

CASE STUDY- DONATION TO MUNICIPALITY ON THE BASIS OF BOUGHT PARCEL

I: INTRODUCTION: This case study shows that the municipality of Herceg Novi, within the mandate of the mayor Dejan Mandic, sold a valuable municipal land to a private company, while at the same time concluding a donation agreement, on the basis of which the company in question paid a certain sum of money as a donation to the local authorities for successfully concluded transaction.

II: APPRAISING VALUE OF LAND AND INVITING TENDER: According to the available data, the municipal Directorate of Property as early as at the beginning of 2007, assessed the value of parcels on location in Kumbor, better known as Zmijice, and on which the municipality of Herceg Novi has the right of shared ownership.¹

An appraiser estimated the value of the parcel,² covering the area of 5,220 square meters, where the municipality sold its part of the property one year later, to be worth €417,600, i.e. €80 per square meter. The appraiser's findings determined the value of the land roughly, without specifying the economic method which was used to calculate the actual value of the location.³

Na osnovu izloženog i parametara za procenu tržišne vrednosti m² građevinskog zemljišta (položaj, lokacije, opremljenost lokacije, udaljenost lokacije od mora, saobraćajnica i infrastrukturnih objekata, oblika lokacije), procenjujem da tržišna vrednost kat. parc. 12/3 iznosi 80,0 €/m², što za površinu parcele od 5.220,0 m² iznosi:

$$5.220,0 \times 80,00 = 417.600,00 \text{ €}$$

The first two public calls for the sale of the municipal share of the land in Zmijice by auction failed, and in September 2007 the Directorate of Property announced the third call for public bid.⁴The starting price per square meter of the land was determined to be €180.

Three offers were submitted by a company "Viktorija plus" from Herceg Novi and by two individuals - Vera Simic and Branka Vurunic, also from Herceg Novi. The company "Victorija plus" won with the highest bid of €191.5 per square meter of land, so that the total bid amounted to €1 million for a parcel of 5,220 square meters.

III: CONCLUDING SALES AND PURCHASE AGREEMENT: On 29 July 2008 the municipality of Herceg Novi approved the decision on the transfer of co-ownership rights over the municipal land⁵ to the company "Victorija Plus". This decision was published in the Official Gazette-Municipal Regulations⁶ on 26 August of the same year and entered into force eight days later, on 3 September.

It is unclear exactly when the former mayor of Herceg Novi Dejan Mandic concluded the agreement on the transfer of the co-ownership right over the real estate⁷ with the company "Victorija plus", since 29 July is given in the agreement as the date of its conclusion, or the date

¹ Cadastral parcels 12/1, 12/2 and 12/3 KO Kumbor, total area of 13,920 square meters

² Cadastral parcel No. 12/3 KO Kumbor, total area of 5,220 square meters

³ Findings and opinion of the appraiser Slobodan Jovanovic on 08 March 2007

⁴ Invitation to tender for the sale of the real estate from 25 September 2007; MANS has no documentation regarding the first two invitations

⁵ Decision on the transfer of co-ownership right over the real estate No. 01-3 / 34-08, on 29 July 2008

⁶ Official Gazette of Montenegro - Municipal Regulations No 26/2008

⁷ Agreement on transfer of the ownership over the real estate is verified in the Basic Court on 26 September 2008

when the local parliament gave permission for its conclusion, while the agreement was verified by the court on 26 September 2008.

Thus, the municipality of Herceg Novi sold the co-ownership right over 3/8 of the aliquot part of the property or a total of 5,220 square meters of the real estate, which is situated on the location Zmijice, for million euros, or €191.5 per square meter.

• *Firmi »VIKTORIA PLUS« d.o.o., iz Herceg-Novog ,*
• *za najveću licitacionu i ugovorenu kupoprodajnu cijenu u iznosu od*
191,5.€ po 1.m2 površine ili za ukupno :
1.000.000,00.€
/jedanmilionevra/.

IV: CONCLUDING DONATION AGREEMENT: In addition to the sales and purchase agreement, the former mayor Dejan Mandic and the company "Viktorija plus" concluded a donation agreement⁸ in September 2008, with which the company donated a sum of €300 thousand to the municipality for successfully concluding the deal of transferring the co-ownership right over the real estate.

Након спроведеног поступка јавног надметања преноса права сувојине из члана 1. овог Уговора предузеће „Викторија плус“ ДОО из Херцег-Новог., понудила је Општини Херцег Нови посебну донацију у износу од 300.000,00 € (тристохиљада евра) на име успјешно закљученог посла у вези са преносом права сувојине из члана 1. ове Одлуке са жељом за успјешну сарадњу са Општином Херцег Нови. На сједници одржаној дана 29. јула 2008. године Скупштина општине Херцег Нови усвојила је Закључак, број 02-14/399-08 којим прихвата донацију предузећа „Викторија плус“ ДОО из Херцег Новог.

It is unclear what giving the donation to the municipality by the company "Victoria plus" means. It is legally controversial that the donation is made for successfully conducted business with a "desire for a successful cooperation with the Municipality of Herceg Novi".

A month after the concluding the donation agreement, the company "Victoria plus", founded by Shkatulova Victoria from Moscow, paid the municipality of Herceg Novi the amount of €300,000⁹. MANS has no information for which purpose the municipality of Herceg Novi spent this amount.

Rbr. ID	Račun	Šifra plaćanja	Datum poravnaja	Datum valute	Odliv	Priliv
1.	0691882695	51000000001757583	163	27/10/2008	27/10/2008	300.000,00 ✓
55720 VIKTORIA PLUS D.O.O Herceg Novi uplata DO VACUJ za opštine.						

V: OTHER DONATIONS IN MUNICIPALITY OF HERCEG NOVI: Other agreements, of which some have been implemented and some not, have shown that the donation given by the company "Victoria plus" is not the only one. Two more examples are given below.

⁸ Donation agreement conclude on 26 September 2008

⁹ Excerpt from the Main Treasury Account of the Municipality of Herceg Novi, on 27 October 2008

In early 2009, the former mayor Dejan Mandic concluded the agreement on securing funding - a donation for the first phase of rehabilitation of the landslide Podi with the Herceg Novi-based company "Univerzal Monte". The planned donation amounted to €303,156¹⁰, but this agreement has never been implemented nor the money has been paid to the municipality.¹¹

The Agency for Construction and Development of Herceg Novi have been making donations, as well. Thus, in May 2008, it concluded an agreement with the members of the *Atlas Group* from Podgorica ("*Atlas Cap*" doo, "*Mogren Garden*" doo and "*Mogren Hill*" doo) on the development of plateaus and public staircases in Herceg Novi. The donation was worth €20,000, and was concluded with the aim of "improving the environment in the Municipality."¹²

This model of donations given by private companies to a local government with a vague aim of financing local authorities is a very fertile ground for possible corruption, where the private company that provides money to the local government can expect concessions in its business on the territory of the municipality. All the more so because there are clear legal regulations that define when and under what conditions the local community can receive a donation.

¹⁰ Agreement on securing funding-donation for the first phase of rehabilitation of the landslide Podi

¹¹ Reply submitted by the Herceg Novi Mayor's Cabinet to MANS, No. 42633 of 28 December 2011

¹² Agreement, on 23 May 2008