



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM047Jul21

Fairvest Property Holdings Limited
And
Arrowhead Properties Limited

Heard on: 23 September 2021

Order Issued on: 23 September 2021

REASONS FOR DECISION

- [1] On 23 September 2021, the Competition Tribunal unconditionally approved a large merger in terms of which either Fairvest Property Holdings Limited (“Fairvest”) or Arrowhead Properties Limited (“Arrowhead”) will end up a subsidiary of the other. The outcome as to which of the two parties ends up the holding company and which the subsidiary will be driven by the route the merging parties follow.
- [2] The merging parties will either pursue a full merger through a scheme of arrangement where 100% of Fairvest shareholders swap their ordinary shares in Fairvest for newly issued B ordinary shares in Arrowhead, alternatively Fairvest will pursue the acquisition of sufficient Arrowhead shares as will make it, at a minimum, a majority controlling shareholder of Arrowhead, thus trigger an obligation to make comparable offers to acquire all the remaining shares in Arrowhead to all shareholders.
- [3] Fairvest is not currently controlled by any firm as its shares are widely held as a public company listed in the real estate investment trust (“REIT”) sector of the Johannesburg Stock Exchange (“JSE”). In turn Fairvest controls a number of firms that own 43 properties that are predominately focused in the retail sector, with selective exposure to office properties. Fairvest’s property assets are managed by Broll Property Group Proprietary Limited.
- [4] Arrowhead is a public company listed in the REIT sector of the JSE and is not controlled directly or indirectly by any firm. Arrowhead controls a number of firms that own a property portfolio comprising 201 properties spread across South Africa. The property portfolio is diversified into retail assets, office assets and industrial assets. The property portfolio is managed by Excellerate Real Estate Services Proprietary Limited trading as JHI. Arrowhead also controls Indluplace Properties Limited (60% shareholding), an entity also listed under the REIT sector of the JSE with a focus on residential property.
- [5] The Competition Commission (“Commission”) considered the activities of the merging parties and found that they overlap in the provision of rentable retail and office property. The Commission assessed the transaction in the following markets: (i) The provision of convenience centres in the Durban South/Montclair and 15-kilometre surroundings; (ii) The provision of convenience centres in the Mkuze and 60-kilometre surroundings; (iii) The provision of convenience centres in Somerset West/Macassar and 15-kilometre surroundings; (iv) The provision of convenience centres in Soweto/Rosettenville and 15-kilometre surroundings; (v) The provision of convenience

centres in Vereeniging and 15-kilometre surroundings; (vi) The provision of convenience centres in Gezina/Lyttleton and 15-kilometre surroundings; and (vii) The provision of Grade A/B office property in Bellville.

- [6] The Commission found that the merging parties are relatively small to moderate players in the relevant markets and that they will continue to face competition from other properties.
- [7] The merger raises no public interest concerns regarding employment as there are no retrenchments that will result.
- [8] Regarding the spread of ownership, the merging parties submitted that there will be no change in the greater spread of ownership in the merged entity as a direct result of the proposed transaction. However, the merging parties submitted that the proposed transaction is likely to make their shares more attractive as it will lead to their increased liquidity and tradability, thus making them more accessible to potential investors. It was submitted by the merging parties that this will likely lead to an increased shareholder spread.
- [9] We concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market, or to have a negative impact on public interest.

Signed by: Yasmin Tayob Carrim
Signed at: 2021-09-27 12:19:11 +02:00
Reason: Witnessing Yasmin Tayob Carrim

Yasmin Tayob Carrim

27 September 2021

Ms Yasmin Carrim

Date

Prof Fiona Tregenna and Mr Anton Roskam concurring.

Tribunal Case Manager:
For the Merging Parties:

Junior Khumalo
Ahmore Burger-Smidt and Dale Adams of
Werksmans Attorneys; Albert Aukema and Ciara
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For the Commission: