



MARCH, 2013 NEWSLETTER

A PRESIDENT'S PERSPECTIVE

BRETT T. THIESS, SR/WA



Greetings Bluegrass Chapter Members and Friends!

I hope 2013 is treating you well, even if it is an unlucky "13" year. I assume everyone is still staying on top of their resolutions for the New Year, since it has only been a few weeks, right? I am honored to represent the Chapter as President again this year. I accepted the position assuming that the world was going to end on 12/21/12 anyway, so why not? Well, the world is still here, so let's get to work!

Our goal as a board this year is to present meeting topics that are useful to you as a right of way professional. We are starting off with a General Membership Meeting at the Bristol Bar and Grill on March 8th. We have an excellent and experienced speaker lined up. John Dwyer is a local attorney who has worked in the field of condemnation for nearly 20 years. He is going to share his knowledge and experience with us. It will be a great start to the 2013 series of meetings. Please see more information in the enclosed registration form.

We will hold additional general meetings in May and August with topics to be announced. Then, we have another Chili Cook-off planned for October. This is a great way to get to know other right of way professionals outside of work hours. Also, our Education Chair, Mike Penick, is working with members and the Transportation Cabinet to schedule quality courses throughout the year.

Now for some changes..... You may have noticed that we do not have a Chapter roster this year in print form. Our publisher changed hands last year and the cost to print it went way up. Therefore, the board decided to experiment with an electronic format only. International Director Extraordinaire, Bix Cox, did an excellent job in taking something that was formatted for print and transforming it into a usable and good looking online roster and calendar. But, wait! You say that you miss the convenient, handheld size of the old booklet? Download it to your smartphone or tablet, and open it in an Adobe Reader app. (there are several out there). Boom! Handheld electronic roster! In this manner we can also keep up with the changes in the roster and calendar more than once a year. You can find it at www.irwa25.org. (continued)

2013 Officers

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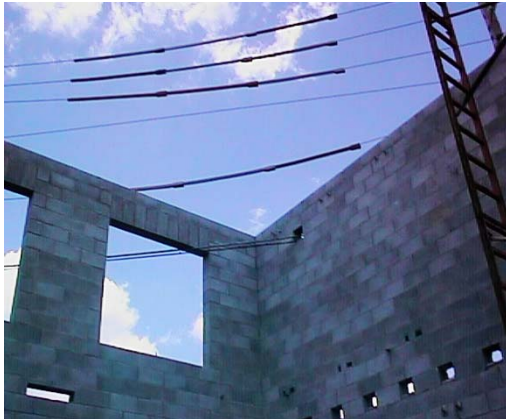
Jessica Grivna
Newsletter Publisher

The President's Perspective (continued):

On a related note, our newsletter (yes, this one) is very costly to print and mail. In my personal experience, the postal machines have chewed it to pieces before it ever gets into my hands. So, we are going to begin an "opt out" list for newsletter distribution. **If you are perfectly happy reading the newsletter online, please let me know so we can save some trees and postage by letting you download it. Just like the Chapter roster, the PDF format will make it easily readable on your iPad, Tablet, or PC.**

Please contact me if you have any questions or I can help you in any way. Our board meetings are held every month and members are welcome and encouraged to participate.

Brett Thiess, SR/WA
President Chapter 25
bthiess@hmbpe.com



ABOVE PHOTOS FROM THE "WHAT WERE THEY THINKING!?" GALLERY

Courtesy of **Robert A. Wagner, Jr.**, Lead Agent LG&E/KU and Member IRWA Chapter 25

Actual photo of local church under expansion in Louisville. Bob's stop work order and a simple relocation fixed it. Still....OMG! *Thanks for sharing Bob!*

Education: Investing in 'Self... Mike Penick, SR/WA, Education Chair

Fellow IRWA members, non-members and friends,

2013...is this finally the year that you make a commitment to invest in yourself? Perhaps you were on the fence about taking more IRWA classes. Or maybe you are of the mindset that “there’s no reward for pursuing an SR/WA or an R/W designation.” Yet still, there may be some of you that say if you have to pay out of your own pocket, any additional education, certification, or training is just not worth it. Well, I’m here to **challenge** your “old” way of thinking, and encourage you to take the step a leap of faith in your career, and begin to INVEST IN YOURSELF.

I cannot tell you the number of times I’ve heard over the past ten years how hard this economy is. People aren’t taking classes because of budget situations, lack of work, and so on. But guess what? TIME is TIME, and doesn’t wait for a better economy. If it’s already been ten years, do you really want to wait ANOTHER ten years? Why wait for the economy to get better? You could be waiting for something that may NEVER happen! Make up your mind to better YOURSELF...put YOURSELF FIRST for a change, and not the economy! We’ve all been saying (at one time or another) that “one day the work is going to come back” or “it may be a few more years before projects are let out for bid”...yet time marches on, and things remain the same. It’s time to think about YOU.



So, let’s start by taking a good strong look at your work credentials and job resume. If you work in the right-of-way or property industry, how many courses have you taken over the years? If your resume doesn’t have at least a half-page of training courses by its own listing, then you haven’t even started yet. If you say, “I’ve taken eight IRWA courses”, what about taking nine or ten? Can you REALLY ever get enough education? I’m here to tell you that YOU CANNOT EVER GET ENOUGH EDUCATION.

Now, in the next upcoming months (sooner rather than later), you will see IRWA courses being offered by our chapter. If you have not taken these classes before, then it’s time to sign up; if you have taken them before, consider taking them again if it’s been quite a few years. Refresher courses are a good thing! Shake the cobwebs from your brains, and explore new educational topics. This not only gives you the training and information you need, but it also allows you to expand your educational section on your job resume’. IT’S WORTH IT!

The Reviewer's Corner – Issues & Answers

This is the first article in a regular series to be included in our Chapter 25 newsletter dealing with appraisal and appraisal reviewer issues. It is our hope that the issues and answers presented will invoke your written response, to be published in future issues. Our first issue will be:

Proximity Damages

The Transportation Cabinet's *Right of Way Appraisal Guidelines* does not describe any particular method for determining or applying proximity damages other than recommending paired sales analysis as a preferred technique in damage studies in general, including proximity damages. The appraiser is given wide latitude in identifying and measuring this type of damage. Consequently, there are many variations around the central theme.

Proximity damages are only applied to residential occupancies. Commercial, industrial, and special use properties are not appropriate. The damage amount is compensation for noise and traffic moving closer to one's home. Also, even though the 62-20.3 form has spaces to fill in for distance to the travelway, it is always the distance to the right of way that is used for this form of damage.

Collections of individual back-to-back sales, as well as more elaborate studies, have been passed around among appraisers for years. All of them are for residential properties exclusively. Several studies were done in District offices in the mid-1970's and early 1980's, and some of the individual sales

being currently presented in comparable sales books date back to the 1950's. Few of these sales are dated more recently than the early 1990's. That's okay, though, because we are looking for relationships, not market values. However, it would be good to get some more recent data.

Most of the data is analyzed in terms of percentage of yard loss. The selling price of a house and lot before a partial acquisition is compared to the selling price of the same property after the acquisition as a percentage decline. Let's say an owner purchased a residence on a proposed highway project and paid \$100,000 for it. After the road was built, the owner could only sell it for \$90,000, a 10% loss or damage of \$10,000. Assume the distance from the front of the house to the original right of way is 50 feet and the distance to the new right of way is 40 feet, a 20% yard loss. Dividing the percentage monetary loss of 10% by the percent yard loss of 20% results in a damage of 00.50% per 1% reduction in yard loss.

The purpose of the last step is to compare the properties using a common unit of measure. The 00.50% is called a damage factor and ranges from about 00.20% to about 00.60% with the latter derived from more extreme yard loss examples.

Many appraisers will ignore the last step in applying proximity damages and only apply the monetary percentage loss based on the similarity of their subject property to the damage sales chosen as

representative. This method is far less exact and moves what would be an analytical application of the study to being merely the appraiser's opinion. The application should be the exact reverse of the study, step by step. Another common practice throughout the state is to apply that percentage of monetary loss to the house, the land, and all of the site improvements individually and separately. None of the studies break out damages to all components. This practice makes more work for the appraiser, as well as for the reviewer who has to reverse engineer the appraisal to check the math. It also often results in fewer percentage damages actually being applied to the subject than stated in the report since it is applied as a percentage to all the individual components and the math gets fuzzy.

It doesn't have to be that difficult. The studies only measure the change in sales price. That's it. The application to a subject property only has to be the reverse of the study. Determine the percentage yard loss, apply the appropriate damage factor, the result is the percent of monetary reduction to the After value, then calculate that in dollars. This is the dollar amount of depreciation applied to the dwelling only in the sales and cost approaches. It will be a larger percentage of the value of the dwelling alone in the cost approach because it has to equal the percentage loss to the total value with the other components added back in. The external obsolescence percent is not the same as the percent loss in total value.

Again, the dollar damage is only applied to the dwelling. If the dwelling were not present, there would be no proximity damage. Proximity damages are not charged against vacant land. They are

not charged against asphalt, flowers and shrubs, septic systems, etc. Site improvements don't care how close the road gets. We're paying the people who live there for the added burden of noise and traffic in proximity to their living space.

Below is a worksheet that explains the proper method for calculating proximity damages in relation to the Transportation Cabinet forms and the RWUMS system.

PERMANENT PROXIMITY DAMAGES CALCULATIONS

| | |
|---|-----------|
| Total Land Value From Sheet 9 | \$48,346 |
| Total Land Value From Sheet 15 | \$44,728 |
| Difference (same as Land Value Sheet 16) | \$3,619 |
| | |
| Total Site Improvements From Sheet 9 | \$3,913 |
| Total Site Improvements From Sheet 15 | \$3,504 |
| Difference (same as Site Imps Sheet 16) | \$410 |
| | |
| Total Acc Building Imps From Sheet 9 | \$7,156 |
| Total Acc Building Imps From Sheet 12 before PD | \$6,132 |
| Difference | \$1,024 |
| | |
| Total Building Imps From Sheet 9 | \$75,145 |
| Total Building Imp From Sheet 11 before PD | \$75,145 |
| | |
| Difference (same as Bldg Imps Sheet 16) | \$0 |
| | |
| Totals Differences (same as Line 7 Sheet 16) | \$5,052 |
| | |
| Before Value of the Whole | \$134,560 |
| Less Sheet 16 + Deductions | \$5,052 |
| Amount Applied To Proximity Damages | \$129,508 |
| | |
| Right of Way | |
| Residence to Existing Right of Way | 68 feet |
| Residence to Proposed Right of Way | 50 feet |
| Yard Loss | 18 feet |
| Percent of Yard Loss | 26.47% |
| Damage Factor | 0.35% |
| Damage per 1% Yard Loss | 9.26% |
| Damage Amount | \$11,999 |
| Say... | \$12,000 |

Now that you've read my rant, please write your own comments or criticisms on this subject, or others, and send them to Wayne Kimbel at wkimbel@lwcky.com for publication in the next newsletter.

-William R. Cox, SR/WA

Is a Road still a Road? By Mike Penick, SR/WA

In the industry of transportation, utilities, rails and freight, we often times use words describing the roads interchangeably. While this isn't necessarily a bad thing, it's also important to the right-of-way agent that they have a clear understanding about the actual type of road that they will be improving. For example, is the right-of-way you are about to purchase for a 2+1 road, or is it a turnpike? Is this a high-capacity highway, or non-major arterial? Well, let's discuss the differences.

Generally, there are three types of roadway: Low capacity, medium capacity, and high capacity. Each one of these roads can be public, private, or both (toll-ways). Low capacity roads have a lower speed limit, usually no greater than 40MPH. The average vehicular speed of these roads is approximately 30MPH, and they contain up to four total traffic lanes. (some exceptions). Medium capacity highways are usually between 35MPH to 55MPH, and usually have no less than three lanes (again, exceptions). Finally, high capacity highways have high speed limits, many traffic lanes, and there are usually barriers and/or medians to keep opposite lanes separate. *(A traffic lane is defined as a lane traveled by an actual vehicle; there is no stopping, biking, or parking in a traffic lane)*

| LOW CAPACITY | MEDIUM CAPACITY | HIGH CAPACITY |
|---|--|--|
| Alley, avenue, backroad, boulevard, terrace, byway, court, circle, cul-de-sac, dirt, drive, rue, way, frontage, lane, road, route, place, carriageway, service, street, strut, trail, winter-roads (iceways), this-on-that (ex: Stoke-on-Trent) | Arterial, alternate, collector, loop, highway, junction, lane, pike, road, route, thoroughfare, travel way, turnpike, county-road, state-road, run, beltway, innerbelt, parkway, 2+1 | Expressway, freeway, turnpike, parkway, controlled-access, interstate, outerbelt, limited-access, highway, motorway, skyway, speedway, thruway, autobahn, autostrasse, autostrada, supertwo, modal, U.S.## |

Source: Engineering Encyclopedia, <http://www.enggpedia.com/component/tag/Roads>

Clear as mud, eh? It's easy to see how we can use a lot of these terms synonymously. Nevertheless, it's ok as long as whoever you are discussing roadway improvements with understands the exact type of road that is going to be widened, added, or constructed. Also, having a good understanding of the types of roads can help with any pre-planning or travel that you have to do.

And, if you're sitting in traffic, you probably don't care what type of road it is.



Since 2010 William and Marjorie Busch (bandmbusch@att.net) have been meeting with German technical experts in the field of infrastructure research relating to underground utilities. Initially the contacts were prompted by the reputation held by IKT Institute as a leader in performing technical studies relating to the impact of tree roots on underground utilities. The early contacts provided a benefit to IRWA in that the lead research engineer for IKT, Christoph Bennerscheidt (christoph@ikt.de), and William Busch cooperated in an Education Seminar topic dealing with tree roots in 2011. Also, information provided by IKT helped William formulate some strategies for tree management in San Diego County Water Authority Right of Way's. From the initial contacts, interest by the German Contacts in IRWA is growing because of the ability of IRWA to bring multiple disciplines together to discuss and resolve infrastructure issues.

Through continuing contact and network building, a broader set of contacts have been developed.

On January 9, 2013 Bill and Marjorie met with some of the German contacts to further explore progress and direction of IRWA/German relations. Three initiatives emerged from the meeting:

- 1) **Evolving Relationships:** There is continued interest in exploring effective networking opportunities between the German contacts and IRWA. There was strong interest by Christoph and Peter Senior Manager for significant regional electricity provider, to put on a session at the IRWA education conference in West Virginia this summer.
- 2) **German Sponsored International Conference:** There has been significant progress in moving forward with an international conference dealing with underground utility coordination in Germany coordinated by IKT with input by IRWA. An outline was developed at our meeting that is attached.
- 3) **Interest in IRWA membership.** After two years of exploring the needs in Germany for various infrastructure projects we felt comfortable suggesting that they may want to consider developing some German members. Two of the contacts were very enthusiastic once they understood how IRWA could help with networking and how inexpensive our membership might be. Bill drew a diagram of a spoke wheel in which the spokes of multi-disciplines come together in IRWA for a powerful resource of communication and problem solving.

Since the meeting in Germany, we have confirmed that Christoph Bennerscheid, an engineer with the IKT Institute, is applying for membership. From a small seed we will see what grows.



Bill and Majorie Busch with Christoph Bennerscheid (center)



2012 HOLIDAY BANQUET AND OFFICER INSTALLATION



**Honored Guest: Patricia A. Petitto SR/WA, R/W-RAC
International President**

2012 Chapter 25 President, William R. Cox presents her with a personalized Louisville Slugger Bat



The International President shows off some of her "bounty" from the Banquet



The installment of 2013 IRWA Chapter 25 Officers



IRWA Chapter 25 Key Leadership

Brett Thiess, SR/WA, President (Center)

Chad Cutsinger, Vice President (Left)

Mike A. Penick, SR/WA R/W-EC, Education



Door Prizes for 2012 Banquet...unlike the local auto dealer ad...Everyone walks away with good stuff.

UPCOMING EVENTS!

- **March 8th General Membership Meeting (See attached)**
- **May 9th General Membership Meeting (location TBA)**
- **June 23-June 26 IRWA National Conference – Charleston, West Virginia (www.irwaonline.org)**
- **October 11th (tentative date) IRWA Chili Cook-Off and Fall Gathering**

The next General Membership Meeting will be held on

Friday, March 8, 2013

**Bristol Bar and Grill
1321 Bardstown Road
Louisville, Kentucky 40204**



This is one that should interest all Chapter members!

**Speaker: John Dwyer, Attorney
Zielke Law Firm, PLLC**

Topic: Eminent Domain ...the good, the bad, and the ugly

This speaker will have many lively stories from the front lines based on his extensive experience on both sides of condemnation cases.

Mr. Dwyer graduated from the University of Louisville School of Law in 1992, Cum Laude, and received his Bachelor of Arts from the University of Notre Dame in 1989. He holds a peer review rating of AV Preeminent under the Martindale Hubble system. Mr. Dwyer is a founding member of the Zielke Law Firm PLLC, and was a member of Pedley Zielke & Gordinier, PLLC, joining that firm in 1993. Throughout his career, Mr. Dwyer has represented governmental entities in connection with construction, land acquisition, and eminent domain. Mr. Dwyer has personally handled more than 180 eminent domain matters over the last 18 years. Mr. Dwyer has substantial first-chair experience in jury trials and arbitrations, and has handled appellate cases in both the state and federal systems, including multiple cases before the Kentucky Supreme Court. He is frequently consulted by other attorneys for advice on eminent domain issues.

COME GET THE LATEST ON THIS CRITICAL TOPIC FOR THE RIGHT OF WAY INDUSTRY FROM SOMEONE IN THE KNOW AND UP TO DATE ON THE FACTS.

Register today!



Int'l Right of Way Assoc, Chapter 25

General Membership Meeting: A Discussion on Condemnation

Speaker: Mr. John Dwyer, Attorney

Location: The Bristol Bar & Grill

1321 Bardstown Road, Louisville, KY 40204

March 8th, 2013: lunch at 12:30p.m.

***Use one form if more than one attends from same company please.**

1) Name _____ Title _____
 2) Name _____ Title _____
 3) Name _____ Title _____
 4) Name _____ Title _____
 Company _____ Address _____
 City _____ State _____ Zip Code _____
 Phone _____ Fax _____ E-mail _____

Course Cost: \$20.00 per person (\$25.00 at the door)

Fill in

Total Enclosed \$ _____

Registration Deadline:

make check/money order payable to:

None

IRWA Kentucky Chapter 25

And mail to:

Chad J. Cutsinger
R/W Acquisition Services
Qk4
1046 East Chestnut Street
Louisville, KY 40204

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GO TO <http://www.irwa25.org>, and click on the PAYPAL BUTTON**

