



# INTERNATIONAL RIGHT OF WAY ASSOCIATION

**Kachina Chapter 28  
Phoenix, Arizona**

Newsletter

[www.irwaaz.com](http://www.irwaaz.com)

**October / November, 2004**

## NOVEMBER BOARD MEETING

-  Wednesday, Nov. 3, 2004
-  4:45pm
-  3rd Floor Conference Room
-  Az State Land

Confirm your attendance with  
Doug McLaughlin, SR/WA at  
[dwm@mail.maricopa.gov](mailto:dwm@mail.maricopa.gov)

## CHAPTER SPECIAL AWARDS

The following Special Awards were presented during the Annual Seminar Luncheon on September 16, 2004. Chapter 28 congratulates all the very deserving recipients.

### EMPLOYERS OF THE YEAR:

- First Appraisal Services, Inc.
- Dennis L. Lopez & Associates, LLC
- Professional Valuation Services

### PROFESSIONAL OF THE YEAR:

- Daniel J. Kovichich, SR/WA

### SPECIAL SERVICES:

- Rebekah B. Louis

## NOVEMBER LUNCHEON

-  Tuesday, November 9th
-  11:30 AM
-  Location TBA
-  Menu TBA
-  Speaker TBA

Please visit the Chapter website where  
the Luncheon information will be  
posted as it becomes available.

## 2004 Kachina Chapter Executive Board

### President:

Doug McLaughlin, SR/WA  
602.506.4648  
[dwm@mail.maricopa.gov](mailto:dwm@mail.maricopa.gov)

### Treasurer:

Toni Soderman, SR/WA  
602.506.4883  
[tonisoderman@mail.maricopa.gov](mailto:tonisoderman@mail.maricopa.gov)

### President Elect:

Chris Banks, SR/WA  
602.236.8175  
[cdbanks@srpnet.com](mailto:cdbanks@srpnet.com)

### International Director:

Melita Hillman, SR/WA  
480.644.2671  
[melita.hillman@cityofmesa.org](mailto:melita.hillman@cityofmesa.org)

### Secretary:

Michael Sterling  
602.410.2994  
[Michael\\_sterling@tempe.gov](mailto:Michael_sterling@tempe.gov)

### Region 1 Chair:

Mark Keller, SR/WA  
602.236.8164  
[makeller@srpnet.com](mailto:makeller@srpnet.com)

## PRESIDENT'S MESSAGE

Doug McLaughlin, SR/WA, Chapter President

It was really great to see all of you at the Chapter's Annual Seminar this year. As you know the Chapter's Annual Seminar is our premier (or as I like to call it – gala, pronounced “galar”) event that is put on each year to provide the membership with an opportunity to meet in an educational environment with other members of our profession.

The Board's goal this year for the first day of the Seminar was to present speakers that were informative with topics relating to current events across the State and within our local communities. From the comments I have been hearing from many of you, I believe most who attended believed the guest speakers' presentations were very informative. I am very pleased to hear those comments and I agree that the guest speakers did an outstanding job.

The Board's next goal was to provide those in attendance with the opportunity to receive SR/WA recertification credits, Appraiser recertification credit, IR/WA General Educational Credit, and/or AZ Real Estate Credit, etc.

For those that need recertification credits for your SR/WA you can receive 7 hours for attendance on Thursday. If you attended a class on Friday you will receive IRWA credits for the 214 class and SR/WA recertification credits for the H006 course. Unfortunately because of recent changes in how instructors and classes are certified by the different licensing agencies of the State of Arizona, other types of credits are not available for those classes. The Board members and the appropriate committees are working on this problem to ensure that future classes and the instructors meet the needs of our membership.

To all of the Sponsors, Board and Committee members, and Chapter Members who stepped up and contributed their time, efforts and gifts to help making this year's Seminar a success, “Thank you.”

### THOUGHT FOR THE DAY

Bad officials are elected by good citizens who do not vote.

Andrew Lack

Remember to vote on November 2nd

## EDUCATION

Dan Kovoichich, SRWA, Chair

### Education Presentations 2004 - A year of many changes

With the arrival of 2004 came many changes to the IRWA Education Program at both the International and local Chapter level.

International made welcomed changes. For those of you who ever had to plan, track and pay for an IRWA education presentation, the International changes have made this easier. The complexity of the previous course pricing and invoicing process was difficult to track and follow. Debits and credits carried over to following calendar years, and sometimes other courses making it extremely difficult for a Chapter to understand where the money was going out and coming in. Using the new "wholesale" approach, International now charges a simple wholesale fee per student, period. This fee includes the books and course materials. Expenses can now be forecasted with precision making the income and cost projections for upcoming presentations more dependable. Yes the course fees increased a bit, but the overall changes are an improvement to the process.

Course Presentation Guidelines for Chapter 28 were developed this year by the Board to be consistent with International's changes to material ordering deadlines and course presentation charges. In doing so, we saw many ways to improve the competitiveness and efficiency of our Chapter in the planning and implementation of these courses. Resulting are sensible organizational changes from the creation of cost-tracking spreadsheets, locking down more reliable and consistent classroom locations, smarter course refreshment planning, minimum registration requirements and improved advertisement. These changes are already benefiting the chapter, but we have more work to do.

There is no question that a main source of Chapter income is the Education Presentation Program. That said it is also realized that there is a need for the Chapter to sponsor a "break-even" course from time to time. Striking a balance between the education benefit and the affordability of the presentation has been, and will continue to be our greatest challenge.

Late registrations hurt our Chapter. There are many reasons why a course presentation can be canceled; the most common one is the lack of registrations. A course coordinator does not realize a person's intention to register for a course. If you are interested in an advertised or upcoming education course then communicate your interest! Contact the referenced class coordinator or the Education Chair – even before you submit your registrations! If a course does not have the minimum number of registrants it needs to present the course (3) weeks prior to the presentation, the course will be canceled!

Why are the deadlines so important? The required lead-time for ordering course materials is important. The closer we are to the course presentation, the higher the cost is to ship the needed material. Increasingly, Chapter 28 is hosting students from our neighboring regions for our education presentations. Although it is not recommended that non-refundable travel reservations be made prior to a confirmation of a guaranteed presentation, every effort is being made to provide adequate notice to everyone participating in a class. As our upcoming courses are scheduled, please express your interest in attending and recognize the posted deadlines.

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**The Real Estate and Appraisal Credits** process is seeing change. Although real estate and appraisal credits are not the meat and potatoes of the IRWA course presentations, Chapter 28 has long recognized the benefits of making these credits possible. Beginning in late 2004, each chapter and region will be responsible for establishing and maintaining all real estate and appraisal recertification credits. A chapter assistance fund has been set-up by International to assist in the costs of such program. Chapter 28 will continue to seek these additional credits for the IRWA courses where possible.

**A Class Coordinator** performs an important role in each course presentation. The Coordinator is the “go to” contact for each presentation he/she is assigned.

The Coordinator accepts all contacts, registrations, payments and attendance; is the source of providing course information to interested registrants; reserves & confirms classroom and hotel room blocks for the presentation; purchases and provides refreshments for the presentation (these expenses are limited and reimbursable). There is a world of responsibility involved, but in addition to a paid class the experience is invaluable.

If you are interested in coordinating a class for 2005, please contact Rebekah Louis (602-236-8195) and indicate your course of preference. For those classes that receive multiple coordinator applicants, the Education Chair will draw names to keep the process as fair as possible.

**This year’s Seminar Course presentations** enjoyed attendance counts of more than 24 registrants in each classroom. Thank you Melita for the extra time you invested to make these courses possible!

### **2005 COURSE SCHEDULE**

JAN H005 Reviewing Appraisals in Eminent Domain  
FEB C802 Legal Aspects of Easements  
MAR C901 Engineering Plan Development and Application  
MAY C104 Standards of Practice for the Right of Way Professional  
C902 Property Descriptions  
SEP C402 Introduction to the Income Capitalization Approach  
C212 Creatively Solving Problems in Groups  
OCT C500 Uniform Relocation Assistance Act

### **2<sup>nd</sup> Annual “Adopt a Family” Project for Kachina Chapter 28**

Again this year, the Chapter 28 Board has approved a Community Service Project to give back to the community by “Adopting a Family” for the holidays.

We will again collect financial contributions at the November and December luncheons, as we hope to provide meals for two families at Thanksgiving. In December we will collect funds and items to assist the selected family or families for the Christmas holiday.

Watch the web site and upcoming newsletters for more details as they become available from the agency regarding the families to be adopted.

Last year this was a really rewarding project that I found very gratifying and personally satisfying. Knowing that we are sharing the blessings given to us with those facing significant challenges is what Thanksgiving is all about.

If you would like to assist with the collection or shopping efforts, please let me know. Your contribution of time, money or items is, and will be, appreciated.



## Surveyor's Corner

Gregg Tuttle, Manager  
SRP Land Department  
Surveys Division

Gregg- Can Surveyors provide PROOF of ownership?  
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NO! Next question! No, wait, just kidding. J

**(The following is this author's rewrite, (from, and, for, the Arizona perspective), of an article by the Weber County, (Utah), Surveyor, Martin B. Moore, Jr. He has previously answered this question in one of his many Q & A articles.)**

Surveyors do not prove ownership.  
That is ultimately in the arena of the judicial profession.

However, the property boundaries *are the* lines and limits of ownership.

**It is the boundary line of property that a surveyor "establishes".**

The analysis being whether (or not) a competent surveyor, with the deed / title documents (with or without additional extrinsic evidence) can locate the property parcel AND establish the boundaries.

This is an identification of the limits of ownership but not proof of ownership.

Arizona Registered Land Surveyors are authorized, by statute laws, and regulations, and, also by case law, to apply the applicable legal doctrines as to the surveying of land, and to the establishment of boundary lines.

Land Ownership is a question of title.

A land a boundary survey is often a (the) key component in properly establishing the correct title, and, as such must be accomplished so as that it takes notice of the several evidences of title, *some* of which are:

1. Senior rights (as evidenced from the chain of record title);
2. Un-written title rights, (such as adverse possession and lines of occupation);
3. Property corner monumentation;
4. Prior surveys;
5. Where applicable, the intent of the Parties as evidenced through the writings, and physical actions, with respect to the land itself; and, (if necessary),
6. The use of parole evidence.

"A competent property surveyor is in effect a minor court. He must decide questions of fact and questions of law. He must search the records for all pertinent deed writings, survey records, and court records and relate these records to evidence he finds on the ground. He seeks and takes the testimony of everyone who has knowledge of the problem at hand. He evaluates all the evidence he can gather from the record, the ground, and from testimony, and makes his own decision. He marks his decision on the ground by durable, exclusively identifiable monuments and accessories. He assumes the responsibility for his work by showing all the pertinent data such as records, evidence, reasoning, and old and new monuments on a plat which he signs, dates, seals, and publicly records. His plat is "... an edited, accurately scaled, dimensioned, pictorial representation of his original notes and record research in sufficient detail that the retracement surveyor or reviewing lawyer need have no further recourse to his original notes."

Quoted from: Ira M. Tillotson, P.E., R.L.S. Montana Professional Surveyor - now deceased.

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## *Surveyor's Corner...continued*

Proof of ownership involves many things, the locations of the boundaries being only one. Ownership, and, title to land is a combination of prior surveys, the deed records ( the chain of record title), the actions of the land owner ( and adjoiners in creating un-written title rights), encumbrances (imposed by governments or utilities), and decisions of courts.

This, by necessity, requires that the surveyor be not only versed in the relevant statute and case laws affecting property rights, but also gives him "Quasi Judicial" status in the determination of property boundaries. Michigan State Supreme Court Chief Justice, Thomas M. Cooley, who wrote the opinion titled "The Judicial Functions of Surveyors", made the Quasi Judicial Function of Surveyors clear.

This treatise is often quoted, nationally, as the reference to surveyor's duties and responsibility to the public safety, welfare and peace of society.

**(Note: for anyone interested in obtaining a copy of that document, please contact your Kachina Chapter Survey Chair, at: [gmtuttle@srpnet.com](mailto:gmtuttle@srpnet.com))**

Note: We will pick this up again in the next "Surveyor's Corner" with a quote from Justice Cooley: "Surveyors are not and cannot be judicial officers, but in a great many cases they act in quasi-judicial capacity with the acquiescence of parties concerned; ..."

And we will follow the phrase:  
"... with the acquiescence of the parties concerned..."

**If you have feedback or comments, please feel free to share them.**

**As always, I am interested in the opinions from, the readers of the Kachina Chapter 28 Newsletter.**

***Until next time – Thank you.***  
*Gregg Tuttle, manager,*  
*SRP LAND-Surveys Division*