

Client Alert

Business Information for
Clients and Friends of
Shumaker, Loop & Kendrick, LLP

May 23, 2019



Does Your Lease Agreement Contain a Right of Refusal or Option to Purchase? If So, You Should Read This.

Christian H. Staples, Partner | cstaples@shumaker.com | 704.945.2183

In *Cogdill v. Sylva Supply Company, Inc.*, filed May 7, 2019, the North Carolina Court of Appeals held in a split decision and as a matter of first impression that a right of first refusal contained in a written lease agreement did not extend beyond the express term of the lease and could not be exercised by a holdover tenant under a year-to-year tenancy created by operation of law. North Carolina courts had previously held that an option to purchase could not be exercised beyond the original lease term under a holdover tenancy. These results make good sense from a legal standpoint because holdover tenancies are not intended to prolong the existence of legal rights and obligations between the landlord and tenant, and are only intended to maintain the status quo for a short period of time during which the landlord can pursue a summary eviction if the tenant refuses either to vacate the premises or to agree to a new written lease agreement. However, from a practical standpoint, *Cogdill* highlights the importance for tenants to carefully read and understand their lease agreement and not to assume that their rights will extend beyond the expiration of the original lease term. This is of particular importance when exercising and/or negotiating a lease renewal or extension agreement, or when holding over beyond the original lease term. Rights of first refusal, options to purchase, and other interests in property should be clearly documented (and restated, if applicable) so that the intent of the parties is clear.

Christian regularly represents landlords and tenants in commercial leasing matters, with a special emphasis in the Retail and Hospitality industries. He can be reached at 704.945.2183 or cstaples@shumaker.com.

