

“Which Is to Be Master”

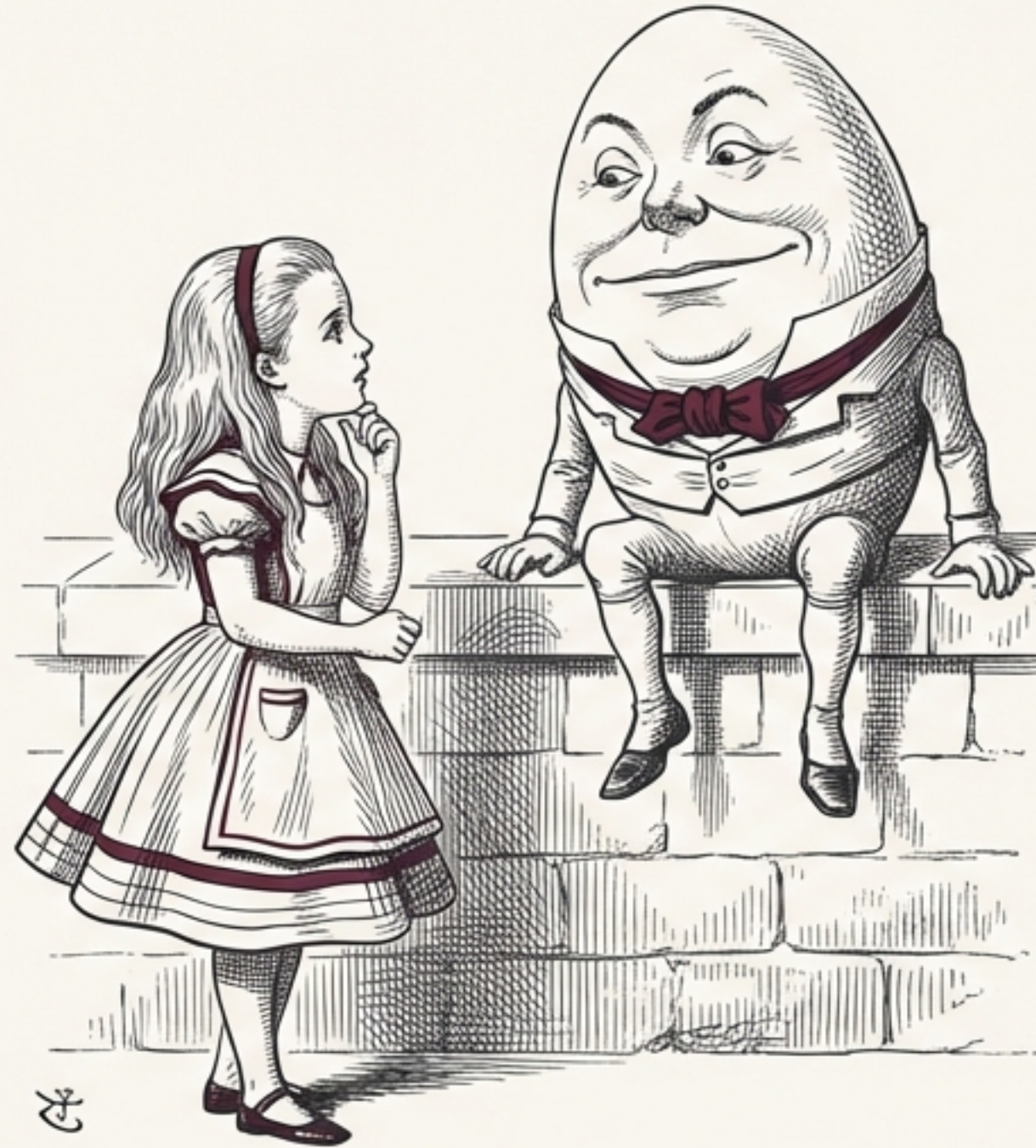
Statutory Interpretation and the Law of Value

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IAAO Legal Conference

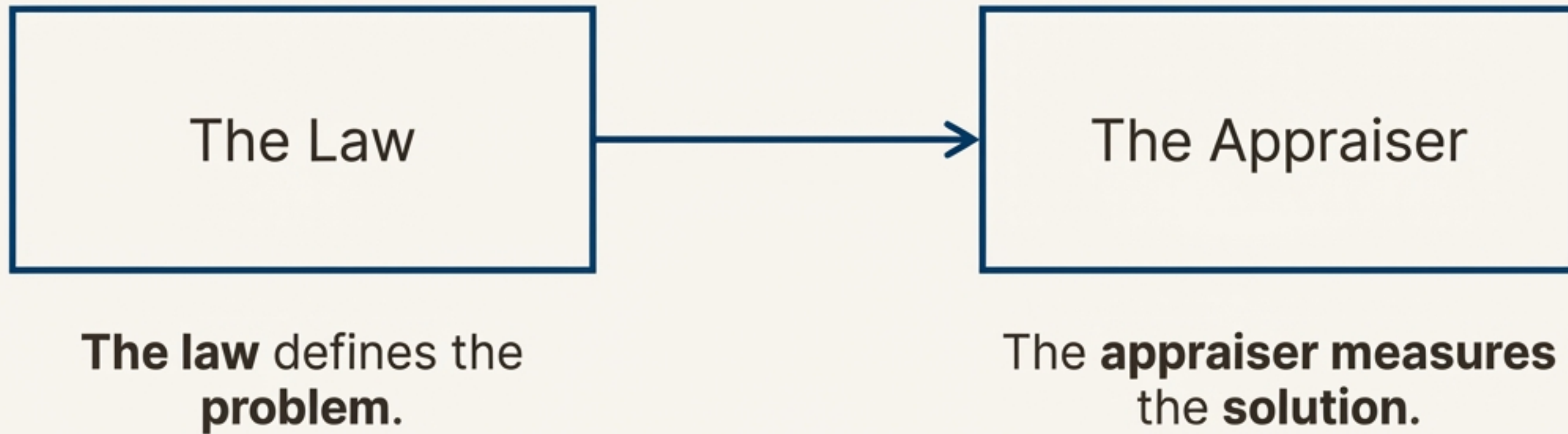
“When I use a word, it means just what I choose it to mean...”

– Humpty Dumpty



“...The question is, which is to be master, that is all.”

Valuation is Applied Interpretation.



Valuation is never purely empirical. It is not just “data in, value out.” Before you run a model or load a comp, someone has already interpreted a statute—either explicitly, or by default.

Why Interpretation is Your Job



It Defines Your Assignment

The statute quietly dictates what you are valuing—"real property," "market value," "fee simple." You can be technically perfect but legally wrong.



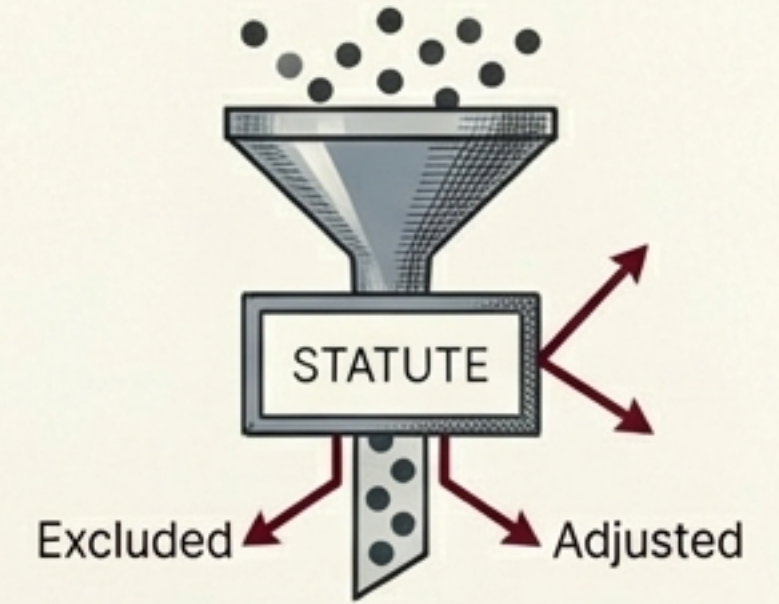
It's the Heart of Cross-Examination

The most painful questions live here. "Where did your definition of "fee simple" come from? The statute, or your own usage?"



It's a Mandate of Competency

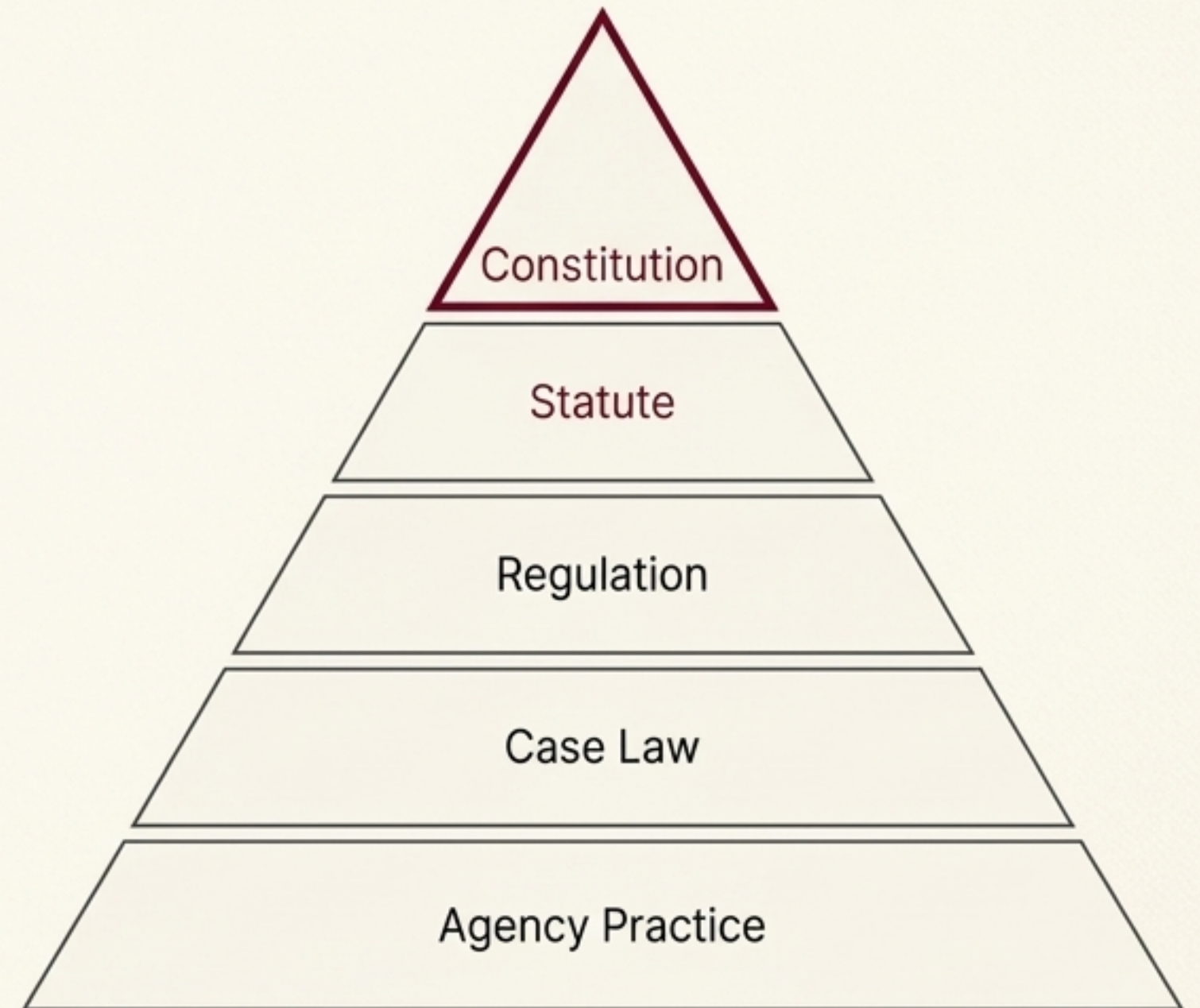
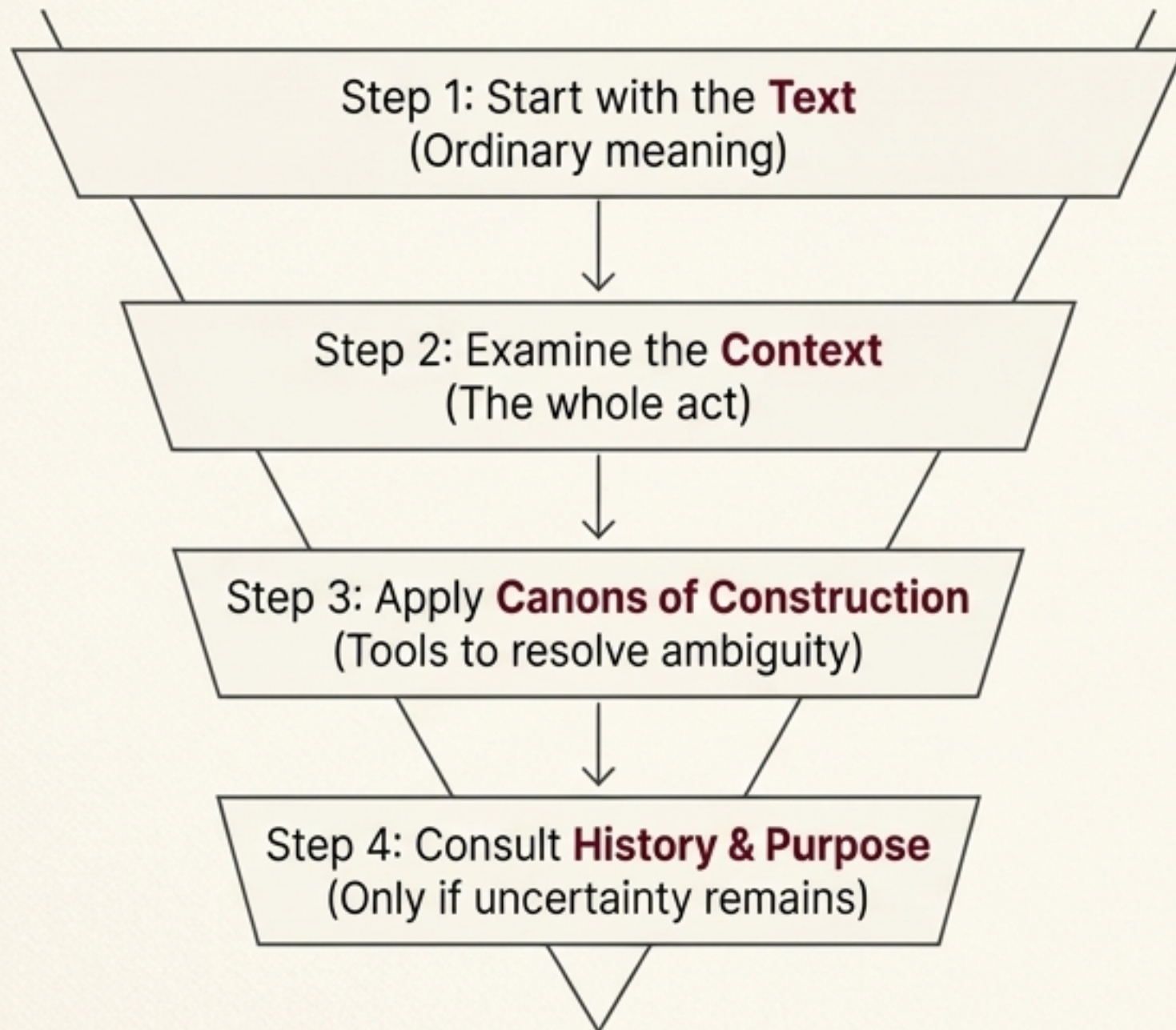
USPAP's Competency Rule requires "recognition of, and compliance with, laws and regulations that apply to the assignment." This *is* that.



It Governs Your Data

Interpretation controls which comps, rights, and income streams are in your analysis and which must be excluded or adjusted.

How Courts Read Statutes: A Disciplined Sequence



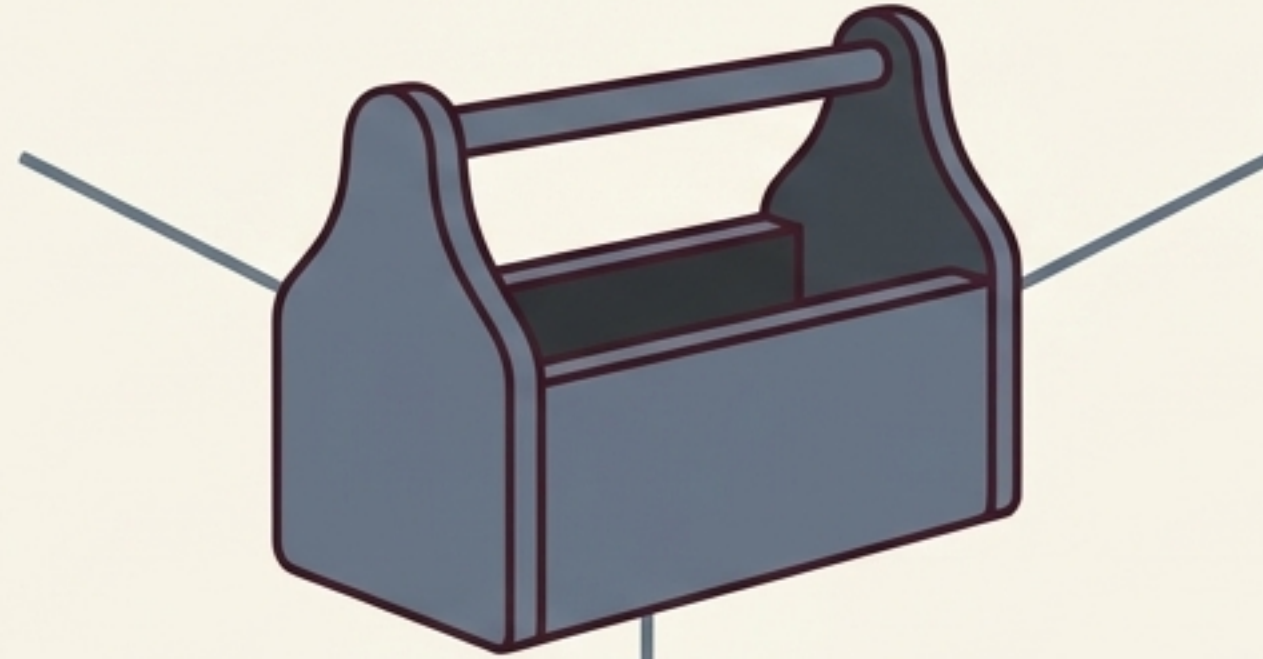
The Interpreter's Toolkit: 3 Kinds of Canon

Canons are not commandments. They are rules of thumb that help us infer what a reasonable reader would think the legislature meant.



TEXTUAL

About the words themselves.



STRUCTURAL

About how the statute fits together.



SUBSTANTIVE

About underlying policy presumptions.

The Textual Canons: The Words Themselves

Plain Meaning	Use the ordinary sense, unless defined otherwise.
Consistent Usage	The same word means the same thing throughout the statute.
No Surplusage	Every word is presumed to do some work.
Ejusdem Generis	A general term is limited by the specific items preceding it.
Noscitur a Sociis	A word is known by the company it keeps.
Expressio Unius	To name one thing is to exclude another.
Last Antecedent	A qualifier applies to the nearest reasonable noun.

The Substantive Canons: Policy Presumptions

Strict Construction of Tax Statutes	Ambiguity favors the taxpayer.
Strict Construction of Exemptions	Exemptions are read narrowly.
Rule of Lenity	Ambiguity in penalty provisions favors the taxpayer.
Purpose Canon	Choose the reading that best fulfills the statute's purpose (e.g., uniformity).
Uniformity Presumption	Assume the legislature intended equal treatment.
Administrative Deference	Reasonable agency interpretations may receive deference.

The Structural Canons: Context and Coherence

In Pari Materia	Read related statutes together to harmonize them.
Whole-Act Rule	Interpret a clause so the entire act makes sense.
Avoidance of Absurdity	Reject readings that lead to absurd results.
Common-Law Continuity	Assume established common-law meanings carry forward.
No Retroactivity	Statutes apply prospectively unless stated otherwise.
Constitutional Avoidance	Prefer a reading that avoids constitutional problems.

Applied Interpretation: A Statute for “Real Property”

“Real property” means:

- (A) land;
- (B) an improvement;
- (C) a mine or quarry;
- (D) a mineral in place;
- (E) standing timber; or
- (F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in (A) through (E).

At first glance, a simple list.

But every line contains an interpretive choice. Let’s break it down.

Deconstructing the Definition: The Canons in Action

“Real property” means:

- (A) land;
- (B) an improvement;
- (C) **a mine or quarry;**
- (D) **a mineral in place;**
- (E) **standing timber;** or
- (F) **an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation,** in a property enumerated in (A) through (E).

No Surplusage: These must mean different things. One is likely the developed excavation, the other is the unsevered deposit.

Expressio Unius: By specifically naming standing timber, the statute implies that cut timber or other crops might be excluded (i.e., treated as personal property).

Last Antecedent Rule & Absurdity Avoidance:

This modifies the nearest noun (“estate or interest”). Applying it to “land” would make all mortgaged land non-taxable—an absurd result.

Ejusdem Generis: Is this limited to interests of the same *kind* as physical land and timber, or does it sweep in broader rights like leases and easements?

Real vs. Personal Property is a Legal Fiction

Nothing is inherently “real” or “personal” property. These are legal inventions created by a statute for a specific purpose.

THE PHYSICAL WORLD (STUFF)



STATUTE

REAL PROPERTY



PERSONAL PROPERTY



The Right Question

Don't Ask: “Is this thing *really* real property?”



The Right Question

Ask: “How has this legislature chosen to classify this thing, for this purpose, in this statute?”

The Intangible Frontier

Are these “in” or “out”
of the real property
bundle?

- Zoning Entitlements
- Air Rights & TDRs
- Franchise Agreements
- Premises-based Licenses



The answer is not
found in the market,
in accounting, or in
appraisal custom.
**It is found in the
statute.**

The Law is Master: The market does not decide if an air right
is real property for tax purposes. The statute does.

Four Practical Implications for Your Work

1. Scope of Work

Your scope is defined first by the statute, not just the client. You must align your assignment with the legal definition of what you are valuing.

2. Unit Rule

The inclusion or exclusion of intangibles is a legal conclusion that flows from statutory interpretation, not just an “appraisal choice.”

3. Reporting

Explicitly state your interpretive assumptions. A sentence like, “*Pursuant to [statute], ‘real property’ is defined as...*” signals credibility.

4. Credibility

Tie your definitions and conclusions to the law, not just to “my experience” or “industry practice.”



Which Is to Be Master?

Every credible valuation begins not with data, but with words.