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Systems, including spatial information systems, used in the work of a property appraiser – court expert in the field of property valuation

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Abstract: This article focuses on systems, including spatial information systems (SIP), which can be used by property appraisers – court experts in the field of real estate valuation when preparing an opinion on the value of real estate and when preparing other studies and expert opinions referred to in the real estate management regulations. There is also a reference to the institution of the property appraiser and the function of the court expert, as well as to the content and form of the appraisal report, i.e. the opinion on the value of the property.

Keywords: property appraiser, court expert, appraisal report, information systems, spatial information systems, geoportals.

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1. Introduction

Over the last years, one can observe a rapid evolution of systems, including spatial / geographical information systems, which is related to the development of the information society, i.e. a society that commonly uses information in economic, social, cultural and political life (Gotlib D. & Iwaniak A. & Olszewski R. (2007) GIS. Areas of application. Polish Scientific Publishers PWN).

The uniqueness of these systems involves a possibility to use them in various ways (Longley P. A. & Goodchild M. F. & Maguire D. J. & Rhind D. W. (2008) GIS. Theory and practice. Polish Scientific Publishers PWN).

Thus, the wealth of sources causes that the preparation of an opinion on the value of the property in the form of an appraisal report must be preceded by a detailed analysis of a great deal of data and information recorded in different ways.

Property appraiser – a court expert in the field of property valuation in his work uses various tools that both facilitate his work and seek to achieve a better understanding of the appraisal report by the reader (the recipient of the order, which may be a natural person, a company, a bank, a court,

a prosecutor's office, another entity,.....).

Such tools include spatial information systems (SIP). Some of them contain a special module for property appraisers, where data on real estate transactions that took place on a given local market are available (upon the relevant application and payment for it).

However, one should bear in mind that only official documents and spatial databases constitute reliable information.

In this article, the author focused not only on the institution of the property appraiser and the court expert in the field of property valuation, but also on the indication of the above-mentioned tools / systems.

2. Institution of the financial appraiser

Pursuant to Article 173 item 1-3a of the Act of August 21, 1997 on Real Estate Management (i.e. Journal of Laws of 2021 item 1899) property appraisal is a professional activity that is carried out by property appraisers on the terms set out in this Act.

This Act explicitly states that a property appraiser is a natural person who has professional qualifications in the field of real estate valuation, granted under the provisions of Chapter 4, Section V thereof.

The role of a property appraiser is to determine the value of real estate, as well as machinery and equipment permanently connected to real estate. The opinion on the value of the property is prepared in the form of an appraisal report.

In addition to the above, the property appraiser may also prepare studies and expert opinions not constituting the above-mentioned appraisal report, which concern:

- 1) real estate market and consultancy relating to this market;
- 2) the effectiveness of real estate investment and their development;
- 3) the financial implications of adopting or amending local plans;
- 4) designation of the subject of separate ownership of premises;
- 5) the mortgage lending value of the property;
- 6) determining the value of real estate for the needs of an individual investor;
- 7) the valuation of real estate classified as investments within the meaning of the accounting regulations;
- 8) valuation of real estate as fixed assets of entities within the meaning of the Accounting Act.

As the Provincial Administrative Court in Gliwice rightly pointed out in the judgment of 21 September 2022, files No. II SA/GI 732/22, the property appraiser is free to estimate the value of the property (<https://www.prawo.pl/biznes/szacowanie-wartosci-nieruchomosci-przez-rzeczoznawce-majatkowego,517841.html> - 01.12.2022 r.).

In turn, the District Court in Dzierżonów, in its judgement of 8 May 2019, files No. I C 813/18 ([http://orzeczenia.dzierzoniow.sr.gov.pl/content/\\$N/155020050000503_I_C_000813_2018_Uz_2019-05-30_001](http://orzeczenia.dzierzoniow.sr.gov.pl/content/$N/155020050000503_I_C_000813_2018_Uz_2019-05-30_001) - 01.12.2022 r.) noted that *"the legal position of the property appraiser is special, in fact, it is similar to a person of public trust, because he is a person exclusively authorized to make valuations of real estate"*.

3. Institution of the court expert

As the author pointed out in her publication entitled *"The function of an expert in civil, criminal and administrative proceedings"* (Piotrowska L. (2022). Res Publishing House) the legal regulations

concerning the institution of the court expert / court experts in Poland are included in the legal act, which is the Regulation of the Minister of Justice of 24 January 2005 *on court experts* (Journal of Laws No. 15, item 133).

The regulation in question was issued on the basis of the Act of 27 July 2001. *Law on the System of Common Courts* (i.e. Journal of Laws 2020 item 2072) – Article 157 § 2. In Section IV, Chapter 6 (Article 157 § 1-3) of the Act, attention was paid only to experts (refers to experts, i.e. court experts and expert panels: *"The President of the Regional Court shall appoint and keep a list of court experts. The Minister of Justice will determine, by way of a regulation, the procedure for appointing and dismissing court experts, as well as performing their tasks by them. Under the same procedure, the Minister of Justice may also lay down detailed rules for the appointment and operation of court expert panels. In connection with the performance of activities resulting from the decision on consulting, the expert shall enjoy the legal protection accorded to public officials"*).

In turn, in § 2 of the Regulation, it can be read that *"court experts are appointed for individual branches of science, technology, art, craft, as well as other skills"*.

The definition of *"a court expert"* is therefore as follows: a court expert is a person entered on the list of the president of the regional court, in a given specialty.

The task of the expert is therefore to provide the court, on the basis of special - professional knowledge and professional experience, with information and knowledge necessary to determine and assess the circumstances of the case (judgement of the Supreme Court of 1 December 1998, files No. III CKN 741/98, OSNC 1999/6/112).

Pursuant to Article 173 item 4 and 5 of the *Real Estate Management Act*, *"court experts in the field of property valuation are appointed or established from among persons with professional qualifications in the field of property valuation (...). The property appraiser may not refuse to act as a court expert"*.

It follows from the above that a property appraiser may not refuse to prepare an opinion for the needs of the court, the prosecutor's office or other criminal authorities. Many property appraisers on their own initiative (after first undergoing a certain procedure) are entered on the list of the president of the regional court containing a list of court experts and their specialties, and many perform their work without being a court expert. The property appraiser is not obliged to be a court expert.

4. Opinion on the value of real estate and other studies / expert opinions prepared by the property appraiser

As previously indicated, the opinion on the property value takes the form of an appraisal report (Article 156 section 1 of the *Real Estate Management Act*).

The method of preparation, form and content of the appraisal report is specified in the Regulation of the Council of Ministers of 21 September 2004 *on the valuation of real estate and preparation of the appraisal report* (i.e. Journal of Laws of 2021, item 555).

Pursuant to § 55 section 2 of the above-mentioned regulation, *"the appraisal report contains information necessary for the valuation of the property by the property appraiser, including an indication of the legal basis and conditions for the performed activities, substantive solutions, presentation of the calculation process and the final result"*.

The appraisal report therefore presents the procedure for the valuation of real estate (property appraisal).

The provision of § 56 section 1 of the Regulation specifies precisely what should be contained in the appraisal report. Well, *"the appraisal report presents the method of property valuation, including:*

- 1) *determining the subject and scope of the valuation;*
- 2) *determining the purpose of the valuation;*
- 3) *formal basis for real estate valuation and the sources of data on the estate;*
- 4) *determining dates relevant for determining the value of real estate;*
- 5) *description of the condition of the property;*

- 6) *an indication of the designation of the property being valued;*
- 7) *analysis and characteristics of the real estate market within the scope regarding the purpose and method of valuation;*
- 8) *an indication of the type of value being determined, the choice of approach, method and technique of valuation;*
- 9) *presentation of calculations of the value of the property and the valuation result with justification””.*

As indicated in the justification of the judgement of the Supreme Court of 21 March 2019, files No. II CSK 703/17 (<http://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/ii%20csk%20703-17-1.docx.html> - 01.12.2022 r.) *"in the case, the Court of Appeal referred to (...) the definition of an appraisal report, contained in Article 156 of the Real Estate Management Act and considered that it is not possible to put a mark of equality between the expert's opinion (...) and the appraisal report. The latter is often drawn up at the stage of pre-trial proceedings and then it may be deliberate to check the correctness by the relevant association of experts”*.

In the same judgement, the Supreme Court stated that *"it is obvious that an opinion prepared by an expert commissioned by the court is an evidence subject to the court's assessment. However, the jurisprudence presents the view that this does not exclude the submission of such an opinion (in the part in which it constitutes an appraisal report) to the assessment by a professional organisation of property appraisers (cf. e.g. judgements of the Supreme Court of 4 January 2012, III CSK 127/11, LEX No. 1119502; of 15 December 2016, III CSK 151/16, LEX No. 2241380). Such an assessment cannot, certainly, replace the assessment of the credibility and probative value of the opinion by the court. However, as emphasized in the jurisprudence and literature, if the value of the property adopted in the appraisal report raises justified doubts, additional steps should be taken to remove them, including by applying the provisions of Article 157 of the Real Estate Management Act. Proceedings provided for in this provision concerns the assessment of the correctness of the report, and its result cannot be the determination of the value of the subject of assessment. Therefore, the subject of the court's free assessment is the reliability, completeness and probative value of the opinion on the value of the property (including the decrease in its value), while the assessment of the elements of the appraisal report that are related to special knowledge (valuation method, correctness of the correction coefficients used in the appraisal report or the properties accepted for comparison) belongs to a professional organisation as requiring specialist knowledge (see, e.g., the judgements of the Supreme Administrative Court of 4 October 2006, I OSK 417/2006, LEX No. 281387; of 24 April 2018, II OSK 2719/17 LEX No. 2509535; of 12 December 2017, II OSK 746/17, LEX No. 2411545; of 8 February 2008, II OSK 2012/06, LEX No. 437627; S. Kallus, *Commentary to the Real Estate Management Act*, LexisNexis, Warsaw 2012, *Lex-theses to Article 157 of the Real Estate Management Act*; J. Dydenko, T. Telenga, *Commentary on certain provisions of the Real Estate Management Act, [in:] Real Estate Valuation. Commentary to the Real Estate Management Act and the Regulation of the Council of Ministers on the Valuation of Real Estate and Preparation of the Appraisal Report*, WKP 2018, LEX - theses to Article 157 of the Real Estate Management Act; E. Bończak-Kucharczyk. *An updated commentary.*" WKP 2018, LEX-theses to Article 157)".*

As mentioned in point I, in addition to the opinion on the value of real estate prepared in the form of an appraisal report, the property appraiser may also prepare other studies and expert opinions, e.g. he may prepare a forecast of the financial consequences of adopting a local spatial development plan referred to in Article 17 point 5) of the Act of 27 March 2003 on *Spatial Planning and Development* (i.e. Journal of Laws of 2022, item 503).

The forecast of the financial consequences of the adoption of the local spatial development plan referred to, among others, the Provincial Administrative Court in Kraków in the judgement of 28 November 2017, files No. II SA.Kr 1039/17 stating that *"the financial forecast"*, as the name suggests, is a certain prediction, and not a binding, accurate calculation based on the real estate estimate (this forecast is therefore not an appraisal report, but another study, which may - not necessarily - be prepared by a property appraiser).

In this type of studies, it is also helpful (and perhaps even advisable) for the property appraiser to use information systems, including spatial information systems.

5. Systems and data used in property valuation

According to Article 155 section 1 of the *Real Estate Management Act* "when estimating real estate, all necessary and available data on real estate, contained in particular in:

- 1) land and mortgage registers;
- 2) cadastre of real estate;
- 3) underground utility management system records;
- 4) records of the order numbering of the real estate;
- 5) registers of monuments;
- 6) tax tables and on tax maps;
- 7) local plans, studies of conditions and directions of spatial development of the commune, decisions on the conditions of land development and building permits;
- 8) lists kept by tax offices;
- 9) documents held by the agency entrusted by the State Treasury, by way of statutes, the exercise of property rights and other rights in rem in favour of him;
- 10) in notarial deeds held by housing cooperatives regarding the sale of cooperative rights to premises;
- 11) contracts, rulings, decisions and other documents, which are the basis for entry in the land and mortgage registers and in the registers included in the cadastral survey;
- 12) the energy performance certificate".

As indicated above, the property appraiser in his work uses a lot of data and information that he obtains from various sources.

A lot of data and information is collected in paper form, but there are also some that can be obtained electronically..

Land and mortgage register can be examined and downloaded by the property appraiser at: https://ekw.ms.gov.pl/eukw_ogol/menu.do (Fig.1).



Fig. 1. Electronic Land and Mortgage Register.

The above-mentioned land and mortgage register is not a part of spatial information systems (SIP). It constitutes a different information system, which is generally defined as "processing systems and information channels" (<https://r.uek.krakow.pl/bitstream/123456789/2265/1/164782050.pdf> - 01.12.2022 r.). It was mentioned in this point of the article due to it was mentioned as a source of information and data in the real estate management regulations used by the property appraiser – a court expert in the field of property valuation.

Understanding the division of information systems can be provided by the following diagram (*M. Żak Valuation of real estate. Ed. CH BECK, Warsaw 2014 and Gaździcki J. Cadastral Systems. PPWK Warsaw 1995*).

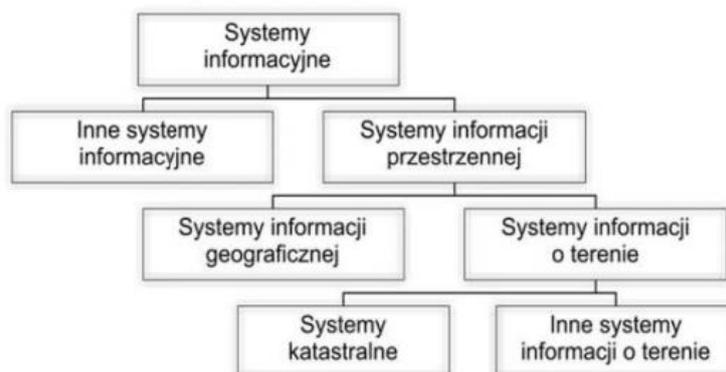


Diagram 1. Division of information systems..

In turn, the mentioned spatial information systems (SIP), which are a useful tool for property appraisers – court experts in the field of property valuation – defines the spatial information system as follows: "*the spatial information system is:*

- 1) *a system for acquiring, gathering, verifying, integrating, analysing, transferring and making available spatial data, in a broad sense, includes methods, technical measures, including hardware and software, a spatial database, organisation, financial resources and people interested in its functioning;*
- 2) *software with functions corresponding to the definition (1), produced and offered by specialized companies, e.g. ESRI and Intergraph"* (Gaździcki J. (2002) *Lexicon of Geomatics*. Polish Association for Spatial Information/Wieś Jutra).

Spatial information systems have several functions that can be grouped in the following manner:

- 1) data input;
- 2) data processing;
- 3) data sharing;
- 4) data management.

All functions from the above said group are equally important.

The above-mentioned function groups can be divided into individual detailed functions. Well, the data entry includes, among others, verification and preliminary development of the data entered.

Data processing includes transformation, analysis, aggregation and generalization. In turn, data sharing includes sharing in numerical form or in the form of printouts on paper

On the other hand, the main purpose of data management is to keep the information resources of the system in proper condition (<https://gisplay.pl/gis/funkcje-gis.html> - 01.12.2022 r.).

The diversity / interdisciplinarity of data, that is collected in the SIP, is illustrated by Fig. 2 (Longley P. A. & Goodchild M. F. & Maguire D. J. & Rhind D. W. (2008) *GIS. Theory and practice*. Polish Scientific Publishers PWN).



Fig. 2. Data interdisciplinarity.

As the Institute of Geoinformatics of the Maritime University in Szczecin points out, "*spatial information systems compared with other information systems are characterized by the presence of spatial information in them. Spatial information is information about the location (coordinates in the adopted reference system), geometric properties, spatial relations of objects that are of interest to the system and can be identified in relation to the Earth. The concept of an object is understood very broadly and includes both permanent natural and artificial objects, as well as natural, social and economic phenomena. The space in which objects are identified can be two-dimensional or three-dimensional depending on the needs.*

Another feature that distinguishes spatial information systems, and which is a consequence of the occurrence of spatial information in them, is the possibility of its cartographic presentation and the ability to make an analysis that allows to obtain answers regarding the real world modeled by the system. Examples of such analysis can be searching for objects that meet certain conditions, taking measurements or determining the neighborhood of objects" (https://www.am.szczecin.pl/uploads/faculties/wn/SIP_e-learning_Audytoria.pdf - 01.12.2022 r.).

The great advantage of these systems is the ability to combine spatial and non-spatial data into one coherent set. The spatial information system (SIP) also allows for multifaceted spatial and non-spatial analyses, which result in more accurate inference (Halik Ł. (2015) *The level of knowledge and application of spatial information systems (SIP) by property appraisers in Wielkopolskie province*. Bulletin of the Association of Property Appraisers of Wielkopolskie Province).

As an example of SIP one can indicate, e.g., a national geoportal run by the Chief Surveyor of the Country (<https://geoportal.gov.pl/>), which in its resource, in addition to geodetic and cartographic data, contains, e.g. real estate prices (Fig. 3).

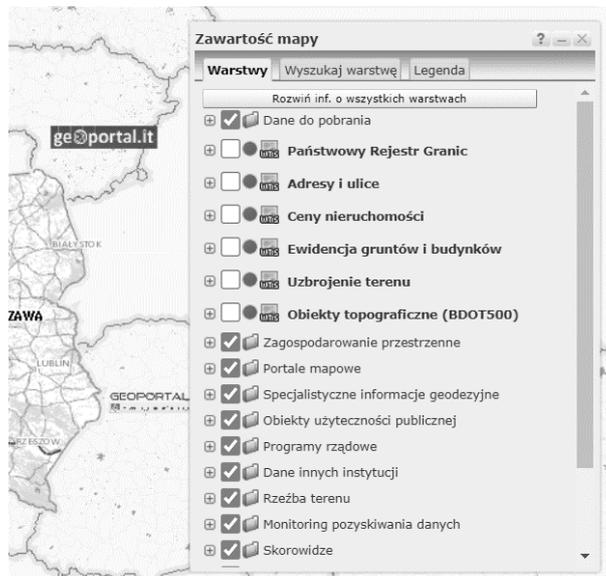


Fig. 3. Modules of the national geoportal.

As indicated by the Chief Surveyor of the Country, the website www.geoportal.gov.pl play a role of a central node of the Spatial Information Infrastructure, mediating in access to spatial data and related services. Due to its complexity, the system has been developed in stages and its current structure is the result of a series of works from 2005 to the present. The ongoing development works has concerned among others:

- development of ICT infrastructure,
- development of tools for updating and publishing spatial data sets,
- development of client applications, including mobile applications (<https://www.geoportal.gov.pl/o-geoportalu/informacje> - 01.12.2022 r.)

In addition to the national geoportal, there are also other geoportals (powiat, commune, urban), e.g. geoportal of the capital city of Warsaw - <https://architektura.um.warszawa.pl/portale> - 01.12.2022 r.) - Fig. 4. One of the modules that can be found in such geoportal, is the property appraiser module, where after creating an account and logging in, the property appraiser has access to the transaction of purchase and sale of real estate (downloading and generating the transaction is payable) – Fig. 5 (<https://zgik.um.warszawa.pl/e-uslugi/portal-rzeczoznawcy> - 01.12.2022 r.).

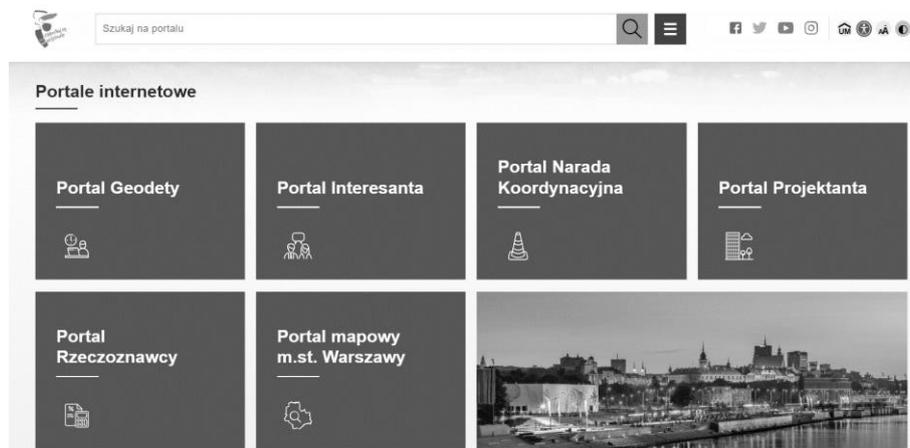


Fig. 4. Geoportal modules of the capital city of Warsaw.

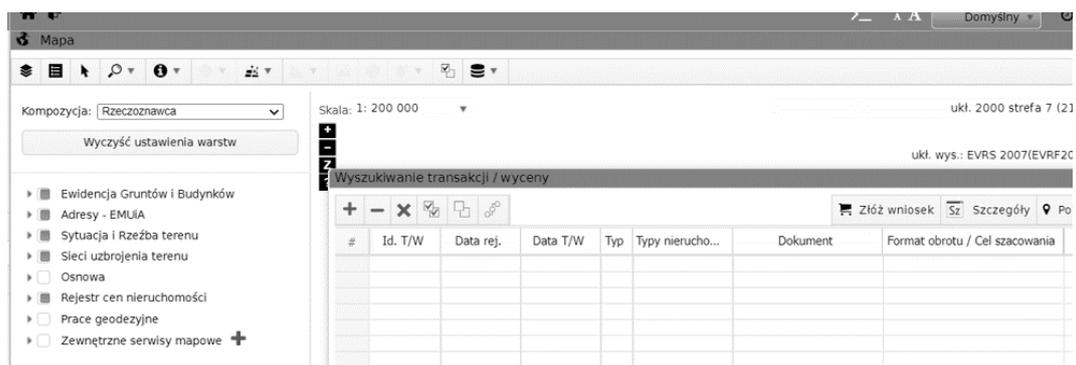


Fig. 5. Thematic layers in the property appraiser module.

All kind of data can also be obtained using the map portal: <https://mapa.um.warszawa.pl/>, where, among others, data on local spatial development plans, monuments or historical data of the city are available – Fig. 6.



Fig. 6. Thematic layers of the map of Warsaw portal.

From the above-mentioned map portal you can also go to the website, which refers to the naming of streets, squares and other objects of the capital city of Warsaw, - Fig. 7 (<http://ulice.um.warszawa.pl/wyszukiwanie/faces/obiekty.xhtml> - 01.12.2022 r.), or even addresses – Fig. 8 (<http://adresy.um.warszawa.pl/wyszukiwanie/faces/punktyAdresowe.xhtml> - 01.12.2022 r.).

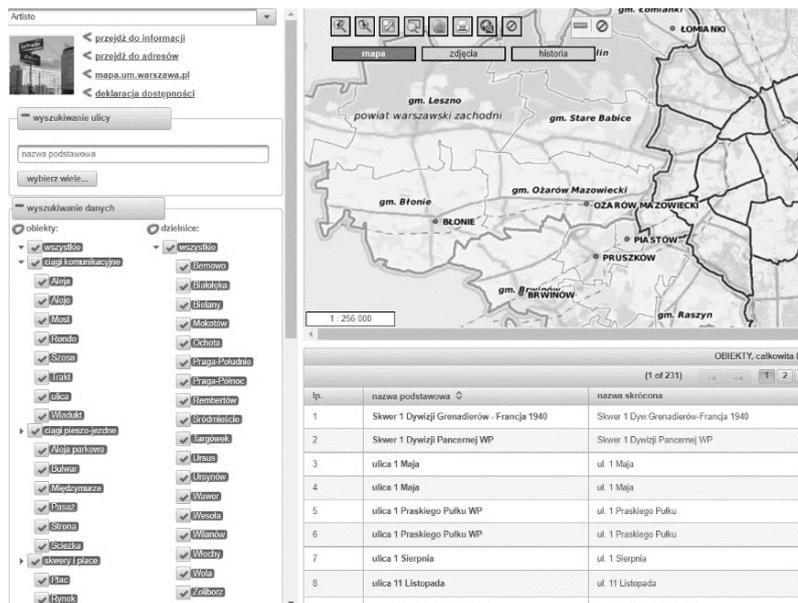


Fig. 7. Naming of streets, squares and other objects of the capital city of Warsaw.

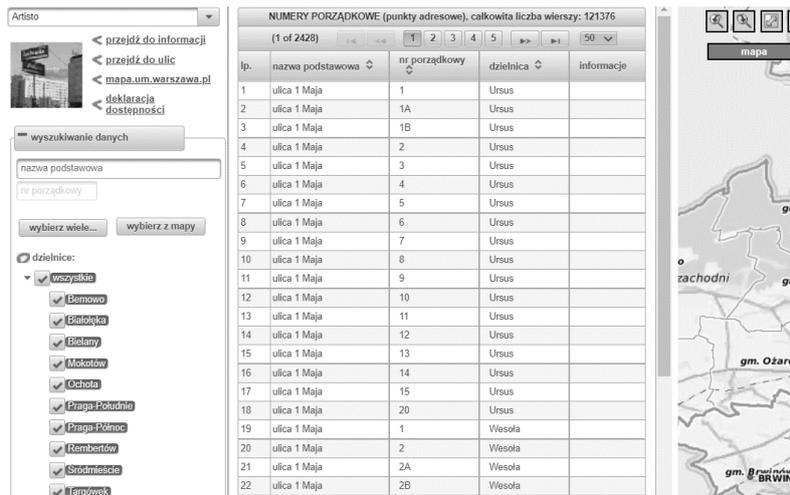


Fig. 8. Addresses of the capital city of Warsaw.

On the website <https://warszawa.e-mapa.net/>, you can also get acquainted with data in the field of hydrography, geology, or environment and nature – Fig. 9.



Fig. 9. Thematic layers of the Warsaw e-map portal.

An interesting place is also the geoservice of the General Directorate for Environmental Protection (GDOŚ) - <https://geoserwis.gdos.gov.pl/mapy/>, where you can get acquainted with such data as: forms of nature protection or NATURA 2000 areas – Fig. 10.

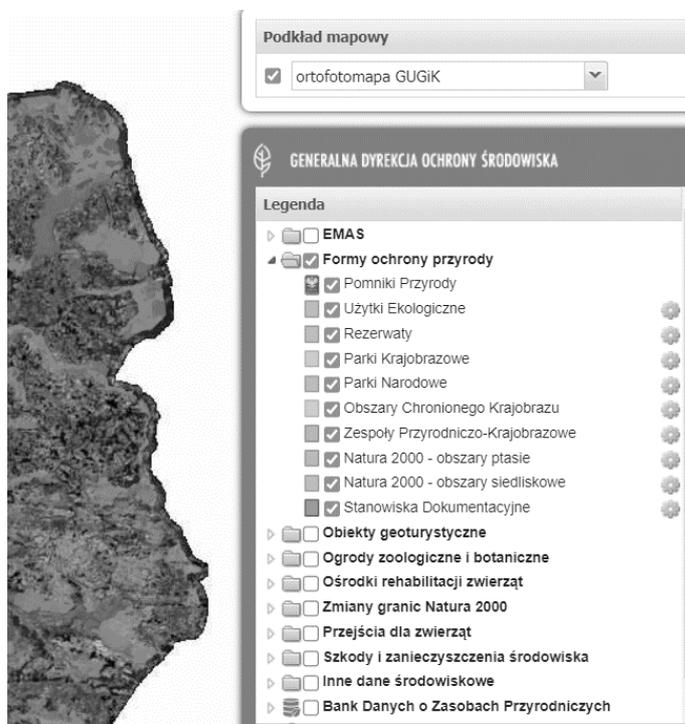


Fig. 10. Thematic layers of the GDOŚ geoservice portal.

The Forest Data Bank portal, i.e. the State Forests portal (<https://www.bdl.lasy.gov.pl/portal/mapy>) is also worth noting – Fig. 11.



Fig. 11. Thematic layers of the Forest Data Bank portal.

It is also worth paying attention to the portal of the State Water Holding Polish Waters - <https://www.isok.gov.pl/hydroportal.html> – Fig. 12.



Fig. 12. Data of the ISOK portal.

The following portal can also be useful: dane.gov.pl, where you can also read and download a great variety of data and information, e.g. relating to energy, transport, population and society, or agriculture, fisheries and forestry. On this portal, the so-called data providers (<https://dane.gov.pl/pl/dataset>) are also indicated – Fig. 13.

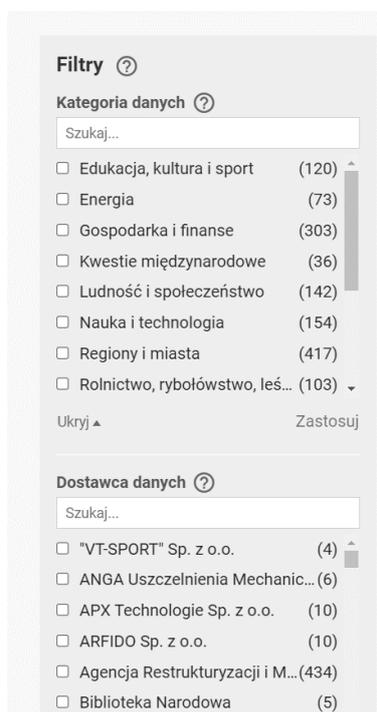


Fig. 13. Public data.

The portal, which is also used by property appraisers – court experts in the field of real estate valuation, is also the Local Data Bank run by the Central Statistical Office (<https://bdl.stat.gov.pl/bdl/start>) – Fig. 14.

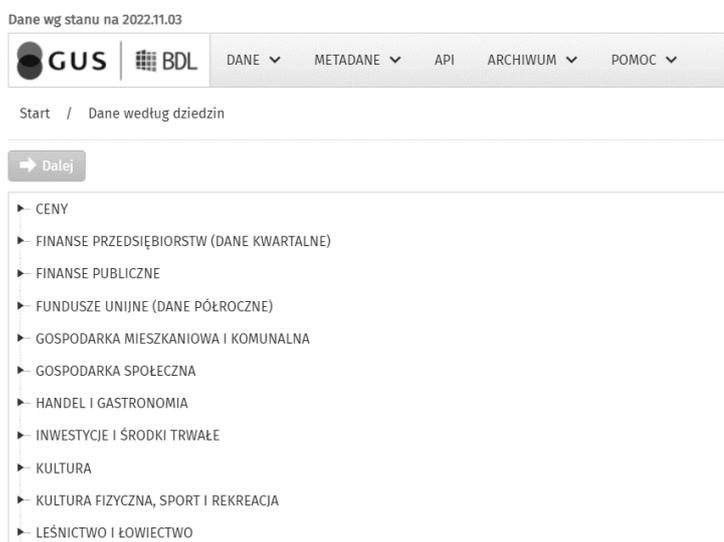


Fig. 14. Local Data Bank.

Analyzing exemplary portals (geoportals) one can notice common elements. From among the above-mentioned systems, three of them were selected and analyzed in terms of the elements (layers) of which they are composed, indicating common elements and connections – Table 1.

Table 1. Analysis of selected spatial information systems [source: own study].

Portal name / item (layer):	National geoportal:	Appraiser's portal – capital city of Warsaw:	e-map of Warsaw:
State Border Register	X		X
Addresses and streets	X	X	X
Property prices	X		
Land and building register	X	X	
Utilities	X	X	
Topographic objects (BDOT 500)	X		
Spatial planning	X		X
Map portals	X		
Specialized geodetic information	X		
Public utility facilities	X		
Government Programs	X		
Data of other institutions	X		
Relief / Terrain	X	X	X
Monitoring of data acquisition	X		
Indices	X		
Specialist data	X		
Topographic data	X		
Orthophoto	X		X
Archived data	X		
Geodetic network		X	X
Register of property prices		X	
Surveying works		X	
External map services	X	X	
Hydrography	X		X
OpenStreetMap			X

Portal name / item (layer):	National geoportal:	Appraiser's portal – capital city of Warsaw:	e-map of Warsaw:
General Directorate for Environmental Protection	X		X
the Forest Data Bank / the General Directorate of State Forests	X		X
Geology	X		X
National Heritage Institute	X		X
the Central Statistical Office			X
the Ministry of Health	X		X
the Office for Railroad Transport	X		X
Soil Conditions Monitoring			X
Building permits / Central Office of Construction Supervision	X		X
the Chief Inspectorate for Environmental Protection	X		X
Monitoring of mobile facilities			X
National Register of Geographical Names	X		X
Wind turbines location	X		X
Road network	X		X
Other services	X		X

As results from the above table, the common elements (layers) of the analyzed portals / geoportals include, among others:

- State Border Register,
- Addresses and streets,
- Land and buildings register,
- Utilities,
- Relief / terrain,
- Orthophoto,
- External map services.

The above table shows that:

- the national geoportal is directed to the data concerning the whole country, that can be used by each interested party (natural person, authority or any other entity);
- portal / module of a property appraisal of the capital city of Warsaw is focused on the data necessary in the work of a property appraiser – a court expert in the field of real estate valuation, who prepares an opinion / appraisal report regarding real estate located within the boundaries of the capital city of Warsaw;
- portal e-map of the capital city of Warsaw, on the other hand, is focused on data relating to the capital city of Warsaw, which can be useful for each party interested in this city.

All systems mentioned and analysed in this article are very useful in the work of a property appraisal / a court expert with respect to the real estate valuation - each of them constitutes another, varied, source of information.

As aptly recalled in the publication entitled "*The level of knowledge and application of spatial information systems (SIP) by property appraisers in Wielkopolskie province*" by Ł. Halik: the meaning of spatial information systems (SIP) has been noted, among others by the International Committee on Valuation Standards (IVSC) by issuing *International Valuation Standards* and including in them the view that the property appraiser should have access to advanced data collection systems (...), as these facilitate valuation using a computer and often include a geographical information system (<https://srmww.pl/images/biuletyny/2015/2-2015/PRN%202-2015-84.pdf> - 01.12.2022 r.).

However, in order for spatial information systems to be useful in the work of a property appraiser – a court expert in the field of real estate valuation, they must be updated on an ongoing basis.

6. Conclusions

Number of systems - portals, geoportals, etc. is very large, which makes it necessary for a property appraiser - a court expert, to the extent of real estate valuation, to have the ability to search for the proper data and information contained in them. Such ability will ensure that a property appraiser - a court expert to the extent of real estate valuation does not get lost in the maze of data and information. Understanding of the found data and information is a separate issue.

For a property appraiser – a court expert in the field of real estate valuation, access to data and information seems to be the basis for the efficient exercise of the profession.

Thus, systems of spatial information allow a property appraiser - a court expert in the field of a real estate valuation to practically use information techniques in the real estate valuation and in the preparation of other developments and studies mentioned in the provisions on real estate management.

A specific application is the use of spatial information systems to process information about the location of real estate, the structure of land use or destination (Wojtas M. (2012) *Range of uses of the SIP for the purposes of real estate management*. *Scientiarum Polonorum Acta Sci. Pol. Geodesia et Descriptio Terrarum* 11 (2)).

The use of information and source data should occur only taking into account logic, reliability and completeness, so that the appraisal report and other studies or expert opinions are consistent, logical and correct.

In conclusion, it can be stated that systems, including spatial information systems, facilitate the work of a property appraiser – a court expert in the field of real estate valuation, provide a lot of information and data, and increase the quality of an appraisal report or other study / expert opinion that can be prepared by a property appraiser.

Bearing in mind the above, it can be stated that property appraisers - court experts to the extent of a real estate valuation not only can but should even take the advantage of such sources of information, certainly having in mind that only official documents and spatial databases constitute reliable information.

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