

NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

OCTOBER 2024

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OCTOBER LUNCHEON

October 8, 2024

Speaker: Caitlin Holland, Vice President of Real Estate & Economic Development

Caitlin Holland serves as the Vice President of Real Estate and Economic Development for Dallas Area Rapid Transit (DART). She manages and oversees the agency's railroad management, real estate, economic development, and environmental compliance divisions.

Ms. Holland joined DART in 2021 as Senior Assistant General Counsel where she supported real estate, right of way, and third-party transactions and negotiations for DART's major capital programs including the Silver Line Regional Rail Project and transit-oriented development projects. Before joining DART, she acted as legal counsel for a development company in Southlake. Ms. Holland also previously represented educational institutions in the Greater Houston Area and served as a criminal assistant district attorney in Midland.



Ms. Holland earned a Juris Doctor degree from Baylor University and has a Bachelor of Arts in Public Relations from Texas Tech University, graduating summa cum laude.

Topics to include:

- Status update on the construction of the Silver Line and
- DART's 11 joint development projects converting surplus DART parking lots into housing and mixed-use developments

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NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

OCTOBER 2024



Texas Star Golf Course
1400 Texas Star Parkway
Eules, Texas 76040
October 8th, 2024
11:00am-1:00pm

Member - \$30
Non-Member - \$35
First-Time Guest - Free!
Register at
www.irwachapter36.org

Menu: Chef's Creation

Walk-ins Welcome - \$35 (walk-in spaces are limited)

Registration will be cut off at noon Friday, October 4th, 2024

President	Matt Lance, SR/WA, R/W-RAC, R/W-URAC
Vice-President	Leighton Gambill
Secretary	Juan Salazar, R/W-NAC, R/W-RAC
Treasurer	Tommy Matthews, SR/WA, R/W-AC
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-NAC, R/W-RAC
Director - 2 Year	Will Snider, MAI, SR/WA, R/W-AC



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NORTH TEXAS NEWS

President’s Message

Fall has finally arrived! Just as fall is my favorite season, October is my favorite month, which means cooler weather (hopefully), football season being in full swing, and of course our annual segue into our Chapter 36 Membership Drive.

As members, we should all strive to not only continue the amazing health of our Chapter, but we should also be mindful of how we can improve and grow our organization. While this is one of the main

responsibilities of the Chapter 36 Board, we cannot do it alone. Every member of the Chapter can help! Encourage other people you know in the industry to also join the IRWA so that they can take advantage of the great benefits we have to offer including our outstanding educational courses, monthly luncheons, and social networking opportunities.


The Membership and Young Professional Committees are organizing an exciting Membership Drive Event later this fall. Members attending the event can receive \$25 in IRWA membership renewal credit to use on their next renewal for every new member referral up to \$125 in credit. Additionally, new members who submit applications at the event will have their \$25 application fee waived and will only be responsible for their 2025 dues – the rest of 2024 is free! Please be on the lookout for the announcement by email or on the Chapter 36 website and social media pages.

If you need additional information concerning Chapter 36 membership, please contact Shannon Perkins at sperkins@tnpinc.com. Shannon is here to help with new member questions and to assist in new member immersion into Chapter 36.

I look forward to seeing everyone at our next luncheon on October 8, 2024, at Texas Star Golf Course, 1400 Texas Star Pkwy, Euless 76040.

Best Regards,

Matt Lance



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Chapter News



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*PRESTONWOOD
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ANALYSIS*

REAL ESTATE APPRAISERS

Ask the Attorney

By: John P. Baker, Jordan Miller, and Charles Wilson

Question: I was wondering in what situations can business income be considered when appraising the market value of the remainder of the property in partial condemnation cases?

Answer: There are generally two situations where business income generated on the remainder can be considered when appraising the property. The first is when the condemnation would affect the access to the remainder of the property where the business is located. The second is if the condemnation would result in a loss of profits.

The goal of an appraisal is generally to determine the market value of the property. In partial condemnation cases, appraisers will determine the market value of the remainder to determine if the remainder was damaged by the condemnation. Market value is "the price the property will bring when offered for sale by one who desires to sell, but is not obliged to sell, and is bought by one who desires to buy, but is under no necessity of buying." *State v. Carpenter*, 89 S.W.2d 979, 979, modifying 89 S.W.2d 194, 202 (Tex. 1936); *accord Kirby Forest Indus., Inc. v. United States*, 467 U.S. 1, 10 (1984). The three traditional approaches to determining market value are the comparable sales method, the cost method, and the income method. *City of Harlingen v. Estate of Sharboneau*, 48 S.W.3d 177, 182.

Generally, the use of the income approach "is appropriate when property would, in the open market, be priced according to the income that it already generates." *Id.* at 183 (citing *Polk County v. Tenneco, Inc.*, 554 S.W.2d 918, 921 (Tex. 1977)). The income approach presumes that no prudent buyer will pay more for the right to receive the future income stream for the subject property than an amount for which he can obtain the rights to a substitute income stream, assuming there is similar quality, quantity, and durability, of the income stream.

Texas courts generally prefer the comparable sales method of valuation but in 2009 The Supreme Court of Texas, in the case *State v. Central Expressway Sign Associates*, affirmed that Texas law allows income from a business operated on the property to be considered in a condemnation proceeding in two situations: (1) when the taking, damaging, or destruction of property causes a material and substantial interference with access to one's property, and (2) when only a part of the land has been taken, so that lost profits may demonstrate the effect on the market value of the remaining land and improvements. See 302 S.W.3d 866, 871 (Tex. 2009). Absent one of these two situations, income from a business operating on the remainder of the property should generally not be included in a condemnation award. *Id.*

Courts have applied this rule for two reasons: first, because profits from a business are speculative and often depend more upon the capital invested, general market conditions, and the business skill of the person conducting it than it does on the business's location; and second, because only the real estate and not the business has been taken and the owner can presumably continue to operate the business at another location. *Id.*



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Most recently, in the case of *State v. Gray*, the Court of Appeals in Houston affirmed that when only a part of the tract is condemned, the proper method for determining compensation is the market value of the land that is actually appropriated plus the difference, if any, in the market value of the remainder immediately before and immediately after the taking. See 650 S.W.3d 727, 733. In that case, the landowner testified to the market value of the whole property using the income valuation method. There, however, the business income was not being generated on the portion of the property that was being condemned, rather the business was being operated on the remainder.

The Court found that there was no denial or interference with the access to the remainder of the property. Further, the Court found that the landowner had not alleged that the remainder and any improvements on the remainder would suffer from a decrease in market value or be damaged as a result of the condemnation. In short, there would be no loss in profits from the partial condemnation. The Court found, in this particular case, that the income valuation method was an improper method of establishing the market value of the condemned property. Because neither of the two scenarios contemplated by *Central Expressway Sign Associates* were present in that case, the business income generated on the remainder could not be considered in the appraisal.

In conclusion, there are situations where the business income generated on the property can be used to prove the market value of the property using the income valuation method. However, if the income producing portion of the property is only on the remainder, then there must be some interference with access that results from the condemnation or some decrease to the market value of the remainder before the business income can be used to establish the market value of the whole property.

The views, thoughts, and opinions expressed in this article belong solely to the authors –John P. Baker, Jordan A. Miller, and Charles M. Wilson- 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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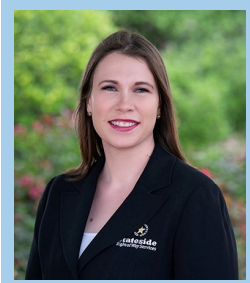


Education Committee News

Hello Chapter 36 Members!

I want to take just a moment to thank all our members for helping our September courses be such a success! Education is the foundation of our industry, and the education committee is excited to continue helping you meet your goals, whether that is obtaining a designation or completing your renewal.

Below is the list of the Courses planned for the rest of the year. It is our goal to continue expanding this list as the year progresses. Please reach out to us if you have any courses that you need so we can check what is available and see if the course you need is one that we will offer soon.



Danyelle Donnelly Daniels

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

Below is the schedule of classes for the upcoming year.

Chapter 36 2024-2025 Education Calendar

	Course	Location	Date
201	Communications in Real Estate Acquisition	Virtual	Oct. 28, 2024
403	Easement Valuation	CBRE, Ft. Worth	Nov. 6, 2024
SR/WA	SR/WA Study Session	Virtual	Nov. 20-23, 2024

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.



Marketing News



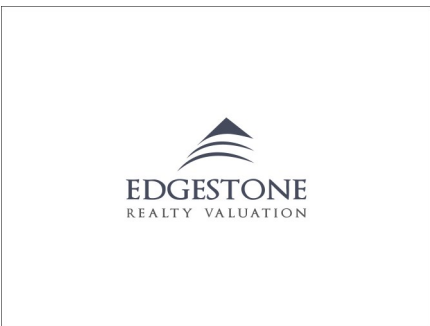
To all the great companies that have marketed their business on the Chapter 36 website and newsletter in 2024, the Public Relations and Marketing Committee thanks you! We appreciate your partnership and collaboration!

For any companies that may have started in 2024 or for any that may just like some additional exposure, the Chapter 36 website and newsletter would be a great place to start.

If you would like to renew, or start marketing with our Chapter, the cost is just \$300.00/Year for Marketing on the website and in the newsletter, or \$100.00/Year for Marketing in the newsletter only.

We begin in January of each new year, and run through December. 2025 is just around the corner, and today is the perfect day to start or extend your advertising!

Please contact Mary Watson by email for any assistance or questions. mwatson@tnpinc.com.



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