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MUNICIPAL CONTRACTS - MINNESOTA

Rochon Corp. v. City of St. Paul

Court of Appeals of Minnesota - April 8, 2013 - N.W.2d - 2013 WL 1395596

A prospective contractor for a municipal project that successfully challenges a bid-submission process and recovers under the Minnesota Uniform Municipal Contract Law cannot circumvent the prohibition of attorneys' fee awards by claiming that the contract violation entitles it to attorneys' fees under Minnesota's private attorney general statute.

Bidder challenged the district court's refusal to award attorney fees and litigation costs incurred after it successfully challenged city's bidding process for a municipal-contracting project. Bidder was awarded the full costs of its bid submission as allowed under the Minnesota Uniform Municipal Contracting Law (UMCL). Because the UMCL unambiguously prohibits the award of attorney fees under these circumstances, the court declined to adopt bidder's argument that it was entitled to attorney fees and costs under Minnesota's private attorney general statute.

The Private AG statute provides private litigants the right to commence a civil action and recover damages, including attorneys' fees, if the claimed injury stems from a legal violation that would normally fall within the purview of the attorney general's investigatory powers. Such injuries include "unfair, discriminatory, and other unlawful practices in business, commerce, or trade." The statute contains a nonexhaustive list of applicable statutory sections. The UMCL is not included.

Because the bidder had already received bid-preparation costs under the UMCL, it was required to allege a viable additional claim falling within the Private AG statute to be eligible to recover under its provisions. Otherwise, the UMCL's prohibition of awarding attorney fees will govern. Bidder pointed to the city's violation of its own ordinances and instructions regarding the project. The court stated that, while these claims certainly allege unfair and unlawful practices, they fail to differentiate themselves from the governing tenets of the UMCL and its prohibition of awarding attorney fees.