



January

2006

IRWA  
CHAPTER 1

## Upcoming Events

February 2006

To be announced

March 28, 2006

7<sup>th</sup> Annual Joint Membership Luncheon with the Southern California of the Appraisal Institute at Steven's Steakhouse. Mr. Jeffery Kagen will speak on, The ABC's of Inverse Condemnation and Sima Salek will speak on Direct Condemnation from Orbach, Huff & Suarez.

Education Calendar - See Page 7



## President's Message

By: Tom Hanley, Metrolink

At the beginning of 2006 I want to thank Holly Rockwell for stepping up to the plate and serving as our president for 1 ½ years. I'm sure she is ready to pass the reigns to me and I do

hope to serve you as well as she did. But she is not going away. She will continue to serve us as Nominations and Awards Chair during 2006. Thanks also to Michael Fisher who assumed the duties of Treasurer ½ year early and to the help he received from the outgoing Treasurer and incoming President Elect, Bryan Riggs. Kudos to Andrew Thompson, the newest member of the Chapter 1 Board, who assumes the duties of 2006 Secretary. Thanks also to Michael Popwell, Bill Larsen, Mark Brusca, Natalie Michelson, Bill von Klug, Rudy Romo, Mohammed Estiri, Gary Valentine, Duncan

## Membership Luncheon

Date: January 24, 2006

Time: 11:45 Lunch

Speaker: Henry Nunez

Topic: Real Estate Market Trends for 2006

Location: Steven's Steakhouse, 5332 Steven's Place, Commerce, CA 90040

Luncheon choice: Oven Roasted Half Chicken or Triangle Beef

Cost: FREE

RSVP: Nancy Ocampo, Luncheon Chair at (310) 642 6900 or [nancy@centurylawgroup.com](mailto:nancy@centurylawgroup.com) by January 20, 2006, To reserve your space and make your luncheon selection

Robb, Freddy Arevalo, and Teri Kortens who will continue their 2005 chair positions in 2006. Welcome to our two new Board members, Alan Sozio (Law Chair) and Dave Roberts (Valuation Seminar Chair). Good luck to Bradley Pierce as he transfers his commitment and talents to Chapter 67. He will be missed. And as Paul Norlen steps down from Valuation Seminar Chair, we can only wish him a year of rest (maybe) before we go after him again. Also thank you to all the members who served on the numerous committees that made all of the IRWA events successful. It is the people that make IRWA so much fun and the reason why I stay involved.

As we get started with the new year, I have two projects I would like to work on. The first is to somehow bring back support from employers for IRWA member activities. In furtherance of this, I will propose to the Board that we dispense with the February, June, and November luncheon meetings, hopefully to lessen the time commitment for luncheon attendance. Perhaps employers will note this compromise and endeavor to support IRWA as they have in the past. We are looking at other suggestions too.

I will also propose that Chapter 1 make a bid to host the 2011 National Education Conference. As chair of the Tri Chapter Luncheon Committee during December, I found out what fun it was to work together to put on an showcase event and I think it would be great fun to take on this project over the next several years. It has been a while since Chapter 1 hosted this event and it is time to bring it back to Chapter 1 where the IRWA began.

So I look forward to a wonderful year and promise to work as hard as I can as your president. Somehow it is hard to believe that you all have this confidence in me. I will not let you down and we will have lots of fun.

## IRWA Chapter 1 2006 Officers and Executive Board

<i>President and International Director</i>	<b>Tom Hanley</b> Metrolink	213-452-0256	<a href="mailto:hanleyt@scrra.net">hanleyt@scrra.net</a>
<i>President-Elect and International Director</i>	<b>Bryan Riggs, MAI, SR/WA</b> Riggs & Riggs, Inc.	805-578-2400 ext 101	<a href="mailto:riggsinc@sbcglobal.net">riggsinc@sbcglobal.net</a>
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<i>Secretary</i>	<b>Andrew Thompson, SR/WA</b> Sempra Utilities	310-244-5032	<a href="mailto:athompson@semprautilities.com">athompson@semprautilities.com</a>
<i>Professional Development</i>	<b>Michael Popwell, SR/WA</b> LA Community Dev. Com.	323-890-7195	<a href="mailto:michael.popwell@lacdc.org">michael.popwell@lacdc.org</a>
<i>Nominations and Awards</i>	<b>Holly Rockwell</b> Epic Land Solutions	310-378-0771	<a href="mailto:hollyrockwell@epicland.com">hollyrockwell@epicland.com</a>
<i>Education</i>	<b>Lynette Overcamp</b> Epic Land Solutions, Inc.	310-378-1178	<a href="mailto:lynetteovercamp@epicland.com">lynetteovercamp@epicland.com</a>
<i>Membership</i>	<b>Bill Larsen, MAI</b> Integra Realty Resources	818-593-7200	<a href="mailto:wlarsen@irr.com">wlarsen@irr.com</a>
<i>Luncheon</i>	Vacant		
<i>Webmaster</i>	<b>Mark Brusca</b> Riggs & Riggs, Inc.	805-578-2400 ext 105	<a href="mailto:markbrusca@sbcglobal.net">markbrusca@sbcglobal.net</a>
<i>Newsletter</i>	<b>Natalie Michelson</b> JPI Studios, Inc.	818-634-6932	<a href="mailto:aunttalie@aol.com">aunttalie@aol.com</a>
<i>Law</i>	<b>Alan Sozio Esq.</b> Burke, Williams, & Sorenson, LLP	213-236-2819	<a href="mailto:asozio@bwslaw.com">asozio@bwslaw.com</a>
<i>Valuation Seminar</i>	<b>Dave Roberts</b> LA City General Services Asset Management	213-922-8546	<a href="mailto:dlRobert@gsd.LACity.org">dlRobert@gsd.LACity.org</a>
<i>Relocation Seminar</i>	<b>Bill Von Klug, SR/WA, R/W - RAC</b> LA Community Dev. Com.	323-890-7434	<a href="mailto:bill.vonklug@lacdc.org">bill.vonklug@lacdc.org</a>
<i>Fall Seminar</i>	<b>Vivian Howell, SR/WA</b> Los Angeles World Airports	(310) 417-0450	<a href="mailto:vhowell@lawa.org">vhowell@lawa.org</a>
<i>Historian</i>	Vacant		
<i>Engineering/Survey</i>	Vacant		
<i>Environmental</i>	<b>Mohammed Estiri, PhD</b> Eco & Associates, Inc.	714-832-5427	<a href="mailto:mestiri@panenv.com">mestiri@panenv.com</a>
<i>Local Public Agency</i>	Vacant		
<i>Pipeline</i>	<b>Gary Valentine, SR/WA, MAI</b> Valentine Appraisal & Assoc.	661-288-0198	<a href="mailto:gsv@valentineappraisal.com">gsv@valentineappraisal.com</a>
<i>Property Management</i>	<b>Duncan Robb, SR/WA, R/W - AMC</b> Metropolitan Trans. Auth.	213-922-2435	<a href="mailto:robbd@mta.net">robbd@mta.net</a>
<i>Relocation</i>	<b>Fred Arevalo, R/W - RAC</b> LA Community Dev. Com.	323-890-7473	<a href="mailto:fred.arevalo@lacdc.org">fred.arevalo@lacdc.org</a>
<i>Title</i>	<b>Teri Kortens</b> Lawyers Title	310-210-6741	<a href="mailto:terikortens@msn.com">terikortens@msn.com</a>
<i>Transportation</i>	Vacant		
<i>Utilities</i>	Vacant		

## January Membership Luncheon

There is such a thing as a free lunch! To kick off the New Year, we are looking forward to a great turnout at our January luncheon! Everyone knows that our best turnout occurs when lunch is FREE, so the Chapter Board has once again voted to sponsor the lunch at no charge for all Chapter 1 paid members who RSVP.

Mr. Henry Nunez, President and founder of Henry Nunez Real Estate Company, Inc. will speak on Real Estate Market Trends for 2006. This program will provide an in depth discussion into the state of Southern California's economy, the health of the real estate market, and expected trends for the new year. Mr. Nunez has over 19 years experience in all aspects of the Real Estate Industry. In 2001, he earned his Masters in Real Estate Development from the School of Policy, Planning and Development at the University of Southern California. He is Founder and President of P.A.R.S.A., Public Acquisition and Relocation Society of America. Henry was recently elected to President of the Arcadia Association of Realtors for 2007 and is an active member of the IRWA with an emphasis on training and education.

Date: Tuesday, January 24, 2006  
 Time: 11:45 a.m.  
 Location: Steven's Steakhouse, 5332 Steven's Place, Commerce, CA 90040  
 Luncheon Choice: Oven Roasted Half Chicken or Triangle Beef

To reserve your space and make your luncheon selection, please contact our Luncheon Chair, Nancy Ocampo, RSVP by January 20, 2006, (310) 642-6900 or [nancy@centurylawgroup.com](mailto:nancy@centurylawgroup.com).



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### **Membership Drawing**

At each chapter luncheon we draw a name from the Chapter 1 roster and if that person is in attendance, they win a cash prize. The drawing starts at \$50 and increases \$10 for each month that there isn't a winner. We haven't had a winner in a while. January's drawing will be for \$190 so be sure to be there in case your name is drawn!

## **MONTHLY ARTICLE**

### ***What Will the Departure of Alan Greenspan Mean to the Right of Way Profession?***

By: Lecia L. Shorter

Amidst considerable controversy surrounding the current administration, it appears President Bush was able to nominate Dr. Benjamin Bernanke to succeed Alan Greenspan as the Chairman of the Federal Reserve with relatively little criticism. The consequences of the monetary policies implemented by Allan Greenspan during his 18 year tenure and those of his successor should concern everyone one who holds, saves or invests the U.S. dollar whether personally or professionally.

The Federal Open Market Committee met on December 13 and increased the Federal funds rate, which is the rate banks charge each other, to 4.25 percent. This is the 13<sup>th</sup> increase in 17 months, boosting the overnight bank lending rate to its highest level since June of 2001. The Federal funds rate is one of the most important, if not the most important, economic indicators that influence real estate markets. Other indicators include existing home sales, new home sales, new home construction, housing affordability, mortgage rates, mortgage applications, consumer confidence and Gross Domestic Product.

Right of way professionals should be concerned about Mr. Greenspan's legacy and the future monetary policies of his successor. Impacted by the decisions of the new Chairman will be right of way plans, redevelopment plans, acquisition and negotiation of real property, acquisition of easements, asset management, disposal of real property, residential and business relocation, appraisals, selection of developers, construction costs and the labor market.

Significantly impacted by rising interests rates are the costs of acquiring land, project construction and the costs of relocating displacees of right of way and public use projects. Although there may be more inventory for relocation purposes, increased costs associated with acquisition, construction and relocation pose the danger of a further drain on the resources of public agencies and private developers.

Mr. Greenspan will leave on January 31, the date of his last board meeting as Chairman, and most predictions are that he will once again vote to raise the Federal fund rate by at least a quarter of a percent, thereby continuing to tighten the money supply with the stated goal of slowing the economy to curtail inflation. Another rate hike is expected in March. If these predictions are true and the trend is continued with Dr. Bernanke, we could very well be headed for the burst of the real estate bubble feared by many, and, a slowdown of all activity in the right of way profession.

### **Updating your IRWA Membership Information**

1. Visit [www.irwaonline.org](http://www.irwaonline.org)
2. Highlight "Resources" in the upper right hand corner and then click on "Membership Directory".
3. Click on Update Member Profile.
4. Enter your User Name and Password and click on Login. Your User Name is your membership number (contained on your membership card and dues renewal notice) and the Password is your last name. The Password is case sensitive, so ensure you capitalize the first letter and leave the rest in non-caps.
5. Update your information and click on "Submit. A new page will come up and you can choose to "Exit" or "Logout".
6. That's it! Your information will be automatically updated on the headquarters master list, which is also the one the Chapter uses for communications. Going forward, Chapter 1 monthly newsletters will be sent out via e-mail so it's important to ensure your e-mail address is current.
7. If you do not have access to the Internet or have any questions about updating membership information, call Bonnie Gray at 310-538-0233.

## Case of the Month

### **The Brown Act Restricts Closed Session Meetings with Legal Counsel**

By: Marley S. Fox, Esq. of Orbach, Huff & Suarez LLP

This month's case of the month, *Shapiro v. Board of Directors of Centre City Development Corp.* (2005) 35 Cal.Rptr.3d 826, contemplates the issue of whether the Centre City Development Corporation ("CCDC"), a nonprofit corporation created by the City of San Diego, is entitled to hold closed session meetings with legal counsel for the Redevelopment Agency for the City of San Diego (the "Agency") to assist the Agency with its eminent domain litigation. Plaintiff Melvin Shapiro ("Shapiro"), a resident of the City of San Diego (the "City"), alleged that the Ralph M. Brown Act, codified as California Government Code section 54950, *et seq.* (the "Brown Act"), prohibits CCDC's Board of Directors from meeting in closed session with the Agency's legal counsel because CCDC is not a party to the Agency's eminent domain litigation. The court agreed with Shapiro, and held that since the Brown Act does not expressly authorize CCDC to meet in closed session with the Agency's legal counsel, such closed session meetings are prohibited.

#### The Brown Act

The Brown Act requires that, except as otherwise provided, "[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency..." (Gov. Code §54953(a).) It was authored by California assemblyman Ralph M. Brown in 1953 -- and was subsequently enacted by the California State Legislature -- "to facilitate public participation in local governmental decisions to curb misuse of the democratic process by secret legislation." (*Shapiro v. Board of Directors of Centre City Development Corp.*, *supra*, 35 Cal.Rptr.3d 826, 832.) The Brown Act applies exclusively to city and county government agencies, boards and councils within the State.

There are certain exceptions to the Brown Act's open meeting requirement. One exception is found in section 54956.9(a), which permits a local agency's legislative body to hold closed session meetings with its legal counsel to discuss pending litigation to which it is a party, when discussion of those matters in open session would prejudice the local agency's position in the litigation. (Gov. Code §54956.9(a).)

#### Relevant Factual and Procedural Background

The City created CCDC in 1975 to provide redevelopment services to the Agency. The City is CCDC's sole member and appoints its Board. The Redevelopment Plan for the Centre City Redevelopment Project, which covers much of downtown San Diego, was adopted by the City Council in 1992, and expressly gave the Agency the power of eminent domain. CCDC does not have the power of eminent domain, and for that reason, would not be a party to any such litigation.

Before the Agency may file an eminent domain action, the City Council, as the Agency's legislative body, holds a public hearing to determine whether to adopt a resolution of necessity for acquisition of property by eminent domain. After adopting a resolution of necessity, the Agency files a lawsuit to initiate eminent domain proceedings. The Agency performs these tasks without the assistance of CCDC.

CCDC is responsible for obtaining an appraisal of the property and negotiating with property owners regarding compensation. When a settlement is reached, the CCDC Board then determines whether the settlement is within the Agency's budget. As part of this process, the CCDC Board confers with an outside law firm hired by the Agency to litigate the eminent domain lawsuits. Agendas are posted publicly, and state that these meetings will take place in closed session pursuant to section 54956.9 of the Brown Act.

#### History of the Litigation

Shapiro filed a complaint pursuant to section 54960(a) of the Brown Act for declaratory, injunctive and mandamus relief against the CCDC Board and the City Council acting as the governing body of the Agency. He claims that the CCDC Board and the Agency violate the Brown Act's open meeting requirements when the CCDC Board meets in closed session with the Agency's legal counsel to discuss pending eminent domain litigation. Shapiro argues that since CCDC is not a party to the litigation, section 54956.9 does not apply, and the CCDC Board must meet with the Agency's legal counsel in open session. The trial court ruled against Shapiro, and he appealed.

#### Section 54956.9 of the Brown Act Prohibits CCDC From Meeting in Closed Session With the Agency's Legal Counsel

Section 54956.9 of the Brown Act provides in pertinent part as follows:

"Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

"For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter...

"For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

"(a) Litigation, to which the local agency is a party, has been initiated formally..." (Gov. Code §54956.9.)

Shapiro argues that the CCDC Board is not permitted to meet in closed session with the Agency's legal counsel because CCDC is not a party to the litigation, and as a result, the meetings are not held to discuss "pending litigation" as that term is defined in section 54956.9. (*Shapiro v. Board of Directors of Centre City Development Corp.*, *supra*, 35 Cal.Rptr.3d 826, 833.) In response, CCDC and the Agency claim that because the CCDC Board acts as the Agency's agent, it has the same rights as the Agency to discuss eminent domain litigation with counsel in closed session. (*Id.*)

The argument advanced by CCDC and the Agency would be true if normal attorney-client privilege rules -- where communications between an attorney and a client are confidential -- applied. (*Shapiro v. Board of Directors of Centre City Development Corp.*, *supra*, 35 Cal.Rptr.3d 826, 834.) However, section 54956.9 clearly states, in no uncertain terms, that the general rules of attorney-client privilege do not apply to determine whether a meeting with legal counsel may be held in closed session. (*Id.*) Instead, a legislative body of a local agency is permitted to hold closed session meetings with counsel to discuss pending litigation only as permitted by the terms of that section. (*Id.*) CCDC acknowledges that "[w]hereas the Brown Act expressly authorizes closed sessions between the legislative body and its counsel regarding formally initiated litigation to which a local agency is a party, *there is no similar express authorization to meet in closed session where, as here, the legislative body delegates to another entity as its agent [sic] its powers to negotiate for the acquisition of real property.*" (*Id.*)

Precedent dictates that the Brown Act is to be construed liberally in favor of openness in conducting public business. (*Shapiro v. Board of Directors of Centre City Development Corp.*, *supra*, 35 Cal.Rptr.3d 826, 833.) Accordingly, the court held that since both the plain language of section 54956.9 and that section's legislative history prohibit closed session meetings with a non-party, the CCDC Board -- a non-party -- may not meet in closed session with the Agency's legal counsel to discuss the Agency's eminent domain litigation. (*Id.* at 834.)

#### Become an IRWA instructor.

The International Right of Way Association (IRWA) will be conducting an Instructor Clinic (Clinic) during its 52nd Annual International Education Conference in Denver, Colorado. The Clinic is scheduled immediately following the conference, on Thursday, June 22 and Friday, June 23, 2006.

The Clinic is designed specifically for those individuals interested in becoming an instructor for the IRWA, and have not completed a train-the-trainer program through a comparable professional organization approved by the International Professional Development Committee (IPDC) or are not a College/University level Instructor. The Clinic registration fee, which will be collected after a Candidate is selected, is the same as that for a two day course \$370.00 (U.S. Dollars) per person. This year we have again scheduled David Layne, SR/WA and IPDC representative, to facilitate the clinic.

The purpose of the Clinic is to offer participants an intensive, two-day training program in the latest instructional methods and techniques. A maximum of 16 Candidates will be selected to attend the Clinic. Application forms will be distributed to IRWA Region and Chapter Leaders for solicitation from interested Region members and will be available on line through the IRWA website. Successful Candidates will be notified in late March.

Should you have any questions, please feel free to contact Valerie Fries, Director of Education and Professional Development, via E-mail, at [fries@irwaonline.org](mailto:fries@irwaonline.org) or by telephone at (310) 538-0233 ext. 143.

Below are the classes Chapter 1 has scheduled for 2006. If you would like to coordinate classes (and get the class free, close to your work/home, and on a date you select!), please let me know also. We have two classes below for which we need coordinators, so feel free to volunteer to coordinate one of those.

### Chapter 1 2006 Education Schedule

Course/Seminar	Date	Coordinator	Instructor
213 – Conflict Management	February 24, 2006	Konstantin Akhrem	Vivian Howell, SR/WA
700 – Introduction to Property Management	March, 2006	Michael Fischer 213-922-2413 <a href="mailto:fischerm@metro.net">fischerm@metro.net</a>	TBD
203 – Alternative Dispute Resolution (new course – pending approval by IRWA)	May 15 <sup>th</sup> /16 <sup>th</sup>	TBD	Vivian Howell, SR/WA
900 - Principles of Real Estate Engineering	2006	Michael Fischer 213-922-2413 <a href="mailto:fischerm@metro.net">fischerm@metro.net</a>	TBD
602 – Project Development and the Environmental Process	2006	Konstantin Akhrem	TBD
140 – Principles of Wireless Site Development	2006	TBD	TBD

### Other IRWA Educational Events

Below is a list of courses/events being sponsored by International or other Chapters. Please check the IRWA website at <http://www.irwaonline.org/education/> for the most recent information.

Date	Course #	Course Name	Location
January, 2006	103	Ethics and the Right of Way Profession	Riverside
February, 2006	500	Uniform Relocation Assistance Act – Executive Summary	Orange County
February, 2006	701	Property Management: Leasing	San Diego
March, 2006	201	Communications in Real Estate Acquisition	Riverside
April, 2006	202	Interpersonal Relations	San Diego
April, 2006	603	Understanding Environmental Contamination in Real Estate	Orange County
May, 2006	504	Business Relocation	Riverside
May, 2006	506	Advanced Relocation Assistance for Businesses	Orange County
June, 2006	402	Income Capitalization Approach	San Diego
June, 2006	800	Principles of Real Estate Law	Orange County
September, 2006	803	Eminent Domain Law Basics for Right of Way Professionals	Orange County
October, 2006	501	Relocation Assistance	San Diego
October, 2006	802	Legal Aspects of Easements	Riverside
November, 2006	902	Property Descriptions	Orange County

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