

## Copyright Appraiser Takes on AVMs

by David Brauner, Editor

Tim Vining, MAI is at it again. Vining is the appraiser who made national news by filing the first appraisal copyright infringement lawsuit- and collecting. This time he is challenging the legitimacy of AVMs to do valuations in his home state of Washington, where qualification standards are required for those who perform real estate valuations.

(Washington Real Estate Appraiser Act- INTENT: (1) "It is the intent of the legislature that only individuals who meet and maintain minimum standards of competence and conduct established under this chapter for certified, licensed, or registered real estate appraisers may provide real estate appraisal services to the public.")

Vining also wonders whether AVMs that extract appraiser's data are in conflict with federal privacy legislation, particularly the Gramm-Leach-Bliley Act (GLB). Vining authored the complaint and has filed it with the Federal Trade Commission (FTC), HUD and the Department of Justice.

"The complaint is an outgrowth of conversations with real estate appraisers around the country," said Vining. "I am intrigued that under GLB, the FTC categorizes real estate appraisers as a financial institution. The privacy and confidentiality aspects of GLB warrant a close look at which data mortgage lenders are forwarding to AVMs. AVMs are non-affiliated third parties to a mortgage transaction. Although certain parties claim they only extract public information that is readily available, they have access to the entire appraisal report. This is wrong and may be in conflict with GLB."

"These companies are getting data from appraisals without paying for the data. This is akin to a manufacturer given raw product without paying. Thus, my rationale is that this is an unfair trade practice," Vining said.

Upon request, Vining forwarded the complaint to the Washington State Office of Real Estate Appraising, who forwarded it to the state Attorney General for possible action.

### Heat is On

Additional items of note are two legal actions filed against the AVM Zillow.com involving consumer protection. The National Community Reinvestment Coalition (NCRC) has issued a lawsuit, while the Arizona Board of Appraisal has issued two cease and desist orders.

"Arizona law provides that all appraisals are to be done by a licensed or certified appraiser," said Deb Pearson, Executive Director of the Arizona Board of Appraisal. "The Board determined that the 'Zestimates' were actual appraisals."

Pearson explained that Zillow replied to the first letter requesting the Board to review the letter because they felt they were not producing valued opinions. After reviewing, the Board moved to issue another letter while also referring the matter to the Attorney General, Criminal Division. The Board is now waiting to see what the AG will do.

Vining continues, "The everyday home buyer (layman) does not know the difference between an AVM and a documented appraisal report. Advertising on the Internet is very misleading to the consumer. It is only by careful reading of the fine print that consumers can learn that the AVM is not an appraisal. Thus, the impetus behind my activity is to protect consumers from this predatory practice."

"All of us are entitled to the best efforts of our professionals, whether it is a doctor, attorney or appraiser. And each should be held to a high standard of care. Most homebuyers are making their single largest investment when they purchase a residence and are committing the bulk of their financial resources. They need our best work; not some statistical probability," Vining said.

You can find the complaint filed by Tim Vining, the NCRC-Zillow complaint, the NCRC press release and the two cease and desist letters issued by Arizona at [www.workingre.com](http://www.workingre.com).