



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM264Jan18

In the matter between

Evergreen Property Investments (Pty) Ltd

Primary Acquiring Firm

And

VDV Evergreen Holdings (Pty) Ltd

Primary Target Firm

Panel : Yasmin Carrim (Presiding Member)
: Medi Mokuena (Tribunal Member)
: Andiswa Ndoni (Tribunal Member)
Heard on : 7 February 2018
Order Issued on : 7 February 2018
Reasons Issued on : 26 February 2018

REASONS FOR DECISION

Approval

- [1] On 7 February 2018, the Competition Tribunal (“the Tribunal”) unconditionally approved the proposed transaction between Evergreen Property Investments (Pty) Ltd (“EPI”) and VDV Evergreen Holdings (Pty) Ltd (“VDV”). The reasons for the approval follow.

Parties to the transaction and their activities

- [2] EPI is a wholly owned subsidiary of Evergreen Retirement Holdings (Pty) Ltd (“ERH”), which is ultimately controlled by PSG Group Ltd (“PSG”). The shares in PSG are widely dispersed and as such no single shareholder controls PSG. PSG became active in the retirement accommodation market when its subsidiary, PSG Retirement Holdings (Pty) Ltd acquired joint control of ERH. EPI is a developer, owner and manager of retirement villages in Cape Town and Gauteng. EPI focuses on providing accommodation to retirees on the basis of the life rights business model.
- [3] VDV is an entity established for purposes of the proposed transaction. It is a wholly owned subsidiary of Val de Vie Developments (Pty) Ltd (“VDVD”), which is wholly owned by Val de Vie Investments (Pty) Ltd (“VDV Investments”). VDV holds and controls immovable property on the Val de Vie estate, hereinafter referred to as the Target Property. The Target Property is intended to be developed as a retirement accommodation village. The Val de Vie group of companies develop residential property and offer security estate residential accommodation in Paarl, Western Cape. The estate consists of luxury residential homes and lifestyle facilities.

Proposed transaction

- [4] In terms of the proposed transaction, EPI will acquire 50% of the issued share capital in VDV from VDVD. Post-merger, EPI will assume joint control over VDV and the Target Property.

Relevant market and impact on competition

- [5] The Competition Commission (“the Commission”) defined the relevant market as the broad market for the provision of all retirement accommodation in the Western Cape. This is because the envisioned development of the Target Property will introduce VDV and VDVD into the aforementioned market.

[6] In response to a query by the Tribunal as to why the Commission did not consider a narrower market, defined by either geography or type of accommodation, the merging parties explained that if the Commission had defined a narrower market on that basis there would be no horizontal overlap. Therefore, for the purposes of assessing competitive effects, the Commission broadened its scope. The Commission found that the merging parties will have a combined post-merger market share of less than 20%, with an accretion of less than 10%. The merging parties will continue to face competition from other market participants such as Fair Cape Trust, Cape Peninsula Organisation for the Aged, Oasis, and Helderberg Village Master Homeowners Association. The Commission therefore concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant market. We agree with the Commission's findings.

Public interest

[7] The merging parties submitted that the proposed transaction will not result in any job losses. The Commission confirmed that the proposed transaction does not raise any employment concerns or any other public interest issues.

Conclusion

[8] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Accordingly, we approve the proposed transaction unconditionally.



Ms Yasmin Carrim

26 February 2018

Mrs Medi Mokuena and Ms Andiswa Ndoni concurring.

Tribunal Researcher: Hlumelo Vazi

For the merging parties: S Meyer and J Fitzgerald of Cliff Dekker Hofmeyer

For the Commission: R Nchenche