

Comparable Sales: Inspection and Photographing – What are the rules?

By Bill King

There was a time years ago when the standard of practice was that no comparable photographs were taken. It was expected that the appraiser had viewed the comparable sales from the street, but photos were not submitted. The certifications we find in today's appraisal reports did not exist, and there was no USPAP. The advent of comparable sale photographs as an exhibit to an appraisal report is, at least in part, an outgrowth of the practice of not driving the comparable sales. Simply, the requirement for photographs forced appraisers to prove what had been taken for granted previously, that they did in fact drive the comparable sales. As technology evolved and reports became more detailed, additional photographs of views, exterior amenities and adverse influences also became common.

In recent years, a trend has developed that has many residential appraisers failing to drive or inspect the comparable sales and opting to use MLS photos instead. They justify this practice with disclaimers about how the MLS photo better depicts the property on the day it sold, or that they could not get a good view from the street because of sunlight or trees, or even that the turn time requirement was so short that time simply didn't allow for driving comparable sales. Some invoke (incorrectly) the Departure Rule. What scope of work did you agree to at the time of assignment?

Let's face it; there are a lot of very good quality exterior and interior photographs in most MLS systems today that certainly enhance our ability to make meaningful comparisons of a comparable sale to a subject property. How often have you heard the concern that we go through the subject from stem to stern, and then only see the comparables from the street, thereby limiting the ability to really compare properties? Before the days of digital photography, MLS systems had no photographs at all, much less the detailed interior photographs that are common today.

Is an actual drive-by inspection of comparable sales required?

First, let's establish what is required in most assignments for residential mortgage lending. There are two main sources for determining the requirements for developing and reporting a residential appraisal where mortgage lending is involved: The Uniform Standards of Professional Appraisal Practice (USPAP), and the Fannie Mae Selling Guide. These guides drive the appraiser's scope of work decision.

From a USPAP perspective, comparable sales are not directly addressed. The appraiser's Standard 2-3 certification requires the appraiser to indicate whether or not they inspected the subject property but does not reference comparable sales at all. Some residential appraisers take this to mean that USPAP does not require them to inspect comparable sales. If the assignment does not involve the use of a Fannie Mae form, this may be correct.

However, Fannie Mae is one of those entities with an ability to establish public policy, and therefore able to establish Supplemental Standards. By accepting an assignment that requires use of a Fannie Mae form (not necessarily an assignment that will be sold to Fannie Mae), an appraiser becomes bound to the supplemental standard, thereby making the requirement to drive the comparable sales a requirement for full USPAP compliance. The use of Fannie Mae forms even when the appraisal report is not destined for Fannie Mae could be viewed as misleading if not completed to Fannie Mae guidelines. Many other secondary market participants simply adopt Fannie Mae guidelines rather than write their own.

Fannie Mae Form 1004-B, the Appraiser's Certification, paragraph 8 is clear: "I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report."

The certification in the current Fannie Mae form 2055 is also clear: "I performed this appraisal by (1) personally inspecting from the street the subject property and neighborhood and each of the comparable sales (unless I have otherwise indicated in this report that I also inspected the interior of the subject property." It also goes on to say that "I have adequate information about the physical characteristics of subject and comparable sales to develop this appraisal." This is something we are specifically attesting to with our signature as what we have done each time we apply our signature.

The new Fannie Mae forms 1004 and 2055 make clear in the scope of work that "the appraiser must, at a minimum: (3) inspect each of the comparable sales at least from the street." For the new 1004 form the required exhibits include: "Clear, descriptive photographs (either in black and white or color) that show the front of each comparable sale and that are appropriately identified. Generally, photographs should be originals that are produced by photography or electronic imaging; however, copies of photographs from a multiple listing service or from the appraiser's files are acceptable if they are clear and descriptive."

While the form 2055 instructions require photographs of the subject, there are no required comparable photographs, original or otherwise. However, the requirement that the comparables be inspected, at least from the street remains. If you really drove past the property with enough daylight to meet the requirement of having adequate information about the physical characteristics of comparable sales to develop the appraisal, why not take the photographs?

Can I re-write the certification indicating I did NOT inspect the comparable sales?

Perhaps most important to keep in mind when using the Fannie Mae forms and signing the certification is that you cannot override anything in the certification; you can add to things like Scope of Work but you can never diminish the certification itself. Fannie Mae instructions are abundantly clear:

“Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted.”

Do I need to re-inspect the comparable sale each time I use it in an assignment?

We have firmly established that exterior inspection of the comparable sales from the street is not optional in residential lending assignments where the scope of work calls for inspection of comparable sales. What we are now faced with is a judgment decision as to whether or not revisiting a property that has recently been seen is required.

First, I think that some of us have become complacent about the whole comparable sale process. The objective is to identify the most similar properties in the market that have sold as a benchmark for what a given subject property should sell for in the market, not necessarily the first three “sales” that fit. Competency involves judgment. The selection of comparable sales is a judgment process. Perhaps the most important reason for viewing the comparable sales is to make specific judgments as to how a given sale compares to the subject. There are specific units of comparison that need to be identified and analyzed. The fact that you have seen a given comparable sale recently does not ensure that the specific units of comparison that were most important in the last assignment are also the most important units of comparison in the next assignment. It may be that they are the same if the two different subject properties are about the same. In neighborhoods where a high degree of homogeneity is present, sound judgment may result in using a sale from a recent assignment without revisiting it. However, in cases of complex property, or a comparable sale with some form of external obsolescence, it may be necessary to revisit the comparable sale in each assignment in order to ensure that the most critical units of comparison are being given proper treatment in the context of the subject property.

For example, you may have a subject property on an arterial street and three very good comparable sales, also on similar arterial streets. This might result in no adjustments for the external influence of the arterial street. Next week’s subject may be similar in all other respects, but located on a quiet, dead-end street. In this case, it might be helpful, if not necessary, to revisit the same comparable sale in order to properly assess the magnitude of difference between it and the subject property. Perhaps in a semi-rural area where a subject property has additional improvements such as a barn, arena, detached shop or auxiliary living unit, the amenity contribution may be a critical component to the total value. Revisiting the comparable sale may be an important step in properly assessing the true comparability of the property to the subject. And I’m sure many of us have had the experience of looking at a given sale on paper and feeling that we had a solid comparable, only to drive the property and realize that the same buyer would never consider it a reasonable substitute for the subject.

Business Decisions versus Appraisal Decisions

There may be sound business reasons for re-taking your comp photos, aside from the sound appraisal reasons. I'll be among the first to stand up and say that we cannot let our clients run our businesses, but there are times when it is wiser to anticipate the problems that can arise and head them off than to engage your client in a battle of wills. I try to keep in mind that part of my ability to gain their business lies in being someone who is not difficult to do business with.

If you took a photograph of a comparable sale in March with snow on the roof, and now it is May and the flowers are blooming, perhaps the wise choice is to re-take the comparable sale photograph and spare yourself the exercise of explaining the circumstances to an underwriter or reviewer. In the end, it may take more time to diffuse the problem than it would have to simply re-take the photograph. Beyond that, unless you are taking NO new photographs for the assignment, you should already be in the area. I would also argue that if the distance is so great as to make revisiting the comparable sale burdensome, it may just not be comparable anyway.

There are also occasions when a gated entry, no trespassing sign, or other obstacle prevents access to the comparable sale. Under these circumstances, I have developed the practice of including the photograph of the gate or sign in the comparable sale photograph page, and then include the MLS photo on an additional photo page with an explanation. This eliminates the phone calls, and makes clear that the sale was driven and inspected as well as it could be from the public street. Supplementing a report with MLS photos is also an excellent way to illustrate why your photo may show things that didn't exist at the time of sale like a fence, barn, or other obvious exterior improvement.

Another advantage of MLS photos is the number and quality of the interior photos that are available. These can go a long way to helping you defend quality and condition adjustments in an assignment. Keep in mind too, that reviewers often have access to these photos. If you fail to note a significant feature or difference that could be easily identified through these photos, it may come back to bite you.

Conclusion

The certifications we sign attest to the fact that we did in fact inspect the exterior of the comparable sales, but they do not say when we inspected them. Good judgment is essential. The certifications also indicate that the signer inspected the exterior of the comparable sales, not an assistant or another appraiser in your office. The source of the comparable sale photographs can be your original photograph, another appraiser, or the MLS. Again, use good judgment and explain your decisions. And remember, if the MLS photo isn't the right house, it is still your certification.