

CLIENT ALERT



Federal Appeals Court Concludes That Florida Law Prohibiting Florida Real Estate Ownership by Chinese Persons Likely Violates Federal Law

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INTRODUCTION

On February 1, 2024, a unanimous panel of the United States Court of Appeals for the Eleventh Circuit (the Eleventh Circuit) granted preliminary injunctive relief to two of four Chinese citizens that sought to block the enforcement by the State of Florida of a Florida law that restricts Chinese citizens from buying land in Florida.

By way of background, on May 8, 2023, Florida Governor Ron DeSantis signed into law [Florida Senate Bill CS/CS/SB 264 – Interest of Foreign Countries](#) (the Bill), which became effective July 1, 2023 under [Florida Statutes Chapter 692, Conveyances by or to Particular Entities](#). Please see Winston & Strawn LLP's Client Alert discussing the Bill [here](#).

The law prohibits individuals and businesses “domiciled” in the People’s Republic of China (the PRC) and those who are not “lawful permanent residents”—i.e., “green card” holders—from purchasing or owning more than a single parcel of two acres. The land may not be within five miles of a military installation. The person must have a current verified United States visa that is not limited to authorizing tourist-based travel or official documentation confirming that the person has been granted asylum in the United States. Further, the visa or documentation authorize the person to be legally present within Florida. Additionally, the purchase must be in the name of the person who holds the visa or official documentation.

Florida’s law further restricts agricultural land ownership for persons from the PRC as well as six other “countries of concern”—namely, Russia, Iran, North Korea, Cuba, Venezuela, and Syria.

THE ELEVENTH CIRCUIT DECISION

The Eleventh Circuit [ruling](#) is noteworthy because the court granted a motion for an injunction pending appeal on behalf of Ms. Yifan Shen and Mr. Zhiming Xu. The two Chinese national appellants were in the process of buying property in Florida when the Florida governor signed the Bill. Represented by the American Civil Liberties Union, the Chinese appellants sued the State of Florida in the U.S. District Court for the Northern District of Florida. In August 2023, U.S. District Judge Allen Winsor denied the plaintiffs’ motion for a preliminary injunction, and the plaintiffs appealed the district court’s denial of the preliminary injunction motion to the Eleventh Circuit. The Eleventh Circuit held that the appellants showed a “substantial likelihood of success” in their argument that the law violates the Equal Protection Clause.

U.S. Circuit Judge Nancy Abudu wrote in her concurring opinion that the “anti-Chinese statements from Florida’s public officials” and the law’s impact establish “a blanket ban against Chinese non-citizens from purchasing land within the state.” Abudu further stated that “[t]his prohibition blatantly violates the Fourteenth Amendment’s protection against discrimination.”

BACKGROUND ON THE MATTER AND NEXT STEPS

On June 27, 2023, the U.S. Department of Justice (DOJ) filed a “[statement of interest](#)” stating that the new law violated federal law and the U.S. Constitution. The DOJ said that “[t]hese unlawful provisions will cause serious harm to people simply because of their national origin, contravene federal civil rights laws, undermine constitutional rights, and will not advance the state’s purported goal of increasing public safety.”

The Eleventh Circuit decision does not bind the merits panel, which will hear the oral argument in April 2024.

Winston & Strawn LLP is committed to providing guidance to foreign investors and entities who invest in or currently own real estate in Florida. Should you have any questions or would like to request further information, please contact your Winston relationship partner.

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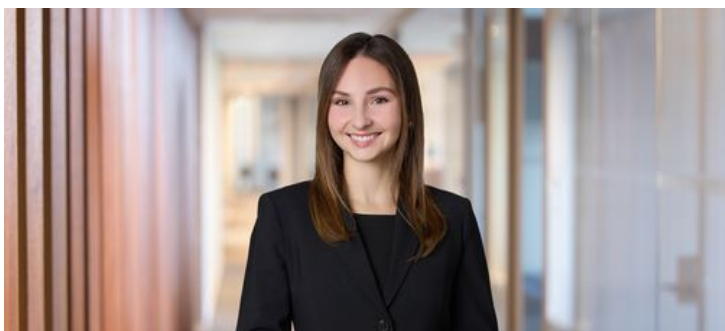
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