



**FACULTY OF LAW
AND ADMINISTRATION
UNIVERSITY OF ŁÓDŹ**

Wojciech Sulczewski

*Ethical and legal aspects of the participation of property appraiser in the process
of updating annual fee for perpetual use*

Summary

Doctoral dissertation prepared
in the Department of Law Policy
under the guidance of
associate professor PhD
Sylwia Wojtczak

Łódź 2018

This dissertation is above all devoted to the answer the question about the role of property appraiser in administrative proceedings aimed at updating annual fee for perpetual use. Its second important detailed purpose is to appraise this role and to determine whether - regardless of its legal basis and acceptability - it fits in the limits accepted in contemporary Polish culture determined by ethical norms and other social norms. It should be however emphasized that through the implementation of the above detailed purposes the dissertation serves more far-reaching and general reflection. The analysis contained in it shows at least two important issues. It presents practical results of the impact of legal institution as a whole and its influence on lives of citizens and as a result social evaluation may depend on seemingly very detailed or even technical elements of such institution.

Furthermore by means of common example it reveals the considerable role and great, often weak controllable power that non-judicial experts may obtain sometimes in legal proceedings - especially in the case of certain shortcomings or even defects of legal system. The example of property appraisers seems to be closer to daily experiences of citizens than the example of court experts.

Simultaneously due to the degree of complexity of the matter related to the determination of annual fee for perpetual use, it is extremely important to define unambiguously all premises of its updating. The body which reaches for the opinion of an expert, who has specialist knowledge, in this case opinion of property appraiser, often - due to the lack of specialist knowledge - does not verify properly the content of received appraisal reports and checking only formal aspect entrusts the opinion of property appraiser in this way. For this reason special attention should be paid to property appraiser and his influence on the development of legal situation of the perpetual user.

In order to be able to answer the question about the role of property appraiser in the process of updating annual fee, its characteristics against a background of legal regulation, social expectations, ethical difficulties and also actual conditions, it was necessary to examine the social institution itself, which is the profession of property appraiser.

Therefore the first chapter focused on legal status of property appraiser and qualifications necessary to practise this profession and it also describes the subject of professional activity and the catalogue of basic rights and duties. After general characterization of the profession of property appraiser, further consideration was subordinated to seeking the answer to following questions. Does property appraiser fulfill in updating procedure the role related to entrusted him public confidence? Do mentioned legal, social, ethical and actual conditions help him to meet his responsibilities and expectations? Or maybe are they bigger or smaller obstacle? What is the position of individual property

valuer in whole environment of persons practising this profession? Can he count on support, understanding and guidelines concerning his behaviour in specific case? Are conditions created, including legal conditions, so that professional environment of property appraisers is impartial and objective, and then able to point out and judge committed offences or does the lack of external control or insularity of environment influence adversely on ethical attitude of individual representatives? Does professional environment of property appraisers care about high moral standards of its members, becoming a kind of leader and tutor, including by eliminating from the profession people, who do not meet set criteria? If professional environment influences the behaviour and internal standards of individual property appraisers, does it have important influence? What is its role in this field? Is it easy task or does it cause many difficulties?

In order to answer the above questions and then to refer to the topic of the thesis, i.e. the role (in legal and ethical aspect) of property appraiser in the process of updating annual fee for perpetual use, besides the characteristics of the profession of property appraiser, the characteristics of the institution of annual fee for perpetual use also had to be made. For this purpose in chapter 2 legal nature and title of the fee, the date of its payment, the amount of percentage rates, discounts and selected actual states influencing annual fee were described.

After presentation of general information concerning annual fee for perpetual use the process of updating this fee was examined. In order to achieve this purpose in the third chapter the premises of updating, subjects entitled to the initiative in this range, taking into consideration the value of expenditures of perpetual user on the property let him for perpetual use were analyzed. The third chapter also describes the matter concerning appraisal report, which is the evidence of change of the value of property in updating proceedings. The author touched on the issues related to the assessment of correctness of appraisal report, with the division of this assessment into two phases: into proceedings conducted before the Self-Government Appeal Board and before the court.

After exhausting dogmatic and legal and descriptive issues related to the profession of property appraiser and the institution of annual fee for perpetual use and its updating, the fourth chapter of the dissertation is the description and the assessment of the role of property appraiser in the process of updating annual fee for perpetual use. For this purpose first the issue of factor of the increase of property value as a basis for updating annual fee revaluation was analyzed together with showing currently applied methodology of property valuation. Touching on this, as it would seem, purely technical aspect of the process of updating was necessary, because it was basis material for the answer to crucial for the topic of this dissertation question about the role and the influence of property appraiser in the

proceedings aimed at updating this fee. In the opinion of the author such structure of thesis allowed to define the most accurately mentioned participation of property appraiser both in legal and ethical aspect.

The summary of the dissertation is a collection of conclusions identified at particular stages of consideration. These conclusions may be the basis for the formulation of specific proposals de lege ferenda, but also for more general guidelines from the field of legal policy.

Since the author of the dissertation is property appraiser, who is practising actively his profession, he illustrates general problems with many detailed examples coming from his practise and professional experience. These examples are aimed at showing the multitude, the variety and the degree of complexity of problems related to performing property appraiser his tasks in the process of updating annual fee.

13.05.2018r. Wojciech Sulweński