



International Right of Way Association Chapter 67 Orange County, California



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BUNDLE of WRITES

September 2011

President's Message

Rick Rayl, Esq.

Members:

The summer is drawing to an end, and that can mean only one thing: it's time to get back to the business of the International Right of Way Association. As I sit at my desk contemplating the year ahead, I find my focus drawn inexplicably to the book sitting on its front left corner. It's entitled *People are Idiots and I Can Prove It!* Now you might wonder why my attention is drawn to that book the moment I start thinking about the IRWA.

Fair question. Indeed, I can see how my associating the one with the other might cause some offense. But before you stop reading and go off to read our Chapter's bylaws to see what it takes to impeach a President, let me explain.

The book is authored by Larry Winget, the keynote speaker from the IRWA Educational Conference in June. He talked with over 1,000 IRWA participants worldwide about a wide range of topics, but there was a main theme that ran through everything he had to say. And that is this: you can ignore virtually everything every self-help and/or motivational speaker says about what it takes to succeed. In reality, success is almost exclusively a product of two things: hard work and excellence.

The good news is that we are a Chapter filled with excellent right-of-way practitioners. And if we work hard, and as a team, I think we will have a tremendously successful year. And with that, onto the business at hand.

Our monthly meetings recommence on September 13, 2011. Again this year, we will be at the Santa Ana/OC Airport Holiday Inn, located at 2726 South Grand Boulevard, Santa Ana, CA 92705 (\$15 for those who RSVP to Joe Munsey at jmunsey@semprautilities.com, or \$20 at the door.)

For our September meeting, Gale Connor from Nossaman's San Francisco office is going to be updating us on the trials and tribulations of California's redevelopment agencies. For anyone who has not been following the issue, since we adjourned for the summer: (1) the Legislature passed two bills, one eliminating redevelopment agencies entirely and one providing a means to reconstitute them upon making some hefty "voluntary" payments; (2) the California Redevelopment Association and others filed a lawsuit in the California Supreme Court challenging the new laws; and (3) the Supreme Court agreed to hear the case, issuing a partial stay while the case is pending.

If you want to know what all that means and how things are going to play out over the next several months, come listen to what Gale has to say on September 13.

As always, our Board Meeting will take place immediately following the lunch. Please stick around if you have any interest in being more involved with the Chapter – or if you simply want an excuse to delay going back to the office.

Finally, if you're still reading to this point – and still contemplating how to impeach me – I offer you this: because I was at the Educational Conference in June listening to Larry Winget, rather than at our monthly meeting, I haven't actually been sworn in, so it's possible you don't even have to go through the trouble of impeaching me.

Next Luncheon Meeting

Date: September 13, 2011

Luncheon Speaker:
Gale Connor, Esq.
Nossaman Gunther Knox Elliott

Topic:

Our speaker for this month is Gale Connor, Esq., of Nossaman Gunther Knox Elliott. His topic will be the state of redevelopment and what can and cannot be done in light of the legislation, the lawsuit, and the partial stay issued by the Supreme Court.

Gale Connor has a distinguished practice encompassing many aspects of real property law. He is experienced in eminent domain, commercial leasing, acquisition, and disposition of improved and unimproved properties, real estate finance, and litigation of environmental, title, land use, condemnation and inverse condemnation cases. He also serves as special outside counsel for real estate acquisitions for various public agencies.

Gale was named a "Super Lawyer" for Real Estate Law in 2006, 2008, 2009 and 2010 in San Francisco Magazine. Prior to receiving his law degree from the Georgetown University Law Center, Gale received his B.A. from Oberlin College, Maryland.

Board Meeting

Date: September 13, 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.

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Editor's Corner

Daniel Chuong, HDR Engineering

As the final days of summer are winding down and September is nearly in sight, I would like to welcome back everyone to Chapter 67. I hope the summer brought some needed R &R and good times with friends and family. With our first monthly meeting just a few days away, this year promises to bring another great year to the chapter with new classes, seminars, and our Tri-Chapter luncheon just a few months away. A reminder to all, this year's Tri-Chapter luncheon will be held at the Grammy Museum located at L.A. Live on December 8th, so please mark your calendars now and prepare to enjoy the sights and sounds of Los Angeles.

With this being my first issue as editor, I would like commend Katherine Contreras and Christy Porter for their excellent work putting together the newsletter and website this past year. For those new to chapter, please find our website at <http://www.irwa67.org/> for more information about upcoming events, membership, and classes. I encourage all members to be involved with chapter activities and leadership so we can make this the best year yet!

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

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 September 13, 2011. Hope to see you there.

Education Coupon

For those of you who missed it in the June newsletter, a coupon for valuable savings on Chapter 67 courses and seminars is at the end of this newsletter. Bring this coupon with you to lunch and ask Ben Rubin (our Treasurer) to sign your coupon and you will be one-third of the way to your \$100 off. A great way to keep money in your wallet before the holidays arrive.



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Case of the Month

Bradford B. Kuhn, Esq.

Nothing Special Results in Nominal Compensation

The California Court of Appeal recently issued an unpublished decision confirming that when condemned property is subject to a roadway easement, and the property owner fails to demonstrate that there is “something special attaching to it,” regardless of how the property is ordinarily bought or sold, the landowner is only entitled to nominal value.

In *People ex rel. Department of Transportation v. Bakker*, No. F060030, the California Department of Transportation (Department) condemned 18.13 acres of land belonging to the Bakkers, 4.4 acres of which were subject to a roadway easement. After the jury awarded the Bakkers \$15,500 per acre, including the 4.4 acres subject to a roadway easement, the trial court entered a directed verdict in favor of the Department, holding that the Bakkers were only entitled to nominal value for the 4.4 acres as a matter of law, and reducing the \$68,200 awarded for the 4.4 acres to \$200. The trial court also denied the Bakkers’ request for litigation expenses.

On appeal, the Bakkers argued that they presented proof of special value by way of their appraiser, who also happened to have a broker’s license, as he testified that property in the area, regardless of whether it is subject to a roadway easement, is bought and sold based on the gross acreage. The Court of Appeal first explained, quoting *People ex rel. Dept. P.W. v. Schultz Co.* (1954) 123 Cal.App.2d 925, that in California, absent “proof of some special value” condemned land subject to a surface easement is only entitled to nominal value. Then, expressly rejecting the Bakkers’ argument, the Court stated that “[i]f the fact that a parcel is usually sold based on gross acreage proved that the portion of the property subject to a roadway easement has special value, the rule set forth in *Schultz* would never apply.” Accordingly, the Court of Appeal affirmed the trial court’s approximately 99.7% reduction in compensation for the 4.4 acres of property.

As for the issue of litigation expenses, the Court of Appeal found that even though the Department’s final offer was only 83% of the revised jury verdict, because the trial court applied established guidelines it did not abuse its discretion in determining that the offer was reasonable.



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- Property Management
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- Excess Land Disposal
- Franchising/Permitting
- Site/Route Selection
- Due Diligence
- Asset Management

Qualifications

- Licensed Real Estate Brokers
- Licensed Real Estate Sales Persons
- Senior Right of Way Members (SR/WA)
of the International Right of Way Association
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- Certified Property Manager (CPM®)
- Commissioned Notaries
- Certified Public Accountant
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News

New Members:

Please welcome four new members to Chapter 67.

Franco Seif, CSC Engineering

Jason Kozara, Southern California Edison

Marcus Bednar, self-employed

Bernadette Duran-Brown, Nossaman

Events

Upcoming Monthly Luncheons:

September 13, 2011

October 11, 2011

November 8, 2011

December 6, 2011 (Tri-Chapter Luncheon)

Board Meetings:

Board meetings are held immediately following the monthly luncheons.



Attorneys You Can Count On

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TRIBUTES ON THE RETIREMENT OF JOHN DONAHUE, MAI

Depending on whose side you were on, for the past several decades, John Donahue, MAI, has been embraced or feared as one of Southern California's premiere forensic real estate appraisers. But no matter the side, John has always been respected and admired.

John recently retired and on June 17, 2011 a retirement reception was held in John's honor. Many luminaries from the right of way profession came and honored John, as well family and friends. Given John's impact on the right of way profession and his numerous contributions to Chapter 67 (three of his staff served as Presidents of the Chapter), it is only fitting that we print in the Bundle of Writes excerpts from some of the tributes to John. Below are excerpts from comments made about John at the retirement reception by two of the very distinguished appraisers who trained under John, his son, Kevin Donahue, MAI and his friend, Michael Waldron, MAI.

Tribute to John Donahue, MAI (Upon John's Retirement)

By: Michael Waldron, MAI

I've had the pleasure of knowing John since I was a kid, hanging out with my Dad as he and John would visit a subject property for a site inspection or view a few comparable sales. So my training with John started early on. I was fortunate enough to be offered a job by John in January 1982. I wasn't offered much money (it was the going rate at the time, at least that's what John told me!) – but it was a job with one of the best appraisal firms in Southern California.

John encouraged all of us to affiliate with the American Institute of Real Estate Appraisers (now the Appraisal Institute) and obtain formal education along with our practical education. He encouraged us to join the International Right of Way Association. He wanted us to be top-drawer professionals and to obtain our senior designations. By retirement, John had provided a career to dozens of appraisers, many who obtained their senior designations with the Institute. He was a great mentor to all.

Working with John was like a religious experience. I soon learned that sometimes the market was just not perfect enough – in lieu of a few good comps, sometimes you would need faith to connect the dots, translated "adjustments" in appraisal-speak.

John had a precise teaching method – it was like baptism. There are all kinds of baptisms. You've got the gentle "sprinkling" of the water, the more moderate "pouring" of the water and finally, John's favorite ... an old fashion "dunking" in the water! Kind of makes sense when you know John's love for the water. He is an avid and talented sailor.

John was definitely ordained in the immersion style of teaching. You were literally dunked in the appraisal waters. Although often drenched and barely treading water, in hindsight, I think it is probably the very best method. Most young appraisers couldn't find their way out of a paper bag, let alone come to a meaningful conclusion by way of a reasoned analysis. John would always toss the lifeline in the end.

John knew that if you worked through things on your own – the dots would be connected, and ultimately he would have a productive appraiser on his staff – developing independent and reasoned opinions.

John had a great teaching style – not too much, not too little. My first three assignments were all relatively complex partial takings. Being a "commercial" appraiser was a big step forward in John's shop. I don't think I even appraised a SFR until six months later and then he was only trying to protect me from the other appraisers who focused on residential appraisal. I was not the exception; he offered great opportunity to all.

John developed an office with diverse and well-educated appraisers. He really created a forum, which helped in promoting creativity and ideas about unique valuation issues. Along with his considerable experience and expertise, John is also a noted expert in the valuation methodology of transportation corridors.

John developed a style in a particular niche, which, in my view, was unbeatable. Simply put, John was credible, even if the facts and data were a bit tenuous or incredible. He developed an art of testifying – if you couldn't convince them with facts and analysis, convince them with experience, knowledge and style. Even after his retirement, clients continue to beg for John's expert representation and services.

John is a generous man, giving and providing for others even when he probably shouldn't have. He is a loving man, thoughtful of others and offering opportunities to those he felt had the skills to become an appraiser. This even included sailors and maitre'd's who actually turned out to be pretty good appraisers as well.

Rarely would John have questionable judgment, however, he actually made me a Vice President, in charge of managing his company, including hiring. Thankfully, I didn't miss a beat, hiring the best of the best, including my wife to be! John, thank you for the opportunity to meet and fall in love with my beautiful wife.

John will always be my dear friend. This profession has pastured one of our very best.

Thank you for mentoring me and giving me the opportunity to become a successful appraiser in a fantastic career.

Have a great time in retirement, driving tractors and being with your precious wife Carole. We look forward to hearing about your travels and fun.

Comments by Kevin Donahue, MAI

Here are some of the thoughts I gave at the party.

- John always believed in people. He hired all walks of life as potential appraisers, including a bartender, a wine steward, a teacher, a salesman, a barber and a couple different sailors.
- He mentored numerous trainees, 10 of which went on to achieve their MAI designations. Senior appraisers were encouraged to work with their younger colleagues and assist in their development.
- John always supported the professional growth of his staff, and accommodated their participation in both the Appraisal Institute and the International Right of Way Association. Three DCI staff served as President of IRWA Chapter 67 during their employment.
- He trusted his staff to be responsible and do good work. John let appraisers own their work product. In a number of appraisal shops, junior or trainee appraisers don't get to sign their work. At Donahue & Company, each appraiser took responsibility for their own work product, often from the very first report. As a result, John's staff took pride of ownership in what they were signing.
- He was always generous with his staff. At Donahue & Company, the employees always enjoyed the best health insurance around, including that of much larger firms. He paid them a generous wage and some great year-end bonuses too.
- His door was always open and unless he was in last minute trial preparation, he always had time to listen and help, whether personally or professionally.
- John was, and always will be about class, from the cars that he drove to the company's office space and right down to the business stationary. The firm was always well positioned to serve the upper echelon of the legal community.
- John was an innovative thinker in the appraisal world. He contributed significantly to the appraisal theory for railroad corridor valuation and was a published author and speaker on the topic. His retirement leaves a particular gap in this most difficult field.



6/7/11 - Photo taken at John Donahue's retirement reception with wife Carole and son Kevin

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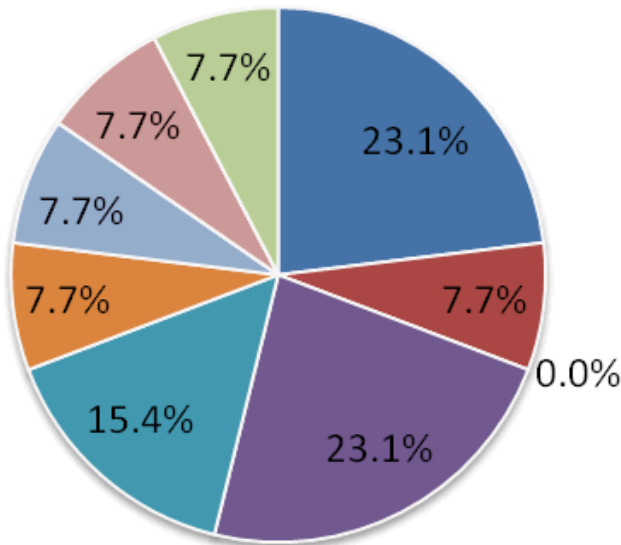
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Welcome back from summer break! There were several classes held this summer in the local So Cal chapters and know we're looking to the Fall and Winter season. I just received the results of the 2011 Education Survey and would like to share the highlights with you. Our members indicated that they would like us to focus on series 100 (Basic Right of Way) and 300 (Appraisal) courses; while there are several active candidates for various certifications and the SR/WA, many are just seeking recertification credits. Most of the attendees of our classes are either in the Acquisition/Negotiation or Appraisal fields. Two thirds of those participating say their employers pay for class tuition, while the remaining say they must pay it on their own; and "tuition discounts" was by far the best incentive for taking a class. Unfortunately, only 13 members of our chapter participated in the Education Survey, so it's difficult to get a true reading on the education needs of our members. With the jump start that Chapters 1, 11 and 57 have on us, it's difficult to squeeze in a class, let alone the right class, to draw good participation. We will strive to bring you the classes you need, here in Orange County and the other local chapters.

Please use the following graphics:

IRWA 2011 Education Survey Course Preference by Series



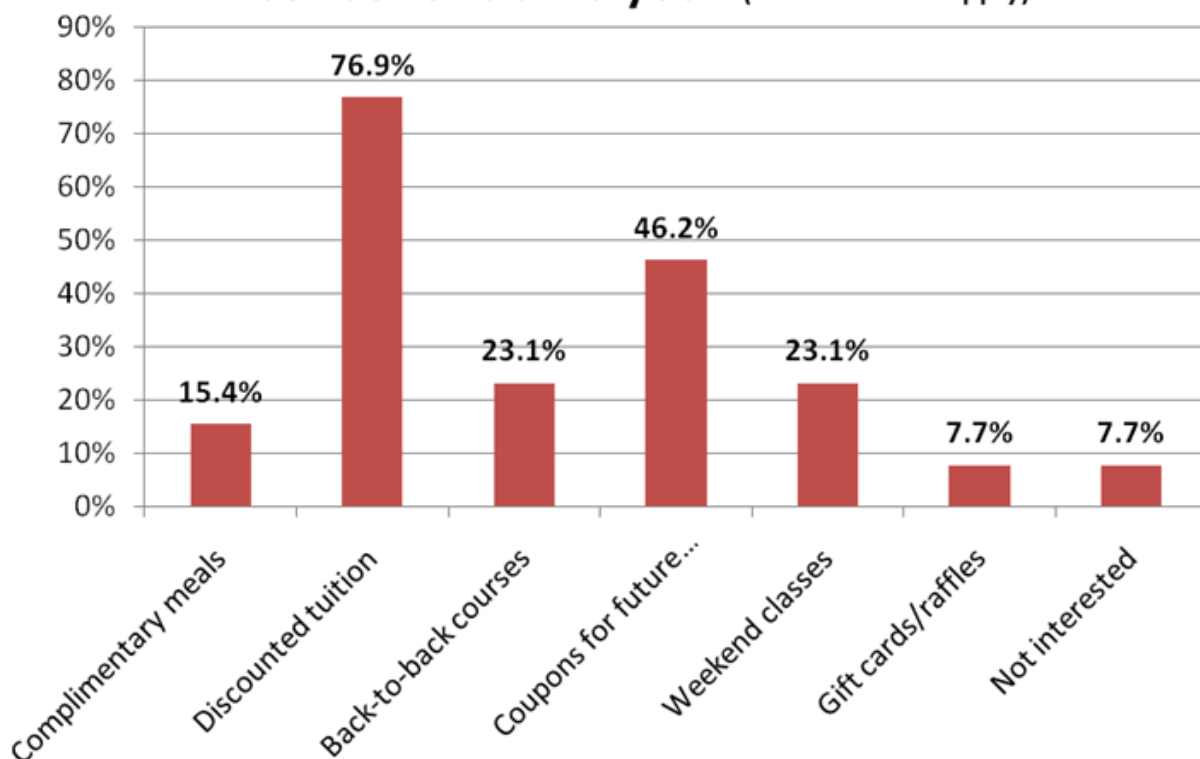
- 100 Series: Basic Right of Way (includes SR/WA review session)
- 200 Series: Communication/Negotiations
- 300 Series: Management
- 400 Series: Appraisal
- 500 Series: Relocation Assistance
- 600 Series: Environment

IRWA's 2011 Education Survey (Orange County Chapter)

Which best describes your participation in IRWA's Generalist Career Path (RWA, ARWP, RWP, SR/WA)?

Active candidate	23%
Need to re-certify	46%
Taking classes, but not a candidate	23%
N/A	15%

Which of the following incentives would be most beneficial to you? (Check all that apply)



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Continue your right of way training while saving money with Chapter 67's education incentives. Employers who register 3-5 employees are eligible for a 10%-per-participant tuition discount. Employers who register 6 or more employees are eligible for a 15%-per-participant tuition discount. To qualify, all registrations from an employer must be received and processed together by contacting the Course Coordinator or our Chapter Education Chair (this discount cannot be used in conjunction with any other IRWA HQ offer or the chapter \$100 Course Discount Coupon. The best offer available will prevail).

\$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
200	Communications/Negotiations
300	Management
400	Appraisal
500	Relocation Assistance
600	Environment
700	Asset (Property) Management
800	Real Estate Law
900	Engineering
SR/WA	Study Review Session



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Employment

There are no employment opportunities at this time.

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