

# LOS ANGELES



IRWA  
CHAPTER 1



July  
2004

## Upcoming Events

### August

Dark (No meeting)

### September 28

September's luncheon speaker will be Dawnna Lawrence of County of Los Angeles, Department of Public Works speaking on Contract Procurement.

### October 26

**Fall Seminar** (and Membership Meeting)

Quiet Cannon, 901 N. Via San Clemente, Montebello (636-A/7)  
Contact Michael Fischer, Fall Seminar Chair, at (323) 890-7250



## President's Message

By: Linda Cunningham Esq.,  
Nossaman, Guthner, Knox, & Elliott,  
LLP

### **Annual Education Conference - Philadelphia**

The 50<sup>th</sup> Annual International Education Conference in Philadelphia was attended by over 900, including several members from Chapter 1. The conference featured a variety of panel discussions, education courses and speakers, including keynote speaker Dr. Lowell Catlett and Olympic medal winner Michael Schlappi.

Among the highlights of the conference were the following:

- Two Resolutions were approved by the International Board of Directors: (1) changing the fiscal year end from December 31 to June 30, for headquarters purposes only, not for individual chapters; and (2) increasing association annual membership from \$150.00 to \$175.00 (from \$165.00 to \$190.00 for SR/WA)

## Membership Luncheon

Date: July 27, 2004

Time: 11:45am

Speaker: Yogi Ramesh who will present Desk Yoga – relaxation techniques we can use without leaving our office!

Location: Shanghai Red's, 13813 Fiji Way, Marina Del Rey, CA 90292

Luncheon choice:

Chicken Breast Champagne,  
Grilled Pacific Swordfish,  
Roasted Prime Rib of Beef

To reserve your space and make your luncheon selection, please contact our Luncheon Chair, Tracy Washburn at [twashburn@sphvalue.com](mailto:twashburn@sphvalue.com) or 310-571-3400 no later than Thursday, July 22<sup>nd</sup>.

Note: Although the cost for the luncheon at Shanghai Red's is significantly higher, the Chapter budgeted to subsidize the luncheon so that the cost remains at \$16 per person.

- Installation of International Officers, including Gordon McNair (Ch. 63 – Ottawa) as International President
- Michael Pattison, SR/WA, from Region 1, Chapter 27 (Sacramento) received the Balfour Award for Professional of the Year
- Chapter 1 was the recipient of the Gene L. Land award (and a \$200 check) for highest numerical membership gain for the first half of 2004.

Next year's conference will be held in Toronto, Canada, and the host chapter is promising that it will be one of the best!

## **June Luncheon**

Our June luncheon speaker was Dan Leavitt, who gave us an informative update on the status of the California High Speed Rail project proposed to link northern and southern California. The presentation garnered a number of questions from those attending, and Mr. Leavitt promised to return and keep us informed on the progress of this major rail project.

## **July Luncheon at Shanghai Red's**

Please join us for our annual "Summer Luncheon" on July 27 at Shanghai Red's in Marina Del Rey. Our speaker will be Yogi Ramesh, from the Universal Yoga Center, who will instruct us on methods of desk yoga. As always, this event will provide a change of pace and promises to be entertaining and enjoyable. Please RSVP to Tracy Washburn at [twashburn@sphvalue.com](mailto:twashburn@sphvalue.com).

Thanks to all of our new and continuing members for your support and participation in Chapter 1 luncheons, education courses and seminars. As always, we welcome your comments or suggestions for improving our membership services.

**IRWA Chapter 1, Los Angeles  
2004 Board Officers and Committee Chairs**

|   |  |  |
|---|--|--|
| <p><b>President &amp; International Director:</b><br/><b>Linda Cunningham Esq.</b><br/>Nossaman, Guthner, Knox, &amp; Elliott, LLP<br/>445 S. Figueroa St.<br/>Los Angeles, CA 90071<br/>Phone (213) 612-7800<br/>E-mail<br/><a href="mailto:lcunningham@nossaman.com">lcunningham@nossaman.com</a></p> | <p><b>President Elect &amp; International Director:</b><br/><b>Holly Rockwell</b><br/>Epic Land Solutions, Inc.<br/>24050 Madison St., Suite 205<br/>Torrance, CA 90505<br/>Phone (310) 378-0771<br/>E-mail<br/><a href="mailto:hollyrockwell@epicland.com">hollyrockwell@epicland.com</a></p>   | <p><b>Vice President:</b><br/><b>Tom Hanley</b><br/>Southern Calif. Regional Rail Authority (Metrolink)<br/>700 S. Flower St. Suite 2600<br/>Los Angeles, CA 90017<br/>Phone (213) 452-0256<br/>E-mail <a href="mailto:hanlevt@scrra.net">hanlevt@scrra.net</a></p>                                      |
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| <p><b>Fall Seminar Chair</b><br/><b>Michael Fischer</b><br/>MTA Real Estate<br/>One Gateway Plaza<br/>Mail Stop 99-13-8<br/>Los Angeles, CA 90012-2952<br/>Phone (213) 922-2413<br/>E-mail <a href="mailto:fischer@metro.net">fischer@metro.net</a></p>   | <p><b>Past President; Nominations and Awards Chair; Region Spring Forum Chair :</b><br/><b>Michael Popwell, SR/WA</b><br/>Community Development<br/>Commission of the County of Los Angeles<br/>2 Coral Circle<br/>Monterey Park, CA 91755<br/>Phone (323) 890-7195<br/><a href="mailto:michael.popwell@lacdcd.org">michael.popwell@lacdcd.org</a></p> | <p><b>Region Spring Forum Co-Chair &amp; Membership Co-Chair</b><br/><b>Henry Nunez</b><br/>Henry Nunez Coordinated Land Services<br/>11 E. Huntington Drive<br/>Arcadia, CA 91006<br/>Phone (626) 254-0524<br/>E-mail <a href="mailto:henry@hnrealstate.com">henry@hnrealstate.com</a></p>              |

**July Luncheon**

In today's fast-paced, competitive modern life, we all suffer from stress, strain and tension. We know we should slow down, but who has the time? Our July luncheon being held in Marina Del Rey is a fun time to get together in a beautiful ocean-side location where we can relax and enjoy life a bit. In accordance with the theme, our non-conventional speaker will be Yogi Ramesh who will present Desk Yoga – relaxation techniques we can use without leaving our office! In addition to teaching classes and producing his own show, Mr. Ramesh has appeared numerous times on national television. His enthusiasm and energy are infectious and we are privileged to have him join us at our July luncheon. Plan on attending this luncheon to enjoy networking and a change of pace.

Date: July 27<sup>th</sup>, 2004

Time: 11:45 am

Location: Shanghai Red's,  
13813 Fiji Way,  
Marina Del Rey, CA 90292

Luncheon  
choice: Chicken Breast  
Champagne, Grilled Pacific Swordfish,  
Roasted Prime Rib of Beef

Cost: \$16

To reserve your space and make your luncheon selection, please contact our Luncheon Chair, Tracy Washburn at [twashburn@sphvalue.com](mailto:twashburn@sphvalue.com) or 310-571-3400 no later than Thursday, July 22<sup>nd</sup>, 2004.

Note: Although the cost for the luncheon at Shanghai Red's is significantly higher, the Chapter budgeted to subsidize the luncheon so that the cost remains at \$16 per person. Don't pass up this terrific value!

**IRWA Chapter 1  
2004 Calendar of Events**

|                   |   |
|-------------------|---|
| July 13           | <b>Board of Directors meeting:</b> 11:30 AM to 1:00 PM<br>Nossaman offices: 445 S. Figueroa St, 31 <sup>st</sup> Floor, Los Angeles   |
| July 27           | <b>Chapter 1 Membership meeting</b><br>Shanghai Red's, Marina Del Rey   |
| August            | <b>Chapter 1 dark,</b> No Membership Meeting  |
| September 14      | <b>Board of Directors meeting:</b> 11:30 AM to 1:00 PM<br>Nossaman offices: 445 S. Figueroa St, 31 <sup>st</sup> Floor, Los Angeles   |
| September 16 & 17 | <b>Education Course 800</b> (Principles of Real Estate Law) (SR/WA)<br>Contact Deborah Martinez, Education Co-Chair, at (714) 379-3376; <a href="mailto:dmartinez@paragon-partners.com">dmartinez@paragon-partners.com</a>          |
| September 28      | <b>Chapter 1 Membership Meeting</b> (and SR/WA Free Lunch with RSVP)<br>Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)   |
| October 12        | <b>Board of Directors meeting:</b> 11:30 AM to 1:00 PM<br>Nossaman offices: 445 S. Figueroa St, 31 <sup>st</sup> Floor, Los Angeles   |
| October 14 & 15   | <b>Education Course 200</b> (Principles of Real Estate Negotiations) (SR/WA)<br>Contact Deborah Martinez, Education Co-Chair, at (714) 379-3376; <a href="mailto:dmartinez@paragon-partners.com">dmartinez@paragon-partners.com</a> |
| October 26        | <b>Fall Seminar</b> (and Membership Meeting)<br>Quiet Cannon, 901 N. Via San Clemente, Montebello (636-A/7)<br>Contact Michael Fischer, Fall Seminar Chair, at (323) 890-7250.  |
| November 9        | <b>Board of Directors meeting:</b> 11:30 AM to 1:00 PM<br>Nossaman offices: 445 S. Figueroa St, 31 <sup>st</sup> Floor, Los Angeles   |
| November 23       | <b>Chapter 1 Membership Meeting</b> (and Past Presidents Free Luncheon)<br>Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)  |
| December          | <b>Tri-Chapter Installation Banquet</b><br>Chapter 57, Riverside, is Host   |

July 2004 IRWA, Chapter 1, New Members

Paul B. Strader, Director, Real Estate Consulting Services, Inc.; Tustin

## **ARTICLE OF THE MONTH**

### **LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY'S MID-CITY/EXPOSITION LIGHT RAIL TRANSIT PROJECT**

By: Duncan W. Robb, SR/WA, MTA Real Estate Manager & Property Manager Chair for Chapter I

#### **PROJECT OVERVIEW**

The Mid-City/Exposition Light Rail Transit Project is the newest proposed extension of the 75-station Metro Rail system owned and operated by the Los Angeles County Metropolitan Transportation Authority (MTA).

Current plans call for a 9.6-mile line extending along the former Southern Pacific Railroad and now MTA-owned Exposition right-of-way from the existing Metro Rail station at 7th/Metro Center in downtown Los Angeles to Venice/Washington in Culver City, with an initial segment constructed at least to Vermont Avenue adjacent to Exposition Park. The Mid-City/Exposition Light Rail Transit Project will include seven new stations plus upgrades to three existing stations, providing a total of ten stations for the length of the initial segment of the route to Culver City. The alignment will primarily be at-grade.

The MTA Board's vision and intent is eventually to complete the light rail line to Santa Monica.

#### **Project Process and Schedule**

MTA began work on the Mid-City/Westside Transit Corridor Study in 1999. The first phase of study included evaluation of a list of transit alternatives for the Westside. After considerable analysis and additional stakeholder input, light rail was adopted for the Exposition Corridor as the Locally-Preferred Alternative (LPA), and a Draft Environmental Impact Statement/Report (DEIS/R) was prepared. Thousands of comments on the DEIS/R were received and recorded, and have been incorporated into the next steps. The Final Environmental Impact Statement/Report (FEIS/R) is now underway and is scheduled for completion in 2004. Preliminary Engineering Design, which commenced in January 2003, is taking place concurrently with the FEIS/R.

MTA's Real Estate Department staff will play a significant role in the success of this project. The Exposition ROW has been owned by MTA since early 1991 but has not just been a fallow transportation corridor during that time. Pursuant to MTA's policy of proactively managing all of its properties and through the dedicated efforts of the Property Management Section of MTA's Real Estate Department, millions of dollars in lease revenues have been generated from this property during this holding period. As this project is implemented, many of these leases will now have to be terminated which will create even more challenges to be dealt with by MTA's Real Estate Department.

## **CASE OF THE MONTH**

### **The Committee For Reasonable Regulation of Lake Tahoe v. Tahoe Regional Planning**

United States District Court For the District of Nevada, Reno Division

311 F. Supp. 2d 972; 2004 U.S. Dist. LEXIS 6014

March 29, 2004, Decided

By: Larry Permaul

Although the instant case comes out of the U.S. District Court for the District of Nevada, the federal court ruling affects California law. The action arises from a challenge by The Committee For Reasonable Regulation of Lake Tahoe ("Plaintiff") to the Tahoe Regional Planning Agency's ("TRPA") draft proposal and subsequent adoption of a new scenic review system ("Scenic Review Ordinance") which regulates the size, color, appearance, visibility, and other aspects of residential housing on shoreland properties in the Lake Tahoe basin. The Plaintiff's complaint alleged various claims of relief, including (1) that TRPA lacked authority to enact the Scenic Review Ordinance, (2) that TRPA lacked substantial evidence to justify the new scenic review system, (3) that TRPA was required to prepare an environmental impact statement, (4) that TRPA effected a taking of the Plaintiff's members property, (5) that the Scenic Review Ordinance is arbitrary, vague, and ambiguous, and (6) that TRPA violated the First Amendment. TRPA brought a motion to dismiss the complaint in its entirety which was granted by the court. While this decision implicates several land use issues, this article will focus on the issues related to eminent domain and regulatory takings.

It is well settled law that a governmental agency can effectuate a taking either by direct government appropriation of property, or by government regulation. A regulatory taking occurs when the value or usefulness of private property is diminished by a regulatory action that does not involve a physical occupation of the property. In reviewing regulatory takings, the United States Supreme Court has emphasized ad hoc, factual inquiries designed to allow careful examination of all relevant circumstances. While property may be regulated to a certain extent, if the regulation goes too far it will be recognized as a taking and just compensation will be awarded. As announced in Agins v. City of Tiburon, (1980) 447 U.S. 255, 260, a land use regulation constitutes a taking if: (1) the

regulation denies a landowner all economically viable use of the property, or (2) the regulation does not substantially advance a legitimate government interest.

Under the first prong of the test, a government regulation constitutes a taking if it denies an owner economically viable use of their land. However, the court pointed out that the denial of all economically viable use occurs in only extraordinarily rare situations. Such circumstances are exceptions to the usual assumption that the government can not be responsible for every regulation that diminishes property values. Still, the court insists that multiple factors are relevant in the analysis of regulatory takings claims. The court further states that the analysis should focus on the parcel as a whole. Despite Plaintiff's claims for \$100 million in loss property value, there was no indication that this constituted a total loss. In fact, the Plaintiff's complaint indicates that the claim for \$100 million was calculated by applying a 50% reduction for reduced views from the affected properties. This is insufficient to allege a total taking of the entire parcel of land.

Still, the court later explained, based on findings in Lucas v. South Carolina Coastal Council, (1992) 505 U.S. 1003, 1017-18, that anything less than a total elimination of value would require the kind of analysis applied in Penn Central Transp. Co. v. City of New York, (1960) 438 U.S. 104. Thus the court engaged in a subset of Agins' first prong – total elimination of all economically viable use – and employed a multi-factor balancing test from Penn Central to determine if the regulation nonetheless amounted to a taking. The three factors that Penn Central identified as significant in any regulatory inquiry are: (1) the economic impact of the regulation on the property owner, (2) the extent to which the regulation has interfered with distinct investment-backed expectations, and (3) the character of the government invasion.

Assuming the truth of Plaintiff's allegations of \$100 million in loss value, the court could find an economic impact under the first factor of the Penn Central test. However, mere economic impact alone is insufficient because a property owner is not entitled to the most beneficial use of the property. Furthermore, case law has held zoning laws that affect existing uses of property do not constitute a taking even when the challenged regulations prohibited a beneficial use to which individual parcels had previously been devoted and resulted in substantial individualized harm. As a result, the alleged economic impact must be considered in context with the other two factors identified in Penn Central.

In order to determine whether distinct investment-backed expectations have been interfered with, Penn Central requires an analysis regarding the reasonableness of a landowner's expectations. The regulatory scheme in place at the time the Plaintiff's acquired the property helps shape the reasonableness of their expectations. In the instant case, several other scenic regulations were in force from as early as 1982. Those regulations also sought to control height, bulk, texture, form, materials, colors, lighting and other design elements of new remodeled and redeveloped buildings. Although the court noted that the extensive regulatory structure in the Lake Tahoe basin did not preclude a finding of a taking, it did inform the court regarding the reasonableness of the Plaintiff's expectations.

The last prong of the Penn Central test requires a look at the nature of the governmental invasion. A court will be more readily able to find a taking when the interference with the property is characterized as a physical invasion as opposed to interference that arises from a governmental agency's adjustments to the balance between individual benefits and burdens and the promotion of a public purpose. In the instant case, the court held that regulations controlling aesthetic characteristics of homes do not amount to a physical invasion. The court concluded that this factor weighed against finding a taking under Penn Central. Taking into account its findings with regard to the other two factors discussed above, the court ultimately concluded that Plaintiff failed to assert sufficient evidence of a taking under the Penn Central analysis.

Finally, the court looked to the second prong of the Agins' test. The court noted that a governmental regulation, as applied to a particular property, results in a taking if the ordinance does not substantially advance a legitimate state interest. Plaintiff did not seriously dispute whether the intent of the Scenic Review Ordinance was a legitimate government interest. Plaintiff conceded that case law already established that the government may legitimately exercise its police powers to advance aesthetic values. Instead, the crux of the second prong analysis was whether the ordinance substantially advanced that interest. In its evaluation, the court noted that the substantial advancement test requires a stricter standard of review than the more deferential rational basis test. In that light, the court stated that there must be "a connection of some sort between the ordinance's means and its intended end." As further explanation, the court equated the substantial advancement test with an intermediate level of scrutiny – whether a reasonable relationship exists between the ordinance's means and its intended ends. The court concluded that the Scenic Review Ordinance did substantially advance its goals in promoting aesthetic values within the Lake Tahoe basin. Thus the court ultimately concluded that Plaintiff failed to establish a taking for which just compensation should be awarded.

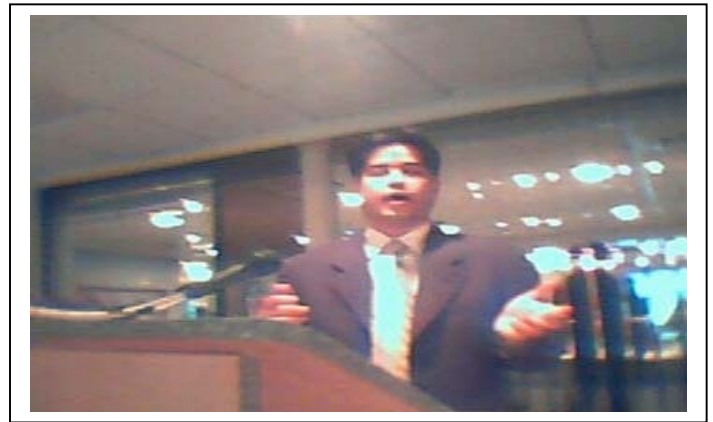
In a greater context, the court's decision regarding the land use regulations is relevant to any analysis of fair market value; existing zoning and land use regulations clearly affect the value of real property. More importantly though, the court provides a clear framework under which to evaluate land use regulations and whether those regulations amount to a taking for which compensation must be awarded. This framework will be increasingly relevant for larger development projects that may take years to formulate and which may require land use regulations to facilitate its completion and/or guarantee its success.

**JOB OPPORTUNITIES**

**METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
REAL ESTATE REPRESENTATIVE**

Job Announcement Number: 04-049 LM  
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 Location: Union Station-Los Angeles  
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The Corporate Resources Group, Engineering Services Section has one (1) opening for a Real Estate Representative in the Asset Management and Facility Planning Unit within the Acquisition and Appraisal Team. See the MWD website, or contact the Job Hotline (above) for details and requirements for the position.



June Luncheon Speaker

Dan Leavitt, California High-Speed Rail Authority

Case of the Month Presenter

Lawrence Permaul

**DM&A**

*Desmond, Marcello & Amster*  
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