

## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM026May21

In the matter between:

Community Property Company (Pty) Ltd

**Primary Acquiring Firm**

And

Ulundi King Senzangakona currently owned by  
Vukile Property Fund Limited

**Primary Target Firm**

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Panel: M Mazwai (Presiding Member)  
F Tregenna (Tribunal Panel Member)  
T Vilakazi (Tribunal Panel Member)

Heard on: 23 June 2021  
Order Issued on: 23 June 2021

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### ORDER

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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)(a) of the Act; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 35(5)(a).



Presiding Member  
Ms M Mazwai

23 June 2021

Date

Concurring: Prof. Fiona Tregenna and Dr Thando Vilakazi



**competitiontribunal**  
SOUTH AFRICA

# Merger Clearance Certificate

**Date** : 23 June 2021

**To** : Cliffe Dekker Attorneys

## 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.

Case Number: LM026May21

Community Property Company (Pty) Ltd And Ulundi King Senzangakona Vukile Currently Owned by Property Fund Ltd

You applied to the Competition Commission on **19 May 2021** 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](mailto:ctsa@comptrib.co.za)

### The Registrar, Competition Tribunal



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM026May21

In the large merger between:

**Community Property Company (Pty) Ltd** (Primary Acquiring Firm)

And

**Ulundi King Senzangakona currently owned by Vukile**

**Property Fund Limited** (Primary Target Firm)

Heard on: 23 June 2021

Order Issued on: 23 June 2021

### REASONS FOR DECISION

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- [1] On 23 June 2021, the Competition Tribunal unconditionally approved the large merger between Community Property Company (Pty) Ltd (“CPC”) and the letting enterprise known as Ulundi King Senzangakona Shopping Centre, owned by Vukile Property Fund Limited (the “target property”). The target property is located at King Dinuzulu/Princess Magogo Street in Ulundi, northern Kwa-Zulu Natal.
- [2] The transaction involves CPC acquiring the target property from Vukile Property Fund Limited, such that CPC will have sole control over the target property post-merger.
- [3] CPC is ultimately controlled by Old Mutual Limited (“OML”).<sup>1</sup> The acquiring group through CPC is a property fund with a portfolio made up entirely of retail property, primarily community, small regional and regional shopping centres in rural and township areas in all nine provinces.
- [4] The target property is a community centre with a gross lettable area (“GLA”) of 22 365m<sup>2</sup>. It consists of various components such as the main linear mall with line shops, a formal taxi rank, a KFC drive through and a fast-food court.<sup>2</sup>
- [5] The Competition Commission (“Commission”) found a horizontal overlap in the activities of the merging parties as they are both active in the provision of lettable retail property. However, the Commission found no geographic overlap as the acquiring group does not own lettable centres within a 15km radius of the target property.<sup>3</sup>

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<sup>1</sup> OML controls several firms in South Africa, and is not controlled by any individual shareholder.

<sup>2</sup> The target property also houses anchor stores such as Spar, Game and Cashbuild, as well as other tenants that are well-known stores.

<sup>3</sup> The nearest lettable retail property owned by the acquiring group is incomparable as it is 70kms away from the target property, and is a convenience centre with a maximum GLA of 5 000m<sup>2</sup>.

- [6] The Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition as there is no geographic overlap between the activities of the merging parties. The Commission also found that the proposed transaction is unlikely to change the structure of the market for comparative rentable shopping centres in Ulundi.
- [7] The Commission found that concerns raised by third parties relating to lease negotiations and the management of the target property, were either unaffected by the proposed transaction, or had no bearing on competition or the public interest.
- [8] In relation to public interest considerations, the Commission contacted the target property's employee representative who confirmed that the employees were informed of the proposed transaction and raised no concerns. The Commission found that CPC does not have any employees.
- [9] We also note that the merging parties provided an unequivocal statement that the proposed transaction would have no effect on employment, particularly no retrenchments or job losses.
- [10] 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 the public interest.



**Ms Mondo Mazwai**

**Prof. Fiona Tregenna and Dr Thando Vilakazi concurring.**

**23 June 2021**

**Date**

Tribunal Case Manager:  
For the Merging Parties:  
For the Commission:

Peter Kumbirai  
Albert Aukema of Cliffe Dekker Hofmeyr Inc  
Yolanda Okharedia and Themba Mahlangu