

NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

MAY 2023

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MAY LUNCHEON

Speaker: Harold Hunt, Ph.D.
Texas A&M Real Estate Research Center

Dr. Harold Hunt is a native of Thibodaux, Louisiana, a small town located about 45 miles southwest of New Orleans. He earned his B.S., Master’s and Ph.D. degrees from Texas A&M University. Before obtaining his Ph.D., Dr. Hunt worked as a commercial real estate appraiser for McCracken and Associates in Dallas, Texas. He currently holds an appointment as a Research Economist with the Real Estate Center located in the Mays Business School at Texas A&M.



At the Center, Dr. Hunt has been involved in research examining economic development, transportation, affordable housing, energy efficiency, oil & gas activity and a broad array of other special topics that affect Texas real estate markets.



Tuesday, May 9th, 2023
11:30 AM - 1:00 PM
Walnut Creek Country Club
1151 Country Club Drive
Mansfield, TX 76063

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, May 5th

Menu TBD

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

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President's Message

I wanted to say a big thank you to all of our sponsors and volunteers for the Spring Seminar and Golf Tournament, this event couldn't have taken place without your contributions. Our sponsors and volunteers are who make this event a success and it was a tremendous success this year. Vice President Will Snider and his committee did a wonderful job coordinating this event. We had a wonderful turnout at both the tournament and seminar, great job, Will. Please remember that we will be voting on Chapter 36 officers at our May 9th luncheon. All officers are posted on the website and includes information about them. See you then.



Michael Hale

SRWA, RW-URAC, RW-NAC, R/W-RAC
Right-of-Way Regional
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-Michael Hale



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Officer Slate & Elections

By: Sarah Riebe, Director - 2 Year



Sarah Riebe

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Chapter 36 members will vote on the incoming 2023-2024 officers at the May meeting. The Chapter 36 board has approved and is recommending the nominations for the incoming officers based on the recommendations of the nominations committee. I would like to thank John Baker and Denise Lopez for serving with me on that committee. John Baker has agreed to hold the Nominations and Elections meeting, where the Nominees will be announced. Nominations from the floor will be accepted before each vote. Voting will be by voice acclamation. In the case of multiple candidates for a position or an unclear voice vote, a written ballot voting process will be used. This is an opportunity for members to steer the direction of the Chapter, so please attend!

The nominees for 2022-2023 officers are:

- President: Will Snider, MAI, RWA, R/W-AC
- Vice-President: Matt Lance, SR/WA, R/W-URAC, R/W-RAC
- Secretary: Tommy Matthews, SR/WA, R/W-AC
- Treasurer: Leighton Gambill
- 2 Year International Director: Michael Hale, SR/WA, R/W-URAC, R/W-NAC, R/W-RAC
- 1 Year International Director: Sarah Riebe, SR/WA, R/W-NAC
- Professional Development Committee Chair: Gina Phalen, SR/WA, R/W-AC
- 2-Year Professional Development Committee Member: Clara Castañeda, SR/WA-TN, R/W-RAC
- 3-Year Professional Development Committee Member: Darlene Snow, SR/WA-TN

Photos and biographies of the proposed slate of Officers are on the following pages.



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IRWA Chapter 36 Slate of Officers

President - Will Snider, MAI, RWA, R/W-AC



Will Snider, MAI, SRWA, R/W-AC, serves as a Director for Lowery Property Advisors and has performed valuation and consulting services across the State of Texas and surrounding states on various properties including, but not limited to, office, retail, industrial,

agricultural, mixed-use developments, restaurants, hotel / motel, apartments, land and other types of special use commercial properties, partial acquisitions, and eminent domain/condemnation appraisals. His experience in appraisal for right-of-way acquisition purposes includes projects for TxDOT, local municipalities, TRA, pipeline companies, and other agencies.

Prior to joining LPA in June 2021, Mr. Snider served as Senior Vice President for JLL Valuation Advisory in the Fort Worth office, a full-service real estate consulting and appraisal firm. Mr. Snider is a graduate of Texas A&M University with Bachelor of Finance and Master of Real Estate degrees. In his spare time, Mr. Snider enjoys volunteering for the Fort Worth Stock Show and Rodeo, golf, hunting, snow skiing, and reading.

Vice-President - Matt Lance, SRWA, R/W-URAC, R/W-RAC



Matt who is currently serving as Chapter 36 Treasurer, is a lifelong D/FW Metroplex resident and a graduate of the University of Texas at Arlington. Mr. Lance has been employed with HDR since 2006, after nearly two decades with the Texas Department of Transportation (TxDOT). While employed by TxDOT and HDR, he has been responsible for the successful relocation of numerous residences and businesses displaced from

federal, state and locally funded construction projects. Clients have included the City of Austin, Texas; City of Fort Worth, Texas; Central Texas Regional Mobility Authority; Dallas Area Rapid Transit, Tarrant County, Texas; TxDOT, TxDOT's Aviation Division and Utah Department of Transportation. Over the past 30 years, his duties have included project management, preparing relocation assistance processes and procedures, project relocation plans, replacement housing payments, personal property inventories and providing advisory services and moving plans for unusual and complex moves. His enthusiasm and experience are instrumental in finding innovative and creative solutions to complex relocation and acquisition problems.

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IRWA Chapter 36 Slate of Officers

Secretary: Tommy Matthews, SR/WA, R/W-AC



Mr. Matthews began his appraisal career in 2004, performing appraisals for lending institutions to underwrite loans on commercial and industrial properties including convenience stores, strip centers, industrial warehouses, apartments, and office buildings. In 2006, with the start of the LBJ Project (Loop 635), Mr. Matthews began his career in the right-of-way industry. Since 2006, Mr. Matthews has appraised and reviewed over 1,000 land parcels. In addition to

appraisals and reviews, Mr. Matthews has provided expert witness testimony on multiple projects for Special Commissioners Hearings and trials.

Mr. Matthews holds a bachelor's degree in Economics and Finance from the University of Texas at Dallas. Mr. Matthews has been a member of IRWA Chapter 36 for over 18 years, holding multiple positions including Registration Committee, Newsletter Chair, PR and Marketing Chair, Membership Committee and Chair, Education Committee and Chair, and most recently PDC Chair.

Treasurer: Leighton Gambill



Leighton Gambill is the Business Development Director at Integra Realty Resources - Fort Worth. Ms. Gambill has been involved in real estate valuation and advisory since 2011 with a specific emphasis on right of way

and eminent domain. Leighton has prepared assignments on various property types and clients including government agencies, project management and engineering firms, brokers, law firms and attorneys, and individuals. Leighton has also appraised multiple properties for whole takings, partial takings, and easement acquisitions for condemnation proceedings with many of these appraisals requiring complex analyses and consideration of damages to the remainder. Leighton is highly involved in the local and regional International Right of Way Association, currently serving as the Chapter 36 Secretary, after previously serving the board in other capacities for 10 years. Ms. Gambill is a recipient of the Region 2 and Chapter 36 Young Professional of the Year. Leighton lives in Carrollton, Texas with her husband, two boys, and menagerie of rescue pets!

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IRWA Chapter 36 Slate of Officers

2 Year International Director: Michael Hale, SR/WA, R/W-URAC, R/W-NAC, R/W-RAC



Michael Hale is the Right-of-Way Regional Manager for Cobb, Fendley and Associates, Inc. Michael has sixteen (16) years of experience in the right-of-way profession and has been involved in various facets of the business. Michael has worked as a project manager, acquisition agent, relocation agent and condemnation support specialist on various projects in Texas, Oklahoma and Arkansas. He has been a member of Chapter 36

since 2007 and has achieved various IRWA designations. Michael is very active in the IRWA, currently serving as President for Chapter 36. He also served two terms on the International Credentialing Committee (ICC) and also on the Chapter 36 Professional Development Committee. He has a Bachelor of Arts degree from Oklahoma Baptist University and a Master of Science degree in Business Management from Liberty University.

1 Year International Director: Sarah Riebe, SR/WA, R/W-NAC



Sarah Riebe has been in Right of Way for 15 years and has over 27 years Industry experience. Sarah is currently a Regional Manager for Pinnacle Consulting Management Group, Inc also serving as the Negotiation,

Condemnation and Title Specialist. Ms. Riebe is the Project Manager for multiple projects in which she manages the Acquisition, Relocation, Condemnation and Title services for the various clients that include Engineering Firms, Cities and Counties and TxDot. Sarah's extensive title background assists the team in curing difficult title issues, supervising Pinnacle Group's ROW agents with acquiring and closing parcels, overseeing the preparation and coordination of Eminent Domain parcels as well as ultimately assuring the Client takes legal possession of the property needed for the project. Sarah's experience allows her to understand and follow strict compliance with the Uniform Act, Texas' SB 18 and TxDot's policies and procedures in which most municipalities replicate as their own. Prior to joining Right of Way, Sarah began her career in 1996 in the Title and Abstract sector of Real Estate and eventually moved to the Escrow side where she held an Escrow Officer license through the Texas Department of Insurance.

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IRWA Chapter 36 Slate of Officers

Professional Development Committee Chair: Gina Phalen, SR/WA, R/W-AC



Gina Phalen is a Senior Director who leads the South Central region within the Infrastructure Practice Group for Valuation & Advisory at Cushman & Wakefield. She has managed and appraised numerous right-of-way projects on both transportation and utility projects over the past decade. She has extensive knowledge on performing complex assignments for

eminent domain in all types of real estate and has testified in over 75 Special Commissioners hearings in various counties within the state of Texas. She is a Certified General Appraiser in the states of Texas, Arkansas, Oklahoma, and North Carolina.

She is an active member of IRWA and has achieved both her R/W-AC and SR/WA. She has volunteered in numerous capacities for Ch. 36 including: Education Committee, Social Media Chair, and currently the Professional Development Committee. In addition, she regularly attends local Board meetings, regional seminars/symposiums and the international conferences. She also serves on the Planning & Zoning Commission, Sign Board and Corridor Committee for the City of Southlake. She is looking forward to continuing to serve Chapter 36 in future years!

2-Year Professional Development Committee Member: Clara Castañeda, SR/WA-TN, R/W-RAC



Clara is a multifaced agent with seventeen years of experience in the right-of-way industry. Clara's background is based on project management, land acquisition, negotiation, and relocation services in accordance with local and federally funded sourced projects including FAA, FTA, HUD, and CFR Part 24 and the Uniform Relocation Assistance and Real

Property Act of 1970 (Uniform Act), the Texas Property Code, and TxDOT processes. Clara has provided right-of-way services in Texas, Nevada, and California. Clara is bilingual in English and Spanish

Clara currently serves as Chapter 36 PDC 3-Year and is an active volunteer in our spring seminars. In the past, Clara has served as historian and registration co-chair. Clara is also an active volunteer at the Women's Center of Tarrant County in Fort Worth. In her free time, Clara enjoys cooking plant-based meals, spending quality time with her husband and son, and training for obstacle races.

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IRWA Chapter 36 Slate of Officers

3-Year Professional Development Committee Member: Darlene Snow, SR/WA-TN



Darlene has ten years of experience in the Right of Way industry, and over 20 years' experience in the Real Estate Title industry. She has worked as an Acquisition Agent, Relocation Agent and has provided Condemnation Support on many different projects that must comply with CFR Part 24 and the Uniform Relocation Assistance and Real Property Act of 1970 (Uniform Act), the Texas Property Code, and TxDOT processes.

Darlene currently serves as the PR & Marketing Committee Chair. She is a volunteer of the Steve Baggett Memorial Golf Tournament and Spring Seminar. Darlene previously served as the Registration Committee Chair.

In her free time, Darlene enjoys spending quality time with her family, traveling with her husband, gardening, and volunteering at her local church.



Ask the Attorney

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

Question: I recently heard a presentation about private entities with the power of eminent domain attempting to condemn land owned by a governmental entity. I was under the impression that governmental entities had immunity. Could you please explain this?

Answer: This is currently an unsettled area of law. Statutes conferring the power of eminent domain upon public and private corporations of the state are often silent with respect to the ability of the corporation to condemn property already devoted to public use. Ralph W. Dau, *Problems in Condemnation of Property Devoted to Public Use*, 44 TEX. L. REV. 1517, 1521 (1966). Typically, an entity may condemn property already devoted to public use if it can demonstrate that its purpose for condemnation is (1) of paramount importance, and (2) cannot be practically accomplished in any other way. See *Sabine & E.T. Ry. Co. v. Gulf & I. Ry. Co.*, 92 Tex. 162, 46 S.W. 784 (1898). The *Sabine* case, however, does not address some of the new wrinkles that have arisen over the past ten years as it pertains to the condemnation of land when said land is owned by a governmental entity. There are three cases to focus your attention on, the last of which is pending in front of the Supreme Court of Texas.

The first case is *Oncor Elec. Delivery Co. LLC v. Dallas Area Rapid Transit*, 369 S.W.3d 845 (Tex. 2012), which addresses electric utilities' authority to condemn land owned by governmental entities. In this case, Oncor (Electric utility) brought an eminent domain action against Dallas Area Rapid Transit (a regional transportation authority), seeking to acquire an easement for a transmission line that would cross over DART's rail line. The court of appeals held that DART had governmental immunity. Oncor petitioned for review. The Supreme Court of Texas reversed and remanded the case for interpretation under § 37.053(d) of the Texas Utilities Code, which allows for electric corporations to condemn all public land, except land owned by the State. The Court went on to hold that DART did not qualify for the exception of "land owned by the state" under § 37.053(d) because the State does not own the land, DART does and the exception is based on ownership, not the source of immunity. Thus, an electric utility can condemn all public land unless it is owned by the State.

The second case we analyze is *Harris Cnty. Fresh Water Supply Dist. No. 61 v. Magellan Pipeline Co., L.P.*, 649 S.W.3d 630 (Tex. App.—Houston [1st Dist.] 2022, pet. filed). In this case, Magellan Pipeline Co., L.P. ("Magellan" or "Pipeline") brought a condemnation proceeding for an easement to install a pipeline underneath the Harris Cnty. Fresh Water Supply Dist.'s ("District") property. The Special Commissioners awarded the District an additional \$160,000 over the amount it had already been paid by Magellan. The District was unhappy with the award and filed a plea to the jurisdiction and objections to the award of Special Commissioners, arguing that the award "fails to award the District adequate compensation for Magellan's acquisition of the Easements." After a bench trial, the court entered a final judgment granting Magellan a permanent easement, awarding the District the compensation approved by the Special Commissioners, and denying all of the District's requests for additional compensation. The District appealed the judgment, arguing that the condemnation suit should be dismissed because the District has governmental immunity.

Houston First Court of Appeals held that the District's governmental immunity claim had been abrogated by its participation in the condemnation proceeding. The Court went on to say, by compelling the filing of the condemnation proceeding and contractually obligating itself to participate (via a right-of-entry agreement), plus requesting "additional compensation" above the amount it had already been paid and accepted, the District was



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Ask the Attorney

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

not operating within sovereign immunity's bounds. Based on the ruling in this case, governmental immunity can be waived.

Finally, the *Hidalgo Cnty. Water Improvement Dist. No. 3 v. Hidalgo Cnty. Water Irrigation Dist. No. 1*, 627 S.W.3d 529, 538 (Tex. App.—Corpus Christi—Edinburg 2021, pet. granted) case specifically addresses the assertion of governmental immunity when a governmental entity's land is being condemned by another entity with the power of eminent domain. In this case, Appellant Hidalgo County Water Improvement District No. 3 (Improvement District) filed a condemnation proceeding against appellee Hidalgo County Water Irrigation District No. 1 (Irrigation District) seeking a permanent subterranean easement for the purpose of installing a water pipeline over Irrigation District's canal. The trial court dismissed the proceeding based on the Irrigation District's assertion of governmental immunity.

The Corpus Christi Court of Appeals, as a matter of first impression, citing *Oncor*, held that this grant of condemnation power over "any land" does not waive immunity from suit when the Improvement District seeks to condemn land owned by a governmental entity. The Improvement District appealed and review was granted by the Supreme Court.

Neither party cites authority in which the Supreme Court has addressed whether a grant of eminent domain power over "any property" waives immunity from suit when the entity possessing that power seeks to use it against a governmental entity. When reviewing the court of appeals' decision in *Oncor*, the supreme court noted that "whether [the grant of eminent domain power] clearly and unambiguously waives a government landowner's immunity is a difficult question," before deciding that question is "one we need not answer here[.]" *Oncor*, 369 S.W.3d at 849–50.

In sum, we are all waiting for the Supreme Court to render its opinion in *Hidalgo* before we can fully answer the above question.

The views, thoughts, and opinions expressed in this article belong solely to the author – Charlie 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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Value Property.**



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Professional Development Committee News

By: Tommy Matthews, PDC Chair

There will be an SR/WA Recognition and Awards Luncheon at the International Conference in Denver this year. If you received your SR/WA 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

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The Professional Development Committee is available to help you reach your designation goals. Our success and the Chapter's success are not only measured by the sheer number of members we attract, but also by the professional advancement our organization can offer.

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

Specialist Certification

- Carolyn Murray, R/W-NAC (Cobb Fendley)
- Kamle Pennington, R/W-RAC (Universal Field Services)

Industry Generalist Certification

- Gina Phalen, SR/WA (Cushman & Wakefield)
- Silverio Garza, SR/WA (Pape-Dawson)
- Johnathan Rivera, SR/WA (TNP)

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.)



Chapter 36 Advertisers



Professional Development Committee News

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



Gina Phalen

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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

