Featured Speaker: Kim Hiebert
“Bridges to Prosperity”

Kim Hiebert, SR/WA, R/W-RAC, a graduate of Texas A&M University and a licensed Texas Real Estate Broker has been an active member of the IRWA and is a past president of Chapter 36, now serving as a Director. For the past six of her eighteen years in the ROW industry she has worked as a Program Manager in the Real Estate Services business group at HDR Engineering, Inc. focused on business development and management of right-of-way acquisition projects. Outside of business hours, Kim is a member of the City of Aledo Economic Development Board and is currently serving her fourth term as Mayor Pro Tem.

Bridges to Prosperity (B2P) envisions a world where poverty caused by rural isolation no longer exists. They work with isolated communities to create access to essential economic, educational and health care opportunities by building footbridges over impassable rivers. Through local engagement, from regional governments to members of each partner community, B2P is committed to a sustainable model that puts the focus on people and the opportunities that make it possible for them to thrive.

For more than a century, HDR has partnered with organizations to shape communities and push the boundaries of what’s possible. Our expertise spans nearly 10,000 employees, in more than 200 locations around the world — and counting. Our engineering, architecture, environmental and construction services bring an impressive breadth of knowledge to every project. Our optimistic approach to finding innovative solutions defined our past and drives our future. Behind HDR’s success is a diverse team of talented professionals passionate about making a difference and improving the human condition.

In April 2018, HDR employees from five different states volunteered their skills as part of a Bridges to Prosperity team to design and build the La Guitarrilla Footbridge in Nicaragua, which now provides safe access across the Rio Wanawás for 10 surrounding communities. River water quickly becomes dangerous after even small amounts of rain, and when the Rio Wanawás floods, residents were cut off from healthcare, schools and food markets in the city of Rio Blanca for 10 to 12 days. The new 77-meter suspension bridge now provides safe, year-round access to critical services for the 10 communities.

November Meeting Lunch Date and Location:
March 12, 2019 @11:30 a.m.

Studio Movie Grill
452 Lincoln Square (off of I-30)
Arlington, Texas 76011

Luncheon Menu
South of the Border—Fajita Buffet
Ice Tea, Water, Canned Sodas & Coffee

No-shows will be billed.
Dear Chapter 36 Members,

Did you know that IRWA has a mission statement? It is “We improve people’s quality of life through infrastructure development.” We are not the big bad wolf, even if we sometimes get a bad rap. When someone asks me if I like working for the bad guys, I ask them if they like turning on a faucet and getting clean water, or if they like having artificial lighting and heat in their home. We are the good guys!

Spring is around the corner and there are some exciting events coming up that you should have on your calendar.

Vice President Lora Gunter has been hard at work planning the 20th Annual Steve Baggett Memorial Golf Tournament and Hot Topics in Real Estate and Eminent Domain Spring Seminar. The golf tournament is on May 2nd in Trophy Club. The Seminar will take place on May 3rd in Southlake. Coordinating these events is a monumental task and besides Lora at the helm, we will also need many helping hands and generous sponsorships from our incredible community! If you are interested in participating as a sponsor or volunteer, please reach out to Lora.


I look forward to seeing all of you at our luncheon on March 12th at Studio Movie Grill in Arlington. We will be treated to a presentation by our own Director, Kim Hiebert, about her trip to Nicaragua to help design and build a bridge for a village in need. What a perfect example of improving people’s lives through infrastructure development!

My best to you,

Kristen Bennett, SR/WA, R/W-RAC
Chapter 36 President
Hello YP’s:

Our February event was as competitive and bruising as ever. Although the cars might move at a snail’s pace it doesn’t stop Chris McCarthy from looking for the next head on collision. Thank you to Gene Munn for representing the OGs in the epic 2019 Battle of the Professionals.

Thanks to everyone for making it out!
Question: What happened in the Morale v. State case that was in front of the Texas Supreme Court in 2018?

Answer: The Supreme Court of Texas held that the trial court did not abuse its discretion in admitting evidence about the Morales’ alleged displacement, Defendants’ displacement valuation testimony, and excluding city engineer and city attorney’s testimony.

The State v. Morale case started when the State of Texas planned to condemn a portion of a 33,000 square-foot property owned by Stephen and Kimberly Morale (‘‘Morales’’ or ‘‘Landowners’’), specifically, the State planned to take a 3,200 square-foot strip of land, which included a metal canopy used by the business that would have to be demolished as part of the taking.

Based on State’s appraiser determination that the use of the property would change as a result of the taking, the State administratively classified the Morales as “displaced” in May 2012. The State’s land planner subsequently developed a second cure plan for reconfiguring the property that would enable the Morales to continue operating their existing business on the site. The State formally revoked the Morales’ displacee status over a year later.

Before trial, the State moved to exclude any evidence relating to the Morales’ revoked displacee status. The trial court denied the motion.

The State presented evidence at trial, through its appraiser based on implementation of its land planner’s cure plan, that the compensation owed the Morales was $122,953. The Morales’ appraiser, testified to two values. First, he testified to what he called his “displaced valuation” of $1,262,947, constituting the loss in fair market value of the property if all improvements were razed. He alternatively testified that if a cure plans was implemented, such that the Morales could still use the property to operate a collision repair shop and thus would not be displaced, the Morales would be entitled to $1,064,335.

The jury awarded $1,064,335, Landowners’ appraiser’s compensation figure associated with the Morales not being displaced. The court of appeals reversed and remanded for a new trial. The Supreme Court of Texas reinstated the trial court’s judgment.
Regarding the first major issue in the case, the Supreme Court of Texas held that the evidence that the State had initially classified property owners as displaced, in context of condemnation proceeding, was relevant to determination of property’s highest and best use, and corresponding market value, for purposes of calculating amount of just compensation due, even though classification was subsequently revoked due to alternative cure plan that would allow owners to continue to operate collision repair shop.

Inquiries into the nature of the displacement revocation are probative in an adversarial trial in which the Plaintiffs seek damages (at least in the alternative) based on their alleged displacement. And, as noted, the State presented its own evidence to the jury about its proper reasons for the revocation.

Another key issues the Supreme Court rendered an opinion on was that an expert’s opinion may assume facts established by legally sufficient evidence. Testimony of property owners’ appraiser that displacement value of land following partial taking that would render owners no longer able to operate collision repair shop was not shown to speculative, conjectural, and remote, in condemnation action. In sum, the State was free to cross-examine Morales’ appraiser on his assumptions, but they did not render his testimony wholly speculative and therefore inadmissible.

Finally, the Court held that testimony of city engineer and city attorney regarding town’s prior grants of zoning variances on unrelated properties was not relevant to calculation of just compensation for partial taking of land on which property owners had operated collision repair shop as grandfathered, legal nonconforming use. Any error in exclusion of testimony of city engineer and city attorney concerning town’s grant of variances on unrelated properties was harmless.

The key takeaways from this case, other than evidentiary determinations, is that the State’s previous, but revoked, designation of the Morales’ property as displaced was relevant in determining the property’s highest and best use and valuation theories and that the State’s motivations in making the designation or revocation can be pertinent, in an eminent domain trial, as well.
Membership Committee News
Leighton Gambill, Membership Chair

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Mrs. Shelley Bishop, Cobb Fendley & Associates
Mr. Rhyan Phillips, JLL Valuation & Advisory Services
Mrs. Joan Stevens, Oncor Electric Delivery
Mrs. Lacey Perkins, Universal Field Services, Inc.
Mrs. Natalie Quinn, Atmos Energy
Mr. John Simmons, City of Midland

If you see one of these newbies please introduce yourself and make them feel a part of our IRWA family!!

If you have not paid your renewal fee’s by now you have made our cold call list! J Someone will be calling you in the next week or so to discuss renewal options! Please let reach out to me if you have any questions! Look forward to seeing everyone at the meeting!
Greetings Chapter 36 members!

Spring is almost here! Laissez le bon temps rouler! Don’t wait to get your thinking cap on, look at what we have to offer and sign up.

Looking ahead, please see our Education Schedule below for upcoming education opportunities that our Chapter has put together. We have plenty of available seats in these courses so please take the opportunity to come and learn from our great lineup of instructors!

Please remember that in order to qualify for the Chapter 36-member discount and the Region 2 YP discount, you MUST register through the course coordinator listed on the registration brochure!

Don’t forget to check the websites of other chapters in the region for upcoming classes that may not be posted to IRWAOntLine.org yet.

For a complete list of registration forms, fees and all discounts offered by the Chapter, please visit https://irwachapter36.org/Education

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IRWA Chapter 36 Education Schedule - 2018

<table>
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<tr>
<th>Course</th>
<th>Date</th>
<th>Location</th>
<th>Instructor</th>
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<tbody>
<tr>
<td>431—Problems in the Valuation of Partial Acquisitions</td>
<td>April 12, 2019</td>
<td>City of Irving</td>
<td>Donnie Sherwood</td>
</tr>
<tr>
<td>102—Elevating Your Ethical Awareness</td>
<td>May 2, 2019</td>
<td>Trophy Club</td>
<td>Randy Williams</td>
</tr>
<tr>
<td>503—Mobile Home Relocation</td>
<td>May 21, 2019</td>
<td>TNP—Fort Worth</td>
<td>Kristen Bennett</td>
</tr>
</tbody>
</table>

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.
86th Legislature Filed Bills Affecting Right of Way Agents and Eminent Domain

The 86th Legislature continues and there are a number of filed bills pertaining to eminent domain. Last month I discussed the two broadest-reaching bills, S.B. 421 and H.B. No. 991. This month, I want to point out a few additional bills.

1. Right-of-Way Agent License Requirements

Senate Bill No. 2207, filed by Senator Kolkhorst, is a bill to revise Section 1101.001, et seq. of the Texas Occupations Code. The proposed amendments to Subchapter K, Right-of-Way Agent License Requirements, are the most relevant to Chapter 36 members. The proposed amendment to Section 1101.501, Occupations Code, would prohibit any person from selling, buying, leasing, or transferring an easement or right-of-way for compensation or with the expectation of receiving compensation for an entity with eminent domain authority or for use in connection with telecommunication, utility, railroad, or pipeline service unless the person (1) holds a broker license or sales agent license issued under Section 1101 or a right-of-way agent license issued under Subchapter K. This prohibition would not apply to an entity with eminent domain authority or the entity’s employee, or an attorney licensed in Texas.

To be eligible for a right-of-way agent license, the person must be, at the time of the application, (1) at least 18; (2) a citizen of the U.S. or lawfully admitted alien; (3) satisfy the TREC as to the applicant’s honesty, trustworthiness, and integrity; and (4) complete the required courses of study, including qualifying education requirements, prescribed by the TREC. The proposed amendments include a new Section 1101.509 of the Occupations Code that would prescribe the following qualifying education requirements and reads as follows:

“(a) The commission by rule shall approve coursework that an applicant must successfully complete to be eligible for a right-of-way agent license under this subchapter.

(b) An applicant for a right-of-way agent license shall submit evidence satisfactory to the commission that the applicant has completed at least 15 classroom hours of right-of-way agent coursework approved by the commission in:

(1) the law of eminent domain, including the rights of property owners;

(2) appropriate standards of professionalism in contacting and conducting negotiations with property owners; and

(3) ethical considerations in the performance of right-of-way acquisition services.”

Proposed new section 1101.510 would prescribe the following continuing education requirements for renewal of a right-of-way agent license, reading:

“(a) To be eligible to renew a right-of-way agent license, the right-of-way agent license holder must submit evidence satisfactory to the commission that the right-of-way agent license holder successfully completed at least six classroom hours of continuing education approved by the commission.

(b) The commission by rule shall prescribe the title, content, administration, and duration of continuing education courses that a right-of-way agent license holder must successfully complete to renew a right-of-way agent license under this subchapter.”
Other important requirements affecting right-of-way agent license holders are also covered in this proposed bill, and I encourage our members to read a copy of it by going to texaslegislatureonline. Similar legislation was filed in the last legislative session. If passed, the amendments to Section 1101 of the Occupations Code would take effect September 1, 2019.

2. Proposed Amendments to Texas Landowner’s Bill of Rights

H.B. No. 1245 filed by Representative Ashby proposes amendments to the Texas Landowner’s Bill of Rights (LOBR) that would require the LOBR statement to include disclosures of the following rights of both the landowner and condemning authority with regards to pre-offer inspections/surveys: (1) the landowner can refuse to grant permission to the condemning entity to enter the property and conduct an examination or survey of the property, (2) the landowner can negotiate the terms of the examination or survey; and (3) the condemning entity can sue for a court order authorizing the examination or survey if the property owner refuses to grant permission for the examination or survey. The bill would also require any entity with eminent domain authority who provides a survey permission form to a landowner to include the above disclosures in the form, and in addition, to disclose that the condemning authority has the responsibility for any damages arising from an examination or survey of the property. If passed, this bill would take effect January 1, 2020.

3. Valuation of Certain Investments in Land

S.B. No. 2147, filed by Senator Zaffirini, would amend Chapter 12 of the Agriculture Code to require the Department of Agriculture to develop a method for appraisers to use to value certain investments made in real property for purposes of eminent domain appraisals. The text of the proposed bill reads as follows:

"Sec. 12.049. VALUATION OF CERTAIN INVESTMENTS IN LAND.

(a) For purposes of determining the value of property in an eminent domain proceeding under Chapter 21, Property Code, the department shall develop a method an appraiser may use to assess the value of investments made in a property owner’s real property in an effort to meet soil, water, or air quality standards established by a state or federal certification process.

(b) The method developed under Subsection (a) must provide an objective means to quantify any enhancement in the value of real property that results from an investment described by Subsection (a)."

The proposed bill would also amend Section 21.041 of the Texas Property Code, pertaining to the evidence that special commissioners shall admit evidence on, to include “the enhanced value of the property resulting from investments described by Section 12.049, Agriculture Code.”

The proposed bill does not provide any further detail about how the Department of Agriculture is supposed to develop this appraisal method or what else this appraisal method may entail. If this bill becomes law, it will become effective on September 1, 2019, and we will have to then wait to see what regulations the Department of Agriculture promulgates on this subject.

There remains plenty to discuss and watch, including other eminent domain bills that I will report on in coming newsletters, as the 86th Legislature continues its session. Chapter 36 will continue to monitor these bills and report on their outcomes.
Alan D. Wurtz, SR/WA Scholarship Fund
Funded by Percheron, LLC
in conjunction with Right of Way International Educational Foundation
and the International Right of Way Association

Who is Alan D. Wurtz, SR/WA?

Alan D. Wurtz, SR/WA had a tremendous passion for education. After spending the first 6 years of his professional career as a teacher and coach, Alan started an abstract and real estate company. Alan then transitioned to the right-of-way business as an agent and quickly joined the IRWA. While working in the right-of-way industry, he continued his education and obtained his law degree. Over the course of his nearly 40 years in the industry, Alan served the IRWA from the chapter level through the International Executive Committee, serving as IRWA President from 2001-2002. In his last professional role, Alan served as President of Percheron, LLC – Field Services where his wisdom, discernment, and leadership helped make the company what it is today. Alan’s passion for education, the IRWA, and for helping young professionals to develop their career was evident to everyone who knew him.

Alan D. Wurtz, SR/WA Scholarship Fund Objective:

The Alan D. Wurtz, SR/WA Scholarship Fund seeks to award a $1000 scholarship to an active IRWA Young Professional who exemplifies Alan’s enthusiasm for learning and his passion for the IRWA. The Alan D. Wurtz, SR/WA Scholarship Fund will reimburse the Scholarship Recipient up to $1000 for educational courses and seminars sponsored by the IRWA over a 3-year period.

Eligibility:

Percheron, LLC welcomes applicants to apply for the Alan D. Wurtz, SR/WA Scholarship Fund. To qualify for the scholarship, applicants must be (1) a member in good standing of the IRWA for a minimum of one year, (2) a young professional (age 35 or younger) practicing in the right of way profession (3) committed to enhancing their knowledge of the industry, and (4) willing to honor the legacy of Alan D. Wurtz, SR/WA by furthering the IRWA’s Purpose and Mission.

Schedule:

Applications may be submitted to WurtzScholarship@percheronllc.com between March 1, 2019 and May 1, 2019. The Scholarship Recipient will be notified June 1, 2019 and will be announced at the IRWA’s Annual Conference. The award will begin on July 1, 2019 and may be used for IRWA sponsored courses and seminars through June 30, 2021.

Selection Criteria:

Selection will be based on an essay (up to 500-words) outlining how the Alan D. Wurtz SR/WA Scholarship Fund will enable you to enhance your education and professional development and empower you to contribute to IRWA’s Purpose and Mission. A current resume must also be included.

Selection Committee

The Selection Committee will include Allison Wurtz, SR/WA daughter of Alan D. Wurtz, SR/WA; the current Chair of the IRWA Young Professionals; one representative of Percheron, LLC; and one industry professional not employed at Percheron, LLC.