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## **The appraiser as an intellectual idiot - by Roger Durkin**

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I was intending to talk to you about the appraisal of esoteric complex properties like Whitey Bulger's liquor store, value of the only known tea box from the Boston Tea Party, the Pilgrim Nuclear Power Plant nuclear waste issue, the Quincy Shipyard \$100 million bankruptcy, charitable donation appraisal of a cell tower in Harriman Utah, assessment dispute over the 800 mile long Trans Alaskan Pipeline and maybe shed some light on various types of value, IRS FMV, fair value, market value for banks and the 34 definitions of market value in the bankruptcy code, peculiar value, replacement value, orderly liquidation value, actual cash value, and value in-use.

I thought, however, that a discussion of different value concepts would be a waste of ink. Instead I thought I should write something more provocative. The premise is appraisers owe the appraisal profession a contribution that improves the profession. Maybe finally recognizing that Fannie Mae for appraisals are systemically flawed; that comparable adjustments are mostly BS. Question the nearly religious dogma of so-called appraisal approaches, i.e. the application of just three approaches to value should be reexamined. Recognize the common failure to use the apposite value definition. That USPAP and the regulatory governance of appraisals should be clear, concise, unambiguous, and written in plain and readily understood language.

Instead we seem to have various appraisers and appraisal associations championing more unnecessary new government regulation. To wit, Massachusetts Senate Bill 2246 which would require every real estate appraiser to have a state license. Why? The advocates and promoters say such a law would protect consumers! That is at best misleading at worse a fraud. Why? The whole state license regulatory system from FIRREA to Dodd Frank was put in place to protect banks not consumers. The front page of the license board website states, "The Board of Registration of Real Estate Appraisers licenses qualified professional appraisers in compliance with the mandates of Title XI, the Federal Financial Institution Reform, Recovery and Enforcement Act (FIRREA) of 1989." FIRREA and Title XI have nothing to do with consumer protection. The board is not in the business of regulating valuation issues in divorce, bankruptcy, charitable donation, IRS gift tax, or shareholder disputes.

On March 31, 2015, newly elected governor Charles Baker, issued Executive Order #562. The

purpose of the governor's order was to reduce unnecessary regulatory burden. He said, "Whereas, many regulations have imposed unnecessary cost, burden and complexity, whereas the citizens of the commonwealth will be better served by reducing the number, length, and complexity of regulations, leaving only those essential to the public good. That there is a clearly identified need for government intervention, the costs should not exceed the benefits, the regulations does not exceed federal requirements, the regulations should not does not unduly and adversely affect citizens, that the regulation is clear, concise, written in plain readable language that it consider business competitiveness impact on small business as required by M.G.L.Chap 30A §5." Your executive order did not work governor. On the contrary the regulations keep coming.

Sometimes a story makes a point that otherwise is difficult to express. This story is about intellectual idiots or more kindly put, people whose relatively high academic accomplishments lack experience and common sense. In the summer of 1940, the Germans swept through Poland and France. George Marshall was military chief of staff. He called in the chief of cavalry and asked, "You've seen all this happening, what is your analysis? The chief of cavalry responded, "Yes, we've studied it very carefully. We understand what the Germans did, and we understand why Polish cavalry failed. The horses were too tired when they arrived at the battle scene. We believe this requires the development of trucks that can carry horses close to the edge of the battlefield so they will be fresh, and we think that's the key." Marshall said, "That's fascinating. This has been a most helpful meeting." When the chief of calvary left, Marshall called in general Beetle Smith and said, "I want you to retire him as of noon, and abolish the post of chief of cavalry." One of the reason we fought World War II so well was that general Marshall cut out people ruthlessly, particularly if they were intellectuals, but idiots.

I cannot persuade those of you who support more regulation. I cannot stop your drive to force real estate licensing on everyone. I can complain and try pointing out that when the first state license law went into effect, none of us could foresee the nightmare of consequences of enforcement by a regulatory board made up of three appraisers and four non-appraisers. It is Kafkaesque, meaning if you're are charged with a transgression, you are caught in quicksand of multiple charges that force you to concede a plea. If charged, you cannot afford the financial and emotional cost. Why would you want more regulation? You all should work to fix the regulatory scheme before forcing others under its grip.

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