



**THE FOODMAN FIRM**  
MEET YOUR EXPECTATIONS

**JULY 2021**



## WHO WE ARE

WITH NEARLY **TWENTY YEARS** OF EXPERIENCE HANDLING **COMPLEX, HIGH-STAKES** MATTERS FOR A VARIETY OF CLIENTS – BOTH **INDIVIDUALS** AND **CORPORATIONS**, **DOMESTIC** AND **INTERNATIONAL** – **THE FOODMAN FIRM CONSISTENTLY PRODUCES** VALUE-DRIVEN **RESULTS** FOR OUR CLIENTS, WITH AN EMPHASIS ON **QUALITY OVER QUANTITY**.

OUR PRIMARY FOCUS AT **THE FOODMAN FIRM** IS TO PROVIDE OUR CLIENTS WITH THE MOST EFFECTIVE COUNSEL, AND TO **FOSTER LONG-TERM RELATIONSHIPS** THAT OUR CLIENTS CAN DEPEND ON.

**THE FOODMAN FIRM** TAILORS ITS INNOVATIVE FEE STRATEGIES TO MEET THE INDIVIDUAL NEEDS OF EACH CLIENT.

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# THE OLYMPICS ARE COMING TO TOKYO, AND THE COVID BLAME GAME MAY RAMP UP

While the “Tokyo 2020” Olympics are seemingly due to start in less than a month, in July of 2021, that was not always certain, or even probable.



The first hurdle the International Olympic Committee (IOC) had to overcome, besides the massive logistical issues that came with creating a COVID “bubble” for the athletes, was the public perception of the event in Japan. With a vaccination rate of less than 10%, there has been a concern within Japan about proceeding with the Olympics as planned, as it could pose a risk to Japanese society.

The Tokyo Medical Practitioners Association, representing over 5,000 physicians in Tokyo, echoed that position and requested that government authorities petition the IOC to cancel the Games. The Practitioners Association argued that with hospitals already filling up throughout areas where the Games would be held, a rise in deaths during the event would end up being Japan’s responsibility. As a result, foreign spectators would not be permitted to attend these Olympic Games.

The next issue facing the IOC would be whether the Japanese government would try to cancel the Games in response to the public concerns, and if so, would the cancellation be legal. Clause 66 of the Host City Contract for the Tokyo Olympics appears to state that the IOC alone has the power to terminate the contract and withdraw the Games from the City.

In April 2021, Japanese Prime Minister Yoshihide Suga appeared to agree by stating, “The IOC has the authority to decide, and the IOC has already decided to hold the Tokyo Olympics.” Through this statement the Prime Minister effectively stated that Japan would not try to cancel the Games. However, this does not answer the question of whether the Games could be cancelled.



# The Japanese government is not a party to the Host City Contract,

and while they may not be able to cancel the Games outright, the government could certainly authorize restrictions that would effectively make operating the Games impossible.

If the Olympics were to be cancelled, the financial responsibility would fall on the Host City, Tokyo, which would likely have to rely on the central Japanese government to handle the costs. According to the Host City Contract these disputes would be resolved first by the Court of Arbitration for Sport (CAS), and then by Swiss courts and law. Swiss law is frequently applied by the CAS in resolving disputes. Under

Article 119 the Swiss Code of Obligations an obligation is deemed extinguished where its performance is made impossible by certain circumstances not attributable to the obligor.

Certainly, a global pandemic like Covid-19 would be classified as circumstances not attributable to the obligor. The remaining question, under this doctrine, would be whether or hosting the games would be "impossible." Indeed, these sorts of questions would be the tip of the iceberg of legal uncertainties, especially in a dispute of this size, and for this reason, perhaps it would be resolved without litigation for the sake of the parties involved.

In these negotiations the IOC's greatest strength would be its ability to control which countries and athletes are able to attend the Olympic Games in the future. A potential suspension from the Games would undoubtedly be a major threat to the Japanese government and Olympic Committee. As a result, the Japanese



government is in a difficult position, and would likely prefer to host the games and to shift the decision to the IOC to make it appear as if their hands are tied, as seen by the Prime Minister's statement. Doing so would seemingly place the negative publicity on the IOC if Covid-19 infections or fatalities increased because of the Games and save Japan from the backlash of its citizens. With only a few weeks until the commencement of the Olympics, it appears the decision has been made to proceed, despite the purported risks, and the blame game will begin if Covid infections rise dramatically following the Games.



# **WILL THE LONG-OVERDUE INFRASTRUCTURE BILL ACTUALLY HAPPEN**

**For Decades, the United States has needed to overhaul its infrastructure, much of which dates to the post-WWII boom. Airports, roads, highways, bridges, water utilities, electrical grids, pipelines, and other infrastructure items are crumbling under the weight of age.**

Past administrations have discussed the need for infrastructure, but the inept politicians have been unable to come to a compromise despite many efforts. Last week, a group of 20 bipartisan Senators announced they had agreed to a deal that would provide approximately \$1.2 trillion for mostly traditional infrastructure projects including transportation, energy, water, and telecommunication systems over eight years.



Unfortunately for the American public, that deal was just the start of negotiations. The bipartisan deal was for much less than what the Democratic leadership of the House of Representatives was seeking, and what President Biden had initially sought.

According to the Speaker of the House, an infrastructure bill will not be passed without a reconciliation bill that, as proposed, would cost approximately \$4 trillion (although some of have proposed \$6 trillion) and includes increases to social services, health care and climate change, and a corporate tax hike.

This demand threatens to derail the bipartisan Senate deal, as the Senate Minority leader has stated that the rest of the Republican Senators might not even support the bipartisan bill should the Democrats maintain their demands.

Whether President Biden will support a smaller bill or demand the larger spending package has yet to be determined.



***But in the meantime, the infrastructure of the United States continues to crumble, and the American public faces unnecessary consequences.***

## THE FOODMAN FIRM

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