

## RESTORING TRUST, CONFIDENCE AND HOPE

America is approaching a state of political paralysis because militant ideologues of Right and Left have taken control of the national dialogue. Extremists on the Right demand “small government”; those on the Left call for “big government.” Few voices call for “smart government,” with cost-effective, pragmatic solutions to short term, intermediate and long term challenges.

In discussions of spending, no distinctions are drawn between consuming for today and investing for tomorrow; and we watch in silence as the underpinnings of American society weaken while competitive nations strengthen. The ‘quick fix’ has become our national obsession, with no concern for the unsustainability of current trends. A society once proud of building canals and railroads and sacrificing the present for the future now sacrifices the future for the present. We will pay a price for our “present-mindedness,” and it may be painful.

Some observers like Singapore’s Lee Kuan Yew or Harvard’s Larry Summers believe that after some “mid-course corrections” we will right ourselves, but we should recall Oliver Wendell Holmes’ observation that “the mode by which the inevitable comes to pass is called ‘effort.’” And that effort must be ours.

We, the sensible middle—the moderates, centrists and pragmatists— must enter the game before a crisis strikes, not after. For the common good, we must work to help our society regain its forward momentum.

Today, a polarized American public contemplates its social

progress with satisfaction but its political and economic problems with foreboding. Dramatic changes—both for better and for worse—have not yet been fully digested and have left us off balance.

A black Democratic second-term president giving a rousing State of the Union speech responded to by the official Republican spokesman, a Latino senator; gay marriage legalized in many states; women permitted in combat; the United States approaching energy independence from Middle Eastern oil—none were seen as likely a decade ago.

On the other hand, America ranking below all European countries in social mobility, with a degree of financial inequality greater than all other developed nations; U.S. high school students scoring poorly in international academic rankings; U.S. births to unmarried mothers skyrocketing; America's physical infrastructure deteriorating seriously before our eyes—those, too, were previously unthinkable.

Most disturbing, however, is our loss of trust in the competence and integrity of our national leaders; the loss of confidence that our national institutions are working fairly for the public benefit; and the increasing loss of hope that the future will deal kindly with our children and grandchildren. Public opinion polls in these areas make grim reading.

Public approval of U.S. banks and public schools are at or near all-time lows. Congressmen are widely seen as “for sale” to large campaign donors. Over half the public has lost confidence in the politicized Supreme Court, and even organized religion is losing support. Only the military, small business and the police are still admired and respected. Revival of public trust, confidence and hope is our most pressing national challenge; and we—as citizens and as real estate professionals—must play a part in that restoration.

As concerned citizens in what has become a combative rather than cooperative culture, we must address the process by which our legislators are nominated and elected and how political decisions are made. How our legislation is written, passed, implemented, reviewed and reconsidered—all deserve our critical thought.

Some challenges, like those of our deteriorating physical infrastructure, are relatively easy for an aroused citizenry to change. Others, such as technical improvements to the operations of our dysfunctional Congress, are possible only if voters demand them. Crucial issues such as the destructive role of money in the political process must be faced frankly. Still others—like the painful “present-mindedness” of a society that refuses to face the future of an aging and needy population along with poorly-educated young people—must be discussed and resolved ‘before the fact’ rather than after.

Some observers feel that only a crisis will force us to implement the necessary changes. The Triangle Shirtwaist Fire of 1916 was a necessary precursor to the industrial safety and health measures that followed; the 1929 stock market crash and Depression that followed were required before a New Deal was possible; Russia’s Sputnik was a necessary goad before America headed to the moon.

An aroused public should demand action beforehand in four areas: A) Physical Infrastructure, B) Banking and Finance, C) Public Education and D) National Government Administration.

#### PHYSICAL INFRASTRUCTURE

If New York’s outdated and deteriorating Tappan Zee Bridge (now scheduled for repair) were to collapse as did Minnesota’s I-35W Mississippi bridge (killing 13 people and injuring 145), the nation might finally read this month’s report of the American Society of Civil Engineers, which gave us a grade of D+ on infrastructure. With 70,000 U.S. bridges rated “structurally deficient” by the Federal Highway Administration, someone should take notice. Our water and sewage systems, dams and levees are in equally bad shape; our airports, public transportation systems and hazardous waste disposal facilities are only marginally better; our electrical grids are inadequate for the 21st century; and some authorities insist that our 104 aging nuclear reactors should be replaced with newer, safer technologies.

The A.S.C.E. estimates that we should spend \$2.2 trillion on national infrastructure repairs and upgrades over the next five years.

They point out that every billion dollars spent on infrastructure creates 18,000 jobs, almost 30% more than if the same amount were used to cut personal income taxes. Bond interest rates are low today, as is construction industry employment. The time is ripe.

What should you, as real estate professionals, hoping to keep New York competitive in a global economy fight for, with your Op-Ed pieces, political contributions, etc.? A good start would be to support the No. 7 subway line extension from Citi Field in Flushing to Grand Central Terminal to the proposed Hudson Yards development and on to the Lautenberg commuter rail station in Secaucus. Another would be to support Amtrak's Gateway project connecting the northeast corridor lines in New Jersey to Penn Station in Manhattan. A third would be support for a revival of the now-forgotten Bloomberg congestion pricing program, which has worked so well in London, Singapore and Stockholm in reducing traffic congestion, shortening commutation time and reducing air pollution. (This time the proposal should specifically declare that all revenues raised go to improve mass transit in the outer boroughs.) The proposal would have passed last time, but for opposition by the N.Y. State Legislature, led by Sheldon Silver. Silver, although supposedly representing New York City, also killed N.Y.C.'s commuter tax, which raised \$350 million annually to cover costs the city spends to help suburbanites.

A redesigned and substantially improved Penn Station and a relocated Madison Square Garden are important and timely steps we should encourage. We can't move the tracks, but we can move the arena, and we should do it NOW!

A worthwhile negative step would be to oppose the current proposal to landmark—to save unchanged for all time—the uninspired 1.5 million square foot tower at 270 Park Avenue. No rational person would confuse that 1958 office structure with Chartres Cathedral or the Parthenon, but the Landmark Commission must keep busy, so they must landmark something. Whatever your feelings, speak up!

The major market failures of recent years—Japan’s economic crash of 1989, the dot.com bubble of 2000, the world financial explosion of 2009—took most observers by surprise. Charles Mackay, the author of the 1851 classic *Extraordinary Popular Delusions and the Madness of Crowds* would not have been among them. He recognized Bernie Madoff under another name, and his study of the Dutch Tulip Craze, the South Sea Bubble, etc. would have prepared him for the recent credit default swaps, unregulated derivatives, sub-prime mortgage fiasco, etc. But even he might have been surprised that after the collapse of Barings Bank in 1995, Long Term Capital Management in 1998 and Enron in 2000, we had to wait for Lehman Brothers and A.I.G. to implode in 2008 before asking who in the financial world was doing what to whom.

Albert Einstein defined insanity as doing the same thing over and over, expecting different results. Those who expect unregulated financial free markets not to soar in booms and to crash in busts are in that category, as are those who believe that an unregulated ‘wild west’ banking sector will not eventually come to grief.

A complex commercial and financial world requires a complex and sophisticated banking system; effective government regulation must prevent the bad lending practices, bad risk management and outright fraud and deception prevalent in the banking world. The public deserves a “fire wall” between an insured depository institution and a non-insured investment bank. Elimination of absurdities such as favorable tax treatment for hedge funders’ “carried interest” would increase public confidence in the fairness of the system.

One obvious answer to the problem is to require higher equity-to-loan ratios for banks; more of their own “skin in the game” would encourage more prudent risk-taking. Greater transparency—to bank regulators, to shareholders and to the public—would bring constructive scrutiny that could rein in untoward activities.

Most important would be prison sentences for criminal financial activities rather than “wrist-slapping” civil fines. After HSBC admitted to laundering \$881 million for Colombian and Mexican drug cartels

and admitted to violating our sanctions against Iran, Libya, Cuba, Burma and Sudan, they merely paid a fine. True, at \$1.9 billion, it was the largest fine ever imposed on any financial institution, but HSBC shares rose .5% on the news, showing that stockholders expected “business as usual.” No one will go to jail, because the toothless S.E.C. can only levy fines and other government agencies involved that could bring criminal charges choose to let the statute of limitations do its magic. The message to our ‘crony capitalism’ bankers is clear—you have a free pass to commit crimes without going to jail.

The topic of inept rating agencies and sleeping government regulators is complex. The ancient Romans asked “Who will guard the guardians?” and we might ponder the same question.

A sustainable banking system is in everyone’s interest. Speak up!

#### PUBLIC EDUCATION

If our physical infrastructure is a cause for alarm, our national pre-college educational systems are in equally poor shape. The shocking 1983 federal education report *A Nation at Risk* began with the comment, “A rising tide of mediocrity threatens our very future as a Nation and a people.” Thirty years later, that warning is more relevant than ever. The dismal ratings of U.S. high school students in comparative international ratings should be a cause of national outrage and cries from employers that they cannot find qualified employees must be heard.

There are several causes of our K-12 educational failure; but foremost is our casual acceptance of the deficiencies of bad K-12 teachers. The best (and there are many good ones) should be rewarded; the worst should be dismissed.

In Finland, with the world’s highest high school test results, teachers come from the top 10% of the nation’s academic pool. In the U.S., public school teachers come from the bottom quartile of all students. In the rest of the world, bad teachers are fired. In the U.S. they get life-time tenure.

Students in advanced nations, who substantially surpass ours, are

instructed by teachers who consider themselves members of a prestigious and well-paid profession, like doctors, lawyers or engineers. With high educational entrance standards, continuing encouragement for growth and development, rewards for the best performers and removal of the worst, they are the pride of the nation. Internationally, America's public school teachers are protected union members with a civil service mentality. Entrance standards are the lowest in the developed world, performance is not evaluated and virtually no teachers are ever fired.

Some day we will require our public school teachers to pass the educational equivalent of a Bar examination or medical Boards, and some day we will remove bad teachers at the same rate we disbar bad lawyers or decertify bad doctors.

#### NATIONAL GOVERNMENTAL ADMINISTRATION

One argument supporting claims of "American Exceptionalism" has been the fairness, wisdom and sound judgment displayed by our Founding Fathers in writing our Constitution.

These thoughtful men, however, never considered the possibility that angry, capricious and continuing use of filibusters could bring effective government to a halt; that delayed approval of qualified Presidential appointments could be used to blackmail a President; that legislators would routinely leave government service much richer than they entered to become highly-paid K-Street lobbyists on leaving government; or that the "legalized bribery" of campaign contributions would become the most significant factor influencing our legislation.

Our Founding Fathers believed their separation-of-powers system avoided the adversarial politics of a parliamentary system. They never anticipated a Tea Party "No Tax Pledge" or that in the 110th Congress (2007-2008) filibusters would be employed 52 times vs. one-per-Congress in the 1950's. Nor did they anticipate that a 60 vote Senatorial supermajority could be required to pass any significant legislation.

Many believe that when the Founding Fathers wrote of free speech

they never equated it with money and when they wrote of the rights of individuals they never thought of those rights applying to artificial legal creations called corporations. They took for granted the bipartisan legitimacy of the Supreme Court, not anticipating endless 5-4 votes based on politics rather than on law.

They did give us the rights of impeachment and of Constitutional amendment; and if a Constitutional amendment is required to overturn the monstrosity of “Citizens United” (the worst Supreme Court decision since Dred Scott), so be it.

The Code of Hammurabi (1700 B.C.) states in Law #5 that a judge in obvious error “shall be publicly removed from the judge’s bench, never to sit there again to render judgment.” Ham, where are you when we really need you?

#### CONCLUSION:

As thoughtful people like Lee Kuan Yew and Larry Summers point out, America is fundamentally strong—economically, politically and socially; but we are going through difficult times.

Economically, we must reform our tax system to make it simpler, fairer, growth-oriented and ecologically sensitive. Some exemptions, such as home mortgage interest, must be rethought; some impositions such as a carbon tax, should be considered. A Value Added Tax which every other developed nation has, taxing consumption rather than income, must be on our agenda. With exemptions for food, clothing and housing, a V.A.T. can be progressive, and give us the revenue we need.

Politically, we must return to a climate of reasoned discussion based on facts, with greater mutual respect and civility and more openness to consensus and compromise—a climate in which each party wins by sacrificing something to the other, but by which the national status quo has been improved. Vehement election campaigning is one thing, governing competently and fairly thereafter is another, the latter is what we need.

Socially, we must aim at effective measures to increase equality of

opportunity and social mobility, the hallmarks of an effective society. In the 21st century, we realize that education doesn't cost, it pays. If a potential Isaac Newton, Marie Curie or Leonardo Da Vinci goes unrecognized and undeveloped in an inner city slum or an Appalachian backwater, we all lose.

Friends, we have our work cut out for us. If a slogan is required, let it be Hamlet's, "The time is out of joint. Oh, cursed spite that I was born to set it right."

Positive change can only occur when good (and smart) people act. Let's start now.

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