

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 114/LM/Oct08

In the matter between:

Capital Property Fund Ltd

Acquiring Firm

and

Monyetla Property Fund Ltd

Target Firm

Panel : D Lewis (Presiding Member), Y Carrim (Tribunal Member) and T Orleyn (Tribunal Member)
Heard on : 26 November 2008
Order issued on : 26 November 2008
Reasons issued on : 22 January 2009

Reasons for Decision

Introduction

[1] On 26 November 2008 the Tribunal approved the acquisition by Capital Property Fund Ltd of the entire issued share capital in Monyetla Property Fund Ltd. The reasons follow below.

The transaction and parties

[2] Capital Property Fund Ltd (“Capital”) is acquiring all the linked units in Monyetla Property Fund Ltd (“Monyetla”) thereby acquiring sole control of Monyetla.

[3] Capital is not controlled by any single firm. Its three largest shareholders are Stanlib Asset Management Funds (20.7%), Resilient Property Income Fund

Ltd (11.3%) and Old Mutual Life Assurance Company (SA) Ltd (10.6%). Capital controls 17 subsidiaries.¹

- [4] Monyetla is controlled by Pangbourne Properties Ltd. Monyetla controls Monyetla Property Holdings (Pty) Ltd and Monyetla Reality Holdings (Pty) Ltd.

Rationale for the transaction

- [5] According to the merging parties Capital is currently a well rated and liquid property fund whilst Monyetla is illiquid and small which makes it difficult for its unitholders to exit from such an investment. The transaction allows Capital to acquire investment property assets at a fair price with the result that its market capitalisation is enhanced. In addition, Capital has low gearing and Monyetla is highly geared. On merging the two funds, the risks inherent in Monyetla's level of gearing are eliminated and the overall gearing level in the enlarged Capital increases in a manner which benefits all Capital unitholders.

Effect on Competition

- [6] Both Capital and Monyetla own lettable industrial, office and retail properties throughout South Africa. The parties' product markets overlap in the Florida/Robertville/Maraisburg Node where both own lettable light industrial property and in the Sunninghill Node where each of them own grade A office property.
- [7] The total lettable light industrial space available in the Florida/Robertville/Maraisburg Node is 92 224m², of this Capital owns 9137m² (i.e. a market share of 9%) and Monyetla 2258m² (representing 2%), resulting in a combined market share of 11% post the transaction.
- [8] Capital owns 18 406 m² of the total lettable grade A office space market in the Sunninghill Node while Monyetla owns 17 535 m². This represents a market share of approximately 5% each of the total available grade A office space of 319 047 m² and a combined market share of 10% post merger.

¹ See page 4 of the record.

[9] According to the parties there are numerous other competitors present in both of the geographic markets, of which the largest are Vukile Property Fund Ltd, Emira Property Fund and Beaux Lane in the Florida/Robertville/Maraisburg Node and Growthpoint, Gensec and Emira in the Sunninghill Node.

[10] In light of the above the Tribunal finds that the proposed transaction is unlikely to substantially prevent or lessen competition.

PUBLIC INTEREST

[11] The transaction does not raise any significant public interest concerns.

Y Carrim

22 January 2009
Date

D Lewis and T Orleyn concurring.

Tribunal Researcher: R Badenhorst
For the merging parties: Vani Chetty Competition Law
For the Commission: Thabelo Ravhugoni