

Guidelines for selecting comparable property sales – residential property

Sections 47AC and 47AD of the *Estate Agents Act 1980*

About these guidelines

Section 47AD(1) of the *Estate Agents Act 1980* (the Act) provides the authority for these guidelines, which are made by the Director of Consumer Affairs Victoria for the purpose of section 47AC(2)(d) of the Act. These guidelines are published on the Consumer Affairs Victoria website at consumer.vic.gov.au/underquoting.

These guidelines set out the factors that you as an estate agent or agent's representative must take into account when selecting the three property sales that you reasonably consider to be most comparable to the residential property that you have been engaged to sell.

Your requirements under the Act

The requirements relating to the estimated selling price and the comparable property sales are set out in sections 47A, 47AB, 47AC and 47AF of the Act.

You must include your estimate of the selling price for a residential property in your sales authority before it is signed by the seller. Your estimate must be reasonable and take into account the three most comparable property sales. You are not required to consider comparable property sales to determine your estimated selling price, if you reasonably believe that fewer than three comparable properties were sold in the prescribed times and locations.

Under section 47AC(1) and (4) of the Act a comparable property is a property that is of a similar standard or condition to the property for sale, and has either been:

- sold within the last six months and is located within two kilometres of the property for sale if that property is located within the Melbourne metropolitan area, or
- sold within the last 18 months and is located within five kilometres of the property for sale if that property is located outside the Melbourne metropolitan area.

The Determination setting out the local government areas that comprise the Melbourne metropolitan area is published on the Consumer Affairs Victoria website at consumer.vic.gov.au/underquoting.

The details of the three most comparable property sales must also be included in the Statement of Information that you must provide to a prospective buyer within two business days of a request, display at any open for inspection and include with any internet advertising for the property being offered for sale. If comparable property sales were not taken into account when setting the estimated selling price, a statement outlining that you reasonably believe there are less than three comparable sales available must be included in the Statement of Information.

To select the most comparable property sales, you must take into account the factors specified in section 47AC(2) of the Act and these guidelines.

Factors you must consider

Your aim is to find past sales of comparable properties where the properties that were sold are most like the property being offered for sale.

Section 47AC(2) of the Act specifies the following factors you must consider when selecting the three comparable property sales:

- the standard and condition of the properties
- the location of the properties
- the dates on which the properties were sold, and
- these guidelines.

The matters that you must consider for each of these factors are detailed below. You must consider each matter to the extent that information relevant to the matter is reasonably available to you.

1. ***Properties of a similar standard and condition*** – To ensure that a comparable property is of a similar standard and condition to the property being offered for sale you must consider the following features of the comparable property at the time it was sold.
 - Its external construction – for example, the building materials used.
 - Its architectural style and layout.
 - Its size including floor size of the dwelling and land size of the property (as applicable)
 - the number of bedrooms, number of bathrooms and the number of car parking spaces.
 - Any special features, for example, a swimming pool or a tennis court.

Properties in a similar location – The maximum distance between the property for sale and a comparable property are specified in section 47AC(4) of the Act. For a property for sale in the Melbourne metropolitan area, a comparable property must be within two kilometres of that property. For a property for sale outside the Melbourne metropolitan area, a comparable property must be within five kilometres of that property.

When considering whether a property is in a similar location, you must consider the following matters:

- distance between the properties
- zoning and street frontage
- neighbourhood features (eg proximity to shops, transport, schools, parks, business and industry).

Where considering multiple potential comparable properties that are otherwise the same, a comparable property located closer to the property for sale (eg in the same street) is to be preferred over a comparable property located further away (eg in a neighbouring suburb).

2. ***Recently sold properties*** – The date of a comparable property sale is an indication of the market conditions at the time that property was sold. Therefore, the closer the dates of sale of your three comparable properties to the date you estimate the selling price of the property, the better your estimate will reflect the current market conditions. The limits for the timeframes you can consider are specified in section 47AC(1) of the Act – that is, six months for comparable properties located within the Melbourne metropolitan area and 18 months for those located outside that area.
3. ***Build status*** - You must consider whether the property for sale and potential comparable property are already built, under construction or sold off-the-plan. Comparable properties of the same build status as the property for sale are to be preferred.

Unless you reasonably believe that fewer than three comparable properties were sold in the prescribed times and distances, you must take into consideration the factors set out in section 47AC(1), (2) and (4) of the Act and the matters detailed in these guidelines to select the three most comparable property sales.

If you do not consider comparable property sales when it is appropriate to do so, or you do not consider the factors in the Act and these guidelines, you will be in breach of section 47AB of the Act, which has a penalty of a fine of up to 200 penalty units and forfeiture of commission.