

Ласкаво просимо! – Welcome!

- *Tasks of the cadastral agency in Spandau*
- *Land registration and land transfer in Germany*
- *land register and cadastre (procedures, data exchange)*
- *Land evaluation, tasks of the valuation boards (TBC)*

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Tasks of public survey sector

National survey / reference systems

cartography

cadastre

urban land consolidation

rural land consolidation (Flurbereinigung)

land evaluation (Gutachterausschüsse für Grundstückswerte)

municipal survey tasks

Tasks of the cadastral agency in Spandau

Height reference systems

Cartography (1:5,000, 1:10,000)

cadastre

urban land consolidation

land evaluation

municipal survey tasks, e.g. master plans

Cadastral surveys, engineering surveys, topographic surveys

Issuance of house numbers (address)

Commitment of public surveying



public surveying is responsible for basic spatial data



spatial data shall be complete and up-to-date



cadastre and national survey shall always be „state of the art“



Real estate property in Germany

Various legal provisions

→ **Basic law** - GG *Grundgesetz*

→ **Civil Code** - BGB *Bürgerliches Gesetzbuch* (federal law)

→ **Condominium Act** - WoEigG *Wohnungseigentumsgesetz* (f.l.)

→ **Leasehold Act** - ErbbauRG *Erbbaurechtsgesetz* (f.l.)

→ **Land Register Regulations** - GBO *Grundbuchordnung* (f.l.)

→ **Land Surveying and property cadastre Acts**

- *Vermessungs- und Katastergesetze* (16 state laws)

Property / transfer /
interests in real estate

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graph TD; A[Property / transfer / interests in real estate] --> B([Various legal provisions]); B --> C[Registration];
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Registration

Land transfer in Germany

→ Property Purchase Agreement

- most legal provisions and principles are set out in the German Civil Code

→ Within the property purchase agreement, the vendor agrees to transfer the legal title and the buyer agrees to pay the purchase price.

→ Must be notarised by a notary public

- notary is a legally trained lawyer appointed by the federal state and deemed to be strictly impartial

→ Notary carries through the conveyancing process for the parties - *notary can be the caretaker of transfer payments (escrow account) thus he supervises the payment and conveyancing requirements*

→ land title will only pass upon registration of the new owner in the land register

Land registration in Germany

- Germany has a complex system and a rich case law on land policy and instruments
- dual system of land registration
- **Who?**
Ownership of land, rights in rem (servitudes and encumbrances) are registered in the Land register (**Grundbuch**) maintained by the civil courts (**Amtsgericht**)
- **Where is what?**
The cadastre (**Liegenschaftskataster**) is the evidence of boundaries, location, size and usage of land and buildings. maintained by the cadastral agencies (**Katasteramt**)

Land register (Grundbuch)

- ➔ Grundbuch was introduced
 - *Prussia (kingdom of Preußen): 1872*
 - *Deutsches Reich (Germany): 1897*
- ➔ based on / linked to the already existing tax cadastre (*„official register of real estate“*)
- ➔ The Grundbuch does not cover all real estate in Germany!
Land registration is not compulsory for all real estate which is owned by the federal government, the states, the communities, schools or churches (on application only) as well as for streets, water bodies or railway estate.
- ➔ Real estate can not be registered as long as it is not registered in the cadastre
(being a cadastral object with parcel number).
- ➔ The Grundbuch is essential for all transactions concerning ownership, rights in rem and mortgaging of land.

Land register (Grundbuch)

- ➔ Registration of titles is a strongly formalized procedure on the basis of consent (Auflassung) and application of the titleholder.
- ➔ Any application must be made by notarial act (registration solely on the basis of deeds).
- ➔ Land Register are deemed to be correct (principle of good faith)!
*unless an objection against the correctness is entered
or unless the incorrectness is known to the acquirer.*
- ➔ registered titleholder is entitled to the right
- ➔ The Grundbuch is not accessible by the public, however by any person/institution justifying an interest
- ➔ Access to information possible via Internet

Cadastre (Liegenschaftskataster)

- ➔ Cadastre in Germany exists since almost 200 years; it was originally established for taxation.
It was introduced
- *in Prussia (kingdom of Preußen) 1861-1865*
- ➔ existence of cadastral objects is essential precondition for any registration as real estate
(*cadastre = „official register of real estate“*)
- ➔ The cadastre covers the whole area of Germany!
The cadastre gives full information about ownership of any real estate which is not registered in the Grundbuch.
- ➔ The Cadastre is essential for tax collection on land, statistics, town and regional planning, utilities etc.
- ➔ The cadastral map the most important data source for the Spatial Data Infrastructure in Germany

Cadastre (Liegenschaftskataster)

- ➔ Data maintenance on application (*no formalized procedure for applicants*) or by cadastral authorities
- ➔ Any cadastral survey must be carried out either by licensed surveyors (*ÖbVI - Öffentlich bestellte Vermessungsingenieure*) or cadastral authorities (*Katasteramt*)
- ➔ Update of data solely on the basis of measured values
- ➔ The cadastre is accessible by the public (*exemption: personal data of owner only on justifying specific interest*).
- ➔ Access to cadastral information possible via Internet

FLURSTÜCK 110010-028-00067/002 0

 DATUM 11.07.2005 04
 FLURSTÜCKS-/EIGENTÜMERNACHWEIS SEITE 1

VERMESSUNGSAMT 0005 BEZIRKSAMT
 SPANDAU VON BERLIN
 AEST. BAUEN, PLANEN
 UND UMWELTSCHUTZ
 VERMESSUNGSAMT
 CARL-SCHURZ-STR. 2/6
 13597 BERLIN

GEMARKUNG 110010 SPANDAU
 BEZIRK 11000005 SPANDAU

FINANZAMT 1119 SPANDAU

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 110010 28 67/2 0

ENTSTEHUNG 1925
 FORTFÜHRUNG 2001/90001-58
 FLURKARTE 42137
 BLOCK 029/286

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TATSÄCHLICHE NUTZUNG
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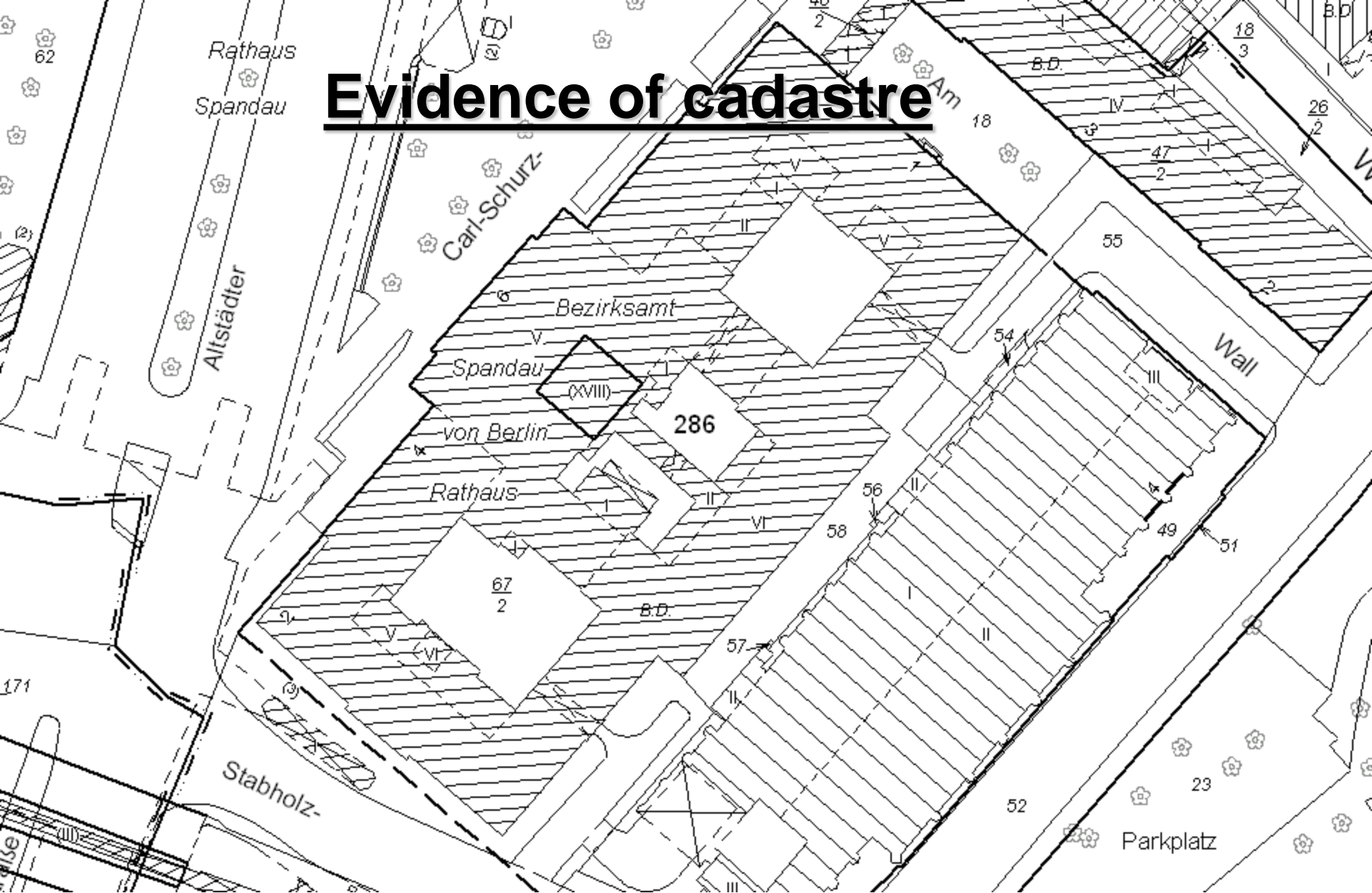
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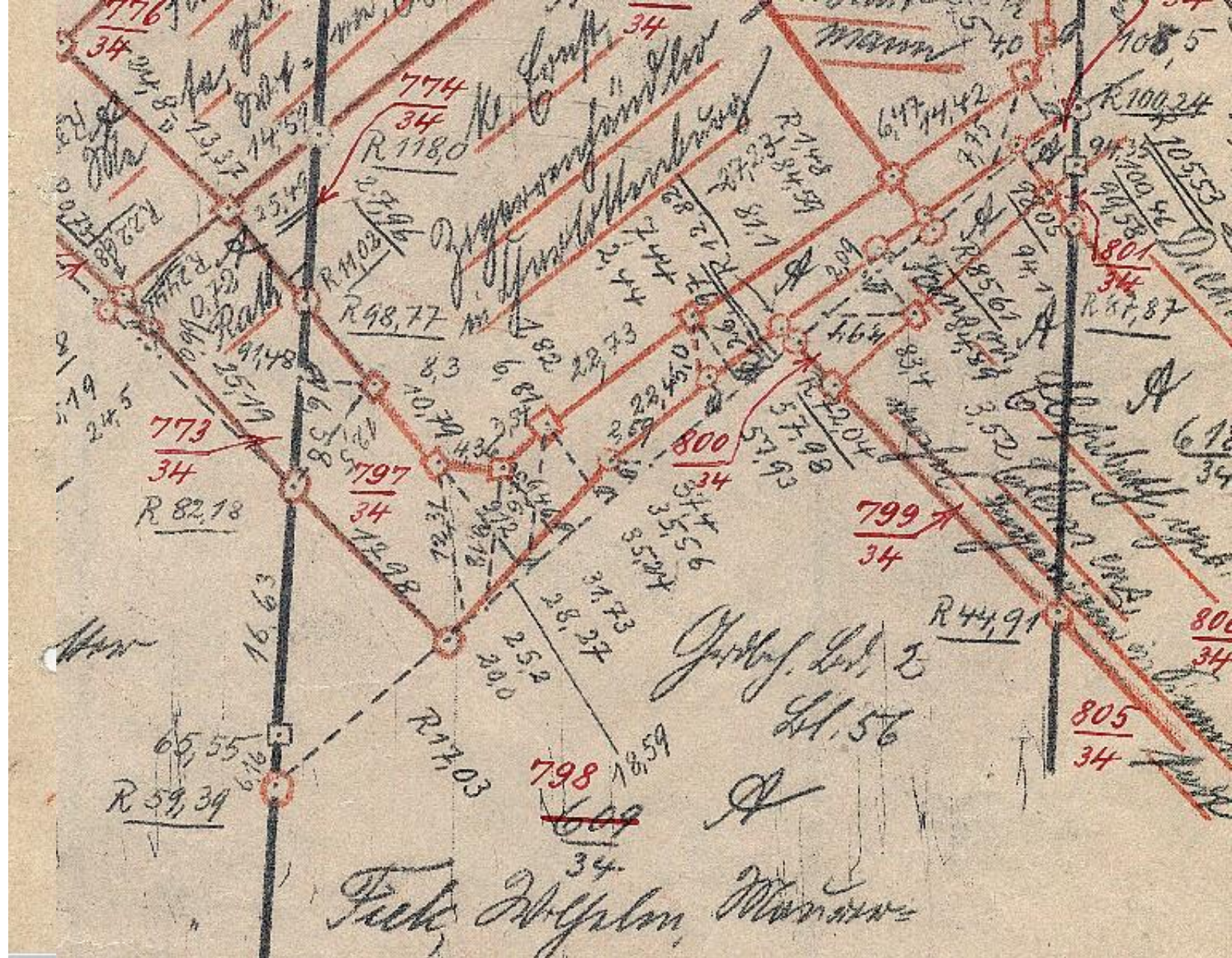
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 DER BEZIRKSVERWALTUNG
 SPANDAU
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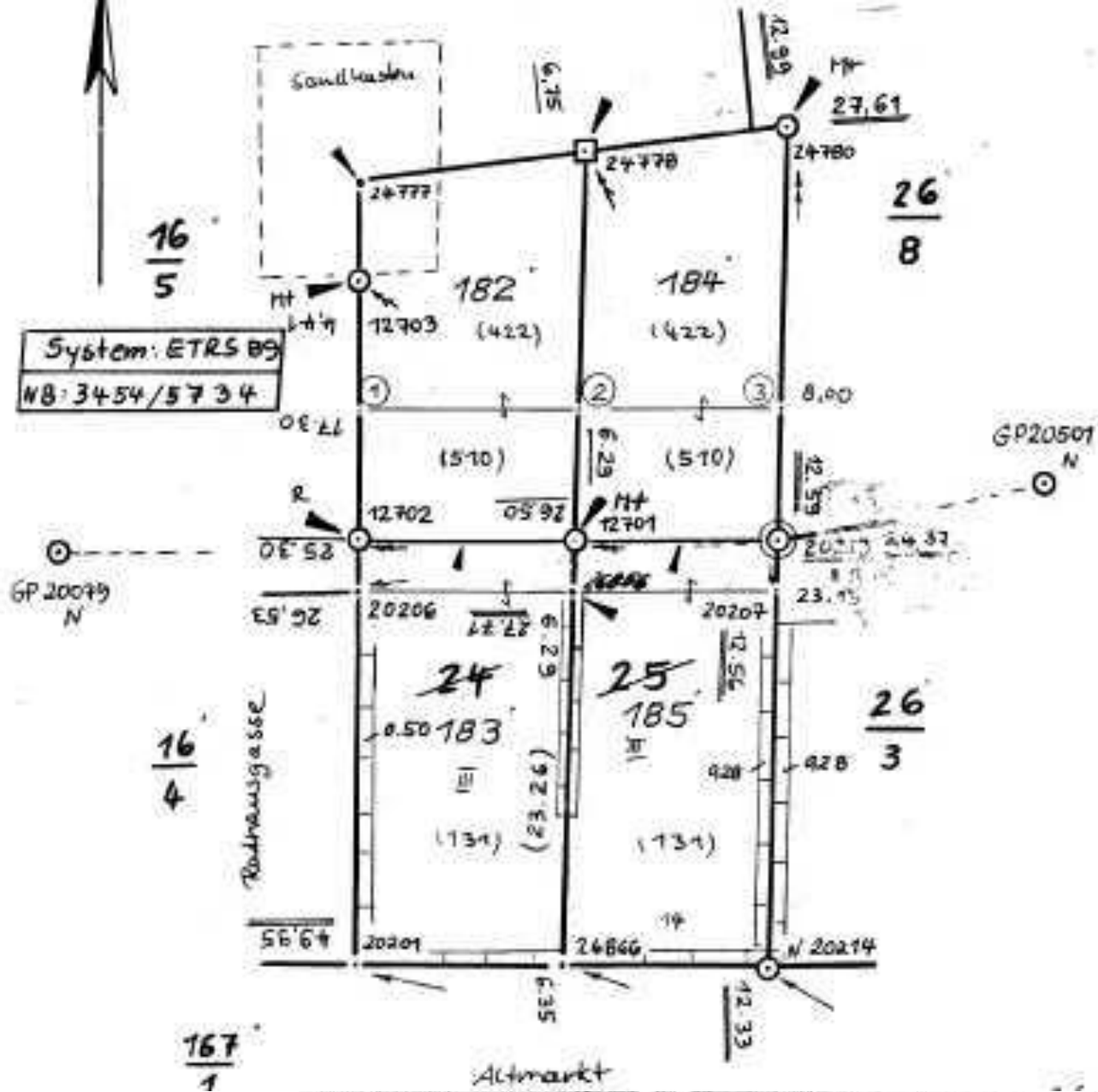
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Evidence of cadastre







Maintenance of cadastre in Germany

Origin of data

➔ *All parcel boundaries and most buildings are surveyed (various qualities),
new parcel boundaries and buildings will be surveyed on owner's application*

Order to licenced
surveyor or
cadastral agency

➔ *Owner data:
consistent data exchange with land register*

Land registry /
Cadastral agency

➔ *All buildings are surveyed (various qualities),
new buildings / changes have to be surveyed by owner
(compulsory legal obligation)*

Order to licenced
surveyor or
cadastral agency

➔ *other constructions / topography by cadastral authorities*

Cadastral agency



Licensed (private) Land Surveyors in Germany

(Öffentlich bestellte Vermessungsingenieure - ÖbVI)

- ➔ *independent entrepreneur, self-employed*
- ➔ *licensed to carry out cadastral surveys + other authoritative surveys*
- ➔ *licensed only for the territory of one state*
- ➔ *Cadastral authority according to the cadastral act*
- ➔ *professional qualifications for licensing are ruled out in the cadastral act*
- ➔ *professional duties are ruled out in the licensed surveyors act*
- ➔ *charges for surveys are fixed (surveying charge act) and not negotiable*
- ➔ *professional supervision by the licensing authority*

Definition of market value

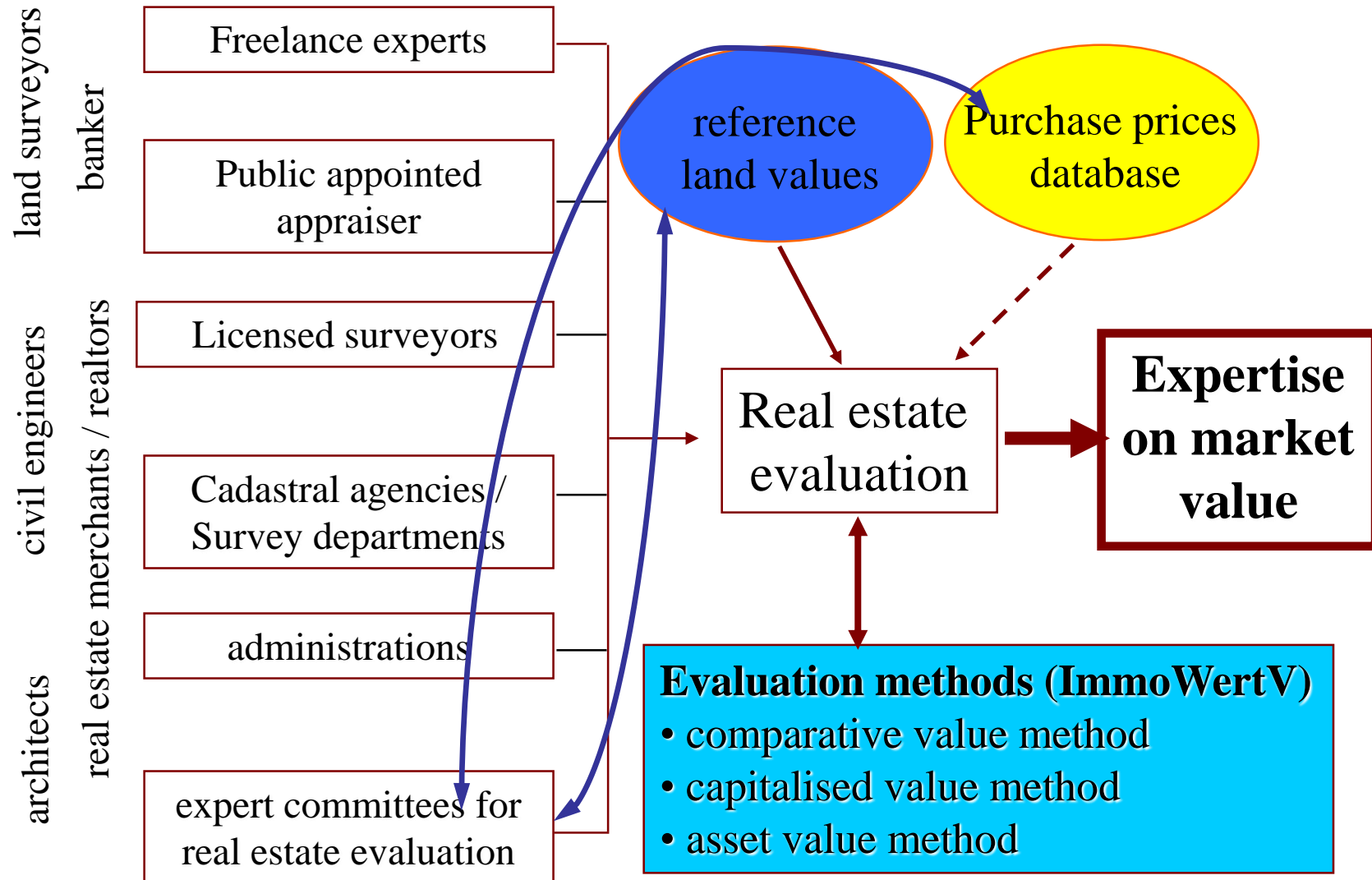
Market value (Verkehrswert)

is defined by § 194 Federal Building Code (Baugesetzbuch)

- is *determined by the price, which can be attained*
- * at a reference date (Stichtag)
 - * under usual business conditions
 - * taking into account existing legal circumstances
 - * regarding real attributes, type and location
 - * not considering unusual or personal circumstances
- for the real estate in question.

Not identical with "open market value" = best price (Great Britain)

Experts in real estate evaluation



Expert committees for real estate evaluation

- Prices on German real estate market were limited and controlled between 1936 (**Price-Freeze-Decree** of 1936, Preisstoppverordnung) and 1960 (in East Germany till 1990), i.e. no free real estate market
- 1960:
Enactment of Federal Building Code (BBauG) and abolishment of Prize-Freeze-Decree
- Necessity of transparency on the now free real estate market
- Establishment of local expert committees for real estate evaluation in all counties / cities
→ Gutachterausschuss für Grundstückswerte



Expert committees for real estate evaluation

Independent board of experts for real estate evaluation
(honorary)

Experts from various professions:



- architects
- civil engineers
- land surveyors
- real estate merchants / realtors
- chartered surveyors
- bankers
- business economists
- agricultural engineers
- tax officers

with profound knowledge and experience in real estate evaluation and
related disciplines

Expert committees for real estate evaluation

Duties:



- Keeping the purchase prices database, data analysis and collection from incoming purchase deeds
- Information of the public about market situation
- Appraisal of reference land values (yearly)
- Reports on real estate market (yearly)
- Appraisal of specific real estate market data
- Expertises on market value - *on application only!!*
(especially in cases of expropriation)

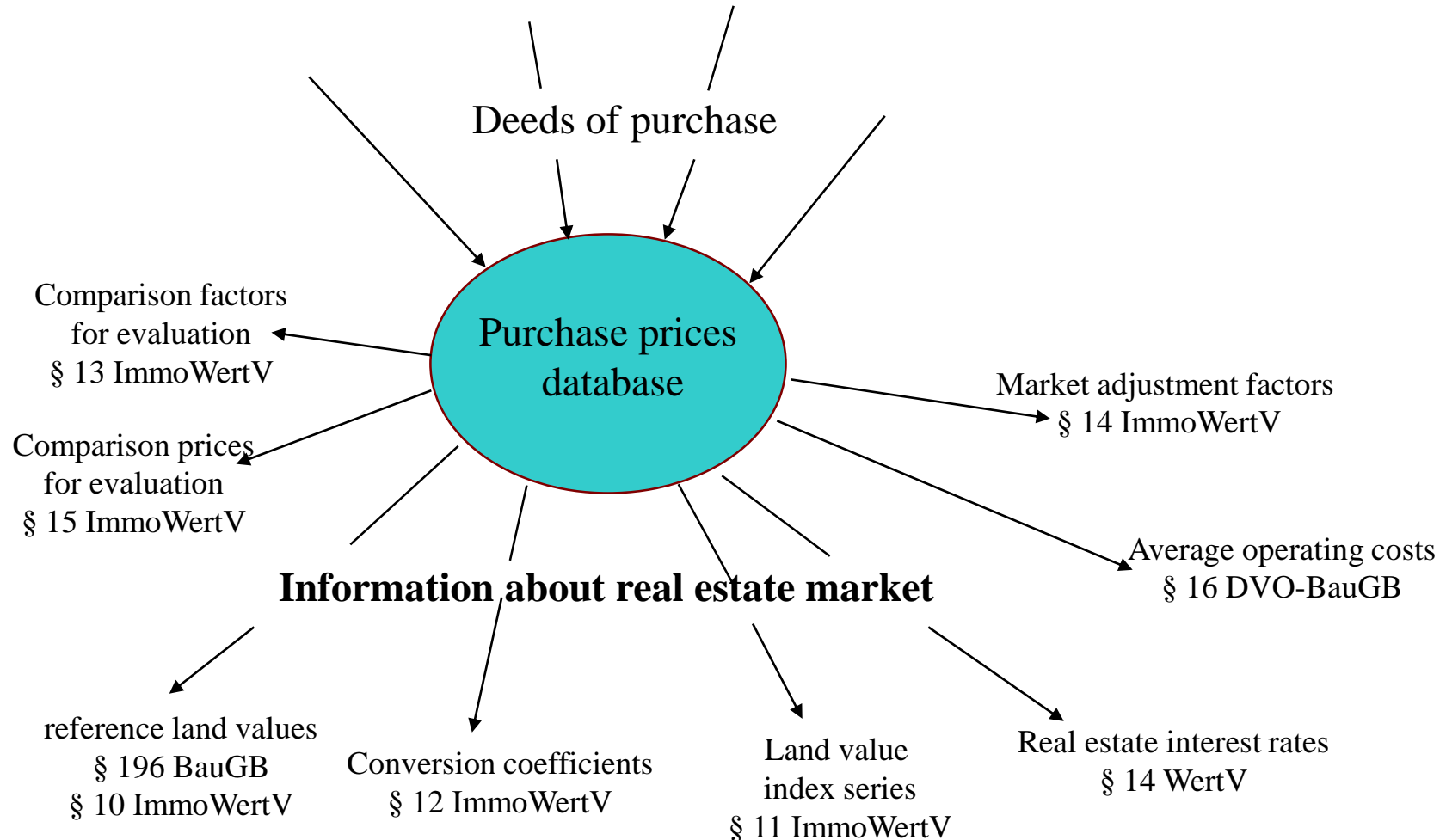
Purchase prices database **(Kaufpreissammlung)**

§ 195 Federal Building Code

- (1) A copy of every deed about change of property on real estate – be it a purchase, exchange of property or granting a heritable building right – has to be delivered by the certifying authority to the expert committee for land evaluation

Purchase prices database

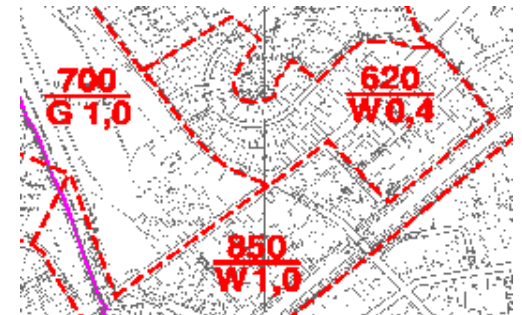
Information flow



Reference land value (Bodenrichtwert)

- reference land values are average values for unbuilt real estate in locations with similar circumstances and value conditions.
- reference land values are derived annually (fixed date 1st January ...) by means of purchase price comparison. They have to be published (maps, internet).
- They are published as follows:

<u>Land value (in €/m²)</u>
legal circumstances



Importance of reference land values

- Reference land values are the most important information about the market situation for unbuilt real estate in Germany.
- Reference land values are the unrenouncable data source for mass evaluations (especially tax evaluations).
- They are necessary basic data for market evaluations (especially when using capitalised value methods or asset value methods) as well as for hypothecary valuations.
- Reference land values are information of the public about real estate market situation.
- Reference land values must be derived precisely and carefully without any anticipatory tendencies.

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