

IRWA

ORANGE COUNTY

CHAPTER 67

International Right of Way Association Chapter 67 Orange County, California



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BUNDLE of WRITES

May 2017

Can you believe it is already May? Our Chapter year is almost over. Notice I said almost. We have some important events coming up.

Our May luncheon is also our time for electing new officers for the 2017-2018 year. We have a great slate of leaders who have already provided their time and talent to the chapter and are willing and able to continue leading us into the coming year. So come and cast your ballot and show your support of our chapter. Again, I encourage everyone to consider a board position. It is a great way to get involved with the chapter, network with your fellow members and work with a group of amazing people. There are positions for every level of time and commitment. To learn more, please stop by the Board meeting immediately following the lunch.

As we leap into the new fiscal year, we are also making the leap into electronic payments. As I mentioned last month, the chapter will be rolling out the TicketLeap advanced payment and registration options shortly. We will also be able to offer members the option of paying by credit card at the door. The Board has agreed to subsidize the transaction fee as we get used to this new system. More information and details will be coming soon.

One final note: the Board has noticed that attendance at our luncheons has been down recently. So I ask, what is it that you would like to see at our meetings? Are there particular speakers and/or topics that are of interest? Please let us know. We want to make sure our members are getting the most from their membership and especially the regular lunch meetings. So if you haven't been for a while, I invite you to come this month and share what IRWA and in particular Chapter 67 can do for you. And bring a friend.

Looking forward to seeing everyone (and their friends) on May 9th!

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Welcome readers back for the May edition of our newsletter.

If you would like to contribute content to the newsletter, have questions or any ideas to improve the content please contact me at gbecerra@opcservices.com or (949) 951 5263

Upcoming Events:

May 9th Luncheon

Topic: Legal Aspects of Easements: Agency, Legal and Appraisal Considerations

Speakers: Rick Rayl, Esq. of Nossaman LLP

June Luncheon

The June lunch will be moved to a new date – it will be June 20th due to a conflict with the IRWA International Education Conference in Anchorage.

Advanced Residential Relocation Assistance Course 505

Date: May 17, 2017

Location: City of Irvine, Civic Center Plaza (details below)

Principles of Real Estate Appraisal Course 400

Date: May 31 - June 1, 2017

Location: County of LA Department of Public Works in Alhambra

Sponsored by Chapter 1. [Click here for more information.](#)



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ATTENTION MEMBERS!!!

New Chapter Policies as of 4/11/17

Advanced Lunch Registration Discount

Members registering at least three business days in advance will receive a \$5 discount off the lunch price.

Advanced Lunch Registration – No Shows and Refunds

Refunds for lunch payments made in advance will not be issued within 3 business days of the lunch.

Refunds of amounts paid electronically will be reduced by the processing fee which is currently being absorbed by the Chapter.

Members registering in advance who don't attend the lunch will be charged \$20 (or the established discounted advanced registration price), unless eligible for a refund as stated above.

From your Nominations & Elections Committee

Just a reminder that we will be electing our new officers for 2017-2018 at our meeting on May 9th. The elections committee has nominated the following people to serve as our officers, but we will be accepting nominations from the floor.

Proposed Slate of Officers for 2017-2018

OFFICER	NOMINEE
President	Artemis Manos
President-Elect	Alyson Suh
Treasurer	Meredith McDonald
Secretary	Amanda Fitch
International Director - 1 year	Artemis Manos
International Director - 2 years	Alyson Suh



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IF I OWN MINERAL RIGHTS CAN I DO A 1031 EXCHANGE?

by James Miller, Esq., Manager, Southwest Region of IPX1031

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*Article Originally Published in the REALTORS® Land Institute's
Publication the Terra Firma, Winter 2012*

Ed. We are grateful for Bradley Broussard of Bradley Broussard Land Services, Inc. of Lafayette, LA for introducing this article to our attention.

Frequently, owners of rural property are approached to sell oil, gas or mineral rights in their land. There are several types of oil, gas and mineral rights (hereinafter collectively referred to as "minerals"). A mineral estate is the perpetual interest in all the minerals in or on the land. The mineral rights can be sold as a whole (separate from the fee interest); but, frequently they are divided into lesser interests such as mineral leases, mineral royalties and production payments. This article will define each of them, identify whether they are considered to be real property interests that are eligible for a 1031 exchange and discuss some opportunities they present to rural land owners and advisors.

Mineral Lease

A mineral lease (sometimes called a working interest or operating interest) gives the lessee the right to extract the minerals. The lessee bears the costs of exploration and extraction. The lease right can be operated by the lessee or subleased to other operators. This right may be limited to a set period of time (or amount) or may extend until the minerals are exhausted; any limitation of time or amount is likely to impact its eligibility for a 1031 exchange. The lessee's interest in a mineral lease is considered to be a real estate interest for federal tax purposes. Accordingly, provided the lessee has a perpetual right to extract the minerals without being limited in the amount that may be extracted, it is considered to be like-kind to real estate for 1031 purposes.

The lessor of a mineral lease retains a royalty interest and cannot do an exchange with the creation of the lease. The lessor is considered to have retained an economic interest in the property being leased. If the lessor desires to create an exchange opportunity, they should sell the mineral estate (not retaining any royalty interest) instead of leasing it. The sale of mineral interests has been held to be like-kind to fee interests.

Mineral Royalty

A mineral royalty is a non-operating interest in the minerals and the holder bears no cost of production. The holder of it has the right to receive a designated percentage of all minerals produced for the life of the mineral lease. Similar to a mineral lease, a mineral royalty is also considered to be real property for federal tax purposes and is exchangeable.

If the lessee in a mineral lease subleases its rights but retains a royalty interest, this creates what is called an overriding royalty interest. The IRS has ruled that unimproved real estate may be exchanged for an overriding oil and gas royalty. Stated differently, an overriding royalty interest can be valid replacement property purchased in a 1031 exchange. However, it cannot be the relinquished property (property being sold) if the seller is retaining any royalty rights. Similar to a lessor in a mineral lease, if the owner of a mineral royalty wants to create an exchange opportunity, they should sell the mineral royalty outright and not retain any royalty interest.

Production Payment

A production payment is a right to the mineral in place for a specified sum of money. It is considered to be a “carved out” payment and is not considered to be real property for federal tax purposes. Accordingly, the exchange of a production payment for an interest in real estate will not qualify under Section 1031.

To summarize, a mineral lease and mineral royalty are considered real property for federal tax purposes and may be eligible for a 1031 exchange; whereas, a production payment is not like kind to real estate and is not eligible for 1031 treatment.

Whether a mineral lease is eligible for 1031 treatment depends on whether the party is the lessor or the lessee. Since a mineral lease is an interest in real property, the lessee can receive the mineral lease as replacement property in the 1031 exchange after selling an interest in other real property.

However, since the lessor retains a royalty interest (but does not convey the entire real estate interest) this is not eligible for 1031 treatment.

To make the transaction eligible for a 1031 exchange, the lessor should sell the mineral interest instead of entering into a mineral lease. Similarly, the sale of or purchase of a mineral royalty is eligible for 1031 treatment unless the seller retains a royalty interest (overriding royalty interest).

Exchanges involving mineral interests, mineral leases and mineral royalties and can be very beneficial for land owners by allowing them to better utilize the value of their asset. Because you are their representative, you benefit too. Let’s assume that you have a client who farms or ranches a tract of land. They can sell their mineral interests without selling the fee to the property, do a 1031 exchange and acquire as their replacement property additional acreage to farm or ranch or acquire other income producing property which can supplement their income or prepare them for retirement. In addition, the replacement property could be a mineral lease or mineral royalty interest in a different property. All of this can be achieved legally without paying taxes.

In addition to benefiting land owners, 1031 exchanges can be beneficial to companies that own mineral leases and/or mineral royalty interests. A company can reposition its assets by selling mineral leases and exchanging them for other mineral leases or mineral royalty interests. The sale of mineral leases may also involve the transfer of equipment and other tangible personal property. By doing a multi-asset exchange they can defer paying taxes on any depreciation recapture as well as any appreciation of the lease interest.

Although the applications are numerous and the process of doing a 1031 exchange does not need to be complicated, taxpayers are always advised to seek the advice of competent tax and legal advisors.

Jim Miller is the Attorney – Manager for the Southwest Region of IPX1031. IPX1031, a Qualified Intermediary, is the national leader in 1031 tax- deferred exchange transactions and a wholly owned subsidiary of Fidelity National Financial, Inc. He is an approved LANDU instructor for the Tax Deferred 1031 Exchanges Course and helped author the ALC Exam and the “ALC Core Course Manual.”

Mr. Miller may be reached at 602.850.8630 or at james.miller@ipx1031.

About the REALTORS® Land Institute

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505 Advanced Residential Relocation Assistance 05.17.17 Irvine, CA



Course 505 - Advanced Residential Relocation Assistance

Course Description:

This course requires a thorough understanding of the relocation process. This course begins with an awareness exam; then, in case-study format, covers residential relocation issues. There is a detailed analysis of each case study so that participants understand the lead agency's theory behind its interpretation of the situation. Facts are applied in order to simulate a relocation that is consistent with the intent of the Uniform Act.

Course Level:
Advanced

Topics:

- Limited Housing Resources
- Large Dwelling/Small Household
- Seasonal Residences
- Relocates Receiving Public Assistance
- DS & S Standards and Occupancy Codes
- Barrier Free Housing
- Major Exterior Attributes and Carve-Outs
- Partial Interest Owners

Course Tuition Includes:

- Participant Manual
- Federal Register

Required Materials:

- Financial calculator

Who Should Take This Course:

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

Last Name First Name

Title

If payment includes the fees for registrants other than yourself, check here:
(Please submit names of other registrants on a separate paper along with this form)
Will you also be attending? Yes No

Company Name

Address

City, State, Zip/Postal Code

(____) _____ - _____ Yes No _____
Phone Member Member ID Number

Email Address

	Registration Deadlines	Member Tuition	Non-Member Tuition	Total Tuition Amount
On and Before:	04/30/2017	\$265.00	\$330.00	_____
On and After:	05/01/2017	\$290.00	\$355.00	_____

Total Member Registrants: _____
Total Non-Member Registrants: _____

PRINT NAME AS IT APPEARS ON CARD: _____ 3-DIGIT CVV: _____

AMEX MC VISA Card #: _____ EXP: _____

SIGNATURE: _____ Date: _____ Amount to be Charged: _____

505 Advanced Residential Relocation Assistance 05.17.2017 Irvine, CA

Sponsor: IRWA Chapter 67
Date: May 17, 2017
Time: 1 day – 8 AM to 5 PM
City: Irvine, CA

Class Location:
City of Irvine - Public Works
1 Civic Center Plaza
Irvine, CA 92606
Phone: (949) 724-7303
Participant Capacity: 25

Four Ways to Register:
Online: www.irwaonline.org
Fax: (310) 538-1471
Phone: (310) 538-0233, x134
Contact Course Coordinator

Accommodations:
Holiday Inn Orange County Airport
2726 S. Grand Ave
Santa Ana, CA 92705
Phone: (714) 481-6305
Fax: (714) 966-2747
Contact hotel directly for rates and reservations

Course Coordinator:
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Michele L. Folk, SR/WA, R/W-RAC, R/W-URAC, R/W-NAC, is a Principal and the Managing Director of Housing and Local Public Agency with Overland, Pacific & Cutler, Inc. (OPC), a right of way consulting firm, and she has been managing and providing land acquisition and relocation services for public agencies and private developers since 1999. Ms. Folk has developed and taught internal relocation courses for OPC staff, as well as taught relocation classes to local public agency staff and for the IRWA. Her particular specialty is guiding clients and managing projects involving HUD funding. Ms. Folk member of the International Relocation Assistance Community of Practice and was a member of the International Professional Development Committee. She has been involved with IRWA relocation course updates and revisions since 2009. She has held numerous local chapter Board and committee positions, including President, Professional Development Chairperson and Relocation Committee Chairperson in Chapter 67 since 2000, and she was the Region 1 Representative to the International Relocation Assistance Committee from 2008 – 2013. Ms. Folk was awarded Chapter 67’s Professional of the Year and Region 1’s Professional of the Year in 2012.

Cancellation Policy: All classes scheduled by IRWA are subject to cancellation. All class registrants must contact the Course Coordinator prior to making travel arrangements, keeping in mind that the class may be cancelled at any time (for reasons including, but not limited to, insufficient registration, Instructor emergencies or other issues beyond the control of the chapter and/or IRWA). Fully liquidated damages for any losses incurred by a class registrant are limited solely to a refund of the registrant’s prepaid class tuition. IRWA and its chapters assume no other registrant liability resulting from class cancellation.

Tuition Refund Policy: Written notification of intent to cancel registration must be received via email by both the Course Coordinator and IRWA Headquarters Education Staff (education@irwaonline.org) prior to the class start date in order to be eligible for a tuition refund. A full tuition refund will be issued if notice is received 15 days or more prior to the class start date; a 75% refund will be issued if notice is received less than 15 days prior to the class start date, and no refund will be issued for notice received on or after the class start date.