A donation of the real property interests needed for a project sounds like a good deal for the Agency, and it can also be beneficial for the property owner. Before the Agency accepts the donation for a federally-funded project, however, the Uniform Act and its implementing regulations outline certain requirements that an Agency must meet. Let’s look at an example of how an Agency should handle a property owner donation.

An Agency is in the preliminary stages of designing the expansion of a two lane rural highway into a divided four lane highway. A large tract of land will be required from a sugar cane grower and you have been asked to participate in some pre-design stage meetings between the owner, his representatives and the Agency. It is apparent from the first meeting that the main concern to the sugar cane grower is how the proposed facility will affect the drainage of the farming operation. During the second meeting all parties agree that the Agency’s engineers will work closely with the property owner’s representatives to make sure precautions are taken to minimize the impact on the grower’s operation. The attorney for the property owner also brings up the possibility of a donation to the Agency for the land required for the highway expansion. Although they don’t divulge a whole lot of information about their thoughts, it appears it may be beneficial to the sugar cane farmer to donate the property for tax purposes. Since the Agency is fairly early in project
development, what should you discuss with the owner and his representatives as it relates to the donation of property?

When an owner is willing to donate all or any part of the real property interests needed, the Agency must still provide full disclosure of the rights and benefits available. This means that an owner is still entitled to have the Agency appraise the property and to receive an offer of just compensation. The Agency must also ensure the property owner is fully advised about the effect the acquisition will have on the remainder property. For example, in the case of the sugar cane grower, fencing may be removed as a result of the acquisition, and damages can occur. After the owner receives a full explanation of these rights, and has adequate time to consider what they mean, the owner can waive them, and the Agency can accept the donation. If the sugar cane grower wishes to have the Agency replace the fencing in the after situation, it would be considered a partial donation, since he is receiving compensation for a portion of the taking.

These requirements are contained in 49 CFR 24.108 Donations. An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.102(c)(2).

It is a good business practice to have the owner sign a “Waiver of Just Compensation” Form, and keep it in the parcel file to document the Agency’s disclosure of the owner’s rights. The property owner may need to know the value of the donated property for tax purposes since the IRS requires an appraisal. Some funding agencies may require an appraisal to determine the value of the contribution if the donation is used to offset the local share.

The Agency must also avoid any appearance of coercive behavior by suggesting to property owners that a project cannot go forward unless the owner donates the real property needed.
Special Tribute to Mr. Colan at the 59th Annual IRWA Conference

By Cathy Muth, CEO, O. R. Colan Associates

On June 23, 2013, O. R. Colan Associates presented a check in the amount of $10,000 to the Right of Way International Education Fund as a Special Tribute to my father, Mr. Colan. Owen Richard (Dick) Colan was the Director of the West Virginia Department of Highways from 1962-1969 when he left to found O. R. Colan Associates.

Ron Williams, Co-Chair of the conference, spoke of Mr. Colan’s unique contribution to the right of way industry. Although he has been gone for twenty four years, he is still remembered as a great educator, an entrepreneur - a man of vision and integrity. A video was shown featuring several people who shared fond memories of Mr. Colan including Ed Wilson, Ted Pluta, Bob Gallion and myself. You can view the video at this link: http://orcolan.com/cs/tribute.

Ron Williams presented me with an engraved plaque to commemorate the event from IRWA Chapter 21 and credited Mr. Colan for the success of their chapter. ORC was represented at the IRWA conference by myself, Steve Toth, Daryl Knobbe, Keith Shepherd, Lisa Barnes, Bob Merryman, Hugo Solano, David Sands, Teresa Sands, Dan Rushing, Jacque McGregor, Sandy Bowen, Matt Starling, Ben Zera and Ed Wilson.

Dick Moeller and Bob Merryman were unable to participate in the video but added the following fond memories.

“I was lucky to be an ‘early hire’ of Mr. C’s,” writes Bob Merryman. “From our first meeting, I was aware that his goal was to develop a firm composed of highly qualified people who not only knew the regulations, but understood their origins and basis. I can specifically recall driving Mr. Colan to the airport. On the way, he was asking me what impacts I would foresee if certain laws were different (e.g. circuitry of travel were compensable) and of course, no matter how I answered, he took the opposite side. In reality I soon learned, the goal of these types of sessions was not to discuss the issue at hand, but instead to develop an understanding of the background and fundamentals of the law and the regulations—to see how interpretations got to their present status. I always thought it was an honor that he invested his time in me. And when Mr. Colan died, I was honored to be a pall bearer at his funeral.”

(continued next page)
Dick Moeller states that “because of the competence of Dick Colan and the ORC team at the time, ORC was retained by FHWA beginning in the 1970’s to prepare training for ROW professionals in the various elements of the business of land acquisition for public projects. ORC was also tasked very early on to do research related to the ROW business. This research activity continues to this day in the form of ongoing research contracts that ORC has with FHWA and other Federal and state agencies.”

**ORC’s Cleveland Office Expansion**

*By Steve Toth, COO, O. R. Colan Associates*

O. R. Colan Associates (ORC) has had a continuous presence in Cleveland, Ohio since 1987 when we contracted with the Cleveland Hopkins International Airport to manage their voluntary land acquisition program. While ORC continues to provide services to the airport, our client base has grown to include the Ohio Department of Transportation and more than 75 Local Public Agencies. In 2007, ORC moved to a newly constructed office building located in Fairview Park. Our Cleveland staff has expanded this year from 17 to 28 employees. Due to the recent growth, ORC is expanding the current office space from 7,500 to 9,000 square feet in this 13,000 square foot building to accommodate the additional growth. The remaining portion of the building is currently leased to another party.

Our Cleveland office includes a modern training center that is ideal for training courses as well as client and internal meetings. Over the next several months, the office space will undergo construction activities to add the additional offices, while also reconfiguring some of the existing office space to provide additional work stations. The additional and reconfigured space will allow ORC to meet the growing staff and continue to provide exceptional services to its many clients in this region.

...inspiring confidence in progress
ORC Welcomes New Managers

ORC is pleased to announce the addition of these new managers to our team. We are still growing and recruiting managers for the following locations: Texas, Arkansas and Ohio. Send resumes to recruiter@orcolan.com. ORC is an Equal Opportunity Employer.

C. Eric Kirk, MAI, SRA – Director of Appraisal Services – Cleveland, Ohio

ORC is pleased to welcome back Eric Kirk as Director of Appraisal Services. Eric originally joined ORC in 2007 as the Appraisal Manager for Ohio; in 2011 he joined a national appraisal firm as Managing Director to broaden his scope of experience in more complex valuation assignments. He has recently rejoined ORC as the Director of Appraisal Services with a primary role of expanding our appraisal division on a national level. Eric is an alumni of both the University of Toledo and Ashland University and holds the MAI and SRA designations with the Appraisal Institute. His appraisal career spans more than 34 years as an independent fee appraiser, a managing partner in private practice as well as various supervisory capacities in some of the most recognized companies in Northern Ohio. Eric is currently certified to provide appraisals in Ohio, Indiana, Illinois, Pennsylvania, New York, North Carolina, Mississippi, Louisiana and is pre-qualified to appraise with ODOT, PENNDOT, INDOT, IDOT, NCDOT and Louisiana’s DOTD. He has provided appraisal services to various lending institutions, developers, attorneys, engineering firms, right-of-way acquisition firms and assorted asset management clients with a wide range of appraisal and appraisal review expertise in residential, commercial, vacant land, agricultural, multifamily, industrial property, subdivision analysis, special use properties, consulting, and right-of-way valuation.

Sandra Bowen, SR/WA, RW-RAC, RW-NAC – Project Manager, Grapevine, Texas

Sandra Bowen has rejoined ORC as Project Manager for the Alliance Airport project for the City of Fort Worth Aviation Department. Sandra has more than 13 years’ experience in the right-of-way industry and holds a Texas Real Estate License and has earned various certifications from IRWA. She is a member of Chapter 36 of the International Right of Way Association. When she was previously with ORC, she worked as a relocation agent on the Highway 10 project in the southern coalfields of West Virginia and the Highland Hills Cemetery project in Follansbee, WV. In July 2002, she joined the SH 130 team in Austin, TX as the Deputy Right of Way Manager, and coordinated multiple disciplines for the duration of the project. In November 2010, she relocated to Grapevine, TX as the Quality Control/Quality Assurance Manager for the DFW Connector Project.
Kevin Cleary, Project Administrator – St. Louis, Missouri
Kevin Cleary brings a wide range of real estate experience to ORC. Kevin is a licensed state certified residential appraiser and real estate broker in the state of Missouri. He started in the real estate profession in 1973 when he attained his broker’s license form the State of Missouri. In 1977, he began working as a residential appraiser, valuing all types of improved residential properties and vacant land. During this time he worked for both St. Louis City and St. Louis County in the tax assessor departments. From 1986-1997, he owned and operated a real estate appraisal business, building and maintaining a broad client base of individuals, businesses and government agencies.

From 1997 to 2013, he worked for a civil engineering firm managing right of way projects for municipal, state and projects with federal funding. His right of way experience includes negotiations, relocation assistance, providing payment estimates and coordination of appraisals and title reports. Kevin is located in ORC St. Charles, Missouri office.

Jeffery L. Pesler, Project Administrator – Cleveland, Ohio
Jeffery has been a leader and project manager for projects in real estate development, storm water and sewer systems, urban planning, GIS, and environmental remediation. He has a record of working with and for public, private and non-profit entities to advance civic programs. He recently served in a dual role as the Assistant Director for Economic Development and the Director of Real Estate for the MidTown Cleveland, Inc./Cleveland Health Tech Corridor. His past accomplishments include leading an infrastructure alignment team responsible for creating the most efficient route for the Charlotte Area Transit System. He also led a team of programmers and technicians in merging water and wastewater utility data and creating a custom application for use by Central Arkansas Water system field personnel to update asset conditions. In 2005, Jeffery was selected for a Cleveland Executive Fellowship. He is a graduate of Ohio State University with a B.S. in Natural Resources and has a Master of Urban Planning, Design, and Development from Cleveland State University.

Kim Allensworth, Project Manager – Toledo, Ohio
Ms. Kim Allensworth has joined O.R. Colan with over 30 years of experience in real estate. She served as project acquisition management with the Ohio Department of Transportation working in District 3 for two years and the Northwest Region for thirteen years. She managed and successfully delivered several projects within 24 counties of NW Ohio including part of the US 24 Fort to Port project between Fort Wayne Indiana and Toledo, Ohio and the LUC 475/75 Toledo, Ohio interchange. Her additional experience as the Northwest Region Appraisal Program Manager together with her prior title background has enabled her to develop the required skills for right of way acquisition management. Ms. Allensworth also assisted the Ohio Department of Transportation with the development of appraisal, acquisition, relocation, and property management policies and procedures to conform with legislative changes relative to the acquisition of real property.
Savannah, Georgia was the location for the annual meeting of the American Association of State Highway and Transportation Officials, Right of Way and Utilities (AASHTO) in April of this year.

Savannah is one of those interesting, really old cities that have played a significant role in history many times over. It was once the capitol of Georgia both when it was a colony and a State. Its port was an important part of the Revolutionary War and the U.S. Civil War. Some of the streets in the oldest part of town are paved with ballast stones from the early ships.

Downtown Savannah was laid out by General James Oglethorpe, who felt that small parks arranged as squares throughout the area would provide a comfortable respite in the heat of summer. There are twenty-two squares still remaining in the city and these are filled with flowering azaleas and shade trees. And even though Oglethorpe designed his layout in 1733, he looked great for his age when he appeared at an AASHTO luncheon to discuss his city! The past three hundred years have been kind to him. Now, we all knew it was not really General Oglethorpe, but his modern impersonator did a great job discussing the town.

One of the restaurants in the old part of the City recommended by the General was Mrs. Wilkes Boarding House. It apparently is a true legend since I was also told about it by someone living in Los Angeles. Demonstrating its popularity, a line forms every morning beginning at 11 AM for the roughly one hour wait.

Yep, we (an assortment of State DOT attendees at the AASHTO meeting) stood in line for an hour to get in the door. Then once in the door, we were seated family-style at tables for ten, and served the selections of the day—no menu here. Everyone gets the same variety of food on the table. On the day we were there, we had fried chicken, pulled pork, and beef stew as entrees. There were also twelve side dishes including cole slaw, okra, sweet potatoes, white potatoes, turnip greens...
and so on. And you wash it down with sweet tea. Needless to say, you do not need supper after you have lunch at Mrs. Wilkes. Another tip, don’t be late since they close at 2 PM regardless of how many people are still in line!

Another restaurant of special interest is Vic’s on the River. Vic’s has an interesting historical feature—a map drawn on a plaster wall dating from the Civil War. Vic’s on the River is located in an old warehouse building. The building was used by General Sherman’s officers as a planning room. The area that is now the main dining room showcases a map drawn by Union soldiers in the Civil War detailing Sherman’s march from Tennessee through Georgia. The map was discovered during a renovation of the space and is now preserved under glass.

And how was the food at Vic’s? It was very good, and if offered many southern specialties like fried green tomatoes. Our group tried the fried green tomatoes at other restaurants while we were in Savannah and decided that Vic’s were by far the best! With the proximity to the ocean, fresh seafood was a highlight at Vic’s.

For those of you who have read John Berendt’s *Midnight in the Garden of Good and Evil*, a visit to the Bonaventure Cemetery is also a worthwhile trip to see beautiful live oaks, Spanish moss, and read the history of people on their very own tombstones.

The Mercer-Williams House, where so much of the story plays out, is open for tours. As always AASHTO was great conference, sharing updates and new ideas among the State DOT participants, FHWA personnel and consultants. The next AASHTO meeting is planned for Salt Lake City. I am sure it will be a worthwhile event, with lots of side interests.