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APRIL LUNCHEON

Speaker: John P. Wier, PE, RPLS Land Planning in Right-of-Way Acquisition

John is a
founder of

the civil engineering/land surveying/land planning firm Wier & Associates, Inc. From offices in Arlington, the current 45-person firm has served a broad range of clients over the last 45 years including state and municipal entities, private developers, and the natural gas industry.



He was raised in Fort Worth by his father, also a Professional Engineer and his mother, a schoolteacher. Being named the “Most Promising Future Engineer” of his high school class, he then studied and graduated with a Civil Engineering degree from the University of Texas at Arlington where he focused on environmental engineering and urban planning. Over the years, John and other members of his firm have been actively involved in supporting his alma mater including establishing the Wier & Associates Endowed Scholarship for Civil Engineering there.

Registered in Texas as a Professional Engineer and as a Land Surveyor, he was selected as the "Young Engineer of the Year" by the Fort Worth Chapter of the Texas Society of Professional Engineers in 1984 and "Engineer of the Year" in 1996. He served as President of the Fort Worth Branch of the American Society of Civil Engineers (ASCE) during 2005-2006. He was named Distinguished Engineer of the Foundation by the TEF (Texas Engineering Foundation) in 2018 and has served as a Trustee and Treasurer of TEF since 2016.

John received the “2007 History and Heritage” award from the Texas Section ASCE and attributes part of his interest in land planning and development to the history of his pioneer ancestor’s saga in settling part of north central Texas in 1853.

John and wife Darlene have been married for 51 years. They have three grown children, seven grandchildren and reside in Burleson.



NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

APRIL 2023



Tuesday, April 11th, 2023

11:30 AM - 1:00 PM

Texas Star Golf Course

1400 Texas Star Parkway

Euless, TX 76040

Member - \$20

Non-Member - \$25

First-Time Guest - Free!

Register at

www.irwachapter36.org

Walk-ins Welcome - \$25 (walk-in spaces are limited)

Registration will be cut off at 5pm on Friday, April 7th

President	Michael Hale, SRWA, RW-URAC, RW-NAC, RW-RAC
Vice-President	Will Snider, MAI, RWA, RW-AC
Secretary	Leighton Gambill
Treasurer	Matt Lance, SRWA, RW-RAC, RW-URAC
PDC Chair	Tommy Matthews, SRWA, RW-AC
PDC - 2 Year	Gina Phalen, RW-AC
PDC - 3 Year	Clara Castañeda, RW-RAC
Director - 1 Year	Dalton Vann, MAI, RWA, RW-AC
Director - 2 Year	Sarah Riebe, SRWA, RW-NAC



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Value Property.**



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NORTH TEXAS NEWS

President's Message

We had a wonderful time at the Region 2 Forum in Hilton Head, SC. IRWA Chapter 36 was represented well, thank you to all who attended. This month is a big month for our Chapter; our annual Hot Topics in Real Estate and Eminent Domain Spring Seminar and Steve Baggett Memorial Golf Tournament is coming up April 20th and 21st! Vice President Will Snider has secured the speakers and registration is OPEN. All the information for this event is updated on our website, including registration and sponsorship opportunities. Contact VP Snider if you are interested in learning more or if you would like to become a sponsor. Just a reminder, it is scholarship season for IRWA Chapter 36. We have the Donald J. Sherwood scholarship and the Greg Cook Scholarship that we award every year. Please see the website for those applications. I look forward to seeing everyone on April 11th at our next chapter meeting.



Michael Hale

SRWA, RW-URAC, RW-NAC, R/W-RAC
Right-of-Way Regional
Manager at Cobb, Fendley and
Associates, Inc.
817.445.1016
MHale@cobbhendley.com

-Michael Hale



NORTH TEXAS NEWS

Spring Seminar & Golf Tournament

Chapter 36 Members,

It's that time again! The IRWA Chapter 36 Spring Seminar and Golf Tournament are right around the corner. This year's Steve Baggett Memorial Golf Tournament will be held at The Golf Club at Champions Circle in Fort Worth on Thursday, April 20th, and the Spring Seminar will be held at The Marq in Southlake on Friday, April 21st. Additionally, a one-day course (Course 102 – Elevating Your Ethical Awareness) will be offered on Thursday, April 20th, at The Marq in Southlake.



Will Snider

MAI, RWA, RW-AC
Director at Lowery Property
Advisors
817.928.5289
WSnider@lowerypa.com

The information packet on the following page gives you all the details you need to help decide which event you can be involved in. As in years past, we are going to need a lot of support to make this event successful. We hope that you will take a look at our very exciting sponsorship opportunities and find additional value in the exposure your company will receive at the Golf Tournament and Seminar. Proceeds from our golf tournament and seminar not only make it possible for Chapter 36 to provide continuing education to attorneys, agents, brokers, surveyors, and appraisers at such an affordable rate, but it also allows the Chapter to provide other education benefits for our members. Income from our Spring Seminar allows Chapter 36 to continue to provide discounted educational opportunities and incentives at monthly meetings all made possible by your generous giving.

To fit your needs, there are FIVE levels of sponsorship plus specific items to sponsor. Several of these opportunities are on a first come first serve basis. Please see the following page for a breakdown of each level and the marketing potential they offer for your company. With your support we look forward to making this the best year yet!

If you have any questions about becoming a sponsor or if you wish to get involved with these events, we look forward to hearing from you. Please [contact me](#), [Leighton Gambill](#) or [Ana Salazar](#) for more information or if you are interested in a sponsorship. As always, thank you for your continued support.



2023 Spring Seminar & Golf Tournament

Thursday, April 20, 2023 24th Annual Steve Baggett Memorial Golf Tournament

When: Thursday, April 20, 2023
Where: The Golf Club at Champions Circle, 15801 Championship Parkway, Fort Worth, Texas 76177
Breakfast/Registration: 8:30 a.m. to 9:45 a.m.
Tee Time: 10:00 a.m. (shotgun start, scramble)
Cost: \$100 per player - Registration fee includes breakfast, green fee, practice range balls, ½ cart, and lunch



Steve Baggett SR/WA was a former president of Chapter 36. After Steve lost his courageous battle with cancer, IRWA Chapter 36 members established this annual memorial golf tournament in his honor

Every year this golf tournament provides a unique opportunity to encourage friendships and cultivate professional relationships among your North Texas right-of-way colleagues. PLUS we will have Prizes, Awards, and a Raffle!

We will gladly put together golf teams if registering solo. Please contact Golf Chair, Ana Salazar, (817) 901-2634 or asalazar@pinnaclegroup.biz with any team requests or questions regarding golf tournament.

Friday, April 21, 2023 Hot Topics in Real Estate and Eminent Domain Spring Seminar

When: Friday, April 21, 2023
Where: The Marq Southlake 285 Shady Oaks Dr., Southlake, Texas 76092
Schedule: Check-in / Breakfast: 7:30 a.m.
 Seminar Begins: 8:00 a.m.
 Lunch Buffet: 12:00 p.m.
 Seminar Concludes: 5:00 p.m.
Cost: IRWA Members –

In-Person		Non-Members –	
In-Person		In-Person	
On or Before 4/7/23	\$165	On or Before 4/7/23	\$200
After 4/7/23	\$195	After 4/7/23	\$225
Walk-In (If Available)	\$200	Walk-In (If Available)	\$230

Seminar Presentations:
Chris Hornsby, Paul Hornsby & Co.: "Temporary Construction Easements: Not Just an Afterthought" Exploring the Nature of Temporary Construction Easements
Nicholas Konen, Hillwood: Engineering Highways of Tomorrow
Clint Schumacher, Dawson & Sodd LLP: Friction in the Negotiation Process
Jordan Miller, Baker Moran: Easement "Corridors" and the Impact of the Hlavinka Case
Sue Ayers, Jackson Walker, LLP: Mo Money Mo Problems: Lawyers & Clients Are Still Suing Each Other Over Fees
Mary Hazlewood Barkley, Cantey Hanger, LLP: Project Influence Rules and the Impact of Recent Case Law
Kristen Bennett, Blackbird Right of Way, LLC: Relocation
Dan Tobin, McFarland PLLC: "Sticky Wickets: Difficult Compensation Questions"
Continuing Education Credit:
 The following CE credits are approved: IRWA CE, TREC, TREC-ERW, TALCB, & CLE

BOTH EVENT REGISTRATION OPTIONS:

Online Registration & Payment Portal:
irwachapter36.org/meetinginfo.php

Pay by check:
 Please register online, then mail check and registration form to:
 IRWA Chapter 36
 Attn: LPA/Will Snider
 1200 Summit Ave, Suite 750, Fort Worth, TX 76102

For Event Questions, Contact Chapter 36 Vice President, Will Snider
 (817) 928-5289 / wsnider@lowerypa.com

Sponsors are valuable partners with IRWA Chapter 36 and will receive advertising benefits at particular events and on the Chapter 36 website. All registration and sponsorship payments can be made online and we encourage you to take advantage of that convenience.

Deadline for sponsorships is March 31, 2023.

Online Registration & Payment Portal:
irwachapter36.org/meetinginfo.php

Pay by check: Please register online and click 'Bypass Payment', then mail check and registration form to:
 IRWA Chapter 36
 Attn: LPA/Will Snider
 1200 Summit Ave, Suite 750, Fort Worth, TX 76102

Sponsorship Options

Tiered Sponsorship Level/Benefits	Platinum * \$2,500	Gold * \$1,500	Silver * \$1,000	Bronze * \$500	Copper \$300
Logo recognition in seminar program	Y	Y	Y	Y	Y
Logo recognition on the sponsor signs placed throughout the seminar/meeting area	Y	Y	Y	Y	Y
Verbal recognition at the seminar	Y	Y	Y	Y	
Verbal recognition at the golf tournament	Y	Y	Y		
Complimentary registrations for the seminar	4	3	2		
Complimentary logo recognition on a golf hole	Y	Y			
Opportunity to have a tent at the golf tournament on a hole to hand out merchandise (Must provide your own tent)	Y				

*These sponsorship levels also come with recognition at the 24th Annual Steve Baggett Memorial Golf Tournament

Item Sponsorship Levels and Benefits	
Lunch Sponsor: \$1,500 (Only 1 available)	Logo recognition in seminar program, sponsor signs placed throughout the seminar/meeting area and verbal recognition at the seminar
Breakfast Sponsor: \$1,500 (Only 1 available)	Logo recognition in seminar program, sponsor signs placed throughout the seminar/meeting area and verbal recognition at the seminar
Break Sponsor: \$500 (Only 2 available)	Logo recognition on the sponsor signs placed at break tables and verbal recognition at the seminar
Beverage Cart Sponsor: \$1,000 (Only 1 available)	Logo recognition on the sponsor signs placed on the beverage cart during tournament and verbal recognition at the seminar

If you would like to add your company's promotional items to the goodie bags handed out to all golfers at the golf tournament, please plan to provide the items no later than April 14, 2023. Contact Golf Chair, Ana Salazar at (817) 901-2634 or asalazar@pinnaclegroup.biz

NORTH TEXAS NEWS

Chapter 36 Advertisers



4600 Greenville Avenue
Suite 150
Dallas, Texas 75206
www.dfwa.net

Office: 214.750.9898
Metro: 817.626.2400
Fax: 214.750.9908



Misty K Ray, MAI, AI-GRS
President/Owner

- ☎ 817-769-4060
- ✉ misty@advalrp.com
- 🌐 advalrp.com
- 📍 5154 Trail Lake Drive,
Fort Worth, Texas 76133

Ask the Attorney

By: R. Scott Moran, Jordan A. Miller and Charlie Wilson

Question: A group of us at the office were recently licensed by the FAA to commercially fly a drone. Our coursework did not touch on property owner’s air rights or any limitations to flight during property inspections. What limitations, if any, are placed on flying drones for infrastructure projects? Are aerial images from drones admissible in court and okay to include in appraisals?

Answer: So long as the flyover neither (1) enters into the immediate reaches of the air space next to the land, nor (2) interferes substantially with the owner’s use and enjoyment of their land, it should not run afoul of Texas law. Further, if the witness sponsoring the fruits from said flyover can testify that the photo or video is an accurate portrayal of the facts, whether they took the photo or video or not, it will likely be admitted as evidence at trial.

Cuius est solum, eius est usque ad coelum et ad inferos (“whoever’s is the soil, it is theirs all the way to Heaven and all the way to Hell”). Before airplanes, airspace was considered an appurtenance to real property, subject to control by the landowner; however, that doctrine has been rejected and airspace is now viewed primarily as a public highway. *Schronk v. Gilliam*, 380 S.W.2d 743, 744–45 (Tex. Civ. App.—Waco 1964, no writ). That is, airspace at least 500 feet above ground level is considered “navigable airspace” and is regulated by the Federal Aviation Administration (“FAA”). This airspace does not belong to the property owner who owns the land below. *U.S. v. Causby*, 328 U.S. 256, 261, 66 S. Ct. 1062, 1066, 90 L. Ed. 1206 (1946).



But what about the space immediately above the ground and below 500 feet above ground level – the space where drones fly? The FAA in June 2016 released its first operational rules for routine use of small, unmanned aircraft systems (less than 55 pounds), requiring among other things that operators keep their drones within visual line of sight, prohibiting flying over people on the ground nor directly participating in the operation, etc. However, the FAA rules do not explicitly address the rights of property owners concerning the use of this vertical curtilage immediately above their land. Instead, the FAA defers to state property and trespass laws.

So, what does Texas property law have to say about using the airspace above the ground but below the “navigable airspace” that is part of the public domain?

In the absence of specific regulations, the common right to use airspace is restricted to the altitude of the landowner’s existing and effective reasonable use of land. See *Schronk*, 380 S.W.2d at 744–45. Such an overflight will not constitute a trespass unless (1) it enters into the immediate reaches of the air space next to the land; and (2) it interferes substantially with the use and enjoyment of her land. See *id*; Restatement Second, Torts § 159(2). Whether flying a drone to survey, appraise, or otherwise evaluate property constitutes a trespass requires a case-by-case determination based on the facts of each flyover.



Scott Moran

Baker Moran Doggett MA & Dobbs
1400 Preston Road, Suite 350
Plano, Texas 75093
469.351.3487



Jordan Miller

469.351.3496
jmiller@bakermoran.com



Charles Wilson

469.351.3487
cwilson@bakermoran.com

Ask the Attorney

By: R. Scott Moran, Jordan A. Miller and Charlie Wilson

If an overflight does not constitute a trespass, could it nevertheless constitute a taking? Not per se. *City of Austin v. Travis Cty. Landfill Co.*, 73 S.W.3d 234, 242 (Tex. 2002), cert. denied, 123 S.Ct. 392 (2002). A property owner is entitled to compensation if her property is taken by overflights that immediately and directly interfere with the property’s use and enjoyment, such as frequent and low flights that result in a diminution in the property’s fair market value. See *id.* This inquiry requires a more extensive factual showing than the mere existence of overflights. See *id.* Certainly, intermittent drone flyovers for the purpose of surveying or appraising property would not constitute a taking.

Assuming a drone flyover is neither a taking nor a trespass, would the fruits of said flyover (pictures, video, data, etc.) be admissible at trial? More likely than not, yes.

Before being admitted, photographic and videographic evidence must ordinarily be shown, either by direct proof or by admission, to be correct. Tex. R. Evid. 901(a). See also *Goss v. State*, 549 S.W.2d 404 (Tex. Crim. App. 1978). This does not necessarily require identification or authentication only by the photographer or videographer, but can be accomplished by any witness who observed the object or scene depicted and can testify that the photo or video is an accurate portrayal of the facts, even if that witness neither took the photo or recorded the video, nor even saw said photo/video be taken. See, e.g., *Kroger Co. v. Milanes*, 474 S.W.3d 321 (Tex. App.—Houston [14th Dist.] 2015, no pet.) (when a photograph or video portrays facts relevant to an issue, it is admissible if verified by a witness as being a correct representation of the facts); *Dunn v. Bank-Tec South*, 134 S.W.3d 315 (Tex. App.—Amarillo 2003, no pet.).

In conclusion, flying a drone over property, so long as it neither (1) enters into the immediate reaches of the air space next to the land, nor (2) interferes substantially with the owner’s use and enjoyment of their land, is unlikely to be considered a trespass or a taking under Texas law. Additionally, if the witness sponsoring the fruits from said flyover can testify that the photo or video is an accurate portrayal of the facts, whether they took the photo or video or not, it will likely be admitted as evidence at trial.

The views, thoughts, and opinions expressed in this article belong solely to the author(s) 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.



Scott Moran

Baker Moran Doggett MA & Dobbs
1400 Preston Road, Suite 350
Plano, Texas 75093
469.351.3487



Jordan Miller

469.351.3496
jmiller@bakermoran.com



Charles Wilson

469.351.3487
cwilson@bakermoran.com



Chapter 36 Advertisers



Professional Development Committee News

By: Tommy Matthews, PDC Chair

Is there anything better in sports than March Madness? Everyone loves a good Cinderella story. Unfortunately, like most, my bracket was busted within the first two days.

There will be an SRWA Recognition and Awards Luncheon at the International Conference in Denver this year. If you received your SRWA designation between May 1, 2022 to April 30, 2023 you are eligible to walk across the stage and receive a special recognition certificate. This is a cool experience and hopefully Chapter 36 will have a few members participating. If you have any questions, please email, or call me.



Tommy Matthews
 SRWA, R/W-AC
 Edgestone Realty Valuation
 214.556.4035
tommy@edgestonerealty.com

A joke to start the month of April. I fired my personal trainer for making me do belly exercises. I couldn't handle the ab use.

Congratulations to the following Chapter 36 members for achieving their recent designations.

Specialist Certification

- Kate Evans, R/W-NAC (Cobb Fendley)

Industry Generalist Certification

- Paul Williamson, SR/WA (7 Arrows Land)

For any questions on obtaining a certification or if you have any other questions regarding your Professional Development goals, please contact the PDC Committee.

PDC Committee Members:

- Tommy Matthews - SR/WA, R/W-AC – PDC Chair*
- Gina Phalen – R/W-AC - PDC Committee (2 Yr.)*
- Clara Castaneda – R/W-RAC - PDC Committee (3 Yr.)*



Pinnacle Consulting Job Opening

Chapter 36,

Pinnacle Consulting Management Group, Inc., is seeking an experienced and knowledgeable Licensed Professional Land Surveyor (PLS) to work in Oklahoma. If you or someone you know is interested, please send your resumes to hr@pinnaclegroup.biz



JOIN OUR TEAM

Pinnacle Consulting Management Group, Inc. (Pinnacle) is a land surveying and right-of-way company headquartered in Oklahoma City with additional offices in Texas and Arkansas. Pinnacle is seeking an experienced and knowledgeable Licensed Professional Land Surveyor (PLS) to work in Oklahoma. The selected candidate will have the option to work remotely or in the Oklahoma City Office. **Sign-on bonus for qualified candidates!!**

SURVEY/PLS POSITION

RESPONSIBILITIES

- Oversee the delivery of the following work products:
 - Survey – Design, Topographical, Control and Route, Construction, “As Built”, Boundary, ALTA
 - Staking – Right-of-Way, Utility Relocation and Construction
 - Right-of-Way Mapping
 - Title Investigation – Property Ownership, Present Right-of-Way Verification
 - GIS and Drone Services
- Survey to determine precise location and measurements of points, elevations, lines, areas, and contours for construction, mapmaking, land division, titles, mining or other surveying related purposes.
- Construction staking, planning, reports, maps, plats, deeds, local geography, physical evidence, legal descriptions, and research.
- Responsible for accuracy of documents and deliverables completed by team.
- Instruct, train, and mentor crew members.
- Confer with project team members and clients to lead, prepare, and participate in project proposals and interviews.
- Effectively manage and deliver projects on time and on budget.

ESSENTIAL FUNCTIONS

- Provide direction, review, and support to the Survey and Mapping department by leading projects, assuring proper practices and techniques.
- Plan, organize and manage project elements and manage multiple clients.
- Provide oral and written communication to project teams, clients and the public.
- Plan, organize, coordinate, prioritize, assign and monitor the work of field survey crews.
- Manage multiple project teams in the field.
- Read and interpret maps, deeds and construction documents.
- Use engineering and design software and equipment to prepare surveying and legal documents.
- Ensure compliance with Pinnacle safety standards.
- Perform Quality Assurance/Quality Control on all Survey and Mapping Department projects completed under license.

QUALIFICATIONS

- Must have an Oklahoma Professional Land Surveyor (PLS) license.
- Boundary and Topographic survey experience
- Experience with Bentley MicroStation, Carlson Survey Suite and Autodesk Civil 3D
- Excellent problem-solving skills and understanding of mapping concepts

APPLY NOW

SEND RESUMES TO:

 hr@pinnaclegroup.biz



Professional Development Committee News

By: Gina Phalen, PDC Committee (2 Yr.)



Gina Phalen

R/W-AC
Cushman & Wakefield
Senior Director Infrastructure
602.510.3900
gina.phalen@cushwake.com

Hello Chapter 36 Members!

In honor of Greg Cook, a mentor and legacy of Chapter 36, we are accepting applications for the Greg Cook Memorial Scholarship.

The completed application packet must be submitted to Gina Phalen, Chapter 36 Professional Development Committee 2-Year, at gina.phalen@cushwake.com no later than 5pm on Friday, May 26, 2023.

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



Greg Cook Memorial Scholarship

In Honor of Greg Cook – a mentor & legacy of Chapter 36

*Live as if you were to die tomorrow.
Learn as if you were to live forever.*

~ Mahatma Gandhi

Application located on IRWA Chapter 36 website:

Education Tab at top/PDC & Scholarships/Greg Cook Scholarship/Click here to download

Scholarship Criteria

- Chapter 36 member
- Currently working towards an IRWA Designation

Summary of Application Contents

See application for more details

- Completed and signed application
- Proof of Candidacy / Declaration for a current IRWA designation
- Current photograph

Deadline is Friday, May 26, 2023

There will be NO extensions or late applications considered

Send submissions to Gina Phalen, R/W-AC, PDC Committee, at Gina.Phalen@cushwake.com

Questions? Email or call/text 602-510-3900



Education Committee News

By: Lauren McCarthy, Education Committee Chair

Lauren McCarthy

McCarthy Partners
972.693.1783

Hello Chapter 36 Members!

The education committee is focused on scheduling courses that are most beneficial for you to attend in-person, while also being cognizant of what other chapters are hosting and when. Get a jump on your certifications by taking an in-person course or cross the finish line on your SR/WA in May without leaving the DFW area.

Likewise, if your company would like to host a private course, we will be happy to work with you on scheduling the instructor and help coordinate the class. Just send us an email. <https://irwachapter36.org/Education> This would be especially helpful if you have a group of new employees you are looking to bring up to speed on all things right of way.

If you don't see the class you need, headquarters has a calendar of virtual classes that are coming up. They are located at [IRWA Virtual Classes Calendar](#).

If time is not on your side and you cannot wait for a scheduled class or if a class has reached full capacity prior to your registration, then there are several courses that can be taken on demand. They can be accessed by going to [IRWA U](#).

Chapter 36 In-Person Education Schedule 2023

Course	Date	Location	Instructor
219 - Adult Communication Principles and Methods	April 13-14	TNP, Fort Worth	Lisa Harrison & David Burgoyne
SR/WA Review & Exam	May 17-19	TNP, Fort Worth	Donnie Sherwood

Which Courses Do I Need?

Our PDC and the credentialing concierge can tell you which classes you need to complete the education requirements for the designation and certification. If you are planning to get certified in any discipline the IRWA offers, the list of courses you need to complete your credentialing are located at www.irwaonline.org. Just visit the "Credentialing" tab.



JEFF TILLMAN, MAI, AI-GRS
Appraisal & Appraisal Review
tillmanj@flash.net
817-926-9835

