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May 8, 2019

CERTIFIED MAIL, RETURN RECEIPT REQUESTED
AND HAND DELIVERY

Travis Central Appraisal District
Attn: Marya Crigler
P.O. Box 149012
8314 Cross Park Dr.
Austin, TX 78754

Re: Unauthorized Use of MLS Data

Dear Ms. Crigler:

Our firm represents Austin Board of REALTORS® (ABOR) and its wholly owned subsidiary, Austin/Central Texas Information Systems (ACTRIS). It has come to the attention of ABOR and ACTRIS that Travis Central Appraisal District (TCAD) may be making unauthorized use of the ACTRIS database. **TCAD must cease and desist unauthorized use of, and attempting to gain unauthorized access to, the ACTRIS Database.** TCAD must discontinue infringing ACTRIS copyrights, inducing third parties to breach their agreements with ACTRIS, and otherwise breaching third party agreements to gain unauthorized access the ACTRIS Database.

ACTRIS Database

ACTRIS is the multiple listing service of the Austin metropolitan area, representing several thousand real estate brokers (participants) and their affiliated real estate licensees (subscribers).

ACTRIS is the owner of a database of real estate listing information that includes, among other content, sales information, photographs, and text descriptions of real property (the ACTRIS Database). ACTRIS owns the copyrights in the compilation of the database and components within it, such as photographs and text descriptions of property. Copyrights in the contents of the ACTRIS Database are vested in ACTRIS by virtue of its authorship of the compilation and assignments to ACTRIS from participants and subscribers. ACTRIS has obtained registrations of the ACTRIS Database from the United States Copyright Office

ACTRIS Database access

Participation in ACTRIS is limited to authorized participants and their associated subscribers. Both participants and subscribers have secured, confidential access to the ACTRIS Database. Use of ACTRIS Database is limited for those participants and subscribers to provide brokerage services to bona fide customers and clients. ACTRIS does not license the ACTRIS

Database for establishing property values for tax purposes, nor does ACTRIS grant licenses to any participant, subscriber, or third party to sublicense the ACTRIS Database for establishing property values for tax purposes.

Copyright and license

The Copyright Act of 1976 (17 U.S.C. § 101 et seq.) provides that the owner of a copyright in a work has the exclusive right to copy, display, reproduce, and distribute the work. Consequently, no one may copy, display, reproduce, or distribute the copyright-protected components of the ACTRIS Database except with an authorized license from ACTRIS. Copying, displaying, creating derivative works from, and distribution of the ACTRIS Database or any copyright-protected component of the ACTRIS Database constitutes an infringement of ACTRIS's copyrights. Copyright owners whose works are infringed are entitled to a wide array of remedies, including injunctive relief, money damages, and attorney fees and costs.

Use of those components of the ACTRIS Database not subject to copyright laws are governed by contract. Users must have an adequate license to use the ACTRIS Database. Again, ACTRIS does **not** license the ACTRIS Database for establishing property values for tax purposes, nor does ACTRIS grant licenses to any participant, subscriber, or third party to sublicense the ACTRIS Database for establishing property values for tax purposes.

Texas is a non-disclosure state

Texas is a non-disclosure state. The Texas Legislature has made clear to the people of Texas that their privacy is respected, and that local government agencies cannot require a homeowner or buyer to disclose the sale price of their property. Local government agencies cannot do an end-run around the intent of the state legislature by infringing copyright, breaching contracts, or inducing others to breach contracts.

TCAD infringement, unauthorized access to ACTRIS Database

ACTRIS has been made aware that third parties are, without ACTRIS authorization, providing copies of the ACTRIS Database or portions of it to TCAD. ACTRIS believes examples of such agreements include, the CoreLogic Homestead Audit MSA & SOW (02.12.18), the CoreLogic MLS Data Subscription (02.12.18), and the CoreLogic Statewide MLS Data Contract (3/26/18). ACTRIS has also been made aware that third parties may have provided ACTRIS data to TCAD prior to the CoreLogic agreements. ACTRIS's investigation is ongoing. To be clear, TCAD is not authorized to use the ACTRIS Database regardless of what third parties convey to TCAD.

ACTRIS is further aware that TCAD may be inducing participants and subscribers in ACTRIS to potentially give TCAD direct access to or otherwise provide information from the ACTRIS Database to TCAD. Such access or provision of ACTRIS Database content is in breach of ACTRIS terms of use, the participant and subscriber agreement, and the ACTRIS rules.

ACTRIS will exercise any and all rights under its agreements with participants and subscribers, including seeking indemnification from participants and subscribers.

Additionally, ACTRIS has been made aware that TCAD may be using participant Virtual Office Websites (VOWs) to access the ACTRIS Database. ACTRIS participants that operate VOWs are subject to ACTRIS Rules. The ACTRIS rules require that users of VOWs register and expressly agree that: 1) they are entering into a consumer-broker relationship; 2) use of information from the VOW is only for personal use; 3) that the registrant has a bona fide interest in purchase, sale or lease of property; and that 4) the registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the registrant's consideration of the purchase or sale of an individual property. If TCAD were using a VOW to obtain information to which it otherwise is not entitled, it would be a breach of the VOW terms of use.

ACTRIS is aware that some ACTRIS Database content is publicly available on some websites. ACTRIS believes that TCAD may be also using copyrighted components of content pulled from public facing websites without permission. Use of such content still requires a valid license, regardless of the fact that it is publicly available. Incorporation of photos and listing remarks without the copyright owner's permission constitutes copyright infringement.

Finally, ACTRIS has been made aware that TCAD may be citing ACTRIS directly or indirectly (e.g., via reference to "listing information") as the source of information it is using in appraisal disputes. First, if so, this is an admission that TCAD is making infringing and/or unauthorized use of the ACTRIS Database. Second, this claim indicates a false association between TCAD and ACTRIS that is detrimental to ACTRIS's business interests. This may leave property owners with the false impression that ACTRIS is providing ACTRIS Database content to TCAD.

TCAD must cease and desist

In light of the foregoing and to prevent the need for any further action, ABOR and ACTRIS demand you to take the following steps:

1. Remove all copies of all portions of the ACTRIS Database from your files, databases, web site(s) and server(s).
2. Immediately destroy any copies of any portions of the ACTRIS Database in your possession.
3. Cease from any future copying, display, reproduction, or distribution of any portion of the ACTRIS Database.
4. Cease attempting to gain unauthorized access to the ACTRIS Database.
5. Cease inducing ACTRIS participants and subscriber to breach their agreements with ACTRIS.
6. Cease breaching ACTRIS participant and subscriber website terms of use.
7. Cease implying a false association between ACTRIS and TCAD.

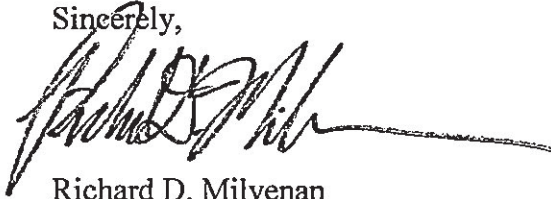
8. Respond to this letter with your assurances that you have met and undertake to continue meeting these requirements.

ABOR and ACTRIS would of course prefer TCAD voluntarily give Texas home owners the respect, freedom, and privacy the legislature intended; not breach or induce breach of ACTRIS and third-party agreements; and not infringe ACTRIS intellectual property rights. You should be aware, however, that ABOR and ACTRIS will not hesitate to use every lawful means at their disposal to achieve this end, including pursuing injunctive relief, seeking damages, and advocating for a widespread lobbying campaign for further home owner protective legislation.

The facts contained in this letter are not intended to be a comprehensive statement of the facts in this matter. This letter is not an offer of settlement or compromise. This letter is not a complete statement of ABOR or ACTRIS's rights or remedies; ABOR and ACTRIS do not waive any legal or equitable rights or remedies, all of which are reserved.

We look forward your expeditious response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard D. Milvenan', with a long horizontal flourish extending to the right.

Richard D. Milvenan

RDM

cc: Dustin Banks
Chris Bennett (via email)
Yianni Pantis (via email)