



INTERNATIONAL RIGHT OF WAY ASSOCIATION

Kachina Chapter 28 Phoenix, Arizona

Newsletter

www.irwaaz.com

MAY, 2006

2006 Kachina Chapter Executive Board

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MAY BOARD MEETING

-  Wednesday, May 3, 2006
-  4:45pm
-  3rd Floor Conference Room
-  Az State Land

Confirm your attendance with Doc Sterling at docs@mwdaz.com

JUNE BOARD MEETING

-  Wednesday, June 7, 2006
-  4:45pm
-  3rd Floor Conference Room
-  Az State Land

Confirm your attendance with Doc Sterling at docs@mwdaz.com

JUNE Chapter Luncheon

DATE: Tuesday, June 13th, 2006

TIME: 11:30am

PLACE: Garcia's Mexican Restaurant (2212 N 35th Avenue)

COST: \$12.00

MENU: At Luncheon check-in, choose 1 of 6 delicious entrees:

- Poco Pollo: Delicious Chicken Dish, served with rice and beans
- Taco, Tostada & Cheese Enchilada
- Burro Enchilada Style: Red, Green, Special Beef or Chicken with rice & beans
- Chimichanga - Served with rice, beans, guacamole and sour cream
- Enchilada - Beef or Chicken served with rice and beans
- Grilled Chicken Sandwich - Served with fries and a green salad with choice of dressing

Chips and Salsa, Ice tea, Sodas, coffee, included

SPEAKER: Maria Hyatt of the City Manager's Office will be giving us an update on the light rail project.

PRESIDENT'S MESSAGE

Michael "Doc" Sterling, Chapter President

Greetings Chapter Members – and a growing group of members it is! We are now at about 240 current members with more applications submitted for membership consideration. This growth fits right into the theme for our upcoming Chapter Educational Seminar in September: Roadblocks and Detours on the Road to Growth!

We are currently recruiting speakers for the 1st day of the Seminar and our classes for the 2nd day of the Seminar are already set. The Seminar will be held in the same location as the past 2 years: The Phoenix Sheraton Airport Hotel Tempe on 52nd Street, just North of Broadway on September 7th and 8th.

The IRWA Annual Conference is coming up in June. Kachina Chapter 28 will be sending its two International Delegates – Chris Banks, SR/WA and me. Several other members of the Chapter will be attending in various capacities.

I am pleased to announce that our Chapter has approved a donation to the Right of Way International Education Foundation in the amount of \$2,250. Chris Banks and Mark Keller will be making the presentation of the donation check at the Conference. The Foundation has demonstrated its support of the IRWA the past several years and currently has already funded or is otherwise obligated to fund over \$200,000 to updating IRWA Courses as to both content and presentation. It is hoped that these updates will answer concerns about Course materials and Instructor presentation skills that have been voiced for the past several years.

The Executive Board has been surprised by the drop in attendance figures since we opted to schedule Chapter Luncheons every other month instead of every month as done in past years. We are currently looking at returning to the monthly format and some other creative measures to encourage higher attendance.

This is a call to all members! If you have any concerns or ideas for the betterment of our Chapter, please do not hesitate to contact your Board Members or even attend one of the monthly Board Meetings.

Some of our Chapter members recently enjoyed a week in China. The photo at right is a Chinese taxi. I'm not sure but I doubt if this vehicle would be street legal here.....

Ask Chris Banks, Melita Hillman or Rebekah Louis about their adventures in the Orient.





Gregg Tuttle, Manager
SRP Land Department
Surveys Division

Surveyor's Corner

Question:

What If I Disagree with the Results of Survey drawing and/or the surveyor's opinion?

RE: Disagreeing with a Licensed Surveyor's Boundary Determination:

Surveyors work with the information that is available.

(NOTE: I did not say that they work with ALL the information that might possibly be available, given unlimited resources in time and money.)

Surveyors utilize data and information that may have been supplied by: property owners; title companies; or, the surveyor's own record document research, (or, a combination of all three, plus other public and/or private sources of information). The types of document data may be deed data, results of previously recorded (or unrecorded) surveys; together with physical evidence, found on the ground at, near, or, remote from the property boundaries in question.

From all of this data, in conjunction with the various Federal and Arizona Statutes, and other laws, codes, regulations, rules, and applicable case law, concerning Arizona land surveying, the surveyor makes her/his conclusions.

Any land survey is only as complete, comprehensive, and, (most importantly), correct as the information from which the conclusions are drawn.

Surveyors put their professional reputation and license on the line every time they determine a boundary location. Therefore it is in a surveyor's best interest to observe all the applicable surveying laws and to make the most accurate boundary determination possible.

They have no reason to deliberately locate a boundary line incorrectly.

However, on occasion, a surveyor may overlook an important piece of evidence that might change the boundary opinion in question.

If you believe this to be the case, then it is your option to discuss the evidence in question directly with the surveyor.

Please note that It is insufficient to disagree with a boundary line determined made by a licensed surveyor without any legal evidence. In order to refute a surveyor's findings one must show acceptable, counter-indicating legal evidence.

When a situation disclosing a conflict in a property boundary occurs, you must then decide what solution options you are willing to consider.

You will have to weigh the value of the land in question and/or the value of proving a point versus the potential cost of what it might take to acquire a resolution.

If you have not already done so at this point, you should contact an attorney for advice.

Continued on next page....

Surveyor's Corner continued

If after discussing the problem with the surveyor you still feel it has not been resolved to your satisfaction, there are other avenues that may be pursued.

Someone (you) could engage a second land surveyor to perform a separate boundary survey. The second surveyor may find a different result or have a different boundary opinion.

If then, there are now have two differing results-of-survey opinions, then try to have the two surveyors meet and mediate resolution.

Note – most of the methods for solving a boundary problem involve the cooperation of both parties in the dispute: A property line agreement or adjustment survey may be performed, with applicable deed recordings and survey map filings. A description may be written on the property or on a portion of the property, and recorded as an easement for a specific purpose to a specific party.

Alternatively, you may choose to allow present ownership conditions to continue as is. If you choose to maintain the status quo, you may run the risk of being subjected in the future to acquiescence or adverse possession activity, either in your favor or contrary to your interests.

The last choice is having the case heard before a court of law.

The court process is often the most expensive, but may be the only solution if the problem can't be resolved by other means.

***NOTE** – perfecting title to property acquired by unwritten means, (acquiescence or adverse possession), can only be obtained through recording a mutually signed document and/or through court proceedings. For that reason, allowing present ownership conditions to continue as is in the hopes that a problem will resolve itself will not resolve the ownership problem.*

An accurate boundary survey, in which boundary lines are identified by a licensed surveyor and which are legally defensible, [and, in which all necessary legal elements have been observed], is usually an effective means by which to resolve common boundary conflicts without burdening the property with additional legal encumbrances.

NOTE: If the licensed surveyor's professional conduct (ethics) and/or the surveyor's technical competencies are in question, an allegation (complaint) may be filed with the state regulatory and licensing agency, the Arizona Board of Technical Registration, (AZ/BTR): <http://www.btr.state.az.us/>

Please note, however, that the AZ/BTR, historically, does not deal with contracting issues or with business matters, it will focus on issues of *technical* competency and/or *technical* negligence.

Also, in some situations, a member of the public could contact the professional surveyors' society, the Arizona Professional Land Surveyors' (APLS) for feedback and assistance: <http://www.azpls.org/>

Well, that's it for this month's article from the Surveyor's Corner.

If anyone has 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.

Please keep sending in those questions.

Until next time, Thanks for reading about land surveying & land surveyors. –

Gregg Tuttle, AZ/RLS # 11121; Manager, SRP LAND-Surveys Division