



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM103Oct23

In the matter between:

CBD Investments (Pty) Ltd

Primary Acquiring Firm

And

Rebosis Property Fund Ltd, Ascension Properties (Pty) Ltd, Main Street 1119 (Pty) Ltd and Cape Horizon Properties 125 (Pty) Ltd in Respect of a Portfolio of 22 (Twenty-Two) Property Rental Enterprises

Primary Target Firms

Panel: AW Wessels (Presiding Member)
L Mncube (Tribunal Member)
G Budlender (Tribunal Member)

Heard on: 06 December 2023

Decided on: 07 December 2023

Order

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) of the Competition Act, 1998 ("the Act") the Competition Tribunal orders that-

1. the merger between the abovementioned parties be approved in terms of section 16(2)(b) of the Act subject to the conditions attached hereto as Annexure A; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal rule 35(5)(a).

**Presiding Member
Mr Andreas Wessels**

**07 December 2023
Date**

Concurring: Prof. Liberty Mncube and Adv. Goeff Budlender SC

Merger Clearance Certificate

Date : 07 December 2023

To : Vani Chetty Attorneys

Case Number: LM103Oct23

CBD Investments (Pty) Ltd And Rebosis Property Fund Ltd,
Ascension Properties (Pty) Ltd, Main Street 1119 (Pty) Ltd and
Cape Horizon Properties 125 (Pty) Ltd in Respect of a Portfolio of
22 (Twenty-Two) Property Rental Enterprises

Notice CT 10

About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 20 business days.

You applied to the Competition Commission on **03 October 2023** for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act or was the subject of a Request for consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

- no conditions.
- the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- b) the approval was obtained by deceit.
- c) a firm concerned has breached an obligation attached to this approval.

Contacting the Tribunal

The Competition Tribunal
Private Bag X24
Sunnyside
Pretoria 0132
Republic of South Africa
tel: 27 12 394 3300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

The Registrar, Competition Tribunal

Tebogo Mphahlele

ANNEXURE A

1. DEFINITIONS

In this document, the expressions used below will have the appropriate meaning assigned to them and the following and related expressions will bear the following meaning:

- 1.1 **“Acquiring Firm”** means CBD Investments (Pty) Ltd;
- 1.2 **“Approval Date”** means the date on which the Merger is approved by the Tribunal in terms of the Competition Act;
- 1.3 **“B-BBEE Newco”** means a newly formed entity for the purposes of the HDP Transaction which will hold ■■■% of the issued shares in the Acquiring Firm;
- 1.4 **“Commission”** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.5 **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.6 **“Competition Act”** means the Competition Act, No. 89 of 1998, as amended;
- 1.7 **“Conditions”** means the conditions in this **Annexure A**;
- 1.8 **“Days”** means any day that is not a Saturday, Sunday or public holiday in South Africa;
- 1.9 **“HDP”** means a historically disadvantaged person as contemplated in section 3(2) of the Competition Act;
- 1.10 **“HDP shareholders”** means the black males and females to be identified by the Merged Entity;
- 1.11 **“HDP Transaction”** means the transaction in terms of which HDP shareholders will be allotted ■■■% of the issued shares in B-BBEE Newco;
- 1.12 **“Implementation Date”** means the date on which the Merger is implemented by the Merging Parties;

- 1.13 **“Merger”** means the acquisition by the Acquiring Firm of Rebosis Property Fund Limited, Ascension Properties (Pty) Ltd, Main Street 1119 (Pty) Ltd and Cape Horizon Properties 125 (Pty) Ltd portfolio of 22 (twenty-two) property rental enterprises, as notified to the Commission under Commission case number 2023OCT0003;
- 1.14 **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.15 **“South Africa”** means the Republic of South Africa;
- 1.16 **“Tribunal”** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act;
- 1.17 **“Target Firm”** means Rebosis Property Fund Limited, duly represented by Phahlani Mkhombo and Jacques Du Toit (Joint Business Rescue Practitioners); and
- 1.18 **“Tribunal Rules”** means the Rules for the Conduct of Proceedings in the Tribunal.

2. HDP OWNERSHIP TRANSACTION

- 2.1 Within 18 months of the Implementation Date, the Acquiring Firm shall implement the HDP Transaction in terms of which HDP Shareholders shall be allotted a █% indirect interest in the Acquiring Firm, through B-BBEE Newco.
- 2.2 The HDP Shareholders are required to hold █% indirect ownership in the Acquiring Firm, via B-BBEE Newco, for a minimum period of █ [REDACTED]. There shall be no [REDACTED] [REDACTED] for the Merger. [REDACTED] the Acquiring Firm. In this regard, [REDACTED] [REDACTED] the Acquiring Firm [REDACTED] [REDACTED]

3. MONITORING

- 3.1 The Acquiring Firm shall inform the Commission in writing of the Implementation Date within 5 (five) Days of the Implementation Date.

- 3.2 Prior to the implementation of the HDP Transaction, the Acquiring Firm will provide the Commission with details of the HDP Transaction in writing. These details shall include, but not be limited to, the identity of the HDP Shareholders, evidence that the HDP Shareholders are HDPs, and confirmation of whether the HDP Transaction constitutes a merger for the purposes of the Act.
- 3.3 The Commission may request additional information from the Merging Parties, which the Commission may reasonably deem necessary to monitor the extent of compliance with the Conditions.
- 3.4 Any person who believes that the Merging Parties have not complied with or have acted in breach of the Conditions may approach the Commission with their complaint. If the Commission determines that there has been an apparent breach by the Merging Parties of these Conditions, the matter shall be dealt with in terms of clause **Error! Reference source not found.** below.

4. **VARIATION OF CONDITIONS**

- 4.1 The Merging Parties and/or the Commission may at any time, on good cause shown, apply to the Tribunal for the Conditions to be waived, relaxed, modified and/or substituted.

5. **APPARENT BREACH**

- 5.1 If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

6. **GENERAL**

- 6.1 All correspondence concerning the Conditions must be submitted to the following e-mail address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za