market value is just compensation's standard measure in eminent domain and inverse condemnation. Is fair market value, however, actually "just"? Other standards, such as use value, may better serve the constitutionally mandated just compensation. California's unique approach values churches, schools, and other nonprofit, special-use properties based on replacement cost without depreciation, and it may offer an especially promising standard to measure just compensation. California's approach may be more appropriate to value just compensation for any special-purpose property or other property lacking a relevant, comparable market.

Square Pegs, Round Holes, Easy Targets: Valuing Special-Use Property in Eminent Domain

by John C. Murphy, JD, and Emily L. Madueno, JD

Fair market value constitutes the standard, conventional measure of just compensation in eminent domain.¹ Appraisers obviously rely on, and find useful, the fair market value standard in completing assignments for lenders, investors, and taxing authorities. Fair market value's dominance, however, should not be accepted without question.

Eminent domain, which is "the power of the sovereign to take property for 'public use' without the owner's consent,"² can raise unique and troubling policy issues. In the context of eminent domain, appraisers should recognize that the fair market value standard may not be fair or even legally appropriate.³ It is just one of several means to an end—constitutionally guaranteed just compensation.

Problems for fair market value and property valuation arise in eminent domain when a property has a limited resale market or is designed for a special use. Nonprofit, special-use properties (churches, schools, meeting halls) expose a major flaw in eminent domain law. Fair market value, as the standard measure of just compensation, is often simply not just.⁴ Value in use, rather than value in exchange,

1. See, for example, Cal. Code Civ. Proc. § 1263.310 (Deering, LEXIS through 2009 Sess.); *United States v. Miller*, 317 U.S. 369, 374 (1943); *Redev. Agency of the City of Long Beach v. First Christian Church of Long Beach*, 140 Cal. App. 3d 690, 697 (Cal. Ct. App. 1983); *Hous. Auth. of the City of E. St. Louis v. Kosydor*, 162 N.E.2d 357, 359 (Ill. 1959); and *State of New Jersey v. T'ship of So. Hackensack*, 322 A.2d 818, 821 (N.J. 1974).

2. 1 *Nichols on Eminent Domain*, Ch. 1, § 1.11 (Matthew Bender, 3d ed.).

3. For example, see Cal. Evid. Code §§ 823, 824 (Deering, LEXIS through 2009 Sess.) and Cal. Code Civ. Proc. §§ 1263.320(b), 1263.321.

4. See Gideon Kanner, "Unequal Justice Under Law: The Invidiously Disparate Treatment of American Property Owners in Taking Cases," 40 *Loy. L.A. L. Rev.* (2007): 1065, 1091–1092, which states "fair market value...excludes factors that individual sellers and buyers in a voluntary market transaction would consider...Just compensation [using fair market value] means incomplete compensation." See also, Cal. Code Civ. Proc. §§ 1263.320(b), 1263.321; *First Christian Church*, 140 Cal. App. 3d at 697–698; Cal. Sen. Judiciary Committee Background Information 5-5957, S.B. 821; Opening Statement, Cal. S.B. 821 (May 24th version) Senate Floor, May 30, 1991; and Cal. Assembly Committee on Judiciary, S.B. 821 (Petris), as amended: August 20, 1991, date of hearing: July 17, 1991.

may offer a more defensible standard to determine just compensation for special-use properties.⁵

States such as California, Florida, New York, Illinois, and New Jersey have adopted unique approaches for valuation of churches, schools, and other nonprofit, special-use properties to ensure just compensation. The statutes go beyond fair market value—they call for an award of full replacement cost. For example, California’s approach is based not on fair market value, but on the replacement cost without depreciation.⁶ In addition, nonprofits may recover lost business goodwill in California and elsewhere.⁷

There are a several reasons behind special valuation for special-use properties:

- Churches, schools, and other nonprofit, special-use properties are often unique or quirky structures.
- Churches, schools, and other nonprofit, special-use properties seldom sell in arm’s-length transactions.
- Churches, schools, and other nonprofit, special-use properties are often easy targets for condemners, since they do not contribute to property tax revenues.⁸

Good arguments also exist for extending this replacement cost approach to other contexts, especially where a court can find that no relevant, comparable market exists. Attorneys representing landowners may consider seeking such a finding

whenever the property qualifies as special-use, regardless of whether it is used by a nonprofit.

Conventional Fair Market Valuation of Real Property

Fair Market Value Defined

Fair market value is the price that a willing buyer will pay to a willing seller, and that a willing seller will accept, with knowledge of all possible uses of the property.⁹ It assumes the existence of a market in comparable properties—a market that may or may not exist.¹⁰

Appraisers and courts primarily use three methods to determine fair market value in condemnation cases: (1) sales comparison approach, (2) cost approach, and (3) income capitalization approach. The cost approach has two components: replacement cost and reproduction cost.¹¹

All three approaches are market based. The comparable sales approach, also known as the market data approach, considers the value of property deemed comparable to the property being valued. Fair market value is derived from the sale price of comparable properties recently sold on the open market.¹² The cost approach considers the cost to replace or reproduce the property, but it looks to the market to determine appropriate costs and, if applicable, depreciation.¹³ The income capitalization approach depends on a capitalization rate to determine value. The capitalization rate is derived from market-based transactions of similar properties.¹⁴

5. “Use value appraisals often involve limited-market properties, i.e., properties of a type that has relatively few potential buyers at a particular time.” Appraisal Institute, *The Appraisal of Real Estate*, 13th ed. (Chicago: Appraisal Institute, 2008), 27–28. *Value in use* is the “value of a property assuming a specific use, which may or may not be the property’s highest and best use on the effective date of the appraisal,” while *value in exchange* is “attribution of value to goods or services based on what can be obtained for them in exchange for other goods and services.” Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 5th ed. (Chicago: Appraisal Institute, 2010), 206.

6. Cal. Code of Civ. Proc. § 1263.321, enacted in 1992, and Cal. Evid. Code § 824(a).

7. See, for example, Cal. Code Civ. Proc. § 1263.510; Cal. Govt. Code § 7260(d) (Deering, LEXIS through 2009 Sess.); Relocation Assistance and Real Property Acquisition Guidelines, Cal. Code Regs. tit. 25, § 6008(b) (2009), defining *business* as, among other things, “any lawful activity... by a nonprofit organization”; and *Purcell v. Summers*, 145 F.2d 979, 982–985 (4th Cir. 1944), stating no “religious society can live by faith alone but must be supported by contributions from its members.” See also, *Christian Sci. Bd. of Dirs. of the First Church of Christ v. Evans*, 520 A.2d 1347, 1351 (N.J. 1987), recognizing that a church can establish goodwill.

8. Cal. Sen. Judiciary Committee Background Information S.B. 821; Opening Statement, Cal. S.B. 821; and Cal. Assembly Committee on Judiciary, S.B. 821. See generally, Martin H. Aaron and John H. Wright, Jr., *The Appraisal of Religious Facilities* (Chicago: Appraisal Institute, 1997).

9. See, for example, *The Dictionary of Real Estate Appraisal*, 75; Cal. Code Civ. Proc. § 1263.320(a); 735 Ill. Comp. Stat. Ann. 30/10-5-60; 26 Pa. Cons. Stat. § 703 (Deering, LEXIS through 2009 Sess.); *Olson v. United States*, 292 U.S. 246, 257 (1934); *Sacramento So. R.R. Co. v. Heilbron*, 104 P. 979, 981 (Cal. 1909); *Pinellas County v. Carlson*, 242 So. 2d 714, 716 (Fla. 1970); *Kosyodor*, 162 N.E.2d at 359; *Keator v. New York*, 244 N.E.2d 248, 249 (N.Y. 1968); and 4 *Nichols* § 12.02[1].

10. *Miller*, 317 U.S. at 374; and 4 *Nichols* § 12C.01[1], stating “market value presupposes a willing buyer and willing seller.”

11. *Replacement cost* is the “estimated cost to construct, at current prices as of the effective appraisal date, a substitute for the building being appraised using modern materials and current standards, design, and layout.” *Reproduction cost* is the “estimated cost to construct, at current prices as of the effective date of the appraisal, an exact duplicate or replica of the building being appraised, using the same materials, construction standards, design, layout, and quality of workmanship and embodying all the deficiencies, superadequacies, and obsolescence of the subject building.” Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., 385.

12. *Ibid.*, 141–142, 297–356.

13. *Ibid.*, 142, 375–444.

14. *Ibid.*, 142–143, 445–558.

Is Conventional Fair Market Value Fair?

Fair market value may provide a convenient and practical standard for valuing just compensation.¹⁵ Several courts and commentators have pointed out, however, that fair market value is not always fair or just to property owners.¹⁶

Can fair market value, an objective standard, ever fully compensate a landowner for a property's subjective value to that landowner? There is a fundamental irony in real property law: all land is supposedly unique.¹⁷ Yet, appraisal theory depends on the principle of substitution, as *The Appraisal of Real Estate* states, "property values tend to be set by the price of acquiring an equally desirable substitute property."¹⁸

There is also a fundamental shortcoming in eminent domain law: The Fifth and Fourteenth Amendments to the U.S. Constitution require just compensation and due process. Yet, the fair market value measure may shortchange owners. For example, fair market value offers no compensation for the subjective premium each landowner places on property, transaction costs, personal stress/disruption, delay, or uncertainty. Fair market value also ignores a property's sentimental value to an owner and its investment value—the value of property to a particular investor based on that investor's investment goals.¹⁹ The value of property based on

any of these subjective valuations will vary by person and property.

Problems with Fair Market Value in Valuing Nonprofit, Special-Use Properties

Fair market value as a standard to determine just compensation in eminent domain breaks down frequently in the case of nonprofit, special-use property.²⁰ There are four main problems for the fair market value standard when it is used to value churches and schools:

1. Little market data may exist for nonprofit, special-use property.²¹
2. Even if market data do exist for nonprofit special-use property, the market may not be relevant. These sales often occur in transactions that are not arm's length. This makes the sales unusable for comparison purposes. Non-arm's-length transactions may occur when (a) the seller or buyer is experiencing financial distress, (b) the seller or buyer is motivated by charitable or nonmonetary impulses, or (c) the seller or buyer has no personal stake in the sale price.²²
3. Even if a market exists, the data will be hard to compare. Comparison of nonprofit, special-use properties is often impossible.²³
4. As mentioned previously, nonprofit, special-use properties may be special targets for eminent domain. Moreover, these properties are not

15. *United States v. 564.54 Acres of Land*, 441 U.S. 506, 511 (1979), stating "we have recognized the need for a relatively objective working rule...The Court therefore has employed the concept of fair market value to determine the condemnee's loss."; *Miller*, 317 U.S. at 374; and *First Christian Church*, 140 Cal. App. 3d at 697, stating "generally speaking, the most widely used and perhaps most easily applied concept is that of 'fair market value.' "

16. See, for example, *564.54 Acres of Land*, 441 U.S. at 511–512, acknowledging that fair market value may fail fully to indemnify an owner for his loss, especially if the owner's property is special-use property; *United States v. Commodities Trading Corp.*, 339 U.S. 121, 123 (1950), recognizing that using a fair market value standard may "result in manifest injustice"; *First Christian Church*, 140 Cal. App. 3d at 699, 704, affirming use of reproduction or replacement costs less depreciation method to value church property because fair market value would not achieve a correct result; Kanner, "Unequal Justice Under Law," at 1091, stating "just compensation is judicially defined primarily as fair market value, in such a way that it excludes factors that individual sellers and buyers in a voluntary market transaction would consider...the judicially formulated measure of compensation inherently excludes a variety of incidental losses suffered by condemnees."; and Gideon Kanner, "Condemnation Blight: Just How Just Is Just Compensation?" 48 *Notre Dame L.* (1973): 765, 773–776.

17. *Basurco v. 21st Century Ins. Co.*, 108 Cal. App. 4th 110, 120 (Cal. Ct. App. 2003), stating "the fundamental maxim that each parcel of land is unique." See also, Cal. Civ. Code § 3387, providing it is presumed that "the breach of an agreement to transfer real property cannot be adequately relieved by pecuniary compensation."

18. Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., 39, 298–299; see also Kanner, "Condemnation Blight," at 774.

19. Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., 28–29.

20. *Kosydor*, 162 N.E.2d at 359, explaining that exceptions to the fair market value standard "occur only when property has special capabilities which make it unmarketable at its true value due to unique improvements"; 4 *Nichols*, § 12C.01[1]; *First Christian Church*, 140 Cal. App. 3d at 697, explaining that fair market value may not achieve the correct result, such as with a church, for "in eminent domain the property owner generally is forced into accepting the price of a market he did not willingly enter because of lack of a desire to sell at any price"; *Keator*, 244 N.E.2d at 249, explaining that "the character of the [clubhouse and recreational area] is such as not to be susceptible to the rule of fair market value" because "there is no readily recognizable market and testimony as to a fair market price is not usually available."

21. *First Christian Church*, 140 Cal. App. 3d at 697–698, stating "The economic reality of course is that certain types of buildings such as churches are not, as such, regularly bought and sold in the commercial market"; Cal. Sen. Judiciary Committee Background Information S.B. 821; Opening Statement, Cal. S.B. 821, stating that nonprofit, special use properties "do not sell often enough to engender adequate comparison data," unlike more standard commercial or residential properties which sell often.; 4 *Nichols*, 12C.01[1].

22. Cal. Sen. Judiciary Committee Background Information S.B. 821; Opening Statement, Cal. S.B. 821.

23. *Ibid.*, stating "nonprofit, special-use properties are distinctly individual."

on the tax rolls, so they are not generating tax revenues that would be lost by taking the properties.²⁴

In light of these circumstances, it may be more appropriate to determine just compensation in eminent domain for special-use properties using a value-in-use standard. Rather than considering what a willing buyer would pay and a willing seller would accept for property given all the uses to which the property could be put, a value-in-use standard would consider what value the property has to its owner for the owner's particular use.²⁵ The value of the owner's use is especially relevant to special-use properties given that just compensation is intended to place the owner in as good a position as before the taking.²⁶ An owner is placed in as good a position pecuniarily as before the taking if the owner is compensated so as to allow the owner to replace the property and continue the owner's use elsewhere.

Special-Use Valuation Special-Use Property Defined

A special-use or special-purpose property is "a property with a unique physical design, special construction materials, or a layout that particularly adapts its utility to the use for which it was

built."²⁷ The individual qualities of construction or use of a special-use property are not susceptible to having its value proved by standard fair market comparable sales.²⁸ Special-use properties, therefore, generally possess one or more of the following features: (1) physical design features peculiar to a special-use, (2) no apparent market other than to an owner-user, and (3) no feasible economic alternate use.²⁹ Examples of special-use properties include schools, churches, clubhouses, and recreational areas³⁰ as well as transportation corridors/rights-of-way,³¹ railroad terminals,³² and industrial-use properties.³³

How Different Jurisdictions Tackle the Problem

Several jurisdictions across the country agree that special considerations must be used to reach the just compensation to be awarded for special-use property because such property usually lacks a recognizable market or reliable market value.³⁴ Both statutes and case law allow alternate methods for determining valuation of these properties; however, "a uniform method of measuring compensation in the taking of special-use properties has never been developed."³⁵

Some jurisdictions value special-use property based on the cost to reproduce the property minus depreciation.³⁶ Other jurisdictions value special-

24. *Ibid.* The committee observed that in California "the paucity of relevant, comparable market data makes them difficult to value—easy targets for low purchase offers."

25. Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., 27, and *The Dictionary of Real Estate Appraisal*, 5th ed., 206.

26. *So. Pac. Transp. Co.*, 84 Cal. App. 3d at 324; see also *564.54 Acres of Land*, 441 U.S. at 510; and *Miller*, 317 U.S. at 373.

27. Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 184. See also Cal. Code Civ. Proc. § 1235.155, providing *nonprofit, special-use property* is "property which is operated for a special nonprofit, tax-exempt use," but does not include property owned by a public entity.

28. 5 *Nichols*, § 18.06. See, for example, Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., 28; J. D. Eaton, *Real Estate Valuation in Litigation*, 2nd ed. (Chicago: Appraisal Institute, 1995), 227.

29. Eaton, *Real Estate Valuation in Litigation*, 227, citing George L. Schmutz, *Condemnation Appraisal Handbook*, rev., Edwin M. Rams, ed. (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1963), 163.

30. Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., 28.

31. See, for example, *People ex rel. Dep't of Transp. v. So. Pac. Transp. Co.*, 84 Cal. App. 3d 315, 326 (Cal. Ct. App. 1978), analyzing the cost or reproduction method to value a transportation corridor.

32. See, for example, *Lake Shore & Mich. So. Ry. Co. v. Chi. & W. Ind. R.R. Co.*, 100 Ill. 21, 33 (1881), finding a railroad terminal a special use to which fair market value would not apply.

33. See, for example, *City of Commerce v. Nat'l Starch & Chem. Corp.*, 118 Cal. App. 3d 1, 15 (Cal. Ct. App. 1981), recognizing that use of the property for an adhesives manufacturing facility rendered it a special-use property.

34. *Dep't of Transportation v. Byrd*, 273 So. 2d 400, 401 (Fla. App. 1973). See also *Miller*, 317 U.S. at 374, stating where property has no market, "resort must be had to other data to ascertain its value"; and *Keator*, 244 N.E.2d at 249, stating where the character of the property is not susceptible to the rule of fair market value, "an award based on the actual or intrinsic value would be proper, i.e., the current cost of reproduction less depreciation." See, for example, *First Christian Church*, 140 Cal. App. 3d at 698; *City of Chicago*, 228 N.E.2d at 306–307, concluding that the taking of public school property presented a special situation precluding market value testimony; and *Township of South Hackensack*, 322 A.2d at 821–823, explaining that for special use property, such as roadbeds, determining fair market value is inappropriate because roadbeds are not customarily bought and sold.

35. Eaton, *Real Estate Valuation in Litigation*, 228.

36. See, for example, *First Christian Church*, 140 Cal. App. 3d at 698, a pre-California Code of Civil Procedure section 1263.321 case using replacement/reproduction cost minus depreciation as the means to value church property; *Trinity Church in the City of Boston v. John Hancock Mutual Life Insurance Co.*, 502 N.E.2d 532, 536 (Mass. 1987), a non-eminent domain case requiring valuation of church property, which court characterized as special-use property and valued through cost of reproduction less depreciation; and *In re County of Suffolk*, 392 N.E.2d 1236, 1238 (N.Y. 1979), using the cost approach consisting of land value plus replacement cost of the property minus depreciation.

use property through income capitalization.³⁷ The substitute facilities doctrine provides a third method to value special-use property, and it has been used in federal eminent domain matters as well as in a few states.³⁸ The *substitute facilities doctrine* provides that “the award of damages will be in an amount sufficient to pay the cost of constructing a substitute or replacement facility and need not necessarily bear any relationship to the market value of the land taken.”³⁹ In fact, the federal substitute facilities doctrine is very similar to the California approach for valuing special-use property in that both downplay the significance of market value. The next section illustrates the application of this approach.

California’s Approach: Two Examples

The California legislature has expressly provided special treatment for valuation of nonprofit, special-use property where no relevant, comparable market exists.⁴⁰ Just compensation for nonprofit, special-use property is based on replacement cost and is valued by adding together the following costs:

- The cost to purchase land and make it suitable to allow the owner to continue the same nonprofit, special-use, including land value, permits, and design and construction costs for replacement improvements
- The cost to replace similar structures on the replacement land, without taking into consideration any depreciation or obsolescence of the improvements being replaced⁴¹
- The cost of a temporary facility during construction⁴²

In the 1996 case, *People ex rel. Department of Transportation v. International Church of the Foursquare Gospel*,⁴³ the Church of the Foursquare Gospel had owned and occupied a church complex in Anaheim, California, for seventy years since its dedication in 1927. The church was one of the oldest continuously operated churches in Orange County and possessed real historical significance to the congregation, the denomination as a whole, and the community. The church structure displayed unique physical attributes, including its historical lighthouse steeple, stained glass, and baptistery. The congregation had no interest in selling the complex. The California Department of Transportation (Caltrans)—the agency responsible for California’s freeways, among other things—made a prelitigation offer of \$726,000.

At a preliminary bench trial in *Foursquare Gospel*, the court determined that the jury should hear evidence of a replacement or value-in-use standard. The condemning agency redid its appraisal in light of the court’s ruling at the bench trial; however, the agency did not significantly increase the amount of its offer. Ultimately, the verdict and award of litigation expenses totaled \$1.9 million: approximately \$1.35 million for the real estate and improvements, \$100,000 for business goodwill, and \$450,000 for litigation expenses.

In the 2006 case, *People ex rel. Department of Transportation v. Calvary Deaf Church and Southern California District Assemblies of God*,⁴⁴ the church owned and occupied a 50,965-square-foot church complex in Riverside, California, for nearly fifty years, during which it developed a strong and hard-earned

37. See, for example, *United States v. Certain Interests in Property in Cumberland County*, 296 F.2d 264, 269–270 (4th Cir. 1961), using the income capitalization method to value rental housing property; *Coeur d’Alene Garbage Service v. City of Coeur d’Alene*, 759 P.2d 879, 884 (Idaho 1988), using the income capitalization method to measure just compensation of garbage service routes when the city excluded the garbage service from continuing its business in an annexed area; *Sanitary District of Chicago v. Pittsburgh, Ft. Wayne & Chicago Railway*, 75 N.E. 248, 252 (Ill. 1905), affirming admission of evidence regarding the extent of the business done at the railroad terminal station as evidence of property’s value; and *State Roads Commission of Maryland v. Novosel*, 102 A.2d 563, 565 (Md. App. 1954), affirming admission of evidence of income from the property to value lessees’ interest in rental property.

38. See, for example, *City of Chicago*, 228 N.E.2d at 187, providing the substitution approach—consisting of the cost to purchase land and construct substitute facilities—may be used to value condemned public school property; *T’ship of So. Hackensack*, 322 A.2d at 823, holding that the substitute facilities doctrine applies when the state or another condemner takes property that is already devoted to some public use by a municipality or other agency of government.

39. *T’ship of So. Hackensack*, 322 A.2d at 821. See also, *United States v. 50 Acres of Land*, 469 U.S. 24, 30 (1984), holding that the substitute facilities doctrine is not available to value just compensation of a public condemnee’s land when market value is ascertainable; and *City of Chicago*, 228 N.E.2d at 187, holding that the substitution approach consisting of the cost to purchase land and construct substitute facilities may be used to value condemned public school property.

40. Cal. Code Civ. Proc. § 1263.321; Cal. Evid. Code § 824. See also 1 Norman E. Matteoni and Henry Veit, *Condemnation Practice in California*, 3rd ed. (Oakland: Continuing Education of the Bar, 2009), 180–183.

41. Cal. Evid. Code § 824, (a), (b). Because California’s method of valuing special-use property described in section 824 disregards depreciation, it is not a true measure of fair market value.

42. See Cal. Code Civ. Proc. § 1263.510; Cal. Govt. Code § 7262.

43. Orange County Super. Ct. Case No. 752107 (1996).

44. Riverside County Super. Ct. Case No. RIC 398480 (2006).

reputation as a resource for the hearing-impaired community. The church complex itself consisted of a specially equipped sanctuary to accommodate its congregation's disability, a parsonage, a group home, and a duplex used as subsidized housing for selected deaf congregants. The church benefitted from its proximity to the California School for the Deaf. The congregation had no interest in selling to Caltrans. Caltrans sought to condemn the church for the State Route 60/State Route 91/Interstate 215 freeway project.

The church's pretrial motions requested the court to exclude any appraisal testimony that (1) did not treat the church complex as a single, larger parcel; (2) did not value the church complex as a nonprofit, special-use property; (3) was based on a reproduction cost standard; and (4) was based on an erroneous legal instruction to exclude the impact of the church complex's visibility. The case settled favorably for the church before the trial court heard the church's pretrial motions. The motions likely helped spur the settlement.

Caltrans' highest initial offers totaled \$1.6 million. The case settled for \$4.6 million. Caltrans' appraiser had developed thirty different appraisal scenarios to determine the property's value. Among those scenarios, Caltrans' appraiser had valued the property at \$2,530,000 using replacement cost with no depreciation, and at \$2,260,000 using reproduction cost with no depreciation. The church's appraiser, however, had used the replacement cost approach and valued the property at \$4,420,000.

Based on these examples, where special-use valuation provided just compensation for churches,

it would seem appropriate for this approach to be extended to other special-use properties.

A Look at Fair Market Value through the Lenses of Contract and Tort Law

Generally, the ultimate goal in any eminent domain proceeding is of course to determine constitutionally required just compensation.⁴⁵ To qualify as truly "just," just compensation must be measured by what the owner has lost rather than by what the agency has gained.⁴⁶ The principal underlying the goal of just compensation is to reimburse the owner for the property interest taken and to place the owner in as good a position pecuniarily as if the property had not been taken.⁴⁷ In *United States v. General Motors Corp.*,⁴⁸ the U.S. Supreme Court clarified this by stating, "Only in the sense that he is to receive [the value of the interest taken] is it true that the owner must be put in as good position pecuniarily as if his property had not been taken."⁴⁹

Contract Remedies Theory

Under contract law, if one party breaches a contract, the nonbreaching party is generally entitled to expectation damages. *Expectation damages* compensate the injured party for the loss of what was "reasonably anticipated from a transaction that was not completed."⁵⁰ The damages are based on what the injured party bargained for when entering the contract. The goal is to ensure the injured party receives the benefit of the bargain. Contract damages, therefore, are determined based on the perspective "what if the contract had been performed as planned?" The injured party is only entitled to reasonably foreseeable damages that result from the breach.⁵¹

45. *First Christian Church*, 140 Cal.App.3d at 697.

46. *Ibid.*, stating "[Just] compensation is to be measured by what the owner lost and not what the condemner has gained." (emphasis in original); and *So. Pac. Transp. Co.*, 84 Cal. App. 3d at 324, stating just compensation is measured by "what the owner has lost rather than that what the condemner has gained." See also, *564.54 Acres of Land*, 441 U.S. at 510, 512, referring to just compensation as a "principle of indemnity"; and *Boston Chamber of Commerce v. City of Boston*, 217 U.S. 189, 195 (1910), stating just compensation "merely requires that an owner of property taken should be paid for what is taken from him. It deals with persons, not with tracts of land. And the question is what has the owner lost, not what has the taker gained."

47. *So. Pac. Transp. Co.*, 84 Cal. App. 3d at 324. See also *564.54 Acres of Land*, 441 U.S. at 510; and *Miller*, 317 U.S. at 373.

48. 323 U.S. 373 (1945).

49. *Miller*, 317 U.S. at 379.

50. Bryan A. Garner et al., eds, *Black's Law Dictionary*, 7th ed. (St. Paul: West, 1999), 394. See also *Lisec v. United Airlines, Inc.*, 10 Cal. App. 4th 1500, 1503 (Cal. Ct. App. 1992), stating that "in the law of contracts the theory is that the party injured by breach should receive as nearly as possible the equivalent of the benefits of performance." (Emphasis added.)

51. Cal. Civ. Code § 3300 provides, "For the breach of an obligation arising from contract, the measure of damages...is the amount which will compensate the party aggrieved for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom." See also, *Brandon & Tibbs v. Kevorkian Accountancy Corp.*, 226 Cal. App. 3d 442, 455-456 (Cal. Ct. App. 1990), stating that an injured party's damages for "breach of contract should be such as would fairly and reasonably be considered either arising naturally, i.e., according to the usual course of things, from such breach of contract itself, or such as may reasonably be supposed to have been in the contemplation of both parties, at the time they made the contract, as the probable result of the breach of it." (quoting *Hadley v. Baxendale*, 156 Eng. Rep. 145 (Exch. Div. 1854)); and 1 B. E. Witkin, *Summary of California Law*, 10th ed. (West, 2005), 957-958.

Tort Remedies Theory

A *tort* is “a civil wrong for which a remedy may be obtained, usually in the form of damages” (e.g., negligence, trespass to land, conversion of property).⁵² Because torts differ from contracts, the rule for tort damages differs from the rule applicable to actions for breach of contract.⁵³

Tort damages are based on actual loss to the injured party from all of the consequences of the wrongful act. The goal is to put the injured party in as good a position as before the tort occurred, whether it could have been anticipated or not. Tort damages, therefore, take the perspective, “what if the tort had not occurred?” Also in tort actions, defendants take plaintiffs as they find them. This means that compensation is awarded based on the specific, unique conditions of each injured party. A defendant is liable for a plaintiff’s unforeseeable or even uncommon reactions to the tortious conduct.⁵⁴

Using Contract and Tort Theories of Recovery to Determine Just Compensation

Just compensation’s focus on fair market value frames an eminent domain action as a voluntary (contractual) sales transaction, rather than as the tort of conversion of property. Through fair market value, an owner’s damages are based on the amount the owner could expect to get for the property through a voluntary market transaction. In this way, fair market value provides a convenient and objective standard to determine just compensation with depreciation. Moreover, fair market value encourages settlement.

Yet, contracts involve voluntary participants. In the United States, we may liken our system of government to a voluntary contract between the government and its citizens, but eminent domain forces property owners to become involuntary transaction participants. Torts, on the other hand, involve involuntary participants and may offer a more appropriate comparison for eminent domain.

As a result, fair market value, which assumes a voluntary market transaction, often does not satisfy the goals of just compensation. Land is assumed unique in other contexts and can trigger the often-elusive equitable remedy of specific performance. In eminent domain situations, however, it is assumed that land is not so unique, and that its value can somehow be determined by comparing it to sales of other land. Fair market value, therefore, frequently ignores certain elements of loss that an owner suffers and generally falls short of putting an owner in as good a position pecuniarily as if the taking had not occurred.⁵⁵

Conclusion: A Modest Proposal

Just compensation may be difficult to achieve in eminent domain actions involving special-use properties. However, the courts have stated, “In each case just compensation is the goal and if rigid application of a rule tends to produce an injustice, the court must deviate from that rule.”⁵⁶

This article suggests that to pursue just compensation, courts may hold preliminary hearings regarding which standard—conventional fair market valuation or a special-use valuation method—is more appropriate according to the facts of each case. A tort standard is recommended for determining compensation if any of the following criteria are present:

- Little market data exists
- The market is not relevant to the property sought to be condemned because the sellers are experiencing financial distress, the sellers are motivated by charitable or nonmonetary impulses, or the sellers have no personal stake in the sale prices.
- Even if market data do exist, the data are difficult to compare.

Courts may instruct juries to use a tort measure of damages as appropriate and where fair market

52. *Black’s Law Dictionary*, 1496.

53. 6 Witkin, 1022.

54. Cal. Civ. Code § 3333 provides, “For the breach of an obligation not arising from contract, the measure of damages...is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not.” See also, *Benn v. Thomas*, 512 N.W.2d 537, 539–540 (Iowa 1994), stating that once a plaintiff establishes the defendant caused injuries, liability is imposed “for the full extent of those injuries, not merely those that were foreseeable to the defendant”; 6 Witkin, 1022, stating that in tort actions, “damages are normally awarded for the purpose of compensating the plaintiff for injury suffered, i.e., restoring the plaintiff as nearly as possible to his or her former position, or giving some pecuniary equivalent”; and Garner, 533, stating that “a defendant is liable for a plaintiff’s unforeseeable and uncommon reactions to the defendant’s negligent or intentional act.”

55. 564.54 *Acres of Land*, 441 U.S. at 511–512; *Commodities Trading Corp.*, 339 U.S. at 123; *First Christian Church*, 140 Cal. App. 3d 690; Kanner, “Unequal Justice Under Law,” 1093–1095, stating, when property owners argue that the law should take into account their particular economic situations, i.e., that they should be justly compensated for the demonstrable individual economic losses suffered by them as a result of the specific impact of the taking in issue, the courts respond with the rule that property must be valued as it would be by the market in general, without tailoring damages to the compensatory demands of a particular owner’s losses inflicted by the condemnation; and Kanner, “Condemnation Blight,” 773–787.

56. *So. Pac. Transp. Co.*, 84 Cal. App. 3d at 325.

value would not be just. The alternative tort standard of value would permit a jury to value property based on the undepreciated cost of replacement as California uses it to value nonprofit, special-use property.

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Web Connections

Internet resources suggested by the Y. T. and Louise Lee Lum Library

California Evidence Code Section 824

<http://law.onecle.com/california/evidence/824.html>

California Eminent Domain Report

<http://www.californiaeminentdomainreport.com/>

Church Law Today—Eminent Domain

<http://www.churchlawtoday.com/private/library/pcl/p111.htm>

Worldwide ERC Unique Property Database

<http://www.worldwideerc.org/Resources/MOBILITYarticles/Pages/0708stephenson.aspx>



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