

Promises, Promises

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Over 60 years ago, the David Nassif Company was the parent organization for a variety of real estate and construction projects in Washington, D.C. One of its subsidiaries, David Nassif Association, developed a building on 7th Street, SW, which Nassif operated until it sold the building in 2012 for \$374 million. The new owners renamed the building the Constitution Center, and it is today the largest private office building in D.C., with over 1.3 million square feet of rentable space. The Constitution Center leases space to several government agencies, including the Federal Trade Commission, the Federal Housing Finance Agency, and the United States Comptroller of the Currency.

Prior to selling the building Nassif had entered into lease agreements with several tenants, under which Nassif agreed to complete tenant improvements. Upon sale of the building, Nassif, the tenants, and the new purchaser entered into a novation agreement, whereby the new purchaser agreed to be bound by Nassif's agreements.

In 2013, however, Nassif sought reimbursement of its construction costs from the Comptroller, but the Comptroller's contracting officer denied the claim due to the lack of a contract. Nassif filed a breach-of-contract suit in the U.S. Court of Federal Claims.

Nassif alleged that it had an "understanding" with the Comptroller that it would directly reimburse Nassif for any subsequent-to-the-sale work to prepare the leased space for occupancy. The Government moved to dismiss for lack of subject matter jurisdiction, arguing that the Nassif entity that sued was not even a party to the original lease, and that all the rights had been transferred to the purchaser in the novation agreement. The Government also argued that even had Nassif retained some rights in the lease following the novation agreement, "any attempt to transfer those rights to DNA Trust without the government's consent violates the Assignment of Contracts Act."

The Court agreed with the Government, holding that there was no contract between Nassif and the United States. The Court further stated that an "understanding," especially one that is one-sided, does not meet the requirements for an implied-in-fact contract. Therefore, the Government's motion to dismiss for lack of subject matter jurisdiction was granted.

Read full decision [here](#).