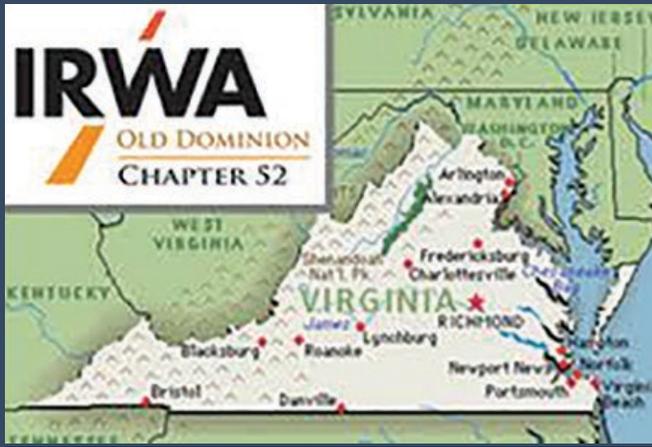


The Virginia Acquirer

In Honor of Mary Lou Gayle (1954-2019)

IRWA Old Dominion
Chapter 52 Newsletter
a/k/a "Mary Lou's Magazine"
Ross Greene, Esq., SR/WA, Acting Editor
Mike Perfater, Editor Emeritus



September

2020

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President's Message – Kevin Barkdull

Welcome to my first article. How do you like it so far?

First, I would like to remind everyone that this was supposed to be Mary Lou's first article as president.

Her loss is one that the chapter will feel for years to come.

Second, I would like to thank Lore for leading us through some very challenging times. Thanks for hanging in there and remaining calm through it all, Lore! It was a very rough year and you hung in there through it all.

Third, I would like to thank the Executive Board for all they have done and continue to do. As I have said before, you are only as good as the people around you, and we have some excellent people on the Board. They are working hard to figure out how to best serve our members during this pandemic. They are trying to determine the best way to move forward with education and professional fellowship during our current crisis, and I am confident that they will succeed.

I suppose I should now try to impart some words of wisdom from my many years of existing, since I have now entered a new decade. I am now older than dirt! The up side is that I now get all those senior citizen discounts!

I am not necessarily feeling presidential or wise, but I am missing baseball, so I will take my wisdom from the national pastime. Those of you that know me well know that I am a lifelong fan of the Chicago Cubs, those "lovable losers" from the north side of the Windy City that up until recently were best known for their inability to win a World Series for 108 years. There were several near misses, but most of that time was spent in the basement of the National League standings. That all ended in 2016 and I could cry tears of joy right now just thinking of it. (Sorry...brief interlude while I dry the keyboard.) Their fearless leader for that season was manager Joe Madden. Joe has since left Chicago, but he will always have a place in Cubs fans' hearts. Joe did what no one else had done for 108 years.



**IRWA Old
Dominion Chapter
52**

President's Message, Continued

What were Joe's words of wisdom? What was the team mantra that led them to the top of the baseball world in 2016? What succeeded when all else had failed? What led to the Cubs breaking the curse of the goat?

"Try not to suck."

That's right, "Try not to suck." From spring training all the way to the fall classic, those words were plastered all over the city of Chicago. You could not walk down the street without seeing people in t-shirts emblazoned with those words of wisdom. What was Joe trying to say? What inspired this team to greatness where 107 previous teams failed? Was Joe just some wack job who happened to be in the right place at the right time, or was Joe on to something? What does this have to do with right of way? I like to think that Joe was trying to say "Do the best you can and don't take yourself too seriously." Or maybe it's "Be professional, work hard but have fun along the way." All I know is that it worked for the Cubs and it has served me well too.

No one has ever accused me of being the sharpest knife in the drawer. Rin is the brains of the Barkdull family, as you all know. I do know this. We only get one shot at this life, so I am going follow Joe and try not to suck while being your president. Sorry, it's all I've got!

Thanks! Hope to see you soon!



Consultants Corner – Al Dorin, MAI, SRA, R/W-NAC

In the past few editions of Consultant's Corner, we exhausted our discussion on easements. Referring again to the VDOT Right of Way Manual of instructions and specifically to Section 4 of Chapter 4, I will continue to discuss Specialized Topics in Appraisal Development. While most of these topics will not need to be addressed in all appraisals, some will invariably be encountered by most eminent domain appraisers and right-of-way agents sooner or later. In this issue I will discuss those situations where vegetation, namely trees, or fencing is located within the area to be acquired or encumbered with an easement.

As with the widely accepted arbitrary selection of a percentage in the valuation of easements, estimating the contributory value, as recommended in the right-of-way manual, of a tree or other vegetation can be a daunting task for the appraiser. It is not uncommon in a road widening project for there to be a planting of some sort to be located within an area to be acquired or encumbered with an easement. These vegetative items can be natural in birth or intentionally planted for ornamentation or privacy enhancement. If the former, the contributory value to overall property value, unless affording a noticeable degree of screening for privacy or noise reduction, is likely negligible.

The first step in approaching this valuation challenge is to confirm if the planting will be impacted by the proposed construction. If it is in an area to be acquired in fee, its contributory value must be addressed. However, if it is in an area to be encumbered with an easement, a DND (Do Not Disturb) notation on the construction plans may be warranted if it is determined that such disturbance can be avoided.

If the planting is a tree and its trunk is either outside of the area to be acquired in fee or not to be impacted in an area in an easement, some landowners may contend that the tree's root system, which typically extends to the dripline of its branches, may be negatively impacted if soil excavation or filling is to occur. If such disturbance is extensive, it may necessitate future removal of the tree, which can be very costly depending upon the size of the tree and its proximity to nearby structures. The possibility of such speculative event is typically reserved for the negotiation process; nevertheless, any value impact, perceived if not real, needs to be addressed by the appraiser.

The second step of the valuation process would be a determination of the purpose of the vegetative items. Is it a natural area consisting of trees with timber value? Are there trees or other plantings that provide privacy or noise reduction? Are the plantings for ornamental purposes? Does the planting consist of a professionally landscaped area that may be a zoning requirement necessitating replacement if removed? If the answer is affirmative to any of these questions an appraiser will typically estimate a value of loss or a cost to cure.

A challenge often faced by appraisers in the valuation of trees or landscaping is the difference between replacement cost and contributory value. While the appraiser is tasked with estimating the market value of the latter, the influence of the former often prevails. One of the more interesting replacement cost methods is when an arborist provides an estimate for a mature tree of double-digit inch trunk diameter, which is often based on growth patterns and an exponential extrapolation of the cost of a much smaller diameter tree typically found in a nursery.

Consultants Corner – Al Dorin, MAI, SRA, R/W-NAC

Before exhausting discussion of this item, I would like to share another consideration when dealing with trees. Those agents who have negotiated acquisitions that include a tree or trees have probably encountered situations where the worth of a tree is much more to the landowner than what its market value would be to a potential buyer. For a property that has been owned by a resident for a few decades that has a 100-year old oak tree in the front yard that has provided one of its limbs for a swing for children and welcomed shade during hot summers (and is the only tree in the front yard), any attempt to minimize its contributory value would not likely be well-received by the landowner nor would a voluntary conveyance be obtained without a generous allowance for its perceived worth.

There are two situations when dealing with fencing that an appraiser must address before he/she can estimate either a value in the acquisition or a cost to cure for this item. The first step is to determine whether the existing fencing is an enclosure, such as for livestock, children, or some other type of security, or is it simply a site improvement for ornamental purposes. The latter may also be the result of fencing that was formally an enclosure but has since had sections partially removed either intentionally or unintentionally.

In the case of a re-enclosure, the appraiser is to obtain a replacement cost for the fencing that will need to be installed outside of the proposed right-of-way. This is best obtained from a local contractor with a written proposal that can be included in the appraisal report for the landowner to use or at least be shown as a bona fide replacement cost. In some instances, the estimate is obtained from a cost index guide with specific reference to a page and section number. The estimate for the section to be re-enclosed should be for fencing of similar quality and construction of the existing fencing. However, if the cost is less than the estimated depreciated value the fencing to be replaced, then the difference between the cost new and depreciated value should be treated as additional compensation for site improvements.

For fencing that is determined not to be part of an existing enclosure, it should be treated as a site improvement with its worth being based on contributing value to the improved property. As I believe most appraisers would agree, “contributing value” is most often subjective and can vary considerably between landowner and market perspectives. Many appraisers typically use a depreciated value of the fencing as a basis for its contributing value.

There are situations where existing fencing that is an enclosure is located within an area to be encumbered with an easement needed for utility line installation or possibly a temporary one for project construction. Since there may be a period between the removal of the fencing and the replacement of new re-enclosure fencing after utility installation or other associated construction, temporary fencing will be needed to maintain enclosure during that period. This is often accomplished with the orange colored vinyl fencing that can be easily erected and removed and less expensive than the cost of permanent fencing. In effect, the landowner is being compensated for two different lengths of fencing, both of which are considered a cost to cure. The items addressed in this edition typically involve an insignificant part of the compensation being offered to the landowner. Nevertheless, they are items that can be stubborn obstacles in obtaining a voluntary conveyance and the appraiser and right-of-way agent should be prepared in substantiating their value.

In Memoriam



We lost our much-loved friend and mentor Phyllis Lily recently. It is difficult to put into words how very much she meant to us and our Chapter and the IRWA. If you have pictures and/or anecdotes about Phyllis that you would like to be considered for inclusion in a larger memorial piece in a future issue, please do submit them to rgreene@pendercoward.com.

Announcements

Please help us congratulate Chapter 52's Dave Arnold who has been appointed as General Counsel of the International Right of Way Association!

PENDER & COWARD
ATTORNEYS AND COUNSELLORS AT LAW

www.irwaonline.org



The International Right of Way Association

is a professional member organization comprised of global infrastructure real estate practitioners. Its purpose is to improve people's quality of life through infrastructure development. Since its inception as a not-for-profit association in 1934, IRWA has served professionals who acquire, manage and transfer the land rights needed for building and maintaining energy and transportation infrastructure. Recognized for their high ethical standards, commitment to integrity and professional excellence, IRWA's nearly 10,000 members hail from over 15 countries around the world. IRWA members are united by their profession and mission to empower professionals by elevating ethics, learning and a standard of excellence within the global infrastructure real estate community.



Pender & Coward is pleased to announce that Dave Arnold, CEO and leader of the firm's eminent domain practice group, has been appointed as General Counsel of the International Right of Way Association.

www.pendercoward.com

Announcements, Continued

CONGRATS TO:

Dianne Williams for being voted Chapter Professional of the Year.

Al Dorin for being voted Chapter Professional of the Year.

Candace Jiménez-Slade for being voted Chapter Rookie of the Year.

Please help us congratulate them for their success!

Education

Upcoming virtual classes:



19210 S. Vermont Avenue, Building A, Suite 100
Gardena, CA 90248
Phone: (310) 538-0233
www.irwaonline.org

Course 501: Residential Relocation Assistance August 31 - September 1, 2020 Chester, VA



Course 501: Residential Relocation Assistance

Course Description:

This course discusses the processes and procedures involved in providing relocation assistance to residential occupants. Materials presented are based on the lead agency's (Federal Highway Administration) regulations in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.

PLEASE NOTE: Participants must read 49 CFR Part 24 prior to attending this class.

Course Level:

Intermediate

Course Tuition Includes:

Participant Manual
Federal Register

Topics:

- Replacement housing payments for residential owners and tenants
- Mobile homes
- Last resort housing
- Advisory assistance
- Moving payments
- Filing claims and appeals

Required Materials:

Financial calculator

Who Should Take This Course:

This course is designed to provide the fundamentals of residential relocation to right of way professionals.

Education, Continued



19210 S. Vermont Avenue, Building A, Suite 100
Gardena, CA 90248
Phone: (310) 538-0233
www.irwaonline.org

Course 504: Computing Replacement Housing Payments October 19-20, 2020 Virginia Beach, VA



Course 504: Computing Replacement Housing Payments

Course Description:

This course is designed for participants with thorough knowledge and experience implementing the Uniform Act. Realistic and complex situations are used as if the participants have been assigned to a small project requiring the relocation of the occupants of twelve (12) residential properties. The household surveys have been conducted and a copy of each interview sheet is contained in the materials provided. The participants act as the individuals assigned to compute the replacement housing payments on behalf of the Agency. Participants should have the knowledge to calculate basic payments, as group discussions and exercises maximizing practical application of the cases studies will be the emphasis of this course.

Course Level:

Intermediate

Course Tuition Includes:

Participant Manual
Federal Register

Topics:

- The importance of collecting the pertinent information at the interview stage
- Replacement Housing Payments for 90-day occupants
- Aliens not lawfully present
- Replacement Housing Payments for less than 90-day occupants
- Replacement Housing Payments for 180-day owner occupants
- Legal reference - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) as amended
- Regulatory Reference 49CFR part 24

Required Materials:

Financial Calculator

Who Should Take This Course:

This course is intended for experienced right of way practitioners who are in the field of relocation assistance.

Job Openings

Contract Land Staff – Botetourt County

JOB OPPORTUNITY



Contract Land Staff is looking for local Right of Way Professionals to join our growing team in Botetourt County, Virginia!

You **must be local** to be considered.

REQUIREMENTS

- ✓ 2+ years of Acquisition OR Title Experience
- ✓ MUST live in/near the Botetourt County area or willing to work in the project area with no per diem
- ✓ Prior electric experience is a plus!

IF YOU MEET THESE QUALIFICATIONS, PLEASE SEND YOUR RESUME TO
CAREERS@CONTRACTLANDSTAFF.COM



New Members

Chapter 52 Welcomes Our Newest Members!!!

Ashley Janecheck of the City of Virginia Beach

Amy Norman of Apex Clear Energy

Member Spotlight



Crystal Boyd

**City of Suffolk-Public Works Engineering Department
Land Acquisition Agent
442 West Washington Street, Suffolk, VA 23434**

Favorite pastime? Spending summers with my family camping at Lake Gaston and Kerr Lake.

What is the best flavor of ice cream in the whole world? Butter Pecan.

What is your favorite book from the past year? Battlefield of the Mind by Joyce Meyer.

What is your favorite pair of shoes? Flip Flops.

What is the worst job you have ever had? Cashier/Sales Associate at the local shoe department store in my hometown.

What would be your “go to” karaoke song? All of Me by John Legend.

What would be your dream vacation? Trip to the Greek Islands.

What is your biggest pet peeve? When people talk over you when you are trying to explain something. “Oh, I’m sorry... Did the middle of my sentence interrupt the beginning of yours?!”

What is your favorite midnight snack? Any kind of potato chips.

What’s the best piece of advice you’ve ever gotten? Never doubt yourself. You are so much more than you think.

What was your favorite toy as a child? Makit & Bakit Oven Stained Glass.

Event of the Month

Our Chapter Meeting will be held virtually via Zoom!

Date: September 11, 2020

10:30-11:30 AM: Board of Directors Meeting
(The Executive Board members will be meeting at The Virginia Diner)
(All are welcome to attend.)

12:00-1:30 PM: General Membership Meeting

Darryll D. Lewis, PE, PMP
Capital Improvements Program Manager
for the City of Suffolk will give a presentation:

**“Navigating the Public Involvement
Process in a Pandemic”**

[CLICK HERE FOR THE ZOOM LINK!](#)

Meeting ID: 820 6829 7793
Password: 743613

Recipe of the Month – Submitted by Ross Greene

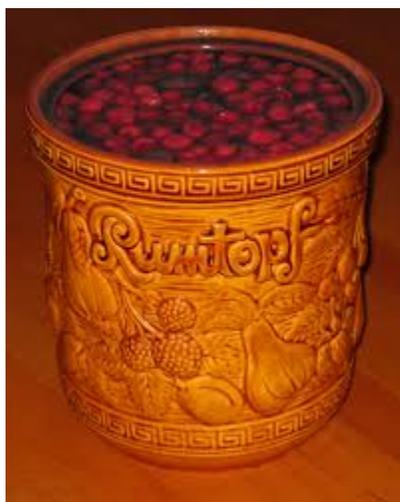
Rumtopf is a wonderful boozy fruit concoction from Germany. It refers to fruit that has been preserved in sugar and rum and is typically served on a slice of cake, pie, or bowl of vanilla ice cream. The name rumtopf, in traditional straightforward German fashion, translates to “rum pot.” As the story was told to me, the practice arose as a way to store fruit that would otherwise spoil and then around Christmas time could be opened to have a sweet fruit dessert. (These days with fruit available year round it can be made any time.)

INGREDIENTS:

Assortment of fresh fruit. Stone fruits seem to work best, such as peaches, pears, cherries, nectarines, apricots, or plums. However, strawberries work wonderfully. Blueberries, blackberries, bananas, melons, and apples are not recommended.

Sugar

80-proof rum minimum. You can use 151-proof rum, but it depends on how much you like rum. The end product still tastes very much like rum at 80-proof. 151 results in a final product more akin in operation to a jar of everclear with fruit than a dessert.



DIRECTIONS:

Use a clean crockery jar or any wide mouth glass container with a lid. Wash the fruits. Peel, remove pits, stems, etc. Slice or cut fruits in half, leave strawberries whole. Measure out the cups of fruit used and measure half that amount of sugar. (2 to 1 ratio). Layer fruit and sugar in jar and then pour over enough rum to completely cover fruit. To ensure fruit stays covered, place a piece of waxed paper directly onto the mixture and weigh it down with a plate to submerge fruit. Put cover on and place it in a dark, cool spot (or refrigerator) for at least eight weeks before using.

Recent Events

When you attend Chapter events, please take pictures of everyone having fun! We know they are such a good time it is easy to forget. Please send nice pictures from future events to us at rgreene@pendercoward.com or chirsch@pendercoward.com, for consideration for publication in the newsletter, at the editor's discretion.
Thanks!

Editor's Note: Given the paucity of events due to COVID, send us whatever nice pictures you want included in the newsletter, and we will consider them for publication. Please make sure to include details, i.e. who, when, where!

Word Search

IRWA



Find the following words in the puzzle.
 Words are hidden and .

ACQUISITION
 AGENT
 APPRAISER
 ASSET
 COMMERCIAL
 COMPENSATION
 CONDEMNATION
 CONSTRUCTION

DAMAGE
 DEED
 EASEMENT
 ENGINEER
 FEE
 GRANTEE
 GRANTOR
 IMPROVEMENTS

INSPECTION
 INTERNATIONAL
 IRWA
 LAND
 MARKET
 OPINION
 PARCEL
 PROJECT

PROPERTY
 RESIDENTIAL
 TITLE
 UTILITY
 VALUE