

In this issue:

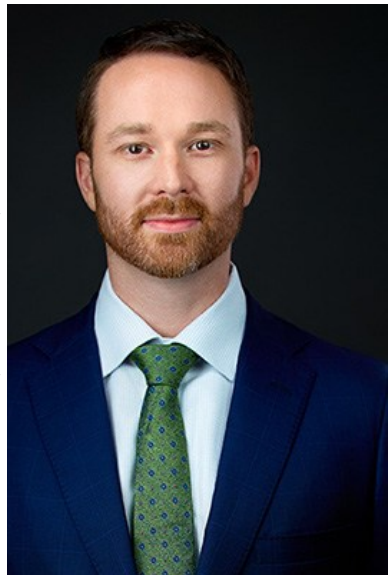
- April Luncheon Information
- President's Message
- VP Message
- Upcoming Events
- Director 2-Year
- Ask the Attorney
- Education News
- Letter from the Editor

APRIL LUNCHEON

April 8, 2025

Speaker: Charles Wilson
Are Infrastructure Projects on the Rise or Decline Following the Presidential Election?

Charlie Wilson is an Equity Partner with Baker | Moran. Charlie is a well-versed eminent domain attorney who has handled a variety of litigation and transactional matters for midstream pipeline companies, water supply and conservation districts, electric transmission line companies, cities, and other governmental condemning authorities related to real property rights acquisitions, easement negotiations, and condemnation proceedings.



Charlie has represented clients through the eminent domain process from reviewing title, drafting and negotiating easements and participating in all aspects of acquiring property through condemnation. Throughout his career, Charlie has successfully helped manage or taken a lead role in acquiring rights to easements and fee simple property for condemning authorities ranging from small complex projects to large multi-county projects.



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International Right of Way Association, Dallas-Forth Worth

APRIL 2025



President	Matt Lance, SR/WA, R/W-RAC, R/W-URAC
Vice-President	Leighton Gambill
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PDC Chair	Clara Castañeda, SR/WA, R/W-RAC
PDC - 2 Year	Darlene Snow, SR/WA-TN
PDC - 3 Year	Lisa Featherstone, SR/WA, R/W-NAC
Director - 1 Year	Michael Hale, SR/WA, R/W-URAC, R/W-
Director - 2 Year	Will Snider, MAI, SR/WA, R/W-AC



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President's Message

Hello Chapter Members,

What an incredible time we had at this year's annual "Hot Topics in Real Estate and Eminent Domain" Spring Seminar and Steve Baggett Memorial Golf Tournament. I want to thank and congratulate Vice President Leighton Gambill and her "Retro Right of Way" team of volunteers in orchestrating our best Spring Seminar and Golf Tournament we have ever hosted! Way to go, Leighton, we are all so proud of you! Thank you to our sponsors and attendees for your support this year. We cannot express enough thanks for your continued support!



Matt Lance

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Director Michael Hale and the Nominations and Elections Committee have received all nominations and are working to recommend a slate of Chapter 36 officers for the 2025-2026 year at our April Luncheon. Elections will be held in May, with the Officer installation at the June Luncheon. You don't want to miss out on these luncheons to hear who your future leaders will be!

Additionally, please note that the deadlines to submit applications for the Greg Cook Memorial Scholarship and the Donald J. Sherwood Scholarship are quickly approaching! The Greg Cook Scholarship application is due at 5pm on May 23, 2025. The Donald J. Sherwood Scholarship application is due at 5pm on May 14, 2025. Please visit the PDC & Scholarships tab on the Chapter 36 [website](#) for more details and to access the applications.

As always, I want to say thank you to our Chapter Board and Committees, as well as our very loyal and dedicated membership and sponsors. Thank you for all that you do to allow Chapter 36 to be the best and largest Chapter of the IRWA!

Please feel free to contact me if you have any questions or comments (matt.lance@hdrinc.com) and thank you all again very much. I look forward to seeing all of you at our luncheon on April 8th at Texas Star Golf Course!

Matt Lance



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Vice President's Message

Hey there to the grooviest people around!

I can't give you enough props for showing up last month for our Retro Right of Way Spring Seminar and Golf Tournament one for the books.

There was a record turn out for the Steve Baggett Memorial Golf Tournament. We had 122 golfers show up to hit the links! The weather held out and it ended up being a great day on the course. I have to give a shout out to the best dressed ladies on the course, Lisa Featherstone, Sarah Riebe, and Kristen Short! You brought my vision to life. Thank you to our tournament sponsor, Lonestar Land Services! I hope that you enjoyed the cigars, DJ, and photos! I can't wait to see Tommy take the tournament to the next level next year.

I wish I could say that the weather held out for our seminar, but it was definitely a rainy start to the day. It was a full day of learning on all fabulous subject matters important to right of way. My hope for the seminar was that every attendee would be able to make a new friend or learn something new to take back to your offices. THANK YOU to each of our amazing sponsors. This event was a smashing success because of your generosity.

I would not have been able to make this day happen without each of the volunteers that jumped in to take tasks off my plate. Miles and Ana, you are retro rockstars. I am grateful for every single minute to gave to me this year. Kelly, Neva, Brooklyn, Blakye, Sam, Joanna, Kellen, Kyndal, Miriam, Melissa, Jeremy, and Megan, each of you took some small (or large task) and gave me a moment to breath. Mom - you are my hero. Thank you for everything that you did in the background to make the seminar a great one.

To the VP's that have come before me, I am grateful for you paving a path that I could happily skip along. Tommy, I know that you are going to take this and run with it next year. I am here if you need it, even if it is a shoulder to cry on.

That's it!

Stay cool,

Leighton Gambill, SR/WA

Chapter 36 VP



Leighton Gambill

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Director 2-Year

Howdy Chapter 36 Members!

We are now accepting applications for the Donald J. Sherwood Scholarship in recognition of our own Chapter 36 member, Donald J. Sherwood, MAI, SR/WA, R/W-AC. Donnie Sherwood is a promoter of professional education, an IRWA instructor, Chapter 36 Professional of the Year, and 2009 Frank C Balfour Professional of the Year winner. Some of his further accolades include the 2018 W. Howard Armstrong Instructor of the Year, 2023 Region 2 Lifetime Achievement Award, and 2024 International Lifetime Achievement Award. In his honor, Chapter 36 proudly awards the Donald J. Sherwood, SR/WA Scholarship to Chapter 36 members and their family members each year. Chapter 36 accepts applications in the first quarter of each year and recipients are announced at the June Chapter meeting.



Will Snider

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O'Brien Right of Way Valuation
Senior Director
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The completed application packet, with required academic support and recommendations, must be submitted to Will Snider, Chapter 36 Director 2-Year at wsnider@obrien-row.com no later than 5pm on Wednesday, May 14, 2025.

[Click here to download](#) scholarship applications.

IRWA Chapter 36 Donald J. Sherwood Scholarship

Application located on IRWA Chapter 36 website:

Education Tab at top/PDC & Scholarships/Donald J. Sherwood, SR/WA Scholarship/Click here to download

Scholarship Criteria

- Enrolled as a full-time college student (12+ college semester hours)
- Chapter 36 member, or family member of one
- In good standing with an accredited collegiate institution

*Preferred (but not required) fields of study in a right of way or right of way related field, e.g., appraisal, engineering, law, surveying, real estate/real estate management, drafting, finance, property management, business/public management

Summary of Application Contents

See application for more details

- Completed and signed application
- Transcript
- Letter(s) of recommendation (at least one required)
- Current photograph
- Essay (one page limit; no specific requirements on font, margins, etc.)

Deadline is Wednesday, May 14, 2025

Deadline is 5pm

Send submissions to Will Snider, Scholarship Committee Chair, at
director2year@irwachapter36.org or wsnider@obrien-row.com

Questions? Email or call/text 817-776-1155

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Scholarship Information

Global Education Initiative Scholarship

Funded by the Right of Way International Education Foundation (RWIEF)

The purpose and intent of the Scholarship is to provide one \$2,500 scholarship to each of IRWA's active chartered Chapters to offer as an incentive to Chapter members to seek out IRWA course curriculum opportunities. Scholarship funds (not to exceed \$180,000) so awarded must be used within two (2) years from July 1, 2025. All courses taken can be done so either in person, on demand or virtually. Region officers or International Relations Committee Chair can award that unused scholarship to another chapter in the region where there is more than one qualified candidate.

To qualify, scholarship candidates must:

- Be active and good-standing IRWA members for at least two years.
- Submit an essay of 300 words or less describing 1) what they see as their strongest current potential contribution to the IRWA and how this scholarship would enhance their capacity to make contributions, 2) what excites them about IRWA's future and the right of way profession, and 3) what role they want to have in the future of the profession and IRWA.

To download the application and apply for the scholarship, please [click here](#).




- Applications must be submitted by May 1, 2025.
- Grantees will be notified by June 1, 2025.
- Scholarship awards must be used within two years from July 1, 2025.
- All courses may be taken in person, on demand or virtually.

To learn more about this scholarship and other ways the RWIEF supports IRWA's mission, visit <https://www.rwief.org>.

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Ask the Attorney

By: John P. Baker, R. Scott Moran and Tony Attia

Question: I saw your case law update in the last newsletter and was curious if you have provided an explanation of utility easements and related land use conflicts?

Answer: We have not addressed the creation, termination, and competing rights involved with utility easements.

An easement is an interest in land owned by another person, consisting of the right to use or control the land, or an area above or below it, for a specific limited purpose. In the context of utility easements, this typically involves easements for a utility provider to construct and install its utilities and appurtenances, such as below-ground crude oil, gas, and water pipelines, electric transmission towers and lines, or drainage and detention easements in connection with highway construction. The property, individual, or entity that benefits from an easement is the dominant estate, while the property, individual or entity that is burdened by the easement is the servient estate.

Utility easements are divided into two types of easements: an easement appurtenant and an easement in gross. An easement appurtenant attaches to the land itself and passes to subsequent owners of the land. An easement in gross attaches to an individual or an entity and is typically assignable to a different individual or entity only through an express provision in the easement agreement. Courts favor easements appurtenant over easements in gross. However, many utility easements are easements in gross that attach to a particular utility provider seeking utility easements across several parcels of property.

There are several ways to acquire a utility easement, including, but not limited to, by express grant, implication, and condemnation. An express grant is negotiated and finalized in a written easement instrument which describes the parties to the easement, the boundaries of the easement, and the purposes the easement will be used for. An easement by implication is created based on the prior use of a larger tract before it is severed into smaller tract. Three elements must be present to create an easement by implication: prior to the severance, the now dominant estate used the now servient estate during the time of common ownership; the use of the now servient estate was apparent and continuous during the time of common ownership; and the continued use is reasonably necessary for the enjoyment of the now dominant estate. For a utility easement example, if "Person A" owned a property which had power lines serving the entire property, and then later severs the property and sells the severed portion to "Person B", Person A cannot remove the power lines because Person B has an implied easement by prior use to the powerlines.

An easement can also be created through condemnation, the legal process by which a governmental entity, or a private entity with the power of eminent domain, may acquire an easement for a stated public purpose. Entities such as gas utilities, water districts, and electric utilities condemn easements to lay their utility lines across landowner's property. The landowners are given just compensation for the value of the land which the entities condemn, and the damages, if any, caused to the value of the land after the condemning entity completes its construction.



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Once the utility easement has been created, the dominant estate and servient estate attempt to harmoniously adhere to each other’s rights, but sometimes there are conflicts. A landowner may encroach or trespass on the dominant estate’s easement. An encroachment is an interference with or intrusion onto another’s property. For example, the servient estate may encroach on a utility easement by constructing a concrete driveway or an unpermitted structure within the boundaries of a gas pipeline easement. The dominant estate may then seek legal remedies to remove the encroachment from the boundaries of the easement.

Two condemning authorities may also have conflicting rights if the two entities seek to condemn a utility easement in the same area. In Texas, if the property sought to be condemned is already devoted to a public use, the property cannot be condemned if the practical effect would be to destroy the property’s existing use. For example, a city seeks to construct a parking lot in the same location in which a gas utility has laid its natural gas pipeline. In this case, the existing pipeline will remain in place unless the city can that that its intended use is of paramount importance to the public and it cannot be practically accomplished in any other way.

While there are several other issues which may arise regarding a utility easement, it is also important to understand the ways that a utility easement can terminate. Utility easements may terminate by express release, lapse of time, merger, and by abandonment. In an express release, the dominant and servient estates enter into a written agreement that releases the easement. An easement may also terminate due to lapse of time, such as when the easement instruments states that the easement is authorized for a defined term of years, and the period of time expires.

The doctrine of merger may also cause the termination of an easement. The merger doctrine states that when the dominant and servient estates are owned by the same individual or entity, the estates have “merged” and thus dissolved the necessity for the easement. For example, a pipeline company has an easement over a parcel and then purchases the parcel later on. In such case, the dominant estate and servient estate have merged, and the easement has been terminated by merger.

Lastly, an easement may terminate by abandonment. An easement is considered abandoned through evidence of an intent to abandon the easement, and a period of nonuse. However, nonuse alone typically will not terminate the easement. For example, a railroad easement is considered abandoned when it not been used for ten years, the rail tracks have been removed from the easement, and the railroad company has dissolved. This is due to the combination of nonuse and an intent to abandon the railroad easement.

In conclusion, a utility easement may be created by an express grant, by implication of prior use, or by condemnation. Once in place, the dominant and servient estates may have conflicts with regards to their rights on the easement, such as encroachments, trespass, and conflicting uses of the easements. Lastly, a utility easement may terminate through express release, lapse of time, merger, and abandonment.

The views, thoughts, and opinions expressed in this article belong solely to the authors –John P. Baker, R. Scott Moran and Tony Attia – and not necessarily to the author’s law firm or its clients, or any organization, committee, or other group of which the author is a member. Transmission of the information contained in this article is not intended to create, and receipt does not constitute, an attorney-client relationship between you and Baker | Moran. This article contains information on legal issues and is not a substitute for legal advice from a qualified attorney licensed in the appropriate jurisdiction.



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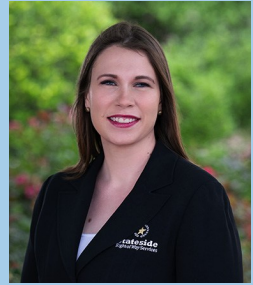
Education Committee News

Hello Chapter 36 Members!

Happy April to all our wonderful members. Luckily finding your next course require you to embark on an Easter egg hunt. Check out all the amazing courses our Chapter is planning to host.

A full list of courses being offered is available on the link below. [IRWA Virtual Classes Calendar](#).

Below is the schedule of classes we will be offering through March of this year.



Danyelle Donnelly Daniels

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Chapter 36 2025 Education Calendar

	Course	Location	Date
207	Practical Negotiations for U.S. Federal or Federally Assisted Projects	In-Person: Richardson Half Office	May 29-30, 2025
901	Engineering Plan Development and Application	TBD	May 2025
902	Property Descriptions	TBD	May 2025

If your company is interested in hosting a Closed Class for your employees, please reach out to us and we can assist in helping schedule and coordinate the class. Send the Education Committee an email at education@irwachapter36.org.

Which Courses Do I Need?

Only the PDC can tell you which class you need to complete the education requirements for designation and certification. If you are planning to get your RWA, RWP or SR/WA the list of courses you need to complete your credentialing are located at www.irwaonline.org. Just visit the "Credentialing" tab.



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Letter from the Editor



Hello Chapter 36,

I am officially back from maternity leave, and blessed with a happy, healthy baby. Thank you for all of your warm welcomes as I have transitioned back! As a reminder, Chapter 36 would like to invite and incentivize all members to submit content for the monthly newsletter. Want to win a **free lunch**? Send me an email with what you would like to be highlighted in the newsletter!

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This could be anything from your company events, projects you're proud of, professional announcements, open positions, shouting out someone you think is amazing, basically anything and everything related to our industry, our right-of-way family, or your company. As they say, "There's no such thing as bad publicity."

If your article is selected, you'll receive a free Chapter 36 lunch and your piece will be published. Come on Chapter 36, you can do this!



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