



2016 ANNUAL REPORT





September 30, 2016

Governor

Charles D. Baker

Attorney General

Maura Healey

Treasurer

Deborah Goldberg

Chairs of the House and Senate
Committees on Ways & Means

Chairs of the Joint Committee
on Economic Development &
Emerging Technologies

Clerks of the House and Senate

HONORABLE MADAMS AND MESSRS.

We are pleased to deliver the fifth annual report of the Massachusetts Gaming Commission. This report covers the details of our operations as of the end of Fiscal Year 2016 (June 30, 2016), and is submitted in accordance with section 70 of Chapter 23K.

During FY16 we decided not to award a license to the remaining applicant in Region C (Mass Gaming & Entertainment) and their proposal to build a casino on the site of the Brockton Fairgrounds.

The first full year of operations for Plainridge Park Casino concluded on June 30, 2016. The total gaming tax revenues collected at the end of the fiscal year were \$81.3 million.

The Category 1 licensees from Region A (Wynn Resorts) and Region B (MGM Resorts) continue to make progress in their design, permitting, and construction phases. Construction (foundation, civil, and structure) of the downtown Springfield casino is well underway while excavation and foundations at the site in Everett continue, as construction started in earnest on August 2016.

We continue to make significant progress towards building the gaming regulatory framework. We remain eager to discuss with you at your convenience the efforts the Commission is making, the results it is achieving, and any other aspect of our operations about which you would like additional information.

Sincerely,
Massachusetts Gaming Commission

MISSION

The mission of the Massachusetts Gaming Commission is to create a fair, transparent, and participatory process for implementing the expanded gaming law passed by the Legislature and signed by the Governor in November 2011. In creating that process, the Commission will strive to ensure that its decision-making and regulatory systems engender the confidence of the public and participants, that they provide the greatest possible economic development benefits and revenues to the people of the Commonwealth, that they reduce to the maximum extent possible the potentially negative or unintended consequences of the new legislation, and that they allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

TABLE OF CONTENTS

5	Letter from the Chair
6	Major Milestones Anticipated For Fiscal Year 17
8	Key Provisions of the Gaming Act
9	Recommendations for Legislative Action
11	Agency Divisions
14	Research & Responsible Gaming
17	Casino Property and Project Summaries
21	Racing Operations
23	Tax Collections & Agency Finances
27	Workforce, Supplier & Diversity Development
32	Litigation Matters

LETTER FROM THE CHAIR

The Massachusetts Gaming Commission (MGC) has been in existence since March 21 of 2012, and this report entails the **fourth** fiscal year of operations in the process of implementing the expanded gaming legislation (**Chapter 194 of the Acts of 2011 – An Act Establishing Expanded Gaming in the Commonwealth**) enacted by the General Court and signed into law by the Governor in November 2011.

The Commission made significant progress towards its mission during FY16. We continue to build both an agency and the regulatory framework to enable this Commission to issue, award, oversee, and regulate the gaming licenses that the Gaming Act allows.

DURING FY16 THIS COMMISSION:

1. Oversaw the first full year of operations of Plainridge Park Casino (PPC). As of June 30 2016, Gross Gaming Revenues totaled \$166 million resulting in gaming tax of \$81.3 million.
2. Concluded the review and evaluation of the remaining applicant for a Region C Category 1 license: Mass Gaming & Entertainment proposal for a casino at the Brockton Fairgrounds. The Commission decided not to award a license to the applicant.
3. Hired Edward R. Bedrosian Jr. as its new Executive Director. In December 2015, MGC's five commissioners voted unanimously to approve the hire of Mr. Bedrosian, who brings more than two decades of experience as a public sector manager; first, as a Deputy District Attorney in the Middlesex District Attorney's Office and, then, as the First Assistant Attorney General in the Massachusetts Attorney General's Office.
4. Promulgated 13 sets of regulations that govern many important aspects of gaming operations including: gaming devices and electronic gaming equipment, voluntary self-exclusion, licensing, standards of accounting procedures and internal controls, persons required to be qualified, and horse racing.
5. Released important reports as part of the comprehensive research agenda to study the social and economic impacts of expanded gaming, including a 6-month review of crime activity in the Plainville area, and an economic analysis of the construction of Plainridge Park Casino.
6. Implemented two major responsible gaming initiatives: (1) We staff and operate a *GameSense* Info Center at Plainridge Park Casino, and (2) We deployed "PlayMyWay," a voluntary budgeting tool for slot players. These programs are first-of-their-kind in the United States.
7. Continued to oversee and regulate the racing and simulcasting operations in the Commonwealth, including disbursements for the benefit of horsemen and breeders associations for a total of \$17.4 million (\$11.4 million to Standardbred and \$6 million to Thoroughbred).
8. Held 37 public meetings of the Commission, and an additional 14 public hearings. The Commission streams all its public meetings live via the MGC website and transcribes the meetings and hearings in full. Further, there were 23 additional open meetings (Access and Opportunity Committee, Public Trust Fund Executive Committee, Horse Racing Committee, etc.).
9. Researched and authored a "*White Paper on Daily Fantasy Sports*" with recommendations for the legislature on the rapidly evolving arena of online gambling.
10. Continued attendance by commissioners and other staff at numerous speaking engagements across the state through the Commission's successful Speakers Bureau Program.

MAJOR MILESTONES ANTICIPATED FOR FISCAL YEAR 17

The second full year of operations of Plainridge Park Casino will conclude on June 30, 2017. Gaming revenue for the first quarter of FY17 was \$39.8 million, which resulted in \$19.5 million in revenues to the Commonwealth. Overall, in FY17 PPC could generate approximately \$64 million to Local Aid, and \$14 million to the Race Horse Development Fund.

We will continue to evaluate and improve on our responsible gaming initiatives. We have engaged a group of researchers to evaluate the *GameSense* program, the self-exclusion program, as well as the voluntary play management system "PlayMyWay." The results of the evaluation will help us ascertain the effectiveness of these programs.

Harness Racing will continue at Plainridge Park Racecourse and increase to the statutory 125 days for calendar year 2017. We continue to evaluate the feasibility of Thoroughbred Racing given available monies for purses, and racing application(s) due on Oct 1, 2016.

We will continue to work to maximize the economic benefits from a casino. We convene and connect licensees to the Commonwealth's workforce and small business resources. We bring together stakeholders to focus on local and diverse hiring and contracting, and report, monitor, and analyze diversity and affirmative action plans, efforts, and results by each licensee. Specific efforts include a promising expansion of apprenticeship programs within various union trades.

We will continue to make significant administrative progress in the implementation and staffing of additional functions. Such functions include:

- A Licensing Unit to license and register casino and slots parlor employees and vendors
- A Gaming Technology Unit for the implementation of testing protocols and procedures to ensure the machines and games on the gaming floor are operating as intended
- Further regulations that govern operations and functions at the gaming establishments

We continue to implement rules and procedures to ensure the integrity of the game. These efforts include:

- Promulgation of rules for table games in anticipation of workforce and training programs for dealers, surveillance, security, and supervisory personnel at the Category 1 casinos
- Robust compliance, monitoring, and audit programs for the audit and oversight of operations of licensees
- Further regulations that govern operations and functions at the gaming establishments

We constantly monitor developments that affect the gaming industry to make policy recommendations. Topics like the status of the Mashpee Wampanoag Tribe and their land-in-trust determination will continue to have significant implications for **Region C**. Further, online gaming, daily fantasy, charitable gaming, sports betting, and illegal gaming impact the young gaming industry in MA.



KEY PROVISIONS OF THE GAMING ACT

Chapter 194 of the Acts of 2011 (“The Gaming Act”) includes significant features to ensure public confidence and a robust gaming industry that generates economic development while providing mitigation measures to protect potentially vulnerable groups.

A STRONG, INDEPENDENT REGULATORY FRAMEWORK

- Five full-time commissioners appointed by the three constitutional officers
- Rigorous standards for suitability and licensure of companies, vendors, and employees
- On-site presence of gaming agents, state police, and responsible gaming (*GameSense*) advisors
- Detailed regulations and strict oversight to ensure integrity of the operations and fairness of the games

A ROBUST AND FUNDED RESEARCH MANDATE

The gaming law enshrines the role of research in enhancing responsible gaming and mitigating the negative consequences of expanded gaming in Massachusetts. The Act directs the Commission to:

- Understand the social and economic effects of expanded gaming including conducting a baseline study and subsequent studies of all relevant critical, social, and economic variables
- Obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology, and etiology of gambling
- Make annual, scientifically-based recommendations for policy to the Legislature

STRONG LOCAL CONTROL

- Host Communities vote on the host community agreement negotiated between the applicant and the local executive
- Surrounding Communities have a process for addressing mitigation concerns (that must also be funded and addressed by the applicants)
- Reimbursement to communities for mitigation costs

POLICIES TO MAXIMIZE THE BENEFITS TO THE COMMONWEALTH

- A competitive and transparent process for license solicitation, evaluation and award of up to 3 Category 1 Licenses and one Category 2 License to maximize capital investment
- Clear directives and specific criteria to realize economic benefits to support local, small, and diverse businesses, employ the unemployed and underemployed, while protecting vulnerable groups and other Commonwealth assets, including the Lottery and Impacted Live Entertainment Venues

RECOMMENDATIONS FOR LEGISLATIVE ACTION

In accordance with Chapter 30 section 33 and c. 23 K (the gaming Act) we submit recommendations for legislative action. The topics for consideration are:

- 1. Consider addressing the expiring nature of the racing statutes in a permanent manner.** The current statutes that govern live racing and simulcasting in the Commonwealth (G.L. c. 128A and c. 128C) expire on July 31, 2017. As part of the Gaming Act (c. 194 of the Acts of 2011, §104), the Commission was tasked with providing findings and recommendations to the Legislature (given its then pending expiration of July 31, 2014). These recommendations were submitted on April 2013, in a report that included a draft proposed new G.L. c. 128D. While the legislature did not enact the proposed c. 128D, different efforts to address this (in the House & Senate) resulted in two annual extensions of sections 128A and 128C (St. 2105c. 10 §59 and St. 2016 c.176). These extensions have allowed Suffolk Downs to continue simulcasting, while requiring they conduct at least one day of live racing. However, in our opinion, the current short term nature of the law creates uncertainty to the viability of live horse racing in the Commonwealth. Accordingly, the Commission favors an approach that includes a comprehensive statutory amendment that takes a more long term view including allowing the horse race development fund to provide more assistance to the racing industry (both Standardbred and Thoroughbred).
- 2. Consider an exemption from M.G.L. c. 268A §4 to enable municipal and regional planning agency employees to fully participate in gaming policy advisory committees.** We recommend legislation to exempt municipal and regional planning employees who are members of the Gaming Policy Advisory Committee (GPAC), its Subcommittees and Local Community Mitigation Advisory Committees (or LCMACs) from Section 4 of the state's Conflict of Interest Law. M.G.L. c. 23K, §68 created the GPAC, subcommittees (including a Subcommittee on Community Mitigation) and LCMACs to provide advice to the Commission on gaming policy and related mitigation matters. By statute the LCMACs include appointees from the host and surrounding communities to the gaming facilities. It is likely municipal and regional planning agency employees that are familiar with how gaming facilities are being developed and operated in their communities are in the best position to provide informed input in many of these advisory roles. However, it has been determined that municipal and regional employees may be in violation of the State's Conflict of Interest Law (M.G.L. c. 268A) if they provide advice to the Gaming Commission while also performing their local duties involving gaming related matters. The Gaming Commission worked closely with the State Ethics Commission to craft language to allow municipal and regional planning employees to provide advice to the Gaming Commission while also meeting their gaming-related local and regional duties.



AGENCY DIVISIONS

INVESTIGATIONS & ENFORCEMENT BUREAU AND DIVISION OF LICENSING

The Investigations and Enforcement Bureau (IEB) is comprised of 1) the Investigations Division, which includes Massachusetts State Police (MSP) staff and a team of civilian financial investigators; 2) the Gaming Agents Division, comprised of civilian agents, which is charged with providing regulatory oversight and on-site monitoring of licensed gaming establishments; and 3) the Chief Enforcement Counsel whose duties include legal review of investigations and acting as the attorney for the IEB in licensing and enforcement actions by the bureau. The Director of the IEB also oversees the Division of Licensing, which administers the licensing and registration functions on behalf of the Commission for employees of and vendors to the Gaming Establishments.

The IEB conducts probity investigations to determine suitability for licensure and registration for all Gaming Establishment employees and vendors, in accordance with licensing regulations (205 CMR 134.00), which also define thresholds, standards and procedures for licensing and registration.

There are three levels of employee licensure; Key Gaming Employee – Executive, Key Gaming Employee – Standard, and Gaming Employee. All three levels of licensure require a background check before employment may commence at a Gaming Establishment. All other employees not classified by regulation as either Key Gaming or Gaming Employees must register as a Gaming Service Employees. Background checks for those employees may commence after employment begins. The depth of background check is commensurate with the level of licensure/registration.

During last year the IEB developed and implemented a hearings process to ensure that each applicant, registrant and licensee subject to an adverse action by the IEB is afforded notice and an opportunity for a hearing before an impartial hearing examiner, and continued to build out its Financial Investigations team.

In FY16 the IEB and the Division of Licensing received and processed over 125 applications for individual licensure or registration and over 570 applications for business entity licensure or registration.

As part of the Commission’s mission to ensure the integrity of the game, we anticipate the promulgation of an important set of regulations regarding the rules for table games. These rules are typically quite detailed, and their associated procedures are enforced and designed to minimize advantage play.

During FY16, we made significant progress in developing a “Licensing Management System” (or LMS). This system will greatly enhance our licensing unit’s ability to administer, track, document, and communicate with licensees and on-site staff on the status of the licenses and registrations.

At PPC Gaming Agents perform a variety of tasks including slot machines moves and inspections, operational audits, compliance reports, patron complaints, machine jackpots over certain thresholds, and tips from the “Fair Deal” tip line.



FAIR DEAL

IT'S WHAT CUSTOMERS EXPECT AND WHAT THE MASSACHUSETTS GAMING COMMISSION REQUIRES.

REGULATORY COMPLIANCE IS CRITICAL TO THE PUBLIC'S CONFIDENCE IN THE MASSACHUSETTS GAMING INDUSTRY. ENSURING THAT ALL GAMING ACTIVITY IS FAIR AND ETHICAL REQUIRES YOUR ASSISTANCE.

DO YOU HAVE CONCERNS OR PERSONAL KNOWLEDGE ABOUT UNETHICAL BEHAVIOR OR SUSPECTED VIOLATIONS OF THE MASSACHUSETTS GAMING LAW OR REGULATIONS?

TIPS ARE CONFIDENTIAL AND YOU MAY REMAIN ANONYMOUS.

INTEGRITY TIP LINE
1-844-303-TIPS (8477)

REPORT ONLINE
MASSGAMING.COM/FAIRDEAL

SEND AN EMAIL
FAIRDEAL@STATE.MA.US



Investigations and Enforcement Bureau

SUPPORT HONESTY AND HELP MGC TO ENSURE A FAIR DEAL.

OMBUDSMAN'S OFFICE

The Ombudsman's office is responsible for coordinating and communicating interactions among the Commission and many stakeholders: State Agencies, Applicants, Licensees, Host and Surrounding Communities, and multiple other interested parties.

The Commission's regulations also govern certain interactions between applicants and Communities, including petitions from Communities for involuntary disbursements from applicants and licensees. The Ombudsman's office oversees these activities and makes recommendations to the Commission about instances when the parties do not reach agreements.

COMMUNITY MITIGATION GRANTS

The Community Mitigation Fund receives monies from the licensing fees and the taxes on gross gaming revenues, and is designed to address adverse unanticipated impacts that may result from the construction and operations of casinos. When fully funded, the Community Mitigation Fund will have approximately \$20 million annually for local mitigation projects.

The Ombudsman's office reviews requests for mitigation dollars and makes recommendations to the Commission on the disbursements from the Community Mitigation Fund. **To date, the Commission has reserved \$4.26 million in grants to host, surrounding, and neighboring communities.** The Community Mitigation Grants are as follows:

1. **Planning Grants in the amount of \$100,000** to assist Communities in preparing and determining how to achieve further benefits or avoid minimizing adverse impacts from the Gaming Facility. The following Communities have been awarded a \$100,000 Planning Grant each:
 - a. **Region B (MGM):** Agawam, Chicopee, East Longmeadow, Hampden, Holyoke, Longmeadow, Ludlow, Northampton, Springfield, West Springfield, Wilbraham.
 - b. **Region A (Wynn):** Boston, Cambridge, Chelsea, Everett, Lynn, Medford, Melrose, Revere, Saugus, Somerville.
 - c. **Plainville Region (Penn):** Attleboro, Foxboro, Mansfield, North Attleboro, Plainville, Wrentham

2. **Specific Mitigation Grants** to assist communities with an unanticipated or anticipated mitigation need, specific to the Community in question. The Specific Mitigation Grants are as follows:
 - a. **Springfield \$150,000.** To fund a parking pilot program for the disruption of parking availability on Main Street in Springfield.
 - b. **Springfield Preservation Trust \$350,000.** To aid with the rehabilitation, restoration or preservation of state register listed historic resources within one half mile of the project, in light of the demolition of certain buildings of some historical significance.
 - c. **Hampden County Sheriff's Department \$280,000.** To fund additional monies required from the displacement of the Western Massachusetts Correctional Addiction Center.
 - d. **West Springfield \$246,000.** To provide funding for unanticipated cost increases in the design and permitting of a project to reconstruct Memorial Avenue (above an award amount granted through arbitration between MGM and West Springfield).
 - e. **Malden \$100,000.** To supplement the salary of a senior planner to take advantage of economic opportunities through a Comprehensive Marketing Program and citizen's engagement program.
3. **Transportation Grants** to assist communities in transportation- and traffic-related impacts.
 - a. **Chelsea \$167,150.** To survey, assess, and conduct a road safety audit of the Chelsea corridor and improve roadway conditions.
 - b. **Everett \$50,000.** Additional funding for the Northern Strand Community Trail bike path.
 - c. **Malden \$100,000.** To study current parking facilities and determine future needs, and increase pedestrian and bicyclists around the Malden Center Station area.
 - d. **Medford \$167,000.** Transportation planner to study design solutions to Wellington Circle.

LICENSEE REPORTING & CONSTRUCTION OVERSIGHT

The Ombudsman's office coordinates reports due to the Commission from licensees as well as developments regarding their progress against a large number of license conditions. This office includes the role of a "Construction Project Oversight Manager" for the oversight of efforts from licensees and other design, permitting, and construction requirements.

The Ombudsman further coordinates and supports legislatively mandated Advisory Committees and sub-committees.

INFORMATION TECHNOLOGY DIVISION

The Technology Division (ITD) supports both internal and external business processes of the Commission and provides infrastructure, connectivity, hardware, software, as well as data management and security for the integrity and efficiency of the Commission's operations and its oversight of licensees.

The Gaming Technology Unit (GTU) is responsible for planning, organizing, managing, and implementing the regulations, policies, procedures, and testing needed to ensure the integrity of electronic gaming devices (EGDs) and associated software and equipment. The GTU oversees the issuance of certifications and permits for the use of EGDs in Massachusetts. The Unit is also responsible for assisting with the evaluation, inspection, and investigation of electronic gaming devices and associated equipment, and the oversight of all EGD assets in the jurisdiction.

The GTU oversees the issuance of certifications and permits for the use of EGDs in Massachusetts.

We have implemented a "**Central Monitoring System**" (CMS), for the oversight, reconciliation, inventory, and control of all activity of the EGDs (slots) at the casinos. This system enables the Commission to maintain a strict accounting and control of gaming revenues and corresponding taxes due to the Commonwealth in a highly efficient manner.



RESEARCH & RESPONSIBLE GAMING

The office of Research and Responsible Gaming heads the Commission's work in these areas and serves as key liaison to the **Public Health Trust Fund**. This fund was created by the Gaming Act, and is co-chaired by the Chair of the Commission and the Secretary of Health and Human Services or their designees. When fully funded, the Public Health Trust Fund will direct approximately \$15 million annually to gaming research and problem gambling prevention and treatment programs. This will make Massachusetts the state in the U.S. that dedicates the most resources to this specific area.

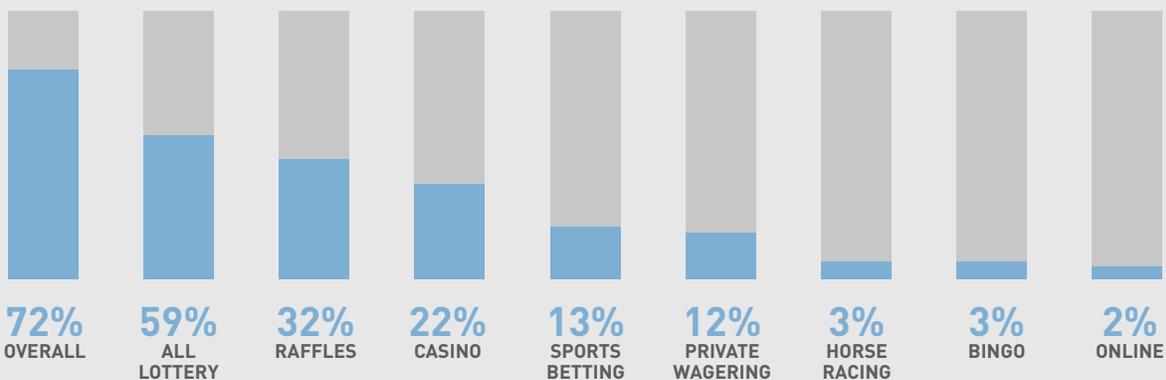
The Commission and the Executive Office of Health and Human Services set an annual budget for expenditures from the Public Health Trust Fund, which includes funding for the annual gaming research agenda.

SOCIAL AND ECONOMIC IMPACTS OF GAMBLING IN MASSACHUSETTS (SEIGMA)

In 2013, the Commission engaged a team at the University of Massachusetts Amherst to conduct a comprehensive, multi-year study of the "Social and Economic Impacts of Gambling in Massachusetts" (SEIGMA) to understand the impacts of expanded gaming in the state. The study established baselines for all social and economic variables that may be affected by expanded gaming. The research team will collect, analyze and report each year to identify the actual impacts, which will provide key information to policymakers.

As part of the ongoing baseline research efforts, this year the research team released a **Problem Gambling Online Panel Survey Report** (n=5,046). This study contained an enriched sample of problem gamblers to provide greater understanding of 1) negative personal impacts of gambling, 2) impacts of different forms of gambling on gambling-related problems and 3) prevention awareness and treatment-seeking behavior of problem gamblers.

GAMBLING PARTICIPATION BY ADULTS IN MASSACHUSETTS OVER THE LAST YEAR, BY ACTIVITY.



KEY FINDINGS

- 54% of problem gamblers experience financial problems because of gambling, but only 5% have filed for bankruptcy.
- 50% of problem gamblers have experience health or stress problems because of gambling, but less than 9% have sought medical or psychological help.
- 14% report relationship problems because of gambling
- Problem gamblers report specific types of gambling contribute to their problems
 - 23% report Instant Lottery Tickets contribute more to the problems encountered
 - 19% report slot machines contribute more to the problems encountered

PLAINRIDGE PARK CASINO CONSTRUCTION IMPACTS

Also from the ongoing SEIGMA study, the team of researchers released **The Construction of Plainridge Park Casino: Spending, Employment and Economic Impacts**. The study, conducted by the UMass Donahue Institute, detailed the exact economic impact of the construction of Massachusetts's first casino.

THE REPORT FOUND:

- 99% of \$13.3 million of preconstruction spending and 85% of the \$115.4 million of construction spending went to Massachusetts-based businesses. Similarly, most of the resulting job and income creation remained in-state as well.
- As far as the construction's impact on local jobs, it created or supported an average of 558 full-time equivalent jobs and \$46 million of wages (including the above direct wages) per year over 2014 and 2015, impacts that were mostly concentrated near the construction site in Bristol and Norfolk Counties.
- The construction phase supported a total of 1,116 jobs with a combined personal income of approximately \$91.5 Million. In total, over the 14-month process, the construction of Plainridge Park Casino added \$166 million to total business revenues and \$105 million to gross state product.

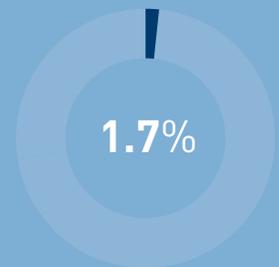
PLAINRIDGE PARK CASINO PUBLIC SAFETY IMPACTS

The research efforts this year also include the six-month results of the SEIGMA Crime Study. In order to better understand and respond to crime impacts resulting from the introduction of casinos, the MGC is working with crime analyst and expert in data driven policing, Christopher W. Bruce, to conduct a long term study of public safety in casino host and surrounding communities. The first report following the opening of PPC was released in April 2016. The report, which is subtitled **Assessing the Impact of Gambling on Public Safety in Massachusetts Cities and Towns**, analyzes changes in police data after the first six months of operation at Plainridge Park Casino.

THE STUDY FOUND:

- Incidents that occurred at Plainridge Park Casino are commensurate with expected totals at similar facilities that draw lots of people, have a large parking area, offer retail, entertainment, and dining options, and serve alcohol.
- There was a likely causal relationship to the increase in traffic-related calls for service, primarily in Plainville, that included improper or erratic driving, parking, disabled vehicles, and suspicious vehicles.
- There was an increase in credit card fraud and drunk driving incidents; however, there is no evidence to support a direct link to the casino and more research is needed.

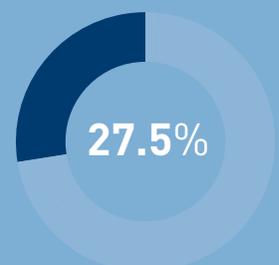
PROBLEM GAMBLING PREVALENCE IN MASSACHUSETTS



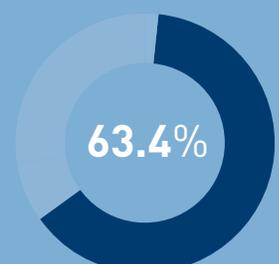
PROBLEM GAMBLER



AT-RISK GAMBLER



NON GAMBLER



RECREATIONAL GAMBLER

RESPONSIBLE GAMING INITIATIVES

The Gaming Act included important policy directives in the area of Responsible Gaming. Led by the Director of Research and Responsible Gaming, the Commission has designed and implemented several highly innovative responsible gaming initiatives:

1. THE VOLUNTARY SELF-EXCLUSION PROGRAM

As required by statute, the Voluntary Self-Exclusion (VSE) Program is available to assist patrons who recognize they have experienced a loss of control over their gambling and wish to invoke external controls. This program allows participants to voluntarily exclude themselves from all Massachusetts gaming venues for six months, one year, three years, five years or a lifetime.

- Participants enroll at either the GameSense Info Center in the Plainridge Park Casino, the Massachusetts Council on Compulsive Gambling, or the Massachusetts Gaming Commission.
- After the expiration of the selected duration of exclusion, participants may request their name be removed from the list and participate in an educational exit session.
- There are currently 147 participants in the Voluntary Self-Exclusion Program. To date, 5 participants have removed themselves from the list at the conclusion of their term.

The program is currently under evaluation by the Cambridge Health Alliance, Division on Addiction to assess the enrollees' experience with the Voluntary Self-Exclusion Program. Additional data regarding VSE enrollees' gambling behaviors, mental health, and well-being will also be incorporated into the evaluation to inform future changes to the program.

2. GAMESENSE INFO CENTERS

In its effort to promote responsible gaming practices, the Commission launched a responsible gaming brand, "GameSense", which includes outreach methods that provide judgment-free gambling education to help patrons make informed, responsible decisions about when to gamble, when to stop, and how much to spend.

The logo for GameSense, featuring the word "GameSense" in a stylized font. "Game" is in green and "Sense" is in blue.

The only GameSense Info Center currently in place within the United States is located inside of Plainridge Park Casino. Each casino in Massachusetts will have a GameSense Info Center, which will serve as an in-person touchpoint to gather information on responsible gambling. In order to evolve the program before it is replicated

throughout the Commonwealth, the Commission has engaged the Cambridge Health Alliance, Division on Addiction to perform an evaluation.

- GameSense Advisors are on site 16 hours per day, and are able to build customer relationships by walking around the floor.
- Information is provided in a variety of ways, including interactive kiosks, brochures, and demonstrations by GameSense Advisors.
- 87.7% of survey respondents said that their primary concern was resolved by visiting the GameSense Info Center or speaking with a GameSense Advisor.
- 82% of survey respondents said that they would visit the GameSense Info Center again.

Massachusetts is the only jurisdiction in the United States to have responsible gaming personnel on the casino floor.

3. PLAYMYWAY

On June 9, 2016, the MGC launched an innovative budget-setting tool known as "PlayMyWay – The Smart Way to Track Your Play". This tool prompts rewards card holders to voluntarily choose a daily, weekly, and/or monthly budget to track their spending while at Plainridge Park Casino.

The logo for PlayMyWay, featuring the words "PlayMyWay" in a stylized, purple, cursive font.

Enrolled participants receive automatic notifications as they approach 50% and 75% of the spend budget. Players will also receive a notification when they reach 100% of the budget and if they continue to play, notifications will be received at 25% intervals. A player can choose to stop at any point or keep playing. There is no penalty or consequence for playing beyond the set budget as it is intended to help players make decisions and monitor their gambling in real time.

As of September 2016, over 5,000 Plainridge Park Casino patrons have enrolled during the first three months of the program's operation, and enrollment continues to grow. To evaluate the effectiveness of the play management system, the MGC is working with the Cambridge Health Alliance, Division on Addiction. Information from this evaluation project will play a significant role in determining whether the MGC will require licensees to adopt the play management tool.

CASINO PROPERTY & PROJECT SUMMARIES

PLAINRIDGE PARK CASINO

Plainridge Park Casino is the Category 2 licensee in Plainville, MA. The facility also hosts the Standardbred live racing and simulcasting operations.

Conditional Award of the License	February 2014
Operations Certificate/Date Opened	June 24, 2015
Gaming Space	43,800 square feet
Capital Investment Amount	\$250 million
Slots/Gaming Positions	1,250 slots/1,414 Gaming Positions
Table Games	N/A
Amenities	2 Full Service Restaurants ("Flutie's Sports Bar" and "Slack's Oyster House & Grill"), 3 food court style eateries ("B-Good" "The Bean" "Slice"), Live Entertainment ("Revolution Lounge"), Additional racing concessions/outlets
Licensed Employees	503 employees as follows: 35 Key Gaming Employees, 190 Gaming Employees and 278 Service Employees
Tax on Gross Gaming Revenues	49%



WYNN BOSTON HARBOR

Wynn Boston Harbor is the Category 1 licensee for Region A in Everett, MA. The facility will sit on the formerly contaminated site on the banks of the Mystic River at the site of the former Monsanto plant.

Conditional Award of the License	September 2014
Projected Opening Date	June 2019
Gaming Space	190,461 square feet
Total Investment Amount	\$2.1 billion
Slots	2,574 Slot Machines
Table Games	141 gaming tables, 91 poker tables
Other Amenities	5-star hotel (671 rooms), 56,602 sf retail space, 10 outlets of Food & Beverage, multipurpose venue, spa/gym, convention space, outdoor space, indoor garden
Parking	2,931 underground on site, 800 offsite
Total Employment	4,000 permanent jobs (projected)
Tax on Gross Gaming Revenues	25%



MGM SPRINGFIELD

MGM Springfield is the Category 1 licensee for Region B in Springfield, MA. The facility will be located in approximately 14 acres in downtown Springfield in the congregation of parcels generally bound by Main, State, Union and E. Columbus streets.

Conditional Award of the License	June 2014
Projected Opening Date	September 2018
Gaming Space	126,262 square feet
Total Gross Area	759,157 square feet
Total Investment Amount	\$950 Million
Slots	3,000
Table Games	100
Other Amenities	4-star hotel (250 rooms) 8 outlets for Food & Beverage, 26,000 sf of retail space, bowling alley, cinema and 54 residential units
Parking	3,375 covered on site
Total Employment	2,000 permanent jobs (projected)
Tax on Gross Gaming Revenues	25%





RACING OPERATIONS

The Commission is also responsible for the operational and fiscal oversight of the Standardbred and Thoroughbred racing operations and pari-mutuel facilities in the Commonwealth (under M.G.L. c 128A & 128C).

FY16 marked the second year that the Race Horse Development fund had monies available to supplement purses, and accordingly the Commission approved disbursements for the prescribed purposes.

LIVE RACING AND SIMULCASTING AT LICENSED FACILITIES

STANDARDBRED RACING

On October 1, 2016, the Commission received the live racing application for Penn National at **Plainridge Park Racecourse to conduct 125 days of harness live racing during calendar year 2017**. The number of race days in calendar year 2016 was 115. Live harness racing will be conducted from April 10 through November 24, 2017. For the meet, the Division of Racing expects to issue 1,004 occupational licenses at Plainridge.

The Gaming Act requires 125 racing days for calendar year 2017 for Penn National. The number of race days in calendar year 2018 will be determined by the Commission. In doing so, the MGC will solicit public comment and conduct public hearings to obtain input from stakeholders (operator, horsemen, etc.).

During FY16, Plainridge Park Casino continued to upgrade the racing facilities, totally redoing the inside of the paddock, and adding ship-in stalls.



THOROUGHBRED RACING

For calendar year 2016, live thoroughbred racing was conducted at Suffolk Downs for a total of 6 days. For the meet, the Division of Racing issued approximately 1,006 occupational licenses.

SIMULCASTING

Simulcasting is conducted year-round on seven licenses at the following facilities:

- Plainridge Park Racecourse
- Raynham Park
- Suffolk Downs, including: Twin Spires, TVG, Xpressbets, Wonderland

For 2016, total pari-mutuel handle in the commonwealth is expected to reach \$201,893,976.

During FY16, the Division of Racing continued efforts to enhance the safety and welfare of racing participants, as well as monitor and regulate the racing operations in the Commonwealth. Key activities included:

- Participation in the annual Association of Racing Commissioners International (ARCI) conference
- Working with Suffolk Downs to obtain reaccreditation of their National Thoroughbred Racing Association (NTRA) racing safety and integrity alliance
- Cutting-edge updates to racing regulations

THOROUGHBRED RACING IN MASSACHUSETTS GOING FORWARD

On October 1, 2016, the Commission received one racing application (from Suffolk Downs) to conduct thoroughbred racing for six (6) days with a possible extension to twelve (12). This application requires monies from the Race Horse Development Fund to supplement purses and other expenditures.



TAX COLLECTIONS & AGENCY FINANCES

The Commission's Division of Administration and Finance (A&F), led by the CFAO, is responsible for the strict oversight of the revenues at the casinos and the collection of taxes due to the Commonwealth from those operations. The taxes and assessments on gross gaming revenues for the license currently operating (Plainridge Park Casino) is 49%.

The division is also in charge of completing all financial transactions and coordinating with other functional areas to complete all administrative functions. The division is responsible for accounting, budgeting, payroll, HR, and classification and compensation functions within the MGC structure.

GAMING REVENUES AND TAX COLLECTIONS

For the period of June 24, 2015 (opening day) through June 30, 2016, Plainridge Park Casino reported \$166 million in gross gaming revenues which generated \$66.4 million in tax dollars to local aid, and \$14.9 million in assessments to the racehorse development fund. Below is a chart by month. The same information can be found on the MGC's website under the revenue section.

SLOT MACHINE REVENUE

MONTH	COIN IN	SLOT GGR	HOLD %	PAYOUT %	TOTAL IN COLLECTED STATE TAXES	TOTAL IN COLLECTED RACE HORSE ASSESSMENTS	TOTAL IN COLLECTED STATE TAXES AND RACE HORSE ASSESSMENTS
June 24-30, 2015	\$ 60,641,793.30	\$ 6,137,976.28	10.12%	89.88%	\$ 2,455,190.51	\$ 552,417.87	\$ 3,007,608.38
July 2015	\$ 182,591,850.53	\$ 18,155,783.86	9.94%	90.06%	\$ 7,262,313.54	\$ 1,634,020.55	\$ 8,896,334.09
August	\$ 166,244,497.24	\$ 15,228,050.58	9.16%	90.84%	\$ 6,901,220.23	\$ 1,370,524.55	\$ 7,461,744.78
September	\$ 146,966,787.00	\$ 12,625,157.80	8.59%	91.41%	\$ 5,050,063.12	\$ 1,136,264.20	\$ 6,186,327.32
October	\$ 149,099,458.52	\$ 12,876,375.54	8.64%	91.36%	\$ 5,150,550.22	\$ 1,158,873.80	\$ 6,309,424.01
November	\$ 138,983,092.23	\$ 11,939,949.56	8.59%	91.41%	\$ 4,775,979.82	\$ 1,074,595.46	\$ 5,850,575.28
December	\$ 135,626,938.11	\$ 11,267,254.41	8.31%	91.69%	\$ 4,506,901.76	\$ 1,014,595.46	\$ 5,520,954.66
January 2016	\$ 147,802,417.63	\$ 12,531,140.69	8.48%	91.52%	\$ 5,012,456.28	\$ 1,127,802.66	\$ 6,140,258.94
February	\$ 153,714,821.12	\$ 12,669,678.44	8.24%	91.76%	\$ 5,067,871.38	\$ 1,140,271.06	\$ 6,208,142.44
March	\$ 181,989,615.17	\$ 13,496,232.21	7.42%	92.58%	\$ 5,398,492.88	\$ 1,214,660.90	\$ 6,613,153.78
April	\$ 174,794,153.72	\$ 13,306,466.10	7.61%	92.39%	\$ 5,322,586.44	\$ 1,197,581.95	\$ 6,520,168.39
May	\$ 174,847,659.99	\$ 13,488,794.58	7.71%	92.29%	\$ 5,395,517.83	\$ 1,213,991.51	\$ 6,609,509.34
June	\$ 160,637,888.04	\$ 12,324,076.83	7.67%	92.33%	\$ 4,929,630.73	\$ 1,109,166.91	\$ 6,038,797.65
June	\$1,973,940,888.04	\$166,046,936.88	N/A	N/A	\$66,418,774.75	\$14,944,224.32	\$81,361,999.07

For the first quarter of FY17 (July – September of 2016), PPC brought in ~\$39.8 million in Gross Gaming Revenues (GGR) for a total of \$19.5 million in taxes and assessments due to the Commonwealth. If the current trend continues, FY17 could reach ~\$160 million in total GGR or ~\$80 million in taxes (similar to FY16).

AGENCY FY16 FINANCIAL RESULTS

The MGC approved an initial FY16 budget of \$28.3 million from the Gaming Control Fund. In order to meet the projected spending, the MGC required an assessment of \$22.21 million to licensees.

The final expenditures for FY16 were \$27.29 million, approximately \$1 million less than anticipated. Revenues for FY16 were \$30.83 million, which were \$2.5 million above initial projections and \$3.53 million above expenditures. Of the \$3.53 million in surplus FY16 revenues, \$2.55 million was rolled to FY17 and is attributed to timing of receipt of slot fees that were scheduled for FY17 revenue and the remaining \$987,000 will be credited to licensees. Throughout the course of FY16, MGC decreased the assessment on licensees from \$22.21 million to \$18.89 million due to balance forward of FY15 revenues. Below is a summary of spending and revenue for the Gaming Control Fund.



10500001 GAMING CONTROL FUND 2016	BUDGET PROJECTIONS	ACTUALS
Expenses	Initial Projection	Actuals Total
AA REGULAR EMPLOYEE COMPENSATION	6,277,143.16	5,630,381.67
BB REGULAR EMPLOYEE RELATED EXPEN	90,900.00	74,633.07
CC SPECIAL EMPLOYEES	130,506.15	234,821.00
DD PENSION & INSURANCE RELATED EX	1,873,197.89	1,767,913.14
EE ADMINISTRATIVE EXPENSES	476,600.16	2,117,689.48
FF PROGRAMMATIC FACILITY OPERATIONAL SUPPLIES	500.00	56,342.15
GG ENERGY COSTS AND SPACE RENTAL	1,129,453.26	1,130,556.49
HH CONSULTANTS SVCS (TO DEPTS)	5,221,776.14	4,496,365.83
JJ OPERATIONAL SERVICES	3,107,792.97	3,602,022.44
KK Equipment Purchase	80,000.00	236,232.45
LL EQUIPMENT LEASE MAINTAIN/REPAIR	25,617.71	27,486.98
MM PURCHASED CLIENT/PROGRAM SVCS	35,000.00	—
NN INFRASTRUCTURE	—	2,084.19
PP STATE AID/POL SUB	3,011,010.00	2,754,726.37
TT LOANS AND SPECIAL PAYMENTS (reimbursement 0810-1204)	—	57,105.44
UU IT Non-Payroll Expenses	4,483,188.84	3,651,942.35
ISA to DPH, AGO, ABCC, POL & EOHHS	2,369,684.91	1,453,090.43
Grand Total	28,312,371.19	27,293,393.47

	REVENUE PROJECTIONS	ACTUALS
Revenues	Initial Projection	Actuals Total
Gaming Control Fund Beginning Balance	—	3,326,752.71
Phase 1 Collections (restricted)	—	189,704.24
Phase 1 Refunds	—	(78,820.74)
Phase 2 Category 1 Collections (restricted)	—	—
Region C Phase 1 Investigation Collections	200,000.00	433,760.65
Region C Phase 2 Category 1 Collections	800,000.00	580,000.00
Grant Collections (restricted)	400,000.00	—
Region A Slot Machine Fee	1,945,200.00	1,945,200.00
Region B Slot Machine Fee	1,800,000.00	3,600,000.00
Slots Parlor Slot Machine Fee, REG B	750,000.00	1,500,000.00
Gaming Employee License Fees (GEL)	30,000.00	116,400.00
Key Gaming Executive (GKE)	35,000.00	5,000.00
Key Gaming Employee (GKS)	20,000.00	50,000.00
Non-Gaming Vendor (NGV)	30,000.00	47,800.00
Vendor Gaming Primary (VGP)	45,000.00	83,429.22
Vendor Gaming Secondary (VGS)	40,000.00	95,000.00
Gaming Service Employee License (SER)	—	39,975.00
Subcontractor ID Initial License (SUB)	—	—
Temporary License Initial License (TEM)	—	—
Veterans Initial License (VET)	—	—
Transfer of Licensing Fees to CMF	—	—
Assessment, REG B, REG A and SLOT Parlor	22,217,171.19	18,890,418.52
MISC	—	6,275.00
Grand Total	28,312,371.19	30,830,894.60
Ajustment Move to FY17 for REG B and Slots Parlor Slot FEe		(2,550,000.00)
FY16 Revenue Surplus/(Shortage)		987,501.13



WORKFORCE, SUPPLIER & DIVERSITY DEVELOPMENT

The Commission established processes and systems to ensure business and workforce development and diversity during construction and operations, including requirements to:

- Set diversity hiring goals and submit strategic plans for the inclusion of minorities, women, and veterans in the workforce and during construction
- Support workforce development programs and develop affirmative action plans for the training and hiring of underemployed and unemployed
- Regularly report progress towards diversity goals
- Coordinate with stakeholders and representatives from across the commonwealth to strategize and support the hiring of MA residents and contracting with local diverse small businesses

ACCESS & OPPORTUNITY COMMITTEE

We closely oversee the activities and efforts of licensees regarding vendor and workforce diversity, as well as local purchasing and other commitments to host and surrounding communities. We have convened an “Access and Opportunity Committee” (AOC) to supplement these efforts as well as keep licensees accountable for the goals they have set for workforce and supplier diversity. The monthly AOC meetings include community groups, unions, the Commission, the Licensees, and their contractors. The AOC meetings are open to the public, and alternate between Springfield and the Boston area.

We perform proactive outreach and communication to engage diverse stakeholders regarding issues and community concerns as well as potential impact. This effort has offered a voice to individuals and community coalitions that include women, minority, and ethnic communities and veterans.

BUSINESS AND SUPPLIER DIVERSITY EFFORTS

- Presentations to chambers and trade associations across MA
- Governor’s MA Supplier Diversity Regional Series in Roxbury, New Bedford, and Springfield
- Greater New England Minority Supplier Development Council
- MA Minority Contractors Association Business Diversity Forum

In addition, the Commission has set up grant programs to fund capacity and technical assistance to small businesses. On FY16 **a \$25,000 grant was awarded to the Blackstone Valley Chamber of Commerce**. The Commission anticipates expanding its capacity and technical assistance grant program in FY17.

The Commission’s **Vendor Advisory Group** brings together 10 state agencies and more than a dozen economic development organizations to coordinate support and communicate opportunities to small businesses, and provide information to casino licensees throughout the commonwealth. The group includes the MA Dept. of Veterans’ Services, MA Office of Supplier Diversity, Center for Women in Enterprise, Greater New England Minority Supplier Development Council, and the MA Growth Capital Corporation.

RESULTS ON DIVERSITY HIRING & CONTRACTING

At the conclusion of their construction, Penn National and its contractor Turner Construction awarded a total of \$128.7 million in direct pre-construction and construction contracts. The contractor reported that as of June 30, 2016 \$30.8 million (32%) of the contracts have gone to minority-, women-, and veteran-owned businesses. \$7.8 million (10%) of total contracts was awarded to MBEs, \$9.5 million (13%) of total contracts to WBEs, and \$7.7 million (9%) to VBEs. The Category 2 Licensee surpassed their diversity goals which were 4% MBE, 7% WBE, and 3% VBE.

See charts below:

PLAINRIDGE PARK CASINO (PPC) WORKFORCE/SUPPLIER DIVERSITY

AS OF JUNE 30, 2016

WORKFORCE	CONSTRUCTION		OPERATIONS	
Demographic	Goal	Results	Goals	Results
Minority	16%	17%	10%	16.3%
Women	7%	4%	Not Stated	49%
Veteran	3%	7%	Not Stated	3%

SUPPLIER DIVERSITY	CONSTRUCTION		OPERATIONS	
Demographic	Goal	Results	Goal	Results
MBE	4%	10%	6%	1.64%
WBE	7%	13%	12%	16.34%
VBE	3%	9%	3%	3.51%

Plainridge Park Casino (PPC) workforce participation and supplier diversity goals and results (both construction and operations phases) are as follows (total diverse construction spending: \$30.8 million; total diverse operation spending: \$1.06 million – as of June 30, 2016):

MGM SPRINGFIELD WORKFORCE/SUPPLIER DIVERSITY

AS OF JUNE 30, 2016

WORKFORCE		CONSTRUCTION	
Demographic	Goal	Results	
Minority	15.3%	26.94%	
Women	6.9%	9.47%	
Veteran	8%	9.17%	

SUPPLIER DIVERSITY		CONSTRUCTION	
Demographic	Goal	Results	
MBE	5%	5.60%	
WBE	10%	13.80%	
VBE	2%	7.10%	

MGM Springfield workforce and supplier diversity goals and results (construction phase only) are as follows (construction diverse spend \$3.6 million as of June 30, 2016):

WYNN BOSTON HARBOR WORKFORCE/SUPPLIER DIVERSITY

AS OF AUGUST 31, 2016

WORKFORCE		CONSTRUCTION	
Demographic	Goal	Results	
Minority	15.3%	21.7%	
Women	6.9%	5.2%	
Veteran	3%	6.1%	

SUPPLIER DIVERSITY		CONSTRUCTION	
Demographic	Goal	Results	
MBE	5%	6.7%	
WBE	5.4%	5%	
VBE	1%	0.7%	

Wynn Boston Harbor workforce and supplier diversity goals and results (construction phase only) are as follows (construction diverse spending \$24.4 million as of August 31, 2016):

AGENCY HEADCOUNT & DIVERSITY

The chart below represents the recent and current headcount by department. The numbers below do not include state police assigned to the Commission, or FTE's in the Attorney General's Gaming Enforcement Division:

HEADCOUNT BY DEPARTMENT/DIVISION	HEADCOUNT FY14	HEADCOUNT FY15	HEADCOUNT FY16
Commissioners & Staff	7	8	8.5
Executive Director & Staff	2	2	3
Communications	2	2.5	2
Investigations & Enforcement	5	17	17
Licensing	5	6	6
General Counsel, Legal & Policy	9	13	11
Human Resources	2	3	2.5
Finance	4	5.5	5.5
Information Technology	3	5	5.5
Racing ¹	7	6	3
	46	68	64

¹Racing numbers do not include seasonal employees

REGULAR EMPLOYEES

The chart below depict the diversity and female/male ratios of the Commission as of the end of FY16:

DEMOGRAPHIC	FY15	FY16
Caucasian	76%	72%
Diverse	24%	28%
Female	50%	47%
Male	50%	53%



LITIGATION MATTERS

CITY OF BOSTON/REVERE/MOHEGAN SUN ET AL. V. MGC

On September 22, 2015, Judge Sanders, in the Suffolk Superior Court-Business Litigation session, heard oral argument on the MGC's motions to dismiss concerning the claims asserted by the City of Boston, City of Revere, Mohegan Sun, the International Brotherhood of Electrical Workers 103 ("IBEW"), and individual citizens. These claims (by the non-Boston entities) included allegations that the MGC failed to follow the gaming act, that the gaming act and certain of its regulations were unconstitutional, and that the MGC violated the open meeting law.

On December 3, 2015 the MGC's motion was granted and **all of Boston's claims were dismissed**. On that same date, the Court dismissed all of the claims of the IBEW, Revere, Mohegan Sun, and the individual citizen plaintiffs except for Mohegan's claim of a right to certiorari review. All of the parties except for Boston appealed to the single justice of the Appeals Court but were denied. The MGC then appealed to the full Appeals Court and also sought direct appellate review by the Supreme Judicial Court. The matter is now pending in the Supreme Judicial Court and Mohegan has filed an opposition to the appeal.

The other dismissed plaintiffs (aside from Boston) have appealed their respective dismissals to full Appeals Court.

CITY OF SOMERVILLE V. MGC (THE LICENSING CASE)

Somerville brought a complaint against the MGC and the individual commissioners challenging the decision granting Wynn a gaming license for various infractions, primarily the fact that the license was granted before MEPA review was completed and alleging that the license fails to account for the prospective environmental harm to Somerville as a surrounding community. The MGC filed a motion to dismiss the complaint in its entirety arguing that the plaintiffs lack standing, that the Gaming Act precludes judicial review, that Somerville cannot meet the requirements for certiorari review, and that its claims are time barred. Somerville opposed this motion and the

motion was scheduled for a hearing; however, **Somerville recently agreed to dismiss its claims**. A stipulation of dismissal with prejudice was entered on August 30, 2016.

CITY OF SOMERVILLE V. WYNN AND MGC (THE MEPA CASE)

Somerville filed a complaint challenging the decision by the Secretary of the Executive Office of Energy and Environmental Affairs to award MEPA approval to Wynn. Somerville alleges that the Secretary's decision to issue the SSFEIR certificate was arbitrary and capricious and lacked a rational basis. Similarly, Somerville alleges that the MGC's decision to issue section 61 findings are similarly faulty and thus the Court should set aside the SSFEIR and Section 61 findings and remand them for further MEPA review. Somerville additionally moves for declaratory judgment certifying that its claims are timely and that the Section 61 findings are arbitrary and capricious and should be vacated.

Somerville recently entered into a settlement agreement with Wynn and dismissed all of its claims in this matter with prejudice. The Court entered that stipulation on August 26, 2016.

OTHER MATTERS – THE LAND-IN-TRUST CHALLENGE TO THE TRIBE

LITTLEFIELD ET AL. V. UNITED STATES DEPT. OF THE INTERIOR ET AL. (D. MASS. 2016)

The MGC is not a party to this legal challenge, but as an interested observer and as directed by Statute, the MGC will continue to monitor the developments and status of the Mashpee Wampanoag Tribe ("Mashpee" or "Tribe") and their efforts to build a casino in Taunton.

In this matter the plaintiffs and defendants filed cross-motions for summary judgment on the plaintiff's first cause of action concerning the Tribe's eligibility as beneficiaries under the Indian Reorganization Act ("IRA") and the authority of the Secretary of the Department of

the Interior to take land into trust for their benefit. In finding for the plaintiffs, Judge Young interpreted the definition of "Indian" set forth in section 479 of the IRA. The definition states:

The term 'Indian' as used in this Act shall include [1] all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include [3] all other persons of one half or more Indian blood.

The Supreme Court decision of *Carcieri v. Salazar* previously held that the term "now under Federal jurisdiction" refers to those tribes that were under federal jurisdiction when the IRA was enacted in 1934. The Mashpee in this case were arguing that they qualified as Indian under the IRA pursuant to the second definition; however, such an argument necessarily turns on the interpretation of the term "such members." The plaintiffs argued that the term "such members" referred to the preceding use of "members" and thus the descendant of a recognized Indian tribe could only qualify as Indian for land in trust purposes if that tribe was under federal jurisdiction in 1934. The Mashpee were not federally recognized until 2007. The government, in turn, argued that the term "such members" was ambiguous.

Judge Young reviewed the definition and use of the word "such" in several other cases ultimately concluding that the Secretary erred in finding that the Mashpee fell within the second definition of "Indian" in the IRA. He explained that the Mashpee were not a tribe under federal jurisdiction in 1934 (taking them out of the first definition) and that the term "such members" from the second definition referred back to the use of members in the first definition. Given that recognition under the second definition requires descent from members of a tribe under Federal Jurisdiction in 1934 and the Mashpee were not recognized until nearly 70 years later, **Judge Young concluded that the Secretary lacked the authority to acquire land in trust for the Mashpee** and remanded the matter to the Secretary for further proceedings consistent with his opinion.

At this point, it is unclear whether the decision by Judge Young will result in a temporary setback for the Tribe, and/or whether their efforts to build a casino in Taunton will be delayed indefinitely.



101 Federal Street, 12th Floor, Boston, MA, 02110

TEL 617.979.8400

FAX 617.725.0258

www.massgaming.com

