



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 90/LM/Oct12  
(015719)

In the matter between:

**Investec Property Fund Limited**

**Acquiring firm**

And

**Certain properties owned by various companies  
forming part of S Giuricich Holdings (Pty) Ltd**

**Target Firms**

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Panel	:	Norman Manoim (Presiding Member) Andreas Wessels (Tribunal Member) Takalani Madima (Tribunal Member)
Heard on	:	14 November 2012
Order issued on	:	14 November 2012
Reasons issued on	:	23 November 2012

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### Reasons for Decision

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#### Unconditional approval

[1] On 14 November 2012, the Competition Tribunal (“Tribunal”) unconditionally approved the merger between Investec Property Fund Limited and certain properties owned by various companies forming part of S Giuricich Holdings (Pty) Ltd. The reasons for approving the proposed transaction follow below.

## Parties to the transaction

- [2] The primary acquiring firm is Investec Property Fund Limited (“**the Investec Fund**”), a public company controlled by Investec Limited. The business activities of the Investec Fund include the buying, leasing, developing and selling of properties with an investment banking context.
- [3] The primary target firms comprise 12 (twelve) retail properties which are situated in the following nodes: Fourways, Pietersburg, Constantia, Roodepoort, Edenvale, Bryanston, Emalahleni, Montana Park, Bloemfontein and Glen Eagles.
- [4] These properties are controlled by various companies, namely Gaal Investments (Pty) Ltd, Lussin Piccolo 1 Investments Limited, Lussin Piccolo Africa Properties Limited, Summero (Pty) Ltd, AAIR Property Investments (Pty) Ltd, Lussin Piccolo Polokwane Properties (Pty) Ltd and Lussin Investments (Pty) Ltd (collectively “**the transferring firms**”). The transferring firms are all ultimately controlled by the four Giuricich brothers.<sup>1</sup>

## Proposed transaction

- [5] Investec Fund will acquire the twelve properties from the transferring firms, following which Investec Fund will have sole control over them.
- [6] The Competition Commission (“Commission”) queried why the merging parties notified the twelve property transactions as a single transaction. The merging parties’ reply was that each property transaction is conditional upon all twelve properties being acquired by the Investec Fund<sup>2</sup>. The merging parties further submitted that it is a single notifiable transaction because the transferring properties are controlled by the transferring firms which are all ultimately controlled

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<sup>1</sup> These brothers are Anthony Giuricich, Luigi Giuricich, Mathew Giuricich and Florian Giuricich.

<sup>2</sup> See page 882 of the merger record.

by the four brothers mentioned above.<sup>3</sup> The Commission accepted these submissions.

### **Rationale for the transaction**

[7] This transaction is in line with Investec Fund's current expansion strategy.

[8] The ultimate shareholders wish to realise their investments.<sup>4</sup>

### **Relevant markets and impact on competition**

[1] There is a horizontal overlap present between the activities of the merging parties, as they both own rentable retail properties in South Africa. However, there is no geographical overlap between the merging parties and target firms' properties, as the distances between them range from 74km – 1539km.<sup>5</sup>

[2] There are various shopping centres within a 10 kilometre radius of the target properties which will compete with these centres, none of which are owned by the Investec Fund.

[3] Further, the target properties' estimated market shares in the respective nodes are all below 4.5% and as there are no geographic overlaps, the Investec Fund will not gain any market accretion.

### **Public interest**

[4] The merging parties confirmed that there will be no adverse effect on employment as a result of the proposed transaction<sup>6</sup>. No other public interest issues arise as a result of this transaction.

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<sup>3</sup> See page 882 of the merger record.

<sup>4</sup> See page 45 of the merger record.

<sup>5</sup> See page 56 of the merger record.

<sup>6</sup> See page 77 of the merger record.

## CONCLUSION

[5] Having regard to the facts above, we find that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, the proposed transaction raises no public interest concerns. Accordingly, we approve the proposed transaction unconditionally.



**NORMAN MANOIM**

23 November 2012

**DATE**

**Andreas Wessels and Takalani Madima concurring.**

Tribunal Researcher: Nicola Ilgner

For the merging parties: Andile Nikani of Fluxmans Attorneys

For the Commission: Zanele Hadebe