

SOUTH AFRICA / JUDGMENT

Barkophor Investments Proprietary Limited v Izandla Property Fund Proprietary Limited (LM138Dec23) [2024] ZACT 43 (8 March 2024)

[2024] ZACT 43**COURT**

Competition Tribunal

BEFORE

A Kessery, A Ndoni, F Tregenna

CASE / FILE NUMBER

LM138Dec23

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Source record**COMPETITION TRIBUNAL****OF SOUTH AFRICA****Case No.: LM138Dec23****In****the large merger
between:**

Barkophor
Investments Proprietary Limited
Primary
Acquiring Firm
And
Izandla
Property Fund Proprietary Limited in
Primary
Target Firm
respect
of the letting enterprise known as Sasol DC

Panel:

A Kessery (Presiding Member)
A
Ndoni (Tribunal Member)
F
Tregenna (Tribunal Member)
Heard

on:

13 February 2024
Order issued

on:

13 February 2024
Reasons issued

on:8 March 2024

REASONS FOR DECISION

Approval

- [1] On 13 February 2024, the Competition Tribunal (“Tribunal”) unconditionally approved the large merger wherein Barkophor Investments Proprietary Limited (“Barkophor Investments”) intends to acquire the letting enterprise known as Sasol DC (“Target Property”) from Izandla Property Fund Proprietary Limited (“Izandla Property Fund”).

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm is Barkophor Investments, a property investment company. Barkophor Investment is 100% controlled by [...] Barkophor Investment is 100% owned by historically disadvantaged persons (“HDP”). The HDP shareholdings in Barkophor are held through [...].
- [3] Barkophor Investments invested in a light industrial property called [...].

Primary target firm

- [4] The Target Property is owned and controlled by Izandla Property Fund. The Target Property is a light industrial property located at corner of Carbon Street and 8th Avenue, Sasolburg, Free State Province with a GLA of 17 026 m².

Proposed transaction and rationale

Transaction

- [5] In terms of the proposed transaction, Barkophor Investments intends to acquire the Target Property from Izandla Property Fund. Following implementation of the proposed transaction, Barkophor Investments will own and control the Target Property.

Rationale

- [6] The rationale submitted for the acquiring firm is that the proposed transaction aligns with [...].
- [7] The rationale submitted for the target firm is that the proceeds from the proposed transaction will be used to create liquidity for Izandla Property Fund.

Competition Assessment

- [8] The Commission considered the activities of the merging parties and found that the proposed transaction results in a horizontal overlap in the market for the provision of light industrial property. The Tribunal has previously decided that the relevant geographic market for the provision of light industrial property is within a 12km or 15km radius of the Target Property. In the current case, we did not receive any evidence suggesting a departure from this approach.
- [9] The Commission found that the proposed transaction does not result in a geographic overlap as the acquiring group's closest light industrial property is situated in Welkom, in the Free State Province and is approximately 168.61 km from the Target Property, which is in Sasolburg, in the Free State Province.
- [10] The merging parties submit that upon implementation of the proposed transaction, the acquiring group's market share in the market for rentable light industrial space in the Sasolburg node will change from [...] % to [...] %.
- [11] Having regard to the above, we are satisfied that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant market.

Public interest assessment

Employment

- [12] The proposed transaction will not result in retrenchments or job losses.
- [13] Izandla Property Fund has no employees. Its property management functions are provided by Excellerate Real Estate Services Proprietary Limited, trading as Excellerate JHI. Post implementation of the proposed transaction, the Target Property will be managed by Barkophor Investments.
- [14] Excellerate JHI has a significant national and international presence in property management services, and it is unlikely to be negatively affected should it not continue to manage the Target Property post-merger.
- [15] Based on the above, we find that the proposed merger does not raise any public interest concerns.

Spread of ownership

- [16] Barkophor Investment is 100% held by HDPs.
- [17] We agree with the merging parties' submission that the proposed transaction will result in a promotion of HDP shareholding from [...] % to 100% post- transaction.

Conclusion

- [18] We conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market and does not raise any public interest concerns.

[19] We therefore approve the proposed transaction without conditions.

08/03/24

Date

Adv. Anisa Kessery

Ms Andiswa Ndoni and Prof. Fiona Tregenna concurring

Tribunal Case Manager: Princess Ka-Siboto For the Merger Parties: Vani Chetty of Vani Chetty
Competition Law (Pty) Ltd For the Commission: Billy Mabatamela and Themba Mahlangu

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Prepared on 10 October 2026 · Esheria