



NOTICE OF HEARING/MEETING and AGENDA

May 16, 2013 Meeting

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, May 16, 2013

9:30 a.m.

Division of Insurance

1000 Washington Street

1st Floor, Meeting Room 1-E

Boston, Massachusetts

PUBLIC MEETING - #67

1. Call to order
2. Applicant Appeal (Hearing)
3. Approval of Minutes
 - a. May 3, 2013
4. Administration – Rick Day, Executive Director
 - a. General Administrative Update
 - b. Public Comment
 - c. Evaluation Process and Category 2 Schedule
 - i. Evaluation Matrix – VOTE
 - ii. Evaluation Team
5. Ombudsman Report – John Ziembra
 - a. Phase 2 Category 1 Application Deadline Comments
 - b. Region C Application Process
6. Investigations and Enforcement Report – Karen Wells, Director
 - a. Confidential Information Procedure
7. Legal Report – Catherine Blue and Todd Grossman
 - a. Review Revised Phase 2 Regulations – VOTE
 - i. Small Business Impact Statement - VOTE
 - b. Steps to Licensing
8. Racing - Jennifer Durenberger, Director
 - a. Administrative Update
 - b. Massachusetts Standardbred Breeding Program and Sire Stakes



Massachusetts Gaming Commission

9. Research Project Presentation – Rachel Volberg

10. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as “Gaming Commission Meeting” at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us, brian.gosselin@state.ma.us.

5/14/13
(date)


Stephen P. Crosby, Chairman

Date Posted to Website: May 14, 2013 at 9:30 a.m.



Massachusetts Gaming Commission



Meeting Minutes

Date: May 3, 2013

Time: 9:00 a.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-E
Boston, Massachusetts

Bristol Community College
777 Elsbree Street, Building G
Fall River, Massachusetts

Marlborough Courtyard Marriott
75 Felton Street
Marlborough, Massachusetts

Present: Commissioner Stephen P. Crosby, Chairman
Commissioner Gayle Cameron
Commissioner James F. McHugh (via teleconference from Fall River)
Commissioner Bruce Stebbins (via teleconference from Marlborough)
Commissioner Enrique Zuniga

Absent: None.

Call to Order:

Chairman Crosby opened the 66th public meeting.

Public Hearing on the Proposed Phase 2 Regulations:

See transcript pages 2-23. All times noted in the margin track to the time on the video version of the meeting.

9:12 a.m. Chairman Crosby announced that the public meeting is being held simultaneously in three locations, and all three locations are being broadcast live on the Commission's website. Commissioner McHugh is participating in the meeting via teleconference from Fall River, Commissioner Stebbins from Marlborough, and the remainder of the Commissioners from Boston. All votes taken during the meeting will be taken by roll call vote.

The Commission will receive oral public comments during the hearing from those interested and will review and discuss all the written comments already received at a future public meeting.

9:14 a.m. Attorney Kevin Conroy from Foley Hoag representing Mohegan Sun addressed the Commission. His client anticipates working with the Regional Planning Agencies and supports the Commission's proposal to move the RFA-2 application deadline for a Category 1 license to early December. Mohegan plans on signing a host community agreement in June and holding the referendum in September. Attorney Conroy stressed the importance of the Commission formally setting a firm application deadline to assist applicants in scheduling.

Attorney Conroy expressed concerns with the Commission's proposed language in 205 CMR 118 as it discourages applicants from submitting their best and final offers if they know that the Commission will ask for a better offer. He stated that the legislature considered placing a "best and final offer" provision in the statute but chose not to do so. He was also concerned about the transparency of the process and potential for favoritism occurring if meetings with applicants occur behind closed doors.

Attorney Conroy believes that the Commission's specimen forms for the RFA-1 application were very helpful and he would like to see a similar process to maintain confidentiality for the RFA-2 applications. His client was concerned that the Commission is not providing any guidance on which supplemental materials requested during investigations will remain confidential. He would like the Commission to provide blanket confidentiality, as it did with the specimen forms, for broad categories of materials requested during the investigations.

9:26 a.m. Ms. Catherine Rollins, a legislative analyst for economic development with the Massachusetts Municipal Association, addressed the Commission. She believes that host and surrounding communities have experience in dealing with large construction projects such as the proposed gaming establishments and the Commission should give serious weight to the comments received from these communities.

Ms. Rollins also expressed that the Commission will not be able to accurately quantify the positive impacts of the proposals and should not try to precisely weigh these benefits against the negative consequences of the project.

9:32 a.m. Mr. Sean Sullivan, a resident of Charleston, Massachusetts, addressed the Commission. He asked the Commission to more favorably consider gaming establishments located on State land because those establishments will bring the maximum amount of revenue to the Commonwealth.

9:33 a.m. No other individuals were present to comment. Chairman Crosby temporarily suspended the hearing on the proposed Phase 2 regulations until 10:00 a.m.

Approval of Minutes:

See transcript pages 23-30.

9:34 a.m. The Commission began its regular public meeting. Commissioner McHugh advised the Commission that the minutes being approved are in a new format prepared by the legal department. As clarification to the April 11 minutes, Chairman Crosby stated that the Commission has not yet decided to receive public comment on the IEB determination regarding qualification.

Motion made by Commissioner McHugh that the minutes of April 11, 2013 be approved as submitted. Motion seconded by Commissioner Stebbins. The motion passed unanimously.

Motion made by Commissioner McHugh that the minutes of April 18, 2013 be approved as submitted. Motion seconded by Commissioner Cameron. The motion passed unanimously.

Motion made by Commissioner McHugh that the minutes of April 25, 2013 be approved as submitted. Motion seconded by Commissioner Cameron. The motion passed unanimously.

Administration:

Report by Executive Director Day. See transcript pages 30-60.

9:42 a.m. The Commission is scheduled to discuss at its next meeting on May 16 the timetable for Region C and the RFA-2 evaluation process. Director Day addressed the Comment by Attorney Conroy and pointed out that the Commission is in favor of protecting the applicant's confidential information to the fullest extent possible by law, but cannot offer a guarantee of confidentiality because the final decision is beyond the Commission's control.

The hiring processes for the Director of Licensing, CFAO, and CIO are moving forward, and the Commission is now reviewing the finalists for the Director of Workforce and Supplier Development and Director of Research and Problem Gambling positions.

9:56 a.m. The Master Schedule has been updated to reflect the timeline changes for the application deadline and the surrounding community process, but still needs to incorporate the referendum dates as triggers to the surrounding community process. The Commission is interested in receiving comments on whether applicants and communities can meet a November 1 deadline for Category 1 RFA-2 applications. Commissioner McHugh emphasized that he would like applicants and communities to provide specific details about why they would or would not be able to meet this deadline so that the Commission can more properly adjust the timeline.

10:11 a.m. Commissioner Zuniga is currently working on the FY 2014 budget, but briefly summarized the Commission's financial position. The Commission is assessing applicants for the investigations costs and will assess licensees for the research agenda, but until the Commission awards a license, the research agenda needs financing from the legislature's original \$15 million loan.

Public Hearing on the Proposed Phase 2 Regulations:

See transcript pages 60-61.

10:17 a.m. The Commission suspended the regular public meeting and resumed its public hearing on the Phase 2 regulations. There being no further comments, the hearing was closed.

Evaluation Process:

See transcript pages 62-118.

10:18 a.m. The Commission resumed its regular public meeting. Commissioners McHugh, Stebbins, and Zuniga have been researching the different ways other organizations conduct evaluations of large scale proposals. Executive Director Day and Commissioner McHugh will provide a more formal analysis at the next Commission meeting.

10:19 a.m. The Commission took a brief recess.

10:26 a.m. Commissioners McHugh and Stebbins presented the information they compiled from reviewing how other organizations handle evaluation of large scale proposals. The evaluation process has four major elements: the content of the proposal, the review process, the composition of the review team, and the format of the award. They described each of these elements in detail.

The Commissioners will look into meeting with the Inspector General to determine if there are any other considerations for the application process. The Commission will also consider asking the public at large in a systematic process for their opinions on which proposal is best. The Commission should also address the timing of the award because the issuance of the license will trigger revenue streams to the Commission.

11:18 a.m. The RFP for a financial advisor is almost ready and the Commission is close to completing the RFP for site development advisors. The Commission authorized Executive Director Day to issue the RFP as soon as it is complete for these two positions. The Commission will discuss a timeline for the remainder of the consultants at the next meeting.

11:26 a.m. The Commission discussed whether a comparative system of evaluation or a numerically weighted system should be used, but reached no final decision.

Ombudsman Report

Report by Ombudsman Ziembra from Marlborough. See transcript pages 118-137.

11:42 a.m. All of the applicants are willing to consider the RPA process and several have already agreed to participate. The Commission should make clear to surrounding communities that only the applicant and host community will be doing independent studies. The surrounding communities and RPAs should only need to perform peer reviews of the initial studies. There is a fairly strong presumption for peer review, and the Commission will decide whether any surrounding community needs additional funds to perform an independent study.

12:05 p.m. The Commission took a brief recess.

Legal Report:

Report by Attorney Grossman from Fall River and General Counsel Blue from Boston. See transcript pages 137-149.

12:15 p.m. Attorney Grossman discussed the legal implications of placing a cap on an applicant's expenditures advocating for a positive vote in the host community. To place a cap, the Commission would need to show a compelling interest in preventing an applicant from drowning out the views of the public and undermining the democratic process. The case law suggests that such a cap could violate existing law. The Commission agreed with Attorney Grossman's analysis.

12:28 p.m. General Counsel Blue asked that the Commission appoint David Murray as a hearing officer with the Racing Division for a one year term.

Motion made by Commissioner Zuniga to accept the recommendation and appoint Mr. Murray as a hearing officer. Motion seconded by Commissioner Cameron. The motion passed unanimously.

Racing Division:

Report by Director Durenberger. See transcript pages 149-158.

12:31 p.m. The Racing Division has no major updates to report on. The Commission has received the 2011 Annual Report from the former Racing Commission. Director Durenberger asks that the Commission approve the filing of the 2011 Annual Report with the condition that the Commission take no position on the preparation or content of the 2011 Annual Report since the Commission was not sitting and had no involvement with its preparation. Raynham Park requested that the Commission approve its list of fifteen special events for which it is not required to pay premiums, and Director Durenberger agreed.

Motion made by Commissioner Cameron to accept the 2011 Annual Report for filing without taking any position or making any judgment on its contents. Motion seconded by Commissioner Zuniga. The motion passed unanimously.

Motion made by Commissioner Cameron to accept Director Durenberger's recommendation to approve the fifteen special events for which Raynham Park is not required to pay premiums. Motion seconded by Commissioner Zuniga. The motion passed unanimously.

Research Agenda:

See transcript pages 158-180.

12:39 p.m. The Commission is currently in the process of consummating an agreement with the research team. The research team will present at the next Commission meeting the current status of their study. Chairman Crosby recapped the discussions of the prior Commission meeting.

12:44 p.m. Due to the characteristics of the research, costs will need to be front-loaded to properly conduct the baseline study prior to the construction of gaming establishments. The research agenda will be funded out of the Commission's \$15 million loan until a license is awarded, at which point the Public Health Trust Fund will have the requisite capital for research. The Commission decided to expend additional money on the research in order to provide small incentives to encourage responses. These incentives should increase the response rate from 10% to 25% and dramatically improve the confidence of the analysis. The projected fifteen month budget is \$3,459,391.

The Commission wanted to preserve its rights to postpone the research if the expenditures are anticipated to interfere with the Commission's ability to properly conduct the licensing process.

Motion made by Commissioner Zuniga to approve the fifteen month research budget of \$3,459,391 subject to the Commission's ability to finance the project and giving the Commission an option to suspend the project if necessary. Motion seconded by Commissioner McHugh. The motion passed unanimously.

1:08 p.m. *Motion made to adjourn, motion seconded and carried unanimously.*

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission May 3, 2013 Notice of Meeting and Agenda
2. Written Responses Regarding Phase 2 Regulations
3. Massachusetts Gaming Commission April 11, 2013 Meeting Minutes
4. Massachusetts Gaming Commission April 18, 2013 Meeting Minutes
5. Massachusetts Gaming Commission April 25, 2013 Meeting Minutes
6. Division of Racing May 3, 2013 Memorandum Regarding Annual Report – State Racing Commission 2011
7. Division of Racing May 3, 2013 Memorandum Regarding Approval of 2013 “Special Events” to be simulcast at Raynham Park

/s/ Catherine Blue
Catherine Blue
Assistant Secretary

Massachusetts Gaming Commission

MEMORANDUM

Date: July 18, 2012

To: Commissioners

Cc: Janice Reilly

From: Bruce Stebbins

Re: Meeting/Speaking Request Policy and New Public Speak-Out

The Commission will continue to receive a wide variety of requests for meetings and invitations to speak before various groups and audiences across the Commonwealth. We acknowledge that some of those requests will come from community organizations and governmental bodies within a potential host community or surrounding community. Additionally, we wish to respond to invitations from community groups, service clubs and professional organizations who seek to learn more about the Commission and our process to bring responsible gaming to Massachusetts.

In addition, as we begin our regulatory process we will wish to invite opportunities for public comment. We should also create an opportunity for interested citizens to use a periodic "speak out" session to voice their concerns and bring to our attention key issues directly relevant to our work. I thought it would be helpful to categorize these requests and suggest some useful criteria to direct how we handle these requests. Below are the four public speaking and participation opportunity categories:

Potential Host or Surrounding Community Organization Request

This category of meeting would include requests or invitations coming from any public body or community-based organizations formed to support or oppose a gaming applicant from a potential host or surrounding community. Any group in this category that wishes to meet with the Commission to discuss regulations, their activities, and/or seek direction or answers to questions related to the Expanded Gaming legislation must state their meeting interests in a detailed letter of invitation. The commission may then decide whether such a meeting is appropriate due to the nature of the request and the current status of the gaming license process.

Community or Service Organization Request

An example would be an invitation from a community, civic or service organization such as Kiwanis and Rotary Clubs, chambers of commerce, professional associations, etc that simply express an interest in hearing from a member of the commission or senior staff about the work of the commission, the status of the licensing process or other current topics. Such a request would be directed to the MGC's Director of Communications and our Speakers Bureau for further action (See Attached Speakers' Bureau memo). The commission may also proactively seek out invitations from these organizations depending on the commission's travel schedule.

MGC Public Speak-Out Session

The MGC will allow an opportunity for citizens and residents to address the commission during a regular business meeting. Thirty minutes would be set aside each month prior to the start of one of the commission's regularly scheduled business meetings.

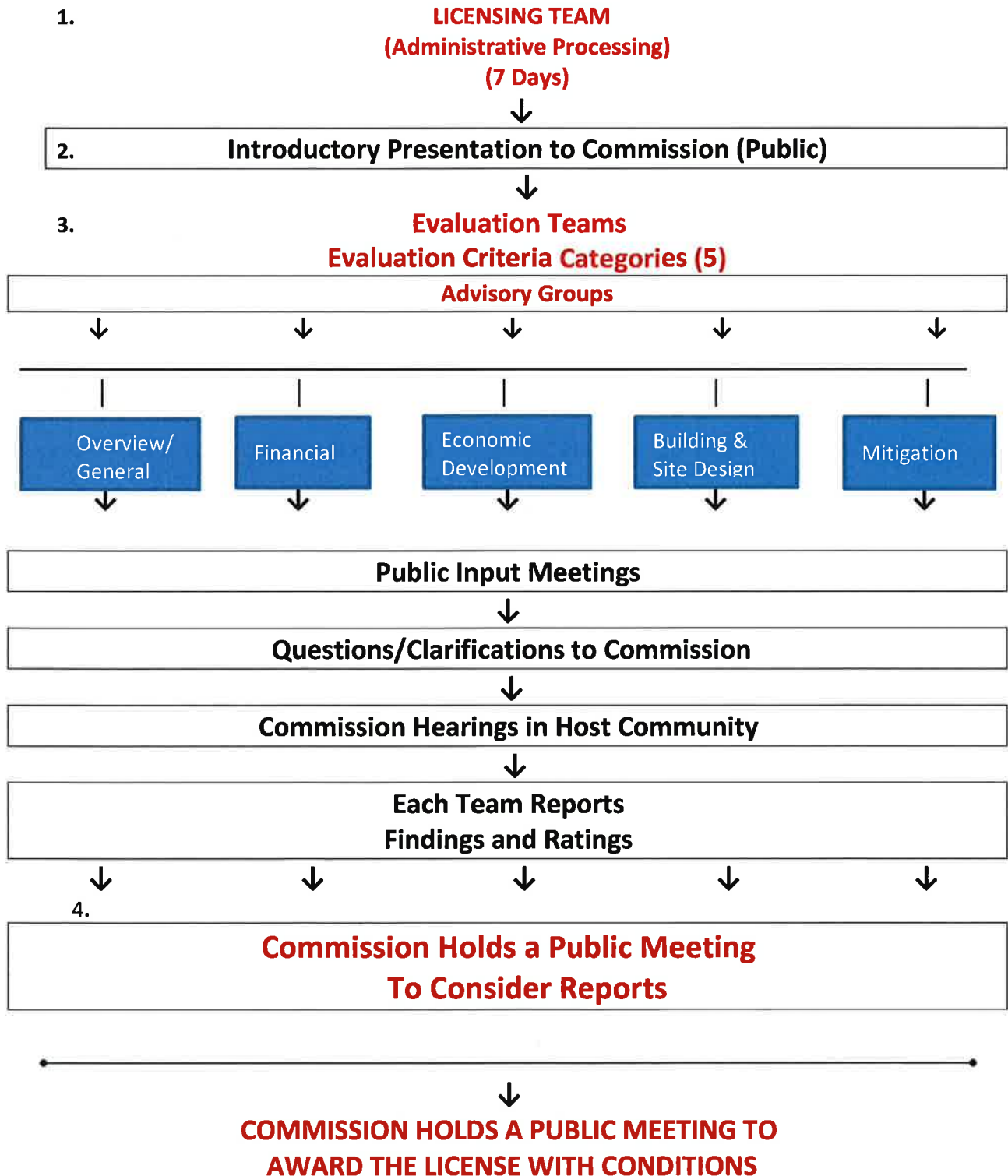
Interested citizens would need to sign-up with the MGC office by Close of Business the day before the meeting. Speakers are called by the chairman to speak in the order of when they registered. Each speaker would be limited to three minutes each though the chair has the authority to limit the amount of time in order to accommodate all those who registered. A resident may also submit comments at that time in written form. Comments may only be directed to the commission and not include a discussion about other commission officials.

MGC Weekly Meeting Expert Presentations

During the MGCs regular weekly business meetings, the MGC may elect to hear from officials, academics and experts in a variety of topics that could potentially impact the work of the Commission. These individuals will be selected by the Commission only.

H.c

Evaluation Plan
Category 2 License Applications



1. Licensing Team- Lead by the Director of Licensing staff is responsible for the receipt of the application packets. The team will review the applications to ensure they are complete. The team will follow-up with applicants if information is missing and provide a maximum date to answer the required question and/or submit the additional information. The application material will be divided by category and forwarded to the appropriate review team. Incomplete sections will be added as received.

Time- Estimating approximately 7 days from receipt

Policy question-

What action would the Commission take concerning applicants who fail to provide requested information or applications that are materially incomplete?

2. Introductory presentation- Each applicant will be invited to a public hearing and allowed an hour to make an overview presentation to the Commission. The concept is to provide the Commission and the Evaluation Teams a common foundation concerning each applicants proposal.

Time- Estimating completion by the 14th day from receipt. After the applications have been given to the teams, the applicant presentations will take place between the 7th and 14th day.

3. Evaluation Teams- There will be five (5) teams chaired by members of the Commission. The teams will each be responsible for an evaluation category 1) Overview/General; 2)Financial; 3)Economic Development; 4)Building and Site Design and, 5) Mitigation. The teams will consist of no more than 5 members. The number of team members may differ dependent on the amount and complexity of the information in the category. The teams' responsibility will be to compare and rate the application material. The concept is to use a rating scale similar to good-better-best with a general description provided for each rating. The team is responsible to include a comment supporting each rating.

The team's task prior to reporting ratings will be to provide possible questions or identify additional topics that the Commissioners may raise at the applicants' public hearing. The teams will consider public input meetings and the host community hearings when reaching final ratings.

The teams will develop and submit reports consisting of findings and comparative ratings to the Commission.

Time- Estimating completion within 55 days from application

Policy Questions -

Should teams include a Commissioner as chair, staff, those with specific expertise and appropriate consultants with needed additional expertise?

A project coordinator would be responsible to help with selection of advisors, participate with the teams, and facilitate the process. The project manager will report to the Executive Director and may have a role in monitoring the applicant's progress after award.

4. The Commission will hold a public hearing to consider the evaluation team reports. The Commission will then hold a final hearing to award the license.

Time- Estimating completion of the process by 70 days from receipt of applications.

Policy Questions –

What kind of product does the Commission prefer to support its task of selecting an application for award of a license? The proposed process produces findings and ratings from the 5 evaluation teams that are submitted directly to the Commission.

4.c

EVALUATION PROCESS – SLOTS PARLOR

ACTION	DAY	DAY	APP	STAFF	EXPERTS	MGC	OTHE R	OML MEETING	PUB. HRNG.	ADJ. HRNG	CHAPTER 23K REQUIREMENT
PRE-HEARING STAGE											
RFA-2 Application Submitted			X								8,9, 10, 11
MGC gives notice of public hearing & format to app, host and surrounding communities	1	1				X					Must be 30 days before hearing 205 CMR 118.05(3)
Completeness Determination	7	7		X							13(b)
Supplementation of application to remedy non-material deficiencies			X	X							
Referral to Teams for Evaluation	7	7		X	X						
Introductory Presentation to Commission	14	14	X	X		X		X			
Identification of Surrounding Communities		20	X	X	X	X	SC	X			17(a)
Identification of Impacted Live Entertainment Venues		20	X	X	X	X	LEV	X			17(b)
Involuntary agreement process		80	X				SC, ARB				
Public input meetings	21-28	21-28	X	X		X					
HEARING STAGE											
Public Hearing in Host Community¹		35	X	X	X	X	Host, SC, LEV		X		17(c)
WITH EXPLORATION OF TEAM QUESTIONS		40				X					
Close public hearing		55									
SELECTION STAGE											
Preparation and assembly of team recommendations ²		105		X	X						
Preparation of Statement of Proposed Findings	55	105		X	X						18
Final Deliberations	60	110		X	X	X		X			18
Award of license with conditions ³	70	120		X	X	X		X			17(e), 18, 21

¹ Initial versions of this chart had periods for meetings between the applicant and the Commission and the applicant and staff to refine and revise proposals. While there will be interaction between the staff and the applicant after the application is filed, no negotiations will be a part of those meetings nor will material proposal revisions be considered.

² Initial versions of this chart contained additional steps before preparation of final recommendations. Those steps supported a process in which two finalists would be selected and they would proceed to a "best and final offer" process. The process described in this version does not anticipate use of a best and final offer process though provision for that process remains in the regulations.

³ Subject to compliance with MEPA regulations. See 301 CMR §§ 11.12(4)(a), 11.15(2).

EVALUATION PROCESS – SLOTS PARLOR

Issue Denial Decisions for Unsuccessful Applicant	70	120		X			X													17(f)
Unsuccessful Applicant Requests Statement of Reasons			X																	17(f)
Commission Provides Statement of Reasons				X			X										X			17(f)

H.C.I

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		Minimum requirements under G.L. c. 23K, § 9, 15 Factors Commission must consider under G.L. c. 23K, § 18 Factors: Commission originated	Source
Criteria Grouped by Topic		Required Information	
I OVERVIEW			
Since it began operations more than a year ago and throughout its nearly sixty public meetings and eight public educational sessions, the members of the Massachusetts Gaming Commission have tried to articulate a vision, rooted in the expanded gaming legislation, of how we would like to see expanded gaming conceived of and operated in the Commonwealth. The backbone of that vision will be found in considerable detail in the four following sections of the application: Finance, Economic Development, Design, and Mitigation. In addition to this basic structure's, we have tried to articulate our aspirations for something more – something unique, something special, something innovative – in the architecture of the gaming industry in Massachusetts. In this first part of the application, we would like you to respond in detail to the following broad, thematic questions that, in combination, embrace that architecture:			
	How does the project you propose manifest an appreciation for and collaboration with the existing Massachusetts "brand," i.e., our intellectual/knowledge economy, our biomedical, life sciences, educational and financial services economic driver, and our long history of innovation and economic regeneration over the 400 years of our existence?		
	How does the project you propose embrace the Legislature's mandate to present "destination resort casinos" rather than "commercial casinos"?		
	How do you propose to merge a "destination resort casino" with an outward looking physical structure and business strategy that leverages our existing assets, and enhances and coordinates with our existing tourism and other leisure venues?		
	Describe the competitive environment in which you anticipate operating over the next 10 years and how you plan to succeed in that environment without taking revenues away from other Massachusetts gaming establishments, race tracks or businesses.		MGC
	How do you propose to work with affiliated attractions and amenities to broaden the market base of the gaming facility and to meet unmet needs in our array of entertainment, education and leisure resources?		
	How do you intend to market aggressively outside Massachusetts and internationally, perhaps in cooperation with our existing industries and organizations such as MassPort and MOTT, and certainly in collaboration with our existing institutional drivers of economic and international development?		MOTT
	Describe your commitment to a diverse workforce and supplier base, and an inclusive approach to marketing, operations and training practices that will take advantage of the broad range of skills and experiences represented in our Commonwealth's evolving demographic profile.		
	What is your overall perspective and strategy for broadening the appeal of each region of our Commonwealth to travelers inside and outside of Massachusetts?		
	Describe any post-licensing actions by the Commission or the Commonwealth of Massachusetts that you believe will be essential for the success of the project you are proposing.		

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		Minimum requirements under G.L. c. 23K, § 9, 15 Factors Commission must consider under G.L. c. 23K, § 18 Factors Commission originated	Source
Update Date: May 7, 2013		Required information	
II FINANCIAL			
PREREQUISITES			
(4)	(11) Pay license deposit		
(5)	Demonstrate ability to pay license fee		
(2)	Invest not less than required capital into the gaming establishment		
(3)	Own land within 60 days of license issuance		
EVALUATION CRITERIA			
Financial & Capital Structure			
		Provide applicant's audited financial statements for each of the last five years, including , but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past 5 years. If applicant is comprised of more than one legal entity, provide financial statements for each. Do not include financial statements for individual partners, officers or shareholders.	
		Provide unaudited financial statements and all SEC filings for the current fiscal year through the end of the most recent quarter prior to filing.	
		Describe financing structure and plan including all sources of capital. Include current capital commitments as well as plan and timing for meeting future capital needs.	
		Provide a detailed budget of the total project cost. Identify separately construction costs (labor, materials), design costs, consulting fees and all other development costs. Also identify all other pre-opening costs including training, marketing and initial working capital.	
		Describe the attributes and resources that will allow the project to succeed in the event of a significant economic downturn during the initial license term.	
		9(9)& (10) Provide a timeline of construction of the facility that includes detailed stages of construction for the gaming establishment, non-gaming structures and any racecourse, where applicable, and provide the number of construction hours estimated to complete the work.	
		Provide an enterprise pro-forma with a summary budget and cash-flow. Identify sources and uses of cash on a quarterly basis during the construction period and annually for five years (Category II facility) or 15 years (Category I facility) after opening. Discount cash flows at 4% and estimate the project's internal rate of return.	
		Describe all existing credit arrangements and financial commitments including the identity of each lender and the terms or conditions under which loan proceeds can be obtained.	
		Provide a description of any contract, loan agreement or commitment that the applicant has breached or defaulted on during the last 10 years and provide information for any lawsuit, administrative proceeding or other proceeding that occurred as a result of the breach or default.	
		Provide a description of any administrative or judicial proceeding during the last 10 years in which the applicant or any entity that owns a 5% or greater share of the applicant was found to have violated a statute or regulation governing its operations.	
		List any entities owned or controlled by the applicant and any entity that owns a 5% or greater share of the applicant that have filed for bankruptcy in the last 10 years.	
		Describe the racial, gender and ethnic diversity in the composition of the individual and corporate sources of financing for the project.	
	(11) Maximize revenues to the Commonwealth		
		9(13) Provide completed studies and reports showing (v) the estimated municipal and state tax revenue to be generated by the gaming establishment. Provide projections for gross gaming revenue each year for the first five years of casino operations on a best, average and worst case basis.	DI

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission		Source
Draft Evaluation Criteria		
Update Date: May 7, 2013		
Criteria Grouped by Topic		
	Minimum requirements under G.L. c. 23K, § 9, 15	
	Factors Commission must consider under G.L. c. 23K, § 18	
	Factors Commission originated	
	Required information	
	Provide projections for gross non-gaming revenue generated by elements of the casino complex each year for the first five years of operations on a best, average and worst case basis, identifying the source of each element of the non-gaming revenue.	
	Provide projections for tax revenue to the Commonwealth each year for the first five years of operations on a best, average and worst case basis, identifying the source of each element of the tax revenue.	
	9(7) Provide a full description of the proposed internal controls and security systems for the proposed gaming establishment and any related facilities, including internal audits, count room supervision and processes and other internal controls.	
	The Commission will likely utilize a central, computerized accounting and auditing system to assure the integrity, security, honesty, accountability and fairness in the operation and administration of games played at the facility. Describe the measures that the applicant will take to facilitate installation and maintenance of any hardware and software necessary for the system's operation and the applicant's experience with similar systems at all other locations the applicant owns, controls or operates.	
	If the applicant or any entity that owns a 5% or greater share of the applicant has an investment in a gaming facility within 300 miles of the applicant's proposed location within the Commonwealth, describe the plans and methods the applicant intends to use to ensure that revenues are maximized at the Massachusetts facility even if maximizing revenues in Massachusetts requires or leads to reduction of revenues at the out of state facility.	
	If the applicant or any entity that owns a 5% or greater share of the applicant has an investment in a gaming facility beyond 300 miles from the applicant's proposed location within the Commonwealth, describe any plans the applicant has to use those facilities or customers who patronize those to enhance revenues at the applicant's Massachusetts facility.	
	Provide a history of meeting revenue projections over the last ten years with respect to each facility of a size comparable to or larger than the facility you are proposing for Massachusetts.	
	(7) Provide a market analysis showing benefits of the site location and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments.	
	Provide documentation that outlines applicant's record of success in meeting these objectives at other operational sites.	
	(3) Realize maximum capital investment exclusive of land and infrastructure	
	18(ii) Show the total investment in the gaming facility and infrastructure within the property boundaries.	
	18(iii) Show the total investment in the infrastructure outside the property boundaries.	
	Describe all financial commitments and guarantees the applicant is prepared to provide to the Commission and to the host community over and above the deposit or bond required by G.L. c. 23K, § 10(a) to ensure that the project is completed, license conditions are fulfilled and sufficient working capital is available to allow operation in the promised fashion. Include examples of letters of credit, MOUs or other agreements or commitments the applicant is willing to provide.	
	Provide a construction plan and schedule that includes major construction milestones, key dates, and measures the applicant will take to reduce the impact of construction on the local community.	
	(13) Offer highest and best value to create a secure and robust gaming market	
	Provide business plan describing how applicant will meet projected revenue generation plans in the near term and over time.	MGC
	Describe the applicant's strategy for ensuring maximum use of the facilities throughout the calendar year including how that strategy will take account of the seasonal nature of tourism in the Northeast.	
	Describe the applicant's plans for maintaining a robust gaming market at its facility if, and as, internet gaming becomes more widespread.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		
Update Date: May 7, 2013		
Criteria Grouped by Topic	Required Information	Source
	Minimum requirements under G.L.c. 23K, § 9, 15	
	Factors Commission must consider under G.L.c. 23K, § 18	
	Factors Commission originated	
	Describe the applicant's marketing plan for its Massachusetts facility. If that marketing plan is the same as, or similar to, marketing plans the applicant has used elsewhere, describe how those plans succeeded or failed, including whether the applicant met its financial projections for the facilities where the plans were used. If the marketing plan for a Massachusetts facility differs from the marketing plans used elsewhere, describe the factors that led the applicant to devise its Massachusetts plan.	
	18(iii) Provide a completed study showing the overall economic benefit to the Commonwealth and the region from the applicant's proposed facility, including in that study the way in which the facility will generate new revenues as opposed to taking revenues from other Massachusetts businesses.	MGC
	Describe the components of the applicant's marketing plan that focus on out of state visitors and the anticipated gaming and non-gaming gross revenues the applicant anticipates from out of state visitors during each of the first five years of the facility's operations on a best, average and worst case scenario.	
	Describe the components of the applicant's marketing plan that focus on in-state visitors and the anticipated gaming and non-gaming gross revenues the applicant anticipates from in-state visitors during each of the first five years of the facility's operations on a best, average and worst case scenario.	DI
	Describe the measures the applicant or any entity owning a 5% or greater share of the applicant has taken to ensure a secure and robust gaming market at each other gaming facility it owns or controls.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria Update Date: May 7, 2013		Required Information	Source
Criteria Grouped by Topic			
III ECONOMIC DEVELOPMENT			
GENERAL			
JOB CREATION			
(4) Implement workforce development plan that utilizes and enhances existing labor force	<p>Minimum requirements under G.L.c. 23K, § 9, 15</p> <p>Factors Commission must consider under G.L.c. 23K, § 18</p> <p>Factors Commission originated</p>	<p>9(13) Provide completed studies and reports showing the proposed gaming establishment's: (i) economic benefits to the region and the commonwealth; (ii) impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host community and surrounding communities</p>	DI
		<p>9(12) State the number of employees to be employed at the proposed gaming establishment, including detailed information on the pay rate and benefits for employees;</p> <p>Describe any plans the applicant has for working with the Massachusetts Community College Workforce Training Institute or other training organizations as the applicant trains and hires the staff for its facility.</p>	DI
		<p>Provide strategy as to how applicant will focus on job opportunities and training in areas and demographics of high unemployment and underemployment</p> <p>Describe the applicant's approach to and experience with hiring in areas and demographics of high unemployment and underemployment in other jurisdictions where the applicant has done business in the last 10 years.</p>	DI
		<p>(6) Demonstrate plan for workforce development as set forth in memoranda of understanding</p> <p>(16) Describe the applicant's affirmative action plan for its Massachusetts facility.</p>	DI
		<p>Describe how the applicant's workforce development plan 17 (i) utilizes the existing labor force in the commonwealth; 17(iv) identifies the establishment's workforce training programs; 17(v) identifies the methods for accessing employment; (9) (i) establishes transparent career paths; (9) (ii) provides a means for employee training and education necessary for advancement; (9) (iii) provides on-site day care; and 17(i) incorporates an affirmative action program that includes people with disabilities.</p>	DI
		<p>(9) Establish, fund and maintain HR practices that promote development of skilled and diverse workforce.</p> <p>(18) State whether the applicant has a contract with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies: (i) the number of employees to be employed at the gaming establishment, including detailed information on the pay rate and benefits for employees and contractors; (; and (iv) whether the applicant has included detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming establishment.</p>	
		<p>(iv) Show plans for ensuring labor harmony during the construction and operational phases of the project.</p> <p>17(iii) Estimate the number of construction jobs and provide equal employment opportunities for them.</p> <p>Provide documentation that outlines applicant's employee retention record at other operational sites.</p>	
		<p>Provide documentation that describes the ethnic diversity of the applicant's workforce at other locations, the plans for workforce diversity the applicant has used at those facilities, the results of those plans and, unless they are self explanatory, the metrics the applicant has used to determine those results.</p>	
SUPPORTING EXTERNAL BUSINESS AND JOB GROWTH			
		Supplier development & relations	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		Source
Update Date: May 7, 2013		
Criteria Grouped by Topic		
	Minimum requirements under G.L. c. 23K, § 9, 15	
	Factors Commission must consider under G.L. c. 23K, § 18	
	Factors Commission originated	
	Required Information	
	(2) Describe plans for promoting local businesses in host and surrounding communities	DI
	Describe plans for use of Massachusetts based firms, suppliers and materials in the construction phase of the applicant's project.	DI
	(10) Describe plans for contracting with local business owners for provision of goods and services.	DI
	Develop and provide plans to assist business owners ID needed goods and services.	
	Provide plans to demonstrate how applicant will promote regional businesses.	
	Provide plans detailing outside spending budget for vendor supplied goods and services and breakdowns by category of expenditures.	
	(16) Implement marketing program that IDs specific goals for utilization of (i) minority, women and veteran businesses as design contractors; (ii) minority, women and veteran businesses as building contractors; and (iii) minority, women and veteran businesses enterprises to participate as vendors for goods and services.	DI
	Provide projections for increases in gross revenues for regional businesses as a result of casino operations each year for the first five years of operations on a best, average and worst case basis, identifying and describing the methodology used to produce the projections and describe the assumptions on which each projection is based.	DI
	(15) Formulate marketing program with percentage of total dollar amount of overall contracts for utilization of: (i) mbe, wbe, vbe as contractors in the design of the gaming establishment; (ii) mbe, wbe, vbe as contractors in the construction of the gaming establishment; (iii) mbe, wbe, vbe as vendors for goods and services to gaming establishments and any businesses operated as part of the gaming establishments.	
	(15) Describe any plans the applicant has for purchasing domestic slot machines	
	9(14) Provide the names of all proposed vendors of gaming equipment.	
	Provide reports and analysis documenting projections for Third-party revenue impacts.	DI
	REGIONAL TOURISM AND ATTRACTIONS	
	(5) Build a gaming establishment of high caliber with quality amenities in partnership with local facilities	
	Provide Local agreements designed to expand casino draw.	
	Provide plans that demonstrate how applicant will cross-market with other attractions.	
	Provide plans that detail collaboration with tourism and other related industries	
	Provide plans for International marketing efforts.	
	Provide plans for planned attractions and amenities beyond hotel, casino, restaurants and in-house entertainment to draw customers.	MGC
	Provide additional plans that demonstrate unique business & marketing strategies to draw new revenues from new customers.	
	Provide documentation demonstrating inclusion and coordination with regional economic plans.	
	Provide documentation of community support and agreement relationships with local organizations.	
	Provide plans outlining community enhancements not covered by Section III.	
	Provide documentation that outlines applicant's record of success in meeting these objectives at other operational sites.	
	Provide the applicant's plans for collaboration with Massachusetts tourism and related industries.	DI
	Provide details of the applicants plans for using entertainers and entertainment, including athletic events, to attract patrons to the applicant's facility.	DI

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria Update Date: May 7, 2013		Minimum requirements under G.L.c. 23K, § 9, 15 Factors Commission must consider under G.L.c. 23K, § 18 Factors Commission originated	Required Information	Source
Criteria Grouped by Topic				
IV BUILDING & SITE DESIGN				
PREREQUISITES				
	(12) comply with state & local building codes & local ordinances & bylaws, including sections 61 to 62H, inclusive, of chapter 30;			
EVALUATION CRITERIA				
	Demonstrate creativity in design and overall concept excellence			
			Describe the overall theme and concept underlying the proposed design of the facility, including how that theme and concept promote attraction of visitors to the facility and interaction by those visitors with the facility's immediate and regional surroundings. Describe the relationship, if any, between the proposed facility and the architecture, history and culture of its immediate and regional surroundings.	
			9(9) Provide the names and addresses of the architects, engineers and designers of the gaming facility.	
			Provide a color rendering of the casino and all structures located on the casino site.	
			Provide a schematic design as defined/understood by AIA along with each structure within the boundaries of the site showing at least the total and usable floor area, interior and exterior themes and finished, building elevations and perspectives.	
			Provide a site plan showing the proposed landscaping and other site improvements.	
			Describe the number, location and accessibility of parking spaces for employees, patrons and buses.	
			Describe the plans for tour bus, taxi and valet drop-off and for service vehicle parking, satellite parking and other related transportation infrastructure.	
	(5) Build a gaming establishment of high caliber with quality amenities in partnership with local facilities		Describe the proposed casino, including the square feet of gaming area, the number and types of table games and slot machines it will contain, the number of gaming positions as defined in G.L.c. 23K, § 2, it will contain and the specific location of the games and machines in the proposed gaming establishment. Describe the restaurants, retail spaces, bars, lounges and other non-gaming amenities located within the boundaries of the casino site, along with the names of their proposed operators. Describe any exhibition space or spaces the applicant plans to include in its facility, including the square footage of the spaces and the amenities they will contain. Describe any conference space or spaces the applicant plans to include in its facility, including the square footage of the spaces and the amenities they will contain. Describe how the restaurants, retail spaces, bars, lounges and other non-gaming amenities located within the boundaries of the casino site will serve the surrounding community. Describe the entertainment venues located on the casino site inside or outside the casino proper, the capacity of each and uses to which the venues will be dedicated. Describe the convention, meeting and other public spaces located on the casino site inside or outside the casino proper, the capacity of each and uses to which the venues will be dedicated. Describe the proposed hotel, including the types of rooms, the numbers of each type, and the number that will be reserved for casino promotions. Describe any other facilities or amenities that will be located on the site.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		Source
Update Date: May 7, 2013		
Criteria Grouped by Topic		
	Minimum requirements under G.L. c. 23K, § 9, 15	
	Factors Commission must consider under G.L. c. 23K, § 18	
	Factors Commission originated	
	Required Information	
	9(17) State how the hotels, hotel rooms, restaurants and other amenities that are part of the proposed facility will compare in quality to other area hotels and amenities.	
	Describe any public art that will be located on the casino site.	
	Describe the existing or anticipated contracts or agreements between the applicant and local hotels and dining, retail and entertainment facilities designed to ensure that patrons experience that diversified regional tourism industry.	
	Describe the existing or anticipated contracts or agreements between non-gaming entities within the boundaries of the casino complex and local hotels and dining, retail and entertainment facilities designed to ensure that patrons experience that diversified regional tourism industry.	
	Compatibility with surroundings	
	Describe all adjacent streets, highways, buses, and other public transportation facilities and how they will be utilized for access to and egress from the casino site.	
	Provide an analysis of the adequacy of the existing transportation facilities to deliver patrons to and from the casino site and the measures the applicant will take, including infrastructure and other improvements, to remedy any inadequacy.	
	Describe the steps, plans and measures the applicant will take, including infrastructure improvements, to mitigate traffic flow in the vicinity of the casino by stimulating use of public transit.	
	Describe the parking facilities and how they will be linked to the casino complex in a manner consistent with other design elements.	
	Describe the relationship of the project to adjacent land uses and proposed land uses to ensure compatibility between the casino complex and the adjacent uses.	
	Describe applicable zoning requirements and how the applicant proposes to meet them.	
	Describe how the facilities for delivery of supplies and trash removal are integrated with the overall project complex.	
	Describe the proposed signage and the plans to ensure that it is energy efficient and sensitive to surroundings.	
	Describe plans to minimize impact of noise on surroundings areas.	
	Describe how the site will be integrated with and provide access to and from surrounding areas restaurants, hotels, bars, entertainment venues and other attractions through multiple entry and exit points.	
	Describe how the landscaping and other site improvements will integrate the casino complex with its surroundings.	
	Describe how the facility will stimulate retail activity in the immediate vicinity.	
	State whether facilities will be available for community use in the event of extreme weather and, if so, describe how.	
	(8) Utilize sustainable development principles in the construction and during the life cycle of the facility	
	(i) Describe plans including all proposed baseline and improved building design elements and measures for becoming certifiable at the gold or higher platinum level under the appropriate certification category in the Leadership in Environmental and Energy Design (LEED) program created by the United States Green Building Council.	DOER
	Describe the extent to which the building and site comply with LEED-ND, LEED Existing Building, LEED EBOM Water, ISI, & IGCC Standards.	DOER
	(ii) Describe plans to meet or exceed the stretch energy code requirements contained in Appendix 115AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of energy and environmental affairs, including any building energy efficiency measures you propose to use to do so.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria Update Date: May 7, 2013			
Criteria Grouped by Topic		Required Information	Source
	Minimum requirements under G.L. c. 23K, § 9, 15		DOER
	Factors Commission must consider under G.L. c. 23K, § 18		DOER
	Factors Commission originated		DOER
	(iii) Describe expected total vehicle traffic generated by the site, and plans for mitigating vehicle trips to and from the site both during construction and operation of the facilities. Describe efforts to encourage public transportation options to access the site, and pedestrian access and amenities of the site and surrounding area.		DOER
	Describe any plans for utilizing electric vehicles and other alternative fuel vehicles for the resort fleet vehicles, and the accommodation of electric vehicle recharging for resort patrons, and any preferential parking for hybrid or electric vehicles at the site.		DOER
	(iv) Describe plans for conservation of water and management of storm water.		DOER
	Describe plans, if any, to target use of 40% less water than standard buildings of same size and design, for example through the use of waterless urinals, dual flush toilets, and low flow faucets, and water saving landscaping techniques, and promote water reuse and recharge.		DOER
	Describe plans, if any, to use ISI techniques to minimize impact of storm water and maximize its reuse.		DOER
	(v) Describe plans for ensuring use of EnergyStar rated equipment and high efficiency HVAC and heat recovery systems throughout the casino complex.		DOER
	Describe any plans for ensuring that all gaming equipment conforms to best practices for energy efficient use.		DOER
	Describe plans for incorporating and fully commissioning state of the art daylighting, LED lighting and lighting controls and for installing upgraded lighting periodically every 5 years or less.		DOER
	(vi) Describe plans for procuring or generating on-site at least 10 per cent of the facility's annual electricity consumption from renewable sources qualified by the department of energy resources under section 11F of chapter 25A.		DOER
	Describe plans, if any, for ensuring that 25% generated on site is from renewables and the date by which that goal will be reached		DOER
	Describe any plans for obtaining off site power from renewables or with renewable energy credits.		DOER
	Describe plans for commissioning the building envelope and HVAC systems in all buildings, and plans for ongoing retrocommissioning of facilities.		DOER
	(vii) Describe plans for developing an ongoing system that will submeter and monitor all major sources of energy consumption and for undertaking regular and sustained efforts throughout the life-cycle of the facility to maintain and improve energy efficiency and reliance on renewable sources of power in all buildings and equipment that are part of the facility.		DOER
	Describe plans for including advanced building controls necessary to manage energy use throughout the entire facility.		DOER
	Describe plans for use of centralized & efficient heating and cooling systems, including opportunities to utilize renewable thermal energy such as solar water heating and geothermal heating and cooling. Provide evaluation and opportunities to utilize of e.g., co-generation of combined heat and power (CHP, or cogeneration) to provide efficient electric generation with heat recovery to serve building heating and cooling loads.		DOER
	Describe plans, if any, to utilize technologies such as absorption chiller based cooling and off-peak thermal ice and heat storage, to maximize operational efficiencies of the physical plant, and to shift peak demands to off-peak time periods for the electric grid.		DOER
	Describe plans, if any, for operation of one or more buildings at net zero energy within 3 years.		DOER
	Describe any plans for incorporating other sustainable features into building construction, such as use of local, recycled and/or natural materials, protection of indoor environmental quality from construction materials and, natural habitat protection, reuse and recycling of construction materials.		DOER
	Describe any plans for ongoing sustainable site operations,, including, but not limited to, the management of solid waste generated at the site, including food waste and other organic materials, the use of less or non-toxic cleaning, personal care, and any other products used at the facility, policies to minimize use of hazardous materials and to effectively manage any hazardous materials on site, the procurement of environmental preferable products for use in the facility such as recycled content janitorial or office paper, EPEAT certified equipment, and other products certified by independent 3rd party organizations.		DOER
	Describe any plans for integrating emerging clean energy technologies by providing beta test sites for Massachusetts based companies into buildings, facilities, and vehicles in partnership with the Mass CEC and other parties.		DOER

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission		
Draft Evaluation Criteria		
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	Minimum requirements under G.L. c. 23K, § 9, 15	
	Factors Commission must consider under G.L. c. 23K, § 18	
	Factors Commission originated	
	Required Information	Source
	Describe any plans to offset all or some of projected electrical energy consumption not met with on-site renewables via long term contracts for energy and RECs with off-site RPS Class I qualified wind, or solar, or other renewable energy projects, or other strategies.	DOER
	Describe any plans to educate building and facility occupants with educational kiosks, display screens, or other public awareness campaigns re. the clean energy, sustainability, and waste management strategies and technologies deployed on and off site.	DOER
	Describe any plans to identify and equip a portion of the facility to serve as a designated critical facility that would allow casino patrons and other affected residents to seek shelter, heating or cooling, and cell phone charging emergency power services in the event of a grid failure. Such a system could integrate CHP or fuel cells, energy storage (electric and thermal) and clean DG (solar) with grid islanding capabilities to provide community resilience benefits while also helping to shave peak loads and reduce facility electric demand charges.	DOER
Security	Describe the applicant's approach to surveillance within and in the immediate vicinity of the gaming establishment and the types and kinds of security surveillance facility will contain.	
	State how the design of the building will support emergency evacuation.	
	Describe all of the applicant's plans for dealing with emergencies, including any and all use with local, state or regional public safety and medical facilities that will be utilized in the event emergencies occur.	
	Describe the spaces within the facility that will be provided for regulatory staff, including members of the State Police.	
	Describe the applicant's approach to remote regulatory surveillance, including the facilities and equipment in the establishment that will be available for facilitating surveillance of that type.	
	Describe the steps and measures the applicant will take to ensure that minors are excluded from the casino premises	DI
	Describe the steps and measures that the applicant will take with respect to security and prevention of unlawful behavior on the casino premises and in its immediate vicinity.	DI
	Describe the measures they applicant has utilized with respect to security and prevention of unlawful behavior at other facilities it owns and operates, how well those measures have succeeded and the metrics used to measure their success	DI
	Describe the provisions the applicant intends to make to facilitate the Commission's use of central accounting and auditing hardware and software to monitor financial activities at the applicant's facilities.	
Other	Describe the design features that will allow other uses of the buildings in the casino complex in the event that the applicant decides to cease gaming operations in the facility at some future date.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		Minimum requirements under G.L. c. 23K, § 9, 15 Factors Commission must consider under G.L. c. 23K, § 18 Factors Commission originated	Source
Update Date: May 7, 2013			
Criteria Grouped by Topic			
V MITIGATION			
PREREQUISITES			
(1) Agree to be lottery agent and not to run competing games			
(6) Demonstrate plan for mitigation of lottery impact and compulsive gambling problems, community development and host and surrounding community impact and mitigation issues as set forth in memoranda of understanding			
(7) Identify the infrastructure costs of the host and surrounding from construction and operation and commit to a mitigation plan			
(8) (13) provide a signed host community agreement with favorable community vote			
(9) provide surrounding community agreements			
9(13) Provide completed studies and reports showing the proposed gaming establishment's: . . . (iii) impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host community and surrounding communities; and (iv) cost to the host community and surrounding communities and the commonwealth for the proposed gaming establishment to be located at the proposed location. . . .			DI
(10) provide impacted live entertainment venues agreements			
(14) pay agreed upon community impact fee			
EVALUATION CRITERIA			
Host community agreement			
		Provide all host community agreements into which the applicant has entered. Provide the summary of the host community agreement provided to the voters and a description of the election at which the agreement was approved by the voters, including the date of the election, the polling procedures, and a certified copy of the election results	
		State the total amount of money the applicant spent on advertising or organizing for a favorable election outcome.	
		State the total value of contributions of money or other things of value the applicant or anyone acting on behalf of the applicant or the applicant's casino project have made to any elected or appointed public official or any City or Town or any Massachusetts entity at the request of an elected or appointed public official since November 21, 2011.	
		List each request for a contribution of money or other thing of value the applicant or anyone acting on behalf of an applicant has received from any elected or appointed public official or any city or town or any Massachusetts since the applicant deposited its initial application fee with the Commission.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission		
Draft Evaluation Criteria		
Update Date: May 7, 2013		
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	Factors Commission must consider under G.L. c. 23K, § 18	
	Factors Commission originated	
	(19) Describe in detail the public support for the casino project the applicant has obtained in the host and surrounding communities in addition to that reflected by the host community vote, including the names and affiliations of all individuals, organizations and groups that have given public support to the project	
	Provide evidence of partnerships with or other support for non-profit and community groups in the host community	
	Provide all information required by 205 CMR 108.01 through 108.03.	
	Provide a copy of all surrounding community agreements into which the applicant has entered.	
	List all communities that requested a surrounding community agreement that the applicant declined to enter and the reasons the applicant has declined to enter the agreement and describe the discussions or negotiations the applicant had with the applicant before declining to enter the agreement.	
	Provide a copy of all impacted live entertainment venue agreements into which the applicant has entered	
	List all entities that requested an impacted live entertainment venue agreement that the applicant declined to enter and the reasons the applicant has declined to enter the agreement and describe the discussions or negotiations the applicant had with the applicant before declining to enter the agreement.	
	List all cross-marketing agreements with impacted live entertainment venues the applicant has entered.	
	Describe the applicant's plans for use of exclusivity provisions in contracts it enters with entertainers or entertainment entities it engages to perform at its facility and provide all exclusivity terms it has utilized at the other facilities it owns or controls during the last three years.	
(1) Protect and enhance lottery	Describe the plans, measures and steps the applicant plans to take to avoid any negative impact on the revenues currently generated by the Massachusetts State Lottery, including cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents.	
(6) Implement measures to address problem gambling	Describe the on-site resources that will be accessible to those affected by gambling-related problems.	CCG
	Describe the signs, alerts and other information that will be available in the casino complex to identify, the on-site resources available for those affected by gambling-related problems.	
	Describe the exclusion policies that will be available for casino patrons, including the process that will be utilized to notify individuals of the availability of self-exclusion and the steps that will be taken to assist those who request exclusion.	CCG
	Describe the initial and ongoing training that will be used to help casino employees identify those who may have gambling-related problems and assist them to obtain help for those problems.	CCG
	Describe the policies the applicant will use to ensure that credit extensions are not being abused by those with gambling-related problems.	
	Provide a copy of the code of ethics employees, including senior managers, are required to follow in the process by which the code is promulgated.	
	Describe the metrics the applicant will use to measure whether it is succeeding in its efforts to reduce gambling at its facility but by those with gambling-related problems and the use to which those metrics will be put and provide the data those metrics have generated for each of the last five years at each of the applicant's facilities.	
	Describe the extent to which responsible gambling messages will be part of the applicant's advertising.	
	Describe the plans the applicant has to coordinate with local providers to facilitate assistance and treatment for those with gambling-related problems.	
	Describe the processes the applicant uses to address problem gambling at the other facilities it owns or controls, the effect of those processes and the metrics the applicant uses to determine the effects.	

CATEGORY 1 and CATEGORY 2
EVALUATION CRITERIA

Massachusetts Gaming Commission Draft Evaluation Criteria		Source
Update Date: May 7, 2013		
Criteria Grouped by Topic		
	Minimum requirements under G.L. c. 23K, § 9, 15	
	Factors Commission must consider under G.L. c. 23K, § 18	
	Factors Commission originated	
	Required Information	
	9(8) Provide the Commission with an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, including: (iii) prominently displaying information on the signs of problem gambling and how to access assistance; (iv) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications.	
Traffic	Describe the plans for traffic control measures the applicant proposes for the casino complex and the surrounding areas. Describe the applicant's plans for accommodating special events and the traffic those events may generate. Describe the applicant's snow-removal plans.	
Other	9(8) Provide the Commission with an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, including: (i) maintaining a smoke-free environment within the gaming establishment under section 22 of chapter 270; (ii) providing complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commission; and (v) instituting other public health strategies as determined by the commission; Provide an assessment of the likely impact on the housing stock in the host and surrounding communities resulting from the new jobs the casino provides. Provide an assessment of the likely impact on school populations in the host and surrounding communities resulting from new jobs the casino provides. Provide an analysis of available police, fire and emergency medical services available to the casino complex, the adequacy of those resources, the steps the applicant plans to take to remedy any deficiencies, and the agreements the applicant has made with the service providers to ensure that the appropriate levels of protection are available. Provide an analysis of existing regional water facilities available to the project, the impact the facilities water usage will have on those who share the same water resources the steps the applicant plans to take to remedy any deficiencies the impact produces. Provide an analysis of existing sewage facilities and their capacity to absorb the effluent from the casino complex during average and peak flows, including an estimate of those flows in gallons per day, and the steps the applicant plans to take to remedy any deficiencies in the ability of the existing infrastructure to absorb that flow.	

Bresilla, Colette (MGC)

From: J. Raymond Miyares <ray@miyares-harrington.com>
Sent: Monday, May 13, 2013 6:32 PM
To: mgccomments (MGC)
Cc: Board of Of Selectmen; Norman Khumalo; Senator Karen Spilka; Dykema, Carolyn - Rep. (HOU)
Subject: Timeline
Attachments: L- MGC, Request for Public Comment Timeline-05132013.pdf

J. Raymond Miyares
MIYARES AND HARRINGTON LLP
50 Leonard Street • Suite Three • Belmont, MA 02478
Tel 617-489-1600 • Fax 617-489-1630
www.miyares-harrington.com

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Begin forwarded message:

J. Raymond Miyares
Thomas J. Harrington
Christopher H. Heep

Jennie M. Merrill
Marguerite D. Reynolds
Jonathan E. Simpson

May 13, 2013

Stephen Crosby
Commission Chair
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Re: Request for Public Comment: Timeline

Dear Mr. Crosby:

The Town of Hopkinton submits this letter pursuant to the Request for Public Comments posted on May 6, 2013. Specifically, the Commission has asked:

Should the Commission move its Category 1 application deadline from its current projected December 31, 2013 date to a date in the beginning of December to be able to incorporate additional time needed to resolve issues such as disagreements between applicants and surrounding communities? Could the Commission move up this Category 1 application deadline even earlier, perhaps to the beginning of November?

As noted in our previous comments on the Commission's draft regulations, the most intractable issues presented by RFA-2 Applications are those involving Surrounding Communities. As currently drafted, 205 CMR 125.01(1)(c) provides that, if a city or town is not already "determined to be a surrounding community" pursuant to 205 CMR 125.01(1)(a) and (b),¹ it must petition the Commission for such a designation pursuant to 205 CMR 125.01(2). Section 125.01(2)(a) allows the municipality only 10 days to submit such a

¹ At the present time, it is unclear whether the Town of Hopkinton will be "determined to be a surrounding community" pursuant to 205 CMR 125.01(1)(a) or (b). The Town began reaching out to Crossroads Massachusetts LLC more than two months ago, and to its purported successor applicant, FCX Massachusetts LLC, when its existence first became known. Thus far, no representative of either company has been willing to meet with the Town. Based on recent correspondence received from FCX's attorney, it appears that such a meeting will be delayed for at least another month.

Stephen Crosby, Commission Chair
May 13, 2013
Page 2 of 3

petition.² The applicant then has 10 days to reply, and the Commission makes a determination at an open meeting.

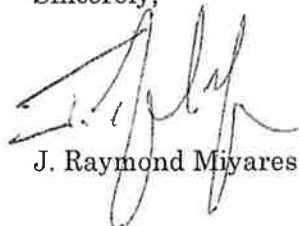
Hopkinton has previously commented on the heavy burden that is placed by the draft regulations on a city or town that seeks designation as a Surrounding Community. Such a community will need to demonstrate that the impacts it will experience from the proposed gaming establishment will be both "significant and adverse." See 205 CMR 125.01(2)(b)(ii) through (v). Indeed, 205 CMR 125.01(2)(c) allows the Commission to determine that a community's impacts are "significant and adverse" based on whether they are "different in kind or greater in degree than impacts on other communities that are geographically nearby the community, the host community and the gaming establishment." Thus, in the absence of an entirely unique impact from the gaming establishment, a city or town with impacts that are similar to those of other municipalities will be less likely to be designated as a Surrounding Community, even if those impacts are substantial.

We share the concern expressed by the Town of Medway in its May 8 comment letter that the timing of applications must "adequately address the prospective surrounding community's ability...to make a prima facie case of anticipated burdens to the community." Obviously, having only 10 days for a city or town to prepare its evidence and make its case is unreasonable. Hopkinton previously suggested that 90 days would be a more appropriate timeframe for this work. A longer timeframe would be possible if RFA-2 applications were required to be submitted sooner.

Hopkinton therefore supports setting the RFA-2 application deadline as early as possible, but only if the time thus gained is given to cities and towns that seek designation as a surrounding community. The Commission should revise its draft 205 CMR 125.01(2) so that cities and town will have a reasonable amount of time to submit a petition for designation as a surrounding community.

Thank you for your attention to this matter.

Sincerely,



J. Raymond Miyares

² In the first draft of these regulations, cities and towns were given 21 days to submit this petition. Hopkinton commented at that time that this was too short a period. The Commission has now shortened that time period to 10 days.

Miyares and Harrington LLP

Stephen Crosby, Commission Chair
May 13, 2013
Page 3 of 3

cc: Hopkinton Board of Selectmen
N. Khumalo
Holliston Board of Selectmen
P. LeBeau
Medway Board of Selectmen
S. Kennedy
Ashland Board of Selectmen
A. Schiavi
Southborough Board of Selectmen
M. Purple
D. Patrick
K. Spilka
C. Dykema

Bresilla, Colette (MGC)

From: Allison Potter <apotter@townofmedway.org>
Sent: Wednesday, May 08, 2013 10:24 AM
To: mgccomments (MGC)
Cc: Suzanne Kennedy; Karen.Spilka@masenate.gov; puja.mehta@masenate.gov; John V. Fernandes (John.Fernandes@MAhouse.gov); Kenneth.Willette@mahouse.gov; Jeffrey.Roy@mahouse.gov; Christopher.Yancich@MAhouse.gov; Robert.DeLeo@mahouse.gov; Therese.Murray@masenate.gov; Andy Espinosa ; Dennis Crowley; Glenn Trindade; John Foresto; Rick D'Innocenzo
Subject: Timeline
Attachments: Casino Ltr_5 8 13.pdf

Good morning,
Please find attached Category 1 timeline comments from the Medway Board of Selectmen to the Mass. Gaming Commission per the Commission's May 6 request for public comment.
Thank you,
Allison

Allison Potter
Asst. to the Town Administrator
Town of Medway
508-533-3264
508-321-4988 (f)



Town of Medway

BOARD OF SELECTMEN

155 Village Street, Medway MA 02053
(508) 533-3264 • FAX: (508) 321-4988

*Andrew Espinosa, Chairman
Glenn Trindade, Vice-Chairman
John Foresto, Clerk
Dennis Crowley, Member
Richard D'Innocenzo, Member*

May 8, 2013

The Commonwealth of Massachusetts
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

VIA EMAIL: mgccomments@state.ma.us

RE: Category 1 Application Deadline

Dear Chairman Crosby and Fellow Commissioners:

I am writing on behalf of the Board of Selectmen for the Town of Medway in response to the Commission's request for feedback relative to the proposed December 1 or November 1 Category 1 application deadline. Medway has previously commented on its concerns about the inherent constraints on potential surrounding communities with a later deadline. Thus, our concern about earlier deadline for these applications is only magnified. While we can appreciate what the Commission is trying to accomplish through this action, we believe that it precludes surrounding communities from adequately responding to the impact studies that the applicants will be generating as part of their applications. We repeat the timing does not adequately address the prospective surrounding community's ability to fund, regardless of source, the necessary research and studies to make a prima facie case of anticipated burdens to the community, should the applicants' studies be refuted.

The Town of Medway has heard anecdotally that there is a maximum of \$150,000 available to the RPA's to study potential impacts. While the information applicants are supposed to provide should be substantive in the eyes of the Commission, surrounding communities need the opportunity to take a close look at items that the applicant may not be concerned about or an issue within the host community, be they transportation, water and sewer infrastructure, or public safety as examples.

Other funding options for technical assistance include agreement between the applicant and the potential surrounding community. What happens if the applicant is not considering that community as a prospective surrounding community? The funds that we may seek in this instance through the so called involuntary disbursements will come too late. Procurement for studies can only be initiated when it is know what studies we might be undertaking.

The Town of Medway remains in the dark about any plans in Milford at this time. Moving up the Category 1 application deadline to initiate community outreach only exacerbates the issue for potential surrounding communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Espinosa', with a long horizontal flourish extending to the right.

Andrew Espinosa
Medway Board of Selectmen Chairman

C: Therese Murray, Senate President
Robert DeLeo, House Speaker
Karen Spilka, Senator, 2nd Middlesex and Norfolk District
Joseph Fernandes, Representative, 10th Worcester District
Jeffrey Roy, Representative, 10th Norfolk District

Bresilla, Colette (MGC)

From: Brian Murray <brian@bwmurraylaw.com>
Sent: Friday, May 10, 2013 4:28 PM
To: mgccomments (MGC)
Cc: Richard Villani
Subject: Subject: Timeline
Attachments: DOC051013-05102013162050.pdf

Please see attached.

Thank you.
Brian W. Murray

----- Forwarded message -----

From: **Brian Murray Law Office** <Brian@bwmurraylaw.com>
Date: Fri, May 10, 2013 at 4:20 PM
Subject: Info from Murray Law Office 05/10/2013 16:20
To: Office <brian@bwmurraylaw.com>

Scanned from MFP-07322045.
Date: 05/10/2013 16:20
Pages:2
Resolution:200x200 DPI

May 10, 2013

VIA E-MAIL: mgccomments@state.ma.us

Mr. Stephen Crosby, Chairman
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Re: Massachusetts Gaming Commission – Request for Public Comment – Category 1 Application Timeline

Dear Chairman Crosby:

The Massachusetts Gaming Commission (the “**MGC**”) has published a request for comment regarding whether the MGC should move its Category 1 application deadline from its current projected date of December 31, 2013 to a date in the beginning of December to be able to incorporate additional time needed to resolve issues such as disagreements between applicants and surrounding communities. Further, the MGC has asked whether it could move up this Category 1 application deadline even earlier, perhaps to the beginning of November.

As a member of the Board of Selectmen of the Town of Milford (the “**Town**”), I respectfully request that the MGC, at a minimum, maintain its Category 1 application deadline at December 31, 2013, and further urge the MGC to consider extending this deadline into the first quarter of 2014.

As you may recall, prior to the MGC commencing its Category 1 application process, it embarked on a very public campaign to solicit prospective casino developers to participate in its application process and to compete for a category 1 license in the Commonwealth and, particularly, in Region A. As a result of the MGC’s efforts, there are now three world-class casino developers proposing to develop a casino in Region A, including the proposal being made by FCX Massachusetts, LLC (“**Developer**”), an entity led by Mr. Scott Butera of Foxwoods Resorts, to be located in the Town. As you know, this proposal recently came to fruition.

The Town, its consultants and the Developer are working diligently to complete their analysis of the casino site and proposed development, determine all impacts of the casino project as required under the Massachusetts Gaming Law, conduct and complete all necessary reports and studies, negotiate a host community agreement and related surrounding community agreements and, if a host community agreement is entered into and approved by the Town Selectmen, to hold an election. The Town, its consultants and the Developer have worked out a timeline to complete all necessary items by the MGC’s originally published deadline of December 31, 2013. Any “shortening” of this deadline is inappropriate because in making its determination to proceed with the analysis of the project, the Developer, and to a lesser extent, the Town, planned on the MGC’s originally published

Mr. Stephen Crosby, Chairman
May 13, 2013
Page 2

December 31, 2013 deadline. Certainly shortening the timeline to November 2013 would be prejudicial to the Developer and the Town.

Additionally, I respectfully submit that the MGC does not need to adopt a "one size fits all" approach with respect to the category 1 application deadline. It is plausible for the MGC to impose different application deadlines for Region A and Region B.

Very truly yours,


BRIAN W. MURRAY

Bresilla, Colette (MGC)

From: Pikula, Edward <epikula@springfieldcityhall.com>
Sent: Monday, May 13, 2013 3:16 PM
To: mgccomments (MGC)
Cc: Mayor Sarno; Kennedy, Kevin
Subject: Public Comment on Category 1 application deadline
Attachments: Comment letter on regs to MGC.pdf

On behalf of the City of Springfield, please see our attached comments to the Category 1 application deadline. Thanks.

Attorney Edward M. Pikula
City of Springfield Law Department
36 Court Street
Springfield, Massachusetts 01103
Phone: (413) 787- 6085
Fax: (413) 787- 6173

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Edward M. Pikula, Esq.
City Solicitor

Law Department
36 Court Street, Room 210
Springfield, MA 01103
Office: (413) 787-6085
Direct Dial: (413) 787-6088
Fax: (413) 787-6173
Email: epikula@springfieldcityhall.com



THE CITY OF SPRINGFIELD, MASSACHUSETTS

May 13, 2013

Mr. Stephen Crosby, Chairman
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Re: Public Comment on Category 1 application deadline

Dear Chairman Crosby:

The Massachusetts Gaming Commission (the "MGC") has published on its official website for public comment the following:

"Should the Commission move its Category 1 application deadline from its current projected December 31, 2013 date to a date in the beginning of December to be able to incorporate additional time needed to resolve issues such as disagreements between applicants and surrounding communities? Could the Commission move up this Category 1 application deadline even earlier, perhaps to the beginning of November?"

On behalf of the City of Springfield (the "City"), we urge the MGC to move its Category 1 application deadline to the earliest possible date, including the beginning of November.

As you know, after a time consuming and exhaustive selection process, the City selected Blue Tarp reDevelopment, LLC ("Blue Tarp") as the enterprise which the City believed was best suited to enter into a host community agreement with the City. The host community agreement with Blue Tarp has been negotiated, approved by our City Council and is ready to be signed by all parties.

In addition, our City Council has approved holding the election required under Section 15 (13) prior to a positive determination of suitability by the MGC. Blue Tarp has indicated it will be requesting that the election be held on July 16, 2013.

Lastly, Blue Tarp has indicated that it will be able to submit its RFA-2 application soon after the MGC approves its suitability as a gaming applicant and is

working towards submitting surrounding community agreements prior to the beginning of November.

By moving forward the deadline for submission, the surrounding communities will be incented to act more quickly thereby accelerating the deliberative process of the MGC. Failing that, it will provide the MGC with the necessary time needed to resolve any disagreements between Blue Tarp and surrounding communities.

The City continues to believe that the earliest possible issuance of the Category 1 license for Region B is in the best interests of the Commonwealth, the Western Region and the City.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward M. Pikula". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

Edward M. Pikula, City Solicitor

cc: Mayor
CDO

5.a



May 15, 2013

By Hand & Electronic Mail

Stephen Crosby, Chairman
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Dear Chairman Crosby:

Suffolk Downs commends the Commission for re-examining and seeking further public comment on the proposed deadline for RFA-2 applications for casino licenses. Suffolk Downs and its partner Caesars Entertainment are committed to developing a world class gaming, entertainment and racing complex and look forward to the opportunity to submit their Category 1 license application.

Enclosed please find comments prepared by our counsel on the issue of the application deadline. Part I of the comments is similar to the timing comments we recently submitted with our comments on the RFA-2 regulations generally, with what we hope are some clarifying revisions. Part II addresses the more specific question posed by the Commission to applicants in the current request for comments.

As always, please feel free to contact us should you have any questions or comments on this or any other matter.

Respectfully submitted,

Chip Tuttle
Chief Operating Officer

enclosure

COMMENTS OF STERLING SUFFOLK RACECOURSE, LLC

Massachusetts Gaming Commission Request for Comments on Making the Category 1 Application Deadline November 1, 2013

I. Comments on Application Deadline

The Commission posed the following question: “Should the Commission move its Category 1 application deadline from its current projected December 31, 2013 date to a date in the beginning of December to be able to incorporate additional time needed to resolve issues such as disagreements between applicants and surrounding communities? Could the Commission move up this Category 1 application deadline even earlier, perhaps to the beginning of November?”

SSR applauds the Commission’s decision to move the RFA-2 application deadline forward and encourages the Commission to move the application deadline forward even further and require that all Category 1 license applicants in Regions A and B submit a complete application by Monday, October 7, 2013.

In order for the Commission to meet its timeline for awarding the Region A and B casino licenses in February 2014, the Commission should set the RFA-2 application due date in early October 2013. This will give the Commission five months to evaluate the applications, resolve the surrounding-community and impacted-live-entertainment-venue process and award the licenses in February 2014. The RFA-2 regulations and application are to be released on June 6, 2013 and, therefore, SSR urges that the RFA-2 applications for Regions A and B be due October 7, 2013 (120 calendar days after the application is released). Recent practice in other jurisdictions (such as Pennsylvania and Maryland) is that applications are due within three months after their release. Consistent with this practice, the Commission allowed 90 days for submission of the RFA-1 applications after their release. Adding an additional 30 days to the standard practice should give applicants more than enough time to prepare and submit their RFA-2 applications.

- A. The Commission Will Inadvertently Have Significant Difficulty Awarding the Region A and B Casino Licenses in February 2014 Pursuant to Its Current Timeline.
 - (1) The Commission Will Have To Arbitrate Surrounding Community and Impacted Live Entertainment Venue Agreements in Both Regions, Which Means the Licenses Will Be Awarded in Late April 2014, According to the Commission’s Timeline.

The Commission’s current timeline for awarding the casino licenses – The Summary Schedule Update 2013-03-27 (the “Summary Schedule”) – provides that, in the event *any casino applicant* in a region fails to enter into *any surrounding community agreement or any impacted live entertainment venue agreement*, the Commission will need to arbitrate that issue and the casino license in that region will not be awarded until April 28, 2014. Since there are three or

RFA-2 Deadline for Category 1 License Applications
Comments of Sterling Suffolk Racecourse, LLC

four applicants in each region and since each applicant needs to enter into a number of surrounding community and potentially impacted live entertainment venue agreements, it is probable that the Commission will need to arbitrate agreements in both regions. In addition, it seems likely that certain potential surrounding communities will be opposed to a nearby casino and will be unlikely to enter into a surrounding community agreement until the Commission and its arbitrator become involved, if ever.

- (2) Once the Commission Determines the Process for Reviewing the RFA-2 Applications and for Choosing Licensees, the Commission's Timeline Will Likely Be Extended Beyond April 2014.

At its meeting on March 25, 2013, the Commission for the first time discussed the process for reviewing the RFA-2 applications and for awarding the licenses. Although no conclusions were reached, Judge McHugh presented a very detailed four phase, 33-step process. See Untitled Microsoft Excel Two Page Document Presented at the March 25, 2013 Massachusetts Gaming Commission Meeting. The level of detail that Judge McHugh has proposed is consistent with the Massachusetts Gaming Act, which requires the Commission to ensure that applicants meet 16 minimum requirements described in section 15 and to weigh a minimum of 19 different criteria described in section 18. See G.L. c. 23K. Judge McHugh's draft process would require: (a) expert review of the applications and preparation of expert reports; (b) multiple public hearings in seven host communities; (c) initial determinations by the Commission to choose finalists in each region; (d) numerous meetings with the applicants including negotiation sessions and applicants potentially preparing best and final offers; (e) drafting of licensing conditions by other state agencies; and (f) final decisions. Along with the detailed process, Judge McHugh noted that applicants will likely submit 25 volumes of materials that the Commission will need to review.

Because of the significant number of steps that the RFA-2 application review process will require, SSR is concerned that the Commission will be unable to accomplish all of the Act's and the Commission's requirements in the 147 calendar days it has allotted itself between the submission of the RFA-2 applications and the license awards. (This number of days assumes that the Category 1 applications are due December 2, 2013, Commission arbitration is required, and the proposed license award date is April 28, 2014). Merely considering the public-hearing process in the host communities shows how lengthy the RFA-2 review process might be. With seven casino applicants (three in Region A and four in Region B) located in eight host communities (as SSR has two host communities, Boston and Revere), the Commission will need to hold at least eight public hearings in eight communities. If, as Judge McHugh proposed, the hearings might last multiple days in a host community,¹ and assuming that the Commission will

¹ Judge McHugh's statement from the March 25 meeting is below:

We are required to have one statutory hearing in the host community, or in another venue if the host community asks for that for each application that we process. And that hearing we are required to have but it can last a number of days. *It doesn't have to be done in one day.* It doesn't have to be

RFA-2 Deadline for Category 1 License Applications
Comments of Sterling Suffolk Racecourse, LLC

want to hold host community public hearings only on weekday evenings when the most members of the public can attend, this means that the public-hearing process would take 24 weekdays if the Commission holds three nights of public hearings in each host community and the hearings continue from one community to the next on successive nights. Twenty-four successive weekdays consumes 32 of the calendar days in the review period. As the Commission is unlikely to host hearings on Friday evenings, it is much more likely the Commission will devote a week to the public hearings in each community, holding hearings on three of the four non-Friday weeknights. With seven Category 1 applicants in eight host communities, this means that the public hearings alone could take eight weeks (consuming 56 of the calendar days in the review period). Because the public hearings cannot take place until 30 days after receipt of the RFA-2 application and the licensing decision cannot be made until 30 days after the hearings have concluded, this means the public-hearing process would require a minimum of 116 calendar days between submission of the applications and award of the licenses. See G.L. c. 23K, §17(c) & (e).

In addition, there are many other items included in Judge McHugh's draft process that will require significant time including the preparation of expert reports, allowing the applicants to revise their proposals to address the expert's concerns, the Commission's action to narrow the field in each region, drafting conditions for a potential license, negotiating with an applicant over the Best and Final Offer and the final hearings with the applicants. The Commission's review of the RFA-2 applications should be detailed and thorough and SSR urges the Commission to give the process enough time to ensure this level of review. However, SSR also urges the Commission to build on Judge McHugh's work and determine this process as soon as possible. Once the Commission does so, SSR expects that the Commission will determine that it cannot accomplish the Regions A and B RFA-2 application reviews in the 147 calendar days it has allotted itself. Rather, it will take much longer.

- (3) If It Follows Its Current Timeline, the Commission May Be Unable to Award the Region A and B Licenses in Time to Allow for the Commonwealth to Receive the Licensing Fees in FY 2014.

The licensees for Regions A and B will be required to pay the \$85 million licensing fee 30 days after award of the license. Id. §10(d). If the Commission is unable to award the Region A and B licenses by May 30, 2014, then the licensing fees may not be collected in FY 2014. Without having decided upon a process for the RFA-2 application review, the Commission is

done in one sitting. *Maybe it will be preferable to have it done over a series of days.* But in any event, however we handle that hearing, we're not limited to simply one single hearing. *We can have hearings on a variety of things. We can have public forums on a variety of things.* There's a lot of things that we can do as we process them. And it is likely that we won't process every one of these in exactly the same fashion. So, both this chart and the accompanying regulations maintain the flexibility that we'll need to deal with different problems, different issues that arise, different locations, different kinds of communities, and the unresolved issues that exist with some applications. (Tr. p. 39-40 (emphasis supplied)).

RFA-2 Deadline for Category 1 License Applications
Comments of Sterling Suffolk Racecourse, LLC

projecting that it will award the licenses on April 28, 2014 if any arbitration is required for surrounding communities or entertainment venues. SSR expects that when the Commission determines the process for RFA-2, the Commission will be forced to extend this timeline, which will even further endanger the receipt of the licensing fees in FY 2014 if the application deadline is not advanced to a date significantly earlier than December 2013.

- B. In Order to Ensure that the Region A and B Licenses are Awarded in February 2014, the Commission Should Require the RFA-2 Applications Be Due in Early October 2013.

In order to ensure that the licenses are awarded in February 2014, the Commission should move the RFA-2 application due date forward in time to early October 2013. As described above, because it takes a minimum of 116 calendar days to award the licenses after receipt of the RFA-2 applications (assuming the Commission wants to hold three public hearings in each host community) and likely more, there is no other option if the Commission intends to award the Region A and B licenses in February 2014. SSR urges the Commission to set Monday, October 7, 2013 as the RFA-2 application due date. In addition, SSR urges the Commission to determine the RFA-2 application due date as soon as possible so that applicants and communities will understand the Commission's timeline and be able to meet the Commission's deadlines.

As long as the Commission provides enough advance notice of the RFA-2 application due date, no applicant should have difficulty submitting a complete and thorough application by October 7, 2013. Now that the Commission is allowing the host community referenda to take place before suitability is determined, a due date of October 7, 2013 for the RFA-2 applications is achievable and realistic. The Commission has already finalized the criteria it is considering for licensure. Also, the Commission has released a draft of the RFA-2 regulations and, while the draft regulations will not become final until early June, applicants will still have 120 days before submission of the applications to review any changes that the Commission makes to the draft regulations. Host community agreements will need to be finalized before August 2013 in order to ensure that referenda are conducted by October; however, all of the applicants have engaged in discussions with their host communities and finalizing these agreements in four months is easily achievable. In addition, the Commission has reported that nearly every applicant and host community in Region A and B has indicated that they intend to conduct their referenda before or during September 2013.

Applicants will have six months to complete surrounding community and impacted live entertainment venue agreements, which should be enough time to complete negotiations and enter into agreements. The Commission has already issued guidance and draft regulations regarding surrounding communities and has set up a process to have regional planning authorities facilitate this process. In addition, the Gaming Act, by providing that the Commission set up protocols for ensuring completion of surrounding-community and entertainment-venue agreements, specifically contemplates that not all of those agreements will be completed by the application due date. While the Commission may have to arbitrate more disputes between applicants and surrounding communities and impacted live entertainment venues because of an earlier due date for the RFA-2 applications, this potential increased arbitration will not lead to the need for an extension of time to award the licenses.

RFA-2 Deadline for Category 1 License Applications
Comments of Sterling Suffolk Racecourse, LLC

While the Commission expects to have completed the RFA-1 suitability review for all applicants prior to October 7, 2013, no reason exists that the RFA-2 applications cannot be due that day even if the suitability review for one or more applicants is not completed. As Judge McHugh acknowledged at a Commission meeting a few months ago, the Gaming Act allows for, but does not require, a two phase application process.² The Act contemplated that an applicant would submit an application that addressed both suitability and licensure issues. G.L. c. 23K, § 9(a) (addressing contents of the application). Because the Act contemplated suitability and licensure to be addressed in one application, the Commission should not now require that suitability be found before an applicant is eligible to submit a RFA-2 application. (Although consistent with the statute, the Commission may decide not to review the RFA-2 submissions until the specific RFA-1 process has concluded.)

II. Responses to Commission Inquiries Directed to Applicants

A. Current Draft Timeline

SSR is prepared to answer any Request for Application issued by the Commission within 90 days of issuance, i.e. should the Commission issue an RFA on June 1, SSR would be able to respond to that RFA by the beginning of September.

B. Anticipated Date for the Execution of Host Community Agreements

SSR hopes to execute Host Community Agreements with Boston and Revere by the end of this month.

C. Anticipated Date for a Referendum

SSR hopes to conduct a referendum in both of its host communities within 60 to 90 days of the execution of its Host Community Agreements.

D. Necessary Time Before and After the Referendum for Items Such as Local and State Permitting and Application Preparation.

SSR is aggressively pursuing the necessary state and local permits for its proposed gaming establishment. SSR hopes to complete the state and local permitting processes by December 31, 2013.

² Judge McHugh's statement from the February 22, 2013 meeting is below:

COMMISSIONER MCHUGH: You really have to start, I think, with the explicit statutory statement that except for three categories these documents, the application is a public record. *As the statute thought about it, the application Phase 1 and Phase 2 were going to be together. It didn't prohibit us from doing them apart.* (Tr. p. 100, lines 5-11 (emphasis supplied)).

Bresilla, Colette (MGC)

From: HackneyHa@gtlaw.com
Sent: Monday, May 13, 2013 4:36 PM
To: mgccomments (MGC)
Subject: Comments on RFA-2 Application Timelines
Attachments: Letter to Gaming Commission.pdf

On behalf of Hard Rock Massachusetts, LLC, we are submitting the attached in response to the Massachusetts Gaming Commission's request for comments on modifying the RFA-2 application timelines.

Thank you for your consideration of these comments.

Hamilton Hackney
Shareholder
Greenberg Traurig, LLP | One International Place | Boston, MA 02110
Tel 617.310.6090 | Fax 617.897.0990
HackneyHa@gtlaw.com | www.gtlaw.com



ALBANY · AMSTERDAM · ATLANTA · AUSTIN · BOSTON · CHICAGO · DALLAS · DELAWARE · DENVER · FORT LAUDERDALE · HOUSTON · LAS VEGAS · LONDON* · LOS ANGELES · MEXICO CITY+ · MIAMI · NEW JERSEY · NEW YORK · ORANGE COUNTY · ORLANDO · PALM BEACH COUNTY · PHILADELPHIA · PHOENIX · SACRAMENTO · SAN FRANCISCO · SHANGHAI · SILICON VALLEY · TALLAHASSEE · TAMPA · TEL AVIV^ · TYSONS CORNER · WARSAW- · WASHINGTON, D.C. · WHITE PLAINS
*OPERATES AS GREENBERG TRAURIG MAHER LLP +OPERATES AS GREENBERG TRAURIG, S.C. ^A BRANCH OF GREENBERG TRAURIG, P.A., FLORIDA, USA -OPERATES AS GREENBERG TRAURIG GRZESIAK SP.K.

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May 13, 2013

Via E-Mail and Overnight Mail

Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Re: HR Massachusetts, LLC – Comments on Timeline for RFA-2 Application

Dear Commissioners:

Please accept this letter on behalf of HR Massachusetts LLC (“Hard Rock”) regarding the request for comments to the proposed modification of the filing date for the RFA-2 applications to early December or potentially early November. Hard Rock respectfully suggests that the submission date for the RFA-2 application should remain December 31, 2013. There are many components to the RFA-2 application that all applicants are diligently preparing and have established a path for the various components related to same based on the December 31, 2013 deadline. To shorten that timeframe at this juncture will hinder the application process.

As an initial point, the Commission’s RFA-2 regulations have not yet been finalized. In the absence of final regulations, in particular the RFA-2 application provisions, Hard Rock cannot fully predict the consequences of accelerating the RFA-2 application deadline from December 31 to early December or even November. It would be more appropriate to finalize the RFA-2 regulations, and then evaluate what a reasonable timeline should be for the RFA-2 applications.

Hard Rock also notes that, as currently drafted, the RFA-2 draft regulations list 56 specific categories of information and documents to be included in the RFA-2 application. Even under the current timelines, being able to respond to these 56 categories in a complete and comprehensive manner will be very challenging. Moreover, many of these categories require that the applicant provide documents such as workforce development plans, project labor agreements, lottery sales agreements, and host and surrounding community agreements that require extensive discussions and/or negotiations with third parties. Compressing the timelines for completing discussion and/or negotiations with third parties in order to satisfy the RFA-2 application requirements will undermine applicants’ ability to negotiate reasonable agreements.

We understand the concern that the Commission has raised that the RFA-2 regulations allow for arbitration if agreements cannot be reached; however, Hard Rock submits all actions should be taken to negotiate the agreements and have them finalized so that the arbitration is not necessary. By decreasing the timeframe for the negotiations by 30 to

MIA 183263137v1

60 days, even after diligent efforts, the applicants may not have sufficient time to negotiate final agreements.

Currently, Hard Rock believes that the referendum in West Springfield will be held in September. There are a number of RFA-2 application requirements that cannot be completed until the referendum process is complete. To finalize these by December 31st is aggressive and to shorten that timeframe would not be in the best interest of the applicants or the Commonwealth.

A further reason to maintain the December 31st RFA-2 deadline relates to the requirement that zoning for the projects be complete. The deadline of December 31st for this is also aggressive. To shorten that timeframe by 30 to 60 days makes it potentially unattainable. By way of example, Hard Rock has been coordinating with the Town of West Springfield Planning Department and local officials to modify the zoning since March 2013, including regular weekly meetings on this issue. We have come to consensus on the approach to the rezoning, the geographic scope of the rezoning effort, and are now working with our planning consultants to draft new zoning language for the Town. As with all other aspects of the project, Hard Rock and the Town are approaching this effort in a comprehensive and thoughtful manner, to make sure that the Town and existing uses are afforded the necessary controls and protection even as the gaming use is allowed. The amended zoning language will be reviewed by a third-party reviewer for the Town before it is finalized. Additionally, as the Commission is aware, the required process for modifying zoning in a Massachusetts municipality involves numerous public hearings and approvals from different entities. To ensure that the West Springfield Planning Department, the Planning Board, the City Council, and the community have sufficient time to review and approve the zoning bylaw amendment, we request that the December 31st deadline be maintained.

Hard Rock is also in the process of conducting a comprehensive suite of due diligence and pre-permitting evaluations with regard to potential community and environmental impacts. These activities include a comprehensive Traffic Impact and Access Study to identify potential traffic impacts and required roadway improvements to mitigate traffic. Hard Rock is also conducting significant on-the-ground environmental evaluations at the Eastern State Exposition site and at areas that may be affected by off-site infrastructure and roadway improvements. These activities include wetlands delineations, wildlife and botanical surveys, and Phase I and II environmental site assessments. It should be noted that some of these evaluations are weather-dependent, and could only be recently initiated at the onset of the growing season. We are also regularly meeting with local and state regulators to discuss the scope of required improvements to mitigate the project, including the Massachusetts Department of Transportation and Massachusetts Department of Environmental Protection.

It is Hard Rock's expectation that certain of this information will be reviewed by the Town in advance of the RFA-2 application and will form the scope of the Host and Surrounding Community agreements. Given the Town's anticipated need for technical assistance in

reviewing some of the materials, the Town will likely engage a third-party reviewer, and there will likely be some discussion and revision of the materials as part of this process. Through the thorough and thoughtful evaluation of impacts and mitigation, and sufficient time for coordination with all parties, Hard Rock will be able to negotiate Host and Surrounding Community agreements that can be efficiently and effectively reviewed by the Commission once the RFA-2 application is submitted.

Per the draft RFA-2 regulations, Hard Rock also understands that the project must, at a minimum, obtain a Certificate from the Massachusetts Environmental Policy Act (MEPA) office on the project's Environmental Notification Form (ENF). Based on information provided by the Commission, while the project will not be requesting expedited review, it is Hard Rock's intention to submit a document that meets the standards for an Expanded Environmental Notification Form (EENF) at 301 CMR 11.05(7). Providing a comprehensive level of detail about project alternatives, impacts, and mitigation will allow all parties to gain a high level of comfort that Hard Rock is committed to avoiding, minimizing, and mitigating project impacts as required by MEPA. Hard Rock anticipates requesting an extended public review period on the EENF (greater than the standard 30-day review period required at 301 CMR 11.06(1)) to allow for a timely review by all parties and the public. We expect that the Secretary's Certificate on the EENF and comments from state agencies and the public on the EENF (all of which will be submitted with the RFA-2 application), will demonstrate to the Commission that the project is competitive, appropriately sited, and will result in numerous benefits to the Town of West Springfield and the Commonwealth.

Given Hard Rock's desire to use comprehensive and concrete information about project impacts and required mitigation as the basis of the Host and Surrounding Community Agreements, and our desire to produce a thorough EENF, maintaining the December 31st deadline for the RFA-2 application is critical.

Thank you for your consideration of the foregoing comments.

Sincerely,


Hamilton Hackney

cc: Nelson Parker
Holly Eicher, Esq.
Timothy Maland
Marie Jones, Esq.
Briony Angus
Christopher Milton, Esq.

Bresilla, Colette (MGC)

From: Adam Barnosky <abarnosky@boballenlaw.com>
Sent: Monday, May 13, 2013 4:03 PM
To: mgccomments (MGC)
Cc: Copp, Kimberly M. (kcopp@ShefskyLaw.com); Bob Allen
Subject: Request for Public Comment | Phase II Application Deadline
Attachments: Letter to MGC (Phase 2 Deadline) 05-13-2013.pdf

Chairman Crosby:

I submit the attached letter on behalf of Crossroads Massachusetts LLC.

Thank you,

Adam R. Barnosky
Law Office of Robert L. Allen, Jr. LLP
300 Washington Street, Second Floor
Brookline, MA 02445
Ph: 617.383.6000 | Fax: 617.383.6001
Email: abarnosky@boballenlaw.com



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300 WASHINGTON ST.
SECOND FLOOR
BROOKLINE, MA 02445
P. (617) 383-6000
F. (617) 383-6001

From the Desk of:
Robert L. Allen, Jr., Esq.
ballen@bballenlaw.com

May 13, 2013

VIA EMAIL

Stephen Crosby, Chairman
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109
mgccomments@state.ma.us

**RE: Request for Public Comment
Phase II Application Deadline**

Dear Chairman Crosby:

I write on behalf of Crossroads Massachusetts LLC (“Crossroads”) in response to the Massachusetts Gaming Commission’s request for public comment regarding the application deadline for Category 1 Phase II Applications. I understand that the Commission is debating the merits of moving the application deadline from December 31, 2013 to an earlier date. For the reasons stated herein, it is the position of my client that the deadline should remain December 31, 2013.

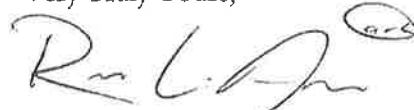
Since submitting its initial application in January 2013, and creating the needed competition for the Region A license, Crossroads has used the December 31, 2013 date when developing its strategy to: engage with and inform the Town of Milford, as the Host Community, as well as the Surrounding Communities; to hire its consultants; to assist counsel for the Host Community to hire its consultants; to engage the MGC’s suggested process of working with the Metropolitan Area Planning Council for the benefit of the Host and Surrounding Communities; and to implement additional outreach efforts beyond the Surrounding Communities. There has been an expectation by all parties involved that this deadline would not change, or – if any change would take effect – the timeline would be continued to a later date, not the contrary.

While our team is certainly capable of meeting an earlier deadline if the Commission so chooses, it is our contention that any benefit attained by shortening the deadline by a mere 30 days is not only not warranted but inappropriate since persons relied on the December 31, 2013 date.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me at the above listed telephone number.

Letter to Chairman Crosby
Massachusetts Gaming Commission
May 13, 2013

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "R. L. Allen, Jr.", with a small circled mark above the final flourish.

Robert L. Allen, Jr.

cc: Ms. Kimberly Copp

Bresilla, Colette (MGC)

From: Ticotsky, Charles <CTicotsky@mapc.org>
Sent: Monday, May 13, 2013 12:56 PM
To: mgccomments (MGC)
Cc: Ziemba, John S (MGC)
Subject: Timeline
Attachments: MGC timeline comments May 2013.pdf

Please see MAPC's comment letter on timeline issues attached.

Thanks!
Charlie

Charlie Ticotsky

Government Affairs Specialist

Metropolitan Area Planning Council

60 Temple Place, 6th floor

Boston, MA 02111

phone: (617) 933-0710 *please note new telephone number*

fax: (617) 482-7185

cticotsky@mapc.org

www.mapc.org



Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to the Massachusetts Public Records Law, M.G.L. c. 66 § 10.



Smart Growth & Regional Collaboration

May 13, 2013

Stephen Crosby, Chairman
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

Dear Mr. Crosby and Members of the Commission:

Thank you again for the opportunity to provide comments on the proposed **timeline** for the application, evaluation, and licensing processes related to expanded gaming in the Commonwealth. The following paragraph was included in our letter on Phase Two Regulations, and we respectfully re-submit them in response to the latest request for comments:

“We feel that the MGC should consider moving the currently proposed timeline for filing an application and licensing a casino approximately one month further into the future. We recognize and respect the desire to move quickly, but we also want to make sure that communities have the time to determine fully the anticipated impacts from these facilities. Many of the communities in the MAPC region feel that the time frame for communities to negotiate surrounding community agreements is too short. We recognize the value in creating more time for the evaluation process, but we do not think the proposed move from December 31 to December 1 for the application deadline is the best way to make more time. Rather, the MGC should consider moving both the application deadline and the licensing schedule one month further ahead to accommodate a longer period of time for surrounding communities to negotiate agreements with a casino proponent.”

MAPC looks forward to continuing to work with you as this process develops. If you have any questions or concerns related to these comments, please feel free to contact me (mdraisen@mapc.org, 617-933-0701) or Joel Barrera (jbarrera@mapc.org, 617-933-0703).

Sincerely,

Marc Draisen
Executive Director



GREATER BOSTON LABOR COUNCIL, AFL-CIO

6 Beacon St., Suite 910 • Boston, MA 02108 • Tel: (617) 723-2370 • Fax: (617) 723-2480

RICHARD M. ROGERS
Executive Secretary-Treasurer

LOUIS A. MANDARINI, JR.
President

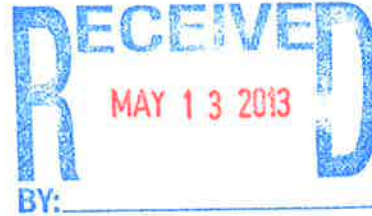
PATRICIA ARMSTRONG
Vice-President



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May 13, 2013




Stephen Crosby, Chairman
Massachusetts Gaming Commission
84 State Street Suite 720
Boston, Ma 02109

Dear Chairman Crosby,

The Greater Boston Labor Council would like to be placed on the record in support of the Massachusetts Gaming Commission's decision to move the casino application deadline to December 1, 2013. This is an important step in expediting the process so that Massachusetts can receive all the benefits of expanded gaming.

Sincerely,


Richard M Rogers
Executive Secretary-Treasurer

Rosa Blumenfeld
Lead Organizer

AUDITORS

- Jim Foley
- Mary Glynn
- Frank Rago

mgccomments (MGC)

From: steve.castellina@comcast.net
Sent: Thursday, May 09, 2013 7:35 AM
To: mgccomments (MGC)
Cc: berkleybos; lawofficegmiller; Capturematrix
Subject: Timeline

We would like to see the timeline adjusted to allow for more time for surrounding communities like ourselves (Berkley MA). We are in a unique situation as the proposed Mashpee casino is on our border and now the Southeast Region is being opened to commercial casinos also. So we have to worry and try to understand negotiations with both types of casinos. We are very dissappointed in how we have been protected by the State for the Indian casino and if any casino has to be next to Berkley then we would prefer the commercial casino because the Gaming Law at least tries to protect surrounding communities concerning commercial casinos.

Stephen Castellina, Selectman and Clerk of the Berkley Board of Selectmen.

mgccomments (MGC)

From: Joe Ianno <joeeye33@comcast.net>
Sent: Wednesday, May 08, 2013 12:49 AM
To: mgccomments (MGC)
Subject: regarding earlier date

Follow Up Flag: Follow up
Flag Status: Flagged

Dear members of the gaming commission,

I myself am in favor of an early date for application on having a Casino. Seems most people I've spoken to in my town are very excited to hear we'll have one; hopefully in the near future. It's been a long time in coming.

Respectfully,
joeeye33@comcast.net

Louis A. Mandarini, Jr.
Business Manager
Secretary Treasurer

Dominic Ottaviano
President
Field Representative



LOCAL 22
CONSTRUCTION & GENERAL LABORERS' UNION

Anthony Perrone
Recording Secretary
Field Representative

Daniel Ottaviano
Executive Board
Field Representative

May 7, 2013

Stephen Crosby
Chairman
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Dear Chairman Crosby:

We write to the Massachusetts Gaming Commission today on behalf of Laborers Local 22. The members of Local 22 have been encouraged by the Commission's recent proposal to move the application deadline for casino applicants from December 31, 2013 to December 1, 2013. However, we would like to encourage the Commission to continue to explore ways to expedite the licensing process.

Casino developments will bring jobs and revenue to the Commonwealth, however those benefits will not be felt until licenses are issued and construction commences.

Sincerely,

Dominic Ottaviano
President

Louis Mandarini, Jr.
Business Manager and
Secretary Treasurer



5.b

DRAFT REGION C SCHEDULE POTENTIAL BENEFITS

Benefits of this Proposed Schedule:

- ✓ It includes a realistic period for background investigations of a likely reduced number of applicants compared to Regions A & B together (171 days)
- ✓ It is designed to limit impact on our current background reviews by starting pre-application qualifier scoping meetings on September 3rd (after Category 1 determinations)
- ✓ It is designed to enable communities to vote on referenda after suitability reviews are completed (unless an applicant appeals)
- ✓ It is designed to avoid any summer elections
- ✓ It enables communities to plan by requiring a site designation fairly early in the process (December 31)
- ✓ It gives applicants additional time to find a site by setting the site designation date months after the RFA-1 application date (October 3)
- ✓ It gives at least four months for a host community to execute an agreement after the site designation date
- ✓ Potential surrounding communities are given at least eight months to execute an agreement after the site designation date
- ✓ Potential surrounding communities are given at least four months to execute an agreement after the host community agreement
- ✓ It can be modified to move more quickly depending upon certain circumstances (few number of bidders, etc.)
- ✓ It gives the Commission at least 90 days to evaluate proposals after the application
- ✓ It anticipates an award by December 2014 even if there are surrounding community disputes
- ✓ It provides existing bidders an opportunity to apply in the event of a rejected referendum before October 3
- ✓ This schedule also would allow the Commission to evaluate any progress made on the Region C tribal gaming application

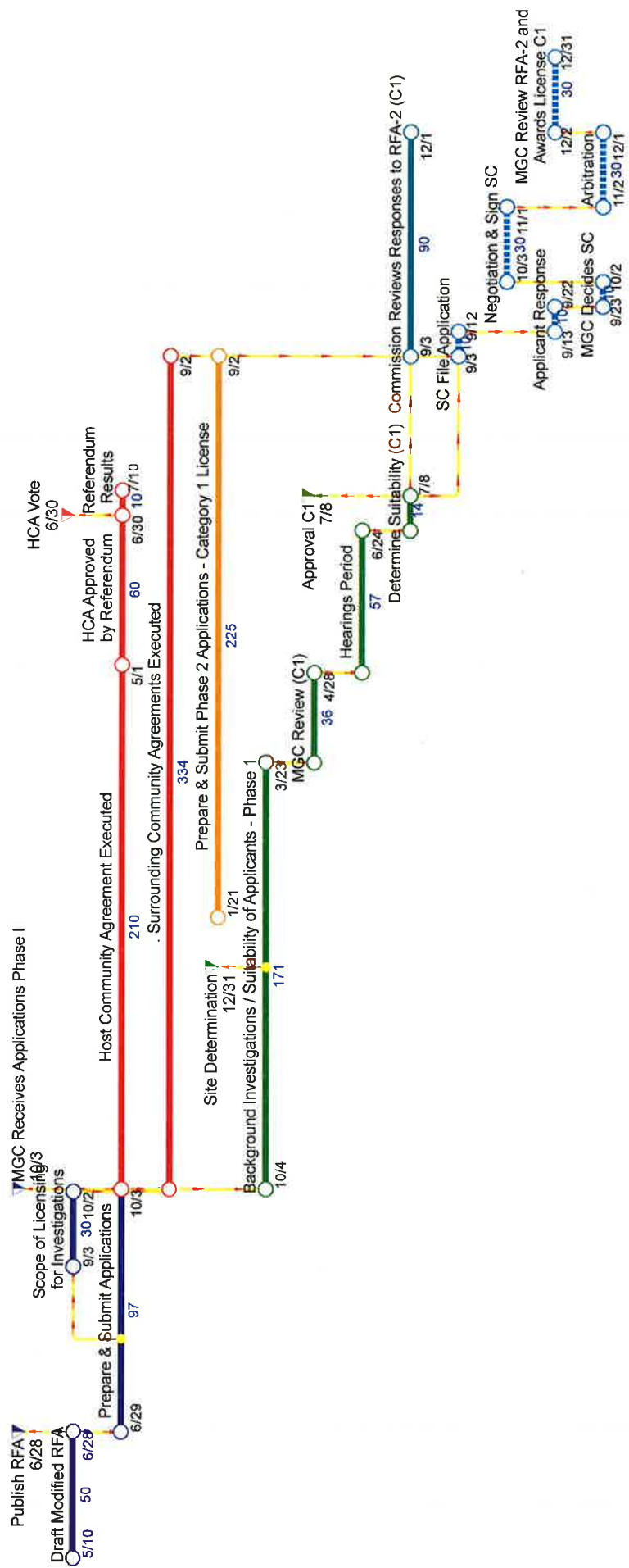


Massachusetts Gaming Commission / 2013-05-10 Region C Draft Schedule

SUMMARY SCHEDULE



DETAILED SCHEDULE



LEGEND

ACT DESCRIPTION
 Start Date: ○ End Date: ●
 Duration (Calendar Days): —

SUMMARY ACTIVITY
 Start Date: ○ End Date: ●

MASSACHUSETTS GAMING COMMISSION

DRAFT REGULATIONS- **UPDATES TO 205 CMR 102 through 117**
INCLUDING AMENDMENTS BASED ON PUBLIC COMMENTS
UPDATED



205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 102.00: CONSTRUCTION AND APPLICATION

102.01: Authority

205 CMR 101.00 through 117.00 *et. seq.* are issued pursuant to M.G.L. c. 23K, §§ 4(37) and 5, unless otherwise specified.

102.02: Definitions

As used in 205 CMR 101.00 through 117.00 *et. seq.*, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Massachusetts Supplement Form (PHD-MA-SUPP) is defined in 205 CMR 111.04: *Massachusetts Supplemental Form.*

MEPA means the Massachusetts Environmental Policy Act

Money means cash or instruments that are convertible to cash in any negotiable currency.

RFA-P1 or RFA-1 Process is defined in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications.*

RFA-2 is defined in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications.*

Secretary means the secretary of the commission.

Secretary of EOEEA means the Secretary of the Executive Office of Energy and Environmental Affairs.

Security Protocols means the system for securing and preserving the confidentiality of records in accordance with 205 CMR 103.14: *Security Protocols; Restricted Access.*

Vulnerable populations means . . .

102.03: Construction and Amendments

(1) 205 CMR, shall be construed in accordance with generally accepted principles of statutory construction in the Commonwealth of Massachusetts, including those set forth in M.G.L. c. 23K.

(2) 205 CMR shall be liberally construed to permit the commission, the bureau, and their agents and employees to effectively carry out their respective statutory functions and to secure a just and expeditious determination of issues properly presented to the commission and the bureau.

(3) Nothing in 205 CMR shall be construed to conflict with any provision of M.G.L. c. 23K.

(4) Waivers and variances.

(a) General. The commission may in its discretion waive or ~~modify~~ grant a variance from any provision or requirement contained in 205 CMR 101.00 through 117.00 *et. seq.*, not specifically required by law, where the commission finds that:

1. Granting the waiver or variance is consistent with the purposes of M.G.L. c. 23K;

2. Granting the waiver or variance will not interfere with the ability of the commission or the bureau to fulfill its duties;

3. Granting the waiver or variance will not adversely affect the public interest; and

4. Not granting the waiver or variance would cause a substantial hardship to the person requesting the waiver or variance.

(b) Filings. All requests for waivers or variances shall be in writing, shall set forth the specific provision to which a waiver or variance is sought, and shall state the basis for the proposed waiver or variance.

(c) Determination. The commission may grant a waiver or variance, deny a waiver or variance, or grant a waiver or variance subject to such terms, conditions and limitations as the commission may determine. Any waiver request not acted on by the commission within 60 days of filing shall be deemed denied. ~~There shall be no further review from any determination by the commission or any constructive denial of a waiver request.~~

102.04: Words and Terms: Tense. Number and Gender

In construing 205 CMR 101.00 through 117.00 *et. seq.*, except when otherwise plainly declared or clearly apparent from the context: words in the present tense shall include the future tense; words in the masculine shall include the feminine and neuter genders; and words in the singular shall include the plural and the plural shall include the singular.

102.05: Computation of Time

(1) Unless **specified** otherwise ~~specifically provided by law~~, computation of any time period referred to in 205 CMR 101.00 through 117.00 *et. seq.* shall begin with the first day following the act which initiates the running of the time period. The last day of the time period is to be included unless it is a Saturday, Sunday, or legal holiday in which event the period shall run until the end of the next business day. When the time period is seven days or less, intervening Saturdays, Sundays, or legal holidays shall be excluded in the computation. When a time period is greater than seven days each intervening calendar day shall be included in the computation.

(2) Whenever a provision of 205 CMR 101.00 through 117.00 requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday or Sunday or legal holiday, such provision shall be construed to refer to the next business day immediately following such day or date.

102.06: Matters Not Provided For

In recognition of the inherent difficulty of drafting a functional code regulations that contemplates every situation that may arise in the regulation of gaming in the Commonwealth, this section provides the Commission, the IEB, and other designated Commission staff, with reasonable discretion to ensure that all issues that may arise in the enforcement of 205 CMR may be appropriately addressed. Matters not specifically provided for in 205 CMR regarding the licensing of a gaming establishment, individual, or vendor, or the operation of a gaming establishment, shall be determined by the Commission or, where applicable, IEB or Commission staff in a manner consistent with the principles set forth in M.G.L. c.23K, §1. If this provision is used, the Commission, or IEB, or designated staff shall make written determination setting forth the rationale findings outlining the reasons therefor. Such determination shall be presented to and file them with the Commission for discussion at a public meeting.

102.07: Legal challenges

No person or local government entity may challenge or seek to enjoin commission action based on a claim that an applicant and/or the commission has ~~not complied with~~ failed to take an action required in accordance with any provision of 205 CMR 102.00 ~~et. seq~~ through 128.00.

DRAFT

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 103.00: ACCESS TO AND CONFIDENTIALITY OF COMMISSION RECORDS

103.04: Determinations by the Official Custodian, the General Counsel and the Commission

~~(2) Subject to 205 CMR 103.04(1), and to the Commission's determinations pursuant to 205 CMR 103.11 and 205 CMR 103.12, the official custodian designated in accordance with 205 CMR 103.03 shall determine whether any particular record within his or her jurisdiction is subject to disclosure as a public record or is exempt from disclosure as described in 205 CMR 103.02(1) through (5). Whenever the official custodian has a doubt or question about whether any particular record is subject to disclosure as a public record or exempt from disclosure as described in 205 CMR 103.02(1) through (5), and whenever any confidentiality claimant asserts in writing that any particular record is exempt from disclosure as described in 205 CMR 103.02(1) through (5), the official custodian shall consult the general counsel who shall, subject to 205 CMR 103.04(1), resolve such doubt, question or dispute, and such request shall be granted or denied, only in accordance with a written determination signed by the general counsel; provided further that the general counsel may refer any such doubt, question or dispute to the commission for its resolution.~~

(DELETED)

103.05: Effect of Requests for Confidentiality

Whenever a confidentiality claimant requests in writing that particular records be deemed to be or to contain confidential information as defined in 205 CMR 102.02: *Definitions*, such records or information shall be treated as confidential and may not be ~~deemed public records~~ disclosed until the confidentiality request has been approved or denied pursuant to 205 CMR 103.04, 103.10 and 103.11.

103.06: Postponing Denial of Confidentiality Pending Appeal

Whenever the commission denies a request to deem records to be or to contain confidential information as defined in 205 CMR 102.02: *Definitions* or exempt from disclosure as described in 205 CMR 103.02(1) through (5), such denial shall take effect ~~ten~~ fourteen days after the date thereof so that any person aggrieved by said denial may appeal to ~~another State agency with jurisdiction over the subject matter thereof, or to~~ a court of competent jurisdiction. During this

ten-day period, the records in question shall be treated as confidential ~~and may not be deemed public records~~ and accordingly exempt from public disclosure in accordance with M.G. L. c. 4, § 7(26)(a). This ~~ten~~fourteen-day period may be extended by the commission in extraordinary situations. Any extension shall be in writing and signed by the general counsel.

103.09: Information Provided in Response to Request for Applications - Phase 1 & Phase 2

(1) In accordance with M.G.L. c. 23K, § 9(b), an application for a license in response to the commission's Request for Applications-Phase 1, 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*, and an RFA-2 application submitted in accordance with 205 CMR 118.00: *Phase 2- Applying For a License* shall be a public record except those portions of the application containing information otherwise exempt from disclosure pursuant to 205 CMR 103.02(1) through (5).

(2) As guidance to applicants and the public, the commission shall issue a set of specimen annotated application forms and distribute such forms together with the Request for Applications-Phase 1 pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and with the Request for Applications- Phase 2 pursuant to 205 CMR 118.00: *Phase 2- Applying For a License*. These specimen annotated application forms shall designate as "Exempt/Redact" all information or categories of information which, at a minimum, the commission considers to be exempt from disclosure in accordance with 205 CMR 103.02(1) through (5).

(3) To assist the commission in protecting from inadvertent disclosure information subject to 205 CMR 103.02(1) through (5), applicants shall follow the procedures in 205 CMR 103.10(1) in completing and submitting the required forms pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and 205 CMR 118.00: *Phase 2- Applying For a License*.

(4) All information submitted by an applicant in the RFA Phase 1 or Phase 2 application, other than that described as "Exempt/Redact" in 205 CMR 103.09(2), shall be presumed to be available for public disclosure on request unless a confidentiality claimant demonstrates or the commission otherwise finds that a separable portion of the information is exempt from disclosure pursuant to 205 CMR 103.02(1) through (5). Confidentiality claimants shall make such a demonstration in accordance with the provisions of 205 CMR 103.10 through 103.12.

103.10: Requests for Protecting Confidential Information

Except as set forth in 205 CMR 103.09, no record shall be deemed to be or to contain confidential information as defined in 205 CMR 102.02: *Definitions* unless a person submits a written requests to the commission in writing to protect to deem the information as confidential information and accordingly exempt from public disclosure in accordance with M.G. L. c. 4, § 7(26)(a). The request shall be made and substantiated as follows:

(1) Each record containing information that is the subject of a confidentiality request shall be clearly marked "CONFIDENTIAL". To assist the commission in complying with 205 CMR

103.02, persons shall separately submit confidential portions of otherwise non-confidential records. If submitted separately, the record that is the subject of a confidentiality request shall be clearly marked "CONFIDENTIAL" and the record from which confidential information has been redacted shall be clearly marked "REDACTED".

(2) The request for confidentiality shall be supported with the following information, which shall be treated as a public record:

(a) The time period for which confidential treatment is desired.

(b) The reason the record was provided to the commission or the bureau, and the date of submittal.

(c) The basis for the claim that the record contains confidential information and, if applicable, the basis for believing that the criteria in 205 CMR 103.11 are satisfied.

(d) The extent to which the person requesting that the record be kept confidential has disclosed the contents of that record to other persons without a restriction as to confidentiality imposed by agreement or by law.

(e) A statement whether, to the best of the provider's knowledge, the information has previously been provided to a governmental entity that does not treat the information as confidential or that has denied a request for confidential treatment.

(f) A statement that the information is not required to be disclosed or otherwise made available to the public under any other Federal or state law.

(g) How making the record a public record would place the applicant at a competitive disadvantage pursuant to M.G.L. c. 23K, § 9(b), or would be detrimental to a gaming licensee if it were made public pursuant to M.G.L. c. 23K, § 21(a)(7), ~~or otherwise cause irreparable harm or damage to the person requesting confidentiality.~~ **A statement as to how the record, or portion thereof, meets the definition of confidential information as set forth in 205 CMR 102.02**

(h) If the record was submitted voluntarily for use in developing governmental policy and upon a promise of confidentiality pursuant to M.G.L. c. 4, § 7, cl. 26(g), and not in compliance with a regulation or order of the commission or a court, whether and if so why making the record a public record would tend to lessen the availability to the commission or the bureau of similar records in the future.

103.11: Procedure for Acting on Requests for Protecting Confidential Information

The commission shall act on a confidentiality request made pursuant to 205 CMR 103.10 subject to the following provisions:

(1) If the commission has received a request to inspect or copy a record which is the subject of a confidentiality request on which the commission has not made a final decision, the commission shall notify:

(a) the person who made the request to inspect or copy the record that:

1. the record in question is the subject of a pending confidentiality request, ~~and therefore not a public record;~~

2. ~~the request to inspect or copy is initially denied;~~ and

3. a final decision will be made when the commission determines whether the record in question is entitled to confidentiality protection, **and shall notify**

(b) the confidentiality claimant of the request to inspect or copy the record.

(2) The commission shall determine whether the record, ~~if made public, would divulge~~ **is** confidential information as defined in 205 CMR 102.02: *Definitions*. The Commission shall give notice of its determination(s) to the confidentiality claimant and all persons who requested to inspect or copy the record.

(3) If the commission determines that a record ~~would, if made public, divulge~~ **is** confidential information as defined in 205 CMR 102.02: *Definitions*, the record in question, **or portion thereof, shall be deemed confidential and may not be deemed a public record exempt from public disclosure in accordance with M.G. L. c. 4, § 7(26)(a)** for such length of time, and subject to such terms, conditions and limitations, as the commission may include in the determination. The commission shall so notify the person who submitted the record to the commission or the bureau, the confidentiality claimant, and all persons making a request to inspect or copy the record in question.

(4) All notices given pursuant to 205 CMR 103.11(2) and (3) shall be in writing, shall be delivered by hand, by ~~certified~~ **first class** mail, ~~return receipt requested,~~ or by electronic mail, and shall include:

(a) the reasons for the determination,

(b) notice that the determination constitutes a final decision of the commission,

(c) notice that the determination may be subject to review by ~~one or more other State agencies~~ **the supervisor of records of the Office of the Secretary of the Commonwealth** or by the courts, **as applicable**,

(d) if the determination is that the record in question, **or portion thereof** ~~if made public, would not divulge~~ **is not** confidential information as defined in 205 CMR 102.02: *Definitions*, notice that the record in question shall become a public record 14 days after the date of the commission's determination unless, a person aggrieved by said determination appeals the determination ~~to another State agency with jurisdiction over the subject matter thereof, or~~ to a court of competent jurisdiction. This 14-day period may be extended only in extraordinary situations, and any such extension must be in writing and signed by the commission's general counsel ~~pursuant to 205 CMR 103.04~~.

(5) If pursuant to 205 CMR 103.11, the commission's ~~determination~~ denies a request to protect confidential information made pursuant to 205 CMR 103.10, the confidentiality claimant may, within ten days from the date of the commission's notice of such determination, submit to the commission one request to reconsider such determination, which request to reconsider shall set forth any and all supplemental information supporting the claim of confidentiality and further addressing the criteria of 205 CMR 103.10(2). The commission shall act on the request to reconsider following the procedures in 205 CMR 103.11(1) through (4). The request for reconsideration shall stay the effect of the commission's original denial and the 14-day period set forth in 205 CMR 103.11(4) shall run from the date of the commission's notice of its ruling on the request for reconsideration.

(6) If pursuant to 205 CMR 103.11, the commission's ~~determination~~ denies a request to protect confidential information made pursuant to 205 CMR 103.10, the confidentiality claimant may, at any time before the expiration of the applicable 14 day period set forth in 205 CMR 103.11(4), submit a written request to the commission pursuant to 205 CMR 111.05: *Withdrawal of Application*, to withdraw with prejudice the application to which the information relates and to order the information permanently sealed or returned to the applicant. If the commission allows the request to withdraw the application with prejudice, the commission may order the information permanently sealed or returned to the applicant to the extent permitted by M.G.L. c. 4, § 7, cl. 26, and M.G.L. c. 23K.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 104.00: DELEGATION OF AUTHORITY

104.01: Delegation of Commission Authority

- (1) Subject to M.G.L. chs. 23K and 30A, the commission may, in its discretion, delegate the authority of the commission to perform any of its functions under M.G.L. c. 23K or 205 CMR 101.00 through 117.00 *et. seq.*, with the exception of final decisions regarding Phase 1 and Phase 2 determinations of qualification for gaming licenses, to a commissioner or commissioners, or to the executive director, the bureau, the deputy director, or any other employee of the commission, on such terms and conditions as the commission may specify. Any action taken and determination made pursuant to such delegation shall not require further approval, ratification or other action by the commission.
- (2) All delegations of commission authority made pursuant to 205 CMR 104.01(1) shall remain in effect until amended, suspended, modified or revoked by the commission.
- (3) The commission may review, reconsider, amend, modify, suspend or revoke any action taken or determination made pursuant to such delegation.
- (4) Whenever M.G.L. c. 23K or 205 CMR 101.00 through 117.00 *et. seq.* requires that the commission provide notice of an action taken or determination made, and such action is taken or determination is made pursuant to delegation pursuant to 205 CMR 104.01(1), such notice shall be provided by the individual or entity exercising delegated authority.
- (5) In any delegation to the bureau, pursuant to M.G.L. c. 23K, § 4(32), the commission shall not place any restriction upon the bureau's ability to investigate or prosecute violations of M.G.L. c. 23K or 205 CMR.

104.02: Delegation of Chair's Authority

- (1) The chair may, in his or her discretion, delegate to another commissioner or commissioners or to the executive director the authority of the chair to perform any of his or her duties and responsibilities under M.G.L. c. 23K or 205 CMR.
- (2) All delegations of made pursuant to 205 CMR 104.02(1) shall remain in effect until amended, suspended, modified or revoked by the chair.
- (3) The chair may, on his or her own initiative, review, reconsider, amend, modify, suspend or revoke any action taken or determination made pursuant to such delegation.
- (4) Whenever M.G.L. c. 23K or 205 CMR 101.00 through 117.00 *et. seq.* requires that the chair provide notice of an action taken or determination made, and such action is taken or

determination is made pursuant to delegation pursuant to 205 CMR 104.02(1), such notice shall be provided by the individual exercising delegated authority.

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205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 105.00: INVESTIGATIONS AND ENFORCEMENT BUREAU

105.01: Duties and Responsibilities

- (1) The bureau shall be the primary enforcement agent for regulatory matters under M.G.L. c. 23K and 205 CMR 101.00 through 117.00 *et. seq.* and shall have all of the powers and duties of the bureau enumerated in St. 2011, c. 194, M.G.L. c. 23K and 205 CMR 101.00 through 117.00 *et. seq.*.
- (2) The bureau shall be under the supervision and control of the deputy director who shall be the executive and administrative head of the bureau and shall be responsible for administering and enforcing the laws relative to the bureau and to each administrative unit of the bureau. The duties of the deputy director shall be exercised and discharged subject to the direction, control and supervision of the chair or to the executive director by appropriate delegation of authority pursuant to 205 CMR 104.02: *Delegation of Chair's Authority*.
- (3) The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of M.G.L. c. 23K, including the power to receive intelligence on an applicant or licensee, and to investigate any suspected violations of M.G.L. c. 23K.
- (4) With respect to the investigation and enforcement of gaming establishments and licensees, the bureau may obtain or provide pertinent information regarding applicants or licensees from or to law enforcement entities or gaming authorities and other domestic, Federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods.
- (5) The bureau shall conduct investigations into the qualifications and suitability of all applicants, qualifiers and other persons required to be registered or investigated in connection with any form of license or registration pursuant to M.G.L. c. 23K and 205 CMR 101.00 through 117.00 *et. seq.*, including without limitation an investigation of qualifications and suitability to hold a gaming license pursuant to M.G.L. c. 23K.

105.10: Authority to Retain and Utilize Contractor Investigators

- (1) The commission may, pursuant to M.G.L. c. 23K, § 4, and any applicable procurement procedures, retain qualified contractor investigators, either directly or pursuant to a contract or

contracts with a private investigative business or businesses, to assist the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. c. 23K and 205 CMR ~~101.00 through 117.00~~.

(2) In retaining contractor investigators, the commission may establish minimum qualifications in terms of education, training, and experience in Federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters.

(3) Prior to entering a contract with the commission, each prospective contractor investigator and, if applicable, his or her related business shall be subject to an expedited background inquiry by the bureau through the gaming and enforcement unit, which shall include, without limitation, an examination of prior criminal history, financial stability, reputation for integrity, honesty, good character; and education, training, and experience in Federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters. If a contractor investigator and, if applicable, his or her business entity is deemed suitable and qualified by the bureau in its discretion based on this expedited background inquiry, then the commission on behalf of the bureau may enter into a contract for the professional services of the contractor investigator in a form and with terms such acceptable to the commission.

(4) Once retained, each contractor investigator shall be provided with the necessary authority and credentials to serve as an official agent of the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. c. 23K and 205 CMR ~~101.00 through 117.00~~ *et. seq.*

(5) Immediately on being retained each contractor investigator shall be sworn to the faithful performance of his or her official duties under M.G.L. c. 23K and 205 ~~101.00 through 117.00~~ *et. seq.* Before a contractor investigator can participate in any investigation under M.G.L. c. 23K or 205 CMR ~~101.00 through 117.00~~ *et. seq.*, the investigator shall execute a certification acknowledging his full understanding and acceptance of the authority given, applicable confidentiality provisions, and the limits to such an investigative authority.

(6) Each contractor investigator shall report to the deputy director of the bureau. In the case of an absence or vacancy in the office of the deputy director, each contractor investigator shall report to an interim supervisor designated by the chair to supervise such investigators and investigations.

(7) Any contract entered by the commission for the services of any contractor investigator may be terminated by the commission, without cause, liability or recourse.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 106.00: INFORMATION AND FILINGS

106.02: Communications; Notices

(1) Except as otherwise provided by 205 CMR 101.00 ~~through 117.00~~ *et. seq.* or as specified by the commission on its website, all applications, papers, process or correspondence relating to the commission or the bureau shall be addressed to, submitted to, filed with or served upon the commission or the bureau, respectively, at its main office.

(2) Service of process upon the commission or the bureau shall be made in accordance with Mass. R. Civ. P. 4(d)(3).

(3) Service of all papers, documents, notices and pleadings in adjudicatory proceedings conducted by or on behalf of the commission or the bureau shall be made in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.

(4) Except as set forth in 205 CMR 106.03, all other applications, papers, documents, notices, correspondence or filings shall be deemed to have been received by the commission when delivered to the main office of the commission or to the chair, a commissioner, or such employee or employees of the commission as may be designated by the chair and posted on the commission's website. Except as set forth in 205 CMR 106.03, all other applications, papers, documents, notices, correspondence or filings shall be deemed to have been received by the bureau when delivered to the main office of the bureau or to the deputy director or such employee, employees, or agents of the bureau as may be specified by 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings* or as may be designated by the deputy director as posted on the commission's website.

(5) Except as otherwise specifically provided by M.G.L. c. 23K or 205 CMR ~~through 117.00~~ *et. seq.*, the commission or the bureau as applicable:

(a) will send any notice of public hearing and any decision of the commission or the bureau concerning a specific applicant, licensee or registrant to the applicant, licensee or registrant either by in hand delivery, by ~~certified, registered, or express~~ mail, or by electronic mail to the address shown in the most recent application or notice of change of address received from such person; and

(b) may send any other papers, documents, notices, or correspondence by any method specified in 205 CMR 106.02(5)(a) or by first class mail, postage prepaid. Notices from the commission or the bureau shall be deemed to have been received upon the earlier of in hand delivery, electronic mail transmission, or deposit in the United States mail, postage prepaid, and the time specified in any such notice shall commence to run from that date.

~~(6) Applicants, licensee and registrants shall immediately notify the commission and the bureau in writing of any change of address, and shall specifically request that all future notices or other communications be sent by the commission or the bureau to the new address.~~ Any applicant or person or entity holding a license or registration issued by the Commission shall have an ongoing duty to report any change of mailing address, email address, or other contact information to the Commission. The contact information on file at the Commission shall be deemed accurate for purposes of service of any notification required to be provided including that required by 205 CMR, M.G.L. c.30A, and/or M.G.L. c.23K.

(7) Any applicant, licensee or registrant who desires to have notices or other communications from the commission or the bureau sent to an address other than that specified in the most recent application or notice of change of address on file with the commission and the bureau shall file with the commission and the bureau a written notice of change of address, and, within a reasonable time after receipt thereof by the commission and the bureau, subsequent notices and other communications from the commission or the bureau will be sent to the applicant, licensee or registrant at such address.

106.03: Electronic Filing by Applicants during RFA-1 and RFA-2 Processes

(1) The commission shall develop and post on its website administrative procedures pursuant to which all applications, papers, documents, correspondence and other information submitted by an applicant to the commission or the bureau during the RFA-1 process pursuant to 205 CMR 115.00: *Phase 1 Suitability Determinations, Standards and Procedures* and the RFA-2 process described in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications* must be filed by electronic means as provided therein. Any document required by 205 CMR 101.00 through 117.00 *et. seq.* to be signed or notarized shall be signed or notarized, scanned and submitted in PDF form. All applicants must comply with those administrative procedures.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 107.00: PROFESSIONAL PRACTICE

107.01: General Provisions

No person may practice law, accountancy, architecture, professional engineering, land surveying or any other profession or occupation regulated by the laws of the Commonwealth of Massachusetts before the commission in any manner other than in accordance with law, the ethical standards applicable to the particular profession and 205 CMR 101.00 ~~through 117.00~~ *et. seq.* Practice shall include any matter connected with the representation of the interest of a client, including the making of any appearance and the preparing or filing of any necessary written document, correspondence or other paper relative to such interests.

107.02: The Practice of Law

(1) No individual, other than a member, in good standing, of the bar of the Commonwealth of Massachusetts, shall practice law before the commission; provided, that a member of the bar, in good standing, of any other state may appear and practice, by permission of the commission, in any particular matter before the commission as set forth in 205 CMR 107.02(2).

(2) Notwithstanding 205 CMR 107.02(1), an attorney who is a member of the bar of the highest court of any state may appear and practice before the commission in a particular matter by leave granted in the discretion of the commission, provided he or she files a certificate that:

(a) he or she is a member of the bar in good standing in every jurisdiction where he or she has been admitted to practice;

(b) there are no disciplinary proceedings pending against him or her as a member of the bar in any jurisdiction; and

(c) he or she has read and is familiar with M.G.L. c. 23K and 205 CMR 101.00 ~~through 117.00~~ *et. seq.*; and provided further, that his or her application for leave to practice before the commission is on request of a member, in good standing, of the bar of the Commonwealth of Massachusetts, who shall:

1. represent the client concurrently as its local counsel on the same particular matter;

2. appear of record in the particular matter; and

3. be responsible for the conduct of the out-of-state attorney in the particular matter; and provided further that both such attorneys shall sign all papers submitted or filed by counsel with the commission on behalf of their mutual client.

(3) A natural person who is not a member of the bar and to whom 205 CMR 107.02(1) and (2)

are not applicable may appear and practice before the commission only in his or her own behalf.

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205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 108.00: COMMUNITY AND POLITICAL CONTRIBUTIONS

108.01: Prohibited Political Contributions

(1) As specified in M.G.L. c. 23K, § 46, no applicant for a gaming license, nor any holding, intermediary or subsidiary company thereof, nor any prohibited person, nor any person or agent on behalf of any such applicant, company or prohibited person, shall directly or indirectly, pay or contribute any money or thing of value to:

- (a) an individual who holds a municipal, county or state office;
- (b) any candidate for nomination or election to any public office in the Commonwealth of Massachusetts, including a municipal office; or
- (c) any group, committee or association organized in support of any such candidate; provided, however, that the provisions of 205 CMR 108.01 shall not prohibit an individual who is a candidate for public office from contributing to the candidate's own campaign.

(2) In determining whether a contribution or payment was made by a prohibited person or any entity described in 205 CMR 108.01(1), the commission shall consider all relevant facts and circumstances, including, but not limited to, the following:

- (a) Whether the person making the contribution or payment is a spouse or dependent person with regard to the prohibited person;
- (b) The nature and importance of any economic, business, personal, familial or other relationship between the person making the contribution or payment and the entity or prohibited person that currently exists, that existed at the time the contribution or payment was solicited and made, or that is reasonably anticipated to exist in the foreseeable future;
- (c) The timing and nature of any communications that may have occurred between the person making the contribution or payment and the entity or prohibited person regarding the prohibited person's desire to raise funds for the candidate or political organization that received the contribution or payment;
- (d) The ability or inability of the entity or prohibited person to control or affect the actions of the person making the contribution or payment, and any evidence that any such ability played a role in the decision to make the contribution or payment;
- (e) Any prior contributions or payments to or expressions of support for the candidate or political organization that was the recipient of the contribution or payment by the person making the contribution or payment, and the timing of any such prior contributions or payments or expressions in relation to the establishment of the relationship between the prohibited person and the person making the contribution or payment;

(f) Whether the person making the contribution or payment is a resident of Massachusetts or has significant property or business interests in Massachusetts;

(g) The timing and nature of any communications that may have occurred between the person making the contribution or payment and the recipient of the contribution or payment regarding the entity or prohibited person's solicitations on behalf of or expressions of support for the candidate or political organization;

(h) Whether there is a pattern or regular course of conduct involving contributions or payments to one or more candidates or political organizations by the person making the contribution or payment;

(i) Whether there is a pattern or regular course of conduct involving contributions or payments to one or more candidates or political organizations on the part of a spouse, employees, contractors or other dependent persons of a prohibited person or any affiliated person or entity thereof; and

(j) Whether the entity or prohibited person has, directly or indirectly, reimbursed or offered to reimburse the person making the contribution or payment for all or any portion of the contribution.

108.02: Mandatory Disclosure of Political Contributions and Community Contributions

(1) An applicant or qualifier shall disclose to the commission in the Phase 1 application all political contributions and community contributions from November 22, 2011 through the date the Phase 1 application is filed **and shall disclose in the Phase 2 application all political contributions and community contributions from January 15, 2013 through the date the Phase 2 application is filed.** This duty of disclosure shall continue after the submission of the application and throughout the period of examination and investigation of the applicant and its qualifiers by the bureau and commission. The failure to make such disclosures shall constitute a violation of M.G.L. c. 23K, § 13 and 205 CMR 112.00: *Required Information and Applicant Cooperation*, and may subject the applicant licensee or qualifier to a negative determination of suitability or denial of its application for a gaming license or to a revocation of a gaming license or determination of suitability for licensure, and any other remedial actions by the commission.

(2) All political contributions or contributions in kind made by an applicant for a gaming license to a municipality or a municipal employee, as defined in M.G.L. c. 268A, § 1, of the host community of the applicant's proposed gaming establishment shall be disclosed by the applicant to the commission in accordance with 205 CMR 111.00: *Phase 1 Application Requirements* **and contributions made from January 15, 2013 through the date the Phase 2 application is filed shall be disclosed in the Phase 2 application** and to the city or town clerk of the host community. Applicants shall also fully and completely comply with 970 CMR 1.19: *Contributions from Gaming License Applicants and Persons Holding Such Licenses* (Office of Campaign and Political Finance) so as to enable timely and expeditious public reporting.

(3) The duty to disclose set forth in 205 CMR 108.02(1) and (2) shall not prohibit disbursements to host or surrounding municipalities pursuant to 205 CMR 114.03: *Community Disbursements*.

108.03 Mandatory Disclosure of Requests Any Thing of Value

(1) For purposes of 205 CMR 108.03, a request for any thing of substantial value means a request for compensation, contribution(s), services, gifts, request(s) to do or take or refrain from doing or taking any action with a face value or fair market value of \$1000 or more at the time it was requested. Examples of any thing of value include, but are not limited to, ~~ease~~ cash, food or drink, contributions to a charity or non-profit or tickets to entertainment, cultural or sporting events. To determine the value of attendance at an event, the calculation shall include, if such information is available, the admission fee or ticket price or per person cost to the sponsor or the actual cost of the event may be divided by the number of attendees.

(2) An applicant shall disclose to the commission in the RFA-2 application all requests, of which it is reasonably aware, ~~or via due diligence should have been aware, for any thing of substantial value made to an agent or employee of the applicant or any qualifier by persons or persons listed in 108.01(1) for any thing of substantial value~~ from January 15, 2013 through the date the RFA-2 application is filed. ~~The request shall have been reasonably related to the proposed development of a gaming establishment in Massachusetts. This duty of disclosure shall continue after the submission of the application and throughout the period of examination and investigation of the applicant and its qualifiers by the bureau and commission. The failure to make such disclosures shall constitute a violation of M.G.L. c. 23K, §13 and 205 CMR 112.00: Required Information and Applicant Cooperation, and may result in the denial of the application for a gaming license or to a revocation of a gaming license or any other remedial actions deemed reasonably by the commission.~~

(3) The disclosure shall include the name of the person making the request, the date the request was made and the nature of the request.

(4) The duty to disclose set forth in 205 CMR 108.03(1) and (2) shall not include requests for disbursements by municipalities pursuant to 205 CMR 114.03: *Community Disbursements* or requests for disbursements by municipalities made in accordance with an agreement between an applicant and the municipality to pay or reimburse expenses incurred in connection with the negotiation of a host or surrounding community agreement.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 112.00: REQUIRED INFORMATION AND APPLICANT COOPERATION

112.01: Additional information

(1) The commission, the bureau or their agents and employees may request additional information and documents from an applicant throughout the application review process including after the application has been deemed administratively complete under 205 CMR 111.00: *Phase 1 Application Requirements* and 205 CMR 118.03: *RFA-2 Administrative Completeness Review*. Failure by the applicant to timely submit the additional information as requested by the commission, the bureau or their agents and employees may be grounds, in the discretion of the commission, for denial of the application.

(2) All applicants, licensees, registrants and qualifiers under M.G.L. c. 23K and 205 CMR 101.00 through 117.00 *et. seq.* shall comply with all requests of the commission, the bureau and their agents and employees for information and documents as authorized by the M.G.L. c. 23K and 205 CMR 101.00 through 117.00 *et. seq.*

112.02: Obligation to Cooperate

(1) Applicants, licensees, registrants and qualifiers shall respond within ten days or within the time specified in an information request by the commission, the bureau and their agents and employees under 205 CMR 112.01 to said information request.

(2) All applicants, licensees, registrants and qualifiers under M.G.L. c. 23K shall have a continuing duty to provide all information and documents requested by the commission, bureau, and their agents and employees and to cooperate in any investigation or hearing conducted by the commission, bureau, and their agents and employees, as authorized by M.G.L. c. 23K. Without limitation, an applicant, licensee, registrant and qualifier shall have a continuing duty to provide updated information to the commission, the bureau and their agents and employees in connection with the Phase 1 investigation by the bureau pursuant to 205 CMR 115.03: *Phase 1 Investigation and Recommendations by the Bureau*, the Phase 2 application review conducted in accordance with 205 CMR 118.00: *Phase 2 Administrative Proceedings*, and any hearing by the commission or the bureau pursuant to 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.

(3) If the commission determines that an applicant, licensee, registrant, or qualifier has knowingly withheld information, knowingly failed to provide information or documents requested by the commission, bureau, or their agents and employees, or knowingly failed to cooperate with any investigation or hearing conducted by the commission, bureau, or their agents and employees, the commission may, with respect to such person:

(a) Find that person ineligible to hold a license or registration or be qualified in connection with a license;

- (b) Suspend the relevant license, registration or qualification; or
- (c) Revoke the relevant license, registration or qualification.

112.03: Obligation to Provide Truthful Information

- (1) No applicant, licensee, registrant or qualifier shall knowingly provide materially false or misleading information to the commission, the bureau, or their agents and employees.
- (2) If the commission determines that an applicant, licensee, registrant, or qualifier has knowingly provided materially false or misleading information to the commission, the bureau, or their agents and employees, the commission shall, with respect to such person:
 - (a) Find that person ineligible to hold a license or registration or be qualified in connection with a license;
 - (b) Suspend, condition or revoke the relevant license, registration or qualification.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 114.00: FEES

114.03: Community Disbursements

(1) Pursuant to M.G.L. c. 23K, § 15(11), not less than \$50,000 of the initial application fee for a gaming license shall be used to reimburse the host and surrounding municipalities in accordance with 205 CMR 114.03 for the cost of determining the impact of a proposed gaming establishment and for negotiating community impact mitigation agreements.

(2) (a) Based on a letter of authorization to the commission signed by authorized representatives of an applicant and a host or surrounding municipality or by an applicant and a regional planning agency, the commission may, at any time and from time to time, make community disbursements to that host or surrounding municipality or regional planning agency from available amounts paid by that applicant to the commission for community disbursements. If the total amount of payments authorized by an applicant exceeds the initial \$50,000 amount, the applicant shall immediately pay to the commission all such additional amounts authorized by such letters of authorization for community disbursements. If the applicant fails to pay any such additional amount to the commission within 30 days after notification from the commission of insufficient funds, the application shall be rejected.

(b)(i) In addition to the process provided in 205 CMR 114.03(2)(a), 30 21 days after the Commission has posted a host community agreement to its website in accordance with 205 CMR ~~127~~123.02(3), or for a prospective surrounding community to a Category 1 gaming establishment at any time within 90 days of the deadline for submission by an applicant of an RFA-2 application for a Category 1 gaming license, or for a prospective surrounding community to a Category 2 gaming establishment at any time within 60 days of the deadline for submission by an applicant of an RFA-2 application for a Category 2 license, or, in the case of a prospective surrounding community to a Category 1 gaming establishment, at any time within 90 days prior to the deadline for submission by an applicant of an RFA-2 application for a Category 1 gaming license, or, in the case of a prospective surrounding community to a Category 2 gaming establishment, at any time within 60 days prior to the deadline for submission by an applicant of an RFA-2 application for a Category 2 license, any community that believes it may be a surrounding community to the gaming establishment that is the subject of the host community agreement may apply to the Commission for community disbursements without a letter of authorization signed by the applicant. To do so, the community must submit an application on a form provided by the Commission and shall, identify all legal, financial and other professional

services deemed necessary by the community for the cost of determining the impact of the proposed gaming establishment and for the negotiation and execution of a host or surrounding community agreement and the attendant costs. Further, the application shall include a statement from the community attesting that a request for the subject funds was made directly to the applicant and denied, and that a copy of the application was served upon the applicant prior to being filed with the Commission. An applicant may file a response to the request for funds no later than 7 days after service of the application by the community. The Commission may take action on the application either upon administrative review of the filings or it may convene a hearing on the application at which it may allow presentations from the community and applicant.

(ii) The Commission may approve the application upon a finding that there is a reasonable likelihood that the community will be designated a surrounding community pursuant to 205 CMR 109.01(2) and that the risk that the community will not be able to properly determine the impacts of a proposed gaming establishment without the requested funds outweighs the burden of the actual financial cost that will be borne by the applicant.

(iii) If the application is approved, the community shall be designated a surrounding community for the limited purpose of receiving funding to pay for the cost of determining the impacts of a proposed gaming establishment and for potentially negotiating a surrounding community agreement. Such determination, however, shall not be considered evidence that the community receiving disbursements is or should be designated as a surrounding community pursuant to 205 CMR 109.01(2).

(iv) The Commission shall make the approved community disbursements from available amounts paid by the applicant to the Commission for community disbursements. If the total amount of payments authorized by the Commission exceeds the initial \$50,000 amount, the applicant shall immediately pay to the Commission all such additional authorized amounts for community disbursements. If the applicant fails to pay any such additional amount to the Commission within 30 days after notification from the Commission of insufficient funds, the application shall be rejected.

(3) If 30 days have elapsed after the final issuance, denial or withdrawal of an application for a gaming license and there remains a balance of funds previously paid by the applicant for community disbursements and not previously encumbered or disbursed pursuant to 205 CMR 114.03(2), the commission in its discretion may disburse the remaining balance of such funds to the applicant's host or surrounding municipalities as the commission in its discretion may determine and in accordance with such policies and procedures as the commission may determine the funds shall be distributed as follows:

- a) If the funds represent a remaining balance of the initial \$50,000 portion of the \$400,000 application fee filed in accordance with M.G.L. c.23K, §15(11), the funds shall be deposited in the Community Mitigation Fund established in accordance with M.G.L. c.23K, §61; or
- b) If the funds represent monies paid to the Commission by the applicant in accordance with 205 CMR 114.03(2)(a) or (b)(iv), the monies shall be refunded to the applicant.

(4) The provisions of 205 CMR 114.03 do not prohibit community contributions permitted and reported in accordance with M.G.L. c. 23K, § 47, and 205 CMR 108.02: *Mandatory Disclosure of Political Contributions and Community Contributions*.

114.04: Additional Fees for Investigations

(1) Pursuant to 205 CMR 114.00, the applicant shall be responsible for paying to the Commission all costs incurred by the commission, directly or indirectly, for conducting any investigation into an applicant. As required by the procedure established pursuant to 205 CMR 114.04(5), the applicant shall pay to or reimburse the commission for all such investigation costs that exceed the initial application fee.

(2) For purposes of 205 CMR 114.00, the costs for conducting any investigation into an applicant shall include, without limitation:

(a) All costs for conducting an investigation into an applicant and its qualifiers, the applicant's affiliates and close associates, and any other person subject to the jurisdiction of the commission under M.G.L. c. 23K relating to the application in question; and

(b) All fees for services, disbursements, out of pocket costs, allocated overhead, processing charges, administrative expenses, professional fees, and other costs directly or indirectly incurred by the commission, including without limitation all such amounts incurred by the commission to and through the bureau, the division, the gaming enforcement unit, the gaming liquor enforcement unit, and any contractor investigator.

(3) The commission in its discretion shall establish, and, post on its website, a schedule of hourly fees, wages, applicable fringe benefits, payroll taxes, overhead rates and other charges to be assessed by the commission to applicants for in-house personnel, services and work of the commission, the bureau, the division, the gaming enforcement unit, and the gaming liquor enforcement unit for conducting investigations into an applicant pursuant to 205 CMR 114.00.

(4) The commission shall assess to the applicant all other costs paid by or for the commission, directly or indirectly, to any other person for conducting an investigation into an applicant plus an appropriate percent for overhead, processing and administrative expenses.

(5) The commission in its discretion shall establish, and post on its website, a procedure by which it will calculate, assess, invoice, collect, require payment for, account for and reconcile payments by applicants to the commission for the costs for conducting any investigation pursuant to 205 CMR 114.00. In the case of a gaming license applicant, this procedure may include, without limitation, the requirement for the applicant to fund in advance a force account held by the commission and to maintain therein and replenish a minimum required balance of at least \$100,000 against which the commission may charge, with interest at 1% per month and late payment penalties, any costs for conducting the investigation not timely paid by the applicant in response to an invoice from the commission.

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 115.00: PHASE 1 SUITABILITY DETERMINATION, STANDARDS AND
PROCEDURES

115.05: Phase 1 Determination by the Commission

- (1) After the proceedings under 205 CMR 115.04, the commission shall issue a written determination of suitability pursuant to M.G.L. c. 23K, §§ 4(15), 12 and 17.
- (2) Negative Determination. If the commission finds that an applicant failed to meet its burden of demonstrating compliance with the suitability standards in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a negative determination of suitability.
- (3) Positive Determination. If the commission finds that an applicant has met its burden of demonstrating compliance with the suitability in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a positive determination of suitability which may include conditions and restrictions.
- (4) The commission shall not entertain a Phase 2 application for any applicant unless and until the commission has issued a positive suitability determination on that applicant.
- (5) No appeal from Commission's Determination of Suitability. Pursuant to M.L.G. c. 23K, § 17(g) the applicant shall not be entitled to any further review.
- (6) A host community may not hold an election in accordance with M.G.L. c.23, §15(13) until the commission has issued a positive determination of suitability to the applicant in accordance with 205 CMR 115.05(3) unless the following conditions are satisfied:
 - a) Prior to the request by the applicant for an election in accordance with 205 CMR 124.02(1), the governing body of the community formally approves of holding the election prior to a positive determination of suitability having been issued to the applicant by the commission; and
 - b) at the expense of the applicant, prior to the election the community has conducted a process for informing the community about the commission's determination of suitability standards and procedures, which shall include, but not be limited to, the provision of a notice designed to be received by voting households within the community informing such households that an election is to be held for which the applicant has yet to be issued a positive determination of suitability, that the commission will make its determination of suitability after completing a thorough background investigation of the applicant, its principal operating officers and investors, and that the commission will not permit the applicant or its principal operating officers or investors to proceed with the application

unless it determines that they are suitable to operate a gaming facility in Massachusetts. The content of the notice shall be forwarded to the commission for approval prior to dissemination. A description of other methods to so inform the community about the commission's determination of suitability standards and procedures shall also be forwarded to the commission prior to holding of the election. Any failure to issue the notice to one or more voting households shall not be deemed by the commission to be a failure to meet the requirements of this section, provided that a community demonstrates reasonable efforts to comply with the requirements of this section.