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EFTA SURVEILLANCE
AUTHORITY

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
0032 Oslo

Subject: Letter concluding pre-notification contacts regarding the sale of four properties by Oslo municipality

Dear Sir/Madam,

Further to the pre-notification information you submitted to the Competition and State Aid Directorate (“CSA”) of the EFTA Surveillance Authority, 28 September 2015 (Document No 774511), I have set out below CSA’s preliminary conclusions regarding the pre-notified measure. The measure in question relates to the sale of four properties located in central Oslo (Hauskvartalet, properties No 208/180, 208/303, 208/304 and 208/60).

Having assessed the information, CSA has come to the preliminary conclusion that the pre-notified measure does not involve state aid, within the meaning of Article 61(1) of the EEA Agreement, since the sale of the four properties can be considered an unconditional bidding procedure in line with the Authority’s guidelines regarding state aid elements in sales of land and buildings by public authorities (“the Guidelines”).¹

The Guidelines set out a simple procedure that allows EFTA States to handle sales of land and buildings in a way that automatically precludes the existence of state aid. According to the Guidelines, the sale of land and buildings following a sufficiently well-publicized, open and unconditional bidding procedure, comparable to an auction, accepting the best or only bid is by definition at market value and consequently does not contain state aid. In the present case, the sale of the properties was organised and conducted as an open bidding round and the seller made it clear in advance how he would conduct an economic assessment of bids. Therefore, it would seem the bidding procedure was comparable to an auction and ensured that the properties would be sold to the highest bidder.

The Guidelines also stipulate that the offer has to be sufficiently well published.² The sale of the properties was announced in the Norwegian newspaper *Aftenposten* on 27 November and on 2 and 4 December 2014. Moreover, the sale was advertised and the prospectus made available online on www.finn.no and on real estate agent’s website from

¹ Available online at: <http://www.eftasurv.int/?1=1&showLinkID=15142&1=1>.

² According to the Guidelines an offer is 'sufficiently well-publicized' when it is repeatedly advertised over a reasonably long period (two months or more) in the national press, estate gazettes or other appropriate publications and through real-estate agents addressing a broad range of potential buyers, so that it can come to the notice of all potential buyers.

2 December 2014 until the submission deadline for bids on 2 March. In addition to the advertising, the real estate agent addressed a broad range of potential buyers and conducted inspections of the properties with interested parties. According to the Norwegian authorities around 150-160 interested parties were registered. It thus appears that the offer was well-publicized.

Moreover, in line with the Guidelines an offer is 'unconditional' when any buyer, irrespective of whether or not he runs a business or of the nature of his business, is generally free to acquire the land and buildings and to use it for his own purposes. The bidding procedure did not exclude any buyers on the basis of whether or not they ran a business or the nature of their business.

Finally, if the sale is conditioned on the future owner assuming special obligations – other than those arising from general domestic law or decisions of the planning authorities or those relating to the general protection and conservation of the environment and to public health – for the benefit of the public authorities or in the general public interest, the offer is 'unconditional' only if all potential buyers would have to, and would be able to meet that obligation, irrespective of whether or not they run a business or of the nature of their business. This criterion, too, would seem fulfilled in the present case.

In light of the above considerations, it appears that the sale of the four properties can be considered as an unconditional bidding procedure in line with the Authority's Guidelines. Consequently, it is the preliminary view of the Authority that the measure does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

This is a letter concluding the pre-notification contacts in the case at hand in accordance with paragraph 16 of the Authority's Guidelines on Best Practice for the conduct of state aid control procedures. It represents CSA's informal preliminary assessment, and it is as such not binding on the Authority. The Norwegian authorities remain free to notify the measure to the Authority should they deem it necessary to obtain a formal decision on the measure pursuant to Article 4 of Part II of Protocol 3 to the Surveillance and Court Agreement.

Yours faithfully,



Gjermund Mathisen

Director

Competition and State Aid Directorate