

# NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

APRIL 2024

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# 2024 SPRING SEMINAR

April 3rd-5th, 2024

**IRWA CHAPTER 36 PRESENTS:  
AN ALL-STAR EVENT**



# 2024 Spring Seminar & Region 2 Forum



APRIL 3RD-5TH, 2024

**ARLINGTON, TEXAS**

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International Right of Way Association, Dallas-Forth Worth

APRIL 2024

## 2024 All-Star Event SCHEDULE

### WEDNESDAY, APRIL 3RD

**1PM | TEXAS RANGERS GOLF CLUB**

**25th Annual Steve Baggett Memorial Golf Tournament  
(Registration Fee Required)**

### THURSDAY, APRIL 4TH

**8AM-5PM | GLOBE LIFE FIELD | FIRST BASE CLUB**

**Chapter 36 Spring Seminar: "Hot Topics in Real Estate and Eminent Domain" (Registration Fee Required)**

**6PM-9PM | GLOBE LIFE FIELD | BALCONES SPEAKEASY**

**"Extra Innings" Region 2 Welcome Reception  
(Free! RSVP Required)**

### FRIDAY, APRIL 5TH

**9AM | INTERNATIONAL BOWLING MUSEUM AND HALL OF FAME**

**Region 2 Spring Forum (Free! RSVP Required)**

**7:05PM | GLOBE LIFE FIELD**

**Texas Rangers vs Houston Astros (Ticket Required)**



|                          |   |
|--------------------------|---|
| <b>President</b>         | Will Snider, MAI, SR/WA, R/W-AC                 |
| <b>Vice-President</b>    | Matt Lance, SR/WA, R/W-RAC, R/W-URAC            |
| <b>Secretary</b>         | Tommy Matthews, SR/WA, R/W-AC                   |
| <b>Treasurer</b>         | Leighton Gambill                                |
| <b>PDC Chair</b>         | Gina Phalen, MAI, SR/WA, R/W-AC                 |
| <b>PDC - 2 Year</b>      | Clara Castañeda, SR/WA, R/W-RAC                 |
| <b>PDC - 3 Year</b>      | Darlene Snow, SR/WA-TN                          |
| <b>Director - 1 Year</b> | Sarah Riebe, SR/WA, R/W-NAC                     |
| <b>Director - 2 Year</b> | Michael Hale, SR/WA, R/W-URAC, R/W-NAC, R/W-RAC |

**CHARLES STEARMAN, SR/WA**  
REAL ESTATE APPRAISER

*APPRAISALS & REVIEWS*

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**NORTH TEXAS NEWS**

# President’s Message

Howdy Chapter Members,

The time has finally arrived! The 2024 Spring Seminar and Region Forum is upon us, and I look forward to seeing everyone at each of the events! Vice President Matt Lance and his group of volunteers have done an exceptional job in planning these events, and I congratulate all of you on all that you have done to make this an All-Star Event!



Additionally, please note that the deadlines to submit applications for the Greg Cook Memorial Scholarship and the Donald J. Sherwood Scholarship are quickly approaching! The Greg Cook Scholarship application is due no later than 5pm on May 24, 2024. The Donald J. Sherwood Scholarship application is due no later than 5pm on April 21, 2024. Please visit the PDC & Scholarships tab on our [website](#) for more details and to access the applications.

As always, I want to say thank you to our Chapter Board and Committees, as well as our very loyal and dedicated membership and sponsors. Thank you for all that you do to allow Chapter 36 to be the best and largest Chapter of the IRWA!

Please feel free to contact me if you have any questions or comments ([wsnider@lowerypa.com](mailto:wsnider@lowerypa.com)), and thank you all again very much.

Best,

Will Snider



# Ask the Attorney

By: Jordan Miller, Tony Attia and Charlie Wilson

**Question: Would you brief the Nathan D. Albert, et al. v. Fort Worth & Western Railroad Company case that the Supreme Court just issued an opinion on?**

**Answer:** Yes. On February 16, 2024, The Texas Supreme Court issued an opinion regarding the establishment of an implied easement over a railroad track. In the Nathan D. Albert, et al. v. Fort Worth & Western Railroad Company case, Albert sought to establish an implied easement for a gravel crossing from his property over Western’s railroad.

In April 2016, Nathan D. Albert and his business partners formed Chisolm Trail Redi-Mix, LLC, to operate a cement mixing plant. Albert purchased a ten-acre tract of land (the “Property”) in Johnson County for this plant. Fort Worth & Western Railroad Company (“Western”) owns the land separating the Property from State Highway 171. The reason being that Western’s predecessor in interest, Guld, Colorado & Santa Fe Railway Co. (“Gulf”), originally purchased a 12.7-acre tract (the “Railroad Tract”) to build its railroads. A military road was established parallel to Gulf’s railroad, and State Highway 171 follows the same path as the old military railroad. A single-lane gravel road crossing over the railroad tracks connects the Property to State Highway 171.

This gravel crossing (the “Way”) forms the subject of this case. Evidence from a 1941 aerial survey showed that the Way existed and was used long before Albert or Western became owners of their respective properties. In 1959 or 1960, Junior Meek owned the Property and agreed to a license agreement with Gulf to use and build a gravel crossing over the Way for personal and agricultural purposes. The license agreement stated that Meek could not assign the license without Gulf’s permission. However, Meek sold the Property to Marion and Jennie Scott in 1969, and the property changed hands several times before Albert purchased the Property in 2016.

Throughout those forty-six years, the various owners of the Property used the Way for many purposes despite not having the license to do so. Western acquired the Railroad Tract in 2005 and began sending notices to the landowners stating they were trespassers and must cease using the Way. However, Western never attempted to physically block the path of the Way. When Albert purchased the Property and began using commercial trucks over the Way, Western sent him a cease-and-desist letter. Albert filed suit for declaratory judgment that he had an implied easement over the Way.



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The trial court found that Albert held an implied easement over the way based on three theories: easement by estoppel, easement by necessity, and a prescriptive easement. Western appealed, and the court of appeals reversed the trial court on all three theories. The Texas Supreme Court then reversed the Court of Appeals in part, finding that Albert had an implied easement based on the theory of prescriptive easement.

The Supreme Court explained the general law of easements. An easement that entitles the adjacent landowners to cross over the adjoining tract is an easement appurtenant. Typically, an easement appurtenant must be written and signed by the parties to evidence its creation; however, an easement appurtenant can also be implied without a writing. One such way is an easement by prescription. An easement by prescription is created when a landowner uses someone else’s land

in a manner that is adverse, open and notorious, continuous, and exclusive for a ten-year period. An easement appurtenant established by prescription attaches to the Property, and when the Property is conveyed to another landowner, the new landowner also receives the easement.

Use is adverse when it notifies the servient landowner, here Western, that the claimant is asserting an adverse claim. It is open and notorious when the servient landowner has actual or implied notice of the use, and it is exclusive when the claimant and the servient landowner are not using the easement in the same way. Here, the Property owners trespassed over the Way from 1969 to 2016, because Meek did not assign his license to any subsequent property owners. The Railroad Tract owners knew about this use yet did not prevent or block the Way.

Additionally, neighbors familiar with the area testified that the Property’s owners used the Way to access the Property and the highway for as long as they could remember. The use was exclusive because only the Property owners used the Way to cross the railroad. Western argued that since it transported its trains over the railroad, it also used the Way such that the exclusivity element was not satisfied. The Court refuted this argument, stating that Western and its predecessors did not use the Way to cross the railroad. Exclusivity is only defeated when the landowner and claimant use the same path or passage that constitutes the Way.

The Court reasoned that the landowners from Marion and Jennie Scott in 1969 until Albert in 2016 had satisfied the requirements for a prescriptive easement. Thus, the prescriptive easement over the Way passed to Albert in 2016 when he purchased the Property.

In conclusion, a landowner may establish a prescriptive easement through the adverse, open and notorious, continuous, exclusive use of an easement for ten years by the landowner’s predecessors in interests.

*The views, thoughts, and opinions expressed in this article belong solely to the authors – Jordan Miller, Tony Attia 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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## Spring Seminar Information



**IMPORTANT ENTRY INFORMATION – IRWA CHAPTER 36 ALL-STAR SPRING SEMINAR/REGION 2 WELCOME RECEPTION – GLOBE LIFE FIELD - FIRST BASE CLUB/BALCONES SPEAKEASY – APRIL 4, 2024**

**COME EARLY AND STAY LATE. FEEL FREE TO WEAR YOUR FAVORITE TEAM’S COLORS, ATTIRE OR JERSEY AS YOU CHEER ON YOUR ALL-STAR LINEUP OF PRESENTERS!**

**DUE TO LIMITED CAPACITY, THERE WILL BE NO WALK-UP REGISTRATION**

**FREE PARKING: SUPRA LOT A\* (ACCESS FROM COWBOYS WAY)**



### **VIP Entry**

Located on the west side of Globe Life Field, this VIP Entry gets you easily onto the Bailey & Galyen Suite Level and the Lower Concourse. From here, you'll enjoy quicker access to places like The TX District, the Balcones Speakeasy, and more.

**ENTRY: ALL SEMINAR ATTENDEES AND EVENT GUESTS WILL ENTER THE WEST VIP ENTRY (ADJACENT TO SUPRA LOT A)**

**GATES OPEN: 7:00 AM**

**PREGAME WARM-UP/BREAKFAST: 7:00–8:00 AM; SPONSORED BY: CHARLES STEARMAN, SR/WA - APPRAISER**

**GAMEDAY BEGINS: 8:00 AM**

**GAMEDAY LUNCH: 12:15 PM; SPONSORED BY: MARATHON CONSTRUCTION ESTIMATORS**

**7<sup>TH</sup> INNING STRETCH BREAK: 3:00 PM; SPONSORED BY: ARRAY TECHNOLOGIES**

**RELIEF PITCHER BEVERAGE SERVICE SPONSORED BY: CUSHMAN & WAKE-FIELD**

**POSTGAME WRAP-UP: 4:45 PM**

**GLOBE LIFE FIELD GROUP TOURS: 5:30 & 6:30 PM; SPONSORED BY: HDR**

**“EXTRA INNINGS” REGION 2 WELCOME RECEPTION: 6:00-9:00 PM; SPONSORED BY: LOWERY PROPERTY ADVISORS**

### **PROHIBITED ITEMS:**

WEAPONS, POCKET KNIVES, OUTSIDE FOOD & DRINK

### **BAG POLICY:**

ALL BAGS SUBJECT TO SEARCH UPON ENTRY

**IF YOU HAVE QUESTIONS, PLEASE CONTACT MATT LANCE AT [MATT.LANCE@HDRINC.COM](mailto:MATT.LANCE@HDRINC.COM).**

**LET’S PLAY BALL!**

## Spring Seminar Information



### All Star Lineup:

**John Baker, Jordan Miller, Baker Moran:** *“Pipeline Corridors: a Closer Examination of the Texas Supreme Court’s Hlavinka Decision”*

**Geline Spinks, Community National Title:** *“Knock Title Curative Out of the Park!”*

**Angela Longoria, Darla Dunaway, Clara Castaneda, Julissa Hernandez, HDR:** *“Cowboy Acres: The Trailer Park Round-Up: State Loop 9 Relocation Challenges”*

**Larry Vincent, Daniel Charest, Burns Charest, LLP:** *“How Will Federal Takings Claims Affect Eminent Domain Legal Practice Going Forward”*

**Trey Yelverton, City of Arlington, TX:** *“Arlington Homeruns”*

**Mayor Jim Ross, City of Arlington, TX:** *“Gameday Lunch Prayer”*

**Bobby Debelak, McDowell Hetherington, LLP:** *“Robert Moses and the Taking of New York City”*

**Sarah Munson, Office of the Attorney General:** *“Review of the 88th Texas Legislative Sessions”*

**Michael Miggins, CBRE, Brent Pitts, Integra Realty Resources, Joel St. John, O’Brien Right of Way Evaluation:** *“How Best to Determine Market Conditions Adjustments”*

**Sejin Brooks, Barron, Adler, Clough & Oddo:** *“Wait, That’s Not Right! Post Kelo, Legal but Questionable Uses of Eminent Domain in Texas, Louisiana, and Oklahoma.”*

### Continuing Education Credit:

For this event, IRWA credit has been approved. The following CE credits are pending approval: CE, TREC TALCB CLE & TPLS.



**TEXAS LAND AND TITLE LLC**

## Chapter News

Members,

The Chapter 36 Bylaws have been amended to reflect the current practices of the Chapter, clarify roles of directors, and update officer election procedures. The revised Bylaws have been reviewed and approved by IRWA Counsel and the Executive Director. The Chapter will vote to approve the new Bylaws after the General election of officers at the May meeting. Please see the annotated copy for your review prior to the vote in May [here](#).

If you have questions, please contact Sarah Riebe, [sriebe@pinnaclegroup.biz](mailto:sriebe@pinnaclegroup.biz); or Michael Hale, [MHale@cobbfindley.com](mailto:MHale@cobbfindley.com).



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President/Owner

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## Upcoming Event

# IRWA REGION 5 SPRING FORUM @ LAMBEAU FIELD!

**May 2-4, 2024**



IRWA Badger Chapter 17 cordially invites you to the 2024 Region 5 Spring Forum in Green Bay, WI.

**Accommodations: Lodge Kohler**  
1950 South Ridge Road, Green Bay, WI 54304  
Reservations: (855) 407-7346

Room Block: May 1-4 at a rate of **\$215 + tax/night**  
~complimentary parking included~

Reservation deadline: **April 15, 2024**  
Reference Reservation #448701 for IRWA room block

For more information contact:  
Jeff Olson, Chapter 17 President  
(715) 966-0241 or email [jolson@landvest.com](mailto:jolson@landvest.com)

**THURSDAY MAY 2**  
8am - 4pm

IEUC Utility Symposium  
Meeting space max: 120 people

6th Floor Indoor Clubs  
Lambeau Field  
enter at Bellin Health Gate

**\$75 IRWA members/  
\$85 non-members**  
Breakfast & Lunch +  
Sponsored social event 5:30  
Wed. May 1st  
Taverne in the Sky  
Lodge Kohler

**THURSDAY NIGHT**  
5:00pm

Welcome Reception  
North Lofts/Lambeau Field  
Next to 6th Flr Club room

**FRIDAY MAY 3**  
Meeting 10:00am  
Shotgun start 11:00am

Chapter Meeting &  
Annual Golf Outing  
-Brown County GC-

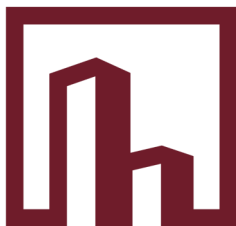
**\$85**  
Lunch + 19th hole + auction  
included

**SATURDAY MAY 4**  
8am-4pm + 2-hour Tour

Region 5 Meeting

6th Floor Indoor Clubs  
Lambeau Field  
enter at Bellin Health Gate

**\$120/\$80/\$40**  
Breakfast, lunch + auction  
included  
Optional: Lambeau  
Field + Hall of Fame Tour!



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## Professional Development Committee News

By: Gina Phalen, PDC Committee Chair



**Gina Phalen**

MAI, SR/WA, R/W-AC  
 Cushman & Wakefield  
 Senior Director Infrastructure  
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As the days grow longer & nature springs back to life, it’s a great time to renew your commitment to your profession and earn that IRWA designation! Stand out among your peers and impress your clients with your new knowledge from any of the outstanding courses offered.

Also, don’t miss the opportunity to win the **Greg Cook Memorial Scholarship**. This scholarship awards money to be used for courses pertaining to any IRWA designation. Applications are due May 24!

Congratulations to Pam Thomas on earning her SR/WA!

*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.*

For any questions on obtaining a certification, or if you have any other questions regarding your Professional Development goals, please contact us!

PDC Committee Members:

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



## Education Committee News

Hello Chapter 36 Members!

Thank you to Dalton Vann and Denise Lopez for recently instructing Courses 410 and 200 and to those who supported those classes.

The schedule below includes some of the Courses we currently have planned but as we have mentioned before, we are actively looking to add more courses. 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 in the near future.



**Juan Salazar**

RW-NAC, RW-RAC  
Pinnacle Consulting  
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Project Manager  
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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 2023-2024 Education Calendar**

|            | <b>Course</b>                              | <b>Location</b>                        | <b>Date</b>      |
|------------|--|--|------------------|
| 502        | Non-Residential Relocation Assistance      | Trinity River Authority, Arlington, TX | Apr. 22-23, 2024 |
| 604        | Environmental Due Diligence and Liability  | VIRTUAL                                | May 6, 2024      |
| SR/WA Prep | SR/WA Study Session                        | VIRTUAL                                | May 29-31, 2024  |
| 219        | Adult Communication Principles and Methods | TBD                                    | Sep-2024         |
| 504        | Computing Replacement Housing Payments     | TBD                                    | TBD              |

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](mailto: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](http://www.irwaonline.org). Just visit the "Credentialing" tab.



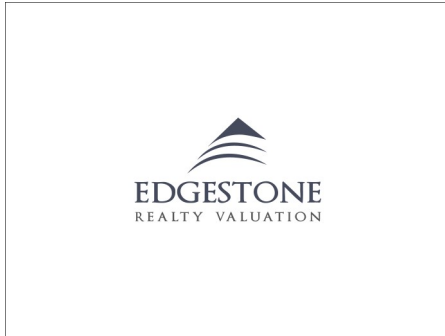
## Marketing News



If you have not paid for your 2024 newsletter and website sponsorship, please contact Mary Watson at [mwatson@tnpinc.com](mailto:mwatson@tnpinc.com) or 682-558-5752.

Thank you for your continued support of our chapter!

Mary



**JEFF TILLMAN, MAI, AI-GRS**  
Appraisal & Appraisal Review  
[tillmanj@flash.net](mailto:tillmanj@flash.net)  
817-926-9835



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