



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM018May23

In the matter between:

Sun Valley Investments (Pty) Ltd

Primary Acquiring Firm

And

Property and Shopping Centre known as Sun Valley Mall

Primary Target Firms

Panel : J Wilson (Presiding Member)
: AW Wessels (Tribunal Panel Member)
: I Valodia (Tribunal Panel Member)
Heard on : 11 July 2023
Decided on : 11 July 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).

Signed by: Jerome Wilson
Signed at: 2023-07-11 15:36:09 +02:00
Reason: Witnessing Jerome Wilson

Jerome Wilson

**Presiding Member
Adv. Jerome Wilson SC**

11 July 2023

Date

Concurring: Mr Andreas Wessels and Prof. Imraan Valodia



competitiontribunal
SOUTH AFRICA

Merger Clearance Certificate

Date : 11 July 2023

To : Werksmans Attorneys

Case Number: LM018May23

Sun Valley Investments (Pty) Ltd And Property and Shopping Centre known as Sun Valley Mall

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 **12 May 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

SUN VALLEY INVESTMENTS (PTY) LTD

AND

THE PROPERTY AND SHOPPING CENTRE KNOWN AS THE SUN VALLEY MALL

CASE NUMBER: 2023MAY0029

MERGER CONDITIONS

1. DEFINITIONS

- 1 The following terms have the meaning assigned to them below, and cognate expressions have corresponding meanings –
- 1.1 **"Acquiring Firm"** means Sun Valley Investments Proprietary Limited, a company registered in South Africa.
- 1.2 **"Approval Date"** means the date on which the Tribunal issues a Clearance Certificate (Notice CT10) in terms of the Competition Act;
- 1.3 **"Commission"** means the Competition Commission of South Africa;
- 1.4 **"Competition Act"** means the Competition Act No. 89 of 1998, as amended;
- 1.5 **"Conditions"** means these conditions;
- 1.6 **"Days"** means business days, being any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.7 **"HDP Suppliers"** means historically disadvantaged persons as contemplated in the Competition Act;
- 1.8 **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties;
- 1.9 **"Merger"** means the acquisition of sole control over the property and shopping centre known as the Sun Valley Mall by the Acquiring Firm;
- 1.10 **"Merger Parties"** means the Acquiring Firm and the Target Firm;

- 1.11 “**South Africa**” means the Republic of South Africa;
- 1.12 “**Target Firm**” means the property and shopping centre known as the Sun Valley Mall;
- 1.13 “**Tribunal**” means the Competition Tribunal of South Africa; and
- 1.14 “**Tribunal Rules**” means the Rules for the Conduct of Proceedings in the Competition Tribunal, issued in terms of section 27 of the Competition Act.

CONDITIONS TO THE APPROVAL OF THE MERGER

2. PROCUREMENT COMMITMENT

- 2.1. The Acquiring Firm commits to procuring property maintenance services, which include but are not limited to cleaning, meter reading, hygiene, landscaping, pest control, security and refuse collection requirements from HDP Suppliers based in Cape Town for approximately R [REDACTED] per year, for a period of 5 (five) years from the Implementation Date, subject to the availability of HDP Suppliers to service the Target Firm on reasonable commercial terms.

3. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 3.1. The Acquiring Firm shall inform the Commission in writing of the Implementation Date within 10 Days of its occurrence.
- 3.2. The Acquiring Firm shall submit an affidavit on an annual basis to the Commission within three months after the anniversary of the Implementation Date attesting to the compliance with the conditions in clause 2 above, for a period of 5 (five) years.
- 3.3. Any person who believes that the Acquiring Firm has failed to comply with the Conditions may approach the Commission with their complaint.
- 3.4. The Commission may request any additional information from the Acquiring Firm which the Commission from time to time and as deemed necessary for the monitoring of compliance with these Conditions.

4. APPARENT BREACH

- 4.1. If the Merger Parties appear to have breached the Conditions, or if the Commission determines that there has been an apparent breach by the Merger Parties of any of

the Conditions, this shall be dealt with in terms of Rule 37 of the Tribunal Rules, read with Rule 39 of the Commission's Rules.

5. VARIATION

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

6. GENERAL

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