



International Right of Way Association Chapter 67 Orange County, California



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BUNDLE of WRITES

June 2011

President's Message

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

Members:

What a great turn-out for our annual Spring Seminar! Thanks again to Kirsten Bowman, our Event Chairperson, and all of her behind the scenes helpers for their efforts to bring us an educational and interesting seminar.

At our last member luncheon, we voted on our new slate of officers: Rick Rayl - President, Rudy Romo - President Elect, Ben Rubin - Treasurer, Artemis Manos - Secretary and Ray Armstrong - PDC Chairperson. Congratulations to you all!

Rick Rayl and I will be in attendance at the International Education Conference in Atlanta from June 12 – 15 representing Chapter 67 as your voting International Directors. The Board of Directors will be voting on two resolutions:

1. Raising membership dues by \$10 every two years for active and senior members (there will be no increase for retired members.)
2. Changing the way the location of the International Conference is determined. Currently, Chapters can apply and lobby for their city to be selected, and the location, if more than one is presented, is determined by a vote of the International Board of Directors. The proposal up for vote in Atlanta is to rotate the location of the conference amongst the 10 regions, so that if a particular region is up that year, it is up to the region's Chapters to determine who will host the conference. If the region does not have a volunteer, the Board of Directors will determine the location. If a region foregoes the conference in their assigned year, they will have to wait another 10 years to be eligible to host.

Please advise Rick (rrayl@nossman.com) or myself (mfolk@opcservices.com), if you have an opinion about the proposed resolutions. Since we represent all of you with our two votes, any feedback or opinions are much welcomed.

We meet again for our June luncheon on Tuesday, June 14th. Our speaker is Pete Radke of UtiliScan, Inc. Pete will educate us on the latest technology in utility locating and imaging, which provides real time information to planners, agencies, engineers and others, who are developing and planning to work near concealed utilities and sub-structures associated with pre and post construction projects. This is the perfect opportunity for our Chapter to host a "Utility Day," where we will offer free lunch to our members working for utility companies.

Please join us at the Santa Ana/OC Airport Holiday Inn, located at 2726 South Grand Boulevard, Santa Ana, CA 92705, and remember to RSVP to Joe Munsey at jmunsey@semprautilities.com. Our Board Meeting will follow immediately after the luncheon.

This will be my last month as President of Chapter 67. I will continue to serve as your Region 1 Representative to the International Relocation Committee and as a member of the Professional Development Committee. I have really enjoyed serving the Chapter, and thank you to all of my Board and Committee members for volunteering their time and making my term so enjoyable and productive. It is definitely a team effort!

Next Luncheon Meeting

Date: June 14, 2011
"Utility Day"

Luncheon Speaker:
Pete Radke
UtiliScan, Inc.

Topic:
Latest technology in utility locating and imaging which provides real time information to planners, agencies, engineers and others.

Board Meeting

Date: June 14, 2011

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 monthly luncheons.

Special Thanks

IRWA Chapter 67 would like to send out a special thanks to all our sponsors for their continued support.

IRWA CHAPTER 67 OFFICERS

PRESIDENT

Michele Folk, SR/WA
Overland, Pacific & Cutler
(949) 951-5263
mfolk@opcservices.com

PAST PRESIDENT

Mike D'Angelo, Esq.
Palmieri, Tyler, Wiener, Wilhelm & Waldron LLP
(949) 851-7323
mdangelo@ptwww.com

VICE PRESIDENT/PRESIDENT-ELECT

Rick Rayl, Esq.
Nossaman, LLP
(949) 833-7800
rrayl@nossaman.com

SECRETARY

Artemis Manos
(714) 634-3141
agmanos@semprautilities.com

TREASURER

Benjamin Rubin, Esq.
Nossaman, LLP
(949) 833-7800
brubin@nossaman.com

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Editor's Corner

Katherine Contreras, Esq.

Here we are heading into another summer and our last Chapter meeting for a couple of months. I hope everyone gets a chance to enjoy the summer. For most of our board members, their contribution to the Chapter continues, but for me, this will be a longer break. I am happy to be passing my editor's hat to Daniel Chuong. Be sure to join us at the lunch on the 14th to welcome Daniel and the other incoming board members.

Board News

If you are interested in becoming more involved in the chapter, please consider joining the board. There are still positions available. See a board member for more details. The board meets immediately following the monthly lunch meeting. Everyone is welcome.

Drawing Sponsors

Thank you to the sponsors of our May drawing.

If you'd like to donate to the drawing, please bring your donation to the lunch.

Attendance Raffle

Any member who comes to lunch is eligible to win cash!! Just show up for your chance.

Our next lunch is Tuesday June 14th. Hope to see you there.



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MAY LUNCHEON PHOTOS



Brad Kuhn presenting the
"Case of the Month"



Seminar Coordinator: Kirsten Bowman,
of Richards, Watson & Gershon



Guest Co-Speaker: David Cosgrove,
of Rutan & Tucker, discussing the intricacies
of Mobile Home transactions and relocations



Guest Co-Speaker: Mark LaBonte,
of Overland Pacific & Cutler.

Case of the Month

Bradford B. Kuhn, Esq.

Sometimes “Friendly” Eminent Domain Actions Become Not So Friendly

There’s an odd story unfolding in **Mendocino County’s** Brooktrails Township. It dates back to when **Lake Emily** was originally built in 1972, where its development apparently resulted in the partial taking of a number of properties. But the township never paid for the acquisitions. It is unclear how or why the owners let this slide. (My first thought was perhaps no one noticed; but the takings were rather large -- one owner alone lost 1,300 square feet of property.)

Fast forward to more than thirty years later. In 2006, the township decided to raise Lake Emily several feet, which would further inundate the previously impacted properties. This time around, the township decided to pay the owners for the newly inundated portion, and also to pay the *current* fair market value for the past “take.” Seems like a pretty nice act on the part of the township given: (1) it agreed to pay current values for the past take, as opposed to the property’s value in 1972 when the original take occurred, and (2) the owner’s past claims were likely barred by the statute of limitations. So how did this play out?

According to a **Willits News** article, **Roseman case in a nutshell**, the township negotiated and reached agreements with all the property owners. As it should, given its generous offer to pay for the past take. The township apparently filed “friendly” eminent actions and deposited the agreed-upon funds with the State. So far, so good. But things took a turn for the worse. In 2008, one of the owners, the Rosemans, noticed the township’s employees were chopping down trees outside the acquisition area.

The “friendly” eminent domain action became not so friendly. The condemnation action became heated, and the Rosemans’ previously agreed upon \$27,700 compensation was off the table. The case was tried before a jury this year, and the jury found the Rosemans were entitled to \$115,000 as just compensation for the taking, plus an additional \$150,000 as mitigation/cost to cure damages resulting from the needed installation of a retaining wall around the Rosemans’ residence. The township also was hit with paying the Rosemans’ attorneys’ fees and expert witness costs (which apparently exceed \$200,000).

In all, **the township may be on the hook for nearly half-a-million-dollars** -- just a wee bit higher than the originally agreed upon \$27,700. The township may appeal, but this serves as an important reminder of what can happen when public agencies exceed the scope of their take. Eminent domain is already a contentious issue, and when an agency oversteps its bounds, bad things can happen.

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News

Nothing to report.

Events

Upcoming Monthly Luncheons:

June 14, 2011

September 13, 2011

October 11, 2011

November 8, 2011

December 13, 2011 (Tri-Chapter Luncheon)

Board Meetings:

Board meetings are held immediately following the monthly luncheons.



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Ever wonder what's in those sea containers bound for China?

by
Larry Stevens, SR/WA

While I am sure we all are hopeful that those container ships are full of high-priced, high-tech American made products, the reality is a far less encouraging picture. The reality is that the U.S.–China trade partnership is a far from equal one; I'm sure we have all seen those mammoth trade imbalance statistics such as those of 2008: \$71.5 billion U.S. exports to China and \$337.8 billion in imports from China. But, with such a trading imbalance, what returns to China in those containers, if not American goods?

The somewhat discouraging fact is that much of what fills those containers is simply American junk – scrap iron, aluminum, copper, heavy metals (mostly our castoff electronic components) and the largest bulk item recovered paper waste. Clearly this is not the even trade relationship our president is promoting, and I suspect it is not the one Americans bargained for when they granted the People's Republic of China (PRC) favored nation trading status or voted the PRC into the World Trade Organization. As a developing nation, it was to be expected that China's growth would be meteoric and that this economic juggernaut of 1.3 billion strong would dominate the cheap low-tech product market, including men's and women's apparel, tchotchkes, furniture and craft store items. These are the traditional products for third world countries, and provide stepping stones for growth and development of higher end products. How many of us remember Japan's first post war entries into the car market in the early 1970's – Honda's tiny 600 cc coupe and the early Toyota Corollas? However, what has come as the shocker in our PRC relationship is the rapid development and flood of higher end products – iron and steel products, electronics, optical and medical equipment, power generation equipment and chemicals, in addition to those traditional cheap goods. Most of the PRC products remain simple and are assembly line type products, but the PRC is actively pursuing the development of high-tech products that they believe will rival anything produced in the U.S. or in the world market in general. Already they have grabbed significant stakes in several American companies, not the least of which is a General Motors 50-50 joint venture with FAW Group to make light trucks in China, they have "borrowed" Japanese high speed train technology and Boeing has outsourced "airplane skins" to a factory in Chengdu that is only the first step in the PRC government plans to challenge Boeing, Bombardier and EAD head-to-head with their own products within the decade. Cars? They are a given.

IS THERE ANY POSITIVE NEWS FOR THE U.S. ECONOMY OUT THERE?

But not all the news is bad; broken-down auto bodies, old screws, nails, wire, paper, this "clinking, clanking, caliginous collection of junk" (1) accounts for an industry that employs some 50,000 Americans and in a major way supports a \$65 billion scrap reclamation industry here in the U.S. And, what does this mean to planet America?





It means that with the price of junk up, and a vibrant market for the stuff abounding, America has become a much greener place. Volumes of trash that once went into landfills have significantly dropped over the past decade, and specifically in the case of paper the percentage we are recovering rose from 32 percent in 1990 to a record 53.4 percent in 2007. Although I could not find any reliable national figures for a more current year, it is clear that recycling as an export business has become a growth industry for America. The US-China Business Council reported “waste and scrap” from California alone as a \$2.3 billion export in 2010; their last report in 2005 showed it at \$1.2 billion; that’s an extraordinary increase of 191% in five years.

Other than the export of trash, other market sectors have prospered as well. Soybean exports have reached \$2.3 billion and overall farm exports in 2010 were \$13.8 billion. In traveling through China a little over a year ago, I was somewhat surprised that enough of our chicken production had reached the shores of the Middle Kingdom that the Chinese were actually able to make a value judgment on its quality – their opinion: Chinese chickens have better flavor. As an American, they might be right on the freshness and flavor of the local Chinese chickens (they decapitated our squawking dinner entrees on the front steps of our Tiger Leaping Gorge B & B), but for me the search and gnaw missions that were required to consume one of their bony local birds was a definite counter criticism.

And finally, China has limited amounts of coal and this precious resource is rapidly depleting; America on the other hand is the Middle East of coal, so for the near to mid-term, the U.S. can assume China’s need for coal will continue to expand, and our economy will profit from this need. However, on the long term, China has plans for the construction of 52 nuclear reactor plants between now and 2020. Although this will dent the demand for U.S. coal, I suspect the growing industry and public demand for electricity in China will eat deeply into this added capacity. As an unknown in all of this is how the nuclear disaster in Japan might play with the risk averse Chinese authorities. Several sources have indicated that these plans are being reviewed to be sure they are not creating their own doomsday scenario.

The truth is – bony chicken argument aside, China has limited productive farm land and the Chinese government has neither sponsored nor financed the widespread adoption of modern farming methods. From personal observation, China is operating their agricultural system on the level of the Middle Ages – they still largely sow and harvest by hand and rickety wooden water wheels still supply water to the fields.

Processes that could elevate the standard of life of millions of hardscrabble farmers working family plots, would maximize production and would eliminate a growing need within China to import farm goods remain elusive to the Beijing authorities. We sell them tractors, farm machinery products, or just the raw food stuffs – anyway this goes, it should work to America’s benefit. On the plane headed to China, I sat next to a guy who was on his way to show Chinese dairymen how to use his company’s milking machinery, a good sign that if China is to become a first world country, they will need to make some fundamental advances in their rural economics, and I think we can assume that some of their hardware, software and technical needs will convert to orders, factories and sales to U.S. manufacturers, and service contracts to American technical and advisory industries. And, although China has come a long way since the days of Pearl



Buck's The Good Earth, they still suffer from droughts, floods and, if not for outside sources, famine; the reality is that China may never be able to fully meet the agricultural needs of its people.

SO, IS THE GLASS HALF FULL, HALF EMPTY, OR SOMETHING ELSE?

We are faced with competing viewpoints. First, the glass half full argument was presented by the US-China Business Council: U.S. exports to China have grown 368% between 2000 and 2010, while our exports to the rest of our world trading partners expanded only 55% in the same period. The Council rosily forecast that the deficit gap would close over time.

The glass half empty argument was presented by Daniel Workman at www.suite101.com/content/china-trade-statistics; Mr. Workman points out that the U.S. imported \$50 billion in computer products during 2009 while exporting only \$2 billion of similar products to China. A huge disparity in an industry that Americans have traditionally considered a pond that they owned. On the other hand he acknowledged that 9 out of the 10 top U.S. exports showed gains as of May 2010 when compared against the same 5 month period in 2009; increases that ranged from 3.9% to 133.4%. His conclusion, over time, the deficit should decline and American products will find a market in China.

And then there is the glass empty point of view at LewRockwell.com. where it was noted that our trade deficit with China between 2000 and 2009 skyrocketed nearly 300 percent. And with this drain of dollars, Mr. Rockwell, a decidedly negative sort of guy, concludes that "wealth, factories and jobs are leaving the United States at an astounding pace", a long term, before China, fact that I confirmed in a Wall Street Journal article that showed only 45% of America's 1960 manufacturing jobs still exist today, and in another Journal article it was confirmed American worker salaries have stagnated for more than a decade. (Before someone skewers me on this, it was stated that salaries had increased somewhat; however, I don't see the explosion of health coverage costs as a pay raise that workers can put in their pockets and spend at the super market.)

CULTURAL CHANGES IN THE WIND?

Despite the government clampdown on dissident voices of late, there is a growing trend of unrest throughout the PRC – even in some circles of the Communist Party – that wages, medical and pension benefits and social safety nets must expand to meet the needs of their dynamic and expanding economy. Basically, the time honored "all boats rise in a tide" argument is gaining traction throughout China, while the paranoia of the Chinese government leaders to adopt change is being threatened with social upheaval if they don't consider it. If this debate on a societal safety net is permitted by the government – a debate that many see as impossible to avoid; the cost of producing Chinese goods will rise, the export prices will commensurately rise and over time the U.S. trade deficit gulf should narrow. Another factor that may work to America's advantage is the decades old government policy decision that is coming home to roost – birth control. The Chinese effort to control their burgeoning population, which brought on the "one-child" only policy, also engaged the law of unintended consequences. The Chinese youth, particularly males, discouraged by limited educational, employment and financial opportunities have grappled with the government's political decision to limit families and have slowly embraced the program; they are staying single or getting married older; they are abiding by the "one child" law or are forgoing having children at all. While good for short term goals of population control, as a long term trend, this will dramatically alter the Chinese demographics – it will age the Chinese population and reduce the pool of younger workers that will be required to financially support the social programs that are being clamored for and are bound to come. The smaller family units will also diminish, if not totally eliminate, the traditional family support system; without children, the aged will be forced to rely on the government for critical needs, such medical, housing, local transport and eldercare services. It is only a matter of time, some say within this generation, that the PRC will be forced to address these issues.

From personal experience, Americans know the consequences of an aging and dwindling workforce and how this type of imbalance can drag heavily on the aerodynamics of an economy. Our ongoing debates here in the U.S. over federal budgets, Social Security and Medicare have made this painfully clear; these social programs and cost debates remain in China's future, but they are debates that will eventually come.

SO WHAT DOES THE FUTURE HOLD FOR AMERICAN EXPORTS?

On the near term, the view is very dark indeed as the 2008 statistics indicate: U.S. \$71.5 billion in exports, China's \$337.8 billion in imports. The bitter fact is that based on the current trading relationship the Chinese are mopping the floor with the U.S. – we have become a subservient colonial supplier of raw materials to the brawny, assertive Chinese industrial state. However, there are a number of factors that will alter the calculus. I have discussed a few above.

First, as with any successful developing country, the Chinese standard of living is edging upward. While the Chinese authorities are waging this battle on two fronts – wages and benefits – it is becoming a battle more and more difficult to manage or win. Wages are rising as the economy continues to expand, and in spite of the fact that farmers are abandoning their fields at record numbers. As discussed, the Chinese society is involved in fundamental change; families are shrinking and individuals can no longer rely on family members to take care of them as they age; the demand for a network of benefits grows louder with each passing day.

Second, although the PRC continues to control the external value of the Yuan, the inflationary pressures continue to grow. There is only so much infrastructure development the government can authorize and bank control that can be exerted before cracks begin to develop in the economy. The Chinese government is reaching that breaking point. As indicated by their recent reluctant, if minor, adjustment in the value of the Yuan, China will have to acknowledge that the value of their currency is rising in the world markets. Even our guide admitted that China is experiencing the relocation of some industries due to increasing labor costs within China. And then there are the effects of inflation on the real estate market; the PRC is constantly fighting the fear of a real estate bust akin to ours. They continue to clamp down on the money supply but both the supply and demand for housing continues to push prices ever higher in the cities. Regardless of their paranoia, the government has been largely ineffective in finding a means to control or rein in this threat. And as a side bar to these inflationary pressures, the PRC is finding it harder and harder to park our billions in their economy, which I suspect is their motivation for advancing the idea of an “international” currency that would not be pegged to any country of currency.

Third, trading partnerships between international corporations and the Chinese are creating new opportunities on both sides of the Pacific. While the Chinese have a disturbing habit of 1) demanding a substantial piece of the action for playing in their pond – my milking equipment consultant seatmate said it cost their company dearly to join the party, a 51% stake and the majority interest of all Chinese operations shadow-owned by the PRC, 2) a cultural propensity toward fleecing the novice investor (19th century American traders called it “sharp” dealing), and 3) Chinese legerdemain of proprietary products from business partners is legendary (you may have noticed my parenthesis on “borrowed” Japanese train technology; the Japanese had a different word for it), the reality is they are a capitalist system (with a communist government) and they need external raw materials, high-tech equipment, expertise and partnerships if they are going to reach their stated goal of being the #1 economic power in the world by 2050. As I said earlier, the Chinese are making inroads, but largely they are still a forge and assembly line economy.

Fourth, maturing economies gain resistance in their growth trajectory and therefore slow in that growth. China has had a meteoric rise; in the space of 26 years, China's GDP has grown by a factor of 10(2). By comparison, the United Kingdom took 70 years after 1830 to grow by a factor of four. One must question how much longer the mighty Chinese economic juggernaut will be able to continue without bending to the will of the people and sharing some of these financial gains?



Fifth, America is the breadbasket for the world. China will need our agricultural products to sustain and enhance their growing desire for food stuffs and a widening palate. America is on the road to provide many of those needs – soybeans happen to be at the top of the list today, but I see wheat, barley, rice, beef, pork and more of those tasteless chickens appearing on the Chinese tables. And not to be discounted is the burgeoning Chinese market for American food – while there are 875(3) McDonald's franchises, KFC has nearly quadruple(4) that number, and Burger King and Starbuck franchises are cropping up on every corner as well – we even ate at a Carl's Jr. in Shanghai.



And perhaps the greatest game changer is China's limited natural resources. Like Japan, China has little in the way of natural resources – oh yes, they do have "rare" metals – but they don't have coal, or iron, or aluminum, or copper, or oil, or gas (natural or liquid) or a host of other raw materials, not the least of which is the growing and vital stream of American junk – scrap iron, aluminum, copper, heavy metals and paper. Without a relationship in these goods, the Chinese economy will wither and die as they are not a self sustaining economic powerhouse.

For the short run, we have many challenges to face with the Chinese, but I believe that in the long run, it will not just be American junk that returns on those container ships, it will be all those things that the Chinese don't have, and must have, if they intend to compete in the world economy.

- (1) Quote from the Wizard in the Wizard of Oz.
- (2) Wall Street Journal, Review Section: "In China's Orbit", by Niall Ferguson, November 20-21, 2010
- (3) Forbes Magazine. Wikipedia reported 850 as of August, 2010.
- (4) As of the end of 2009, Yum! Brands reported having 3400 KFC outlets in China.



Michael Rubin



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Education Corner

Mike Williams

ECONOMY BUSTERS

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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!

Upcoming Courses

Click on the course descriptions below to find out more information about specific courses and locations.

Course Number	Description
100	Basic Right of Way Disciplines
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600	Environment
700	Asset (Property) Management
800	Real Estate Law
900	Engineering
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Right of Way Project Manager 101769 Irvine, CA

Description: The Right-of-Way Project Manager manages right-of-way and utility issues for large and complex construction projects without supervision. Ensures all right-of-way acquisition, relocation and utility relocation schedules are met. Responsible for compliance with all local, state and federal laws and regulations and oversight of contract administration and payment of invoices.

Requirements: Bachelor's degree or equivalent required; advanced degree helpful. California Real Estate license is required. 7+ years of experience with right-of-way acquisition and relocation, and utility relocation; property management experience preferred. Applicant must be familiar with Uniform Relocation Act and Eminent Domain proceedings. Must have extensive experience with Caltrans policies and procedures, and with the preparation of Data Sheets and Right of Way Certifications. Position requires ability to develop and maintain excellent relationships with clients; strong communication and presentation skills; proven ability to deal effectively with property owners on fast track projects; ability to motivate and manage staff and proficiency with MS Office. May require workplace location in Los Angeles or Riverside as workload dictates.

To apply, please use the following: https://prod.fadvhms.com/hdr/jobboard/New-CandidateExt.aspx?__JobID=14322

Or see the careers section of www.hdrinc.com and browse for job number 101769

Senior Right of Way Agent 101592 Irvine, CA

Description: The primary duties of the Senior Right of Way Agent: Assist clients with many aspects of right of way delivery for public projects; feasibility, acquisition, appraisal, relocation, finance, costs, tax effects and project execution. May work directly with clients. Assists project managers and coordinates among team members focused on real estate, relocation and economic issues. Work will be performed with minimal supervision. May act as lead in directing and reviewing work of other Agents and support staff. Property acquisition and relocation of persons, businesses and personal property are the primary responsibilities. This position may be located in Irvine or Riverside, California. Keyword(s): Realty Specialist, Real Estate, Acquisitions, Relocation.

Requirements: Bachelors degree. 5+ years experience with public agency acquisitions preferred. Proficiency with Microsoft Office and Excel. Working knowledge of Project, ARGUS and ECONPAK software a plus. Ability to read, review and understand legal descriptions and the knowledge to draft the following types of real estate documents: deed, easement and lease. Must have experience delivering right of way under the Uniform Act, and purchasing property under the threat of eminent domain. Experience working with Caltrans, delivery of right of way in Southern California and dealing with loss of business goodwill a plus. Must have willingness to travel in state for upcoming and future projects. Must have a valid California real estate license.

To apply, please use the following: https://prod.fadvhms.com/hdr/jobboard/New-CandidateExt.aspx?__JobID=14140

Right of Way Agent 100765 Irvine, CA

Description: The Right of Way Agent performs right-of-way/land acquisition services with supervision and training, primarily for public agencies that have the power of eminent domain. Requires an ability to work confidently with clients and owners. Relocation, utility relocation, title and/or property management experience helpful. Keyword(s): Realty Specialist, Real Estate, Acquisitions, Relocation.

Requirements: 2+ years experience with public agency acquisitions preferred. College degree or acceptable experience required. Demonstrated real estate experience, excellent communication skills, and outstanding references are all necessary. Must have experience delivering right of way under the Uniform Act, and purchasing property under the threat of eminent domain. Experience working with Caltrans, delivery of right of way in Southern California and dealing with loss of business goodwill a plus. Must have willingness to travel in state for upcoming and future projects. Must have a current California real estate license. Proficient with MS Office, Word, Excel, Outlook, PowerPoint, Experience with database preferred. Ability to conduct research and navigate the internet for research.

To apply, please use the following: https://prod.fadvhms.com/hdr/jobboard/New-CandidateExt.aspx?__JobID=13251

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Redeemable for IRWA Chapter 67
Course Tuition Discount

Must Be a Member of Chapter 67
And Attend Three Luncheon Meetings

Treasurer's Initials *Expires 12/11*