

Residential Property Appraisals – To Disclose Or Not To Disclose?¹

Are residential property appraisal documents personal information of property owners? Do you have to disclose such appraisals when requested by the owners?

In a case heard by the Office of the Privacy Commissioner of Canada under the *Personal Information Protection and Electronic Documents Act* (“Act”), the complainant asked his bank for a copy of a residential property appraisal conducted on his property. The bank refused his request on the grounds that the document was confidential commercial information and did not constitute personal information under the *Act*.

The Canadian Bankers Association (“CBA”) argued that the appraisal was not personal information since it was information about the property and not about the owner. Specifically, the CBA stated that:

- The information on a property appraisal form relates to the property itself, for example, the address, lot and house size, number of rooms, other buildings, services and amenities, and type of construction. It is a statement about the value of real estate with certain attributes, and is not about the individual.
- The appraisal contains no information about the current or future owners of the subject property. Who is living at an address has no bearing on the value of the property, so no personal information is needed on the appraisal form.
- The appraisal often contains information about similar neighbouring properties.

After hearing arguments presented by the CBA, the bank and the complainant, the Assistant Privacy Commissioner concluded that since the property was in the complainant’s name, the information relating to the property, including its market value, was his personal information. He therefore had a right of access to it.

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Residential Property Appraisals (continued)

However, the Assistant Commissioner agreed with the bank that some information contained in the appraisal did not qualify as the complainant's personal information; instead, it constituted third party information (e.g., the appraiser's name and contact information and data concerning other properties). The bank, therefore, had the right to apply exemptions to this document, as outlined in section 9 of the *Act*.

Conclusion

Residential property appraisal documents constitute personal information of the property owner under section 2 of the *Act*. Nevertheless, when responding to requests to access such documents, financial institutions have the right to sever all non-personal information and also the duty to sever all third party *personal* information before providing the owner with these documents.

¹ This article is an abridged version of the PIPEDA case summary at www.priv.gc.ca/cf-dc/2008/390_20080507_e.cfm.

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² TitlePLUS coverage is also available for leasehold properties in Nunavut.

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LENDER UPDATE

SEPTEMBER 2009

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