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BLOGS
Contracts

Court Finds Franchisee Did Not Have Absolute Right to Purchase Territory Adjacent to His Exclusive Territories

In *Window World of Chicagoland, LLC v. Window World, Inc.,* 2012 U.S. Dist. LEXIS 71615 (N.D. Ill. May 23, 2012), the franchisee entered into multiple licensing agreements with Window World that granted him exclusive trade areas in certain Illinois counties. The franchisee alleged that representatives of Window World assured him that his exclusive territories would be protected by the use of buffer areas around them and that if a territory adjacent to any of his exclusive territories was to be sold, he would have the "right of first refusal" to purchase the territory. When the franchisee learned that Window World was planning to sell a territory adjacent to one of his trade areas, he inquired about purchasing it. Although Window World told him that the area was not for sale, the franchisee later learned that another franchisee had acquired it. The franchisee then filed suit, claiming that Window World breached the license agreements and the implied covenant of good faith and fair dealing by selling the territory to a third party and made fraudulent representations concerning the buffer areas.

Window World moved to dismiss the complaint, arguing that the plain language of the license agreements refuted the franchisee's contention that he had a "right of first refusal" on adjacent territories. The agreements stated that the franchisee could ask to purchase a license for an adjacent trade area and that Window World would not unreasonably withhold its consent to such a request. The agreements also included a disclaimer that Window World did not promise or guarantee that it would allow the franchisee to acquire an adjacent territory in every instance. The court concluded that Window World had not granted the franchisee an absolute right of first refusal. The court, however, did deny Window World's motion to dismiss the breach of contract claim because an issue of fact existed as to whether the franchisor unreasonably withheld its consent to the franchisee's request to purchase the territory at issue. The court dismissed the franchisee's fraud claim because he failed to specify the time, place, and content of the alleged misrepresentations and also dismissed his implied covenant claim because the terms of the license agreements controlled.