

LOS ANGELES



IRWA
CHAPTER 1



November
2004

Upcoming Events

December 8

**Tri-Chapter Installation
Banquet**

10:30 Optional Tour, 11:30
Check-in, 12:15 Luncheon
Mission Inn,
3649 Mission Inn Avenue,
Riverside

January 25, 2005

Free Membership Luncheon at
Steven's Steakhouse



President's Message

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

As we approach Thanksgiving, I want to take the opportunity to extend my thanks to the Board members, officers and committee chairs who have contributed their time, energy, and support to make the past year a success for Chapter 1. In particular, I want to express my appreciation to President-Elect Holly Rockwell, who has so graciously and capably filled in for me during the past couple of months. As many of you know, I am in the process of making a professional and personal

Membership Luncheon

Date: November 23, 2004

Time: 11:45am

Speaker: Although we will still have announcements and a Case of the Month there will be no formal luncheon speaker.

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

To reserve your space, please contact our Luncheon Chair, Tracy Washburn at twashburn@sphvalue.com or 310-571-3400.

transition to relocate to Austin, Texas, and the accelerated schedule of that move resulted in Holly's taking on additional responsibilities and tasks prior to her official Presidential term. Naturally, Holly has done a terrific job in all respects, and I am grateful for her support and her very competent representation of Chapter 1.

Fall Seminar

The annual Fall Seminar and membership luncheon, held on October 26 at the Quiet Cannon in Montebello, was a resounding success with over 70 registrants. This year's seminar included presentations on a variety of topics, including appraisal testimony and current downtown conditions, commercial acquisition, engineering design and the ROW process, effective jury communication, property management and leasing practices, hot topics in acquisition/relocation, and EPA regulations and legislative developments. Thanks again to Fall Seminar Chair Michael Fischer for orchestrating the seminar, and to Co-Chair Gus Parcero and all of the presenters and members who assisted in making the seminar a big success.

Fall Forum

The Regional Fall Forum, hosted by Chapter 46 (Reno), was held on October 15 and 16 at Lake Tahoe, Nevada. Chapter 1 was well represented by President-Elect Holly Rockwell and Tracy Washburn, Luncheon Chair. Business items discussed at the Fall Forum included (1) the Uniform Relocation Act Seminar proposed by International; (2) the possibility of Long Beach as a candidate site for the 2010 International Education Conference; (3) IRWA course recertification costs being passed to the regional level; and (4) Chapter assessment for maintaining the Regional website.

Tri-Chapter Installation Luncheon

Don't forget to mark your calendars for this year's Tri-Chapter Installation luncheon, hosted by Chapter 57 (Riverside). The luncheon will be held on December 8 at the Mission Inn, 3649 Mission Inn Avenue, in Riverside. We hope to have a good turnout from Chapter 1 to support the installation of next year's officers.

Thanks again to all of our new and continuing members, Board Members and Committee Chairs for your support and participation in Chapter 1 luncheons, education courses and seminars. I look forward to continuing my involvement with IRWA during 2005 as a member of Chapter 74 (Bluebonnet Chapter) in Austin, and to attending the next International Annual Education conference in Toronto. In the meantime, I hope to see many of you at the Tri-Chapter Installation Luncheon in Riverside.

IRWA Chapter 1, Los Angeles

2004 Board Officers and Committee Chairs

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<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 riggsinc@sbcglobal.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 romor@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 lxromero@lawa.org</p>	<p>Education 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>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 Chair: William Larsen Integra Realty Resources 20720 Ventura Blvd., Ste 240 Woodland Hills, CA 91364 Phone (818) 593-7200 X 19 E-mail wlarsen@irr.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 robbsd@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@ddsfirm.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@lacdcd.org</p>	<p>Luncheon Chair: Tracy Washburn Sanli Pastore & Hill, Inc. 1990 S. Bundy Drive, Suite 800 Los Angeles, CA 90025 Phone (310) 571-3400 Fax (310) 571-3420 Email twashburn@sphvalue.com</p>
<p>Valuation Seminar Chair: Elaine McDaniel Desmond, Marcello & Amster 6060 Center Drive, Suite 825 Los Angeles, CA 90045 Phone (310) 216-1400 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 Property Management The Port of Los Angeles 425 S. Palos Verdes Street San Pedro, CA 90731 Phone (310) 732-3865 E-mail gkoury@portla.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@lacdclorg</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 MTA Real Estate One Gateway Plaza Mail Stop 99-13-8 Los Angeles, CA 90012-2952 Phone (213) 922-2413 E-mail fischerm@metro.net</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@lacdcd.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@hnrealestate.com</p>

November Membership Luncheon

Come celebrate Turkey week with friends and colleagues from IRWA! Our November luncheon falls on the Tuesday before Thanksgiving, so we're planning a less formal meeting where we'll have the opportunity to talk to each other a little more. Although we will still have announcements and a Case of the Month, there will not be a formal luncheon speaker. This meeting is also an opportunity to recognize the hard work of our Chapter 1 Past Presidents, whose lunch will be sponsored by the Chapter. If you are relatively new to the Chapter, this is a great opportunity to meet some of the other members. If you've been a member since the beginning of time, come catch up with your old friends.

Date: November 23rd, 2004

Time: 11:45 am

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

Luncheon choice: Buffet

Cost: \$16

To reserve your space and make your luncheon selection, please contact our Luncheon Chair, Tracy Washburn at twashburn@sphvalue.com or 310-571-3400.

**IRWA Chapter 1
2004 Calendar of Events**

November 9	Board of Directors meeting: 11:30 AM to 1:00 PM Nossaman offices: 445 S. Figueroa St, 31 st Floor, Los Angeles
November 23	Chapter 1 Membership Meeting (and Past Presidents Free Luncheon) 11:45 am - 1:30 pm Stevens Steak House, 5332 Stevens Place, Commerce (675-G/3)
December 8	Tri-Chapter Installation Banquet 10:30 Optional Tour, 11:30 Check-in, 12:15 Luncheon Mission Inn, 3649 Mission Inn Avenue, Riverside

Looking for a Few Good Members

Chapter 1 continues to be an incredibly strong chapter with 285 current members. Participating in the leadership of the Chapter is a fantastic opportunity to grow, learn, meet new people, develop relationships, and contribute to the organization. Now is the time to step forward! Even if you are only able to pledge a limited amount of time, we would love for you to participate in one of our committees! If you are interested in getting involved in 2005, please contact Holly Rockwell, President-Elect at 310-378-0771. Ask any current Chapter 1 Board member – the rewards are tremendous!

**NOTICE INVITING STATEMENTS OF QUALIFICATIONS FROM EXPERIENCED
CONSULTANTS TO PROVIDE FULL REAL ESTATE AND RELATED EXPERT CONSULTING
SERVICES ON A PREQUALIFIED BASIS ON VARIOUS
LOS ANGELES HARBOR DEPARTMENT PROJECTS**

The City of Los Angeles is encouraging all firms with applicable experience to respond to this Request For Qualifications. If you are interested in receiving a copy of the Notice Inviting Statements of Qualifications, or need any additional information, please contact George Koury, of Property Management staff, at (310) 732-3865.

Case of the Month

Understanding Public Use

By: Isabel Birrueta, Demetriou, Del Guercio, Springer & Francis, LLP

Soon a case that raises one of the most important land use issues in decades will go before the U.S. Supreme Court. The question presented in *Kelo v. City of New London*¹ is what protection does the Fifth Amendment's public use requirement provide for individuals whose property is being condemned, not to eliminate slums or blight, but for the sole purpose of "economic development" that will perhaps increase tax revenues and improve the local economy?

For centuries, governments have been using their power of eminent domain to reduce urban blight and access land for public works. The language of the Fifth Amendment limits the government's power of eminent domain by requiring that the government take property only for "public use." However, since the early 1970's, there has been an increase of the use of this power because the scope of what constitutes a public use has been expanded. Originally, the courts interpreted the phrase "public use" very narrowly.² Under the narrow interpretation, the public must actually use, or have the opportunity to use, the property taken through eminent domain.³ However, the meaning of the phrase "public use" has not been precisely determined.⁴

Despite numerous early cases relying on the original, narrow, interpretation of "public use," industrialization in the nineteenth century influenced the courts to expand the meaning of "public use" to encompass uses that would provide a public benefit or serve a public purpose.⁵ As a result, there has been an increase in the use of eminent domain to transfer private property from the hands of one property owner to those of another to improve economic conditions.⁶ In 1954, the public use limitation in the takings clause of the U.S. Constitution significantly changed with the U.S. Supreme Court's decision in *Berman v. Parker*.⁷ There, the Supreme Court considered whether the District of Columbia's Redevelopment Act, the act that empowered the Columbia Redevelopment Land Agency to acquire land for redevelopment through eminent domain, constituted a taking of private property for "public use."⁸ The case upheld the constitutionality of a plan by the federal government and local officials to revitalize urban areas to remove slums and eliminate blight. *Berman* arose in southwest Washington, D.C., in a poor area populated largely by minorities. Congress granted the district government the ability to acquire land through eminent domain for the purpose of redevelopment, including the resale of land to private developers.⁹ An owner of a department store challenged the constitutionality of the taking.¹⁰ However, the Court held that "the concept of public welfare is broad and inclusive."¹¹

The U.S. Supreme Court acknowledged that private ownership of the redeveloped areas may exclude the public from the project, but nevertheless held that, "the public end may be as well or better served through an agency of private enterprise," and effectively rejected the narrow interpretation of public use.¹² After the Court's decision, the scope of the "public use" doctrine was expanded.¹³ The Court transformed the words "public use" to mean public purpose as defined by a legislature or administrative agency. The U.S. Supreme Court's decision in this case demonstrates its acceptance of early state court decisions construing "public use" to mean benefit to the public.

Several recent state cases have further broadened the meaning of "public use," by approving the taking of private property for industrial development, and other private uses under the premises that the private use will provide a public benefit.¹⁴ For instance, in *Poletown Neighborhood Council v. City of Detroit*,¹⁵ the Supreme Court of Michigan ruled constitutional the taking of

¹ 843 A.2d 500 (2004).

² Nichols, *The Meaning of Land Use in the Law of Eminent Domain*, 20 B.U.L. REV. 615, 616 (1940).

³ For a major reference source regarding the law of eminent domain, see generally 2A Nichols on Eminent Domain (Julius L. Sackman ed., 3d ed. 1998) § 7.02[2], at 7-28.

⁴ See generally Lawrence Berger, *The Public Use Requirement in Eminent Domain*, 57 OR. L. REV. 203 (1978).

⁵ 2A Nichols, *supra*, note 10, at § 7.02[3][a], 7-32.

⁶ Charles Toutant, *Small Business Standing Ground Against "Private" Condemnations*, 168 N.J.L.J. 425 (2002).

⁷ *Berman v. Parker* (1954) 348 U.S. 26.

⁸ *Berman v. Parker*, *supra*, note 44, at 30.

⁹ *Id.* at 28-29.

¹⁰ *Id.* at 31.

¹¹ *Id.* at 32-33.

¹² *Id.* at 33-34.

¹³ See generally Jonathan N. Portner, *The Continued Expansion of the Public Use Requirement in Eminent Domain*, 17 U. BALT. L. REV. 542 (1988).

¹⁴ See, e.g., *Poletown Neighborhood Council v. City of Detroit*, note 16.

¹⁵ 304 N.W.2d 455 (1981)

private residential and business property for the development of a General Motors Plant.¹⁶ The Court was satisfied with the city's evidence that the General Motors plant would provide a necessary "economic boost" to Detroit's severe economic problems.¹⁷ General Motors predicted that the plant would provide thousands of jobs¹⁸ and would increase industry and commerce in the area.¹⁹ To bring General Motors to Detroit, the city's project plan required the displacement of 3,438 persons and the destruction of 1,176 structures.²⁰

However, in July 2004, the Michigan Supreme Court unanimously overturned *Poletown*. In *County of Wayne v. Hathcock*²¹, the Court decisively rejected the notion that "a private entity's pursuit of profit was a public use for constitutional taking purposes simply because one entity's profit maximization contributed to the health of the general economy."²² The Court called *Poletown* a "radical departure from fundamental constitutional principles."²³ In that case, the county filed a condemnation action to acquire 1,300 acres of land for a contemplated business and technology park.²⁴ The owners opposed the taking on statutory and constitutional grounds, arguing that the local statute did not authorize this taking, and that it was not for public use.

The Michigan Supreme Court analyzed the statute relied on by the county and concluded that although the statute authorized the condemnation, and met the statutory criteria of being of benefit to the public, the taking was not for a public use as required by the state constitution.²⁵ The county argued that the business park would provide jobs, taxes and diversity to the local economy.²⁶ The Court disagreed with the county's rationale. It interpreted the state constitution on the basis of the understanding of its terms at the time it was ratified by the people. Here, the proposed project was not the kind of land use that can only be achieved through use of eminent domain. The Court noted that many business parks have been privately created. Nor would the ultimate private grantees of this land be subject to government regulation designed to ensure the public character of the private use.²⁷

The court also analyzed *Poletown*²⁸ on which the county relied to support its position. The court concluded that *Poletown* had been wrongly decided and that such a ruling would permit the condemnation of every property merely upon a showing that another private entity might contribute to the economic wellbeing of society to a great extent. Accordingly, the *Poletown* case was overruled.²⁹ However, a federal court's interpretation of public use remains unclear.

In 1984 the U.S. the Supreme Court addressed the issue of "public use" for the first time since *Berman in Hawaii Housing Auth. v. Midkiff*.³⁰ The Court held constitutional the Hawaii Land Reform Act (the "Act") which allowed Hawaii to transfer land from private landowners to renters, through eminent domain despite challenges that the Act violated the Fifth Amendment's "public use" limitation.³¹ In that case, the Hawaii Legislature discovered that while federal and state governments owned nearly 49% of the land in Hawaii, another 47% was owned by only 72 private landowners. To reduce this concentration of ownership, the legislature enacted the Act.³² Frank E. Midkiff, a landholder, challenged the Act. The issue was whether the Act violated the public use clause of the Fifth Amendment.³³

The U.S. Supreme Court held that the public use laws did not prevent Hawaii from redistributing land for the purpose of reducing the concentration of ownership. Noting that Hawaii statute was rationally related to the conceivable public purpose, the Court argued that "debates over the wisdom of taking" were best carried out by legislatures, not by federal courts.³⁴ The Court

¹⁶ *Id.* at 458.

¹⁷ *Id.*

¹⁸ *Id.* at 464.

¹⁹ *Id.* at 458.

²⁰ *Id.* at 464.

²¹ 684 N.W.2d 765 (2004).

²² *Id.* at 786.

²³ *Id.* at 787.

²⁴ *Id.* at 770.

²⁵ *Id.* at 788.

²⁶ *Id.* at 770-771.

²⁷ *Id.* at 783-784.

²⁸ 304 N.W.2d 455 (1981).

²⁹ *Id.* at 786-787.

³⁰ 348 U.S. 26 (1954).

³¹ *Id.* at 245.

³² *Id.* at 232-233.

³³ *Id.* at 234-235.

³⁴ *Id.* at 243.

also held that the fact that the property was transferred to private beneficiaries did not indicate that the law had a private purpose. Accordingly, the Court held that the Act does not violate the public use requirement of the Fifth Amendment.³⁵

Property advocates argue that the test established in *Midkiff*, permits almost any private use, deemed by the legislature as providing some “conceivable” public benefit, to meet the “public use” requirement of the Fifth Amendment.³⁶ They contend that this expanded interpretation encourages government takings of private property for industrial development.³⁷ They also argue that the promises of employment and economic stimulation may never materialize, but the potential existence of such “benefits” is enough to satisfy the current “public use” standard.³⁸

In *Kelo*, the case that will soon go before the U.S. Supreme Court, the Connecticut Supreme Court upheld the taking of several non-blighted homes for commercial development.³⁹ The plaintiffs were owners of various properties in the City of New London, an area that was targeted to be revitalized under a City development plan.⁴⁰ The plaintiffs were approached by the City and a development corporation to sell their property to rejuvenate the city.⁴¹ This proposal was underway because New London had experienced “serious employment declines,” much of which was attributable to the loss of 1,900 government sector jobs.⁴² When the plaintiffs refused to sell their properties, the government used its power of eminent domain to acquire the property from those refusing to sell.⁴³ The city and private development corporation hoped that the upscale residences, expensive hotel and office buildings, would generate more tax revenue and jobs than the less wealthy homes and businesses that occupied prime waterfront along the Thames River.⁴⁴

The homeowners argue that the Constitution prohibits condemnation for the purpose of private development.⁴⁵ The Constitutions of both the United States and Connecticut provide that the government may use eminent domain only for “public use.”⁴⁶ While the U.S. Supreme Court has held that cities may take land in order to remove slums or blight, and then transfer the property to private parties to develop it in a non-blighted way, it has never held that property can be condemned for the sole purpose of private development.⁴⁷ Therefore, the homeowners argue that the condemnations were unconstitutional.⁴⁸ On the other hand, New London argues that the city needs more tax revenue. Because the neighborhood has a prime location on the waterfront, a developer can make a good profit off it, and that profit will bring more money to the city.⁴⁹

Among other issues, the Connecticut Supreme Court considered whether the public use clauses of the federal and state constitutions authorize the use of eminent domain for an economic development plan.⁵⁰ The court concluded that economic development projects that have the public benefits of creating new jobs, increasing tax and other revenues and contributing to urban revitalization, satisfy the public use clauses of both constitutions.⁵¹ The court found that the legislative authority rationally determined that the economic development plan would promote significant economic development and that such a plan met a valid public purpose.⁵² It noted that the courts in several states have used the same approach to reach the same conclusion.⁵³

Whether the U.S. Supreme Court will agree with the Connecticut Supreme Court’s conclusion that property can be condemned for the sole purpose of economic development will largely depend on whether it agrees with past decisions that assigned the “public use” clause a broad interpretation.

³⁵ *Id.* at 243-244

³⁶ See generally, Brine, *Containing the Effect of Hawaii Housing Authority v. Midkiff on Takings for Private Industry*, 71 CORNELL L. REV. 428, 440.

³⁷ *Haw. Hous. Auth.*, *supra* note 78, at 240.

³⁸ *Id.*

³⁹ 843 A.2d 500 (2004).

⁴⁰ *Id.* at 507-508.

⁴¹ *Id.* at 510-511.

⁴² *Id.* at 509-510.

⁴³ *Id.* at 511.

⁴⁴ *Id.* at 510-511.

⁴⁵ *Id.* at 519-520.

⁴⁶ *Id.* at 519.

⁴⁷ *Id.* at 519-520.

⁴⁸ *Id.* at 519-510.

⁴⁹ *Id.* at 540-542.

⁵⁰ *Id.* at 527-528.

⁵¹ *Id.* at 528.

⁵² *Id.*

⁵³ *Id.* at 527-528.

IRWA Fall Region 1 Forum

By: Holly Rockwell, Epic Land Solutions, Inc., President Elect & International Director

On October 15th and 16th, Holly Rockwell and Tracy Washburn represented Chapter 1 at the Fall 2004 Region 1 Forum. Region 1 consists of 14 chapters from California, Nevada, Arizona and Hawaii. The Chapters each take turns hosting the Regional Seminar and this time it was the Reno Chapter. Although Lake Tahoe is a beautiful part of the country, we had our work cut out for us at an all-day Saturday meeting. The following items were discussed:

1. **International Uniform Act Seminar**

International is planning a Uniform Act Seminar that will be held in 13 cities approximately 2-3 months after the changes in the regulations to the Uniform Act. Los Angeles is targeted as one of the 13 cities. Chapter 1 is also planning its Annual Relocation Seminar shortly after the release of the regulations which will be largely focused on the changes in the Uniform Act regulations and their impact in California. The Chapter 1 Board has agreed that both seminars can be successful in Southern California and that we will communicate openly with International about agendas and content of the seminar. You will hear more about both seminars in the upcoming months.

2. **International Education Conference in 2010**

Mark Keller, Regional Chair, indicated that bids were open for the International Education Conference in 2010. He would like the Region to support a bid for Long Beach as a location to host the Conference. Chapter 1 agreed to work with others in the region to determine the viability of holding the seminar in Long Beach.

3. **IRWA course recertification**

On July 1 of this year, headquarters indicated it would no longer be responsible for certifying IRWA courses with State agencies (OREA, DRE, etc.). The responsibility and cost is being passed to the local regions. Mike Pattison of the Sacramento Chapter has been tasked with determining what credits are needed at this time for California and how much funding will be required. It appears that the California chapters will fund OREA certifications for most IRWA courses, but will not apply for DRE credit until there is a better understanding of the benefit to the members. We have a budget of \$500 from International and it is probable that each of the Chapters will need to contribute an additional amount to keep the courses certified.

4. **Region 1 Website**

The Region voted on a \$50 per year per Chapter assessment to maintain the Regional website. The website can be found at <http://www.irwaaz.com/region1> and is a valuable tool for communications between Chapters.

5. **Hawaii Chapter**

Mark Keller, Region Chair, indicated they are trying to revive the Hawaii Chapter. They have extended an invitation for Hawaii to become an affiliate of Chapter 1 but have not heard a response.

6. **Nominations**

Michael Wolfe of the Sacramento Chapter was selected as the Region 1 Professional of the Year.

7. **Spring Forum**

The Regional Spring Forum will be held in Tempe, Arizona on March 10-12.

Chapter 1 Past Presidents

It may be obvious that Chapter 1 was the founding Chapter of IRWA, but sometimes it's easy to forget the history behind it and the individuals who contributed along the way. November is our month to recognize those individuals who have built our Chapter to what it is today. Our heartfelt thanks to you for all of your hard work over the years.

1935	Frank C. Balfour*	1971	James W. Whitbord
1936	George A. Mitchell	1972	A.L. Hovanec
1937	Robert I. Plomert	1973	Donald A. Reynolds
1938	Joseph A. Gallagher, Sr.	1974	Robert R. Stone
1939	Daniel W. Rosengrans	1975	Albert C. Schlinger
1940	Harry Higgins	1976	Henry P. Smolich
1941	Gilford G. Tood	1977	Garth G. Gardner
1942	William B. McKesson	1978	Joseph J. Perez
1943	Leo J. McCarthy, Sr.	1979	George H. Stein
1944	Francis J. Van Lohn, Sr.	1980	John W. Hein
1945	J. J. Schillenger	1981	John Dalis
1946	Mark A. Green	1982	David F. Brown, Jr.
1947	Melvin B. Ogden	1983	Len A. Corwin
1948	Paul W. Axe	1984	Lee Moussatir
1949	Frank E. Randall	1985	Robert A. Martin, Jr.
1950	Kenneth M. Trenholm	1986	H.J. "Skip" Dearing
1951	William C. Meek	1987	Eldon "Ray" Jackson
1953	H. William Grane	1988	Paul A. Widrig
1954	Dexter D. MacBride	1989	Gary L. Peck
1955	Thomas N. Miranda	1990	Kathryn L. Friedman
1956	Den M. Acres	1991	Sharon D. O'Rourke
1957	A.C. Cooke	1992	Allan Rothman
1958	Thomas F. Mason	1993	Donald E. Bender
1959	J.J. F. Hanemann	1994	Neilia A. LaValle
1960	E.F. Wagner	1995	James D. Wiley
1961	Austin M. Hill	1996	Gary S. Valentine
1962	Frank M. Lathrop	1997	Thomas E. Lemm
1963	Paul H. Van Loon	1998	Jed Springer
1964	James W. Greathead	1999	Brian Brooks
1965	Charles W. Elam	2000	Joyce Riggs
1966	Stanley E. Krause	2001	Michael Murray
1967	Milnor E. Gleaves	2002	Rudy Romo
1968	Lewis W. White	2003	Michael Popwell
1969	Hal L. Hellman		
1970	Thomas C. Stowe		

“Raising The Scope”—The New Role of Scope-of-Work

By: Sean Heath

Ah, the law of unintended consequences. As defined, it means that the actions of people—especially government—always have effects that are unanticipated or unintended.

The Appraisal Standards Board, through their annual edits and amendments, has tried to make the Uniform Standards of Professional Appraisal Practice a flexible document, allowing appraisers the latitude to perform a broad range of services. However, the ASB did not realize that the practical impact of these changes would result in a more rigid appraisal process, confusion, and the need for more USPAP revisions.

For example, in 1998, appraisers sitting through USPAP classes learned that appraisals had to be Complete or Limited. In addition, this new amendment, now known as the Departure Rule, called for three different reporting options (specifically, Self-Contained, Summary and Restricted).

The ASB’s intention was to give appraisers more options, more reporting “tools” to place in their client-services belt. What resulted was confusion. One problem the ASB didn’t foresee was that some users of appraisals came to view the Limited Appraisal as inherently flawed and therefore undesirable, since it represents something less than a full appraisal.

“The connotation in the marketplace of Complete versus Limited causes confusion for some users,” stated George Hatch, a USPAP instructor and contributor to *Working RE*. “We [as appraisers] understand that in some situations, a Limited Appraisal in a Restricted Use format is a very appropriate work product. Our clients don’t always get that message. That’s why the ASB will eventually do away with labels like ‘Complete’, ‘Limited,’ ‘Self-Contained’ and such. If this conversion is completed, there will just be an ‘Appraisal’ and it will be judged within the context of the reasonableness and execution of the Scope of Work.”

Beginning with the 2003 edition of USPAP, the ASB realized that appraisers (and their clients) were spending too much time worrying about the differences between reporting options, instead of focusing on the report which would best meet the needs of their clients. To get appraisers thinking in the right direction, the ASB de-emphasized the Departure Rule in favor of a stronger Scope of Work.

The ASB would like appraisers to interpret Scope of Work as their “promise to deliver”—a type of road map beginning with the definition of the problem and ending with the final report.

The following flowchart (taken from Advisory Opinion 22) illustrates how Scope of Work has now been interpreted as a “bridge” between the **definition** of the appraisal assignment (everything to the left of the Scope box in the chart), and the **execution** of the appraisal assignment (everything to the right of the Scope box). In the eyes of the Appraisal Standards Board, Scope of Work now serves as the unifying link between Standard 1 and the other Standards as needed for each assignment.

The Departure Rule now applies primarily to Standard 1-3 (determination of highest and best use), and Standard 1-4 (collection and analysis of data applicable to the appraisal problem). In our flowchart, what this means is that the decision to depart from a Specific Requirement doesn’t come into play until later in the appraisal process—after the appraisal problem is defined, and after a Scope is crafted.

Yet, the ASB’s new emphasis on Scope of Work may backfire also, if appraisers only see this section as a boilerplate, which is called up and inserted into every assignment without change.

“Canned [scope] statements or copying and pasting might save some time,” stated Alan Simmons, SRPA. Mr. Simmons was a Contributing Editor to the Eleventh Edition of *The Appraisal of Real Estate*, and is an Appraisal Institute instructor. “However, the problem is that many times appraisers will forget to make changes for differences and will get used to the ‘One size fits all’ mentality.”

“[The ASB] has been expanding the role of Scope of Work over the last five years and it’s not over yet,” said Simmons. “There is more flexibility. Every assignment is unique and every scope of work needs to be tailored to fit the problem.”

As most of us know by now, the scope of an assignment is shaped by the answers to the following questions.

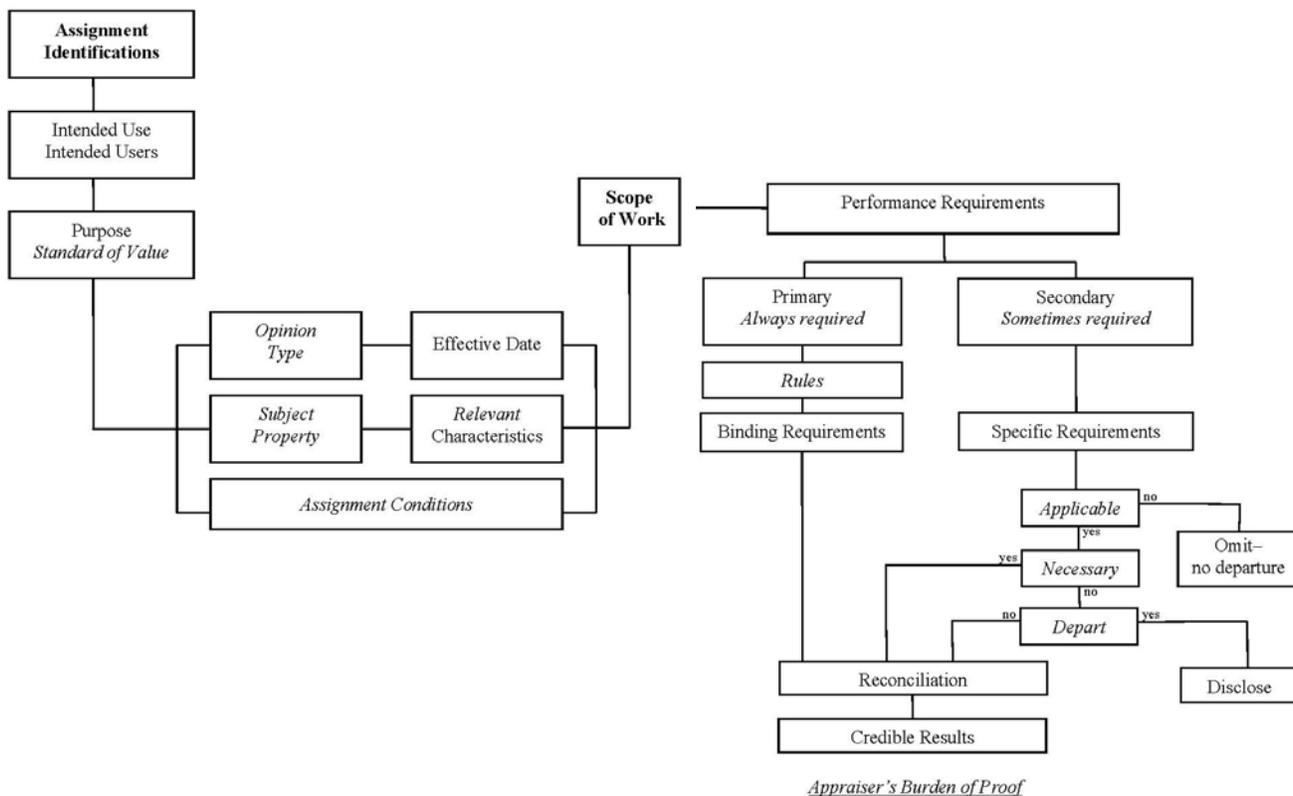
- 1.) What is the assignment problem?
- 2.) Who are the intended users?
- 3.) What is the intended use?
- 4.) What will be the purpose of the report?

According to R. Dennis Tompkins, President of The Appraisal Academy, the Scope of Work section provides for flexibility. “The scope of work is different for each appraisal. However, there can be [standard] scopes of work for single family URARs with an interior observation for example, a different scope for exteriors, a different scope for 2055s with interior observation, a different scope for 2055s as ‘drive-bys’ and so on.”

“There is something else the appraiser should keep in mind,” added Tompkins. “Sometimes, the client asks for or demands a certain scope. The appraiser has the obligation and the liability to reject the client’s request when the result would not be meaningful or credible.”

For example, let’s say the client requests a drive-by appraisal be done on a single-family residence. You get there and notice that the home is set back a considerable distance from the street, screened from view by trees and landscaping. Without going up the driveway, you will not be able to even see the home, and yet, the client has asked that you not contact the borrower.

Since you would not be able to gather enough information about the home from the street, the scope of work suggested by the client should be rejected, and a different scope suggested.



Dan Swango, PhD, MAI, SRA is an Appraisal Institute instructor and member of the Appraisal Journal editorial board. “The basic idea is to have a different scope for each assignment, and that it should be custom,” he said. “Appraisers can start with boilerplate language, but should have specifics relating to the assignment in question. A boilerplate scope could describe the steps taken [in general terms], but should be modified to point out the specific extent of the appraiser’s activity taken for that assignment”

Mr. Swango suggests that appraisers consider the following when customizing their Scope of Work sections for each assignment.

- Definition of market area, including the geographic area searched for sales and other pertinent market influences (such as favorable or unfavorable land uses and influences)
- The range of dates of sale searched
- A list of the sources of information searched (not just MLS, but your own files, any other appraisers in your office or others)
- a list of sources for non-sales data, such as reviews of pending sales contracts, title reports, construction inspection reports, subject leases, subject inspections and measurements, and photographs, assessor’s information, and general community-market information and economic information
- Confirmations made
- The size range of properties searched

- The age range of properties searched
- Type of construction
- Basic features (3 bedrooms, or 3-4 bedrooms, one-story or one and two-story homes, homes with swimming pools or no pools, homes with 2-3 car garages, etc.)

The intent, according to Swango, is not to write a dissertation, but to describe to the client in clear and concise language how you will execute your “promise to deliver.”

“The reality of the marketplace,” added Hatch, “is that some users require more documentation, some require less. Some require more research and verification; the same holds true for the various users of appraisal work. Think about it. Would a homeowner who wants to know the current value of their home need the same level of detail as an out-of-state lender for a mortgage or a court in the matter of a condemnation? Of course not. All of these users have different needs.”

The litmus test to determine whether a Scope of Work has been properly crafted is whether it would be accepted by:

- 1.) Market participants, and
- 2.) Industry peers (i.e. other appraisers).

Appraisers should also keep the following questions in mind.

- 1.) Is a single-point value estimate needed, or merely a range? Or is the client merely looking for a “rough idea” of value?
- 2.) Is the client looking for the value of the entire property, or just a portion?

(Note): USPAP allows for partial-value assignments, as long as they are in conformance with Standard 1-4(e), otherwise known as the assemblage principle. Some examples of partial-value assignments would include: land valuation when the site is already improved, valuation of specific property rights (lessee/lessor interest, easements, airspace, etc.), fractional-interest ownership, or determination of market rent.

- 3.) Does the client want a desk or field review? Technical or cursory review?
- 4.) Will the report be seen by anyone other than the client making the request?
- 5.) Does the client have stringent internal guidelines that need to be followed?
- 6.) Will the appraisal be used in court proceedings?

Although these are just some of the types of questions that could be raised in the appraiser’s mind, their answers will help to determine how much information the appraiser needs to convey in his report.

In the end, it is the ASB’s hope that appraisers will recognize the opportunities inherent in the latest USPAP revisions, rather than seeing the changes as restrictions.

“USPAP does not close doors for appraisers,” said Tompkins. “Instead, it opens them. We just have to think outside the box. I think appraisers should use common sense when developing scope of work, and beware that you [the appraiser] are bound and have disclosure requirements. The client is not bound.”

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