

Attorneys: St. Regis judgment could be landmark

29 November 2011 10:24 AM
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Story Highlights

Castillo Grand was the owner of a 166-room St. Regis property in Fort Lauderdale that opened two years late in 2007.

Castillo Grand was angry over what it perceived as lack of direction shown by Starwood Hotels & Resorts Worldwide toward the St. Regis project.

"This is a cautionary tale for the need for a specific plan" when entering the development process, said Todd Soloway, lead trial attorney for Castillo Grand.

REPORT FROM THE U.S.—Todd Soloway thinks hoteliers could learn a lot from the US\$44-million judgment his firm won for hotel owner and developer Castillo Grand LLC.

Castillo Grand was awarded the judgment 18 November in its suit filed against Starwood Hotels & Resorts Worldwide's subsidiary Sheraton Operating Corporation. Sheraton managed Castillo Grand's 166-room St. Regis-branded property in Ft. Lauderdale, Florida.

View the decision, which was made public last Friday, [here](#).

Castillo Grand was angered by what it perceived as a lack of direction and brand guidelines [Starwood](#) showed during the design and construction phase of the hotel that opened its doors two years later than planned in 2007.

Much of the damages awarded in the case were related to expenses incurred by Castillo Grand because of the delay.

'Cautionary tale'

Soloway, lead trial attorney for Castillo Grand and chairman of law firm Pryor Cashman's Real Estate Litigation Group, said this case should serve as a warning for hoteliers pursuing future development deals.

"This is a cautionary tale for the need for a specific plan" when entering the development process, he said.

David Neff, an attorney at Perkins Coie who helped negotiate the hotel's subsequent management contract with Ritz-Carlton but was not involved with the lawsuit, said in an email the case could act as a landmark for cases down the road.

"You have to act reasonably prudent in working with owners when developing a hotel," Neff said during a telephone interview Monday.

Judge's ruling

In an 83-page, single-spaced decision, New York state Supreme Court Judge Alan Scheinkman sided with Castillo Grand following a nine-week-long trial that lasted from 19 July 2010 to 21 September 2010. Most of the US\$44 million in damages awarded were related to the extra costs incurred by Castillo Grand because of the delay.

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Scheinkman also ordered that Castillo should not have been charged a US\$3 million fee by Starwood when it terminated its management contract with Castillo. The hotel subsequently took on a management contract with Ritz-Carlton approximately three and a half years ago, Neff said.

Starwood, which did not return a message left for comment Monday, claimed a design guide was provided, though Scheinkman found differently.

"In short, the evidence cited by Sheraton that there was any sort of Design Guide came from (David Milus, Sheraton's senior VP for new builds and transitions in 2001 when the project was being developed) who never claimed to have seen it and from (George Fong, St. Regis VP for project management and technical services), who testified that he created it and gave it to a person now deceased, but who consistently acted as if the document never existed," Scheinkman wrote.

"It's just very damning about Starwood and its decision-making process," Neff said of the decision.

He added: "It's like Castillo Grand got caught in the middle of the politics at Starwood."

Soloway said Starwood's actions put Castillo Grand's hotel in a "precarious position."

"This was a brand not properly prepared when coming to market," he said.

Scheinkman also wrote that the constantly changing leadership over the project served to derail the hotel's opening. He wrote that incoming Starwood executives uprooted the initial design team "for no reason other than they wanted their own person."

Lessons from the case

Neff agreed that there are lessons to be learned from the case.

"Certainly the first takeaway is that if you're going to construct a hotel affiliated with a brand, make sure they have clearly defined ... specifications for the design and construction of a hotel. And legally signed (documents) for how it will be designed and constructed."

The chances for a successful Starwood appeal of the decision are slim, Neff said. "So much of the judge's findings were findings of fact, which are tougher to appeal than conclusions of law," he said.