



Michigan



Vol 57, Issue 2 • February 2011

INTERNATIONAL RIGHT OF WAY ASSOCIATION

MICHIGAN • CHAPTER 7

March 10, 2011 General Membership Meeting Weber's Inn, Ann Arbor



Please register with: Larysa Figol, SR/WA
City of Troy, Engineering Dept

Mail: 500 West Big Beaver
Troy, MI 48084

Phone: 248-524-3380

Email: figoll@troymi.gov

Registration Fee: \$40.00

8:00 a.m. – 8:30 a.m.

Registration (remember to bring your real estate licenses)

8:30 a.m. – 8:45 a.m. Chapter President Laura Southwell SR/WA

Opening Remarks and Business Meeting

8:45 a.m. – 9:45 a.m. Gerard Lacey, MDOT - Certified General Real Estate Appraiser

Mega Projects Influence on Market Value – Blue Water Plaza

9:45 a.m. – 10:45 a.m. Richard A. Wolinski, MDOT, Wildlife Ecological Services,

Compliance and Mitigation

Unit - Road Ecology and MDOT programs

10:45 a.m. – 11:45 a.m. Larry Kestenbaum, County Clerk, Register of Deeds

Foreclosures and the stressed Residential Real Estate Market.

11:45 a.m. – 1:00 p.m. Lunch Please return to your seats by 1P promptly

1:00 p.m. – 2:00 p.m. David E. Burgoyne, ASA, SR/WA , Mark J. St. Dennis

Lions and Tigers and Bears! Oh My! Or... Foreclosures, Bank Re-sales, Short Sales and Seller Concessions! What do they mean? And just how does the appraiser handle them?

2:00 p.m. – 3:00 p.m. Ron Krauss, FHWA, Mi. Division Realty Officer and Special

Programs Coordinator Federal Update

Breaks will be given between speakers as time allows.

*If interested in overnight
reservations, contact
Weber's Inn at
1-800-443-3050*

Member Reminder

Log on to the IRWA website membership directory @ www.irwaonline.org to review and update personal information such as name, address, phone numbers and email address.

Are you a leader?

Give back to the IRWA and your local Chapter 7 by participating in one of the many leadership opportunities.

Serve on a committee or the Executive Board for the 2011/2012 term which starts July 1, 2011. Duties can be found on the Chapter 7 website under Forms.

If interested contact President-Elect, Kim Tassen, SR/WA at: tassenk@dteenergy.com

Suggestions for subjects/speakers are appreciated,
please send to:

Paul E Sander SR/WA: sanderp@michigan.gov

International Right of Way Association Michigan Chapter 7

2010-2011 Executive Board

Laura K. Southwell, SR/WA, R/W-RAC
President
Kimberly A. Tassen SR/WA, R/W-NAC
President-Elect
Paul E. Sander, SR/WA
Vice President
Steve R. Roon, SR/WA
Treasurer
Larysa A. Figol, SR/WA
Secretary
Michael Odette, SR/WA
Assistant Secretary-Treasurer

International Directors

Laura K. Southwell, SR/WA, R/W-RAC
Director, 1 years
Kimberly A. Tassen, SR/WA, R/W-NAC
Director, 2 years

Committee Chairs & Co-Chairs

Michael Odette
Asset Management

Laura K. Southwell, SR/WA, R/W-RAC
Jeffrey L. Jones, SR/WA, R/W-NAC, R/W-RAC
Education

Laura K. Southwell, SR/WA, R/W-RAC
Andrew Boetcher
Education Certification

William A. Horn, Esq.
Environmental

Laura K. Southwell, SR/WA, R/W-RAC
Finance

Edward R. Bradley, SR/WA
David C. Maturen, SR/WA
Historian

Glen Spence
Kenneth Smith
Michael Odette, SR/WA
Land Economics & Valuation

Raymond O. Howd, Esq.
Gary D. Strauss, Esq.
Law & Legislation

Chris Barnes
L.R. Cole
Theresa Vanis
Local Public Agency

Julie A. Sandzik
Membership

Beth Skowronski
Newsletter Editor

Jeffrey L. Jones, SR/WA, R/W-NAC, R/W-RAC
Norman G. Thomas, SR/WA
Nominations

Patricia A. Pettito, SR/WA, R/W-RAC
Parliamentarian

Gary E. Bowman, SR/WA
**Past Presidents
& Retired Members**

Carl L. Meyer, SR/WA, R/W-RAC
Pipeline

Paul E. Saunder, SR/WA
Program

Jeffrey L. Jones, SR/WA, R/W-NAC, R/W-RAC, R/W-URA
Recognition, Awards & Fall Seminar

Theresa Vanis
Jerald Rosenfeld
Relocation

Tim Davis, SR/WA, R/W-NAC
Roster

Lynn P. Hall, SR/WA
Silent Auction

Henry Horton
Christopher S. Lamus
Survey

Paul E. Saunder, SR/WA
Steve R. Roon, SR/WA, R/W-NAC
Transportation

Laura Stensland
Utilities & Liaison

Jim Aiello
Website

Professional Development
David C. Maturen, SR/WA
Class of 2010
Andrew M. Reed, SR/WA
Class of 2011
Norman G. Thomas, SR/WA
Class of 2012

Thank
You



President's Chapter Message-
Laura Southwell
SR/WA, R/W-RAC

Hello members
Happy New Year

I am hopeful everyone had a great holiday season and the New Year is starting off better than ever. Let's be optimistic that the economy in Michigan will improve this year and thus more right of way projects for everyone.

I want to thank everyone for renewing their membership in this fine organization. I would also like to thank the executive board for all the hard work you did last year making our chapter run better.

Members update, I have submitted the award applications to International for our Chapter. It would be great to win any of the awards to be presented at the Annual Education Conference in Atlanta, Georgia in June. There is more exciting news concerning a certain member, Mary Anne Marr, SR/WA. She has submitted her candidacy for the International Executive Committee Secretary. We are very proud of Mary Anne and support her fully in her decision to run for this position. Mary Anne and her employer Consumers Energy have done so much for our chapter. Good luck Mary Anne. If she wins we will have two members from Chapter 7 on the IEC, Pat Pettito, SR/WA, R/W-RAC and Mary Anne Marr, SR/WA. When Pat became a member of the IEC, that the first time Chapter 7 had representation at that level, since William Reid served as International President in 1976-1977! Yahoo, Chapter 7!

Our Chapter is full of great leadership. In addition to the IEC candidates, this is the first time that all members of the Executive Board hold SR/WA designations. This demonstrates a wealth of education and experience that we are very proud of.

Norm Thomas, SR/WA has ordered our new name badges and worked very hard getting our 1st ever banners to market our Chapter. The new badges will be presented to members at next general membership meeting. Thank you, Norm.

Please be sure to mark your calendars for the next general membership meeting to be held on March 10th at Weber's Inn in Ann Arbor and the next executive board meeting will be April 7th at Commonwealth in Jackson. Everyone is welcome to the board meetings and encouraged to come and see how your chapter is run.

Sincerely,

Laura Southwell, SR/WA, R/W-RAC
President, Chapter 7 Michigan

Laura Southwell

Two Chapter 7 Leaders among the 2011-2012 IRWA International Office Candidates



“I have enjoyed my third year of serving on the International Executive Committee . While we have accomplished a great deal over the past year, there is still so much to do. I am honored to have the opportunity to continue my commitment to the success of our Association by serving as your President-Elect.”

**Patricia Petitto, SR/WA, R/W-RAC
International President-Elect**



“I am excited about our future, and believe by continually adapting, looking for new opportunities and asking ourselves what we can do differently and better, our Association and members will continue to be the central authority for the right of way profession.”

**Mary Anne Marr, SR/WA
International Secretary**

Chapter 7 Increases Marketing Power

After extensive research it all came together by attending the Region 5 forum last fall. Identifying the banners Chapter 7 intended to create for Michigan marketing was given a great advantage when Daniel Stekol, Business Development Officer, attending from International said “we can help with this”. Daniel put things in motion and by utilizing International for layout and a company that works with International on banners, our Chapter was able to save more than \$1200!

The banners coordinate with the new International color schemes and logo while maintaining the Michigan Chapter logo. They will be present at General Membership meetings, education classes and tour the state situated at booths promoting IRWA and the professional disciplines our Members bring to a project.

If you have a conference or location/event our Chapter should be represented – contact Marketing Chair:

DAVID MATUREN, SRWA,
1125 E MILHAM AVE
PORTAGE MI 49002-3013
maturenappraisal@aol.com
(269) 342-4800



Welcome New IRWA Chapter 7

| | |
|-------------------|--|
| Debra Dennis | Consumers Energy |
| Daniel Munzel | International Transmission Company (ITC) |
| Jean Kim | International Transmission Company (ITC) |
| Mario R. Castillo | A.S.K. Services, Inc. |
| Anita L. Green | A.S.K. Services, Inc. |

A total of **32** members joined the Michigan Chapter 7 International Right of Way Association in 2010!

When given the opportunity, please introduce yourself and share the many benefits of membership.

For new member registrations:

Visit **www.irwa.com**
or contact Julie Sandzick
jsandzick@rcoc.org

Volume 57, Issue 2

Legal News-Condemnation Cases

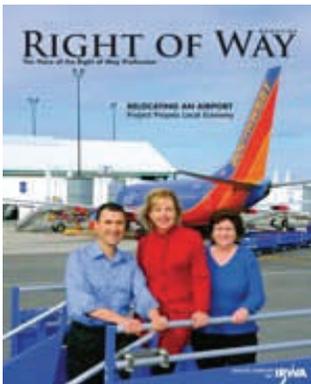
By Gary Strauss, Esq.– Chapter 7 Law & Legislation Committee

In *Grosse Ile Twp v Grosse Ile Bridge Co*, 477 Mich 890 (2006) the Michigan Supreme Court upheld dismissal of the condemnation action because the condemning agency attempted to acquire the Grosse Ile toll bridge which extended beyond the Township's jurisdictional limits. Subsequently, on September 28, 2010 in *Grosse Ile Township v Grosse Ile Bridge Company* (docket no. 291255), the trial court awarded the owner's attorneys "actual reasonable attorney fees and other expenses incurred in defending against the improper acquisition" pursuant to MCL 213.66(2). The Court rejected the Township's arguments that (1) fees must actually be paid to be reimbursable; (2) the fee agreement did not provide for attorney fees related to dismissal; (3) the Township should not be liable for other counsel retained by owner's counsel; and (4) the case was dismissed for reasons other than lack of necessity.

In *Charter Township Of Lyon v Huffman*, decided December 16, 2010 (docket no. 293531), the Michigan Court of Appeals reversed the trial court's ruling that the Township was liable for attorney fees in the amount of 1/3 of the special assessments that the Township had planned to impose on defendants' property in addition to the statutory 1/3 attorney fee. The Court held that MCL 213.66(3) limited reimbursable attorney fees to increases in just compensation. Additionally, the Court held that the circuit court erred in concluding that the township was "taking" special assessments.

In *Department of Transportation v Pavlov Properties*, decided December 16, 2010 (docket 286926), the Court of Appeals retroactively applied MCL 213.55(3) the statute dealing with claims for additional damages. MDOT asserted that owners' business interruption claim lacked sufficient detail as required by MCL 213.55 (3). The Court held that the owners complied with the amended MCL 213.55(3) which provides that with regard to claims that have not fully accrued or are continuing in nature "the owner shall provide information then reasonably available that would enable the agency to evaluate the claim."

If the reader wants a fully copy of any of these decisions, email Gary Strauss at strausslaw@att.net.



Right of Way Magazine Launches a Digital Edition

In response to an outpouring of interest, IRWA has added a new membership benefit... at no additional cost! In addition to receiving the printed magazine, you can now view our digital edition anytime, anywhere. Check it out at

www.rightofwaymagazine-digital.org.

2000 Baum Family Trust v Charlevoix County Road Commission: A Primer on Riparian Rights and the Law of Dedications

By Raymond O. Howd, Esq. Law & Legislation Committee

On December 29, 2010 the Michigan Supreme Court decided a significant case involving the issue of who possesses riparian rights to a lake, where property owners' lots in a platted subdivision are separated from the water by a statutorily dedicated public road that a county road commission has accepted and maintains. *2000 Baum Family Trust v Charlevoix County Road Commission*, --__ Mich --__ (MSC docket No 139617). In order to answer this question, the Court analyzed the history of Michigan law concerning statutory and common-law dedications, abandonment, property rights of abutting landowners, the nature of the property interest acquired by a road commission under the applicable plat act, and how that property interest may affect riparian rights. The Court's opinion contains a thorough review of property law in these areas. IRWA members should read the entire opinion. It can be found at http://coa.courts.mi.gov/documents/opinions/final/sct/20101229_s139617_93_baum-op.pdf

The Court held that the Charlevoix County Road Commission (CCRC) possessed a "base fee" interest in the streets dedicated under the 1887 plat act. A base fee is a "fee in trust", limited in scope and duration. Through a conveyance under a platting statute, the "fee" the county receives is not "title in the nature of private ownership". The county does not possess the usual rights of a proprietor. The fee typically conveyed under a dedication of streets in a recorded plat is one "in trust to and for the uses and purposes designated and for no other purpose whatever". A base fee in a public road running parallel to the water has never been thought to divest front-lot property owners of their riparian rights, much less convey riparian rights to the county.

Accordingly, the Court held that only the front-lot owners abutting the dedicated road between their lots and the lake had riparian rights. Neither the Charlevoix County Road Commission nor the back-lot owners had any riparian rights.

It should be noted that the Court relied heavily on the language of the 1887 plat act in defining the nature of the CCRC's property interest in the road. The Court found it unnecessary to determine whether the 1967 legislative change in the description of the interest conveyed from "fee" to "fee simple" was significant. The Court found that the language of the pre-1967 plat acts and the case law interpreting those statutes afforded it sufficient guidance to decide this case. The question remains then, whether a different outcome would be reached under the current plat act, especially if the "fee simple" language were interpreted to create a "common law fee title" in the road commission, capable of destroying riparian rights. But that issue will have to wait for another case, another day.

Although there were three Justices who dissented (Davis, Cavanagh, and Hathaway), the majority concluded that the CCRC did not have riparian rights along Beach Drive:

The "fee" conveyed by the 1887 plat act is held "in trust to and for the uses and purposes therein designated, and for no other use or purpose whatsoever." The particular property interest created by the statute, a "base fee," conveys to the receiving governmental entity only "nominal title." A base fee in a public road running parallel to the water has never been thought to divest front-lot property owners of their riparian rights, much less convey riparian rights to the county. In the history of Michigan property law, no Michigan decision has ever suggested these propositions, and every Michigan decision that has addressed the exact issue before us has concluded as we do, that riparian rights rest with the front-lot owners. On the authority of our longstanding caselaw, and mindful of the particularly compelling mandates of *stare decisis* in the realm of property law, we hold that plaintiffs have riparian rights, as similarly situated persons have always had in this state. Accordingly, we reverse and remand the case to the trial court for proceedings not inconsistent with this opinion.

Want more? See the entire article by Raymond O. Howd on the Chapter 7 website!

Education & Development

Register Today for Upcoming Courses!

Contact: Laura Southwell, SR/WA, R/W-RAC: Southwelll@wcroads.org

Course 205: March 23-24

Bargaining Negotiations

East Lansing
Marriot at University Place

Facilitator Roland B. Cilke, SR/WA.

Course 801: June 1-2

Land Titles

Webber's Inn, Ann Arbor

Facilitator Raymond O. Howd.

Course 802 : June 3

Legal Aspects of Easements

Webber's Inn, Ann Arbor

Facilitator Raymond O. Howd.



The IRWA Young Professionals Group was developed by individuals 30 and under in the right of way industry...for individuals 30 and under in the right of way industry.

Members of the Young Professionals Group consist of individuals 30 and under currently in the Right of Way profession or individuals who are new to the right of way profession and would like to start their careers off in the right direction. As a member of this group, you can...

- ...connect with other young members in the ROW industry.
- ...get a head start on advancing your career in the ROW industry.
- ...learn from the experiences of other young members.
- ...share your experiences with other young members.
- ...exchange ideas.
- ...network and make new contacts to assist in your current ROW work.
- ...be notified of events specifically for the Young ROW Professional.
- ...and much more!

Join the IRWA Young Professionals Group on [LinkedIn!](#)

Upcoming Event

****IRWA Young Professionals Education and Networking Event****

This event is open to all individuals ages 30 and under in the RO W Industry.

Dates: March 30, 2011-April 1,2011

Location: Rio Las Vegas, Las Vegas, NV

For more information regarding this group, please contact

Jade Yoong, Meetings & Events Manager,

at (310) 538-0233 x 146, or by email at yoong@irwaonline.org



Roland B. Cilke
President
Cell: (231) 218-9018

4110 Copper Ridge Drive, Suite 255
Traverse City, Michigan 49684
Business: (231) 929-3434 Ext 16
Fax: (231) 929-7011
Email: rcilke@whitepinecompanies.com

Oil & Gas
Wind Energy
Right-of-Way
Title

Patricia A. Petitto, SR/WA

Greenstar & Associates, LLC
Real Estate Services for Local Public Agencies



(248) 342-6640
petittopa@aol.com
4840 N. Adams Road
Suite 183
Rochester, MI 48306



Specializing in Real Estate Acquisition Services for Public Agencies

Margaret Stekete
President

1624 Seminole Rd SE
East Grand Rapids MI 49506
616 560 4088 Phone
616 452 1608 Fax
firstrow@grar.com

R.S THOMAS & ASSOC., INC. • *Harold Blake Co.*
Established 1980 Established 1915

**Real Estate Appraisers
and Valuation Consultants**

33620 Five Mile Road
Livonia, MI 48154

Norman G. Thomas, ASA, SR/WA **Phone (734) 422-5353**
President **Fax (734) 422-5354**

Market Street
LAND SERVICES



Valerie Ferrero Lafferty, Attorney
SR/WA, State Certified General Appraiser
4097 Shoals Drive, Okemos, MI 48864
p. 517-349-6660 f. 517-349-8489
laffertyv@corncast.net

Consultation • Representation • Mediation
<http://marketstreetlandsvcs.googlepages.com/rightofway>



Randall L. Hansen
GENERAL MANAGER

ELEXCO LAND SERVICES, INC.

P.O. Box 313 (810) 364-7940
Marysville, MI 48040 Fax: (810) 364-8120
Email: rhansen@elexco.com

TEL 231.929.4555 ext.16
CEL 231.218.9018
FAX 231.929.0099
WWW.cellere.us
rcilke@cellere.us



4110 Copper Ridge Drive, Suite 204
Traverse City, MI 49684

Roland B. Cilke, CPL, SR/WA
President

APPRAISAL ASSOCIATES, INC.

Residential
♦
Commercial
♦
Industrial
♦
Business Valuations
♦
Litigation Support

Richard W. Roth, R/W-AC
Certified General Appraiser #1201002965

4025 W. Main Street, Suite 101
Kalamazoo, MI 49006
269-381-8444 ext. 19 Fax 269-381-3141
800-728-8444

Quality Service Since 1976
Grand Rapids • Holland • Kalamazoo

Jerald A. Rosenfeld
PRESIDENT
jar@jrgroupinc.com

JR GROUP
REAL ESTATE CONSULTING
LLC
ACQUISITION | RELOCATION | DISPOSITION

P: 313.965.3300
F: 313.557.1265
866.457.4552
C: 248.470.7080

1407 RANDOLPH, SUITE 300, DETROIT, MI 48226

CARLSON APPRAISAL COMPANY

1710 Nottingham
Lansing, MI 48911

Scott M. Carlson
State Certified General Real Estate Appraiser

Phone: 517-485-7366
Fax: 517-485-7344
Cell: 517-290-0856
E-mail: scottclson@aol.com



Lynn P. Hall, SR/WA
Senior Land Agent

ELEXCO LAND SERVICES, INC.

106 Huron Blvd., Suite A, Box 313, Marysville, Michigan 48040
Office Tel: (810) 364-7940 Office Fax: (810) 364-8120
Cell: (810) 334-0404 lhall@aone-elexco.com
www.elexco.com



Land Matters LLC

Deborah S. Poeder
Owner / President
dpoeder@landmattersllc.com

0-703 Lake Michigan Drive, NW, Suite B • Grand Rapids, MI 49534
Phone: 616 . 791 . 9805 • Fax: 616 . 791 . 9815
www.landmattersllc.com

Tracy Lawrence
Land Management & Community Relations



In business to deliver

5250 Corporate Drive Tel: 248.205.7515
Troy, MI Fax: 248.205.4715
USA 48098 Cell: 810.730.0134

tracy_lawrence@transcanada.com



MICHIANA LAND SERVICES, Inc.

1270 Blackhawk Trail
Benton Harbor, MI 49022

Phone: (269) 208-0155
Fax: (574) 234-1087

E-mail: meyer@michianalandservices.com
Web Site: www.michianalandservices.com

Carl L. Meyer
President



Commonwealth
associates, inc.

Tim Davis, SR/WA
tdavis@cai-engr.com
Section Manager / Land Services

P.O. Box 1124 | Jackson | Michigan 49204-1124
Office 517-768-7153 | Cell 517-673-0053 | Fax 517-788-3003
JACKSON, MI • ATLANTA, GA • MOUNT VERNON, WA

William A. Horn
Attorney

Mika Meyers Beckett & Jones P.L.L.C.

900 Monroe Avenue NW
Grand Rapids, MI 49503

Web: mmbjlaw.com
Tel 616-632-8000 Fax 616-632-8002
E-mail: whorn@mmbjlaw.com



O. R. Colan
ASSOCIATES
REAL ESTATE SOLUTIONS FOR PUBLIC AGENCIES

Mark Chovan
Project Manager

6530 Secor Road, Suite 8, Lambertville, MI 48144
phone 866-320-8171
cell 419-279-5166
mchovan@orcolan.com • www.orcolan.com

Advertising

If you are interested in advertising in the Great Lakes State•ment and/or the Membership Roster, please contact Tim Davis for rate information.

Current Rates:

| | | | |
|---------|----------------------|----------|------------------|
| \$75.00 | GLS business card | \$150.00 | Roster half page |
| \$75.00 | Roster business card | \$225.00 | Roster full page |

Advertisers will need to provide their own ad or business card.

Tim Davis
517 768 7153/phone
trdavis@cai-engr.com/email

The Great Lakes Statement is a publication for the members of MI Chapter 7 International Right of Way Association (IRWA). Stories and articles of interest are encouraged. Please forward your submissions to:

Beth Skowronski,
Newsletter Chair/Editor
517 788 0752
baskowronski@cmsenergy.com

Submissions for the April newsletter due by: **April 1, 2011**

For information on IRWA MI Chapter 7, please contact the Secretary:

Larysa Figol, SR/WA
figoll@troymi.gov

February 2011
Vol.57 No.2

Tim Davis
Commonwealth Associates
PO Box 1124
Jackson, MI 49201



**Address
Correction
Requested**

General Membership Meeting
March 10, 2011
Weber's Inn, Ann Arbor

When: March 10, 2011
Where: Weber's Inn

Please register with: Larysa Figol, SR/WA
City of Troy, Engineering Dept.

Mail: 500 West Big Beaver
Troy, MI 48084
Phone: 248-524-3380
Email: **figoll@troymi.gov**
Registration Fee: \$40.00

