

NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

SEPTEMBER 2024

In this issue:

- September Luncheon Information
- President's Message
- Ask the Attorney
- Education News

SEPTEMBER LUNCHEON

September 10, 2024

Speaker: John C. Terrell, CRE Developer



We are pleased to announce that John C. Terrell, President and owner of Commercial Real Estate Strategic Partners will be our September 10, 2024 IRWA luncheon speaker hosted at Texas Rangers Golf Club in Arlington, TX. With extensive commercial real estate development experience he is Partner with Carillon Crown LLC, where he leads the development of Carillon Parc, a \$450M Mixed-Use destination development in Southlake, TX.

Topics to include:

- The \$450M Carillon Parc Mixed-Use destination development in Southlake, TX
- The importance of Public Private Partnerships (P3's) to encourage and promote development in cities, and
- The latest TXDOT plan for ramp reversals along the Hwy 114 corridor and the significant impact it will have on property access and development.

Location

Texas Rangers Golf Club
701 Brown Boulevard
Arlington, Texas 76011

Menu – Chef's Creation

Doors open at 11 a.m. for Networking



NORTH TEXAS NEWS

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SEPTEMBER 2024

Speaker: John C. Terrell, CRE Developer

John Terrell is a highly accomplished real estate developer, corporate executive and real estate broker with 44 years of experience in every facet of the real estate industry.

He is the President and owner of Commercial Real Estate Strategic Partners, where he develops residential and commercial properties in North Texas and Broken Bow, Oklahoma and provides real estate development, investment and consulting services to international and U.S. airports and municipalities. He is the Managing Partner with Hunter Chase Development Partners and a Partner with Tong Parson's & Terrell Realty, one of the largest Asian based Real Estate brokerage companies in North Texas.



In addition, he is a partner with Carillon Crown LLC where he leads the development of Carillon Parc, a \$450M mixed-use, destination development in Southlake, Texas.

Previously, John served as the Vice President of Commercial Development at Dallas/Fort Worth International Airport (DFW), overseeing development and leasing for 15 years, with over 4,000 acres and 46 million square feet of commercial facilities developed. He was the President of PG Development, LLC until January 2023, providing commercial development, land planning, and consulting services to both international and U.S. airports. He held executive leadership roles with Southern Pacific and Union Pacific Railroads heading up the western half of the US for real estate.

John has also served as an elected or appointed official for 19 years, including as Mayor, City Council member and Chair of Planning and Zoning in the city of Southlake, Texas. He has been recognized for his achievements in the industry, holds advanced degrees in business, and serves on various advisory boards and committees.



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Value Property.**



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Fort Worth



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International Right of Way Association, Dallas-Forth Worth

SEPTEMBER 2024



Texas Rangers Golf Club
701 Brown Blvd.
Arlington, TX 76011
September 10th, 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, September 6th, 2024

President	Matt Lance, SRWA, RW-RAC, RW-URAC
Vice-President	Leighton Gambill
Secretary	Juan Salazar, RW-NAC, RW-RAC
Treasurer	Tommy Matthews, SR/WA, RW-AC
PDC Chair	Clara Castañeda, SRWA, RW-RAC
PDC - 2 Year	Darlene Snow, SRWA-TN
PDC - 3 Year	Lisa Featherstone, SRWA, RW-NAC
Director - 1 Year	Michael Hale, SR/WA, RW-URAC, RW-NAC, RW-RAC
Director - 2 Year	Will Snider, MAI, SRWA, RW-AC



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NORTH TEXAS NEWS

President’s Message

Welcome back from summer break! First and foremost, I want to say thank you again to Will Snider for his leadership as President over the last year. Thank you for your service as President to the Chapter and thank you for all that you continue to teach me. I look forward to learning from you as you serve as Director for the next two years.



Matt Lance

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What an incredible summer we had as a Chapter! For those who might not have been able to attend the International Conference in Long Beach, California, I want to acknowledge our very own Donald J. Sherwood, SR/WA, who was honored with the International Lifetime Achievement Award. Congratulations Donnie on all your many successes and contributions to IRWA and Chapter 36. We are very proud of you!

Also at this year’s International Conference, Chapter 36 received the 2023 Gene L. Land Award for highest numerical membership gain as a Chapter. With over 430 members, Chapter 36 is the largest and best Chapter for a reason, and I would personally like to thank our Membership Chair, Shannon Perkins for her efforts in leading this committee. Most importantly, we couldn’t achieve this milestone without our members and their dedication to this Chapter.

Finally, I would like to recognize the Region 2 Professional of the Year, Sarah Reibe, who was recently honored at the Region 2 Refresher Seminar in College Station. Sarah has faithfully served Chapter 36, Region 2, and International and for over a decade and has served as both a mentor and as an example of servitude to our Board and our Chapter membership. Congratulations, Sarah, on this well-deserved award.

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NORTH TEXAS NEWS

President's Message

Looking ahead to the coming fiscal year, it is a true honor to serve as President for the Chapter this year. Please feel free to email me at matt.lance@hdrinc.com if you have any questions, comments or concerns about the IRWA and/or our Chapter. However, I represent just one seat on our amazing Chapter Board and Committees, and look forward to serving along these fine folks:



Matt Lance

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Board

Vice President: Leighton Gambill

Treasurer: Tommy Matthews

Secretary: Juan Salazar

Director 1 Year: Michael Hale

Director 2 Year: Will Snider

Committees

Professional Development: Clara Castaneda, Darlene Snow and Lisa Featherstone

Education: Danyelle Donnelly Daniels, Ana Salazar and Ben Goss

Programs: Gina Phalen and Lisa Alexander

Young Professionals: Miles Travis

Membership: Shannon Perkins

Public Relations and Marketing: Mary Watson

Website: Kerri Prentice and Blayke Dangelmayr

Newsletter: Ciara Brown

Historian: Brent Patterson

Social Media: Samantha Gwinn

Virtual and AV: Jacian Martin

Registration: Melissa Ehrhardt and Miriam Salazar

Our Board and Committees are well underway in planning events for the coming year, as well as educational offerings and networking opportunities. Building on last year's momentum, we'll also be planning another Membership Drive to encourage new hires or folks that are new to the right-of-way industry to have a chance to meet other members and encourage them to join the organization.

Thank you all again very much for this opportunity to serve, and I look forward to seeing everyone again at our September Luncheon!

Best Regards,

Matt Lance



Chapter News



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REAL ESTATE APPRAISERS

Ask the Attorney

By: Tony Attia

Question: Can you discuss recovery of lost profit damages following a condemnation?

Answer: Yes, I will do a breakdown of the State v. Whataburger, Inc. case. In 2001, the Houston Court of Appeals considered when a landowner may recover damages for lost profits after a condemnation.



Tony Attia

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Whataburger, Inc. (“Whataburger”) owned and operated one of its restaurants on a 41,777 square-foot tract of land at the intersection of U.S. 90A and the IH160 frontage road in Houston, Texas. The state sought to condemn an 8,421-square-foot portion of Whataburger’s property for its highway widening project. The portion of the property condemned included both entrances and a portion of Whataburger’s parking lot. Both parties agreed that the taking damaged the utility of the improvements to such an extent that the building had to be demolished and moved further away from the newly expanded highway. It would take nine months to rebuild the building.

The special commissioners awarded Whataburger \$620,000 for the taking. Both parties then filed exceptions to the award, placing the case in the jurisdiction of the Trial Court. The case proceeded to trial, where the Trial Court awarded \$1,255,622.80 in damages for the statutory condemnation to Whataburger. It also awarded \$268,524 in lost profits damages to Whataburger due to the impairment of access. The State appealed only the award of the lost profit damages to the Houston Court of Appeals, 14th District, arguing that this constituted a double recovery for Whataburger.

The Houston Court of Appeals held that in this instance, Whataburger was entitled to recover damages for its lost profits in addition to the damages it received for the value of the property condemned by the State. Under the Texas Constitution, a landowner is entitled to just, fair, and full compensation for a condemnation of its property rights. However, not all damages are recoverable, such as increased traffic noise, dust, and diversion of traffic. Under Texas Law, a landowner may recover damages for lost profits when it suffers a denial of access to its property in three circumstances: (1) a total but temporary restriction of access; (2) a partial but permanent restriction of access; or (3) a temporary limited restriction of access brought about by an illegal activity or one that is negligently performed or unduly delayed.

Here, the restaurant had to be razed to the ground and totally rebuilt. Thus, Whataburger claims it was totally denied access for nine months and entitled to lost profit damages. The State argued that because no physical barrier denied Whataburger access to the property, the evidence did not support a denial of access claim. The Court agreed with Whataburger, holding that a landowner is denied access to its building until it is rebuilt. Therefore, Whataburger was denied access to its building.

The Court then decided whether Whataburger may recover damages for lost profits when it had already been compensated for the market value of the property condemned by the state.

Whataburger was already awarded the difference in market value before and after the taking, thus, if profitability were considered in arriving at the market value of the property, it could not also recover for lost profits.



NORTH TEXAS NEWS

The Court explained that this determination depends on the method by which the property was valued. There are three accepted approaches to valuing a property: (1) the comparable sales method, (2) the income method, and (3) the cost method. Under a comparable sales analysis, the appraiser utilizes data from sales of similar properties and then makes upward or downward adjustments to these sales prices based on differences in the subject property. Under the income method, the property value is based on the income it generates. Under a cost analysis, the appraiser first ascertains the market price of the land alone using a comparable sales analysis. He then adds to this figure the cost of reproducing the building less depreciation of the structure. Notably, profitability is a factor in the first two methods, but it is not considered under the cost method. This method is employed precisely because the improvements are of such a specialized nature they are unlikely to make the property significantly more desirable to a prospective buyer, so profitability is not considered.



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Texans can recognize the unique and distinctive A-Frame style of a Whataburger restaurant. Due to the unique design of a Whataburger building, both parties' appraisers utilized the cost approach to determine the market value of the property. Thus, profitability was not considered in calculating the market value of the property taken by the state. Whataburger also had over twelve years of data on its profits based on past business records, thus the reward for lost profits was not speculative in nature. Therefore, the Court determined that Whataburger did not receive a double recovery by receiving a separate award for the lost profits caused by the denial of access for nine months.

In conclusion, a landowner may recover lost profit damages in addition to damages for the market value of the property taken when it suffers a denial of access caused by the taking, and the damages for the market value of the property taken were calculated using the cost method.

The views, thoughts, and opinions expressed in this article belong solely to the authors –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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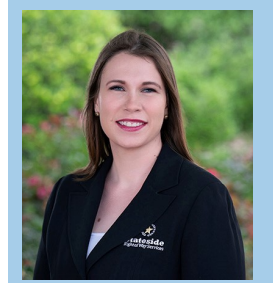


Education Committee News

Hello Chapter 36 Members!

Keeping with the theme of back to school, we have a lineup of great courses available for you!

Below is the list of the Courses planned for the rest of the year. Remember that as we have mentioned throughout the year, we are actively looking to add more courses so be sure to check back with us for any new updates. 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
219	Adult Communication Principles and Methods	Trinity River Authority, Arlington, TX	Sep. 16-17, 2024
421	Valuation of Partial Acquisitions	Virtual	Sep. 24-27, 2024
505	Advanced Residential Relocation Assistance	Virtual	Sep. 25, 2024
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
504	Computing Replacement Housing Payments	Virtual	Dec. 16, 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.



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