

# **The Influence of Local Real Estate Management Policy on Community Budgets**

**Sabina ŻRÓBEK, Poland**

**Key words:** community, local taxes and fees, real estate management

## **SUMMARY**

Since 2004, the minister competent for construction, spatial and housing policy has been responsible for real estate management in Poland. On the local level this duty is imposed on governmental and local administration executive units. Within the community, spatial management is performed by the village–mayor, mayor or president of the town and it includes selling real estate, establishing fees for perpetual usufruct, partition of land, building technical infrastructure (electricity, water and gas), and enacting local land development plans among others responsibility. Some of these activities result in an increase of real estate value and revision of various taxes and fees.

This paper presents rules of local real estate management. Moreover, cash flows related to community budgets were analysed with particular consideration given to taxes and fees. All kinds of taxes and fees were compiled according to classification criteria and calculations are illustrated with examples relating to selected communities. Furthermore, the authors personally assessment of local authorities' activities and possibilities for more effective real estate management are shown in the summary.

## **Wpływ polityki administracji lokalnej w zakresie gospodarowania nieruchomościami na wysokość budżetu gminy**

**Słowa kluczowe:** gmina, podatki i opłaty lokalne, gospodarowanie nieruchomościami

Od 2004 w Polsce za gospodarowanie nieruchomościami jest odpowiedzialny minister właściwy do spraw budownictwa, gospodarki przestrzennej i mieszkaniowej. Na poziomie lokalnym rolę tę pełnią organa wykonawcze administracji rządowej i samorządowej. Organem wykonawczym gminy jest wójt, burmistrz lub prezydent miasta. Do zadań administracji lokalnej w dziedzinie gospodarowania nieruchomościami należy między innymi: sprzedaż nieruchomości, ustalanie opłat za użytkowanie wieczyste gruntów, podział działki gruntowej, budowa infrastruktury technicznej (prąd, woda, gaz), uchwalanie planów zagospodarowania przestrzennego. Skutkiem niektórych działań gminy lub właścicieli nieruchomości są różne rodzaje podatków i opłat.

W artykule omówiono zasady gospodarowania nieruchomościami na poziomie lokalnym. Dokonano analizy różnych strumieni dochodów do budżetu gminy ze szczególnym uwzględnieniem podatków i opłat od nieruchomości. Zestawiono wszystkie rodzaje podatków i opłat według zaproponowanych kryteriów klasyfikacji. Obliczenia zilustrowano przykładami dotyczącymi wybranych gmin. Na zakończenie podano własną ocenę działalności władz lokalnych w tym obszarze oraz wskazano na możliwości bardziej efektywnego gospodarowania nieruchomościami.

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## **1. INTRODUCTION**

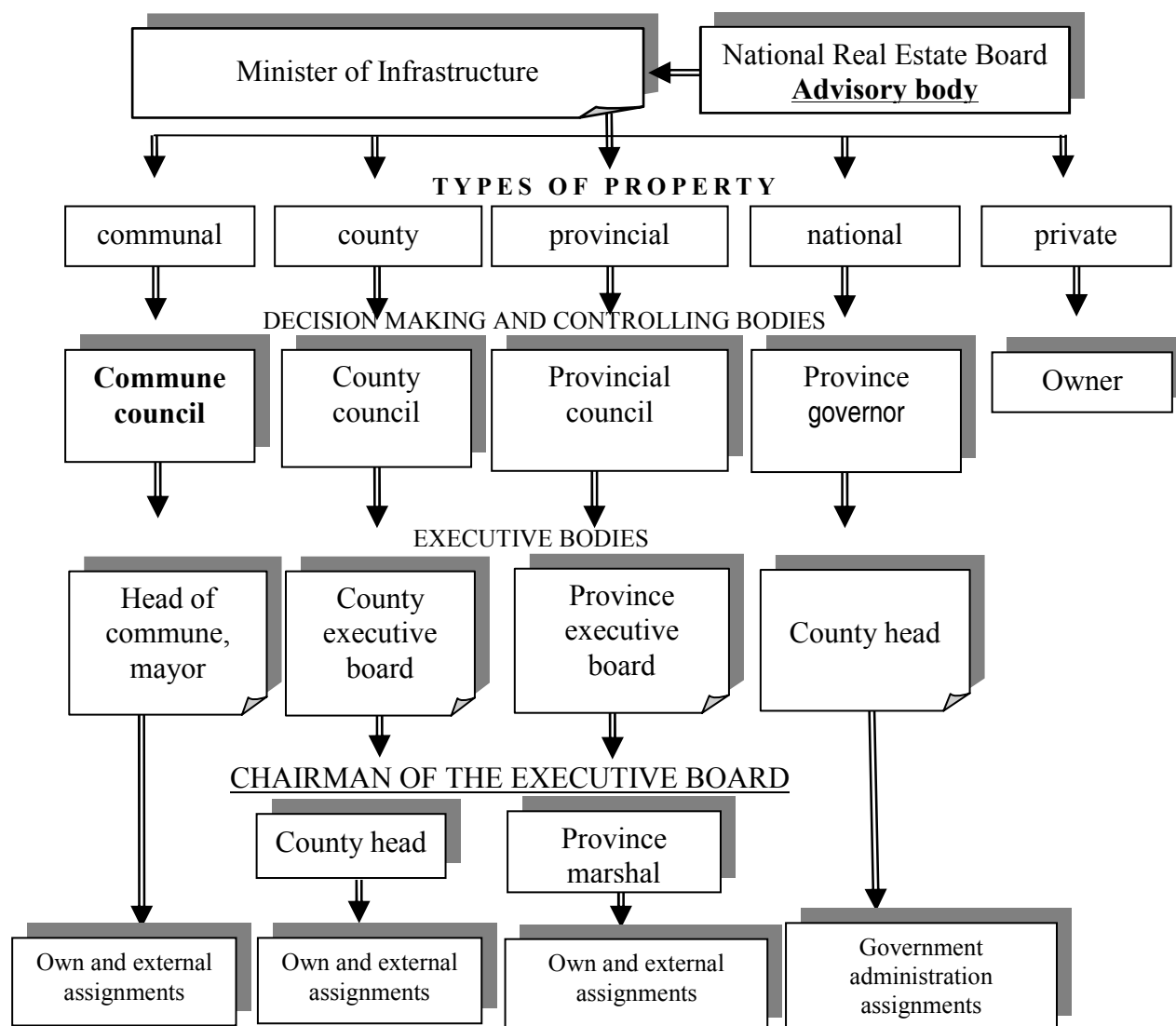
### **1.1. The real estate management system in Poland**

Land management and administration is a multi–aspect process and includes such elements as regulating real estate development, land use and protection, deriving income from sale, lease and taxes as well as settling disputes regarding the rights to real estates and the principles of their use. (Dale and Mc Laughlin 1999). Land management is regulated mainly by improved land use planning and association development restrictions. Effective land use planning must be in line with community needs and undertaken in a participatory way.

According to T. Burns and K. Dalrymple ( 2008) the essence of land administration typically involves process that: manage public land, record and register private interests in land, assess land value, determine property tax obligations, define land use and management governance systems, and support the development application and approval process for land use.

In Poland the Act of real estate management of 21 August 1997 (J. of Laws of 2004) defines the government and local administrative bodies responsible for managing the real estate owned by the State and by local authorities.

As from 1 January 2004, the minister competent for construction, spatial and housing policy has been responsible for real estate management in Poland. Now it is Minister of Infrastructure. At a local level, real estate is managed by executive bodies. The diagram of competence of government and local administrative bodies in real estate management is shown in Fig. 1.



**Fig. 1.** The competence of government and local administrative bodies in real estate management  
Source: prepared by the authors', based on The Act of Real... (2004)

Privately owned land accounts for 58% of the country, land owned by the state – for 38%, 4% belongs to local communities (3.8% of that belongs to communes).

According to the provisions of the law, the commune governor, or the mayor, is vested with executive power to manage the community-owned real estates and carries out resolutions of the commune council as well as performs the commune's own assignments and those imposed by the law. One of a commune's assignments is to manage the real estate owned by it. A commune's own assignments include satisfying the collective needs of the community. Government administrative authorities may impose assignments related to government administration. (Żróbek S. 2007) The scope of the commune's own assignments and those imposed by the law and external authorities is shown in Table 1.

**Table 1** The scope of assignments to be carried out by a commune

<b>Commune's own assignments and those imposed by the law and external authorities</b>	
<b>Real estate management</b>	<b>Other assignments</b>
<ul style="list-style-type: none"><li>– maintaining spatial order,</li><li>– land management,</li><li>– environment protection,</li><li>– maintaining roads, streets, communal bridges and transportation,</li><li>– water supply,</li><li>– construction of communal residential facilities,</li><li>– electrical and thermal power supply,</li><li>– maintaining communal public utility buildings and seats of administrative bodies,</li><li>– maintaining communal cemeteries, market places and covered markets,</li><li>– creation and maintenance of urban greenery</li></ul>	<ul style="list-style-type: none"><li>– public order and fire protection,</li><li>– education (primary schools, kindergartens, social care centres),</li><li>– healthcare,</li><li>– welfare centres,</li><li>– culture (libraries, culture propagation centres),</li><li>– sport and leisure (sports and leisure facilities)</li><li>– maintenance cleanliness and sanitary facilities,</li><li>– removal and treatment of communal sewage,</li><li>– maintaining rubbish dumps and utilisation of communal waste,</li><li>– providing pregnant women with social, medical and legal assistance.</li></ul>

Source: prepared by the authors<sup>7</sup>, based on (The Act of communal council, 2001)

## **1.2. The tax system in Poland**

The legal foundation on which all the fiscal obligations are based in the Constitution of the Republic of Poland of 2 April 1997 (J. of Laws No. 78/1997). It stipulates that any taxes and other public tributes may be levied and the entities obliged to pay taxes and taxable incomes, tax rates, entities exempt from tax, principles of granting tax relieves and exemptions require an act of parliament.

The Polish fiscal system comprises eleven tax categories, embraced by specific tax law and regulated by the provisions of the Tax Ordinance (1997).

Taxes are basically divided into:

1) Direct taxes, i.e.:

- personal income tax,
- corporate income tax,
- donations and inheritance tax,
- tax on civil law transactions,
- agricultural tax,
- forest tax,
- real estate tax,
- tax on means of transport,
- tax on dogs,

2) indirect taxes:

- tax on goods and services and excise tax,
- tax on gaming.

Many of those taxes and public tributes (e.g. charges and rents) are related to owning real

estate, its use, investments, purchase.

All the taxes and charges provide revenue for 3 groups of beneficiaries:

- the State,
- communities,
- individuals.

The taxes categorised by beneficiaries are shown in Table 2.

**Table 2** Taxes and charges paid to various entities

<b>Taxes and charges on real estate</b>		
<b>Revenue of the state</b>	<b>Revenue of communes</b>	<b>Revenue of individuals</b>
1.1. Income tax	2.1. Real estate tax	3.1. Charges due to renting private property
1.2. Court fees	2.2. Agricultural tax	3.2. Charges due to lease of private property
1.2.1 For establishing land register	2.3. Forest tax	3.3. Leasing instalments due to leasing of private property
1.4. Charges and fees for excluding land from agricultural or forest production	2.4. Tax on donations and inheritance	3.4. Notaries fees
1.5. Annual charges for durable management	2.5. Tax on civil law transactions	
1.6. Annual charges for the right of perpetual usufruct of state-owned land	2.6. Income tax (% share in the revenues of the central budget)	
1.7. Charges due to renting state-owned property	2.7. Planning charges	
1.8. Charges due to lease of state-owned property	2.8. System development fees	
1.9. Leasing instalments due to leasing state-owned property	2.9. Annual charges for durable management	
	2.10. Annual charges for the right of perpetual usufruct of community-owned property	
	2.11. Charges due to renting communal property	
	2.12. Charges due to lease of communal property	
	2.13. Leasing instalments due to leasing communal property	
	2.14. Charges for failure to build-up land purchased from the commune within a set period of time	

Source: prepared by the authors', based on (Tax System in Poland, 2008, Tax Ordinance 1997)

## 2. COMMUNITY INCOME RELATED TO REAL ESTATE

Communes as local government bodies pass their budgets in the first quarter of each year. Such budgets contain forecasts of revenues by source and forecasts of expenditures by purpose.

Communes revenue consists of public tributes which include taxes and other cash contributions paid to the commune, revenues from property, dividends from capital, revenues from sale of property and rights and from services rendered by public sector bodies, charges and inheritance, legacies and cash donations.

Commune councils are authorised by law to determine rates of tax on real estate. Resolutions passed by a commune council determine tax rates, in force in the commune, which may be lower than the statutory rates. A commune council is authorised to diversify real estate tax rates according to various criteria, determined by a resolution (e.g. location, building age, type of buildings, type of activity conducted in the buildings, purpose and manner of use of the taxed property). A commune council may also determine real estate and forest tax exemptions and agricultural tax exemptions and relieves. The same principles apply to determination of charges for real estate use.

Table 3 lists the taxable bases, tax rates, manner in which charges on real estate are determined, as well as the frequency at which they are paid.

Communal expenditures are public funds used for performing assignments and tasks provided for in the law, such as the commune's own assignments, government administration assignments and other assignments, carried out in cooperation with other communes.

Among the expenditures there are so called property expenditures, intended for funding communal investments, building repair and improvement of their standard.

The level of a commune expenditures depends mainly on the scope of assignments and obligations that are imposed on a commune by the law (Table 1)

The assignments are divided into 4 groups (technical and social infrastructure, public safety and order as well as spatial and environmental order).

Table 3

Detailed characteristics of taxes (T) and charges (C) which make up a commune's revenue			
Types of taxes and charges	TAXABLE BASE		
	Manner of calculating the taxable base	Rates of taxes and charges in 2007	Frequency of payment
Real estate tax	Land and buildings – utility area, for structures – initial value determined in regulations concerning fixed assets depreciation	Maximum rates determined by the Minister of Finance $0.5 \max \leq T \leq \max$	Annually – in 4 equal instalments
Agricultural tax	Agricultural land – the number of comparative fiscal hectares (depending on the class of land, land use and land location in a tax district); other land – the number of hectares in a real estate cadaster	for 1 ha – the price of 2.5q of rye, announced by the Chairman of Central Office of Statistics	Annually – in 4 equal instalments
Forest tax	The number of comparative fiscal hectares (depending on the area of main tree species and quality class of tree stands) in a forest arrangement plan	For 1 comparative fiscal hectare – the equivalent of 0.200 m <sup>3</sup> of sawmill wood, announced by the Chairman of Central Office of Statistics	Annually – in 4 equal instalments
Tax on civil law transactions <ul style="list-style-type: none"> <li>• sale</li> <li>• life–annuity</li> <li>• exchange <ul style="list-style-type: none"> <li>– living quarters</li> <li>– other</li> </ul> </li> <li>• establishing mortgage</li> <li>• donations</li> <li>• inheritance</li> <li>• establishing easement for a</li> </ul>	Market value Market value Market value Market value Market value Market value value of debt or obligations assumed by the recipient Market value Easement value	2% 2% 2% (of the difference in value between the exchanged real estates) 2% – from the more expensive real estate 0,1% 2% 2% of the amount exceeding the share in inheritance	On a one–off basis – after completing the civil law procedures  Annually, during the

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consideration		1%	period for which the right was granted
Charges for perpetual usufruct – charge I	Market valued of land ownership rights (without buildings)	15% ≤ C ≤ 25% of the price of land	on a one-off basis, on acquiring the right of perpetual usufruct
Charges for perpetual usufruct – annual charges		0,3% ≤ C ≤ 3% Depending on the land use	Annually, during the period for which the right of perpetual usufruct is exercised
Charges for durable management	Market value of land ownership rights (land + buildings)	0,1% ≤ C ≤ 1%	Annually, during the period for which the right is exercised
Planning charge	Land market value (without buildings)	Up to 30% of increase in land value	On a one-off basis, if land is sold within 5 years
Adjacent charges	Land market value (before and after construction of technical structure facilities, before and after real estate division, before joining and division and after joining and division of real estate)	Up to 50% of increase in real estate value	One a one-off basis, within 3 years the circumstance occurring
Charges for failure to build up land purchased from the commune within a set period of time	Land market value	10% of the price of land	Annually, until the building construction starts
Rent for apartments	Cost value	Up to 0.03% of the cost value of the apartment	
Rent for commercial facilities	Rent market value	Annually, according to the agreement with the tenant	Usually once a month
Leasing fees	Rent market value	According to the agreement with the lessee	

Source: prepared by the authors', based on (Tax Ordinance 1997, The Act of Real... 2004)

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The data provided in Table 4 indicate that of all the types of commune's income derived from real estate, real estate tax accounts for the largest share (15–20% of the total income), followed by proceeds from real estate sale and the rest of taxes on civil law transactions.

**Table 4** The share of the major real estate related types of income in a communal budget

Item	Percentage of particular types of income			
	Poznań	Wrocław	Olsztyn	Krotoszyn
Total commune income	100	100	100	100
Real estate tax	15,0	15,0	19.5	20,0
Agricultural tax	0.18	0.04	0.4	2.3
Agriculture tax	0.02	0.002	0.4	0.1
Proceeds from charges for durable management and perpetual usufruct	1,0	2,0	0.4	0.3
Proceeds from real estate sale	3.4	11,0	3.6	0.64
Tax on civil law transactions	4.1	4.9	0.9	1.3

Source: prepared by the author, based on Commune Council resolutions

The share of income from real estate tax in communes' own income was even higher – close to 34%.

Most income from real estate tax is earned by taxation of land, buildings and other constructions used for business activities. This is 30 times higher than the income from tax on residential buildings. The agricultural and forest tax account for a minor part of communal budgets. This has two reasons:

- 1) agricultural land and forests account for a small share of land of urban communes and towns (rural communes derive more income from agricultural tax – Krotoszyn);
- 2) the rates of the tax are much lower than that of real estate tax.

The income earned from all the taxes and charges from real estate accounts for over 40% of a commune's income.

The researches conducted in Łódź revealed that incomes from **adjacent fees** amounted only 0,3% of total own community income, what can be attributed to limited number of real estate partitions. The amount of this fee, which was initially 50% of real estate value increase discouraged owners to register the partitions. On the other hand, changing the amount from 50% to 30% caused that unavoidable costs (i.e. real estate appraisal) were higher than incomes. Therefore, currently this community is planning to resign this kind of fee.

Another kind of payment supporting community's budget is **planning fee**, which is paid for establishing or changing spatial development plan. Studies in Wrocław showed that community had difficulties with executing this fee because of two main reasons:

1. it was exorbitant – 30% of property value increase, therefore many people appealed from this decision and proceedings were lasting a long time, especially if agricultural land was being transformed into investment land;
2. many owners were not informed about the duty to pay this fee.

Objections are raised also in the case of **fee for perpetual usufruct of land**. Communities make updates in properties values registers irregularly and seldom made decision on changing the amount of this fee, especially in the terms of significant rise in market properties values, causes noticeable fee increase (5–10 times higher). Thus, the increase of fee for perpetual usufruct is also followed by many appeals and long lasting proceedings.

### **3. POSSIBILITIES FOR MORE EFFECTIVE REAL ESTATE MANAGEMENT**

Local governments recognise that the property tax and fees is a good land planning tool. The examination of commune income earned from real estate taxes and charges indicates that they remain at a constant real level, which is only to a limited extent affected by recession in various branches of the economy. Therefore, real estate is a source of stable income.

According to Youngman and Reschowsky (2007), real estate tax is the fairest, most transparent and most reliable of all the mechanisms of increasing a commune income.

According to the authors even those who were used to being dissatisfied with tax increases could appreciate the transparency of its calculation. They could compare the amount of money they had to pay with the benefits they gained from the commune in return. This resulted in people migrating to those communes where the rates of taxes and charges in relation to the priority goals on which they were expended best reflected their preferences and expectations.

By implementing a wise policy of satisfying the inhabitants' needs, commune authorities make their commune attractive to future investors.

On the other hand, it should be borne in mind that high tax rates (despite their increase being justified by the needs) hinder the investor inflow to a commune. By giving special property tax relief in some causes local government has the possibility encourage one land use over another or attract a new investment to this area. But as a result, the land is sometimes sold because it can no longer be used profitably for agricultural purposes. In order to prevent this loss of farmland. Some communities follow in United States practise known as value in use assessment. This practise permits for farmland to be assessed at a lower value to encourage the continuation of agriculture use. (Wurtzebach Ch.H. and M.E. Miles1995).

Analyses should therefore be conducted of the relationship between the income earned from the communal property and the money spent on its management. There being many alternative and competitive areas, some of them are regarded as “investor–friendly”, but there are also others, which are still learning how to manage real estate in a rational manner.

One of the drawbacks of the present system of real estate taxation is the fact that it does not take into account the principles of the market economy. The tax amount depends on the land and building area.

Work has been under way on an in–depth reform of the real estate taxation system in Poland. In many countries, the tax level is a function of the real estate value. The experience gathered by such countries indicates that such a system motivates users, both private and public, to optimally utilise the potential of plots of land.

In many countries the normal procedure for the taxing authority, when establishing the property tax each year, is to determine the total assessed valuation of property within the taxing district. Then the total amount of revenues required to be raised from this source by the taxing district

with be divided by the assessed valuation. The result will be the tax rate for the current year. But the key questions for each local government are among others as follows (Wutzerbach Ch.H. and M.E. Miles 1995)

- 1) Property exempts from tax liability- many exemptions means that the rest of taxpayers have to pay higher tax rates
- 2) Who have to bear the major tax burden? – There are situations that community with many high – valued properties (industrial, business buildings) can determine relatively low tax rates. Communities with low – valued properties have to establish high tax rates to provide the same needed services.

As a result an expensive home in relatively poor community may be taxed a longer amount than the same home in a more reach community.

Adopting the real estate value as the taxable basis should stimulate the real estate market according to the principles of the market economy. It should also prevent speculation which hinders the proper use of attractive land. The real estate market should also be developed through the taxpayers learning the real value of their property. This will considerably affect the decisions they take concerning the real estate management and activating the real estate economic potential. (Žróbek R. 2007)

Modern societies (including local communities), which are fully aware of their needs, must also realise the complexity of the process of real estate management. The system includes not only a real estate as a thing, but also rights and restrictions related to real estate as well as the competitiveness and responsibility of individuals and institutions making decisions related to real estate.

According to Williamson (2007), currently applied management systems and cadastral systems are not able to meet all those requirements. More and more importance is attributed to efficient and well designed systems of information about real estates, especially in the processes of taking decisions concerning management of the land at present and in future.

The existence of an efficient and uniform system in Poland would guarantee that the principle of common and equal real estate tax would be followed. Any discrepancies between the entries in the real estate cadaster and the information about the communal property and real estate tax registers would be eliminated. Currently, some owners do not send declarations about a change in the taxable base until after several years of actually using the building. Delays are also recorded in transforming agricultural property into other, non–agricultural land. All this results in a lower income of the communal budget.

Work has been under way for several years on implementation of the information system called an Integrated Electronic Platform – Real Estate Tax . It is intended for communal offices and will be used for comparing information describing real estates in the real estate tax register and in the land and building register. The aim of the system is to speed up the process of servicing taxpayers', as well as revealing discrepancies between data in various data bases, including real estates which have not been reported for taxation. The reasons behind a low share of the charges in the communal budget may include:

1. communes rarely update land value as a base for charges for perpetual usufruct of land (this is delayed in some communes by several years);
2. not all communes establish charge rates for changes in land use when they pass resolutions

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on a area development plan. This results in inability to calculate such charges in the future;

3. many communes are tardy in exacting rents from tenants of communal flats.

Research has shown that communes' active policy is actively pursued in the sale of apartments and granting price discounts of 50 to 99% of the market value of an apartment.

According to me the main problems and activities to undertake by Polish local authorities to increase community's own income are as following:

1. regulation of properties legal status and facilitation of services in local administration offices by integration of data from various sources – land cadastre, real estate register, tax register, spatial development plans stimulate inflow of new investments,
2. making peoples conscious that their money paid to community budget contributes to improvement of their living conditions,
3. information on valuation and sale prices should be available for public to improve transparency in the property market,
4. access to internet and application of geoinformation technologies for spatial analysis and creation of land values maps prevent from under pricing in sale notaries acts and create favorable conditions for introducing new tax system based on real estate value,
5. public-private partnership participation in developing technical infrastructure and services accelerates meeting dwellers needs, and on the other hand, contributes to land value increase;
6. fees affordable to property owners (rates of adjacent fee and fee for perpetual usufruct of land) and frequent updates of property value as a base of fee for perpetual usufruct of land result in smaller number of appeals, provide stable cash inflow to gmina's budget and reduce the expenses connected with appeal proceedings. It seems that the highest amount of the tax and fees should be adequate to stimulate development of community and the particular taxpayer as well,
7. each commune should develop and follow a real estate management strategy. The strategy should take into account the possibility of adjusting the principles of real estate taxation to the solutions implemented in many countries of the European Union,
8. communes should employ licensed real estate managers who possess a knowledge of real estate administration, but also knowledge necessary to make efficient property management decisions.

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## BIOGRAPHICAL NOTES

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