



Kachina Chapter 28

International Right of Way Association

September, 2009

CHAPTER OFFICERS

President

Kathie Sholly, SRWA, RW-AMC
623.930.3652
President@irwchapter28.org

President Elect

Karen Williams, SRWA
602.542.8857
karen.williams@azag.gov

Secretary

Mary Smith
602.682.0000 ext. 309
msmith@tierra-row.com

Treasurer

Jason Foster
602-328-1959 (83-1959)
602-809-3217
jason.foster@aps.com

International Director

Doug Estes, MAI, SRWA
480.345.4111
dougest@hotmail.com

PDC Chair

Lisa Amos, SRWA
Office: 602-506-4747
lla@mail.maricopa.gov

Inside this issue:

President's Message	2
\$100 Coupons!!	3
Interest Article. Interesting..	4
...and amusing article.	5
Education & Calendar	6
Your Board Nominations!!!	8

51st Annual Education Seminar

Date

September 18, 2009

**(C104 & C803 will be offered 9/16 and 9/17
— see page 6 for class descriptions)**

Location

Desert Willow Conference Center
4340 E Cotton Center Blvd, Phoenix

Theme

“Restructuring Infrastructure”

Only \$100 for Education Seminar!!!!

Check the website for further details
www.irwchapter28.org

Or contact our

President Elect, Karen Williams, SRWA

602-542-8857

or

email PresidentElect@IRWChapter28.org



Message from the President

Kathie Sholly, SRWA, RW-AMC

The story can now be told ...

As we approached year end 2007, it came to the attention of the Chapter 28 Executive Board that some of the chapter's funds appeared to be unaccounted for. Further investigation suggested a former member of the IRWA, Catherine Chamberlain, might have misappropriated these funds. Chapter 28 successfully pursued civil action to recover the funds. Additionally, the Maricopa County Attorney's office pursued "white collar" criminal charges against her. On August 11, Ms. Chamberlain was sentenced to 60 days in jail and 3 years probation. The Executive Board has, to date, done everything possible in this matter on behalf of the members of Chapter 28. We will continue our best efforts to ensure that the interests of the membership and the Association are protected.

This recovery of funds has enabled your Board to offer deeply discounted rates for our Annual Educational Seminar in September, and our upcoming courses. *If you haven't yet signed up for the Seminar, do so today. It promises to be a very interesting event!*

In addition, the Board voted to continue the "business card raffle" at our member luncheon meetings. *(Drop a business card in. One lucky winner receives a 1- or 2-day course sponsored by Chapter 28 absolutely FREE!)*

But wait! There's more!

The Board has also adopted a new program (thank you, Orange County, California Chapter 67, for the idea) that gives any member a \$100 discount off a future Chapter 28 course simply for attending 3 member luncheon meetings. *(Terms and conditions apply. See coupon in this Newsletter.)*

Finally, we have obtained authorization from Headquarters to award renewal hour credits toward SRWA and all certifications for attending member luncheon meetings and the Annual Educational Seminar. Speaking of certification . . . Headquarters continues to move toward finalizing the new URA (Uniform Relocation Act) certification. This certification is intended to be tough to achieve. For details (and other interesting information) please read the IPDC Meeting Minutes from its meeting at the Indy Conference in June.

www.irwaonline.org/EWEB/upload/IPDCmin0609.pdf

We have received notice that Headquarters will be sending out dues renewal notices for 2010 beginning September 30. **DON'T RISK LOSING YOUR MEMBERSHIP, DESIGNATION OR CERTIFICATION!** Please pay your dues in a timely manner. Unpaid members will be dropped, without question or extension, on February 1, 2010.

A handful of the Chapter 28 Executive Board members will be attending the Region 1 Fall Forum in San Francisco on October 3, 2009. If you have any concerns you want addressed, let a Board member know – or contact your Region 1 Chair, Chris Banks, SRWA (Chapter 28), or Vice-Chair, Renee Maruffo, SRWA, RW-NAC (Chapter 73).

Respectfully, Kathie Sholly, SRWA, RW-AMC Chapter 28 President.



\$100 Discount Coupon



Redeemable for IRWA Kachina
Chapter 28 Course Tuition

*Must be a Member of Chapter 28
and attend Three Member Meeting Luncheons*

Executive Board Member signature	Date

Coupon expires one (1) year from latest date above

\$100 Discount Coupon



Redeemable for IRWA Kachina
Chapter 28 Course Tuition

*Must be a Member of Chapter 28
and attend Three Member Meeting Luncheons*

Executive Board Member signature	Date

Coupon expires one (1) year from latest date above

Attend three Member meetings? \$100 off your next IRWA education course!!!

Start saving next meeting!!!

~ IRWA Education Seminar ~ Sponsorship

Kachina Chapter 28 of the International Right of Way Association (IRWA) will be hosting its 51st Annual Educational Seminar on September 16, 17 and 18, 2009. This Seminar will provide training courses and informative sessions that qualify for real estate license renewal credits, professional appraisal continuing education credits, and IRWA professional designation credits.

Considering the issues that currently face our nation and the Valley, our theme for the 51st Annual Education Seminar is "Restructuring Infrastructure." Our speakers will focus on topics that will address the challenges we face, as well as the economic stimulus opportunities that will be afforded.

Continuing education is the primary thrust for IRWA professionals. The Seminar Committee is working hard to make certain that the 2009 Seminar will provide valuable and timely information to all who attend.

This year, as in the past, we are seeking monetary contributions to help offset the cost of the Seminar, as well as donations of items for Door Prizes to be given away at the Seminar. Your contribution would be greatly appreciated. We are a 501(c)3 tax exempt organization.

Supporters will be acknowledged verbally and on a placard displayed throughout the Seminar for all contributions received on or before September 1st. We do sincerely appreciate your participation on any level. If you are making a monetary contribution, please make your check payable to: IRWA Kachina Chapter 28, and note our mailing address is: PMB #428 / 5025 North Central Avenue, Phoenix, AZ 85012.

While contributions of all levels are appreciated, donations of certain value and higher will be acknowledged by an ad in the Seminar brochure. For details, or if you are also interested in distributing your entity's promotional products, or in physically assisting with the operational aspects of the Seminar, please contact Seminar Chair and President Elect Karen Williams, SRWA at 602-542-8857.



Scottsdale man wants resolution over 71-year-old law

By Chase Purdy - Aug. 12, 2009, The Arizona Republic - Submitted by Mark Keller, SR/WA

At 86, Leon Spiro wants a resolution. He is faced with a problem shrouded in legal ambiguity, rooted in arcane federal land laws and roundly dismissed by Scottsdale and some of its policymakers. Yet at least one local lawyer says the uncertainty might come back to haunt other local landowners. The dispute between Spiro and Scottsdale has developed over a 71-year-old law created to allow the federal government to sell surplus land in the Wild West. In the old days, parcels sold for cheap, so long as buyers committed to improve the land.

These days, the problem isn't about the land, but about the space in between. Imagine a piece of grid paper: The squares represent 2.5-acre lots and the grid lines represent the easements. When the land first went into circulation, the federal government drew grid lines - or easements - to allow landowners and utility companies access to every property. As the land developed, Scottsdale started abandoning its interest in the easements to landowners and developers to build on. In essence, it washed its hands of its interest in that property. But the easements were created by federal law, and federal easements might not disappear with the city's simple abandonment procedure. And that means some Scottsdale homes may sit on land that isn't technically theirs.

Spiro, after much research, concludes that while a city can abandon its interest in an easement, a utility company still holds a federal right to use the path. Over time, people built on the grid lines, blocking those paths. Spiro estimates more than 400 families live on land that includes development on legally questionable easements.

In 2005, Scottsdale City Council considered abandoning city interest in the easement adjacent to Spiro's own property. The council finally approved the abandonment earlier this year, leaving Spiro rattled and concerned. His neighbor built a fence there, blocking access to what had been a local road used by everyone from kids on bikes to neighborhood delivery drivers. "Easement problems can get nasty," he said. "Somebody's going to get hurt, and it's probably going to be me."

It's not black and white

There are no clear lines guiding the law of the land, especially when it comes to federal land patents sold under the original 1938 Small Tract Act. No cases involving abandoned easements exist, and precedent seems scant at best, Spiro said. Lack of precedent forces city policymakers to step into the murky territory of real estate law, making it difficult for residents like Spiro to refute city decisions.

In a memorandum in February 2005, city attorney Kelly Ward said he thought nobody held the legal right to use an easement once the city abandoned its interest.

But Spiro disagreed. When a city abandons its interest in such an easement, private rights to use that easement still exist for adjoining property owners and utility companies, he said, citing his own land patent.

Ward met Spiro years ago when he first wrote the city policies on federal easement abandonment. "I assume he's earnest in his views - he's certainly become knowledgeable about the history," Ward said. "The question is whether the (federal) easement was created as a public street or an odd kind of hybrid as a public street and private street."

Spiro spent years studying the law and his own land patent, and said the patent states nothing about the street being "public." It's listed as a "roadway," not a public roadway, he said.

In essence, he believes, as an adjacent property owner, he retains some control of that easement. "This is the most ridiculous thing I've ever experienced," he said. "This is the one time I wish I was a millionaire, so I could fight this."



He isn't alone

When Phoenix real estate lawyer Chris Combs looked at a federal land patent - one almost identical to Spiro's - he agreed. He said a lawyer would only need one piece of paper to win if a dispute over an easement went court-side: The original patent.

The patent states that all accessories to the land, including the easements, exist "forever," regardless of city policy, Spiro said. And although a majority of the City Council turns a blind eye to Spiro's concerns, one member said he thinks Spiro might be onto something. Councilman Tony Nelssen said he lives on the same kind of property as Spiro, the same federally established land constituting a good portion of north Scottsdale. Worried about the risks Spiro warned of, Nelssen approached his own attorney, Charles Ayers.

Ayers, who worked for the city in the past, warned him to avoid blocking the easements adjacent to his own land, Nelssen said. It could put his own property in legal limbo. "There is a potential risk to the city of Scottsdale," Nelssen said. "If a new utility person comes (to Phoenix) . . . they have federal rights to use those easements. But keep in mind this is fairly esoteric law. It's a big can of worms, and the chance of litigation is remote." And that's Spiro's point: No matter how remote, if a right exists to use an easement after city abandonment, federal law might force someone to tear their house down in order for that easement to be used, Spiro said.

'Hello, Marie'

Spiro lives in a one-story house along a dusty road. An army of cactus surrounds his property, and only nearby mountains seem to diminish their presence. Although the forest outside his front door is prickly, Spiro is not. He is not the cantankerous old man some people take him for. Quick-minded and sharp, he can pluck information about city easement policy from thin air. But when he closes his manila folder for the day, he sets aside all the letters and memorandums and problems.

Behind square spectacles, his blue eyes reveal a youthful appreciation of the world around him. He lives with his wife of many years, Marie, a French woman he met during his time in the military. She's the only thing he needs, he said. "I've had a good life," he said. "And I found a lovely little girl - late in life - but I found a lovely little girl." Marie returns to France annually, but Spiro stays behind for health reasons. When she's gone, the property is quiet, except for the scrape of his shoes as he works around the house and the blaring of French voices on the television, which can be heard outside. When the phone rings, Spiro doesn't answer "hello" or "good afternoon." Instead, almost expectantly, he'll say, "Hello, Marie."

Ambiguity continued Spiro admits he's obsessed. But in his book, it's a legal issue - not a judgment call. He's concerned about the potential legal headaches that come with city abandonment of easements, but he worries about the little things, too, he said. "This is where the kids play, and where people jog," he said. "And when the city abandons it, it's gone - only, it's not gone. Someone else has an easement right. That's what I feel."

For 13 years, Spiro has returned time and time again to the council, raising the same question. Often, council members roll their eyes in disapproval or impatience. Spiro will refer to the council as "you people," further alienating himself.

Scottsdale Mayor Jim Lane has watched Spiro approach the podium dozens of times. "I would say that most everybody has a reasonable respect for Leon," Lane said. "He just has a tendency sometimes to frustrate. You know you're not going to give the answer he wants to hear, and I think the frustration really revolves around the repetitiveness of his petitions."

It's a problem defined by legal ambiguity, city development interests and one man's quest to find legal clarity. Spiro calls it the "scam of the century." City officials disagree. Ward, meanwhile, stands by the policy he drafted in 2005. But even Ward concedes there is uncertainty. "Who knows? There were a lot of people who thought that Phoenix's CityNorth project was perfectly legal," Ward said. "And so, you have court decisions all the time that are unexpected or are contrary to what people thought were settled law."





IRWA

INTERNATIONAL RIGHT OF WAY ASSOCIATION

Education Schedule ~ Chapter 28

September

C104 Standards of Practice for the R/W Professional

September 17, 2009 - Designed for IRWA members, Standards of Practice for the Right-of-Way Professional guides and directs all members as each pursues his or her unique path within the right-of-way profession.

Successful completion of this course, or Course 103 Ethics and the Right-of Way Profession, is a requirement for initial completion and recertification of the SRWA Designation and Certification programs. Successful completion of one of these courses is mandatory every five years for recertification purposes.

Facilitator - Beverly Francy, SRWA

C-803 - Eminent Domain Law Basics for Right of Way Professionals

September 16 & 17, 2009 - This course is intended for right-of-way practitioners and individuals involved in the acquisition of private property for public use through the exercise of eminent domain. This course familiarizes participants with the basic theories behind, and practical aspects of, the various laws, rules and regulations applicable to acquisition through eminent domain. This course focuses on introduction to eminent domain, primary sources of law, breakdown and analysis of the modern rule, just compensation and legal aspects of valuation, and the roles of right-of-way professionals in eminent domain.

Facilitator - Dan Beardsley, SRWA

Education Seminar "Restructuring Infrastructure"

September 18, 2009

SPEAKERS

- Carter Froelich, DPGF, Inc.
- Douglas Dunham, Arizona Department of Water Resources
 - Ron Aschenbach, State of Arizona
 - Brian Rasmussen, Brightsource Energy
 - Tim Sullivan, The Sullivan Group
- Jay DeWitt, City of Phoenix, Aviation Department

Location

**Desert Willow Conference Center
4340 E. Cotton Center Blvd, Phoenix, AZ
(Check website for details & registration form)**

October

SRWA Review Study Session

October, 21, 22 & 23, 2009 - This 3 day seminar is designed to prepare candidates to take the SRWA Comprehensive Examination by reviewing the seven core disciplines of the right-of-way profession. It is intended to allow participants to brush up on areas in which they may have limited experience or knowledge. It is not intended to replace the education which participants would received through the IRWA's courses in these disciplines.

Facilitator - Beverly Francy, SRWA

Location

**Glendale Regional Public Safety Facility
11550 W. Glendale Avenue, Glendale, AZ 85307
(check website for more information)**



September, 2009

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Schedule of Events
		1	2	3	4	5	• Sept. 3, 2009 Last seminar planning committee
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	• Sept. 16-18, 2009 51st IRWA Chapter 28 Educational Seminar
20	21	22	23	24	25	26	
27	28	29	30				• Sept. 28, 2009 Newsletter articles due!

Kachina Chapter 28 Members!

International Right of Way is presently working on revising current course curriculum along with proposals for new course ideas. IRWA would like those members interested to submit Proposals to help in the revision of existing courses along with new course development.

For further details, please refer:

<https://www.irwaonline.org/EWEB/dynamicpage.aspx?webcode=20090717-01>

If you are interested in participating, please submit a letter of interest to Ron Ellis at ellis@irwaonline.org or contact him at (310)538-0233, Ext. 142.

Should you have any further questions, don't hesitate to contact me.
Thanks again for your support of Chapter 28 Education!

Kaye Bockmann, SRWA
Chapter 28 – Education Chair
602-236-3129
Kaye.bockmann@srpnet.com



Check International Education Schedule
for more upcoming courses @ www.irwaonline.org



KACHINA CHAPTER 28 - OFFICIAL NOTICE

Candidates for 2010 Executive Board

Kachina Chapter 28 is moving closer to the **Annual Fall Education Seminar** to be held on **September 18, 2009**. **Candidate nominations for the Kachina Chapter Executive Board members were made and accepted at the Members' Luncheon on August 11, 2009**. At the Seminar, official ballots will be distributed and counted. The names of the winning candidates will be announced during the Seminar.

These are the candidates for the 2010 Executive Board:

1 Year International Director:

Kathie Sholly, SR/WA, RW-AMC

President and 2 Year International Director

Karen L. Williams, SR/WA,

President-Elect

Mary A. M. Smith

Secretary

Jason Foster

Treasurer

Vicki Chamberlin, RW-AMC
Rebekah Louis, SR/WA, RW-NAC
Vance Tuttle

PDC (3 Year)

Robert Sachs, SR/WA

For those who can't attend the Seminar, official mail-in ballots will be provided upon request.

Submit the request for a mail-in ballot to one of the Nominations and Elections Committee members:

NEC Chair, Chris Banks, SR/WA Chris.Banks@srpnet.com

Ray Warriner, SR/WA, rlw2@azstateparks.gov

Roger Ottaway, r.ottaway@mcspecialist.com

**"We find comfort among those who agree with us -
growth among those who don't."**

- Frank A. Clark



IRWA Launches Uniform Relocation Act (URA) Certification



What is the URA Certification?

The URA Certification is a multidisciplinary professional certification granted to IRWA members who have achieved professional status through experience, education and examination in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).

For more information, visit irwaonline.org



Dick Melfi, IRWA's General Counsel, is now recovering after an accident and stroke. In early August, Dick Melfi suffered a fall and subsequent head injury requiring surgery. While recovering in the hospital, Dick had a stroke. His prognosis is good, and he is now in the process of rehabilitation at Riverview Hospital in Noblesville. For additional information on Dick's recovery and to post a personalized online message, go to www.caringbridge.org/visit/richardmelfi. Hospital information is:

Riverview Hospital, Noblesville Location
601 Westfield Road, Noblesville, IN 46060
(317) 776-7225

Pam and Dick would like everyone to know how much they appreciate all the support and prayers of their friends and peers.

IMPORTANT NOTE:

IRWA President Sandy Grigg, SRWA, has appointed Eric Finn to act as interim general counsel during Dick's illness.

Newsletter Editor, Paula Day, Tierra Right of Way Services, 602-682-0000 ext. 312

