

In this issue:

- June Luncheon Information
- President's Message
- Ask the Attorney
- Chapter News
- Upcoming Events
- PDC News

JUNE LUNCHEON

June 11, 2024

2024-2025 OFFICER INSTALLATION CEREMONY

Joe T Garcia's
2201 N Commerce Street
Fort Worth, TX 76164
La Puerita Building
11:30-1:00pm



NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

JUNE 2024



Joe T Garcia's
La Puerita Building
2201 N Commerce Street
Fort Worth, TX 76164
June 11th, 2024
11:30am-1:00pm

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

Menu: Nachos, Cheese Enchiladas & Beef Tacos
Walk-ins Welcome - \$35 (walk-in spaces are limited)
***We will have a FIRM CUTOFF once we reach capacity, so register early!**

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



CHARLES STEARMAN, SR/WA
REAL ESTATE APPRAISER

APPRAISALS & REVIEWS

TELEPHONE 817-797-9997
C.STEARMAN@TX.RR.COM



NORTH TEXAS NEWS

President's Message

Howdy Chapter Members,

I am amazed beyond words at just how fast this year went by in service as your Chapter President! As we gear up for summer break, the 70th Annual International Education Conference in Long Beach, and the Region 2 Summer Refresher in College Station, I would like to take a moment to reflect on this year, and say thank you to you, our Chapter members, for making this year so successful! It cannot be stated and emphasized enough that we would not be the largest and one of the most successful Chapters if not for your continued support. Thank you!

I also want to acknowledge the incredible team of Board and Committee members that I have had the pleasure to serve with this year who have worked tirelessly to make sure that our goal of stewardship to the membership has been maintained as our sole focus. Thank you all for all that you have done to make this a successful year!

Board

Vice President: Matt Lance
Treasurer: Leighton Gambill
Secretary: Tommy Matthews
Director 1 Year: Sarah Riebe
Director 2 Year: Michael Hale

Committees

Professional Development: Gina Phalen, Clara Castaneda, and Darlene Snow
Education: Juan Salazar, Danyelle Donnelly Daniels, and Ana Salazar
Programs: Dorrien Himes and Matt Browne
Young Professional: Miles Travis
Membership: Shannon Perkins
Public Relations and Marketing: Mary Watson
Website: Lisa Featherstone
Historian: Brent Patterson
Social Media: Kate Evans
Virtual and AV: Jacian Martin
Registration: Melissa Ehrhardt and Miriam Salazar
Newsletter: Ciara Brown

For the last time as President, 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! Serving as your Chapter President this year will forever be one of the biggest honors, and most humbling roles that I will ever have experienced, and I will always be appreciative of your vote and trust in me to serve in this position.

Please feel free to contact me if you have any questions or comments (wsnider@obrien-row.com) and thank you all again very much.

Best,

Will Snider



Will Snider

MAI, SRWA, RW-AC
Director at O'Brien Right of
Way Valuation
817.332.0200 ext. 225
wsnider@obrien-row.com

Chapter News



TEXAS LAND AND TITLE LLC



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



*PRESTONWOOD
PROPERTY
ANALYSIS*

REAL ESTATE APPRAISERS

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 done a case law update on speculative damages, particularly the two cases referenced in Little Elm Plaza?

Answer: We have not done a case law update on *Coble v. City of Mansfield* and *State v. Ledrec, Inc.* In two separate cases heard eight years apart, the Fort Worth Court of Appeals discussed the recoverability of certain types of damages to remainder property in an eminent domain proceeding.

In the *Coble v. City of Mansfield* case, Coble owned a 25.76-acre tract of land within the City of Mansfield. In 1997, the City of Mansfield (the “City”) sought to construct two, six-lane arterial streets on Coble’s land. After the parties were unable to agree on the compensation for the City’s taking, the City filed this eminent domain proceeding to acquire a 2.42-acre easement over Coble’s land. Prior to the trial, both parties filed competing Motions for Summary Judgment regarding the recoverability of damages to the remainder of Coble’s property.

Coble cited a City Ordinance, which was passed prior to its condemnation of Coble’s property. The Ordinance stated, “When residential subdivisions are platted so that the side or rear yard of the subdivision lots are adjacent to a highway frontage road or an existing or proposed four-lane- undivided or larger thoroughfare... a screening wall shall be provided along said frontage or thoroughfare.”

Coble argued that the City’s condemnation of his property for the thoroughfare would force him to build a screening wall on his property, and he should be compensated for such costs. The City countered by arguing that these damages were not recoverable because Coble had not shown that it was foreseeable he would be subject to the City Ordinance. The trial court denied Coble’s motion and granted the City’s Motion, preventing his experts from presenting testimony regarding damages to the remainder of the property due to the City Ordinance at trial. Coble appealed the denial of his motion.

The Fort Worth Court of Appeals affirmed the decision of the trial court, holding that Coble could not recover damages for the cost to comply with the City Ordinance because such damages were speculative. The Court explained that the highest and best use of Coble’s property was for single-family residential subdivision development, and in fact it was zoned for residential development. However, at the time of the condemnation, Coble’s property was vacant, unimproved land which had not yet been platted. Thus, while the property had the potential to be subject to the City’s Ordinance, it currently was not subject to the Ordinance.

Coble offered no evidence that the tract had been platted at the time of condemnation, nor that the rear or side yard would be adjacent to the proposed streets. On the contrary, the City offered evidence that Coble made an application to change the zoning classification of his property from residential to C-2 commercial. Therefore, the Court found that any damages claimed by Coble to comply with the City Ordinance would be speculative, remote, and conjectural. Due to the lack of evidence presented that Coble would be forced to comply with the City Ordinance at the time of the taking, the Court of Appeals held that the testimony of Coble’s appraiser regarding these potential damages was properly excluded.



John P. Baker

Baker Moran Doggett MA & Dobbs
1400 Preston Road, Suite 350
Plano, Texas 75093
469.351.3491



Tony Attia

469.351.3489
tattia@bakermoran.com



Charles Wilson

469.351.3487
cwilson@bakermoran.com

Eight years after the Coble decision, the Fort Worth Court of Appeals issued an opinion in the State v. Ledrec, Inc. case that distinguished its findings in Coble. Ledrec owned property adjacent to F.M. 1187 in Tarrant County, which was in the extraterritorial jurisdiction of the City of Mansfield as of the date of taking. The State of Texas sought to widen the road and condemn a ten-foot strip of land from the portion of Ledrec’s property that abuts the highway. Ledrec had two buildings that were thirty feet from the road before the taking but would be twenty feet from the road after the taking. The parties filed competing Motions for Summary Judgment on the admissibility of Ledrec’s expert testimony regarding the damages to the remainder of Ledrec’s property. The trial court granted Ledrec’s motion and denied the State’s motion. The parties filed an agreed interlocutory appeal.

Ledrec’s expert appraiser, James Maibach, testified in his deposition that the taking would damage the value of the remainder property by \$248,000, based upon the premise that the two front buildings near the road would be viewed by a potential buyer as obsolete and valueless. Maibach stated that although the property was in the extraterritorial jurisdiction at the time of the taking, it would inevitably be annexed by the City and be subject to setback ordinances which require all buildings to have a setback of at least thirty feet. Because the buildings would be nonconforming under Mansfield’s zoning and setback requirements once the property is annexed, they would not be valued in the eyes of a willing buyer at the time of the taking. The State’s appraiser, Nicole Schechter, opined in her deposition that the remainder property would only be damaged in the amount of \$58,740, based on a lower rental rate that the buildings could command.

The State argued that Maibach’s testimony is speculative and inadmissible as a matter of law because it is based on the possibility that the buildings would become obsolete and no longer generate income, since the City of Mansfield had not yet annexed the property nor indicated that it would do so in the near future. Given the Court’s holding in the Coble case, one may think that the Court would reach a similar conclusion. However, here, the Court of Appeals ruled in favor of Ledrec.

The Court of Appeals explained that the issue was whether Maibach could testify to a damage amount that is based on his opinion that the remainder property loses some or all of its income-producing potential as of the date of taking due to a potential annexation. Under Texas law, an expert may consider the effect of the possibility of annexation on the remainder property when calculating damages to the remainder property. Here, Maibach’s testimony was based on twenty years of experience as an appraiser that a buyer would presume that the two front buildings would not produce income because of the possibility of annexation and would not pay as much for the property as of the date of the taking. Thus, the testimony did not speculate as to what the value of the property would be in the future when the annexation occurs, but rather the current value of the property while considering the effect the potential annexation will have on the property’s use. Therefore, the Court held that Maibach’s testimony was based upon a proper measure of damages to the remainder of Ledrec’s property and thus affirmed the trial court’s order.

In conclusion, to avoid being excluded speculative damages, evidence must not be based on a speculative future value of the property, but rather based on the impact to the value of the property at the time of the taking.

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.



John P. Baker

Baker Moran Doggett MA & Dobbs
1400 Preston Road, Suite 350
Plano, Texas 75093
469.351.3491



Tony Attia

469.351.3489
tattia@bakermoran.com



Charles Wilson

469.351.3487
cwilson@bakermoran.com

**William·B·Maples¶
&·Associates·LLC¶
Appraisal·Review¶
432-559-8374¶**



Todd Property Advisors
Real Property Analysts, Inc.

O'BRIEN | **Value People.
Value Property.**
RIGHT OF WAY VALUATION



LJA



LPA
lowerypa.com



ML&M
REALTY ADVISORS, LLC



HDR



CAA
COMMERCIAL APPRAISAL ASSOCIATES



Sendero
Acquisitions, LP

Professional Development Committee News

By: Gina Phalen, PDC Committee Chair



Gina Phalen

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

As we close out another IRWA year, the PDC Committee would like to thank everyone for your support, hard work, and incredible success in obtaining numerous designations and participating in our educational offerings. We hope you will continue to approach learning with curiosity, open minds, and a desire for growth!

A big congratulations to our Greg Cook Memorial Scholarship winners! They have each earned \$1,000 to put towards their IRWA designation pursuits. Best of luck to you all!

- Chris Haller
- Christina Fewins
- Kyndal Bilyeu
- Josh Lambert
- Joanna Cooley

Congratulations to:

Ben Goss for earning his R/W-AC

Daniel Mees for earning his R/W-NAC

Wyatt French on earning his 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, SRWA, R/W-AC - PDC Chair

Clara Castaneda – SR/WA, R/W-RAC – PDC Chair (2 Yr.)

Darlene Snow – SR/WA – PDC Committee (3 Yr.)



NORTH TEXAS NEWS

Chapter 36 Advertisers



Education Committee News

Hello Chapter 36 Members!

Happy Memorial Day! I hope everyone had a great holiday weekend. Summer is officially here and kids are out of school and I am sure that brings all sorts of new norms. At this moment we are not offering any Courses during the summer months but I there is a Course you need or a closed Course that your company would like to host give us a shout and we can see how we can help you out. I would like to thank Clyde Johnson and Gordon McNair for Instructing Courses 604 and the SRWA Study Session. We had great attendance. I would like to thank all of our members for your support of the Committee’s efforts this year. We couldn’t have done it without you!!



Juan Salazar

RW-NAC, RW-RAC
Pinnacle Consulting
Management Group
Project Manager
817.371.9428
jsalazar@pinnaclegroup.biz

Below is the list of the Courses planned for the fall. We are actively looking to add to this list so don’t forget to visit <https://irwachapter36.org/Education> for any courses that are added. 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 soon.

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

	Course	Location	Date
219	Adult Communication Principles and Methods	Trinity River Authority, Arlington, TX	Sep. 16-17, 2024
504	Computing Replacement Housing Payments	Virtual	Sep. 24-25, 2024
505	Advanced Residential Relocation Assistance	Virtual	Oct. 23, 2024
403	Easement Valuation	CBRE, Ft. Worth	Nov. 6, 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.

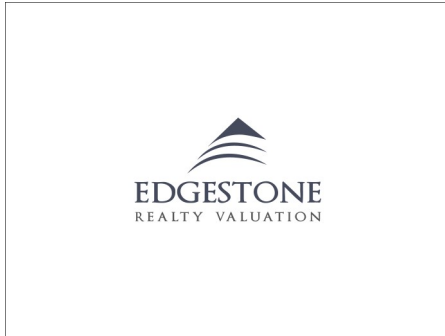
Marketing News



If you have not paid for your 2024 newsletter and website sponsorship, please contact Mary Watson at 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
817-926-9835

Chapter 36 Advertisers

