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March Luncheon Meeting

When: March 9th from 11:30 to 1:00

Where: Golden Corral – 420 N. Dysart Rd Goodyear, AZ 85338

Cost: \$10.00

Note: Reservations must be received by 5:00 pm March 5, 2010



More information on Page 7



Right of Way Chaos? – A road sign in Hungary

Photos submitted by Karen Williams



Clouds and rain in AZ? – Along the hiking trail from Carney Springs to Robber's Roost in the Superstition Mountains – Photo Submitted by Debra Carter

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MARCH 2010

A Word From Our President ...

Karen L. Williams, SR/WA

It is hard to believe that March is already here!

As you all know, we took nominations for the 2010-2011 Officers at our February member meeting. The current officers ran uncontested so elections will not be necessary at our March member meeting. In the future, the March meeting will become the Annual Election meeting. These changes have now put us in alignment with our new administrative year of July 1 through June 30 as per the revised Chapter 28 Bylaws approved in December 2009. I believe I speak for all officers when I say Thank You for your vote of confidence in us!!

In addition to our elected officers, our organization has several Committee Chairs that are appointed by the Chapter President. These elected Officers and appointed Committee Chairs make up the Executive Board. The Committee Chairs as well as the Officers are expected to attend the monthly Executive Board Meetings and provide reports, when appropriate. We are very fortunate to have several active Chairs in our chapter as without them, we would not be successful. Thank You Committee Chairs!!!! The Officers and Committee Chairs can be found on the chapter website, www.irwachapter28.org.

I am looking to fill three vacant Committee chair positions. These positions are for the Environmental, Ethics, and Transportation Committees. If any of you are interested please send an email to me at president@irwachapter28.org and I will try and answer any questions you may have.

Don't forget to visit the Chapter website often for important information including Board meeting and Member Meeting dates.

The Region 1 Spring Forum is scheduled for March 20, 2010 in beautiful San Diego. Details of the event can be found on the Region 1 website at region1.irwachapter46.org.

The Federal Agency Update (FAU) just took place in Las Vegas. I hope some of you had the opportunity to attend. I understand that it is a worthwhile event for the educational aspect as well as the social aspect. I plan to attend one in the future.

That's all for now. I look forward to seeing you all at the March Member Meeting!

"Do Land surveyors establish boundaries? Why or why not?"

Submitted by Todd Rakstad

First, quoting from the nationally renowned reference source, "CLARK ON SURVEYING and BOUNDARIES" 7th Ed., by Walter G. Robilliard & Lane J. Bouman, at § 2.03 Power to fix Boundaries:

"The surveyor in private practice cannot establish a new boundary line without some other authority, either legal or from the landowners. Except by express statutory authority, the surveyor cannot legally state the location of the *legal* boundary lines as such. Absent statutory authority, all a surveyor can do is testify as a witness as to where, in the surveyor's best judgment, after relying upon the available evidence of earlier surveys, the boundary lines are located.....

Where there is no dispute and with complete agreement of those affected, the surveyor has the right to locate agreed boundary lines, as long as the agreement includes all parties in interest, including holders of liens or encumbrances."

More specific to Arizona, is an opinion about the role of land surveyors, on the Arizona State Bar website:

(www.azbar.org/Sections/RealProp/aschenbach.asp), authored Ron Aschenbach, who is both an RLS, and is an Assistant Attorney General for the State of Arizona. Quoting from that article: "Most people, including a few land surveyors, do not understand the role of land surveyors in our society.

Most erroneously believe that land surveyors establish the legal location of all land boundaries."

"Unfortunately, a surveyor does not have the judicial authority to establish the legal location of boundary lines. The surveyor is merely an expert measurer and fact finder. In dealing with prior land descriptions, the surveyor locates the written title lines as provided in the description and the incidents of possession (such as fences and other improvements) that conflict with the title lines. The establishment of the legal location of boundary lines is matter of law reserved for the courts."

"Although a surveyor cannot establish the legal location of a prior survey or conveyance, the surveyor can fulfill the following four (4) roles:

1. Layout boundaries in an original subdivision of a tract that previously existed as a single unit.
2. Retrace the footsteps of the original surveyor in locating existing land boundaries (for example, boundary and ALTA surveys).
3. Locate new boundaries where authorized by statute or the consent of the parties involved.
4. Qualify as an expert witness in a lawsuit involving questions of land, property and boundaries."

"Most attorney/surveyor relationships concern retracements of prior surveys. The end product of these surveys is usually a boundary survey plat, ALTA survey or expert testimony in open court. In these cases, the land surveyor's function is simply to describe the facts that are within

his/her perception and give opinions as to the location of the probable boundary."

"Thus, the land surveyor is in an odd and sometimes precarious position. The surveyor gathers information, makes measurements, and computes the location of the land monuments and lines that he/she found. The surveyor then interprets this information in order to determine the probable boundary according to boundary law principles that are and were in force. Thus, the surveyor is in a position of essentially second guessing where a court of competent jurisdiction would place the boundary."

"Further, surveying is not an exact science. The information from the field and the records is subject to interpretation and a boundary problem may have several solutions, all of which may be technically correct. The boundary problem may stem from a lack of crucial information or an over abundance of information which simply does not fit together. In these cases, the surveyor must make a reasoned decision from the facts."

So, the answer is NO. In most cases, Surveyors cannot '*establish*' the boundary, from a legal judicial perspective. Surveyors are the best qualified to give a professional '*expert*' opinion of where the boundary most likely to be, but only a court/judge can make that '*official*'.

Why? See the references (Clark and the AZ State Bar website) for more details.



Federal Reserve: Commercial BPOs Do Not Satisfy the Definition of "Evaluation"

Submitted by Mark Keller

In response to clarification requests from the Appraisal Institute, the Federal Reserve's Board of Governors issued a January 14 letter confirming that a broker price opinion "does not satisfy the definition of an appraisal in the Board's appraisal regulation."

The Fed's clarification was addressed to the Appraisal Institute and came in direct response to an October 26, 2009, letter sent to the Fed by the nation's four largest appraiser organizations that asked the Fed about its policy on the use of BPOs in valuing land and other real property collateralizing commercial loans.

"In response to your question as to the use of BPOs, it is the position of the Federal Reserve staff that a BPO does not satisfy the definition of an appraisal in the Board's appraisal regulation," the agency's letter read. "Therefore, a regulated institution would not be able to utilize a BPO to originate a loan secured by commercial real estate when the loan requires an appraisal in accordance with the appraisal regulation."

In its letter, the Fed added: "With regard to the use of BPOs as an evaluation, Federal Reserve staff has taken the position that a BPO does not provide sufficient detail on a commercial property's condition, occupancy, and use to meet the guidelines' requirements for an evaluation."

Bill Garber, director of government and external relations of the Appraisal Institute, said: "We applaud the diligent position taken by the staff of the Federal Reserve Board, and we believe it is one that should be taken by all of the federal financial institution regulatory agencies."

The Appraisal Institute and fellow appraiser organizations had sought clarification after reports that BPOs had been ordered by regulated financial institutions to satisfy the "evaluation" requirements for renewals of commercial loans and refinancing transactions. As the appraiser organizations had pointed out in their October letter, "[C]ommercial BPOs typically lack details on a commercial property's conditions, occupancy and use as stipulated by the Interagency Guidelines. As such, any use by regulated or supervised institutions would constitute a violation of the Interagency Appraisal and Evaluation Guidelines and, we believe, are inconsistent with written Federal Reserve policies."

The Federal Reserve's Board of Governors responsible for policy is composed of five members: Chairman Ben Bernanke, Vice-Chairman Donald Kohn, Kevin Warsh, Elizabeth Duke and Daniel Tarullo.

For the appraiser organizations' letter to the Fed, visit:

http://www.appraisalinstitute.org/newsadvocacy/downloads/ltrs_tstmny/2010/AI-ASA-ASFMRA-AIFA_CommercialBPOs-Final.pdf

For the Fed's response letter, which was signed by Director Patrick M. Parkinson, visit:

http://www.appraisalinstitute.org/newsadvocacy/downloads/ltrs_tstmny/2010/Fed_Response.pdf

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Upcoming Kachina Chapter Classes

IRWA Course 603

Understanding Environmental Contamination in Real Estate

Sponsor: Chapter 28
Date: April 27, 2010
Time: 8:00 am – 5:00 pm

Location:

Tempe Transportation Center
200 E. 5th Street
Tempe, AZ 85281

Facilitator:

John Bare, SR/WA, R/W-EC
Currently teaches Biology and
Environmental Science at the
University of Nevada, Las
Vegas.

Course Coordinator:

Debra A. Carter,
SR/WA, R/W-RAC, R/W-NAC
3838 N. Central Avenue,
Suite 1400
Phoenix, Arizona 85012
Phone: 602-604-8118 x104
Fax: 602-604-9515

IRWA Course 502 ***Business Relocation***

Sponsor: Chapter 28
Date: May 19-20, 2010
Time: 8:00 am to 5:00 pm

Location:

Tempe Transportation Center
Don Cassano Community Room
200 E. 5th Street
Tempe, AZ 85281

Facilitator:

Beverly J. Francy, SR/WA
Founder and President of
Acquisition Sciences, Ltd.
with offices in Las Vegas and
Phoenix

Course Coordinator:

Kristina Guzman
3838 N. Central Avenue,
Suite 1400
Phoenix, Arizona 85012
Phone: 602-604-8118 x119
Fax: 602-604-9515

IRWA Course 505 ***Advanced Relocation Assistance I (residential)***

Sponsor: Chapter 28
Date: May 21, 2010
Time: 8:00 am to 5:00 pm

Location:

Tempe Transportation Center
Don Cassano Community Room
200 E. 5th Street
Tempe, AZ 85281

Facilitator:

Beverly J. Francy, SR/WA
Founder and President of
Acquisition Sciences, Ltd.
with offices in Las Vegas and
Phoenix

Course Coordinator:

Kristina Guzman
3838 N. Central Avenue,
Suite 1400
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Phone: 602-604-8118 x119
Fax: 602-604-9515

REGISTER TODAY - Contact Course Coordinator with questions

Registration Forms Online at:

http://irwachapter28.org/education_classes.asp

Fax: 866-388-7415 or Phone: 310-538-1233 x138

Membership Meeting / Luncheon

MARCH MEMBER MEETING AND LUNCHEON

Golden Corral Buffet
420 N. Dysart Road, Goodyear, AZ 85338

Date: 03/09/2010
Time: 11:30 till 1:00

The cost of lunch is \$10.00.
Buffet with a large variety of entrees, sides, and desserts.

Guest Speaker: Joel Gilmore with Salt River Project
Presentation Title: USA Land/Facility Relocations through Salt River Project

Joel began his career at TICOR Title in Anchorage Alaska in 1980. He held various positions in the title industry. Before leaving Alaska, Joel was the Branch Manager for Transalaska Title, an agent of Lawyers Title, in Juneau. Joel moved to Arizona in 1989 and worked as a consultant for SRP acquiring 12KV underground power easements. After consulting at SRP for two years, Joel worked for ADOT acquiring material sites for ADOT's geotechnical section. Joel left ADOT after two years and went to work for the Arizona State Land Department in the commercial leasing section where he held various positions. In 2000, Joel returned to SRP and currently is Supervisor, Land Acquisitions, Water.

Reservation MUST be received on or before 5PM March 5, 2010

http://www.irwachapter28.org/chapter_luncheons_rsvp.asp?date=03/09/2010

March Board Meetings

**Board Meeting –
All members welcome**

April 7th – 4:30 pm
Attorney General's Office:
1275 W. Washington, Phoenix

**2010 Seminar Planning Meeting –
All members welcome**

March 30th – 11:30 am
Tierra Right of Way Office:
101 N. First Ave, Ste 2075, Phoenix



February Member Notes

The winners of the February Member's Meeting raffle were:

Mark Keller
Mickey McGuire
Bruce Olsen

**Congratulations to the IRWA Kachina Chapter's newest
SR/WA's:**

Timothy Blumentritt
Ryan Jagels
Steven Warburton

**The IRWA would like to WELCOME our newest
Chapter 28 members:**

Gary Green, SRP
Louis Phillip Barragan, City of Phoenix
Lee Lynch, Empire West Title Agency
Sandra L. McGeorge, Town of Queen Creek

EDUCATION Information

Chapter 28 is working to provide educational classes on a regular basis - locally. Please check the website regularly and view available courses (and register) at:

<http://www.irwachapter28.org>

Available courses include:

- * **March 12**, Property Descriptions - in Glendale
- * **April 27**, Understanding Environmental Contamination in Real Estate – in Tempe
- * **May 19 & 20**, Business Relocation – in Tempe
- * **May 21**, Advanced Relocation Assistance I (residential) – in Tempe

Tentative courses include:

Sept – C205, Bargaining Negotiations
Sept – C804, Skills of Expert Testimony
Oct – C100, Principles of Land Acquisition
Nov – C409, Integrating Appraisal Standards
Nov – C703, Real Estate / Asset Management

Our site is updated regularly with new courses.
Registration is easy!

Vicki Chamberlin
Secretary - IRWA Kachina Chapter 28
secretary@irwachapter28.org

\$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**

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Executive Board Member signature

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latest date above**