

Warning! Warning! Warning!

By Bob Keith, Administrator

This article is rather long, but I encourage you to read it. Five of the subheadings are active and on-going issues causing compliance problems for a number of appraisers. The last one has the potential to be a huge problem for appraisers. The issues are:

- Misleading Use of Comp Photos (MLS, CoStar, LoopNet)
- Signing Reports Without Inspecting the Subject
- Revising an Appraisal Report
- Requirement to Disclose Comparable Confirmation
- Proper Disclosure of Appraiser Assistance
- Alternative Valuation Products

Misleading Use of Comp Photos

An alarming number of appraisers are utilizing photos from MLS, CoStar, LoopNet (collectively referred to herein as "MLS photos") in their reports without attribution to the source. Even worse, they crop the photos to exclude the data service's copyright, dates and/or other identifying marks that would indicate the photo was not personally taken by the appraiser. Both practices are very misleading.

Using MLS photos of comparable sales is permissible only if the appraiser makes proper attribution of the source of the photos. Sometimes access to a comp is restricted, and using an MLS photo is the only option. Before doing so, be aware that some appraisal users will not accept a comp photo that is not personally taken by the appraiser.

Some appraisers who use MLS photos contend that they inspected the exterior of the comp(s) but did not take their own photo(s) while doing so; therefore, signing the certification is appropriate... and so it is. However, with the understanding that an appraiser *could* be called into question whether they actually inspected the exterior of a comp, what better evidence could there be than a photo that was taken by the appraiser while parked across the street from the comp!

Some appraisers argue that even when it is possible to take their own photo, an MLS photo should be used because it more accurately represents the condition of the property while exposed to the market. In these situations, best practice would dictate that appraisers include both photos in the report with proper attribution for each.

Using the work of another (MLS photos) without attribution, cropping the photo to conceal its source and then certifying that the work (taking the photo) is your own is a willful intent to mislead and is unethical. The Board takes a particularly dim view of this practice.

Signing Reports Without Inspecting the Subject

Another misleading practice is supervising appraisers sending their assistants to perform an interior and exterior inspection of a subject property while the supervisor only inspected the exterior, but then signs a certification that they inspected both.

It is permissible for an appraiser to not inspect the interior and/or exterior of a subject property, but *only if* they make an accurate disclosure in their certification of exactly what they did (or did not) inspect. Correspondingly, it is assumed that proper disclosure of appraisal assistance regarding the inspection is made in the report. This disclosure issue is the subject of a subsequent section of this article. These comments apply equally to residential and non-residential appraisers.

Residential appraisers are reminded that the Fannie Mae certification states, "I performed a complete visual inspection of the interior and exterior areas of the subject property." It is unethical to sign the Fannie Mae certification if the appraiser sent an assistant to perform the interior and/or exterior inspection of a subject property instead of performing the inspection themselves. The act of a supervising appraiser reviewing photos and/or videos of a subject property (taken by an assistant) in lieu of a personal inspection does not constitute an "inspection".

To create a false impression that the interior and exterior of a subject property was inspected, when one or both were not, is a willful intent to mislead and is unethical. The Board also takes a particularly dim view of this practice. Very recently, the Board revoked an appraiser's license due largely to falsely certifying to performing over 50 interior inspections.

Likewise, it is unethical for a registered appraiser assistant to knowingly engage in the practice of inspecting property that their supervising appraiser failed to inspect, but who signs a certification that they are performing the inspections.

Revising an Appraisal Report

Improper revisions of appraisal reports and the corresponding workfile deficiencies are common problems we encounter.

When issuing (uploading) a revised appraisal report, an appraiser should identify it as a revised report and should state the type and extent of the revisions. Removing such disclosure at a client's request *after* a revised report has been issued is misleading because it conceals the fact that a prior report exists and that the prior report has been altered by issuance of the revised report.

After an original appraisal report has been issued and a correction or revision is necessary, the appraiser must maintain in his/her workfile a record of all communications with the client involving the request for the revision. This protects the appraiser by preserving proper documentation for why the original appraisal report was altered.

Consider two scenarios in which revisions are required. The first is when a new (revised) report is requested and delivered by electronic or other means to a client by the appraiser; this occurs most frequently with residential appraisers. The second scenario is when an entire revised report is not issued, but only the corrected pages are requested by and delivered to the client; this occurs predominately with non-residential appraisal reports.

First scenario: When two or more separate reports (original and revised) are issued, a true and exact copy of the original and each revised report in their entireties must be retained in the workfile. Many times appraisers err by altering an electronic version of the

original report, thus permanently erasing any record of the original data/analysis that was removed from the original report.

If the original report contained an identifying report number, then each subsequent revised report must have its own unique report number so that each revised report can be differentiated from the original report. Also, each report must reside in the original assignment's workfile and each must have different report dates assuming that they were each generated on different days. This holds true even if the original report had no identifying report number as occurs in some instances, primarily involving non-residential assignments.

Second scenario: When only revised pages are provided to a client and a revised report (in its entirety) is not issued, the appraiser has two workfile options. The first option is to insert the revised pages in the workfile copy of the original appraisal report and retain the removed pages in the workfile. The second option is to leave the original report intact and add the revised pages to the workfile. In either case, there must be file notation documenting what was done, why and when.

In both scenarios, the governing principle here is to assure that permanent workfile documentation is retained for the original *and* each revised appraisal report and that there exists a clear record of what was revised, why it was revised and when it was revised.

Failure to maintain proper records when revising an appraisal report constitutes a violation of ORS 674.140(7) and the Record Keeping Section of the Ethics Rule of USPAP.

Requirement to Disclose Comparable Confirmation

Oregon Administrative Rule 161-025-0060(5) requires all appraisers to “**disclose** in all appraisal reports **whether** the comparable sales analyzed in the appraisal report **were or were not** confirmed by a party to the transaction or an agent or representative of a party to the transaction” (emphasis added). Note that the rule does not require appraisers to confirm comparable sales or to report the name and telephone number of the person with whom the comp was confirmed.

It *should* be counter-intuitive for most appraisers to contemplate not confirming comparable sales utilized in an appraisal report since doing so could interfere with making reliable adjustments to those comps. However, on occasion the scope of work for certain appraisal assignments would allow an appraiser to not confirm comparable sales.

A common fault in appraisal reports occurs when appraisers attempt to use “boilerplate” (one size fits all) comments to comply with this rule. Instead, appraisers should be specific enough with each comp confirmation disclosure to help their clients and intended users understand the credibility of comparable sales relied upon in the appraisal report. The actual language used to accomplish this can vary from assignment to assignment depending on the intended use, scope of work, reporting option, property type and other factors.

Proper Disclosure of Appraisal Assistance

Supervising Appraisers are reminded of the requirement for making proper disclosure of real estate appraisal assistance in their appraisal reports. Registered Appraiser Assistants are not eligible to receive experience credit towards earning a certification unless proper disclosure is made.

Oregon Administrative Rule 161-025-0025(d) requires Supervising Appraisers to “make a clear and prominent disclosure of real estate appraisal assistance in each appraisal report by identifying each individual category of experience that the appraiser assistant provided as outlined in OAR 161-025-0025(2)(a)”. The categories of experience are:

- A) Define the appraisal problem;
- B) Conduct preliminary analysis, select and collect applicable data;
- C) Conduct an analysis of the subject property;
- D) Conduct highest and best use analysis;
- E) Estimate land value, including on-site improvements;
- F) Estimate value of the property using each of the three approaches to value;
- G) Reconcile each value indication and reconcile the final value estimate; and
- H) Report estimate(s) of value(s) as defined.

The Board must ensure that all Registered Appraiser Assistants obtain sufficient experience in all categories of experience listed above before earning a certification. Therefore, when the Board staff processes certification applications they cross check the hours claimed in each category of experience on the Assistant’s experience log with the actual disclosure in the appraisal report indicating the experience categories that were performed by the Assistant.

Alternative Valuation Products

The Comment Section of Standard Rule 1-1(a) states, “This Standard Rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession.”

Changes in national and local economic conditions, as well as data availability and technological advances, have been occurring at a remarkable pace in recent years. One result is the change in what various users of valuation products need or want; namely, faster and cheaper valuation tools typically for purposes other than first mortgage loans.

These conditions have given rise to the emergence of “Alternative Valuation Products” (AVP). Some AVPs are designed *by* knowledgeable appraisers *for* appraisers to use in meeting market demand for alternative valuation products. The assumption is that these products are designed to be USPAP compliant when in the hands of ethical and competent appraisers trained in the use of the AVP.

Appraisers should beware of AVPs offered by companies that claim USPAP compliance is not required because their product is not an “appraisal”. One such product asks an appraiser to reconcile between two different Broker’s Price Opinions (BPOs).

Another product asks appraisers to review and "reconcile" between various combinations of BPOs, review appraisal reports and/or original appraisal reports.

To be clear, appraisers are encouraged to think outside of the "traditional" box and to utilize their knowledge and expertise in new ways to satisfy demand in the market place for new valuation products. To do so, an appraiser must comply with USPAP in every situation that calls upon them to develop and communicate their own opinion of value. This includes concurring with another's value opinion or opining that another's value opinion is "too high" or "too low".

USPAP does not require any particular form or format to report assignment results for valuation services. Neither does the Board endorse or "pre-approve" a particular reporting form, software or format. However, in order to monitor and hopefully prevent companies from inappropriately soliciting appraisers to provide AVPs or any products or services that are not USPAP compliant, we ask appraisers to forward questionable solicitations to the Board for appropriate follow-up.