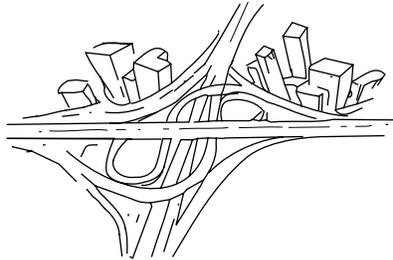


# CROSSROADS

**LOS ANGELES  
CHAPTER 1**



**December  
2002**

## UPCOMING EVENTS

December 17, 2002

### Board Planning Meeting



December 25, 2002

### Merry Christmas



January 1, 2003

### Happy New Year

## PRESIDENT'S MESSAGE

*By: Rudy Romo*



*Rudy Romo*

The close of 2002 is upon us and 2003 is just around the corner. I want to take this opportunity to thank all those on my Board, committee chairs, and committees for their cooperation, guidance, perseverance, and assistance through the year. It definitely takes "team" effort and without a good team, it wouldn't have been possible.

The 02 Board was truly dedicated to better the ideals of Chapter 1. Education was truly the backbone philosophy of Chapter 1 and remained a common denominator throughout the year.

family, friends, or colleagues, deserve special attention and thanks, just because. They have made your life easier, simpler, comforting, enjoyable, smoother, and gratifying. It is the "good" in people that we should always search for and seek. It is the people around us that make life worth living and appreciating. Anyway, take time out just to say "thank you".

I want to thank all of you for the opportunity to serve as your Chapter President for 2002. I truly enjoyed the job and the rewards that went along with it, however, much of it would not have happened, if it were not for you. Thank you and Happy Holidays to you and your families!

We'll see you at the Queen Mary on Dec. 10th!

The early part of the year started off with our annual "free" lunch (wow was that a mouthful), I even saw members from Chapter 67. We then followed with our Valuation Seminar, chaired by none other than the magnificent Paul Norlen. Paul did a terrific job as usual and the Chapter did well.

As we moved to the spring, the Chapter introduced the idea of establishing a web site and new chapter logo. Not realizing the effort involved, it took the good part of the year to sit through countless ideas, script, and copy (thanks to Robert Flynn of the MTA, Chapter 1's cartoonist and script writer) just reviewing the logo. Keep your eye out in 03 as we unveil the Chapter Logo and web site!

As we moved to the Fall, Bryan Riggs, MAI, demonstrated his rookie talent as our Fall Seminar Chair and did a superb job planning, implementing, and controlling this event. There is one individual I would like to extend my sincere thanks and appreciation to. The infamous Joyce L. Riggs, MAI - SR/WA (no relation to Bryan Riggs, they're just married). Joyce was there for me every step of the way. Ms. Riggs served as my backstage manager, producer, advisor, and coach. Joyce reminded me of events and activities 3 months out, so I would know what needed to be done. Thanks a lot Joyce!

There were challenging moments through out the year, however, nothing I couldn't handle. If there's one thing daddy taught me, "If it is to Be, It is up to Me". I exercised a great deal of perseverance to keep moving forward. You have to keep moving forward if you plan to achieve your goals and objectives. I held my head high and kept on moving.

As the holidays draw near, I would like each of you to take time out of your busy days and call to mind the people who are with you every day. The people you interact with, whether

## Membership Luncheon

December 10, 2002

### Annual Tri-Chapter Installation

Topic  
History of Queen Mary

Location  
The Queen Mary, Long Beach

Time  
11:30 A.M.

# IRWA Chapter 1, Los Angeles 2003 Board and Committee Officers

Updated: December 2002

## President & International Director:

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## Past President, Nomin. & Awards Chair & Region 1 Valuation Committee Rep:

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## Law Chair:

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## Environmental Chair:

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## Luncheon Chair:

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## Title Chair:

**Teri Kortens**  
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## REGION 1 FALL FORUM REPORT

By Rudy Romo

Region 1 held it's fall forum during the weekend of November 9, 2002 in San Jose, California. Michael Popwell and I attended the forum as Chapter Directors and received updated information of events going on at HQ and the Executive Committees. The following are some brief happenings of what took place at the forum:

1. Vice President Replacement: A person named Carey Stackful was appointed as the interim Executive Vice President as of November 4, 2002. HQ intends to continue to search for a permanent replacement. That search is ongoing.

2. Other Hires: HQ needed to fill 3 other positions. There is a current search for the Director of Professional Development. A graphic artist and clerical position were filled.

3. Membership: In regard to membership, it has continued to rise. Membership is at 10,500 plus at this time.

4. Kansas City Seminar: The annual seminar has now been changed to be designated as a "Conference". This was due in part to the ability for management of organizations, agencies, and companies to gain support for the attendance of IRWA conferences.

5. Hawaii Chapter: Albert Allen went to Hawaii to teach a seminar and he attempted to contact our fellow colleagues, however, he was unsuccessful.

6. Sacramento 07 Seminar: Dwight Pattison delivered an informational presentation on the status. Sacramento is very pro-active on their plans and is going well.

7. Young Leadership Council: The name of this committee has been changed to "Leadership Development Council." The intent was to promote upcoming chapter leaders attendance of 1 or more of these committee meetings.

8. Instructor of the Year Award: The International Professional Development Committee is proposing to offer an "Instructor of the Year" award to be given at the Conference each year. It is designed to recognize a distinguished IRWA lecturer.

9. Form 1099: It was reminded of all Chapters to issue IRS Form 1099 to instructors whom made more than \$600 for course instruction.

10. Region 1 Website: Our Region is developing a website and proposes to pay for it by having the chapters donate \$3.00 per member in their chapter. The Chapters were asked to go back to their Boards and vote on the stipend. A fee of .25 cents per member is proposed for the maintenance of the site. The Region has asked for the Chapters to have their vote by January 31, 2003 and funds available by the Spring Forum 03 date.

11. Region 1 Reorg: There continues to be discussion from the International Executive Committee (IEC) regarding the size of Region 1. Region 1 encompasses approximately 20 to 25% of the membership and continues to grow. There is a possibility that the IEC may ask for a task force to be formed to study the situation and determine if one or two chapters should shift to Region 9. This remains to be determined at this time.

12. Conflict of Interest Forms: At this time, all IEC members at HQ are signing their Conflict of Interest Forms. Beginning 2003, all Chapter Board Officers will be required to sign and submit their forms to HQ.

Overall, the Forum was eventful for Michael and I and we enjoyed listening to other Chapter events, topics, and activities. We thank Chapter 42 of San Jose for hosting a great Forum!



## 2002 Chapter Awards

Congratulations to:

Employer of the Year (under 20 employees)

City of Los Angeles, Bureau of Engineering

Employer of the Year (over 20 employees)

Paragon Partners

Professional of the Year: Fred Arevalo

# MONTHLY ARTICLE

## Acquisition/Relocation Programs in the Public Sector: Innovations Can Pay Off *by: Lourdes Romero, SR/WA*

Los Angeles World Airports (LAWA) is currently conducting one of the most ambitious and aggressive acquisition and relocation programs in the United States.

Beginning in early 1997, LAWA began implementation of the Los Angeles International Airport (LAX) Noise Mitigation Program. Later at the request of the effected communities, the program was expanded from soundproofing to real properties acquisition and relocation. A total of 568 properties containing 2,568 dwelling units will be purchased and program participants relocated. Of particular note is that this program is entirely voluntary.

A program of this magnitude requires innovation in its administration, planning, coordination, and conduct to achieve efficiency and control costs while maintaining program fairness.

As in all acquisition and relocation programs, the governing agency must establish the program scope, adopt a program budget, and set into place policies and procedures. As has been documented in the pages of Crossroads earlier this year, several considerations are key to ensuring consistency and accuracy in the acquisition and relocation process. Among these areas are:

- The identification of key personnel who are responsible for relocation issues;
- The identification and integration of significant relocation issues early in the process; and
- The development of tools to assist in achieving program consistency and compliance with governing codes and regulations.

Yet, as LAWA's program illustrates, innovation can pay large dividends to both large and small programs.

Frankly, a program of this scope and limited duration is simply too large for most public agencies to quickly staff and respond to in a short period. This is particularly the case when the program participants can literally walk-in and volunteer for participation.

### Consultants

First among the innovative approaches at LAX was the use of consultants; under the direction of LAWA SR/WA-qualified Program Managers and LAWA acquisition and relocation agents, for:

- Appraisal and Appraisal Review
- Title Services
- Escrow
- Relocation
- Property Management
- Administrative Support Services

This approach allows a level of flexibility not usually associated with governmental agencies and quick response times when the addition of staff is critical to address changing program needs.

### Payout Methods

Another innovation piloted at LAX was the establishment of a unique payout method for all acquisition and relocation payments. Upon approval by the LAWA Board of Airport Commissioners, monies are wired to the LAWA escrow firm and held in interest bearing accounts pending completion of administrative activities. Payouts can

then be accomplished within 2 hours of notification and; if necessary, immediately. Such responsiveness is simply unheard of in the public sector. In addition to the responsiveness provided to program participants which supports their subsequent housing needs, this approach has the built in efficiency of minimizing the administrative burden of tracking payouts through the usual agency bureaucracy.

### Project Data

Finally, acquisition and relocation staff has developed a project tracking database. Detailed information on each property owner and tenant is tracked. To name a few of the data fields:

- Entitlements
- Moving Costs
- Purchase Price Differentials
- Mortgage Interest Differentials
- Business Relocation Costs
- Close of Escrow Dates
- Incidental Closing Costs
- Appraised Value
- Rent in Arrears
- Correspondence Tracking
- Decent, Safe, and Sanitary Inspection Dates
- Dwelling Vacancy Dates
- File Completion Dates
- Numerous Milestone Dates

Chief among the benefits derived from this database is the projection of costs, trending, information sorting, status tracking and report generation. In short, the benefits to be derived from a well thought out database are limited only by the amount of information the project administrators are willing to input.

### Appeal Process

Finally, LAWA has established an appeal process for resolving relocation entitlement disputes. Under the LAWA approach, the tried-and-true approach of appealing up the management hierarchy has been abandoned in favor of a more effective and perhaps, a more fair approach. Under the traditional approach, the appealing party typically perceives a bias in favor of the agency. In addition, as the dispute moves up through management levels not experienced in relocation, the typical result is a settlement which does not address the basic validity of the relocation case and the entitlement assigned.

Under LAWA's approach, the three level appeal process begins with a review by the Program Manager, proceeds to a review by a contracted independent Ombudsman and finally is reviewed by a hearing panel of relocation experts not affiliated with LAWA. This approach provides a high degree of program participant confidence in the basic fairness of the program and; most importantly, forms the foundation of defense in the unlikely event that the appeal is pursued through legal proceedings.

It is beyond the scope of this article to provide a "How-to" guide to running an acquisition and relocation program. Yet the few innovations discussed here provide a glimpse of how one major program is dealing with the unique challenges it faces daily. Though your own acquisition and relocation program may vary in scope, there is always room for innovation in the administration of programs with the overall goal of compliance with the Uniform Act and program fairness.



# FIRST CLASS MAIL

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**TO:**

## SCHEDULE OF IRWA CLASSES FOR 2002

<b>Dates</b>	<b>Class Code / Class Title / Instructor / Location</b>	<b>Coordinator</b>	<b>Phone No.</b>	<b>E-mail Address</b>
2st half March	103 / 1 day / Ethics and the Right of Way Profession Ralph Brown, SR/WA	Hayley McKuur	(310) 646-1014	Hmckuur@lawa.org
1st half May	504 / 1 day / Computing Replacement Housing Payments	Hayley McKuur	(310) 646-1014	Hmckuur@lawa.org
1st half July	214 / Skills of Expert Testimony	Hayley McKuur	(310) 646-1014	Hmckuur@lawa.org
1st half Sep.	407 / 1 day / Valuation of Contaminated Properties	Rudy Romo	(714) 379-3376	Rromo@paragon-partners.com
1st half Nov.	803 / Eminent Domain Law Basics for Right of Way Professionals	Hayley McKuur	(310) 646-1014	Hmckuur@lawa.org

If you have any questions please call Hayley McKuur at (310) 816-0460 x 408

## CONNECTIONS

IRWA Headquarters Web Site  
Appraisal Institute  
American Society Appraisers  
Federal Highway Administration  
Caltrans  
CA Office of Real Estate Appraisers  
Calif. Code of Civil Procedure

[www.irwaonline.org](http://www.irwaonline.org)  
[www.appraisalinstitute.org](http://www.appraisalinstitute.org)  
[www.appraisers.org](http://www.appraisers.org)  
[www.fhwa.dot.gov](http://www.fhwa.dot.gov)  
[www.dot.ca.gov](http://www.dot.ca.gov)  
[www.orea.ca.gov](http://www.orea.ca.gov)  
[www.leginfo.ca.gov](http://www.leginfo.ca.gov)

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## Case of the Month

### **City of Lincoln v. Donald L. Barringer et al. California Court of Appeal, Third Appellate District (Placer)**

2002 DJDAR 12029 - October 18, 2002

*By: Linda Cunningham, NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP*

This case involves eminent domain proceedings brought by the City of Lincoln (the City) to acquire property owned by Donald and Carol Barringer (the Barringers) for roadways, utilities, drainage facilities and other off-site improvements in connection with a planned development area. The City initially sought to acquire a portion of the Barringers' property (approximately 0.776 acres, some of which consisted of a permanent road easement and non-exclusive public utility easement) based on a resolution of necessity. The Barringers opposed the taking, claiming that the resolution was invalid because the City had failed to make the required finding of necessity and to provide the required notice. Not surprisingly, the estimates of fair market value of the property submitted by the Barringers differed substantially from the City's proposed valuation.

While the eminent domain action was pending, the City adopted a new resolution of necessity and amended its complaint to seek the remainder of the Barringers' property (approximately 7.5 acres) as an uneconomic "remnant" under Section 1240.410 of the Code of Civil Procedure. The Barringers filed a motion for award of litigation expenses on the theory that the second resolution of necessity should have the same effect as if the City had rescinded its first resolution under Section 1245.255(c). The court granted the motion, determining that (1) the City had impliedly rescinded its first resolution of necessity, thereby triggering the penalties of section 1245.255(c), and (2) the City had waived any challenge to the amount of the litigation expenses. The City refused to comply with the court's order for payment of litigation expenses, and the court issued an order for the City to show cause why it should not be held in contempt of court for disobeying the order to comply with the claim and deposit procedures. The order was stayed pending appeal.

Following some additional preliminary motions, the trial court dismissed the eminent domain action as to the Barringers' property, determining that (1) the City had not abused its discretion in making a finding of necessity, but failed to give proper notice of the public hearing; (2) the remainder of the Barringers' property was not a "remnant" subject to acquisition along with the partial take; and (3) the City had abandoned its initial action for the partial take by attempting to acquire the remainder of the property.

The City appealed the dismissal, contending that proper notice had been provided and that the partial take had not been abandoned. The City did not, however, appeal the court's rejection of the remnant theory. On appeal, the court reversed the trial judge's dismissal order, finding that the notice given by the City was not defective and that the City had not abandoned its initial action for a partial take. The Barringers contended that the notice provided by the City 11 days in advance of the public hearing was defective because a minimum of 15 days' notice was required by Section 1245.235.

The court disagreed, finding that subsection (d) of the statute permitted the City to satisfy the notice requirement through any other procedure that would provide "reasonable written personal notice and a reasonable opportunity to appear and be heard." The court concluded that the 11-day notice procedure used by the City afforded the Barringers the reasonable notice required by the statute, and that the Barringers' failure to attend the hearing was not due to lack of notice but to their belief that it would be futile to appear at the hearing.

The court also disagreed with the trial court's finding that the City's attempt to take the remainder of the Barringer property as a remnant resulted in abandonment of its initial action for a partial take. The court examined the language in both resolutions of necessity and concluded that the initial resolution was not impliedly rescinded by the second. Instead, the Court found that the City had intended to maintain the integrity of both resolutions, in the alternative. The court noted that the adoption of a resolution of necessity is a legislative act, and the repeal of legislative acts by implication is disfavored. Moreover, the court found that nothing in the City's amended complaint suggested that the City was abandoning its partial take in the event that its remnant theory failed.

The court concluded that the trial court's rejection of the City's remnant theory should not have resulted in dismissal of the City's entire eminent domain action. Instead, the City should have been allowed to proceed with eminent domain as to the partial take only, since the claims were severable and the notice was not defective. The court of appeal directed the trial court to enter an order conditionally dismissing the proceeding as to the remainder, and allowing the City to amend its complaint to refer to the partial take only. On the issue of litigation expenses, the court awarded the Barringers their reasonable litigation expenses for defending against the taking of the remainder parcel, but not their expenses in defending against the partial take.

In retrospect, the City's attempt to acquire the remainder property as a remnant proved to be a costly mistake. Although the court of appeal ultimately reversed the trial court's dismissal of the eminent domain proceeding as to the initial partial take, the litigation took over four years to resolve. Moreover, in addition to its own litigation costs, the City ended up having to pay the property owner's litigation expenses associated with the attempted taking of the remainder parcel. The development project that was scheduled to include the Subject Property was admissible to help demonstrate the highest and best use of the Subject Property and to rebut the Agency's contentions that the Subject Property was stigmatized and not suitable for development.