Legal, tolerated, illegal: IVS market value definition and the “legally permissible”

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IVS Market value definition «reflects» legally permissible use

- IVS 104 (2017) Bases of Value
- Section 30.4:
  - The Market Value of an asset will reflect its highest and best use [...] that is possible, legally permissible [...] 
- Section 140.2:
  - The highest and best use must be [...] legally allowed [...]

What is the market value, according to the IVS definition, of a radar detector which I can legally sell, at a probable price of EUR 10?
Radar detector is (Finland, Norway) ...

- Legal to own, sell, and buy
- Illegal to use
- “Legally allowed” / “permissible” HBU?
- What is the IVS Market value – which “reflects” the HBU?
When buying, would I only consider «legally permissible» uses? Always drive according to speed limits? Always park legally?

- **85 kWh Battery Rear Wheel Drive**
  - $49,000
  - 42,168 miles
  - 19" wheels

- **85 kWh Battery Rear Wheel Drive**
  - $50,000
  - 43,592 miles
  - 19" wheels

- **85 kWh Battery Rear Wheel Drive**
  - $50,500
  - 25,670 miles
  - 19" wheels
What is “legally permissible” might be unclear

- Informal property markets in a squatter area
- Not quite legal renting out the property (price, quality of the property)
- Airbnb without proper tax payments

- Such uses are reflected in the property prices!
Not quite “permissible” use is frequently “tolerated”

- Not permissible all-year living in a second home
- Parking the car at a location which is not “permitted”
There are illegal uses which the authorities *cannot* prevent

- No effective instruments of policing
- Not sufficient resources
- Local officers might not act on illegalities
Practical valuation: The comparable sales problem

- Comparable sales prices are influenced by potential illegal use
- The valuer can hardly check the *intentions* of the buyers of comparables
- Probably often leads to a slight violation of a “legally permissible”-requirement
Zoned as a permanent home, illegally used as a second home

Buyer intended to use the dwelling illegally, as a second home
If a property legally transacts at estimated EUR 100 000

- What relevance should the *intention* of any illegal use have in the IVS market value definition?
- The *actual* market price is the relevant one for…
  - The market (buyers and sellers)
  - Financial institutions (as collateral)
  - The authorities (basis for property taxes, stamp duty etc.)
So, where potential for not "legally permissible" use...

1. "Legally permissible" will render the valuer without proper comparables
2. "Legally permissible" will render the IVS market value definition irrelevant for most purposes and actors
   • As a valuer: Avoid a strict interpretation of the IVS “legally permissible”
   • The IVSC should reconsider the HBU/“legally permissible”-part of the standards