

LOS ANGELES



IRWA
CHAPTER 1

March
2004



Upcoming Events

April 13

Board of Directors meeting: 11:30am to 1:00pm Nossaman offices: 445 S. Figueroa St., 31st Floor, Los Angeles

April 16

Education Course 503 (Mobile Home Relocation) (R/W-RAC) Contact Lorna Foster (909) 383-4473
Lorna.Foster@dot.ca.gov

April 22

Valuation Seminar (and Membership Meeting) RSVP to Deborah Martinez, (714) 379-3376

May 11

Board of Directors meeting: 11:30am to 1:00pm Nossaman offices: 445 S. Figueroa St., 31st Floor, Los Angeles

May 25

Chapter 1 Membership Meeting
Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3) RSVP to Deborah Martinez, Luncheon Chair, at (714) 379-3376; dmartinez@paragon-partners.com



President's Message

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

Joint Luncheon with Appraisal Institute

The Chapter 1 joint luncheon with the Southern California Chapter of the Appraisal Institute is scheduled for March 23, 2004, at Steven's Steak House. A panel of three speakers will present different perspectives relating to appraisal of property within redevelopment areas in Los Angeles. OREA credit will be provided. Additional information is provided in the newsletter. Be sure to RSVP – we expect a large turnout for this luncheon!

Annual Valuation Seminar

Chapter 1's Twelfth Annual Valuation Seminar will be held on April 22 at the Quiet Cannon in Montebello. This event promises to be a great educational opportunity, as well as a chance to earn a variety of continuing education credits. Be sure to sign up by filling out the registration form provided in this issue of the newsletter. For further information, you may contact

Valuation Seminar Chair, at (310) 216-1400, e-mail: emcdaniel@dmavalue.com.

Region 1 Spring Forum

Chapter 1 is hosting this year's Region 1 Forum at the Queen Mary in Long Beach. The business meeting will be held on Saturday, March 20, and will be attended by delegates from chapters throughout Region 1, as well as representatives from international headquarters.

Electronic Newsletter

We have now published our first electronic edition of the Chapter 1 newsletter, and are anticipating continued publication in electronic format rather than hard copy. Members who wish to continue receiving a copy by regular mail should notify our Newsletter Chair, Natalie Michelson (aunttalie@aol.com). Also, all members are asked to check the e-mail information on the IRWA website (www.irwaonline.org) to make sure it is correct, and provide us with any updates.

Membership Luncheon

Date:
March 23

Joint Meeting with Southern California Chapter of the Appraisal Institute

Time: 11:30 Networking,
12:00pm lunch

Location:
Stevens Steak House, 5332
Stevens Place, Commerce (675-
G/3)

RSVP to Deborah Martinez,
Luncheon Chair, at (714) 379-
3376; dmartinez@paragon-partners.com

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

<p>President & International Director: Linda Cunningham Esq. Nossaman, Guthner, Knox, & Elliott, LLP 445 S. Figueroa St. Los Angeles, CA 90071 Phone (213) 612-7800 E-mail lcunningham@nossaman.com</p>	<p>President Elect & International Director: Holly Rockwell Epic Land Solutions, Inc. 24050 Madison St., Suite 205 Torrance, CA 90505 Phone (310) 378-0771 E-mail hollyrockwell@epicland.com</p>	<p>Vice President: Tom Hanley Southern Calif. Regional Rail Authority (Metrolink) 700 S. Flower St. Suite 2600 Los Angeles, CA 90017 Phone (213) 452-0256 E-mail hanleyt@scrta.net</p>
<p>Secretary: Ken Robinson Paragon Partners Ltd. 5762 Bolsa Ave., Suite 201 Huntington Beach, CA 92649 Phone (714) 379-3376 E-mail krobinson@paragon-partners.com</p>	<p>Treasurer: Bryan Riggs, MAI Riggs & Riggs, Inc. 4195 Valley Fair St. Suite 207 Simi Valley, CA 93063 Phone (805) 578-2400 Ext. 101 E-mail riggsinc@pacbell.net</p>	<p>Chapter 1 Webmaster & Region 1 Valuation Committee Rep: Rudy M. Romo Paragon Partners Ltd. 5762 Bolsa Ave., Suite 201 Huntington Beach, CA 92649 Phone (714) 379-3376 E-mail rromo@paragon-partners.com</p>
<p>Professional Development Committee Chair: Lourdes Romero, SR/WA Los Angeles World Airports 5757 W. Century Blvd, Suite 102 Los Angeles, CA 90045 Phone (310) 417-6486 E-mail lromero@lawa.org</p>	<p>Education Chair: Hayley J. McKuur Universal Field Services 18377 Beach Blvd., Suite 220 Huntington Beach, CA 92648 Phone (714) 842-7333 E-mail hmckuur@hotmail.com</p>	<p>Assistant Education Chair: Lorna Foster Calif. Dept. of Transportation 464 W. Fourth St., 7th Fl. San Bernardino, CA 92401 Phone (909) 383-4473 E-mail lorna_foster@dot.ca.gov</p>
<p>Newsletter Editor Chair: Natalie Michelson Riggs & Riggs, Inc. 4470 Libbit Ave. Encino, CA 91436 Phone (818) 634-6932 E-mail aunttalie@aol.com</p>	<p>Membership Co-Chair: William Larsen Integra Realty Resources 20720 Ventura Blvd., Suite 240 Woodland Hills, CA 91364 Phone (818) 593-7200 X 19 E-mail wlarsen@irt.com</p>	<p>Property Management Chair: Duncan Robb, SR/WA LA County Metro. Transp. Authority (MTA) One Gateway Plaza MS 99-13-08 Los Angeles, CA 90012 Phone (213) 922-2435 E-mail robbed@mta.net</p>
<p>Law Chair: Bradley Pierce Esq. Demetriou, Del Guercio, Springer & Francis 801 S. Grand Ave. 10th Flr Los Angeles, CA 90017 Phone (213) 624-8407 bpierce@dssffirm.com</p>	<p>Environmental Chair: Mohammad Estiri Phd. Eco & Associates, Inc. 11262 Darlene Drive Santa Ana, CA 92705 Phone (714) 832-5427 E-mail mestiri@jps.net</p>	<p>Fall Seminar Co-Chair: Augusto Parcerro, SR/WA LA City Dept. of Public Works 600 S. Spring St., Suite 700 Los Angeles, CA 90014 Phone (213) 847-5580 E-mail aparcerro@eng.lacity.org</p>
<p>Pipeline Chair: Gary Valentine, MAI, SR/WA 23942 Lyons Avenue, Suite 212 Santa Clarita, CA 91321 Phone (661) 288-0198 E-mail: gsv@valentineappraisal.com</p>	<p>Relocation Chair & Relocation Seminar Cochair: Freddy Arevalo Community Development Commission of the County of Los Angeles 2 Coral Circle Monterey Park, CA 91755 Phone (323) 890-7473 fred.arevalo@lacdc.org</p>	<p>Luncheon Chair: Deborah Martinez Paragon Partners Ltd. 5762 Bolsa Ave., Suite 201 Huntington Beach, CA 92649 Phone (714) 379-3376, ext. 242 E-mail dmartinez@paragon-partners.com</p>
<p>Valuation Seminar Chair: Elaine McDaniel Desmond, Marcello & Amster 6060 Center Drive, Suite 825 Los Angeles, CA 90045 Phone (310) 216-1400 E-mail emcdaniel@dmavalue.com</p>	<p>Title Chair: Teri Kortens Lawyers Title 19300 South Hamilton Ave. Suite 130 Gardena, CA 90248 Phone (310) 768-2000 E-mail terikortens@msn.com</p>	<p>Public Agency Liaison Chair: George Koury, SR/WA LA City Dept. of Public Works 600 S. Spring St., Suite 700 Los Angeles, CA 90014 Phone (213) 847-5518 E-mail ekoury@eng.lacity.org</p>
<p>Engineering/Survey Chair: Tony Pratt, PLS City of Los Angeles Bureau of Engineering 201 N. Figueroa St., Suite 1100 Los Angeles, CA 90012 Phone (213) 482-7180 E-mail tp Pratt@eng.lacity.org</p>	<p>Relocation Seminar Chair: Bill Von Klug, SR/WA Community Development Commission of the County of Los Angeles 2 Coral Circle Los Angeles, CA 91755 Phone (323) 890-7434 bill.vonklug@lacdc.org</p>	<p>Valuation Committee: Paul Norlen, MAI Metropolitan Water District 700 N. Alameda St. Los Angeles, CA 90012 Phone (213) 217-7665 E-mail pnorlen@mwdh2o.com</p>
<p>Fall Seminar Chair Michael Fischer Community Development Commission of the County of Los Angeles 2 Coral Circle Los Angeles, CA 91755 Phone (323) 890-7250 E-mail Michael.fischer@lacdc.org</p>	<p>Past President, Nominations and Awards Chair, Region Spring Forum Chair: Michael Popwell, SR/WA Community Development Commission of the County of Los Angeles 2 Coral Circle Monterey Park, CA 91755 Phone (323) 890-7195 michael.popwell@lacdc.org</p>	<p>Region Spring Forum Co-Chair & Membership Co-Chair Henry Nunez Henry Nunez Coordinated Land Services 11 E. Huntington Drive Arcadia, CA 91006 Phone (626) 254-0524 E-mail henry@hnrealstate.com</p>

New Members

January new members:

Althea Edwards – City of Los Angeles World Airports (LAWA)
Regner Globus - LAWA
Courtney Hollins - LAWA
Edward Lear – Century Law Group
Cheryl Lewis - LAWA
Curtis Thompson - LAWA
Jim Wagner – AAE Incorporated
Melvin Wells - LAWA

February new members:

Louis George – Paragon Partners, Ltd.
Maria A. Kidd - Verizon
Reynan Ledesma – City of LA DWP
Sheila Plane – Ruettggers & Schuler Civil Engineers
Robert Thorpe - CalTrans

March new members:

Christopher Overton – Nossaman, Guthner, Knox & Elliott
David Graeler – Nossaman, Guthner, Knox & Elliott LLP
Imran Hayat – Nossaman, Guthner, Knox & Elliott LLP
Bradford Thompson – Mason & Mason
Craig Luna – City of LA DWP
Mitchell Van Wyk – Michael Burger & Assoc.
David Leland – Moore, Stephens, Wurth, Frazer
Julia Mo - LAWA

**IRWA Chapter 1
2004 Calendar of Events**

- March 19 **Education Course 600** (Environmental Awareness) ((R/W-AMC)
Contact Lorna Foster at (909) 383-4473 Lorna_Foster@dot.ca.gov
- March 20 **Region 1 Spring Forum**, Queen Mary, Long Beach
- March 23 **Joint Meeting** with Southern California Chapter of the Appraisal Institute
Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)
RSVP to Deborah Martinez, Luncheon Chair, at (714) 379-3376; dmartinez@paragon-partners.com
- April 13 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- April 16 **Education Course 503** (Mobile Home Relocation) (R/W-RAC)
Contact Lorna Foster (909) 383-4473 Lorna_Foster@dot.ca.gov
- April 22 **Valuation Seminar** (and Membership Meeting)
Quiet Cannon, 901 N. Via San Clemente, Montebello (636-A/7)
RSVP to Deborah Martinez, Luncheon Chair, at (714) 379-3376; dmartinez@paragon-partners.com
- May 11 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- May 25 **Chapter 1 Membership Meeting**
Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)
- June 5 & 6 **Education Course 900** (Principles of Real Estate Engineering) (SR/WA)
Contact Deborah Martinez, Education Co-Chair, at (714) 379-3376; dmartinez@paragon-partners.com
- June 8 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- June 20-24 **IRWA International Education Conference**
Wyndham Franklin Plaza Hotel; Philadelphia, Pennsylvania
- June 29 **Membership Meeting**
Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)
- July 13 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- July 27 **Chapter 1 Membership meeting**
Shanghai Red's, Marina Del Rey
- August **Chapter 1 dark**, No Membership Meeting
- September 14 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- September 16 & 17 **Education Course 800** (Principles of Real Estate Law) (SR/WA)
Contact Deborah Martinez, Education Co-Chair, at (714) 379-3376; dmartinez@paragon-partners.com
- September 28 **Chapter 1 Membership Meeting** (and SR/WA Free Lunch with RSVP)
Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)
- October 12 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- October 14 & 15 **Education Course 200** (Principles of Real Estate Negotiations) (SR/WA)
Contact Deborah Martinez, Education Co-Chair, at (714) 379-3376; dmartinez@paragon-partners.com
- 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.
- November 9 **Board of Directors meeting:** 11:30 AM to 1:00 PM
Nossaman offices: 445 S. Figueroa St, 31st Floor, Los Angeles
- November 23 **Chapter 1 Membership Meeting** (and Past Presidents Free Luncheon)
Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)
- December **Tri-Chapter Installation Banquet**
Chapter 57, Riverside, is Host

The IRWA – Los Angeles Chapter and the SCCAI present...

Appraising Properties in City of Los Angeles Community Redevelopment Areas (LA CRA) - Do the Sales Truly Reflect Open Market Transactions?

Day/Date/Times

Tuesday † March 23, 2004

Check-in: 11:15 AM

Lunch/Program: 11:30 AM – 1:30 PM

Speakers/Topics-

Kathi Head, Real Estate Appraisal and Relocation Manager with the Los Angeles CRA, will provide an overview of the LA CRA projects and how they join with developers to redevelop a site(s) in a blighted area. Kathi will discuss Developer Disposition Agreements and the often expensive and cumbersome requirements that the CRA imposes on a developer to redevelop a property. All of those items are a consideration in their participation for funds on a project and in turn may result in a lower/higher purchase price that is recorded in public records.

Ross Salvidge of Kosmont Partners is a real estate appraiser. Their company prepares reuse appraisal reports, among other types, for LA CRA projects. Ross will discuss how the reuse appraisals, which reflect the proposed redevelopment project and do not necessarily reflect the highest and best use of the property, are utilized in the composition of the Developer Disposition Agreements.

Joyce L. Riggs, MAI, SR/WA is a real estate appraiser and a member of SCCAI and IRWA Chapter 1. Joyce will discuss appraising properties located within redevelopment areas for lenders or other agencies not involved with LA CRA. The focus of the topic will discuss selecting market sales that have occurred in redevelopment areas and the importance of verifying those sales to determine whether they are truly "arm's length" for use in appraisals or were they negotiated with participating funds from the CRA that skew the purchase price.

Location

Steven's Steak House † [5332 Stevens Place, Commerce](#) (TG 675 G3)

Cost/Entree

\$14/Prime Rib or Chicken Piccata

RSVP TO Deborah Martinez or 714.379.3376 x242 or dmartinez@paragon-partners.com

Accurate reservation count is required by **March 19**. Please specify *Entree Selection* when RSVPing. Payment to be made at check-in. Make check payable to the IRWA.

Continuing Education Credit

Appraisal Institute – 2 hours/OREA – 2 hours

SCCAI † 2609 Honolulu Avenue, Suite 202, Montrose, CA 91020 | T 818-957-5111 | F 818-957-0702 | www.sccai.org

**Chapter One of the IRWA Presents the
TWELFTH ANNUAL RIGHT OF WAY VALUATION CONFERENCE**

April 22, 2004 7:30 a.m. – 5:00 p.m.
Quiet Cannon, 901 Via San Clemente, Montebello, CA 90640

7:30 a.m. – 8:30 a.m.	Registration and Continental Breakfast
8:30 a.m. – 9:15 a.m.	Fundamentals of Goodwill
<u>Speaker: Aaron Amster</u>	
9:15 a.m. – 10:00 a.m.	Overview of the Goodwill Valuation Process
	<i>Speaker: Wesley Nutten</i>
10:00 a.m. – 10:15 a.m.	Morning break and refreshments
10:15 a.m. – 12:00 noon	Partial Takes – Case Study
	<i>Panel: Aaron Amster, David Cosgrove and Madeleine Mamaux</i>
12:00 noon - 1:30 p.m.	Lunch
	<i>Speaker: Wesley L. Nutten, CPA, CMA, ABV</i>
	Expert Witnesses: How to Select One, How to Be One
1:30 p.m. – 2:30p.m.	Key Cases in Goodwill Loss Valuation
	<i>Speakers: A.J. Hazarabedian and Aaron Amster</i>
2:30 p.m. – 3:45 p.m.	Valuation Methods and Principles
	<i>Speaker: Madeleine Mamaux</i>
3:45 p.m. – 4:00 p.m.	Afternoon break and refreshments
4:00 p.m. – 5:00 p.m.	Points of Contention in Goodwill Cases
	<i>Panel: Aaron Amster, Madeleine Mamaux and Wesley Nutten</i>

8 hours of MCLE, DRE and SR/WA credit
8 hours of OREA Credit Pending

Conference and Joint Luncheon Reservation - Complete the form and send it with a check to: Elaine McDaniel, DM&A, 6060 Center Drive, Suite 825, Los Angeles, CA 90045

Make checks payable to IRWA Chapter One

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IRWA Members, \$75 before April 15, 2004 IRWA Members \$100 April 15, 2004 or after

Non-Members, \$100 before April 15, 2004 Non-Members \$125 April 15, 2004 or after

Please choose one of the following: Chicken Beef Vegetarian

NAME _____ TITLE _____

COMPANY _____ PHONE _____

ADDRESS: _____ CITY: _____ ZIP: _____

(Lunch only: Members \$20 Non-Members \$25)

AARON D. AMSTER, ASA

Mr. Amster is President of Desmond, Marcello and Amster (DM&A). He has over 20 years of experience in business valuation. This includes valuation of going concerns and business assets, including loss of goodwill in eminent domain proceedings. In addition he has performed various analyses of business damages. His extensive testimony experience includes more than 40 appearances in court and hundreds of depositions. He is a published author and has given countless presentations. He holds a bachelor's degree in economics from the University of Michigan and a master's degree in business administration from the Claremont Graduate School of Business.

MADELEINE MAMAUX, CFA

Ms. Mamaux has over nine years of experience in business valuation and appraisal of intangible assets. She is a Chartered Financial Analyst and spent several years in the investment industry analyzing investment opportunities for the Teacher's Insurance and Annuity Association, the nation's largest private pension fund. She graduated *magna cum laude* from Claremont McKenna College and a master's degree in business administration from The Wharton School of the University of Pennsylvania.

WESLEY L. NUTTEN, CPA, CMA, ABV

Mr. Nutten has more than 16 years of litigation consulting experience. He is an expert on damages issues, business valuation matters, and fraud investigations. He worked as a management consultant at Price Waterhouse, BDO Seidman, Peterson Consulting, and Biggs & Co. before joining DM&A. He is a professor of Financial and Managerial Accounting in the MBA program at Loyola Marymount University, Los Angeles. He is a Certified Public Accountant, a Certified Management Accountant, and Accredited in Business Valuation. He earned a bachelor's degree in business from the University of Southern California and holds a master's degree in business administration from Loyola Marymount University.

DAVID B. COSGROVE

Mr. Cosgrove is a partner at Rutan & Tucker, Attorneys at Law. He works in the firm's Public Law Section specializing in eminent domain, water law, and land use issues. He has been with Rutan & Tucker since 1984 and assists public agencies with property acquisitions, from the preliminary stages all the way through condemnation trials and appellate work. He also provides general counsel services to water agencies, including water rights and groundwater adjudication issues. Mr. Cosgrove is conversant in Spanish and majored in Latin, Classical Greek, and Philosophy at Xavier University. He received his JD from the Ohio State University College of Law. He is also a frequent instructor and speaker.

ARTHUR J. HAZARABEDIAN

Mr. Hazarabedian is a member of the law firm of Oliver, Vose, Sandifer, Murphy & Lee. He has over 16 year experience in his specialty of eminent domain, inverse condemnation and land use appeals. He earned a bachelor's degree from the University of California at Davis and graduated *magna cum laude* from the law school at Loyola Marymount University.

CASE OF THE MONTH

Hacienda Valley Mobile Estates v. City of Morgan Hill, et. al.
United States Court of Appeals, Ninth Circuit
2003 DJDAR 13716
December 17, 2003

&

Carson Harbor Village, Ltd. v. City of Carson, et. al.
United States Court of Appeals, Ninth Circuit
2004 DJDAR 91
January 5, 2004

By: Christopher W. P. Overton, Esq., NOSSAMAN, GUTHNER, KNOX & ELLIOTT LLP

Where should a mobile home park owner seek the proper remedies when the local city rent control board's restrictions on rent may give rise to a claim of unconstitutional taking? Based upon two recent Ninth Circuit Court of Appeals cases, chances are that the property owner should not *first* turn to the courts for those remedies.

In *Hacienda Valley Mobile Estates v. City of Morgan Hill, et. al.*, a local rent control ordinance passed by defendant City of Morgan Hill, CA prevented mobile home parks from raising rent on a mobile home pad when the mobile home was sold. Plaintiff Hacienda Valley Mobile Home Estates argued that this ordinance amounted to an unconstitutional taking because it in effect placed a "premium" upon the sales prices of mobile homes, transferring the wealth that would ordinarily have been generated by Hacienda Valley via rent increases to the owners of those mobile homes. Hacienda Valley therefore filed suit in Federal District Court to challenge the ordinance.

Carson Harbor Village, Ltd. v. City of Carson, et. al. similarly dealt with rent controls applied to a mobile home park. In this case, however, plaintiff Carson Harbor Village applied to the defendant City of Carson, CA for permission to increase its monthly rents in amounts ranging from \$223 to \$241 per mobile home space. Unluckily for the property owner, those rent control ordinances freezing monthly rents had been enacted 20 years before when the park first opened and was renting spaces for below market amounts

to attract tenants. In response to the application, however, the city's Mobilehome Park Rental Review Board approved an increase of only \$14.29 per space. Like Hacienda Valley, Carson Harbor then sought relief from the Federal Court by filing an action alleging that the rent control ruling was an unconstitutional taking.

In each case both the District Courts that first heard the cases ruled, and subsequently the Ninth Circuit Court of Appeals affirmed, that the cases were not properly before the Federal Court because they were not sufficiently "ripe", that is, the plaintiffs should have – but did not – first availed themselves of remedies at the local level by appealing the ordinance in Hacienda Valley and the rent control ruling in Carson to the local rent review board. The cases were therefore dismissed from Federal Court.

Both cases relied upon ripeness analysis articulated in *Williamson County Regional Planning Commission v. Hamilton Bank*, (1985) 473 U.S. 172. Per *Williamson County*, to determine whether a takings case is ripe for Federal Court review, the plaintiff must have 1) obtained a final decision from the governmental authority charged with implementing the regulations and 2) must have pursued compensation through state remedies unless doing so would be futile. In addition the plaintiff must also of course demonstrate that his case was timely filed and did not run afoul of the statute of limitations.

Neither plaintiff met this standard. Hacienda Valley, arguing that the ordinance was illegal in the way that it was applied rather than on its face, should first have appealed to the co-defendant City of Morgan Hill Rent Review Commission to repeal the allegedly unconstitutional ordinance. Its failure to do so meant that it had failed to "obtain a final decision from the governmental authority charged with implementing the regulations" as described by *Williamson County*. Likewise, Carson Harbor's failure to first appeal the much-reduced rent increase to the co-defendant Carson City Mobilehome Park Rental Review Board again meant that no final decision from the responsible governmental authority had been obtained.

The courts' rulings, though frustrating to the property owners, amount to more than bureaucratic red tape, courtroom style. As both cases discuss, two long-established Federal judicial doctrines are the core bases for these opinions: recognition that an injury must first be suffered by a party before a court may grant redress for that injury and due regard for matters that are the purview of other governmental entities.

Both courts, in following *Williamson County*, recognized that the injuries – allegedly unlawful rent control ordinances – could not be deemed to have occurred until the rent control boards responsible for those ordinances had a chance to consider the complaints that they were unlawful and decided to enforce them anyway. Absent that consideration by the boards, no injury could be recognized. Were it otherwise, the Federal Court could potentially be going about utilizing its power to hear such a case when in fact a simple hearing before a local board would have eliminated the alleged injury. As is typical, both courts refused to presume what the rent control boards *would have ruled* had they had the opportunity to hear the appeals.

Moreover, the Federal Courts do not wish to encroach upon the power of the States, the cities therein, or the regulatory bodies charged by those governmental entities with enacting regulations and ordinances such as rent control matters. This comity for state entities presiding over state matters is essential for the federal system to successfully coexist with the States.

The rulings in these cases – based upon the principle of "exhaustion of remedies" - make clear that an aggrieved property owner with a potential takings claim must ensure that he is not skipping steps in the process of challenging local ordinances or related rulings by first looking to the courts. Quite often, the local entities that either passed the ordinances or that are charged with enforcing them have an appeals process that must be utilized before the courts can be adequately convinced that the case is ripe for filing as an unconstitutional takings lawsuit.

What Public Agencies and Users of Real Estate Appraisals Should Know About the Importance of Verifying Market Data

By Bryan Riggs, MAI, Riggs & Riggs, Inc.

Perhaps one of the most dreaded processes in real estate appraisal is verifying sale and rental data with market participants. Nearly every sale and rental transaction has an untold story. Yet, many appraisers will argue they do verify market data. But, do they get it right? And, does it impact their valuation process? The verification or confirmation of market data is critical in providing a high degree of confidence in the final value conclusion. In appraising and reviewing many appraisals over the years for public agencies, the banking industry, and litigation matters, I have learned market factors, new development, and public information can lead to undervalued and overvalued properties by the appraisers.

More specifically, a very appreciating market, publicly funded projects or public records may lead the appraiser to undervaluing or overvaluing appraisals. I have seen through my own verifications and reviewing others' work, that unless you speak directly with the buyer, seller, listing agent, selling agent, or a participant in the transaction there well may be an untold story that could effect the final

valuation of an appraisal. The following are three examples to illustrate the importance of verifying market data with the most knowledgeable participant in the transaction and the impact on the final value conclusion.

1) In this very hot residential market, a common sight is the sale and resale of the same property within a short time period. As many of us know, this may be commonly referred to as a “flip”, and with various motivations underlying the transaction. The first transaction was the sale of a single family residence that was a “fixer-upper” and sold for \$350,000. The resale sold at \$475,000 or 36 percent higher over a one-year period. The resale was purchased by a developer who spent \$25,000 in renovation work and effectively resold the residence in good condition. Thus, the total acquisition and repairs made were \$375,000, and the difference, \$100,000, is attributable to market appreciation and the buyer/developer’s profit. The market appreciation rate was deemed by most market participants to be 1.25 percent per month or 15 percent per year. Yet, the appraiser utilized the first sale and resale as a matched pair, and utilized a monthly market condition adjustment or time of sale adjustment of 3 percent per month or approximately 36 percent. The appraiser verified the sale with the selling agent. The appraiser did not learn of the renovation work and assumed the difference was all attributable to the market. If the appraiser had confirmed the sale with the person most knowledgeable, buyer/developer of first sale and seller of the resale, and asked questions relative to the sale and resale, he or she would have fully understood the facts of both sales. Thus, all of the sales utilized in the appraisal were over adjusted and resulted in an overvalued conclusion of market value.

2) Two appraisal firms were engaged to appraise a property being acquired under the threat of eminent domain by a public agency. One firm, while researching the subject property at the City offices, learned the subject was located in a redevelopment project area, where an unrelated large public project was being assembled by another agency with city and federal funding. Many of the sales were transferred or purchased into a private name/entity, but under an Agency/Developer Agreement for this large project with contributing dollars provided by the public agency. Many of the sales appeared to be to market by participant name, but sold well below market upon verification of the sale due to the Developer Agreement with the Redevelopment Agency.

Upon verifying many of these sales, it was learned some of the sales properties were purchased 5 to 7 years ago, (when the market had much lower sale price levels) and were transferred into the private developer/agency entity at those low sale price levels creating below market sale price in the current market. Also, some sales were transferred at low sale price levels and equity positions were given in exchange to the private parties for greater return upon completion of the project. Some properties were purchased with favorable bond financing or were purchased with some level of city or federal matching funds. The majority of these sales were from 30 to 50 percent lower than other market sales and as such were considered to be non “arm’s-length” and were not to be used in the appraisal. The other appraiser’s verifications were incomplete and did not investigate these facts. In short, this appraisal reflected these non arm’s-length sales and the valuation was 50 percent lower than the other appraisal. The public agency was confused and needed to hire a third appraiser to understand the difference in the two appraisals. One phone call to the buyer of the private developer/agency entity resulted in a clear communication that all of these sales were non arm’s-length and the property was actually worth a value more in line with the higher opinion of value.

3) Upon preparing for testimony in Court and verifying the sales of the opposing expert witness, an appraiser learned the opposing appraiser must have relied on public record as their only source verification. The subject property was a single family residence consisting of a 2 bedroom and 1 bathroom house containing 1,000 square feet. The opposing appraiser utilized three sales in the valuation and most weight was placed on a sale located at 100 Wrong Street. The sale located at 100 Wrong Street was reported in public record to have sold for \$400,000 and was a 2 bedroom and 1 bathroom house containing 1,000 square feet.

Upon researching public record, the appraiser also found the sale reported just as the opposing appraiser stated. However, when a copy of the Grant Deed was ordered from a title company, the address of the sale was actually 100 Right Street. This was the sale of a 4 bedroom and 2 bathroom house containing 2,000 square feet. Interestingly, when the sale was confirmed with both house owners, the sale at 100 Wrong Street never occurred, and in fact the owner had lived there for 35 years. The owner at 100 Right Street mentioned that no other appraiser had contacted him to verify the transaction. What makes this oversight more incredible is the fact that the opposing appraiser analyzed the sale on a sale price per square foot basis and therefore overvalued the subject by as much as 100 percent, since the sale at 100 Right Street was twice the size of the sale utilized by the opposing appraiser. Needless to say, the outcome was favorable to the first appraiser.

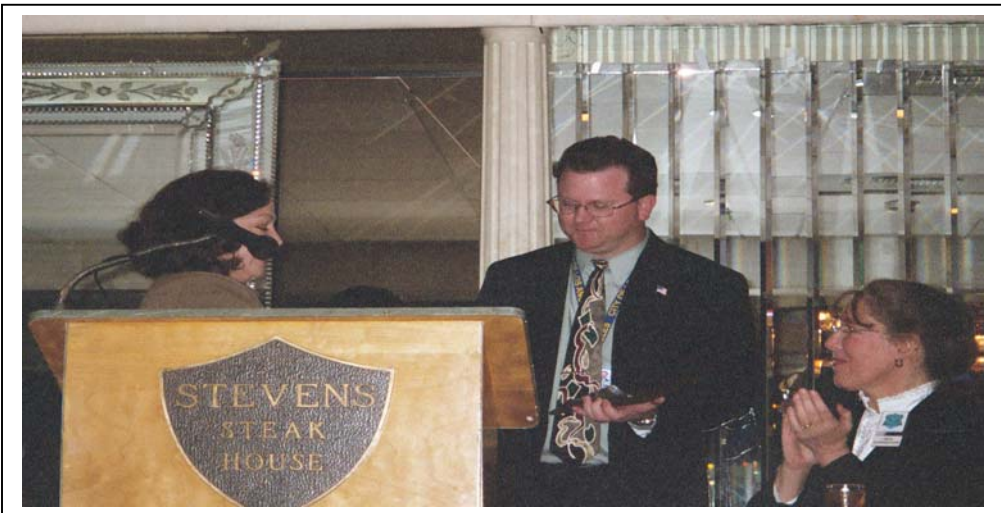
While many appraisers may dread the process of verifying market data, it is central to a valid market value conclusion. Hopefully, this article will shed some light on the importance of good verification. The verification of market data can easily be misunderstood from market factors, new development, and public information. This can lead to undervalued and overvalued properties by the appraiser to the end user.



Chapter 1 Membership Chair, William Larsen, and New Chapter 1 members: Curtis Thompson, Patricia Muga, Althea Edwards, Cheryl Lewis and Courtney Hollins.



Teresa Arias, Caltrans Regional Manager, accepting the Employer of the Year award (Over 20 Employees Category) for Caltrans.



"Presentation of SR/WA designation at the January membership luncheon."


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Dates	Class code	Class Title	Instructor	Location	Coordinator	Phone	Email
Mar 19	600	Environmental Awareness (R/W-AMC)			Lorna Foster	(909) 383-4473	Lorna_Foster@dot.ca.gov
Apr 16	503	Mobile Home Relocation (R/W-RAC)	Barbara Baernstein	Dept of Corrections, 21015 Pathfinder Road, Ste 200, Diamond Bar, CA	Lorna Foster	(909) 383-4473	Lorna_Foster@dot.ca.gov
June 5 & 6	900	Principles of Real Estate Engineering (SR/WA)	Ralph Brown	Torrance	Deborah Martinez	(714) 379-3376	dmartinez@paragon-partners.com
Sep 16 & 17	800	Principles of Real Estate Law (SR/WA)	Ralph Brown	Torrance	Deborah Martinez	(714) 379-3376	dmartinez@paragon-partners.com
Oct 14 & 15	200	Principles of Real Estate Negotiations (SR/WA)	Ralph Brown	Torrance	Deborah Martinez	(714) 379-3376	dmartinez@paragon-partners.com

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