

TO THE UNITED STATES
FEDERAL TRADE COMMISSION

NATIONAL COMMUNITY)
REINVESTMENT COALITION,)
)
Complainant,)
)
v.)
)
ZILLOW.COM,)
)
Respondent.)
_____)

STATEMENT IN SUPPORT OF COMPLAINT
OF THE NATIONAL COMMUNITY REINVESTMENT COALITION

I. NATURE OF THE COMPLAINT

1. This complaint is brought by the National Community Reinvestment Coalition (the “NCRC” or “Complainant”) and arises out of NCRC’s and its member organizations’ concern that Zillow.com (also referred to as “Zillow”) and its affiliated companies are intentionally misleading consumers and real estate professionals to rely upon the accuracy of its valuation services despite the full knowledge of the company officials that their valuation Automated Valuation Model (AVM) mechanism is highly inaccurate and misleading to consumers, including the general public, as well as to real estate and financial service providers.

2. The National Community Reinvestment Coalition contends that Zillow.com’s misrepresentations and unfair financial practices have caused, are causing and are likely to

cause substantial injury to consumers who rely on the inaccurate representations made by the company at www.Zillow.com.

3. Further, it is the National Community Reinvestment Coalition's contention that these practices are not reasonably avoidable by the consumers who use Zillow.com and that the valuation web site provides little or no benefit to consumers or the marketplace due to the high percentage of valuations that are significantly over or under the residential properties' true market value.

4. Zillow's practices violate the Federal Trade Commission Act and undermine congressional intent to ensure a healthy, precise, open and robust housing and mortgage market, as stated in Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), the Federal Fair Housing Act, and related civil rights and consumer protection laws. Specifically, the Federal Trade Commission has jurisdiction in this matter under 15 U.S.C. §§ 41-58, as amended, under sections 45 (a) (1) Declaration of unlawfulness, 45 (a) (2) Proceedings by Commission, and 52 - Decimation of false advertising

5. NCRC further contends that the general public is unaware that AVMs are exempt from Uniform Standards of Professional Appraisal Practice (USPAP), and that the "average" consumer who relies upon information on the www.Zillow.com internet site mistakenly believes that he or she is receiving a valuation equivalent to one conducted by a valuation professional.

II. THE PARTIES

1. Complainant NCRC is a national non-profit member organization with the mission and purpose of increasing fair and equal access to credit, capital, and banking services and products for all Americans, regardless of race, gender or economic class. With this in mind, the NCRC founded the Center for Responsible Appraisals and Valuations to promote responsible valuation and appraisal practices both in America's communities and in our financial services markets. NCRC and the Center are located at 727 15th Street, Suite 900, NW Washington, D.C.

2. Respondent Zillow.com is located at 999 Third Avenue, Suite 4100, Seattle, Washington. Its principal place of business, from a consumer perspective, is on the World Wide Web at www.Zillow.com, its Internet domain.

III. BACKGROUND

1. Zillow.com's stated goal is "to empower consumers with information and tools to transform how they buy and sell homes". According to its web site, "step one" is "valuations and data on 68 million homes in America, with contributions from the homeowners themselves." The site further states, "Zillow.com was born with the goal of helping people make smarter real estate decisions."

2. Upon information and belief, the www.Zillow.com domain launched in beta form in February of 2006.

3. Zillow.com investors include Benchmark Capital, Technology Crossover Ventures, and Par Capital Management.

4. Zillow recently announced an agreement with Yahoo on July 19, 2006 to provide valuation services for Yahoo Real Estate and the Yahoo search engine.

5. NCRC contends that Zillow.com misrepresents on its web site that it provides accurate valuation information for 67 million houses and condominiums in the United States. Further, the homes are plotted on street maps and aerial views that also include the estimated values of adjoining homes in the neighborhood – all equally inaccurate, injuring the community as a whole.

6. Zillow.com calls this valuation a Zestimate and fraudulently represents that it is a “Kelley Blue Book” for homes.

7. Zillow.com falsely represents to the public that its internal data analysis demonstrates that “a majority” of their Zestimates are within 10% of the selling price of the home as valued by the homeowner or a real estate professional. This is a gross misrepresentation of the site’s accuracy.

8. Zillow.com’s founders’ and management’s misrepresentations and unfair financial practices have caused, are causing or are likely to cause substantial injury to consumers. This injury is not reasonably avoidable by the consumers themselves and not outweighed by countervailing benefits to consumers or to competition. Therefore, we request the immediate intervention of the FTC.

9. Zillow.com, recognizing the inherent weakness of its own AVM mechanism, tucks the following disclaimer into the “How to Use Zillow” section on its site - “Zillow.com does not offer the Zestimate as the basis of any specific real-estate-related financial transaction.” Despite this disclaimer, hundreds of thousands of consumers are relying on the site for mortgage and real estate transaction information.

10. Notably, Zillow's model differs from more accurate AVMs in several ways:

- a) It aims to include as many properties as possible, even when there is little or no public information available for an area.
- b) The company discloses its accuracy ratings as a caveat. Despite these factors, Zillow misrepresents that the site uses many of the same data sources as a typical AVM, including county records of past sales and tax information, which it gets from commercial data providers.
- c) It has a distinct consumer focus, and company officials have publicly stated that they hope the site will become the portal of choice for all real estate transactions. This consumer focus is leading consumers to believe falsely that the comparable information on the site is accurate.
- d) Zillow.com allows consumers to provide valuation information for their own properties, which from a consumer protection perspective affirms the limitations of the site's "black box" and is highly problematic because there is no way for third parties who may be relying on this information to confirm its accuracy – an inherent "check" in the appraisal process.
- e) Many valuation experts have commented that a large percentage of the information concerning property descriptions is inaccurate and/or out of date.

11. These problematic practices are compounded every time a consumer visits the www.Zillow.com site to consider:

- a) Selling their house: Consumers rely on Zillow because an accurate AVM or valuation estimate is one piece of the mix to use in pricing a home for sale;
- b) Calculating home equity: Because accurate AVM or other valuation estimate should

help consumers to understand if they have equity and to ascertain if their home has appreciated;

- c) The timing of a home equity loan: An accurate AVM or other valuation estimate can help a consumer to make an informed choice about how interest rates, terms and conditions, and overall equity stake in a home impact upon future plans and ability to sustain the loan;
- d) Buying a house: Consumers enjoy and rely upon Zillow not only for estimates for a particular home, but also use the site reports to learn all they can about the area, including comparables in the neighborhood. This raises significant fair housing concerns, discussed hereunder;
- e) Challenging the tax assessor: When homeowners build a case that their property has been overvalued, AVMs can be probative, if they are accurate. Zillow.com, however, produces inaccurate valuations by either over- or under-estimating the accurate value of a residential property by substantial margins.

This misinformation, in turn, facilitates poor consumer choice or problematic lending practices nationwide, leading to the empowerment of predatory lenders, real estate professionals, or financial service providers who target trusting or unsophisticated consumers.

12. Further, NCRC and its members are aware of a growing number of real estate and lending professionals who are using the misinformation on Zillow.com to perpetrate fraud in our nation's markets, often by targeting consumers in violation of Federal and State Fair

Housing Laws.

13. Thus, consumers who rely on the “accuracy” of Zillow.com’s information may find themselves struggling with loss of equity, predatory loans, and even the possibility of foreclosure.

14. However, the impacts of Zillow.com’s abusive, deceptive and/or inaccurate appraisal practices do not stop there. Deceptive and inaccurate valuations undervalue entire communities, having a disparate impact in low- and moderate-income communities, and creating risk for the secondary market.

15. Further, upon information and belief, Zillow’s business model places members of protected classes in urban and rural areas more at risk for discriminatory and predatory lending practices due to the limitations and inaccuracy of its “black box.”

16. NCRC’s audit of Zillow.com also documented that the site was within 10% of actual appraised value for properties reviewed LESS THAN ONE THIRD OF THE TIME. Further, our audit documented serious discrepancies from assessed property values and the Zestimate in low- and moderate-income communities. While over-valuations were prevalent in predominantly white areas, under-valuations were more frequent in communities that were predominantly African American or Latino by census tract. NCRC is considering filing a separate complaint to the United States Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity on this issue.

17. “MSN Money” in a recent online article compared the accuracy of six popular online appraisal AVM systems, including Zillow.com. Zillow was accurate to ten percent of value a mere 29% of the time. The “MSN Money” methodology included 1) contacting

real estate firms around the country and asking for prices for just-closed single-family home sales; 2) inputting the addresses -- two for each test city (Seattle; Minneapolis-St. Paul; Scottsdale, AZ; Baltimore; Cincinnati and Portland, OR 3) into each valuation site to get estimates of values. These cities were chosen to give the AVMs the best possible expectation for accuracy. Zillow.com, the only site that posts its confidence ratings by region, claims that Seattle, Minneapolis-St. Paul, Scottsdale, Baltimore, Cincinnati and Portland, are among its most accurate metro areas. "MSN Money" judged the AVMs by the standard to which appraisers hold themselves. "MSN Money" noted after interviews with appraisal experts that the typical margin of error for a standard appraisal is 5%. The MSN results documented that several sites, including Domania and Electronic Appraiser, had over a 50% accuracy rate, while Zillow.com was only 29% accurate.

18. In a review of 200 properties in six counties in Washington State by R. James Girardot, President of Appraisal One, Inc., which serves Western Washington State, discrepancies were documented that were typical of Zillow's lack of reliability in most metropolitan areas of the country. Mr. Girardot also serves as a member of the Partners Council for the Center for Responsible Appraisals and Valuations, founded by NCRC.

Among Girardot's findings:

- a) A \$384,990 sales price (SP) on 7/14/06 - Zillow value: \$431,493; a 11% valuation differential;
- b) \$1,625,000 SP on 8/1/06 - Zillow-\$1,849,253, a 12% valuation differential;
- c) \$1,100,000 SP on 5/2/06 - Zillow-\$865,415, a 21% valuation differential;
- d) \$850,000 SP on 4/14/06 - Zillow-\$995,414, a 14% valuation differential;

- e) \$174,500 list price as of 9/14/06, reduced from original list price of \$181,000 - Zillow-\$206,765 on 7/25/06, later raised by Zillow to \$221,955, a 21% valuation differential;
- f) \$1,565,000 SP on 4/20/06 - Zillow-\$1,805,071, a 13% valuation differential;
- g) \$489,950 SP on 7/6/06 - Zillow-\$246,865, a 50% valuation differential;
- h) \$775,000 SP on 7/14/06 - Zillow-\$579,907, a 25% valuation differential;
- i) \$1,350,000 current active listing in MLS - Zillow-\$1,832,337, a 26% valuation differential;
- j) \$2,450,000 SP on 6/19/06 - Zillow-\$3,093,076, a 20% valuation differential;
- k) \$750,000 SP on 5/26/06 - Zillow-\$912,195, a 17% valuation differential;
- l) \$4,399,000 SP on 7/25/06; Zillow-\$3,567,955; a 18% valuation differential;
- m) \$2,640,000 SP on 7/14/06; Zillow-\$3,555,948; a 25% valuation differential;
- n) \$15,000,000 SP on 7/31/06; Zillow-\$10,024,792, a 33% valuation differential.

19. NCRC in our report, "Predatory Appraisals - Stealing the American Dream" (2005) defined predatory appraisal as when the value of a property is falsely overstated or understated during a new purchase or during the home equity loan or refinancing process. Appraisal fraud or overvaluation is a growing problem documented by the National Community Reinvestment Coalition's Anti-Predatory Lending Consumer Rescue Fund.

20. Further, it should be noted that Zillow.com is allowed to give free "value" estimates with no liability and no reporting or record-keeping requirements. Appraisers on the other hand are fully liable and have a huge burden of reporting and record-keeping requirements – all designed to protect the integrity of all parties to the transaction. Since Zillow is providing estimates of market value there is a compelling argument it should be fully liable

to USPAP regulations just as an appraiser is. Despite this, the USPAP guide states in advisory opinion 18 (AO-18) on page 162 the following: “The output of an AVM is not, by itself, an appraisal.” Again, consumers, in particular to do not understand the esoteric distinctions between FIRREA, USPAP and AVM.

Consumer on the site are led to believe that the Zillow AVM model emulates the Uniform Standards of Professional Appraisal Practice (USPAP) requirements similar to that of a licensed valuation professional. That the Zillow black box analyzes all current agreements of sale, options or listings or the listing of the subject property as of the appraisal date. That Zillow analyzes all sales of the subject property that occurred within three years prior to the effective date of the appraisal, and that like a appraiser the Zillow technology inquiries as to 1) did the subject property sell at the same or higher than list price? Is this consistent and supported? 2) Did the subject property sell higher, lower, or the same as a prior sale reported? 3) What does this mean? Is the estimate of value of the subject property notably higher or higher then a prior sale reported? Did the appraiser analyze and explain with details? Other comparable issues include not reflecting the property’s true condition in the property description and approaches to value . Appraisers may rely upon an AVM in combination with other proven approaches, but the fact of the matter is that Zillow.com has raised concerns from a broad spectrum of trade associations familiar with its lack of quality control. Consumers should not assume the role of a valuation professional. Upon information and belief, NCRC contends that Zillow is not properly addressing the these questions in presenting information and/or its disclaimers to

consumers on its website. While exempted from USPAP, they do not adequately explain why their data so seriously deviates from valuations completed by appraisal professionals.

21. Loan securitizers, originators, banking regulators and the government sponsored enterprises Fannie Mae and Freddie Mac expect their clients to test the reliability of AVMs and to ensure the results of the AVM are accurate. So do consumers. If a loan transaction made or based on Zillow.com's valuation goes into default and it is determined that its model was not accurate, all the parties to that transaction should be held accountable and liable for Zillow.com's inaccuracy upon which the consumer and lender relied.

22. NCRC notes that many AVMs are highly reliable. But Freddie Mac, which utilizes its own AVM model, has publicly commented to "Valuation News", "Today, if a consumer walked into a lender's shop and wanted to use a Zillow.com Zestimate, the lender might make that loan but Freddie Mac would not purchase that loan. We don't accept that tool right now, and at this point we don't have any immediate plans to do so." (Valuation News, March 16th, 2006).

IV. CONCLUSION

1. Zillow.com's deceptive and unfair trade practices have frustrated NCRC's mission of increasing the flow of private capital into underserved communities and ensuring fair and equal access to credit and homeownership for all Americans. Zillow.com's practices deceive consumers who are relying upon the web site's data in home purchase, refinance, sales, home equity lending, investment and related real estate and financial services transactions. Zillow's model is also prompting consumers to question accurate standard appraisals and tax assessments.

2. For over a decade the residential real estate market has been at the mercy of improper and unlawful appraisal and valuation practices that have resulted in substantial over- or under-valuation of the collateral underlying trillions of dollars of housing loans. Zillow's misrepresentations mislead consumers by stating or implying that the valuation information for the home they are researching, the communities they are interested in, and for recent comparables is accurate to within 10% of value. In fact, these representations are accurate less than 30% of the time. Therefore, Zillow.com's representations on its web site are false or misleading and their practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. §§ 41-58, as amended.

WHEREFORE, NCRC requests that the FTC act in the public interest and permanently enjoin and restrain Zillow.com from violating the FTC Act in connection with offering its valuation services, find Zillow jointly and severally liable for redress to all borrowers who were injured as a result of the company's violations of the FTC Act; and ensure that all affiliate sites, including Yahoo Real Estate and the Yahoo search engine, incorporate appropriate injunctive and consumer protection settlement terms as agreed upon by the parties.