



Realty & Valuation Newsletter

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HAPPY 4TH OF JULY!

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4TH OF JULY- Before we get into various aspects of real estate, let's take a few precious moments to reflect back on the horrors of war in which our brave service men and women fought so hard and valiantly. Their heroics and sacrifices preserved our freedom; and, they continue to fight for our country and our safety. So, please this July 4th take a few moments with those with whom you are partying to pay homage to these selfless protectors of our freedom.

EMINENT DOMAIN- Here's a quick review of this governmental right. Article 5 of the U. S. Constitution gives the government the power to take private property for public use without the consent of the property owner. Now it is generally understood that the taking is for the general health and welfare of the public, not just because it seemed like a good idea at the time. The catch is that there must be just compensation commensurate with market value paid to that property owner.

On the Florida Panhandle in the town of Destin eight beachfront property owners were forced to sue the municipality as they deemed the critically eroded beachfront as a possible danger to upland structures, etc. The State of Florida has a Beach Renourishment Program which allows the state to replenish the lost sand. By so doing it was Florida's and the municipalities contention that this renewed beach area is now public and not private. The beaches were deeded to the property owners and recognized as private. A lower court ruling supported the state and town. Two weeks ago the U. S. Supreme Court voted 8-0 to uphold the lower court decision. So, the eight property owners have effectively had their land taken with no payment. One can only presume that the governments believe that the cost of replenishing the sand was payment enough.

The findings of the Supreme Court may be right for this particular case but look at the Pandora's Box of property rights which can now be challenged. This may become a field day for the land use attorneys throughout the U. S. There are about 12 other states which are struggling with the same or similar cases right now. It is a serious question which the Supreme Court and our Congress should seriously re-consider.

Beachfront properties succumb to erosion from acts of nature, not misuse or property owner negligence. The fact that owners of these properties are typically of the upper income levels should not be an consideration. They are American citizens who agree with our constitution which through Article 5 sets the procedure of taking of private property for public use. As stated above just compensation is the mandate within the constitut-

-ion. The New Jersey Supreme Court on June 21 found in favor of beachfront property owners in Avalon, Cape May County who were forced to sue the municipality for taking their property which in 1962 had a beach house destroyed by a storm and thus torn down. The owners cleared the property at their expense and opted to build eventually a Summer home for their growing family. In 1997 they applied for a building permit but were told they no longer owned the property because of the construction of a sand dune to protect further beach erosion due to storms. Yet, the owners were never notified and continued to receive tax bills

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which they continued to pay. However, New Jersey law provides the same requisites of governmental entities taking private property as does Article 5 of the Constitution... *just compensation*. Fortunately the New Jersey Supreme Court is capable of good decisions and found in favor of the property owners.

As for the case lost by the beach front owners in the Florida case, there is little they can do. However, interestingly, the Supreme Court less its 9th member, Justice John Paul Stevens voted 4-4 as to a court's responsibility to private property owners for payment of just compensation when a decision is found to remove that obligation from a municipality, county, district or state. So, the fractured vote leaves a gaping hole in the understanding of what truly is legal. The 9th justice had to recuse himself as he is an ocean front property owner. Unless one of the justices re-considers the position the Congress may be forced to make a determination.

Here's an opinion. The American public has had many rights and freedoms taken from them over the years. Many in the name of safety and unfortunately political correctness. Property owners are encumbered with a myriad of developmental and building restrictions already. Now to open that box of property owner protection and rights is an abomination of legal interpretation.

RE-DO YOUR KITCHEN- Yes, the kitchen is the room which will provide the greatest dollar return when it's remodeled. But that's not the issue here. When re-doing a kitchen or just modernizing it a bit, a major question arises as to which is the best counter top. Consumer Reports tested the top counter top compositions consumers can consider.

Granite was number one because it resists heat, is virtually impossible to scratch or chip and makes for a great appearance. It costs between \$40—\$200 per square foot. Following closely is DuPont Corian and then quartz (Caesarstone and Silestone) and Formica's laminates with the latter two garnering 13% each of the market. What is surprising is that 75% of kitchen designers now recommend quartz as the best choice, so watch out granite. From a value standpoint, believe me that the general consumer when looking at houses for purchase don't make a final decision on whether the counter top is granite, quartz or marble.

NAHB CONFIDENCE LEVEL- The National American Home Builders survey builders from around the U. S. and develop a confidence level chart termed the Housing Market Index to indicate what is expected from new home buyers. The chart use dates back to January 1985 at which time the level was at 50 which is the break even point for them. Any number above signifies an anticipated incline in consumer activity and below is a decrease in anticipated consumer activity. The lowest indicated rating was for January 2009 at which time it was 8%. Well, for June of 2010 the indicator is 17 which is a sharp drop from May at which time it was recorded at 22. It is anticipated that housing starts will drop from April and May levels. This is closely tied with the end of the federal tax credit. The question arises that is it beneficial to re-institute the tax credit. This brings another question which is, what does this accomplish in the overall, considering the moneys for the tax credit are from borrowed funds as the U. S. government is no longer using taxpayer money. Governmental income today is totally earmarked to pay down the debt which is constantly rising both from interest demands and ongoing borrowing. Stimulus is a temporary fix to make the public think that there is headway being made in our economy. Clearly, most economists have finally come to realize it's time to tell the truth. The American public is smarter than they think. You can't spend yourself out of debt. Just as many Americans have been forced to do with the deep recessionary economy, builders and others in the real estate industry are going to have to become accustom to less profit and operating capital.

Simply put, builders and real estate people are not satisfying the needs of the "new" economy people. As has the public become accustom to lesser *things*, so must they, beginning with their expectations of number of units and sales and amounts of same. Nothing has changed in real estate. The only reason a property doesn't sell is the **PRICE!**

REAL ESTATE FRAUD CASES- A couple of weeks ago the FBI with state police rounded up about 15 people in New Jersey for a real estate fraud scheme. Most of the people were from the Newark area. Of the 15 one is a real estate appraiser.... of course! However, the remainder were real estate sales people or brokers and of course mortgage brokers. This was part of a nationwide investigation in which 1,500 people were

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Arrested at the same time. It is expected that there will be many more as the culprits rush to “cut a deal” with federal prosecutors. In the New Jersey scam the real estate brokers apparently were able to buy valid identifications to include, SSN, credit reports, income statements, etc. from a provider in NYC who either stole or bought the identities from people leaving the country. This data was sold to these scam artists who had someone who could duplicate valid appearing documents which then were used in phony purchases of real estate. Having read the complaint by the FBI, the scam was well conceived and worked. A sting operation brought them to their knees. What never ceases to amaze me is that these people apparently never think they will be caught. Apparently, many of the scams target unsuspecting immigrants or those without much education. As W.C. Fields said, “There’s a sucker born every minute.” However, this isn’t comedic, it’s very sad. Hard working people are being disadvantaged. One of the more brilliant scams was one which I was involved as an expert. A condo conversion developer purchased two apartment buildings in North Bergen, New Jersey and began rehab work. For whatever reason, it was decided not to actually rehab some of the units. An unsuspecting appraiser was lulled into indifference by the people in the sales office. He was doing all the appraisals in both the buildings. After seeing a few of the really rehabbed units, he began to just take the word of the sales people of the complexes as to completed rehab units. Well, you guessed it. They weren’t rehabbed at all but the sale prices reflected they were and the comps were the sold and actually rehabbed units. To take this a step further, the mastermind of this scam began duplicating the documentation provided by legitimate buyers for actual units and then sold another unit to a paid stand-in at the closing. What made this scam artist smart is he knew when to leave the country. As an Egyptian citizen he collected millions, sold all his assets and left for Egypt with his family and lives happily ever after. Actually, I hope it ain’t happy at all because he hurt a lot of innocent people.

NEW HOME SALES- Well there is no easy way to say this. The adjusted new housing sales for May of this year was at the lowest since the tracking began which is 1963. That is unfathomable. And as the story at the beginning of his newsletter set forth, the confidence level of the builders is anything but positive and uplifting. This is a heck of a way to look at everything, but it’s quite likely the administration in Washington must be thrilled to have the media and thus the public’s attention diverted from jobs and the recession (which they refuse to recognize) to the oil spill and General McChrystal’s ouster.

TIDBITS- Have you noticed that since nearly everyone has a camcorder or new cell phone, you don’t hear anything about UFOs like we use to.

In the 60’s people took acid to make the world appear weird. Today they take Prozak to make it appear normal. Go figure!

HAVE A HAPPY 4TH OF JULY!!!!