



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM217Jan16

In the matter between:

**DELTA PROPERTY FUND LIMITED**

Primary Acquiring Firm

and

**REDEFINE PROPERTIES LIMITED IN RESPECT  
OF 15 LETTING ENTERPRISES**

Primary Target Firm

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Panel	: Andreas Wessels (Presiding Member)
	: Fiona Tregenna (Tribunal Member)
	: Andiswa Ndoni (Tribunal Member)
Heard on	: 09 March 2016
Order Issued on	: 09 March 2016
Reasons Issued on	: 29 March 2016

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### Reasons for Decision

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#### Approval

- [1] On 09 March 2016, the Competition Tribunal ("Tribunal") approved the proposed transaction involving Delta Property Fund Limited and Redefine Properties Limited in respect of fifteen (15) letting enterprises.
- [2] The reasons for approving the proposed transaction follow.

## **Parties to proposed transaction**

### *Primary acquiring firm*

- [3] The primary acquiring firm is Delta Property Fund Limited ("Delta"), a property company. Delta is a listed entity and holds a portfolio of properties comprising of rentable retail and office space situated across South Africa.

### *Primary target firm*

- [4] The primary target firm is fifteen properties owned by Redefine Properties Limited (referred to hereinafter as the "Target Properties").
- [5] Redefine Properties Limited ("Redefine") is a loan stock company listed on the Johannesburg Stock Exchange (JSE). It has a portfolio of various office, industrial and retail property located in South Africa.

## **Proposed transaction and rationale**

- [6] In terms of the proposed transaction, Delta intends to acquire the Target Properties from Redefine. Upon implementation of the proposed transaction, Delta will have sole control over the Target Properties.
- [7] Delta submitted that the acquisition provides an opportunity to further enhance its presence in Johannesburg, Pretoria and Durban and offers redevelopment and letting opportunities.
- [8] Redefine submitted that the Target Properties no longer fit its investment criteria.

## **Impact on competition**

- [9] The Competition Commission ("Commission") concluded that the proposed transaction gives rise to horizontal overlaps in the following markets for the provision of (i) rentable office property; and (ii) rentable retail property:
- (i) Grade B and C office property in the central Pretoria node.
  - (ii) Grade B office property in Nelspruit.

- (iii) Grade B and C office property in Pietermaritzburg.
- (iv) Retail space in convenience centres within a 5 to 10 km radius of the Target Properties in Johannesburg.
- (v) Retail space in convenience centres within a 5 to 10 km radius of the Target Properties in central Pretoria and Hatfield Pretoria.
- (vi) Grade B office property within the Durban CBD node.
- (vii) Grade A and B office property within the Durban CBD node.

*Markets (i) to (v) above*

- [10] In the markets (i) to (v) above, the Commission found that the merged entity will have post-merger market shares of less than 25%. Furthermore, in all of these markets the merged entity will continue to be constrained by a number of other market players. The Commission furthermore found that in most of these markets there is vacant space for letting.
- [11] We concur with the Commission's finding that the proposed transaction is unlikely to substantially prevent or lessen competition in any of these relevant markets.

*Markets (vi) and (vii) above: Grade B office property within the Durban CBD node; and Grade A and B office property within the Durban CBD node*

- [12] In the market(s) for the provision of rentable space in Grade A/B office properties in the Durban CBD node, the Commission found that the merged entity will have a high post-merger market share of [40-50]%.
- [13] However, the Commission was of the view that this does not raise a competition concern since the merged entity will be constrained by (i) the existence of other Grade A/B office properties owned by other players such as Kingsmead Properties (Pty) Ltd; (ii) a current vacancy rate in Grade A and Grade B office property in the Durban CBD node of 16.6% and 10.2% respectively; (iii) the fact that there is a trend for corporate tenants to move out of the Durban CBD to surrounding areas such as La Lucia Ridge. On this basis the Commission concluded that the proposed transaction was unlikely to substantially prevent or lessen competition in these relevant markets.

- [14] The Tribunal questioned the Commission regarding customers' ability to switch to alternative office properties should, for example, prices hypothetically increase as a result of the proposed transaction. The Commission indicated that it spoke to Sanlam who stated that should the merged entity act unilaterally post-merger it could follow the trend of moving out of the Durban CBD into surrounding areas. The Commission further indicated that it spoke to the Department of Public Works who stated that it had several options at its disposal, i.e. it would enter into a short term lease to enable it to go out on open tender for alternative office space. It was however not entirely clear to us what these options entailed (for example, do they relate to existing office space or new developments and space in or outside of the Durban CBD). As far as alternative existing space in the Durban CBD is concerned, it was not clear who would be able to submit tenders (other than the merged entity) for the offices of specific Government Departments that are currently situated in the Durban CBD given the high degree of concentration in that market, i.e. the relatively low market shares of the merged entity's competitors in that market.
- [15] In reaching our conclusion we however took comfort from the fact that customers, including Government, confirmed that they had no concerns with regard to the proposed transaction, despite the merged entity's high post-merger market share(s) in the Durban CBD node. We do however advise the Commission that where market shares reach levels of above 40% in future property transactions, it should interrogate customers' submissions in more detail to establish the exact factual grounds for their submissions.
- [16] We have no evidence that the proposed transaction will substantially prevent or lessen competition in any office property market in the Durban CBD node.

### **Public interest**

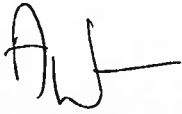
- [17] The merging parties confirmed that the proposed transaction will not result in any adverse impact on employment.<sup>1</sup>
- [18] The proposed transaction further raises no other public interest concerns.

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<sup>1</sup> See merger record *inter alia* page 94.

## **Conclusion**

[19] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.



**Mr Andreas Wessels**

**29 March 2016**

**DATE**

**Prof Fiona Tregenna and Ms Andiswa Ndoni concurring**

**Tribunal Researcher:**

**Busisiwe Masina**

**For the merging parties:**

**Albert Aukema of Cliffe Dekker Hofmeyr for the  
Acquiring Firm**

**Nick Altini of Baker & McKenzie for the Target Firm**

**For the Commission:**

**Nolubabalo Myoli**