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Appraiser federal and state laws and regulation run amok!

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The federal and state laws and regulation that govern appraisers are contained in thousands of pages of fine print. The Dodd Frank Statute of 2010 is an astoundingly large 878 pages. Dodd Frank is so ambiguously written that it enabled agency regulators to add 13,789 pages of new regulations to implement Dodd Frank. Interpreting the voluminous regulations applying to appraisers is a near impossible task. The Appraisal Subcommittee (ASC.gov) is one of the federal regulatory agencies that publish appraiser regulations with the same force and manner as the IRS enforces its regulations. The ASC tells the state license boards when and how to enforce USPAP and it demands the state license boards create their own regulations. The Massachusetts Appraiser License Board has its own system to enforce USPAP and its Regulations. The board's investigators, prosecutors, and hearing officers share the same office suite. If the regulatory agency comes after you, forget about juries, proof of guilt beyond a reasonable doubt, disinterested judges, statutes of limitations, rules of evidence, rules of discovery, and other rights that are ordinarily constitutionally protected due process protection. These do not exist in the Appraiser Licensing Board's enforcement process. The licensing board has its own police, prosecutors and judges. This is analogous to the police department making up its own laws, employing its own prosecutors, and its own judges.

When the target of the appraiser license board wants to fight the board in court, the cost is prohibitive. The license board prosecutors have unlimited time, funds, and know their convoluted legal process will bury the defense with legal costs.

An appraiser with 20-years practice experience received a URAR review assignment from a bank. The bank specifically requested he use review Form 2000. The Order to Show Cause said he violated USPAP because Form 2000 is not compliant with USPAP. Imagine his shock and his cost of defense. Another was charged and sanctioned for using a wrong census number and for calling a porch a patio. His fine and reprimand was posted on the national appraiser registry resulting in significant loss of business and loss of his E&O insurance. Another was charged and sanctioned for not using a cost approach. Appraisers have been charged with transgressions that occurred more than five years ago. There is no statute of limitations. The board's regular practice is to hire subcontract review appraisers whose report is secret, undisclosed, undiscoverable, and whose work is immune from complying with USPAP. Commonly, a week before trial a "review" report is disclosed leaving no time to depose the reviewer or to address the reviewer's faulty, subjective, and omnipotent accusations. The appraiser simply cannot afford the legal costs of a team of lawyers to fight the charges. The appraiser loses by default.

In addition to the Appraiser License Board's onerous enforcement process, there is the fact that many in the appraiser community think it is a good thing to hang the bad-apples. These appraisers cheering the hangman are complicit by their ignorance. Some appraisers argue for more

government regulation and for mandatory licensing for all real estate appraisers. More licensing law is not the solution. That idea may give a monopolistic benefit to a few, but the more important strategy is the need to remove or otherwise fix the ambiguity and vagueness of the appraisal laws and regulations, including USPAP. The legislature should enable the award of attorney fees to victims of frivolous complaints. The legislature should require the Secretary of Administration to review board regulations and to make the rules of discovery and rules of evidence applicable to administrative adjudication. The courts are prone to give wide discretion to agency actions. Courts seldom act against an agency unless you can prove that the agency acts were arbitrary and capricious. There is a clear need for appraisers to unite politically to act together to bring constitutional due process to the appraiser enforcement process, establish a statute of limitations, and clarify the meaning of ambiguous punitive appraiser laws and regulations.

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