



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018796

In the matter between:

**FOUNTAINHEAD PROPERTY TRUST
COLLECTIVE INVESTMENT SCHEME
IN PROPERTY**

Primary Acquiring Firm

And

ROBOR (PTY) LTD

Primary Target Firm

Panel	: Dr T Madima (Presiding Member)
	: Prof F Tregenna (Tribunal Member)
	: Mr A Roskam (Tribunal Member)
Heard on	: 4 June 2014
Order Issued on	: 4 June 2014
Reasons Issued on	: 2 July 2014

Reasons for Decision

Approval

- [1] On 4 June 2014, The Competition Tribunal ("**Tribunal**") unconditionally approved the acquisition by Fountainhead Property Trust Collective Investment Scheme in Property for the Robor Building from Robor (Pty) Ltd.
- [2] The reasons for approving the proposed transaction follow hereunder.

Parties to the transaction

- [3] The primary acquiring firm is Fountainhead Property Trust Collective Investment Scheme in Property ("**Fountainhead**"), which is represented by FirstRand Bank Ltd in its capacity as trustee. Fountainhead is managed and controlled by Fountainhead Property Trust Management Ltd ("**Fountainhead Manco**"). Fountainhead Manco is wholly owned by Redefine Properties Ltd ("**Redefine**").
- [4] Redefine is listed on the Johannesburg Securities Exchange and not controlled by any firm. Redefine controls numerous firms such as Madison Property Fund Managers Ltd, Fountain Head Property Administration (Pty) Ltd, Redefine Retail (Pty) Ltd and Redefine Pacific (Mauritius). The Fountainhead, Fountainhead Manco and Redefine are collectively referred to as the Fountainhead Group.
- [5] The primary target firm is the Robor Building ("**Target Property**") which is owned by Robor (Pty) Ltd ("**Robor**"). Robor shareholders include; RMB Ventures Six (Pty) Ltd, RBR Staff Investment Holdings (Pty) Ltd, Blackstar (Cyprus) Investors Ltd and Management¹.

Proposed Transaction

¹ Management comprises of the William Abraham Collins, Gordon Malcom Gilmer, Glen Andrew Nolan, Johann Scholtz, Nico Schoeman, Andrew James Winter and Indiran Gouden.

- [6] Fountainhead intends to acquire the Robor Building, which includes the buildings, structures, infrastructure and all permanent fixtures, fittings and improvements on the property. Post-merger, Fountainhead will have sole control over the Robor Building. Simultaneously Fountainhead and Robor have entered into an agreement of lease ("Leaseback Agreement") in terms of which Robor will lease the Robor Building from Fountainhead for a period of 10 years granting Robor with a further option to renew the lease for two consecutive periods of 5 years.

Rationale

- [7] The proposed transaction is in line with Fountainhead's strategy of acquiring high quality, income producing assets located in primary investment markets. The proposed merger offers Robor an opportunity to create funds for the repurchase of Robor shares in terms of the Share Repurchase Agreement concluded between Robor and its shareholders.

Relevant Market and Impact on Competition


- [8] Fountainhead is a closed-end property unit trust with a diverse range of retail, industrial, hospitality and specialised commercial properties in major metropolitan areas throughout South Africa. Relevant for this transaction are Fountainhead's A-Grade and B-Grade offices and industrial properties.
- [9] Robor is a tube and pipe manufacturing business that also stocks and processes a range of steel products throughout Southern Africa. Robor is active in various industries such as mining, transport, construction, engineering and manufacturing. The Robor Building is exclusively used by Robor for its own business operations.
- [10] The proposed transaction results in two product overlaps between the business activities of Fountainhead and Robor. The first of which is in relation to the market for the provision of rentable A-Grade office space within the Elandsfontein and Bedfordview and Greenstone/Edenvale/Modderfontein

nodes. The second is in relation to the market for the provision of B-Grade space within the Elandsfontein and Bedfordview and Greenstone/Edenvale/Modderfontein nodes.

- [11] The relevant market is the market for the provision of rentable A-Grade office property and B-Grade industrial property within the Elandsfontein and Bedfordview and Greenstone/ Edenvale/ Modderfontein nodes.
- [12] In the market for the provision of rentable A-Grade office properties in the Bedfordview and Greenstone/Edenvale/Modderfontein node, Fountainhead has a total Gross Lettable Area ("GLA") of 26 539m² and a market share of 14.28%. Post-merger Fountainhead will have a total GLA of 30 415m² and an estimated market share of 16.37%, this is a 2.09% share accretion. In the same node but in the provision of rentable B – Grade office properties, Fountainhead has a total GLA of 19 362m² and a market share of 21.72%. Post-merger Fountainhead will have a total GLA 19 770m² and an estimated market share of 22.17%, this is a 0.45% share accretion.
- [13] The Commission also contacted the tenants of the Fountainhead Group located within the the Elandsfontein and Bedfordview and Greenstone/ Edenvale/ Modderfontein nodes. CIB Insurance indicated in this regard that it does not consider the Elandsfontein area as an alternative place to carry on its business. It did however submit that if it had to relocate that it would it would consider doing so within the Bedfordview area only, as it is more convenient and accessible to its employees and clients. Murray and Roberts also indicated that they do not view Elandsfontein as an alternative area for its business operations. They further submitted that they would not relocate to Elandsfontein as it is an industrial area, whereas Bedfordview (where they currently operate) is commercial. No other concerns were expressed by the tenants.

Conclusion

[15] In light of the above, I conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in the market for the provision of rentable A-Grade office property and B-Grade Industrial property within the the Elandsfontein and Bedfordview and Greenstone/ Edenvale/ Modderfontein nodes. In addition, no public interest issues arise from the proposed transaction. Accordingly I approve the proposed transaction unconditionally.



Dr T Madima

2 July 2014

DATE

Prof F Tregenna and Mr Anton Roskam concurring

Tribunal Researcher:

Moleboheng Moleko

For the merging parties:

Vani Chetty – Vani Chetty Competition Law

For the Commission:

Hardin Ratshisusu, Nompucuko Nontombana,
Reabetswe Molotsi and Werner Rysbergen.