

Unpermitted Additions, Garage Conversions and ADU Job Aid

Issue	Zoning	Requirements
Unpermitted Addition and Garage Conversion <i>Additional living area added to the primary dwelling by addition or conversion of an existing structure without obtaining local building department permits. If equipped with a second kitchen see ADU section below.</i>	Legal or Legal Non-Conforming	<p>All 1st Lien Types</p> <ul style="list-style-type: none"> Appraiser to confirm the following on the appraisal (generally in the addendum): <ul style="list-style-type: none"> Conforms to subject property and market. Completed in a workman like manner. No safety/soundness issues observed. <p>FHA Room Additions and Garage Conversions:</p> <ul style="list-style-type: none"> Room Additions and Garage Conversion square footage must be included in GLA/Room Count if all of the following apply: <ul style="list-style-type: none"> Accessible from interior of main dwelling in a functional manner, Permanent and sufficient (maintain min 50°) heat source, and Built in keeping with design, appeal and quality of main dwelling Otherwise: <ul style="list-style-type: none"> Include as separate line item (Other), and Address and adjust as appropriate for <ul style="list-style-type: none"> Contributory value (if any) of the unpermitted Room Count. If none, must explain why it has no contributory value. Impact on marketability and contributory value, if any If there is a bathroom or kitchen where pipes could freeze, a permanent heat source is required. <p>Conventional Room Additions and Garage Conversions:</p> <ul style="list-style-type: none"> If the contributory value per square foot of the unpermitted square footage is equal to that of the primary GLA, the unpermitted sq. ft. should be included in GLA/Room Count If the unpermitted square footage has contributory value but not equal to GLA, should be added as separate line item (Other) and adjusted accordingly for contributory value (if any) <ul style="list-style-type: none"> If the unpermitted square footage has no contributory value, the appraiser should comment on why. A permanent heat source is required for all living space. Photos, at a minimum, of all Kitchens, bathrooms, main living area, any physical deterioration and recent updates (including recent unpermitted additions) <p>ML Mortgage will rely on Appraiser's Zoning Compliance indication in site section of appraisal to confirm legal use. Contradictory language in the appraisal must be reconciled. *If the zoning is marked legal but the appraiser indicates elsewhere in the report that the addition is not legal, the appraisal must be updated to provide sufficient commentary to confirm zoning compliance of the un-permitted addition. See Process below for examples of areas in which the appraiser may have contradictions.</p>
Unpermitted Addition and Garage Conversion	Illegal	<ul style="list-style-type: none"> Convert property back to original state, or Obtain retroactive permits, or Decline the loan

<p>Accessory Dwelling Unit (ADU) <i>Also known as mother-in-law quarters, guest quarters, granny flat – additional living quarters on single family lots that are independent of the primary dwelling unit(s). Equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence.</i></p>	<p>Legal or Legal Non-Conforming</p>	<p>All 1st Lien Types</p> <ul style="list-style-type: none"> Only one ADU is permitted on the parcel of the primary dwelling. Whether a property is a one-unit property with an accessory unit or a two-unit property will be determined by the Appraiser based on the highest and best use analysis of the property. The characteristics of the property to be considered include, but are not limited to, subordinate in size, location and appearance to the primary unit; the existence of separate utilities; a unique postal address; and whether the unit is rented. The appraiser must provide a description of the accessory unit and analyze any impact on value or marketability. The current use of the ADU must be reflected in the description. Manufactured, Condos and SFR Attached are not eligible. ADU square footage must be Excluded from GLA/Room Count ADU must be reflected as separate line item (Other) with appropriate adjustments for contributory value (if any) OR explain why it has no contributory value. Photos of the interior/exterior of the improvements must be included. Appraiser must confirm the following on the appraisal: <ul style="list-style-type: none"> Conforms to subject property and market. Was completed in a workman like manner. There are no health or safety issues observed. <p>FHA</p> <ul style="list-style-type: none"> The ADU must have a permanent heat source. Appraiser may consider a Manufactured Home to be an ADU if it meets the highest and best use AND FHA requirements. Appraiser may value a Manufactured Home on the property that physically or legally may not be used as a dwelling and does not pose health or safety issues by its continued presence as a storage unit. At least one comp with an ADU must be provided. <p>Conventional</p> <ul style="list-style-type: none"> Primary dwelling must be one-unit detached. ADUs are not permitted with a two-to four-unit dwelling. Property must be appraised in its current state - cannot simply exclude ADU from value or call it storage. At least one closed comp with an accessory unit is required. Listings not acceptable. The ADU must have a permanent heat source. <p>ML Mortgage will rely on Appraiser’s Zoning Compliance indication in the site section of appraisal to confirm legal use. If there is contradictory language the appraisal needs to be escalated to Management. If the zoning is marked legal but the appraiser indicates elsewhere in the report that the addition is not legal, the appraisal must be updated to provide sufficient commentary to confirm zoning compliance of the ADU. See Process below for examples of areas in which the appraiser may have contradictions.</p>
<p>Accessory Dwelling Unit (ADU) <i>Also known as mother-in-law quarters, guest quarters, granny flat – additional living quarters on single family lots that are independent of the primary dwelling unit(s). Equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence.</i></p> <p>Accessory Dwelling Unit (ADU)</p>	<p>Illegal</p> <p>Illegal (cont.)</p>	<ul style="list-style-type: none"> Convert property back to original state, or Obtain retroactive permits, or Decline the loan FHA: illegal accessory units not allowed under any circumstances. FNMA/FHLMC ONLY: Illegal Accessory Unit allowed only if ALL of the following requirements are met: <ul style="list-style-type: none"> Appraisal report must have two closed comps with the same illegal use (i.e., three comps with illegal accessory units. <i>Listings not acceptable</i>). Comps must be dated within 12 months. > 12 months may be considered on a case-by-case basis only. Contact Management for exception request. Appraiser must certify in report that the illegal use conforms to the subject neighborhood and to the market. Property must be appraised based upon its current use (cannot simply exclude accessory unit from value) Borrower must qualify without considering any rental income from the illegal unit Appraisal must report that the improvements represent an

		<p>illegal use.</p> <ul style="list-style-type: none"> ○ Must have confirmation from hazard insurance company that existence of the illegal unit will not jeopardize future claims.
--	--	--

Process

If the appraisal indicates that there is unpermitted square footage or a garage conversion, the property is acceptable subject to the requirements above and the following additional steps must be taken:

Determine if the improvements are legal and conform to the neighborhood (market):

- Review the Appraiser’s Zoning Compliance indication in the site section of the appraisal:
- Review all other information in the appraisal to confirm that the appraiser does not state that current use represents an illegal use of the property. Common areas that the appraiser may make comments are:
 - Improvements Section on Page 1
 - Additional Comments on page 3
 - Any additional addendum used to describe the property (must read all pages and all section)
 - As a caption on any photos
- Review the Improvements section on the appraisal:

If the improvements are legal:

- Verify that appraisal photos/comments confirm:
 - Conformance to subject property and market.
 - Completed in a workman like manner.
 - In keeping with design, appeal and quality of construction of the rest of the home.
 - No safety/soundness issues.
 - Current use of the unpermitted square footage.
- FHA:** Verify that the unpermitted square footage is included or excluded from GLA/Room Count as applicable:
 - If accessible from interior of main dwelling in a functional manner and has a permanent heat source and similar design/appeal/quality as main dwelling, should be **included** in GLA/Room Count.
 - If not accessible from interior of main dwelling or has no permanent heat source or not similar design/appeal/quality, must be **excluded** from GLA/Room Count and shown as a separate line item on the grid.
- Conventional:**
 - If addition/garage conversion contributory value per square foot **equal** to GLA value per square foot, verify that the unpermitted square footage is included in GLA/Room Count and that at least one comp with the same room count as the *total* room count (including unpermitted) is provided.
 - If addition/garage conversion contributory value per square foot **not equal** to GLA value per square foot, verify that the unpermitted square footage is included as a separate line item and that at least one comp with the same room count as the *total* room count (including unpermitted) is provided.
 - If addition/garage conversion has no contributory value, verify comments on why.

If the improvements are legal (cont.):	<div>d. If ADU, verify that at least one closed comp has an ADU. Listings not acceptable.</div> <div>4. Verify that there are photos of the interior/exterior of the improvements.</div>
If the improvements are illegal:	<div>1. Determine if the owner will be returning the property to its original state or if they will provide retroactive permits. This information is to be in the file when the loan is submitted to Underwriting.</div> <div>2. If it is unknown at the time of Underwriting then the file will be suspended. Condition will read:<div>➤ “Provide evidence of retroactive permits or confirmation from the owner that the property will be returned to its original permitted state”.</div></div> <div>3. If the owner will return the property to its original state, add the following condition:<div>➤ “1004D to evidence property returned to legally permitted state is required PTF”.</div></div> <div>4. If the owner is obtaining retroactive permits add the following PTF condition:<div>➤ “Provide permits for the improvements”</div></div> <div>5. If the owner is unable or unwilling to provide retroactive permits or return property to legally permitted state, Decline the file for unacceptable collateral.</div> <div>NOTE: If the addition/conversion is an illegal accessory unit, see illegal accessory unit requirements above.</div>

DEFINITIONS

Unpermitted means required permits were not obtained prior to completing the addition/conversion.

Illegal means that the governing body (city, county, etc.) would not issue permits even if applied for because they do not allow such a use of the property.

Illegal Use Examples:

- Conversion of a garage to living area in a city that requires a garage suitable for parking. Must convert property back, obtain retroactive permits, or the property is unacceptable and the loan will be declined.
- Addition of a separate unit in an area that does not allow more than one unit (**illegal accessory unit** also referred to as accessory apartments, mother-in-law quarters, guest quarters or granny flats). Must convert property back to original state, obtain retroactive permits, or if Conventional loan see Illegal Accessory Unit requirements. *FHA does not allow illegal accessory units under any circumstances.*

One-Unit – whether a property is a one-unit property with an accessory unit or a two-unit property will be based on the characteristics of the property, which may include, but are not limited to, the existence of separate utilities, a unique postal address, and whether the unit is rented. The appraiser is required to provide a description of the accessory unit, and analyze any effect it has on the value or marketability of the subject property.

FAQ’s

1. My appraisal shows zoning compliance as legal, but the appraiser does not state in the comments that it’s legal use. Do I have to contact the city to make sure that they would have been able to issue permits?

a. No. If your appraisal reflects zoning compliance as legal/conforming and it has additional comments to confirm that the unpermitted addition: conforms to the neighborhood/market and was completed in a workmanlike manner and there are no health and safety issues identified, then your appraisal is sufficient.
2. I have a garage conversion and my appraisal shows zoning legal. In the comment section the appraiser states that there are no health and safety concerns, but that the conversion was not built in a workmanlike manner due to not having a heater. What do I do?

a. The Appraiser must update the report making it ‘Subject To: Installation of satisfactory heat source in the converted garage.’
3. My appraisal is showing that the zoning is legal, but one of the photos is labeled “illegal garage conversion” what do I do?

The Appraisal Underwriter must contact the appraiser to resolve the discrepancy

