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JANUARY LUNCHEON

Speaker: Harry C. Whalen

Harry Whalen serves as Director of Business Attraction and International for the Frisco Economic Development Corporation. His responsibilities are the attraction of new national and international headquarters and industrial investments to Frisco. Harry has been an economic development professional for over 48 years working with small to large investments from around the globe to invest in the United States.



Mr. Whalen has extensive international background serving on international committees of universities, District Export Councils, and as a state level international representative for investment missions to Europe, Asia and Canada. Mr. Whalen speaks Italian and has studied Japanese, Chinese, and Spanish.

Mr. Whalen guided recognition of Frisco as one of the Top 10 North American Small Cities for FDI Strategy 2017/2018. His past experience has included Senior VP International for the State of Michigan, Chair of the statewide Michigan Global Partnership, board member with the Midwest US Japan Association, state level participation with the Southeast US Japan Association, Marketing Committee of the FDI Global Association, and as the liaison to the State of Michigan JETRO Office.

Harry is a graduate of the University of South Carolina (USC) with a BFA in Advertising Design, was a graduate student in Journalism at USC and is a graduate of the Industrial Development Institute at the University of Oklahoma.

NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

JANUARY 2024



Texas Rangers Golf Club
701 Brown Boulevard
Arlington, TX 76011
January 9, 2024
11:30am - 1pm

Member - \$30
Non-Member - \$35
First-Time Guest - Free!
Register at
www.irwachapter36.org

Walk-ins Welcome - \$35 (walk-in spaces are limited)
Registration will be cut off at noon on Friday, January 5th

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



Appraisal Reviews
 Jennifer Ayers, SR/WA, R/W - AC
 214.553.9133



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President's Message

Howdy Chapter Members,

Happy New Year! I hope that each of you had very enjoyable holiday season and are ready to join us for all of the exciting events coming up in 2024. But before we do that, let me take a moment to look back at December and congratulate our newly awarded Professional of the Year: Michael Hale, Young Professional of the Year: Ana Salazar; and Employer of the Year: CobbFendley! I'd also like to say thank you again to BBG Real Estate Services for sponsoring our End of Year Event!



Will Snider

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Director at Lowery Property
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First and foremost, I can't begin to tell you how excited we are for the upcoming 2024 Spring Seminar and Region 2 Forum! Vice President Matt Lance and his amazing team of volunteers is working tirelessly to make this the best Seminar we've ever put on, and I'm very excited to for our guests from Region 2 to see all of the exciting events and speakers! Please mark your calendars for April 3-5, 2024, and continue to watch for e-blasts and postings to the website concerning sponsorship opportunities and event registrations.

Speaking of sponsorship opportunities, if you have not already been in touch with our PR & Marketing Chair Mary Watson about advertising this year in the newsletter and on the Chapter website, please contact her at prmarketing@irwachapter36.org.

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), and thank you all again very much.

Best,

Will Snider



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Ask the Attorney

By: John P. Baker, Tony Attia and Charlie Wilson

Question: I saw your case law update in the last newsletter and was curious if you have provided an update on the *Miles v Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc.* case?

Answer: We have not done a case law update on this matter. On June 24, 2022, the Texas Supreme Court issued an opinion regarding the authority of a High-Speed Rail operator to use the power of eminent domain to acquire land for its project. In *Miles v Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc.*, Miles sought a judicial declaration that Texas Central did not have the authority to exercise the power of eminent domain under Texas Law.

Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc. (“Texas Central”) are private entities that seek to build a High-Speed Railway service between Houston and Dallas. Texas Central began to survey properties along various proposed routes of the railway line. Miles owned approximately 600 acres of property along the proposed route. The route would bisect Miles’s property with a 100-foot wide right of way for the rail line. Texas Central contacted Miles to survey his property in November 2015; however, Miles refused access.

Miles filed suit against Texas Central in Texas state court for a declaration that Texas Central lacked eminent domain authority to acquire parts of his property for the purposes of the High-Speed Rail project. Both parties filed motions for summary judgment regarding the issue of authority to utilize eminent domain. The Trial Court granted Miles’s motion for summary judgment, declaring that Texas Central did not possess eminent domain authority. Texas Central appealed this ruling to the Court of Appeals, which reversed the Trial Court decision. Miles then petitioned for the Supreme Court to review the ruling.

Making sure to note that it was not commenting on the wisdom of this project, the Texas Supreme Court ruled in favor of Texas Central, concluding that it had the power of eminent domain granted by the Texas Transportation Code.

The Court relied upon Texas Central’s status as an “interurban electric railway company” as its source of eminent domain power. The Texas Transportation Code section 131.012 grants eminent domain power to a corporation chartered for the purpose of constructing and operating “lines of electric railway between municipalities in this state for the transportation of freight, passengers, or both.” The parties disputed whether a modern High-Speed Rail company fit into such a definition because this statute was originally enacted in 1907 when the concept of modern High-Speed Rail had not yet been invented.

Miles argued that the statute could not be read to include companies such as Texas Central due to available technology during the time period it was enacted. In 1907, single-car trolleys “lumbering down Main Street” were used by interurban electric railway companies. Those trolley cars have not been used in Texas since 1948. Miles argued that the legislature of the time could not have intended to grant companies like Texas Central the power of eminent domain.

The Court rejected Miles’s argument. First, it noted that the law places no restrictions on the speed, size, and distance traveled of such railway transportation such that the law would be limited to the kinds of trolley cars that were used at the time. Further, the statute authorized interurban electric railway companies to construct a right of way up 200 feet in width; twice as wide as Texas Central’s proposed railway.



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Ask the Attorney

By: John P. Baker, Tony Attia and Charlie Wilson

Thus, the statute is compatible with the scale of the High-Speed Railway project. The Court noted that it has precedence for interpreting statutes to encompass later developed technologies. For example, the Court held that broadly written statutes governing telegraph companies applied to telephone companies even though the legislature did not have telephones in mind when the statute was written. The statute in question is written broadly enough to encompass modern High-Speed Railway companies such as Texas Central.

However, the Court cautioned that it could not interpret all statutes to incorporate modern technological developments; it depends on how narrow or broadly the terms in the statute are defined. For example, the statute refers to electric railway companies; therefore, it could not be used by a steam-powered locomotive. Although the trolley cars of the early 20th century are no longer used, this statute has remained on the books even as Texas has made efforts to eliminate expired provisions from the statutory codes.

The Court noted that landowners still have constitutional protections from entities exercising the power of eminent domain, such as the right to just compensation for property taken and damaged; judicial review of a condemnor's fraudulent or bad faith actions; and recovery of attorney's fees if a condemnation proceeding is dismissed by the condemnor. Thus, in the event that this project is unsuccessful, landowners still have some methods to rectify the damages suffered.

In conclusion, a High-Speed Electric Railway company may be granted the authority of eminent domain through the application of a Texas statute that grants the power of eminent domain to corporations chartered for the purpose of constructing and operating lines of electric railway between municipalities in this state for the transportation of freight, passengers, or both.

The views, thoughts, and opinions expressed in this article belong solely to the authors – John P. Baker, 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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Upcoming Event

ATTENTION ALL CHAPTER 36 MEMBERS! MARK YOUR CALENDARS! APRIL 3, 4 and 5, 2024. To all our Chapter 36 and Region 2 Members, I am pleased to announce that we have secured our venues for the **25th Annual Steve Baggett Memorial Golf Tournament** and **2024 IRWA Chapter 36 Spring Seminar: Hot Topics in Real Estate & Eminent Domain.**

In honor of the City of Arlington hosting the 2024 Major League Baseball All-Star Game, Chapter 36 will be hosting our annual **Golf Tournament** at **Texas Rangers Golf Club** on **April 3, 2024**, and on **April 4, 2024**, will be hosting our own **Chapter 36 “All-Star” Spring Seminar** at **Globe Life Field**, home of the World Champion Texas Rangers!

The Chapter is also in the final stages of securing the venue for the **Region 2 Forum** to be held on **April 5, 2024**, with an official announcement coming soon.



With hosting such events we are going to need a lot of support to make these events successful and knock it out of the park. We will soon be announcing some exciting news concerning sponsorship opportunities for the Golf Tournament, Seminar and Forum. If you have any questions about becoming a sponsor or if you wish to get involved with these events, you can contact me at matt.lance@hdrinc.com.



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President/Owner

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Professional Development Committee New Year News

By: Gina Phalen, PDC Committee Chair



Gina Phalen

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As you embark upon a new year, with new ambitions and goals, what better thing to do than work on a virtual IRWA class from the comfort of your home or office?

IRWA currently has 382 combined in-person and virtual courses scheduled in 2023-2024 so there is no shortage of opportunity to learn and earn your designations.

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!

Now that we have made it through the craziness that the Holiday Season brings its time to start planning any courses that you may need. As you start or are ready to finalize your schedule for the year let us know if you need any specific course as we might not have it added to this list. The schedule below is fluid as we are continually updating it as we look to pick up more courses that are held virtually. Also, remember that the full list of courses being offered is available on the link below. [IRWA Virtual Classes Calendar](#).



Juan Salazar

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Below is the schedule of classes for the upcoming year.

Chapter 36 2023-2024 Education Calendar

	Course	Location	Date
215	Right of Way Acquisition for Pipeline Projects	VIRTUAL	Jan. 25, 26, 2024
501	Residential Relocation Assistance	Trinity River Authority, Arlington, TX	Feb. 22, 23, 2024
410	Reviewing Appraisals in Eminent Domain	CBRE-Ft. Worth	Mar. 4, 2024
218	ROW Acquisition for Electrical Transmission Projects	TBD	Apr-2024
502	Non-Residential Relocation Assistance	TBD	Apr-2024
604	Environmental Due Diligence and Liability	TBD	May-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.



Marketing News



Seasons Greetings from Marketing/Sponsorship!

Sponsoring our beloved Chapter 36 through advertising in the newsletter, on the website, or both is a great way to increase your name recognition and support our organization. My deepest thanks to everyone who has already renewed for 2024. We appreciate your support more than you know!

The rate is still only \$300 for the year to put your company logo on our website and in each newsletter for 2024.

If you have not renewed yet, or would like to advertise with us for the first time, please contact Mary Watson at mwatson@tnpinc.com or 682-558-5752.

Have a wonderful holiday season!

Mary



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