

Freedom of information

Free legal research sites can lead appraisers to valuable information — and Area 51

by Peter T. Christensen

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I field numerous questions from appraisers that begin with something like, “Do you know of any cases about ... ?” The inquiries range far and wide, from diminution of value to eminent domain to noncompete agreements.

Finding the answers to such questions used to require the purchase of expensive subscription databases, but free legal research tools can now be found on the internet. Two resources that I think appraisers will find especially useful are Google Scholar and Justia.

Search in plain English

On Google Scholar (<http://scholar.google.com>), users can find almost every published U.S. legal opinion from federal district, appellate, tax and bankruptcy courts, as well as published state appellate court opinions. The site's search function uses plain English — just like Google's regular search engine — which is great for non-lawyers.

One recent question I received came from an appraiser who was hired as an expert witness in litigation relating to pollution damages. She was interested in court decisions regarding the use of informal market surveys to show diminution of value. Let's consider how she might use Google Scholar.

Her assignment involves quantifying damages to a property contaminated by a nearby gas station. She's thinking about how to approach the assignment and considering surveys of agents or brokers to help quantify the alleged diminution in value. She knows that this approach may deviate from traditional methodologies and wants to uncover any pitfalls that could make it less credible in court. If she searched under “Case Law” for “appraiser expert testimony survey agents damages” and set the date to “Since 2012,” she'd quickly find *Exxon Mobil Corp. v. Albright*, 71 A.3d 30 (Md. Ct. of Appeals 2013), in which a Maryland appellate court ruled that valuation testimony based on an informal survey was not properly admitted (and reversed a \$1.5 billion verdict). The appellate court offered good instruction as to the preparation of such valuation testimony in general:

While Maryland law does not compel the use of comparable sales data, to the exclusion of all other methodologies, a real estate appraisal expert must proffer a reasonable justification for ignoring market data where it is available. Here, there was ample actual market data from which a valuation opinion (baseline or otherwise) could have been made, had [the appraiser] chosen to use it. ... To discard market data, [the appraiser] had to provide a reasonable justification explaining the unsuitability or unreliability of the comparable sales data.

Note: When conducting informal legal research, remember that laws vary in different jurisdictions and that some cases may be overruled in their application by later decisions or higher courts. So leave the technical lawyering to the lawyers.

About the Author



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Research on the docket

Another Silicon Valley company, Justia, created my other recommended free research site. Justia says its mission is “to advance the availability of legal resources for the benefit of society,” and in doing so it created a universe of free legal resources. One of the site’s most useful tools is Justia Dockets (<https://dockets.justia.com>), where users can search all recent federal court filings by full or partial party names, case type and/or location.

For example, I searched for cases with “appraisal” appearing in the party name. The search led me to a new case confirming that we are still far from a final resolution of lawsuits over appraisals performed during the bubble. In *Elizabeth Williams et al., v. Countrywide Financial Corp. et al.*, which was filed in June, the appraisal management company LandSafe Appraisal was named as a defendant to an alleged class action on behalf of “all residents of the United States of America who, during the period Jan. 1, 2003, through Dec. 31, 2008, obtained an appraisal from LandSafe in connection with a loan originated by Countrywide.”

I conducted another search, this time by type and location, looking for real estate con-

demnation cases filed in Nevada. What grabbed my attention was a case filed last September, *United States v. 400 Acres of Land*. It concerns the condemnation of land more popularly known as the Groom Mine. The appraisers who work for either side in this case are going to have interesting work ahead of them because the government and the landowners have stipulated and the judge has ordered that “an unusual situation exists, which must be addressed to protect confidentiality ... in light of the security measures regarding access to the Subject Property.” The unusual situation: Groom Mine is adjacent to the infamous Area 51, and the mine is being taken by the government to further control and tighten security in this mysterious area.

Running a search like the one above for particular types of cases in a geographic area could prove economically beneficial: Appraisers with a particular practice niche, such as condemnation work, can find the latest cases in their region. With this information, appraisers can then locate the attorneys handling the cases and market their expert services to them. ◀

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