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**DESCRIPTION OF THE PROPERTY VALUATION
PROCESS IN POLISH CONDITIONS**

**DESKRYPCJA PROCESU WYCENY NIERUCHOMOŚCI
W WARUNKACH POLSKICH**

Abstract: The study attempts to describe the property valuation process in the context of regulations in force in Poland. For this purpose, to this end, the current legal acts, professional standards of real estate appraisers as well as institutional and economic conditions were analyzed. The study starts with the characterization of the property at the subject of

valuation, the types of determined values, then the silhouette of the real estate appraiser as a professional authorized to valuation of the property was presented. The most important part of the study, from the point of view of the study goal, is the description of the process of valuation of real estate in Polish conditions. This paper presents a general valuation model, which the difficult and complex problem of valuation presents in a comprehensive, consistent and logical way. Various research approaches have been used for the purpose of the study. Qualitative approach based on observation, interview, analysis of dispersed sources allowed to formulate research assumptions. Next, methods of scientific inference were used, mainly analysis and synthesis. In the paper, due to the aim, mainly the Polish literature on the subject was used as well as legal acts and other sources of information.

Keywords: real estate management, investment decisions, appraisal process

Streszczenie: W opracowaniu podjęto próbę deskrypcji procesu wyceny nieruchomości w świetle uregulowań obowiązujących w Polsce. W tym celu analizie poddano aktualne w tym zakresie akty prawne, standardy zawodowe rzeczoznawców majątkowych oraz uwarunkowania instytucjonalne i ekonomiczne. Artykuł rozpoczyna charakterystyka nieruchomości jako przedmiotu wyceny, rodzaje określanych wartości, następnie zaprezentowana została sylwetka rzeczoznawcy majątkowego jako profesjonalisty uprawnionego do wyceny nieruchomości. Najistotniejszą z punktu widzenia realizacji celu pracy częścią opracowania jest opis procesu wyceny nieruchomości w świetle uwarunkowań polskich. W artykule zaprezentowano ogólny model wyceny, który trudny i złożony problem wyceny przedstawia w sposób kompleksowy, spójny i logiczny. Dla realizacji celu opracowania wykorzystano różne podejścia badawcze. Podejście jakościowe bazujące na obserwacji, wywiadzie, analizie źródeł rozproszonych pozwoliło na sformułowanie założeń badawczych. W dalszej części wykorzystano metody wnioskowania naukowego, głównie analizę i syntezę. Z uwagi na cel wykorzystano głównie polską literaturę przedmiotu oraz akty prawne i inne źródła informacji.

Słowa kluczowe: zarządzanie nieruchomościami, decyzje inwestycyjne, proces wyceny

Introduction

A necessary though not sufficient condition for achieving economic success is to make the right investment decisions. The optimal decision for a given market situation is a decision taken on the basis of full knowledge of the market, i.e. both about the direct conditions of the transaction and those that indirectly affect it¹. However, meeting these conditions is very difficult, if at all possible. Especially with regard to the real estate market, which is characterized by low transparency², which

¹ H. Gawron, *Oplacalność inwestowania na rynku nieruchomości*, Wydawnictwo Akademii Ekonomicznej w Poznaniu, Poznań 2006.

² P. Kuraś, *W kwestii przejrzystości rynku nieruchomości*, [in:] *Inwestowanie w aktywa rzeczowe i finansowe*, ed. K. Marcinek, Zeszyty Naukowe Wydziałowe 155, Series „Studia Ekonomiczne”, Wydawnictwo Uniwersytetu Ekonomicznego w Katowicach, Katowice 2013, p. 213-224.

directly translates into low efficiency. This is mainly due to the fact that transaction prices in a non-transparent real estate market do not immediately or fully reflect all relevant market information in the price of real estate³. In such conditions, the need for a proper valuation of the property as an investment subject is of great importance. The specificity of real estate manifested in its huge diversity, complexity and diverse, often complex legal relations⁴ has caused the need for a professional valuation that can only be ensured by real estate professionals.

Valuation issues in different countries are dealt with in different ways. Despite the ongoing standardization in this area manifested in the development and improvement of European Valuation Standards⁵ and International Valuation Standards⁶, different solutions apply in different countries. In Poland property valuation is generally prepared by a property appraiser, i.e. a real estate professional with state authority in the field of real estate appraisal. However, the appraisal does not always have to be made by an authorized person⁷.

Valuation is a process that requires proper planning of specific activities, their organization, proper implementation of previously planned and organized activities, and a critical assessment of all previous stages for the best end result⁸. In the valuation process, a key role is played by a person along with their knowledge, experience and skills, which do not always ensure a correct valuation result. Only the correct use of these resources in appropriate configurations with institutional support can ensure a high-quality valuation. The above premises, as well as the growing importance of real estate as a class of investment assets in the portfolios of institutional and individual investors have directly contributed to addressing this research issue.

The purpose of the work is to describe the real estate valuation process in the light of formal and legal conditions currently in force in Poland. The current regulations, applied methods as well as institutional and economic conditions of valuation were analyzed. Various research approaches were used to achieve the purpose of the work. In the initial phase a qualitative approach was used consisting mainly of direct and indirect work observation of persons involved in professional valuation, interviews conducted with them, and analysis of information about their work in various diffuse sources, such as scientific papers, trade magazines, opinions of valuation recipients etc. Subsequently, the legal regulations regarding valuation and the achievements of the professional environment in the form of professional standards constituting the professional norm for a significant part of this environment were

³ E. Kucharska-Stasiak, *Metodologia wyceny nieruchomości a przejrzystość rynku nieruchomości*, „Przegląd Geodezyjny” 2004, No. 8, p. 4

⁴ E. Kucharska-Stasiak, *Ekonomiczny wymiar nieruchomości*, PWN, Warszawa 2016, p. 19-45.

⁵ *European Valuation Standards*, Eight edition, The European Group of Valuers' Associations (TEGoVA) 2016.

⁶ *International Valuation Standards*, International Valuation Standards Council, London 2017.

⁷ S. Kalus, *Pozycja prawna uczestników rynku nieruchomości*, LexisNexis, Warszawa 2009, p. 59-74.

⁸ *Szacowanie nieruchomości*, ed. J. Dydenko, Wolters Kluwer, Warszawa 2012, p. 435-451.

analyzed. Due to the nature of the study, mainly Polish literature on the subject legal acts and other necessary sources of data, information and knowledge were used.

1. Real estate as a subject of valuation

As a result of Poland's adoption of free market principles three decades ago, the importance of real estate as a commodity and an object of investment has increased significantly⁹. With regard to real estate in addition to market transactions, non-market transactions are also concluded. In each case, it is necessary to know the values, and above all to understand the mechanisms that create them.¹⁰ In order to limit the risk of valuation the legislator introduced a number of regulations in the area of real estate valuation, especially in the area of bilateral agreements between private entities and the government or local government. It was considered that the valuation should be regulated in detail in this area. In order to avoid inaccuracies the most important valuation categories are defined later in the work.

In Polish conditions, the definition of real estate is regulated by law. Pursuant to the provisions of the Civil Code, real estate is part of the earth's surface (land) constituting a separate object of ownership, and buildings or parts of buildings permanently connected with land, when pursuant to special provisions, they constitute a separate subject of ownership¹¹. The cited definition, although it does not mention it explicitly, allows us to distinguish three basic types of real estate: land property, buildings, commercial and residential premises.

A land property is a geodetic and legal fragment of the earth's surface. It can be built-up or not built-up area. In the first case the buildings e.g. a single-family house, hotel, restaurant, erected on a plot of land constitute a part of the real estate. The property includes all elements that are permanently attached to the ground, e.g. trees and shrubs¹².

In Poland, a separate property can be a building, e.g. a single-family house. This situation occurs when the building was erected on land owned by the Treasury or local government unit (voivodship, powiat or commune) and handed over for payment in the so-called perpetual usufruct. This is the only situation provided for in Polish law when someone else owns the land and someone else owns the building. This legal structure is referred to by lawyers as legal fiction, because the ownership

⁹ E. Kucharska-Stasiak, *Ekonomiczny wymiar...*, p. 291-322.

¹⁰ E. Kucharska-Stasiak, *Wycena bez wartości – przyczyny i skutki*, „Studia i Materiały Towarzystwa Naukowego Nieruchomości” 2012, No. 2, p. 5-20.

¹¹ *Civil Code Art. 46*. The definition of real estate is additionally regulated by the following provisions: *Act of 6 July 1982 on Land and Mortgage Registers and Mortgage*, *Act of 17 May 1989 - Geodetic and Cartographic Law*, *Act of 21 August 1997 on Real Estate Management*, *Act of 18 July 2001 - Water Law*, *Act of February 4, 1994 - Geological and Mining Law*, *Act of July 3, 2002 - Aviation Law*.

¹² G. Bieniek, S. Rudnicki, *Nieruchomości. Problematyka prawna*, LexisNexis, Warszawa 2004, p. 171.

of the building is inseparably connected with the right of perpetual usufruct of land. The owner of the building by selling the building property (understood as the building), simultaneously sells the perpetual usufruct right to the buyer of the building¹³.

The residential property is also regulated by law¹⁴. It is an independent residential or commercial premises, which is the subject of separate ownership. This construction allows for the existence of many residential properties in a multi-family house in which it is possible to separate independent premises, i.e. those that can perform specific functions on their own, e.g. housing.

The definition of real estate quoted here presents a legal approach. In fact, real estate can be considered in various other approaches e.g. geographical, social or economic¹⁵. The basis for the isolation of real estate is often the subject criterion. Assuming the criterion of the type of real estate or functions performed by it one can mention the following types of real estate: residential, commercial and service, recreational, industrial, agricultural, forestry and special. In a free market economy, all of these types can be traded or non-market contracts. In any case knowing values is a priority¹⁶.

2. Real estate appraisal as a professional activity

Real estate valuation is in the simplest terms a procedure that determines its value. Valuation is regulated differently in different countries. Most European countries have established the institution of an appraiser, i.e. a person authorized to value real estate. In some countries it is necessary to obtain the appropriate professional rights or licenses, while in others there are no legal regulations.

In Finland, everyone can theoretically value real estate but in practice customers prefer to use licensed appraisers. To get a license you must pass an appropriate test exam in addition to your professional practice. Also in Germany, there is no formal requirement to have licenses. Appraisers operating in free practice do not need to have a license, nor are they required to undergo lifelong learning. However, to be able to perform the function of an expert or value public property one must obtain the appropriate permissions. In France, valuation can be made by anyone (subject to certain educational requirements), except for court and agricultural property valuations (a license is required). In practice, however, customers are looking for appraisers with the recommendations of an institution associating local appraisers. In the UK an expert can be anyone but in practice customers are looking for specialists among members of a professional self-government organization - Royal Institution of Chartered Surveyors (RICS)¹⁷. Admission to this organization is preceded by

¹³ Ibidem, p. 608-650.

¹⁴ *Act of 24 June 1994 on the ownership of premises*, (i.e. Journal of Laws of 2000 No 80, item 903 as amended).

¹⁵ *The Appraisal of Real Estate*, Appraisal Institute, 14th edition, Chicago 2013.

¹⁶ J. Konowalczyk, *Wycena nieruchomości do celów kredytowych*, Poltext, Warszawa 2014, p. 73-118.

¹⁷ <https://www.rics.org/uk>

the need to undergo an academic course, at least two years' professional practice under the supervision of a RICS member and passing a professional competence exam. A RICS member is required to participate in annual CPD training¹⁸.

In Poland, there are theoretically situations where you do not need to have permission. These include valuations for the needs of individual investors, valuations carried out by banks as part of their business, valuations for the needs of common courts. In the latter case, however, you must have the status of an expert witness, which requires you to document your knowledge and skills in the field of valuation. In the event that a bank client provides an opinion in order to obtain a mortgage, banks require the person preparing the valuation to have the qualifications of an appraiser. Banks and courts prefer people with permissions, as this allows for reducing the risk of incorrect valuation, and thus their own business. In summary, the relevant valuation market is generally limited to eligible persons.

In Poland, the profession of property appraiser has been regulated by law¹⁹ and professional standards²⁰ of property appraisers issued by the Polish Federation of Valuers' Associations (PFVA)²¹. The standards are professional standards for real estate valuation. Real estate appraisal is a professional activity in the field of real estate appraisal, which can be performed by a person with appropriate qualifications granted by the minister responsible for construction, land use and housing. This person must meet certain conditions specified in the Act (Article 177), including a university degree, completed post-graduate studies in real estate appraisal, at least 6-month professional practice and successfully passing the qualification procedure, including passing an exam checking knowledge and competence in the field of appraisal. An authorized appraiser is obliged to apply the law, perform actions with special care, principles of professional ethics, guided by the principle of impartiality²².

In Polish conditions, the purposes of estimating regulated real estate result from as many as 21 acts²³, and one can distinguish over 40 legally defined situations in which the value of real estate is determined. In addition to legal regulations, the goals of real estate appraisal also result from economic needs. Assuming the main reasons for estimation as a separation criterion, five groups of reasons can be distinguished: taxes and fees at the national and local level, compensation, real estate transfer, real estate financing, investment consulting²⁴.

¹⁸ A. Hopfer, *Wycena nieruchomości na świecie*, not published.

¹⁹ Act of 21 August 1997 on real estate management (Journal of Laws of 1997 No 115 item 741; i.e. Journal of Laws of 2004 No 261 item 2603); Regulation of the Council of Ministers of 21 September 2004 on the valuation of real estate and preparation of an appraisal report (Journal of Laws No 207 item 2109).

²⁰ *Powszechne Krajowe Zasady Wyceny*, Polska Federacja Stowarzyszeń Rzeczoznawców Majątkowych.

²¹ <https://www.pfsm.pl>.

²² S. Kalus, *Pozycja prawna...*, op. cit.

²³ R. Cymerman, A. Hopfer, *Wycena nieruchomości. Zasady i procedury*, Polska Federacja Stowarzyszeń Rzeczoznawców Majątkowych, Warszawa 2005, p. 36-40.

²⁴ Ibidem, p. 35-36.

3. Valuation procedure in Polish conditions

In Poland property valuation is generally prepared by a property appraiser in the form of an appraisal report²⁵. The method of preparation, form and content of the report were regulated by the provisions of the relevant ordinance issued by the competent minister²⁶. The appraisal report is a written opinion on the value of the property prepared by a property appraiser (appraisers have exclusive rights in this respect). The regulation sets out the general framework for the report. The report must contain the information necessary for the valuation, including the legal basis and conditions of the actions performed, substantive solutions, present the course of calculations and contain the final result in the form of a specific number. In addition to the regulations regarding the preparation of the appraisal, the ordinance contains regulations regarding the determination of value using individual approaches, methods and techniques of valuation, as well as determining the value of real estate for various purposes.

The proper valuation approach, method and technique is selected by a property appraiser, taking into account above all the purpose of the valuation, type and location of the property, degree of technical infrastructure equipment, development status and available data on prices, income and similar properties²⁷. In Polish valuation practice, there are different approaches:

- comparative,
- income,
- cost,
- mixed.

In the simplest terms, the comparative approach consists in determining the value of real estate as a result of comparisons with similar real estate that was traded on the market. The income approach is based on the assumption that the potential buyer of the property being valued will pay a price for it, which depends on the possible income from this property. The cost approach assumes that the property is worth as much as the cost of its reconstruction, taking into account the current degree of its consumption. The mixed approach, as the name suggests, allows the use of the various approaches mentioned.

The approaches use different methods. As part of the comparative approach, these are methods of pairwise comparison, correction of the average price and statistical analysis of the market. As part of the income approach²⁸ investment and

²⁵ D. Wilkowska-Kořakowska, *Wycena nieruchomości. Operat szacunkowy. Rzeczoznawstwo majątkowe*, LexisNexis, Warszawa 2010.

²⁶ *Regulation of the Council of Ministers of 21 September 2004 on the valuation of real estate and preparation of an appraisal report* (Journal of Laws No 207 item 2109) § 55-58.

²⁷ *Act of 21 August 1997 on the economy...*, Art. 154 item 1.

²⁸ M. Prystupa, *Wycena nieruchomości i przedsiębiorstw w podejściu dochodowym*, Wydawnictwo Naukowe FREL, Warszawa 2016.

profit methods are used, in which techniques of simple capitalization and discounting of income streams can be used.

As part of the cost approach, replacement cost and replacement value methods are used, using indicator, integrated elements, and detailed techniques. It should be emphasized that the most commonly determined value is market value. It is determined in a comparative, income and mixed approach. The cost approach allows you to determine the replacement value. Market value in a market economy is of utmost importance²⁹. This is the most likely price that can be obtained by the owner on the market if there are no special transaction conditions (e.g. forced sale). The replacement value is determined in cases of contracts of a different nature than purchase / sale transactions, e.g. insurance contracts. In this case, the insurer is interested in what amount he will have to pay if the conditions entitling the insured to receive it arise. Legal acts regulate issues related to the form and content of the appraisal, types of values and general principles of valuation, in particular the application of valuation approaches, methods and techniques. In addition, the valuation is partly regulated by the professional standards of property appraisers. Polish professional standards were created based on foreign experience, mainly The European Group of Valuers' Associations (TEGoVA) and RISC standards, and were published for the first time in 1995. Since then, they have been constantly evolving. They obtained a very high rank, by stating in the Real Estate Management Act (Article 175 (1)) that a property appraiser is obliged to apply the principles arising from the application of legal provisions and professional standards, thus equating the standards with the Act and Regulation, raising them to the rank of a legal act. At the beginning, these standards were not agreed on with the minister responsible for real estate management. At present, the amended provisions of Article 175 apply as a result of adding paragraph 6, according to which professional standards are set by professional organizations of property valuers in agreement with the relevant minister. This means that only the agreed standards have the rank of legal provisions, and at the moment it is only a standard regarding the valuation for securing receivables. Other standards developed by PFVA are recommended to property appraisers associated in federated associations for use as principles of good professional practice and environmental achievements³⁰.

The rest of the study presents the author's general model of the valuation process. Due to many different possible valuation options resulting among others from the essence of the property, the type of value determined, the purpose of the valuation, available information about the property is a simplified model. Taking into account the above, the general scheme of the property valuation process, taking into account legal provisions and professional standards is presented in Figure 1.

²⁹ E. Kucharska-Stasiak, *Ekonomiczny wymiar...*, p. 161-194.

³⁰ <http://pfsrm.pl/aktualnosci/item/13-standardy> [access: 15.05.2019].

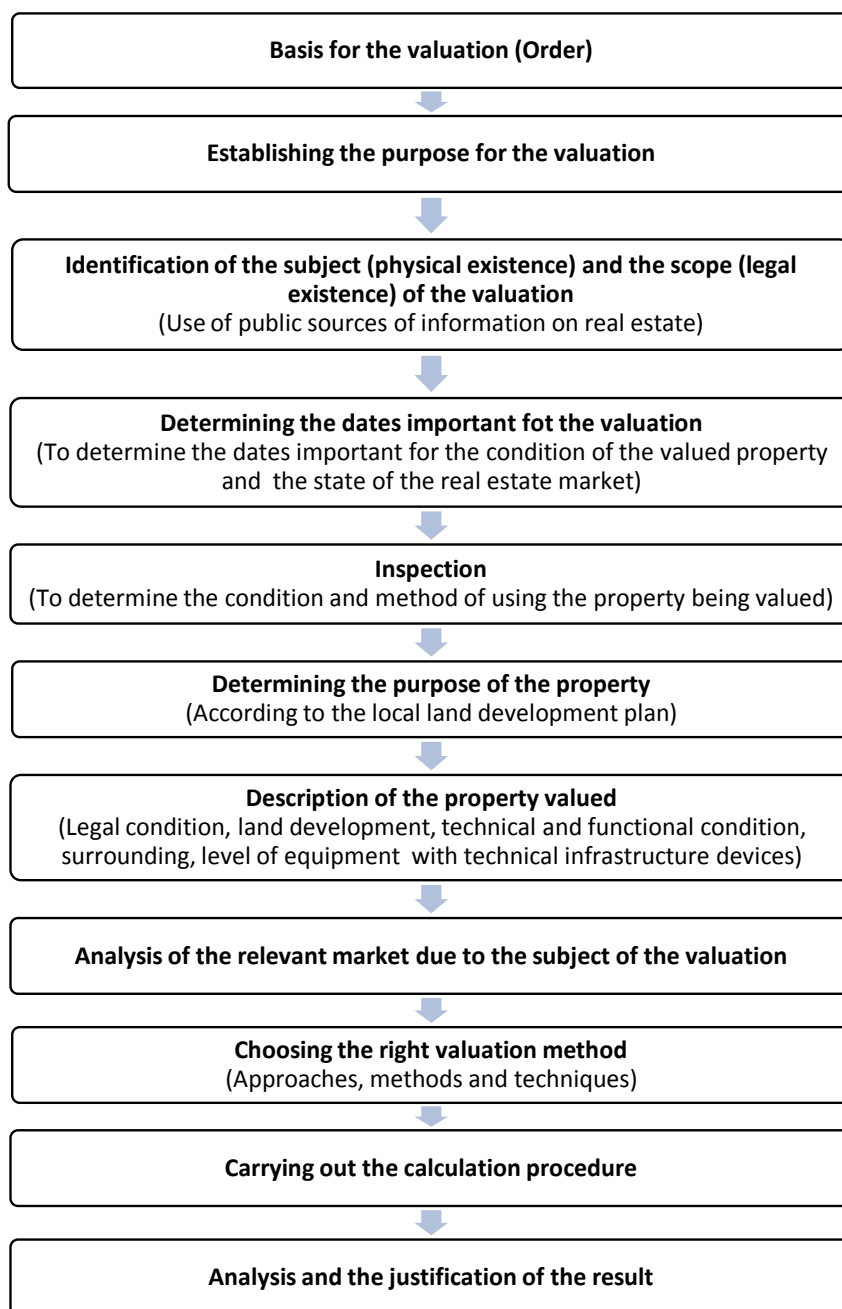


Figure 1. Scheme of the valuation process according to Polish regulations

Rysunek 1. Schemat procesu wyceny według regulacji polskich

Source: own study.

The valuation process begins with obtaining an order that provides a formal basis for proceeding with the valuation. The order must specify the purpose of the valuation, as it determines the further activities of the appraiser. The order must also contain basic data about the property, such as the land plot number, land and mortgage register number. Having this information allows for the identification of the subject of the valuation. For this purpose the appraiser uses public sources of information about real estate. To determine the geodetic marking it is necessary to obtain the relevant data from the surveying departments of the relevant offices maintaining real estate registers. Extracts from these registers and necessary geodetic maps are obtained there. To determine the legal status of real estate, the appraiser uses another public source, the so-called land and mortgage registers. Only having all this information provides the basis for the final determination of the subject and scope of the valuation.

Next, it is necessary to set dates relevant for the valuation. This is in particular the determination of the date on which the value of the property is to be determined and the date on which the condition of the real estate market is to be determined. This is very important because sometimes there is a need to determine the value that the property had in the past or the value it will have in the future (e.g. after expansion).

The next step is to inspect the property. They are made in order to confront the obtained information with the facts, to determine the facts and how to use the property.

The next step is the analysis and assessment of the legal status, development, technical and functional conditions, the environment and the degree of equipment in the technical infrastructure of the valued property.

The appraiser then determines the relevant market according to the subject of the valuation. This requires determination of:

- the type of market,
- the market area,
- the market research period,
- the general characteristics of the transactions on the market,
- the relationship between supply and demand.

Only now the appraiser has sufficient information to choose the right valuation method, i.e. the right approach, method and technique. Further steps include conducting a calculation procedure that leads to the determination of a value in the form of a specific number (it is unacceptable to specify ranges). The valuation process ends with an analysis and justification of the result.

Conclusion

In a market economy, value is one of the most important economic categories. It is the starting point and provides the basis for making the right decisions, both

for consumer and investment purposes. These decisions translate into the volume of demand, supply and prices on the real estate market and have consequences for the entire economy. Therefore, the problem of determining the correct value of real estate has always been important and requires good understanding. The author hopes that this work fills this gap at least in part.

In Polish conditions the valuation is regulated by law, and as such, applies to all property appraisers. The standards agreed on with the relevant minister are legal acts. Those that have not been agreed on have the character of recommendations for use and understood as good practices developed by the environment. However, these regulations do not contain a homogeneous, complete description of the entire valuation process. The presented model is intended to help understand this issue better. It organizes the knowledge dispersed on this subject and comprehensively covers the entire valuation process, from the moment the order is obtained to the justification of the valuation result. Due to the huge number of types of real estate, different ranges and a variety of valuation purposes, data quality and many other elements, this model is a simplified one. Because it is assumed to be universal, it does not include detailed estimation procedures occurring in individual approaches, methods and techniques. The author is aware of these restrictions and takes responsibility for all deficiencies. At the same time, the description of the procedures used in individual approaches should be the subject of further exploration.

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