



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM116Jul17

In the large merger between:

**K2012150042 (South Africa) (Pty) Ltd**

Primary Acquiring Firm

and

**Win Twice Properties (Pty) Ltd**

**And Bedford Square Properties (Pty) Ltd.**

Primary Target Firms

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Panel	: Yasmin Carrim (Presiding Member)
	: Anton Roskam (Tribunal Member)
	: Andiswa Ndoni (Tribunal Member)
Heard on	: 13 September 2017
Order Issued on	: 13 September 2017
Reasons Issued on	: 04 October 2017

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### Reasons for Decision

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#### Approval

- [1] On 13 September 2017, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction between K2012150042 (South Africa) (Pty) Ltd ("K2012") and Win Twice Properties (Pty) Ltd ("WTP") and Bedford Square Properties (Pty) Ltd ("BSP").
- [2] The reasons for approving the proposed transaction follow.

## **Parties to the Proposed Transaction**

### *Primary Acquiring Firm*

- [3] The primary acquiring firm is K2012, a private company incorporated in accordance with the laws of the Republic of South Africa and is ultimately controlled by Old Mutual Group Holdings (South Africa) (Pty) Ltd ("OMSA"). K2012 jointly controls Old Mint (Pty) Ltd and Newton Motor Dealership (Pty) Ltd ("the Acquiring Group").
- [4] K2012 is a diversified property ownership firm which owns a portfolio of 34 investment properties, comprising of retail, industrial, office and other properties as well as vacant properties held for future development.

### *Primary Target Firms*

- [5] The primary target firms are WTP and BSP, both private companies incorporated in accordance with the laws of the Republic of South Africa and both wholly owned by HBW Group (Pty) Ltd ("HBW"). HBW is ultimately controlled by the Pirgos Trust UBO.
- [6] WTP and BSP are two property investment firms which own the immovable property and letting enterprises known as Bedford Centre and Bedford Square ("the Target Properties"). The Target Properties contain a combination of Grade A, B and P office property as well as retail property.

## **Proposed Transaction and Rationale**

- [7] K2012 intends to acquire 99% of the issued ordinary shares in both WTP and BSP and will exercise sole control over WTP and BSP post-merger.
- [8] According to the merging parties, the proposed transaction will, *inter alia*, increase the Acquiring Group's exposure to the Gauteng region and will give WTP and BSP access to capital which will, in turn, allow them to undertake projects elsewhere in the country.<sup>1</sup>

## **Relevant Market and Impact on Competition**

- [9] The Commission found a horizontal overlap in the following markets:
  - [9.1] The provision of rentable office space; and
  - [9.2] The provision of rentable retail space in convenience centres located within a 15km radius in the Bedfordview area.

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<sup>1</sup> Transcript 13 September 2017 at page 5.

- [10] In respect of the market for the provision of rentable office space the Commission found that there is no geographic overlap between the properties owned by the merging parties because the Acquiring Group does not own any office property in the Bedfordview surrounding nodes.
- [11] With regard to the market for the provision of rentable retail space the Commission found that, based on market share estimates, the merged entity will have approximately 10.13% market share, with a market share accretion of approximately 5.21%. The Commission concluded that this share is unlikely to confer any market power on the merged entity.
- [12] The Commission was therefore of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant markets.
- [13] Based on the above, we concurred with the Commission's finding that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant markets.

#### **Public Interest**

- [14] The Commission found that the proposed transaction will have no negative effect on employment as the merging parties do not employ any employees.<sup>2</sup> Further, the Commission was of the view that the merger is unlikely to raise concerns on any other public interest grounds.

#### **Conclusion**

- [15] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market or raise any adverse public interest issues. Accordingly, we approved the proposed transaction unconditionally.



**Ms Yasmin Carrim**

04 October 2017

**DATE**

**Ms Andiswa Ndoni and Mr Anton Roskam concurring**

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<sup>2</sup> Transcript 13 September 2017 at page 3.

**Tribunal Researcher:** Hayley Lyle

**For the merging parties:** Kirsty Dean-Mhlongo and Lara Granville of Cliffe Dekker Hofmeyer.

**For the Commission:** Rethabile Ncheche