

In The Large Merger Between:

Growthpoint Properties Limited

And

**100 Grayston Drive Property (Pty) Ltd
Block E Power Station Properties (Pty) Ltd**

Reasons for Decision

Approval

1. On 04 February 2004 the Competition Tribunal issued a Merger Clearance Certificate approving the transaction between Growthpoint Properties Limited and 100 Grayston Drive Property (Pty) Ltd and Block E Power Station Properties (Pty) Ltd. The reasons for this decision follow.

The Parties

2. The primary acquiring firm is Growthpoint Properties Limited ("Growthpoint"), a property loan stock company listed on the Johannesburg Stock Exchange under the "real estate holding and development" sector. Growthpoint is currently managed by Growthpoint Managers (Pty) Ltd, which has in turn appointed Investec Property Group limited to administer Growthpoint's portfolio of properties on its behalf.
3. The primary target firms are 100 Grayston Drive Property (Pty) Ltd ("Grayston") and Block E Power Station Properties (Pty) Ltd ("Block E"). Both firms are wholly owned subsidiaries of Investec Employee Benefits Limited ("IEB"), which is ultimately controlled by Investec Limited. However, in an interlinked transaction, IEB has disposed of the entire issued share capital of both target firms to Basfour 2885 (Pty) Ltd ("Basfour"). Basfour is a special purpose vehicle, wholly owned by Yonbor Nominees (Pty) Ltd.¹

The Transaction

4. This is the 2nd phase of a two-phased deal. In the 1st phase, as stated above, IEB sold 100% of the issued share capital in the target firms to Basfour. In this, the 2nd phase, Growthpoint will acquire the assets of the target firms namely:

¹ This transaction was categorized as an intermediate merger and is currently under investigation by the Competition Commission.

?? The immovable property upon which Investec conducts its business in Sandton, Johannesburg, namely, the “Sandton Head office”, and in Cape Town, the “Investec Cape Town Building”.

?? The 40,5% interest Grayston has in Merchant Place Parkade share block (Pty) Ltd (“Merchant Place”) which owns the property adjacent to the Sandton Head office, which is used as a parking garage for Investec employees, namely, the “Merchant Place Parkade”.

5. Growthpoint will then lease back the target properties to Investec Bank Limited for a period of 20-years.

The Parties’ Activities

6. Growthpoint is a property holding company, which derives its income from rentals received from tenants, as well as from investments in other property loan stock companies. Growthpoint’s physical property portfolio is diversified, with 122 retail, industrial, commercial and warehouse properties comprising approximately 1,4 million m² located throughout South Africa and Namibia.

7. Grayston receives rentals from tenants in the Sandton Head office as well as rentals from tenants of 580 parking bays in the Merchant Place Parkade, by virtue of its interest in Merchant Place.

8. Block E receives rentals from tenants in the Investec Cape Town building, which is also graded as Grade P office space.

The Relevant market

9. The Commission identifies the relevant product market as that of *Grade P office space*. In Growthpoint Properties Ltd and Primegro², the Tribunal accepted the different product markets within the property industry according to grades:

“Office properties are sub-divided into different classes, for example grade P, A, B, or C Office Property”.³

10. The Commission identified the relevant geographic market as local in the Sandton node.⁴ The Sandton node consists of: Sandton CBD, Rivonia, Illovo, Houghton, Melrose, Hyde Park, Rosebank and Bryanston.

11. The Sandton Head office and the Investec Cape Town Building are both graded as Grade P office space. However, while the former is located in the Sandton node, the latter falls within a different geographic area, viz. Cape Town.

² 29/LM/Jun03

³ *ibid.* at Page 2. “...Office Property is graded according to the age of a building, the quality of the office accommodation, parking and other finishing touches to building with grade P being a top quality property and C an older building without, for example, air-conditioning and parking...” at Footnote 3.

⁴ The parties and the Commission based their geographic market analysis on the different nodes as identified by the South African Property Owners Association (“SAPOA”), which are used by all participants in the industry.

12. Since Growthpoint owns one Grade P office property in Illovo, there is an overlap in respect of the identified relevant market, i.e. Grade P Office space in the Sandton node.

Impact on competition

13. The acquisition of the target properties will increase Growthpoint's total asset base. However, since SAPOA's data are only based on the Grade A market, no accurate market shares are available, in respect of the Grade P market, and the impact the acquisition is likely to have on Growthpoint's market share in this market. The parties, however, in their competitiveness report, submit that Growthpoint's market share in the relevant market will increase from 4% to 6.25%.
14. The parties further cite at least 9 new entrants to the relevant market in the past three years. This indicates that barriers to entry are low.
15. According to the Commission, the transaction does not change the characteristics of the market in which Growthpoint competes. The target properties were previously leased by Investec from Grayston, which was a subsidiary of the Investec Group. This lease agreement (with Growthpoint being the landlord) is being maintained for a 20-year period. Since Investec negotiated its own lease agreement, prior to the transaction, it is highly unlikely to be prejudiced by the transaction.
16. As stated above, Growthpoint's property portfolio is administered by Investec Property Group and accordingly does not have any employees. Neither of the target firms have any employees, as the administration of the properties is currently performed by Investec Bank Limited being the employer of all the staff performing the property administration of the target firms. There are therefore no employment losses attributable to the merger.

Conclusion

17. Having regard to the above, we conclude that the merger will not lead to a substantial lessening of competition and there are no public interest concerns. Accordingly, we agree with the Commission's recommendation that the transaction be unconditionally approved.

D Lewis

6 February 2004
Date

Concurring: N Manoim and U Bhoola

For the merging parties: Elmarie Barnard (Jowell Glyn Marais)

For the Commission: Maarten Van Hoven (Mergers and Acquisitions)