

Government Held Real Estate Data Is Free For The Taking

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Hanging Judge (Bragg)

The Wisconsin Court of Appeals has ruled that MLS subsidiary WIREdata may obtain property assessment records maintained by the local county authorities under Wisconsin's Open Records Law. The purpose of these and other sunshine laws is to allow the public access to government held data, which is copyright free under the law. The Court ordered the local recordkeepers to transfer the data (input by appraisers) from its computer databases, apparently without charge to WIREdata. Whether computer stored or on "property report cards", the data is still public, said the Court, so hand it over. Extracting the "raw data" did not violate copyright laws.

WIREdata's request was initially approved by the municipalities on condition it pony up \$6,600 in programming and other fees. WIREdata refused to pay and sued. This was a "denial" under the law, said the Court of Appeals, overruling the lower court.

The case may have implications in the DOJ v. NAR case, where it has been argued that property raw data "facts" (whatever they may be) are not protected under U.S. Copyright Law and may be extracted by anyone.

In fact, Zillow's multi-million home "facts" database was compiled without need of permission because the data extracted was in public government records and copyright-free. It pays to know the law.

H/T: Inman News (Glenn Roberts)

Note on FOIA: The Freedom of Information Act (FOIA) allows anyone to obtain government records, with certain exceptions, simply by writing a letter and asking. As an attorney, I have frequently made FOIA requests from government agencies, including those top dogs of government top secrets, the NSA. (What you usually get from the NSA is pages and pages of blacked out text). The only fees I ever paid were for copying. As an aside, back in the early 1980's when my law partner and I were researching long lost Nazi war criminal Josef Mengele, the FOIA was extremely useful. [Mengele, who had escaped to South America after the war, had lived in Paraguay and then Sao Paulo, Brazil, until his drowning death in 1979. His death was not discovered until 1985. Our research led to the publication of Gerald Posner's definitive book *Mengele: The Complete Story*, published by McGraw-Hill in 1986.)

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4 Responses to "Government Held Real Estate Data Is Free For The Taking"

1 **john harper** Jan 30th, 2007 at 2:12 pm



One reply to the last 3 posts

I love the dolphin! What a great rental business that would make in the Caribbean.

I used to spend a lot of time in airports and would have loved a Yotel. Now, I hope to avoid the need.

This post increases the curiosity factor on the future of MLS

2 **sellsius**^o Jan 30th, 2007 at 2:38 pm



Thanks for the all-in-one comment John. It's a time saver. I'll have to use it myself.
-jf

3 **Maggie Knowles** Feb 1st, 2007 at 1:56 pm



But MLS data is not raw data and it's not public data. It's data that brokers collect from their clients - we cooperate and agree to share commissions. We don't share it with public agencies. MLS is not a public utility. Is my understanding of this wrong?

4 **sellsius**^o Feb 1st, 2007 at 4:53 pm



The MLS is not a public utility. It is a compilation of factual data (such as is found in public records), copyrighted photographs, and textual work (ad copy), each element possibly contributed by different people, including the broker and the seller. Currently, the listing is bundled as a complete work, even though the copyright of various components may be owned by more than one person. For example, if the seller took the photos, the seller owns the copyright to those. If the listing expires, the photos remain the property of the seller. The broker who wrote the ad copy owns that copyright so the owner can't reuse that. Factual data, like beds and baths, are usually provided by the seller but can be found in the public database.

There is a debate whether the MLS bundled work can be unbundled with factual data being copyright free and all else remaining with the respective copyright owners. Stay tuned.

5 **Cochise** Mar 3rd, 2007 at 10:20 pm



Very good article
Thanks
Cochise

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