

Monday, March 12, 2007

## HARNESSING THE INTERNET

Must-know, useful Web sites for real estate lawyers.

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THE World Wide Web has changed real estate law forever. Harnessing the massive amounts of information on the Internet to enhance the practice of real estate law has become essential for every dirt lawyer.

New York's state and city governments have created useful Web sites to assist in many aspects of real estate law, and the little known State Technology Law, passed in 1997, has permitted electronic records to enter our courtrooms. Privately run Web sites, both free and subscription, offer substantial information resources. This article serves to introduce some of these must-know sites and their usefulness.

### Real Estate Litigation

Information wins cases. Both in the pre-pleading investigation stage and in discovery, Internet resources can aid the litigator. The property involved in the litigation should be investigated. The New York City Register site, ACRIS (Automated City Register Information System) [FN1] can be used to locate current and past deeds, mortgages, and a variety of other filed documents. [FN2] Additional owned properties and/or transactions by the principals can also be searched by name on ACRIS. [FN3]

The Department of Buildings Information System [FN4] can be used to determine alternate addresses, view certificates of occupancy, and check loft law, Single Room Occupancy (SRO), and landmark status. The Department of Finance site [FN5] permits a search for the tax history and current ownership of premises. A Housing Preservation and Development search [FN6] allows access to the HPD and Multiple Dwelling registration numbers, registration summary showing cooperative or condominium officers, corporate forms of ownership, managing agent and emergency contact names and numbers, as well as open violations and the prior year's violations whether open or closed.

PropertyShark, [FN7] a private service, provides an excellent starting point for property investigation. PropertyShark allows searches by address, block and lot or name, and returns great masses of information in areas including air rights, building class, flood maps, assessed value, building dimensions, stories, among dozens of other information.

Any corporate entity that owns or has an interest in the property should be searched on the Secretary of State Corporations Web site, [FN8] and UCC filings identifying both debtors and creditors can also be searched using the Secretary of State's UCC site. [FN9] Once identified, interested parties, their attorneys and creditors can all be useful sources of information. The interrelationship among corporations with substantially similar names often points to assets other than those directly involved in the litigation.

Backgrounding of parties (including your client) and potential witnesses is a requirement for the careful litigator. It has been known to happen that clients are less than candid with their lawyers; it is unfortunate in the extreme to learn this during cross-examination. Even for the wholly forthcoming client, a search can be useful to reveal information that your equally careful adversary can find from public sources.

A general name search using search engines such as Google, Yahoo Search, Ask.com, Exalead, and meta-search engines like Dogpile and Clusty, [FN10] which combine a number of search engines into a single search, is a good starting point. Frequently a date of birth can be found at Birthdatabase.com. [FN11]

With the insertion of a phone number in a reverse directory Web site, the number's owner will be provided as well as his/her address. [FN12] Other searches permit entry of a name and

return telephone numbers and addresses, either anywhere in the country or limited by state or locality. Phone searches can also be done internationally. [FN13]

For licensed professionals, the search has further dimensions. For example, doctors can be extensively researched, using, among other sites, the New York State Department of Health Physician profile site, the DOH Discipline site, the AMA Doctor Finder site, the Administrators in Medicine Docfinder, and the American Board of Medical Specialties. [FN14]

Learning to use search engines effectively also leads to useful information, such as a personal Web site's information as to memberships, hobbies, vocations, all of which can be followed up with searches on specialized sites and blog-searches. [FN15] Whether a litigant has been involved in litigation can be found for most New York City courts, excluding civil and housing court. [FN16] Obviously, the two major legal research subscription services, Westlaw and LexisNexis, should not be overlooked; [FN17] their offerings, while easier to access and perhaps more authoritative to a court, are substantially more expensive than finding the same data through publicly available databases. [FN18]

The Internet can sometimes be used to locate a litigant's criminal record. For instance, felons incarcerated in New York over the last 30 years can be found at <http://nysdocslookup.docs.state.ny.us/kinqw00>. [FN19] and some criminal records from other states can also be accessed. [FN20] Such derogatory information can be devastating to the opponent's credibility at deposition or trial. [FN21]

Decisions from the New York City Board of Standards and Appeals, which decides appeals from decisions of the Department of Buildings and other agencies disapproving property owners' applications to construct or alter buildings or establish new uses for them, can be found at the Center for City Law, [FN22] and tips on winning environmental control board decisions can be found at the Department of Buildings' Web site. [FN23]

Data aggregators combine multiple database sources and serve as vendors primarily to lawyers and government and private investigators. Reports from data aggregators, such as Accurant, Acxiom Insight, Merlin Information Services, Choicepoint and Knowx, [FN24] contain a wealth of information which can include names, dates of birth, Social Security Account Numbers, past and current addresses, neighbors and credit information. Attorneys using these sources, as well as the analogous LexisNexis and Westlaw searches should be aware of the privacy parameters of state and federal statutes, such as the Driver Privacy Protection Act, [FN25] the Fair Debt Collection Practices Act, [FN26] the Federal Fair Credit Reporting Act [FN27] and New York Fair Credit Reporting Act, [FN28] which provide both civil and criminal penalties for improper invasion of privacy and improper dissemination or use of protected information. It should be noted that both statutes and case law permit the use of such information in connection with a permissible civil court proceeding (not all proceedings qualify). [FN29]

#### Landlord-Tenant Practice

For landlord-tenant litigation, the Internet provides numerous tools for the landlord-tenant attorney looking for tenants violating the rent stabilization code for violations of non-primary residence, [FN30] illegal subletting, [FN31] overcrowding, [FN32] and illegal roommate laws. [FN33] In addition, this same information can be utilized to undermine landlords attempting to claim a property under the owner occupancy exception to the Rent Stabilization Code. [FN34]

A tenant's phone number can provide a subject's location anywhere in the country. Several free Web sites requesting the subject's first and last name as well as any other available biographical information such as a possible county, state, or middle initial can assist in locating an alternative residence. [FN35] In addition, some sites return other information relevant to a landlord-tenant case including residence community, age or year of birth. [FN36]

Other Web sites assist in finding the fee owners of property. Some of these sites provide actual copies of the deed, mortgage and other recorded information. [FN37]

As a result of the current war, property owners are required to prove that defaulting tenants are not in the military before recovering possession. [FN38] The Department of Defense's Servicemembers Civil Relief Act Web site will verify whether a tenant is in the military. [FN39] Finally, much of a property owner's prima facie housing case can be found on the Internet. [FN40] Although not officially published, many Housing Court decisions from 1996 forward can be obtained online [FN41] as well as a limited number of unpublished Department of Housing and Community Renewal Petition for Administrative Review (PAR) Decisions from 1990-1996. [FN42]

Careful litigators with enough lead time will use Internet resources as a source of investigative leads and then obtain certified copies of government documents for trial.

However, Internet printouts or monitor displays may also be admissible in evidence. An argument can be made, which has been adopted by a number of housing court and civil court judges, that some documents printed from the Internet should be admissible in evidence. The Appellate Term, First Department, in *Hoya Saxa Inc. v. Gowan?* [FN43] reversed the trial court and held that a computer-generated printout or material accessed on a monitor in court must be admitted into evidence under the 'mandatory language' of Multiple Dwelling Law § 328(3). In a more modern case, in *Goldman v. Rosen*, [FN44] a highly respected Housing Court judge, Gerald Lebovitz, granted similar relief.

The theory of admissibility rests on Multiple Dwelling Law § 328(3), [FN45] CPLR 4518(a) [FN46] and on New York State Technology Law § § 305(3) [FN47] and 306, [FN48] which provide for the admissibility of authenticated electronic records and printouts in New York courts. [FN49] The Federal Rules of Evidence § 1001(1) also indicates that a 'writing' includes electronic data.

#### Transactional Real Estate

With the exception of copyright and patent law, no practice area has been more transformed by the Internet than transactional real estate. Dirt lawyers can do an incredible amount of due diligence that was formerly completed by a title or abstract company or through the sweat of a diligent attorney. The sine qua non of New York City real estate transactional Web sites, ACRIS, has become part of every closing in New York City and has evolved into a reliable device for discovering not only the current and prior owners of a property, but documents filed with the county clerk, prices, mortgages, filed liens, and legal descriptions for every property in New York City, and as of Aug. 1, this list includes cooperative units. [FN50]

The Internet has permitted the practitioner to go beyond the traditional information contained in a title report. For example, an Internet search will determine whether a building is SRO restricted and whether a property requires obtaining a certificate of no harassment before a building owner can make alterations or receive a building permit. [FN51] To comply with the Patriot Act and to avoid criminal liability, real estate transactions that involve the exchange of money require attorneys to search the Office of Foreign Assets and Control's (OFAC) Web site listing of Specially Designated Nationals to avoid doing business with potential terrorists; attorneys who do not comply can be held strictly liable criminally. [FN52]

Often missed closing issues, such as government fines and violations, can usually be identified on the Department of Buildings, Buildings Information System's reliable Web site. [FN53] In addition, the amounts due as a result of Department of Buildings and Environmental Control Board violations can be calculated before closing by visiting the Department of Buildings and Housing Preservation and Development Web sites. [FN54] To ensure the legal use for a property, past and current certificate of occupancies, as well as the relevant zoning map, can be reviewed online. [FN55] With regard to taxes owed and assessed including tax credit programs such as J-51 and 421-a abatements and their applications to a specific property, the Department of Finance site provides a plethora of information. [FN56]

By using some of the most important real estate Web sites on the Internet, the practitioner will better serve his or her clients. Of course, this ever-expanding information multiverse demands constant self-education and practice to navigate effectively.

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