



INTERNATIONAL RIGHT OF WAY ASSOCIATION

**Kachina Chapter 28
Phoenix, Arizona**



Newsletter

www.irwaaz.com

DECEMBER, 2004

DECEMBER LUNCHEON

Date/Time: Tuesday, December 7th, 2004 @ 11:30am

Place: Doubletree Guest Suites (NW Corner of 44th Street & Van Buren)

Occasion: Holiday Luncheon & Installation of 2005 Officers

Menu: Garden Green Salad with Assorted Dressings, Carrot Pineapple Slaw with Raisins, Sliced Seasonal Fresh Fruit and Berries, Baked Ham with a Spiced Rum Raisin Sauce, Roasted Tom Turkey with Home-style Gravy and Apple Stuffing, Fluffy Red Mashed Potatoes, Fresh Vegetable Medley, Assorted Fresh Baked Rolls and Butter, Chef's Selection of Festive Holiday Desserts, Coffee or Decaf.


Cost: \$15.00 for members and guests. Please have exact change or your check made out to: IRWA Kachina Chapter 28.


RSVP: Deadline is Thursday, December 2, 2004 @ 3:00pm.

RSVP online at: http://www.irwaaz.com/luncheon_rsvp.htm


Don't forget to bring extra cash or check to the luncheon for our Adopt-A-Family Fundraiser. There will be a donation box at the registration table.

DECEMBER BOARD MEETING

 Wednesday, Dec. 1, 2004

 4:45pm

 3rd Floor Conference Room

 Az State Land

Confirm your attendance with
Doug McLaughlin, SR/WA at
dwm@mail.maricopa.gov

2004 Kachina Chapter Executive Board

President:

Doug McLaughlin, SR/WA
602.506.4648
dwm@mail.maricopa.gov

Treasurer:

Toni Soderman, SR/WA
602.506.4883
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President Elect:

Chris Banks, SR/WA
602.236.8175
cdbanks@srpnet.com

International Director:

Melita Hillman, SR/WA
480.644.2671
melita.hillman@cityofmesa.org

Secretary:

Michael Sterling
602.410.2994
Michael_sterling@tempe.gov

Region 1 Chair:

Mark Keller, SR/WA
602.236.8164
makeller@srpnet.com

PRESIDENT'S MESSAGE

Doug McLaughlin, SR/WA, Chapter President

Happy Thanksgiving to all. It is the beginning of the holiday season and a time to reflect back over this year as well as give thanks for the blessings we have enjoyed. To all the Board members, Chapter members and their families have a happy holiday season from my family to yours.

Douglas W. McLaughlin

THOUGHT FOR THE DAY

I like nonsense - it wakes up the brain cells. Fantasy is a necessary ingredient in living. It's a way of looking at life through the wrong end of a telescope... and that enables you to laugh at all of life's realities.

Dr. Seuss



Adopt A Family Project

Melita Hillman, SR/WA

Thank you for your generosity at the November luncheon. We collected enough money to support two families for Thanksgiving and have a good start on providing support for the Christmas Family. The Thanksgiving turkey, meal fixings and \$20 grocery "gift cards" were purchased and delivered to Save The Family on Monday, November 22.

We will also collect money and gifts at the December luncheon on December 7 for the family adopted for Christmas. The family is a single mother with 4 children ages 8 years to 10 months. We are asked to provide one gift for each family member as well as gift cards to a store so the family can purchase the fixings for the holiday meal appropriate for the family tradition. The family submitted a list of items for each of the children as well as wants and needs for their home.

If you would like to adopt one of the family members to purchase the gift or provide some of the identified needs, please call me at 480-644-2671. I can send you a copy of the "needs and wish list" the family submitted. Delivery date for the Christmas items will be Friday, December 17. If anyone would like to assist with shopping, wrapping or delivery of the gifts and foods, please contact me to coordinate and arrangements. Save the Family is so appreciative of the assistance provided.

Thank you for your continued support of this Community Service Project on behalf of IRWA Kachina Chapter 28.

Region 1 Report

Mark A. Keller, SR/WA, Region 1 Chair

Region 1 Fall Forum- October 16, 2004 South Lake Tahoe, Nevada

On October 16, 2004, Region 1 held its Fall Forum in South Lake Tahoe, Nevada. Thirteen of the fourteen chapters were present and submitted reports. The Committees present included: IEC, ILPAC, IMC, INEC, IUC, IPDC, Transportation, and ISC.

All of the chapter and Committee reports were posted on the Region 1 website prior to the Region 1 Fall Forum. As highlighted, the Region 1 website facilitates communications while alleviating costs for printing and shipping. Our International Executive Committee Treasurer, Jim Finnegan, SR/WA attended our forum and answered questions regarding the proposed governance and strategic plan. Attached is a copy of chapter and committee reports for your file and reference. The action items covered at the forum are attached and are currently in process.

The major action items include:

- Educational course pricing system.
- Regional By-Laws – finalized.
- Continuing Education Credits for real estate and appraisal in Arizona, California and Nevada.
- Maintain communication with the Hawaii Chapter.
- Invoice Chapters in Regional for an annual fee of \$50.00 to cover website maintenance expenses.
- Explore Long Beach bid for 2010 as a region sponsored IRWA annual conference.
- Foster communication of all IRWA events, classes, and seminars in order to avoid conflicts.

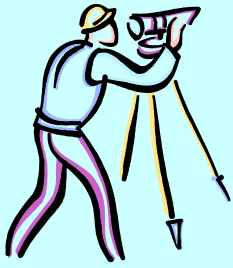
During the forum, Carolyn Carrica, Region 1 Vice Chair and I utilized material from IRWA regarding leadership and strategic plan. It was well received and future workshops were requested.

After reviewing the chapter reports, please address and assist Region 1 with the following issues:

- Lack of response from IRWA staff regarding educational offerings and communications. Need personnel to answer phone calls more efficiently and in a timely manner.
- Chapters experienced abnormally high shipping costs for materials. Need shipping procedures outlined.
- Lack of detailed course invoices. Incorrect and unsupported charges to chapters for course materials. Need better accounting from IRWA headquarters.
- Enhanced communications for course offerings to avoid conflicts.
- Clean-up educational course instructor list. Many are outdated.

A formal report has been sent to Dennis Stork, Executive Vice-President, International Right of Way Association.

HAPPY  HOLIDAYS



Surveyor's Corner

Gregg Tuttle, Manager
SRP Land Department
Surveys Division

"... with the acquiescence of the parties concerned..."

This article is a continuation of the discussion stated with last month's question:

"Can Surveyors provide PROOF of ownership?"

The partial quotation, above, is from the treatise by Justice Cooley.

Michigan State Supreme Court Chief Justice, Thomas M. Cooley, wrote the opinion titled "The Judicial Functions of Surveyors", which makes 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.

The quotation is part of Cooley's comments: "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; ..."

(The following analysis is, again, is from, and based on, an article by the Weber County (Utah) Surveyor, Martin B. Moore, Jr.)

The "acquiescence of parties concerned" is a major part of a survey and one that a competent surveyor will give due consideration to. It can not be determined thru the public record alone. To simply mark the record deed description on the ground is in effect in violation of the responsibility of the surveyor to "establish" the boundaries of property.

The "acquiescence of parties concerned" is an area of boundary law that throughout the profession is commonly called "un-written title rights". There are many un-written means by which title can be affected, for example: 1. Acquiescence, 2. Adverse possession, 3. Estoppel, 4. Laches, 5. Riparian rights, 6. Original surveys, 7. Marketable record title (in Utah Law), 8. Escheat... Etc.

All of which are legal means of transferring title and land ownership without the necessity of a written document.

When an individual asks the question; "Doesn't a fence become the property line after it has been in place for a certain period of time?", they are in essence asking about un-written title rights and the individual is expressing some knowledge with respect to such. The answer to the question, however, is... yes and no. It is the job of the surveyor to gather the information, facts, and testimony necessary to identify the status of the fence in question, in an attempt to make a determination.

The term "Surveyor's Opinion" has become synonymous with the surveyors obligation to locate and establish legal boundaries. This Opinion is accepted in a court of law and carries due weight with respect to a courts decision. When the surveyor gives, in the performance of their duties, a "Surveyor's Opinion" as to land boundaries his/her decision is of course subject to appeal just as many judicial opinions are. This appeal is taken to the court system

The surveyor's obligation to society is to determine the boundary or limits of ownership (if possible), to mark that boundary in some acceptable manner on the ground and place in the public record a map/plat that details the events of the survey (see 2 below).

To prove ownership the land owner must do three things:

- 1) commission a competent survey to be performed,
- 2) receive a title policy guaranteeing or insuring the title of the land and,
- 3) request an action *by the court* to review the survey and title and make a declaration of the ownership. This will then quiet the title and put at rest the ownership of the land.

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

HAPPY  HOLIDAYS

