
MIRICK O'CONNELL

ATTORNEYS AT LAW

Brian R. Falk
Mirick O'Connell
100 Front Street
Worcester, MA 01608-1477
bfalk@mirickoconnell.com
t 508.929.1678
f 508.983.6256

VIA EMAIL and HAND DELIVERY

April 17, 2014

Catherine Blue, Esq., General Counsel
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

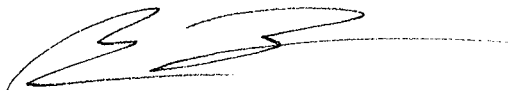
Re: In the Matter of: The Determination of the Premises of the Gaming Establishment
for Which Mohegan Sun Massachusetts, LLC Seeks a Gaming License

Dear Attorney Blue:

Enclosed for consideration by the Gaming Commission is the City of Revere's Legal Brief regarding the above-referenced matter.

Please feel free to contact me with any questions or concerns.

Sincerely,



Brian R. Falk

BRF/dcl
Enclosure

cc: Hon. Daniel Rizzo, Mayor
Paul Capizzi, Esq., City Solicitor
John Festa, Director of Economic Development

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

WORCESTER | WESTBOROUGH | BOSTON

www.mirickoconnell.com

MASSACHUSETTS GAMING COMMISSION

In the Matter of:

THE DETERMINATION OF THE
PREMISES OF THE GAMING
ESTABLISHMENT FOR WHICH
MOHEGAN SUN MASSACHUSETTS, LLC
SEEKS A GAMING LICENSE

MEMORANDUM OF THE CITY OF REVERE**Introduction**

This memorandum provides factual information relative to the status of the City of Revere (“Revere”) as the sole Host Community of the gaming establishment for which Mohegan Sun Massachusetts, LLC (“Mohegan Sun”) seeks approval in its RFA-2 application. This memorandum is intended to supplement the memorandum submitted in this matter by Mohegan Sun.

The Gaming Act defines “Host Community” as “a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.” M.G.L. c. 23K, § 2. With respect to the gaming establishment proposed by Mohegan Sun, only one municipality in the Commonwealth meets this definition – Revere.

This memorandum demonstrates that:

1. Revere’s Host Community Agreement with Mohegan Sun and subsequent host community referendum concern a gaming establishment to be located solely within the municipal boundaries of Revere.
2. The project proposed by Mohegan Sun is accessible from Revere and will rely on essential services from Revere.

I. REVERE’S HOST COMMUNITY AGREEMENT WITH MOHEGAN SUN AND SUBSEQUENT HOST COMMUNITY REFERENDUM CONCERN A GAMING ESTABLISHMENT TO BE LOCATED SOLELY WITHIN THE MUNICIPAL BOUNDARIES OF REVERE.

Following Revere’s November 5, 2013 host community referendum (the “First Revere Referendum”), Revere began working with Sterling Suffolk Racecourse, LLC (“Suffolk Downs”) on plans for a gaming establishment on property owned by Suffolk Downs and located solely within the municipal boundaries of Revere (the “Project”). Revere was aware that no portion of the Project’s gaming establishment could be located in the City of Boston after voters in East Boston rejected host community status. Local support for the Project was high: 60% of voters said ‘yes’ to a gaming establishment in Revere at the First Revere Referendum, and the Revere City Council voted unanimously on December 2, 2013 in favor of a Revere-only gaming establishment. See City Council Order No. 13-279, previously submitted to the Gaming Commission by Mohegan Sun, and attached hereto as Exhibit A. When considering possible amendments to Revere’s Host Community Agreement with Suffolk Downs (the “First Revere HCA”, previously submitted to the Gaming Commission by Suffolk Downs), Revere knew that its impact fees and other mitigation would need to reflect Revere’s obligation, as the sole host community, to supply all necessary municipal services to the gaming establishment.

The Gaming Commission weighed in on the Project, deliberating over whether the First Revere Referendum and an amended and assigned version of the First Revere HCA were sufficient to accommodate a gaming establishment (now proposed by Mohegan Sun) to be located solely in Revere. See MGC 11-21-13 Transcript at 137 – 226; MGC 12-3-13 Transcript at 97 – 155; MGC 12-10-13 Transcript at 2 – 45. Following those deliberations, the Gaming Commission voted on December 10, 2013 to allow Revere and Mohegan Sun to request a waiver from the requirements of 205 CMR 119.01(7). The wavier would accommodate a second host

community referendum in Revere and allow Mohegan Sun to submit certification of that second referendum after the RFA-2 filing deadline of December 31, 2013. Revere and Mohegan Sun respected the Gaming Commission's position and requested the waiver, which was granted by the Gaming Commission on December 19, 2013. In accordance with the Gaming Commission's suggested timeline, Revere entered a new Host Community Agreement with Mohegan Sun on December 23, 2013 (the "Second Revere HCA", previously submitted to the Gaming Commission by Mohegan Sun) and held a second host community referendum on February 25, 2014 (the "Second Revere Referendum.")

Both the First Revere HCA and the Second Revere HCA, in their respective Recitals #1 and #2, describe the location of the proposed gaming establishment to be licensed by the Gaming Commission:

- Recital #1 and #2 of the First Revere HCA provide:
 1. The Owner is the owner of a 161-acre parcel of land (the "Property") located both in the City and the City of Boston, Massachusetts, of which approximately 45 acres are located in the City and approximately 116 acres are located in the City of Boston, on which the Owner operates historic Suffolk Downs, a thoroughbred horse racing facility licensed pursuant to the provisions of M.G.L. chapter 128A, and which is licensed to conduct simulcast wagering pursuant to the provisions of M.G.L. chapter 128C.
 2. The Owner has filed an application with the Massachusetts Gaming Commission (the "Commission") seeking a license to operate a resort gaming establishment (a "Gaming License") at the Property together with Caesars Massachusetts Management Company, LLC (the "Project") pursuant to the provisions of M.G.L. chapter 23K ("Chapter 23K").

(Emphasis added).

- Recital #1 and #2 of the Second Revere HCA provide:
 1. The Developer has entered into a binding agreement pursuant to which the Developer will hold a long term lease of an approximately 40-acre parcel of land located off of Winthrop Avenue in the City of Revere, Massachusetts, which is a portion of the properties identified by the City's Assessors as Parcel 6-120B-1A and Parcel 4-80-14B (the "Property"), on which it has proposed to construct and

thereafter own and operate a first class resort-style gaming establishment and related amenities (the “Project”, as more particularly described in Exhibit A).

2. The Developer will file an RFA-2 Response (the “RFA-2 Response”) with the Massachusetts Gaming Commission (the “Commission”) seeking to operate the Project pursuant to a category 1 gaming license (a “Gaming License”) at the Property in accordance with the provisions of M.G.L. chapter 23K (“Chapter 23K”).

(Emphasis added).

Therefore, unlike the First Revere HCA, the Second Revere HCA clearly identified a gaming establishment to be located solely in Revere.

The summaries used on the ballot at each of Revere’s host community referendums also describe the location of the proposed gaming establishment:

- The summary on the ballot at the First Revere Referendum (the “First Ballot Summary”, previously submitted to the Gaming Commission by Suffolk Downs) provides:

The Project

Suffolk Downs proposes a resort-style casino at the Suffolk Downs racetrack property, located partially in the City and partially in East Boston. Suffolk Downs proposes to invest approximately \$1 billion to develop the casino and make improvements to the regional transportation infrastructure, and expects to generate approximately \$1 billion in gaming revenue each year once the casino is fully constructed. The project is expected to create 2,500 construction jobs and 4,000 permanent jobs.

(Emphasis added).

- The summary on the ballot at the Second Revere Referendum (the “Second Ballot Summary”, previously submitted to the Gaming Commission by Mohegan Sun) provides:

The Project

Mohegan Sun proposes a resort-style casino to be located off of Winthrop Avenue in the City. Mohegan Sun proposes to invest more than \$1 billion to develop the casino and make improvements to the regional transportation and other infrastructure, and expects to generate approximately \$1 billion in gaming revenue

each year at maturity. The project is expected to create 2,500 construction jobs and 4,000 permanent jobs.

(Emphasis added).

Consistent with the Second Revere HCA, the Second Ballot Summary informed voters that the gaming establishment would be located solely in Revere.

In addition, various site plans and construction renderings submitted to Revere by Mohegan Sun, including the preliminary plan incorporated as “Exhibit A” to the Second Revere HCA and the plans submitted with Mohegan Sun’s RFA-2 application, show that all structures proposed for the Project will be located solely within Revere’s municipal boundaries. See Affidavit of City Planner Frank Stringi, dated April 15, 2014, and attached hereto as Exhibit B.

Thus, Revere entered the Second Revere HCA with the clear understanding that it would be the sole Host Community for the gaming establishment. At the Second Revere Referendum, voters were asked to approve a gaming establishment to be located solely within Revere, as described in the Second Ballot Summary. Over 63% of voters at the Second Revere Referendum said ‘yes’ to a gaming establishment to be located solely in Revere.

II. THE PROJECT IS ACCESSIBLE FROM REVERE AND WILL RELY ON ESSENTIAL SERVICES FROM REVERE.

A. The Project’s Main and Secondary Vehicular Entrances are Located off of Public Ways Located Solely Within Revere.

The Project’s main entrance driveway for vehicles will be located off of Furlong Drive, which is a public way owned and maintained by the City of Revere from its intersection with Route 1A to approximately its first bend, and which is located entirely within the City of Revere. See Exhibit A. In addition, the Project’s secondary entrance driveway for vehicles will be located off of Winthrop Avenue, which is a public way owned and maintained by the Commonwealth of Massachusetts and located entirely within Revere. Id. Mohegan Sun will pay for significant improvements to Furlong Drive, the intersection of Furlong Drive and Route 1A

(an intersection located entirely within Revere), and the intersection of Winthrop Avenue and Tomasello Drive (an intersection also located entirely within Revere), in order to accommodate one hundred percent of the Project's vehicular traffic. Id.

B. Public Transportation Stations Servicing the Project are Located Solely Within Revere.

As shown in Mohegan Sun's RFA-2 application, the main pedestrian entrance to the Project will be located one block away from the MBTA's Beachmont Blue Line Station, which is located entirely within Revere. In addition, as shown in Mohegan Sun's RFA-2 application, the Project will be served by MBTA bus stops along Winthrop Avenue located entirely within Revere.

C. Revere Will Provide All Water and Sewer Service to the Project.

Mohegan Sun has requested that Revere provide all water and sewer service to the Project. See Affidavit of Donald Goodwin, dated April 15, 2014, and attached hereto as Exhibit C. Based upon studies conducted by Revere's engineering consultants, Revere will be able to provide all water and sewer service to the Project following various infrastructure improvements to Revere's water and sewer systems, to be completed at Mohegan Sun's expense. Id.

D. Revere will Provide Public Safety and Emergency Services to the Project.

Revere's Police Department will provide public safety services to the Project, and due to the financial resources available to Revere through the Second Revere HCA, Revere will not need to rely on mutual aid from neighboring municipal police departments in order to serve the Project. See Letter from Police Chief Joseph Cafarelli to Mitchell Etess, dated January 23, 2014, previously submitted to the Gaming Commission by Mohegan Sun, and attached hereto as Exhibit D. Revere's Fire Department will provide emergency services to the Project, and due to

the financial resources available to Revere through the Second Revere HCA, Revere will not need to rely on mutual aid from neighboring municipal fire departments in order to serve the Project. See Letter from Fire Chief Eugene W. Doherty to Mitchell Etes, dated January 23, 2014, previously submitted to the Gaming Commission by Mohegan Sun, and attached as Exhibit E.

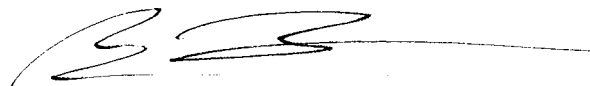
Conclusion

For the reasons stated above, as well as the reasons set forth in Mohegan Sun's memorandum, the City of Revere is the sole Host Community of the gaming establishment for which Mohegan Sun seeks approval in its RFA-2 application.

Respectfully submitted,

THE CITY OF REVERE

By its attorney,



Brian R. Falk, Esq. BBO #667425
Mirick, O'Connell, DeMallie & Lougee, LLP
100 Front Street
Worcester, MA 01608-1477
(508) 791-8500
bfalk@mirickoconnell.com

Dated: April 17, 2014

Exhibit A



City of Revere
City Council

City Council Order No. 13-279

Date: December 2, 2013

Offered by Revere City Council

RESOLUTION AFFIRMING SUPPORT FOR A GAMING ESTABLISHMENT LOCATED OFF OF WINTHROP AVENUE

WHEREAS, the Mayor, City Council and citizens of Revere have consistently urged the owners of Suffolk Downs to locate all or a more substantial portion of the proposed gaming establishment in the City of Revere;

WHEREAS, the Mayor, City Council, and citizens of Revere intended a flexible Host Community Agreement that allows for the location of a gaming establishment solely within the boundaries of Revere;

WHEREAS, the citizens of the City of Revere were aware that the proposed gaming establishment located off of Winthrop Avenue in the City of Revere might be located solely in Revere if the votes of East Boston rejected the dual community proposal;

WHEREAS, after the withdrawal of Caesars, Suffolk Downs made clear throughout the referendum campaign that it would find a new qualified gaming operator to manage and develop any proposed gaming establishment; and

WHEREAS, the results of the November 5, 2013 referendum demonstrated overwhelming support for a gaming establishment located off of Winthrop Avenue by the votes of the Beachmont neighborhood, which is the most impacted Revere neighborhood, and the citizens of Revere generally.

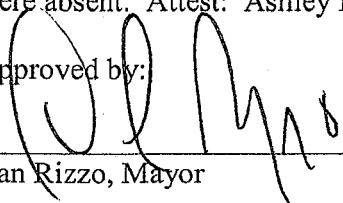
NOW, THEREFORE, BE IT RESOLVED by the Revere City Council as follows:

1. That the City Council hereby ratifies and confirms the foregoing recitals and affirms its support and the support of the citizens of Revere for a gaming establishment located off of Winthrop Avenue entirely within the City of Revere.
2. That the City Council hereby affirms that the Host Community Agreement provides the flexibility for the location of a gaming establishment entirely within the City of Revere.
3. That the City Council hereby confirms that the affirmative referendum vote, which was a land use vote, remains in effect for the proposed Revere-only project.

In City Council December 2, 2013:

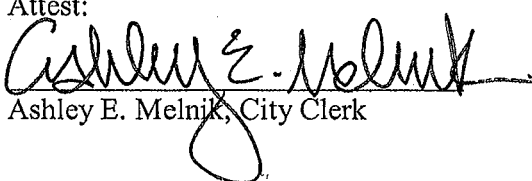
Ordered on a Roll Call: Councillors Arrigo, Correggio, Giannino, Guinasso, Haas, Patch, Penta, Zambuto, and Council President Novoselsky voting "YES." Councillors Powers and Reardon were absent. Attest: Ashley E. Melnik, City Clerk

Approved by:



Dan Rizzo, Mayor

Attest:



Ashley E. Melnik, City Clerk

Date: DEC. 2, 2013

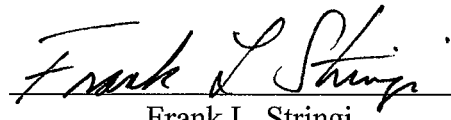
Exhibit B

AFFIDAVIT OF FRANK L. STRINGI

I, Frank L. Stringi, being first duly sworn, depose and say as follows:

1. I am the duly appointed City Planner of the City of Revere, a position I have held for 31 years.
2. In my official capacity, I am responsible for coordinating the City's review of permit applications for large projects.
3. In my official capacity, I serve as Chair of the City's Site Plan Review Committee and Clerk of the City's Planning Board.
4. In my official capacity, I routinely meet with developers of large projects in advance of formal applications.
5. In December of 2014, representatives of Mohegan Sun Massachusetts LLC ("Mohegan Sun") initiated discussions with me regarding the proposed resort casino to be located in the City of Revere (the "Project").
6. I have reviewed various site plans and construction renderings submitted to the City of Revere by Mohegan Sun, including the preliminary plan incorporated as "Exhibit A" to Revere's Host Community Agreement with Mohegan Sun (the "HCA") and the plans submitted with Mohegan Sun's RFA-2 application to the Massachusetts Gaming Commission ("Mohegan Sun's Plans.")
7. Based upon my review of Mohegan Sun's Plans, all structures proposed by Mohegan Sun as part of the Project will be located within the municipal boundaries of the City of Revere.
8. Based upon my review of Mohegan Sun's Plans, the Project's main entrance driveway for vehicles will be located off of Furlong Drive, which is a public way owned and maintained by the City of Revere from its intersection with Route 1A to approximately its first bend, and which is located entirely within the City of Revere.
9. Based upon my review of Mohegan Sun's Plans, the Project's secondary entrance driveway for vehicles will be located off of Winthrop Avenue, which is a public way owned and maintained by the Commonwealth of Massachusetts and located entirely within the City of Revere.
10. Based upon my review of Mohegan Sun's Plans, the HCA and discussions with Mohegan Sun representatives, Mohegan Sun will, as part of the Project, pay for significant improvements to Furlong Drive, the intersection of Furlong Drive and Route 1A (said intersection being located entirely within the City of Revere), and the intersection of Winthrop Avenue and Tomasello Drive (said intersection being located entirely within the City of Revere) in order to accommodate one hundred percent of the Project's vehicular traffic.

Executed under the pains and penalties of perjury this 5 day of April, 2014.



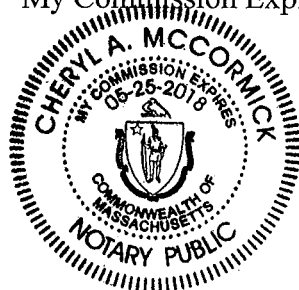
Frank L. Stringi

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On July 15, 2014, before me, the undersigned notary public, personally appeared Frank L. Stringi (the "Principal"), and acknowledged to me that the Principal signed the preceding or attached document voluntarily for its stated purpose and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief. The Principal proved to me through satisfactory evidence of identification that the Principal is the person whose name is signed on the preceding or attached document. The satisfactory evidence of identification provided to me was:

- A current document issued by a federal or state government agency bearing the photographic image of the Principal's face and signature; or
- On the oath or affirmation of a credible witness unaffected by the document or transaction who is personally known to the notary public and who personally knows the Principal; or
- Identification of the Principal based on the notary public's personal knowledge of the identity of the Principal; or
- The following evidence of identification: _____

Notary Public: Cheryl A. McCormickPrinted Name: Cheryl A. McCormickMy Commission Expires: May 25, 2018

[Seal]

Exhibit C

AFFIDAVIT OF DONALD GOODWIN

I, Donald Goodwin, being first duly sworn, depose and say as follows:

1. I am the duly appointed Superintendent of the Department of Public Works of the City of Revere.
2. In my official capacity, I am responsible for reviewing and approving applications to connect properties to the City of Revere's water and sewer systems.
3. In my official capacity, I routinely meet with developers of large projects in advance of formal applications.
4. In December of 2014, representatives of Mohegan Sun Massachusetts LLC ("Mohegan Sun") initiated discussions with me regarding the proposed resort casino to be located in the City of Revere (the "Project").
5. Mohegan Sun's representatives have requested that the City of Revere provide all water and sewer service to the Project, without relying on any water or sewer service from neighboring municipalities.
6. Since early December of 2014, I have been working with various City departments and representatives of Mohegan Sun to determine what infrastructure improvements to the City of Revere's water and sewer systems will be necessary to service the Project.
7. Based upon studies conducted by the City of Revere's engineering consultants, the City of Revere will be able to provide all water and sewer service to the Project following various infrastructure improvements to the City of Revere's water and sewer systems.
8. Mohegan Sun has agreed to pay for the necessary infrastructure improvements to the City of Revere's water and sewer systems, through a combination of connection fees, inflow and infiltration fees, and other payments to the City of Revere.

Executed under the pains and penalties of perjury this 15th day of April, 2014.



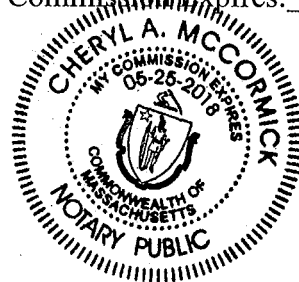
Donald Goodwin

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On July 15, 2014, before me, the undersigned notary public, personally appeared Donald Goodwin (the "Principal"), and acknowledged to me that the Principal signed the preceding or attached document voluntarily for its stated purpose and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief. The Principal proved to me through satisfactory evidence of identification that the Principal is the person whose name is signed on the preceding or attached document. The satisfactory evidence of identification provided to me was:

- A current document issued by a federal or state government agency bearing the photographic image of the Principal's face and signature; or
- On the oath or affirmation of a credible witness unaffected by the document or transaction who is personally known to the notary public and who personally knows the Principal; or
- Identification of the Principal based on the notary public's personal knowledge of the identity of the Principal; or
- The following evidence of identification: _____

Notary Public: Cheryl A. McCormickPrinted Name: Cheryl A. McCormickMy Commission Expires: May 25, 2018

[Seal]

Exhibit D



DANIEL RIZZO
Mayor

The City of REVERE, MASSACHUSETTS

POLICE DEPARTMENT
Joseph Cafarelli • CHIEF OF POLICE
400 REVERE BEACH PARKWAY, REVERE, MA 02151

(781) 286-8326 FAX (781) 286-8328

January 23, 2014

Mitchell Etess
Mohegan Sun Massachusetts, LLC
One Mohegan Sun Boulevard
Uncasville, CT 06382

RE: Mutual Aid – Revere Police Department

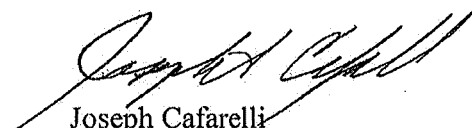
Dear Mr. Etess:

As provided by Mass. Gen. Laws ch. 40, section 8G, the City of Revere Police Department is a party to a number of mutual aid agreements with neighboring municipalities, including an agreement with the City of Everett. Public safety services can be greatly enhanced through a mutual aid agreement, the obvious benefit of which is assistance from outside police departments should the need arise.

However, it is my opinion that no increase in mutual aid assistance from any of Revere's neighboring municipalities is to be expected because of the opening of the proposed gaming facility at Suffolk Downs in Revere. The expected financial resources available to the City, as provided in the Host Community Agreement with Mohegan Sun, should adequately support the public safety demands associated with the gaming facility. Assuming the allocation of these financial resources to address public safety needs, I have no reason to anticipate any increased demand for mutual aid once the gaming facility is open to the public.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



Joseph Cafarelli
City of Revere Police Chief

Exhibit E

The City of REVERE, MASSACHUSETTS

FIRE DEPARTMENT

EUGENE W. DOHERTY • CHIEF OF DEPARTMENT

400 BROADWAY, REVERE, MA 02151

781-286-8365 • FAX 781-286-8375



DANIEL RIZZO
Mayor

January 23, 2014

Mitchell Etes
Mohegan Sun Massachusetts, LLC
One Mohegan Sun Boulevard
Uncasville, CT 06382

RE: Mutual Aid – Revere Fire Department

Dear Mr. Etes:

As provided by Mass. Gen. Law's Ch. 48, section 59A, the City of Revere Fire Department and its counterparts in neighboring communities provide and receive mutual aid assistance. Revere is a party to the MetroFire, Inc., mutual aid agreement. Fire safety and emergency services can be greatly enhanced through mutual aid, the obvious benefit of which is assistance from neighboring fire departments should the need arise.

However, it is my opinion that no increase in mutual aid assistance from any of Revere's neighboring municipalities is to be expected because of the opening of the proposed gaming facility at Suffolk Downs in Revere. The expected financial resources available to the City, as provided in the Host Community Agreement with Mohegan Sun, should adequately support the demands on fire and emergency services associated with the gaming facility. Assuming the allocation of these financial resources to address fire and emergency service needs, I have no reason to anticipate any increased demand for mutual aid once the gaming facility is open to the public. Moreover, although Revere and the City of Malden share a fire station with separate and distinct facilities on the north side of Revere, I do not anticipate any increase in mutual aid assistance from the City of Malden from the shared station due to the proposed gaming facility at Suffolk Downs.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Eugene W. Doherty
Chief of Department

MASSACHUSETTS GAMING COMMISSION

In re:)
CITY OF BOSTON'S)
HOST COMMUNITY STATUS)
RELATIVE TO REGION A)
APPLICATIONS)

NO EASTIE CASINO'S OMNIBUS REPLY BRIEF

The following omnibus reply brief is intended as No Eastie Casino's comprehensive response to each of the four other briefs filed before the Commission in advance of its scheduled May 1, 2014 meeting to consider the city of Boston's host community status. Given the similar facts and issues raised in each initial brief, we have consolidated our reply into a single brief as a matter of administrative convenience. Claims raised by the city of Boston, Mohegan Sun Massachusetts, Wynn, LLC, and the city of Revere will now all be addressed in turn.

I. ENDORSEMENT OF THE CITY OF BOSTON'S BRIEF

We fully endorse the city of Boston's recent letter brief¹ to this Commission in which it has denied the Commission's jurisdiction to decide host community status, called for Chairman Crosby to recuse himself from all further Region A proceedings, and called into question the validity of the extralegal *ad hoc* process under which these briefs have been filed and will be heard on May 1st.

The Gaming Commission has already plainly signaled its intention to find against Boston's rightful host community status² in connection with either Region A proposal, and we take the Commission at its word that it will do so at the earliest possible opportunity on or after May 1st. This outcome is entirely inevitable. We must conclude that the briefing schedule and hearing scheduled for next week on these questions are intended only to provide the illusion of due process without the hazard to Region A casino development which actual due process would have introduced.

We agree with the city of Boston's position that the questions posed are fundamentally unfair and designed to favor the applicants. Any reasonable person armed only with the relevant filings and a map of the three municipalities involved could likely determine the literal physical limits of the *new construction* proposed by both applicants. But these relatively simple questions come at the expense of

¹ Correspondence from the city of Boston dated April 17, 2014 available at <http://massgaming.com/wp-content/uploads/Letter-from-the-City-of-Boston.pdf>

² This intent has been evidenced by a series of comments spanning several meetings. *E.g.*, "Just for the record, [Boston's surrounding community status] has been resolved...this process has been going on for a long time." Chairman Crosby, March 20, 2014 (p. 163-164).

any consideration of the larger legal, political, and moral implications of this Commission's decisions which have overshadowed the Region A licensing process since Boston voters rejected a casino at Suffolk Downs on November 5, 2013.

We are concerned by the apparent animus motivating the Commission's determination to find against the city of Boston's host community status: the certain knowledge that the city of Boston is now opposed to casino development anywhere near its borders, and that either proposal would fail if Boston residents were properly enfranchised to vote on them.

East Boston's rejection of a casino at Suffolk Downs—not, to be clear, a casino in Revere or a casino in East Boston, *but a casino at Suffolk Downs*—on November 5, 2013 is already a matter of public record. We have reason to believe that the Wynn proposal would face overwhelming opposition from Boston's Charlestown neighborhood if it were brought to its residents for a vote, and the city as a whole is now vigorously defending itself against the imminent casino threat posed by both applicants through the commendable efforts of its legal counsel. Even former Boston mayor Thomas Menino has recently changed his position from his previous support of a casino at Suffolk Downs based in part upon sustained local resistance to siting a Region A in the greater Boston area.³

We see no support in the Gaming Act for the Commission's insistence that it has a duty to issue gaming licenses in any given period of time, or even as expeditiously as possible. The Commission's primary responsibility under the Act is “ensuring public confidence in the integrity of the gaming licensing process and in the strict oversight of all gaming establishments”⁴—a public trust which we believe is in imminent jeopardy as the push to grant a Region A license continues to accelerate.

We would remind both applicants that the Commission is under no obligation whatsoever to site a resort casino in Region A.⁵ This Commission's ultimate responsibilities are not to casino developers, casino-friendly municipalities, or even the Commonwealth's budget, but **to the people of the Commonwealth and the rule of law**. Issuance of a license to either of these applicants in the face of sustained opposition from a host community would constitute a willful dereliction of this Commonwealth's duty to the former and an open insult to the latter.

A total of twenty-three municipalities⁶ in the Commonwealth have now formally rejected casino development in or adjacent to their jurisdictions (either through referenda, formal motions, or otherwise via the political process), and popular opinion is now turning against casinos statewide.

³ See Mayor Menino's remarks on WBZ's *Keller at Large*, April 13, 2014: <http://boston.cbslocal.com/2014/04/13/keller-large-former-mayor-tom-menino/>

⁴ G.L.C. 23K §1(1)

⁵ At the risk of belaboring a fairly obvious point, the Gaming Act permits licensure of *up to* three resort casinos, but does not call for a minimum number of licenses.

⁶ These include Holyoke, West Springfield, Palmer, Brimfield, Millbury, Worcester, Foxboro, Middleboro, Lakeville, Freetown, Boxborough, Tewksbury, Danvers, Salisbury, Longmeadow, Monson, Holliston, Hopkinton, Medway, Ashland, Westport, Barnstable, and Winthrop.

Several days after this Commission inevitably finds that Boston is not a host community to either of the proposals designed to exploit Boston's reputation and resources, the Supreme Judicial Court will be hearing arguments in connection a proposed ballot question to repeal the Gaming Act.⁷ If, as is widely expected, the repeal question subsequently proceeds to the ballot in this year's statewide election, proponents may be fairly expected to cite this Commission's open disregard for the city of Boston and its surrounding communities (and the unpredictably mutable Region A licensing process generally) as conclusive proof that this Commission will not hesitate to act *ultra vires* beyond even the loosest restrictions imposed by the Gaming Act for the benefit of private developers at the expense of residents and taxpayers.

II. RESPONSES TO ARGUMENTS RAISED BY BOTH APPLICANTS

In their respective briefs, both applicants have argued that Boston is merely a surrounding community while claiming that (1) no part of their proposed respective gaming establishments are physically located in Boston and (2) their acknowledged intent to exploit Boston's infrastructure, reputation, and innumerable other tangible and intangible amenities is characteristic of a community which is designated as surrounding, rather than host.

As a preliminary matter, we do not concede that Mohegan Sun's proposed gaming establishment is located only in Revere, and will address this argument further below. Regardless, in both cases we renew the argument outlined in our opening brief that the city of Boston will effectively find itself hosting a casino either in Revere or in Everett with or without the city's consent.

Region A is different in kind from the other designated Category 1 license regions. Although it is geographically the largest of the three, it is also the most urban and densely-populated as well as the only one to contain the capital of the Commonwealth. It is also home to the only two casino proposals in the brief history of Massachusetts casino licensing in which host community status is not immediately evident from the location of the proposed sites.

By way of comparison, most other recent casino proposals (including, but not limited to, those in Palmer, Milford, West Springfield, and Plainville) were all squarely within the city limits of their respective host communities with (arguably) no dramatically disproportionate impacts upon any other surrounding community. There was never any serious debate that each town was properly designated a host community, or that any other municipality should have a claim to host community status.

Mohegan Sun's former plan for a gaming establishment in Palmer, for example, was clearly in every respect a "Palmer casino" and could more or less be fairly characterized as "Palmer only." Conversely, its plans for Suffolk Downs must be recognized for what they truly are: a "Boston casino" artlessly concealed behind the flimsy veil of a "Revere-only" development built on the

⁷ *Abdow v. Attorney General*, SJC #11641 (oral argument scheduled for May 5, 2014)

Boston city line.

It is no coincidence that these two proposals are each within several miles of one another while encroaching directly upon the Boston's municipal limits. As of the date of this brief, casino-free Boston is a world-class city of international renown, and any association with the city's brand is likely to be extremely lucrative for the gambling industry once it has established a foothold on our borders. Boston's position is truly unique in this regard, and there is no fair comparison to be made to any of the other former or existing casino proposals.

Even assuming for the sake of argument only that Boston should not be considered a host community to either gaming establishment, it will bear *far* more of the burden than a mere "surrounding community" should ever be expected to manage. In their respective briefs, both applicants argue that their wholesale dependence on Boston's infrastructure, reputation, attractions, live entertainment venues, and innumerable other intangible amenities are all burdens which a surrounding, rather than a host, community should be expected to bear.⁸ We disagree.

But assuming for the sake of argument that this claim is accurate, this would leave the Gaming Act even more deeply flawed than we had previously appreciated. If the applicants are to be believed, the legislature has sanctioned something resembling a medieval feudal system in which surrounding communities—even those within *actual inches* of massive destination resort casinos—are little more than helpless vassals which are entirely subject to the whims of neighboring casino host communities.

Everett mayor Carlo De Maria's claim that "we [Everett] are Boston"⁹ belies the true intention of the both the Wynn and MSM projects: to co-opt the reputation and exploit the resources of the city of Boston to the fullest possible extent while simultaneously working to disenfranchise and ignore the the strong opposition to Region A casino development which they continue to receive from the city and its residents.

The harm to the city of Boston's reputation, economy, infrastructure, social fabric, and overall quality of life which would come from either of these proposals is immeasurable. We recognize no acceptable form of mitigation, and will accept no compromise with either applicant.

⁸ MSM Opening Brief, pp. 9-10, Wynn Pre-Hearing Statement, pp. 8-11.

⁹ See transcript of Jan. 22, 2014 Mass. Gaming Commission meeting, p. 69.

III. THERE IS NO LEGAL DISTINCTION BETWEEN MOHEGAN SUN'S PROPOSED GAMING ESTABLISHMENT AND THE PHYSICALLY INTEGRATED RACE TRACK AT SUFFOLK DOWNS, AND THE TRACK REMAINS AN "AMENITY" FOR ANY CASINO AT SUFFOLK DOWNS

A reasonable reader with no prior knowledge of the Region A licensing process would never learn from Mohegan Sun's opening brief that their proposed gaming establishment has been carefully designed around an historic seven-furlong race track located almost entirely within the city of Boston. No mention is made of horse racing, and MSM intentionally downgrades the track from its position as one of the project's most significant selling points to merely "the remainder of Sterling Suffolk's property in East Boston."¹⁰

Yet in every *other* step of this lengthy process—including all of its appearances before this Commission as well as its public campaign—MSM has touted Suffolk Downs as an essential selling point to set it apart from the Wynn proposal. Mohegan Sun and Suffolk Downs have not hesitated to promote the track as an amenity of the proposed casino in their ongoing attempts to sell their partnership to the public, or to openly threaten the future of thoroughbred racing (despite funds guaranteed pursuant to the Gaming Act¹¹ to the track whether or not a casino is ultimately sited at Suffolk Downs) at Suffolk Downs if its development partner does not receive a gaming license.¹²

Just as Mohegan Sun plainly intends to insult and ignore the city of Boston while enjoying the invaluable benefits of its location on the city line, it seems equally comfortable in exploiting its partnership with Suffolk Downs in public while denying any legal connection to the track whatsoever for the purpose of the hearing scheduled for May 1st.

MSM alleges that its proposed casino merely “abuts” the race track and that the track is not an amenity to the casino simply because it is not included with the “leased premises.”¹³ These technicalities have no bearing on the practical reality that the race track remains a critical amenity of the proposed gaming establishment.

¹⁰ MSM's Opening Brief, at 12.

¹¹ By Sterling Suffolk's own estimate, the Race Horse Development Fund mandated by the Gaming Act will guarantee the track's survival. Although Suffolk Downs's study of the impact of this fund presumes that a license will go to Suffolk Downs, a significant revenue stream is guaranteed from this source as long as casinos are sited anywhere in Massachusetts. *See* “The Economic Impact of the Massachusetts Thoroughbred Equine Industry,” Christiansen Capital Advisors, LLC (10/22/13), p. 42., available at <http://www.suffolkdowns.com/pdf/economicimpactofinathoroughbredIndustrystudy.pdf>. As neighbors of Suffolk Downs, we share their concern for the future of the track and its employees and wish them many prosperous future racing seasons.

¹² *See* “Suffolk Downs horse track warns 2014 racing season could be its last,” MassLive.com (April 23, 2014), available at:

http://www.masslive.com/news/boston/index.ssf/2014/04/suffolk_downs_horse_track_warn.html

¹³ MSM Opening Brief, p. 12.

In support of its claim that the leased premises will be entirely within Revere, MSM cites the "Binding Agreement for Ground Lease"—a document which it has withheld from the public and requested (on the grounds that this document contains "trade secrets") that this Commission continue to hold confidential in perpetuity.¹⁴ While we must take MSM at its word that this is an accurate excerpt from the Binding Agreement, we are left with a single paragraph of text and a hand-annotated map which exempts the so-called "Racing Parcel" (the portion of the track which extends into Revere which this Commission previously found sufficient to deem Revere a host community) from MSM property.

In its presentation to the Commission, Mohegan Sun's design team strongly emphasized the physical integration of the track into the casino.¹⁵ Reference was made to the desirable view patrons would have of the racing area and "horses practicing" from the hotel and casino, and the way in which the casino's design "receives" the track. The presentation and supporting slides also drew a somewhat strained comparison between the incorporation of the track's crescent with famed crescent-shaped sites such as Rome's Piazza Navona (among others). **There can be no question that the track is literally "built in" to this proposal.** MSM's claim that it is merely "the remainder of Sterling Suffolk's property" is wholly disingenuous.

Moving forward with the limited information which is publicly available on this point, we note that although the same proposed lease terms which apparently provide for a profit-sharing agreement between the track and the casino would also keep the two entities operationally distinct,¹⁶ this would be no different from the prior proposal in which Caesars Entertainment was designated the "Operator" for the purposes of the original Suffolk Downs casino proposal.¹⁷

Finally, we generally agree with Wynn's analysis of the RFA-2's broader term "gaming establishment site."¹⁸ While this term appears to have been created by the Commission *sui generis*, it is actually far more helpful to this discussion than the more limited statutory gaming establishment." In requesting that the applicants describe a "gaming establishment site," the Commission is apparently recognizing the reality that a development of the size and scope of a destination resort casino—especially one located within a densely-populated urban area which includes a number of distinct municipalities—is far more than the sum of its parts. Although Wynn did not explicitly make this argument, it is hard

¹⁴ We have recently appealed the Commission's denial of a public records request seeking this document to the Secretary of State.

¹⁵ Information in this paragraph drawn from the presentation of architect A. Eugene Kohn at January 22, 2014 MGC meeting. Video available at https://www.youtube.com/watch?v=et-8Ru_uUbA, starting at approx. 22:00.

¹⁶ See remarks of Comm. McHugh, MGC meeting of Jan. 29, 2014, at 142. <http://massgaming.com/wp-content/uploads/Transcript-1-29-14.pdf>

¹⁷ See Host Community Agreement (Aug. 28, 2013), p. 1-2. The wide degree of separation between Caesars and Suffolk Downs was further publicly highlighted through the course of the suitability process, in which the Commission's investigation revealed both Sterling Suffolk's failure to properly vet its operating partner as well as its partner's apparent intent to conceal vital information from Sterling Suffolk.

¹⁸ Wynn Pre-Hearing Memorandum, pp. 6-7

to miss the inevitable conclusion that all of Suffolk Downs should be designated as the “gaming establishment site” for the purposes of this Commission.¹⁹

Mohegan Sun's best efforts aside, Suffolk Downs and its proposed resort casino are as inseparable as their extensive cross-promotion campaigns. The ongoing legal fiction of a “Revere-only” casino at Suffolk Downs only highlights the abject absurdity of the arbitrary line which Mohegan Sun has drawn down the center of the Suffolk Downs site. It is impossible to locate the Boston-Revere city line within the 163-acre parcel absent the assistance of a particularly well-calibrated GPS,²⁰ and there is no reason to believe that anyone other than local tax assessors and cartography enthusiasts would have been aware of its exact location prior to November 5th.

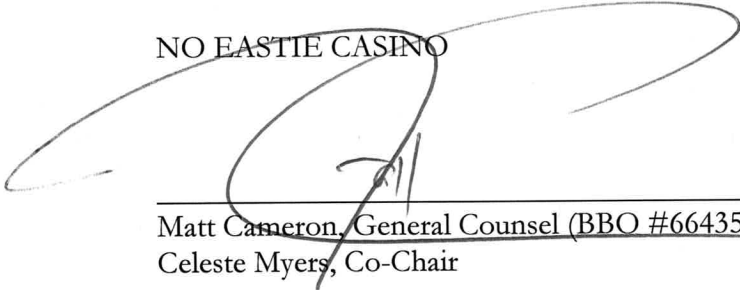
MSM have continued to insist upon their intent to be "a good neighbor" to the city of Boston, even as they continue to do everything possible to disenfranchise its residents, insult its city government, and construct a massive public nuisance on its city line. If these kinds of practices have made Mohegan Sun "good neighbors" to its host and surrounding communities in rural Connecticut, we wish them continued success there. We continue to believe that Boston can do better.

IV. REPLY TO CITY OF REVERE

In response to arguments raised within the city of Revere’s brief, we renew and incorporate by reference the analysis of the East Boston entry to the Suffolk Downs site within our opening brief as well as the arguments regarding the rack track’s status as an amenity to any gaming establishment at Suffolk Downs more comprehensively outlined above.

Respectfully submitted,

NO EASTIE CASINO



 Matt Cameron, General Counsel (BBO #664359)
 Celeste Myers, Co-Chair

¹⁹ Similarly, we would argue that all entrances and exits to the Wynn property (including Horizon Way in Boston) should be properly classified as part of the “gaming establishment site” given the literal impossibility of successfully implementing this (or any other) proposal without them.

²⁰ This reality is apparently acknowledged in the excerpt from the Binding Agreement, which allows for the possibility that “further research... determines that any portion of the Leased Premises... is located within the municipal boundary of the City of Boston.”



CITY OF BOSTON • MASSACHUSETTS
OFFICE OF GAMING ACCOUNTABILITY
City Hall, Room 620 Boston, MA 02201

April 17, 2014

Via Electronic Mail Delivery
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, Massachusetts 02109

Re: *Objections to Public Hearing on Determining a Gaming Establishment*

Dear Massachusetts Gaming Commissioners and staff:

The City of Boston (the “City”), on behalf of its residents, families, businesses and visitors, objects to the nature of the hearing to be conducted by the Massachusetts Gaming Commission (the “Commission”) as described in the Memorandum dated April 3, 2013, entitled *Determining a Gaming Establishment*. The process described therein unreasonably limits and compromises the City’s ability to receive and present evidence in support of the City’s declarations as a host community to both Region A gaming applicants. For the Commission to proceed in accordance with the process as outlined in the Memorandum would be violative of the City’s due process rights. Additionally, the City has grave concerns about prejudicial statements made by the Commission, as well as issues reported recently in the media regarding Region A.

A. Prejudicial Statements

Throughout the process, Chairman Crosby has made several statements, which the City deems prejudicial, including criticizing the City for asserting its host status on behalf of its public. Section 3(u) of the Gaming Act requires Commissioners to conduct themselves in a manner to render decisions that are fair and impartial and in the public interest, and to avoid impropriety and the appearance of impropriety. Taken together, the pending federal lawsuit, recent Commission statements, current press articles, and the Commissions’ own actions, create a cloud over the proceedings when Chairman Crosby participates. Therefore, the City believes, in the best interest of a transparent process, that Chairman Crosby should recuse himself from all licensing matters in Region A.

B. Mutable Process and Unfair Forum

To begin with, the Commission has set up various unfair processes. First, it called for an adjudicatory hearing that was not in compliance with its own Regulations. Next, it amended its own process for an adjudicatory hearing which further compromised the due process rights of the citizens of the City. Finally, after the City sent a letter questioning jurisdiction,¹ as well as the fairness and legality of the adjudicatory process, the Commission changed the process again, this time announcing a public meeting with extremely limited or no due process or civil procedure rights.

Setting aside any issues of jurisdiction, the City objects to the “legislative” procedure announced by the Commission because it does not match the “adjudicatory” question the Commission has set out to answer. The Commission intends to “[d]etermine the premises of the gaming establishment for which” both Region A applicants seek approval, and to issue findings describing them. Based on those findings, the Commission further intends to conclude whether Boston is a host community to either proposed casino.² Those determinations carry the hallmarks of adjudicatory decisions. They concern specific projects and determinations of fact related to the location of their sites and elements. They overwhelmingly affect the interests of two specific casino applicants and one municipality that claims each application deprives it of its statutory entitlement to a community impact fee and other contractual benefits.³

By contrast, acting in a legislative capacity involves making rules of general application and prospective effect.⁴ The determinations the Commission proposes will not set out rules that will take effect prospectively outside the context of these two casino applications. In fact, members of the Commission and its counsel took pains to clarify that its determinations would not have a broader ongoing effect outside of Region A. *See* Transcript, Massachusetts Gaming Commission Meeting April 3, 2014, p. 129.⁵

¹ On March 25, 2014, the City’s counsel informed the Commission “that there is a significant preliminary legal question concerning whether the Commission has jurisdiction to decide the issue of Boston’s host community status.”

² The Commission is attempting to create a forum to “organically” define the City’s status.

³ See Borden, Inc. v. Comm’r of Pub. Health, 388 Mass. 707, 716 (1983); see also Prentis v. Atlantic Coast Line Co., 211 U.S. 210, 226 (1908) (Holmes, J.) (“judicial inquiry investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist.”).

⁴ See Cambridge Elec. Light Co. v. Dep’t of Pub. Utilities, 363 Mass. 474, 486 (1973); see also Prentis (“[l]egislation . . . looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power.”).

⁵ If the Commission was to engage in an actual legislative process of interpreting the definition of “gaming facility” contained in G. L. c. 23K, § 3, such an interpretation would have application throughout the state, comments of the City of Boston, Wynn MA, LLC, and Mohegan Sun MA, LLC, would not be prioritized, and the Commission would likely seek input on how an interpretation would impact the operation of other statutory provisions that operate on the term “gaming establishment,” such as the jurisdiction of the Commission Enforcement Division, § 6(c), jurisdiction of the State Police, § 6(f), necessity of Commission approval for transfer of various assets, § 19(c), and compliance with ongoing capital expense requirements, § 21.

The Commission proposes no process for the City to obtain discovery from the applicants. It eliminates the City's opportunity to call witnesses, to cross-examine witnesses and to create an appropriate evidentiary record that is subject to legal review. It also fails to address the burden of proof and a mechanism to resolve factual disputes based on documentary submissions with no live testimony. In sum, the proposed procedure represents a thinly veiled attempt to "stack the deck" against the City on the "host community" issue so that the Commission can issue a Category 1 license in Region A without the City's interference in the process.

The City sheds light on the insufficiency of the Commission's process not to "nickel and dime issues," which the City believes is an unfair characterization; but to accurately express to the Commission and City's residents the thoughtful and fair approach the City is taking to this issue.

C. Commission Investigation Request

The City requests that the Commission investigate issues based on the following two (2) *The Boston Globe* articles: Andrea Estes and Sean P. Murphy, *Everett May Buy Site, Sell it to Wynn for Casino Use: Plan Comes as Gambling Panel Worries about Felon's Ties to Land*, THE BOSTON GLOBE, April 16, 2014, p. A1; and Andrea Estes and Sean P. Murphy, *Everett Landowner Resists Disclosure Pledge: Gambling Panel Wants Assurances Criminals won't Profit from Selling Property to Wynn*, THE BOSTON GLOBE, April 11, 2014, p. A1. The City believes that issues raised in these articles require the Commission to conduct further investigation. Our request appears to be consistent with statements of the Commission's spokesman that the Commission would need to review the new land proposal.

Furthermore, the City believes that the issues must be investigated, if not resolved, before Region A decisions of any kind can be made. The City requests that all proceedings relating to licensure in Region A be postponed pending the Commission's investigation into these matters. The City's concern is that results of such investigation could impact licensure of the entire region, and that conducting a public hearing on Boston's "host community" status is premature and could be rendered moot as it appears that the applicant has failed to meet the requirements of the Commission's conditional suitability determination. Decisions involving the Region A applicants cannot be made at this time given the uncertainty of the issues as raised in these articles.

While the Commission may think "[a] big price is being paid by a lot of people to try to accommodate the City's concerns," the City believes that preserving the democratic process and due process rights of its citizens is invaluable and consistent with the purposes of the Gaming Act.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth Dello Russo".

Elizabeth Dello Russo
Senior Assistant Corporation Counsel
Gaming Accountability Office

Cc: Via Electronic Delivery

John Ziemba, Massachusetts Gaming Commission
Catherine Blue, Massachusetts Gaming Commission
Eugene O'Flaherty, City of Boston Corporation Counsel
Alexis Tkachuk, Office of the Corporation Counsel
Thomas C. Frongillo, Fish & Richardson P.C.
Ariel I. Raphael, Fish & Richardson P.C.
Mary Marshall, Nutter, McClennen & Fish
William F. Kennedy, Nutter, McClennen & Fish
S. Anderson, Anderson & Krieger
David Mackey, Anderson & Krieger



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

WAYNE A. MATEWSKY

REPRESENTING THE
28TH MIDDLESEX DISTRICT
Wayne.Matewsky@MAhouse.gov



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STATE HOUSE, ROOM 540
TEL: (617) 722-2090
FAX: (617) 722-2848
DISTRICT: (617) 389-5106

Massachusetts Gaming Commission
Attention: Chairman Stephen Crosby
84 State Street 10th floor
Boston, Ma. 02109

April 9th 2014

Dear Chairman Crosby,

Re: Boston a Host or Surrounding Community / Revenue Sharing

Boston is not Everett nor is it Revere but each is an independent municipality that is self-governed and functions in compliance with state and federal mandates. The cities of Everett and Revere unlike present day Boston have never made any claim that demonstrates dominance and/or an initiative that is deemed to be exclusionary to other cities and towns.

Furthermore, each city inclusive of Boston does not exist without the financial resources provided by the State of Massachusetts and the Federal Government. Accordingly, throughout our past and present history cities and towns have advanced predicated on the financial infusion of capital provided by government and in compliance with the mandates and controls established by government. At no time in the past since the inception and definition of Everett's and Revere's geographical boundaries, has it been set forth in defining these boundaries that either is a municipality of Boston.

All claims that Boston is a host community to either Everett or Revere because they touch a municipality of Boston would invalidate the intent and purpose in the establishment of land boundaries. Therein, if Boston is to prevail with its claim it must also recognize that it will have opened itself up to counter claims by both cities for revenue sharing and distribution. More specifically if boundaries are to be invalidated then too Boston's ability to retain revenues derived from venues equally becomes invalidated. Thus, requiring equal distribution to Everett and Revere regardless of whether a casino comes to fruition or not

Pursuant to Boston's claim it is understood that Boston does not exist without the infrastructure and resources of other cities and towns. Foremost recognize that the primary generation of Boston's electric power is provided from Everett. Secondly that Boston's water and sewerage is treated at, Deer Islands Water Treatment Plant in Winthrop. Furthermore, Boston's water is provided from the Quabbin, Wachusett reservoirs and the Ware River in central and western Massachusetts. These components

demonstrate that the city of Boston is not self-contained but equally dependent on other cities and towns to function and prosper.

Boston is by choice and design the Capitol of Massachusetts Government and in this capacity is not granted any extra ordinary rights to pursue dominance over any other city and town in the Commonwealth. Furthermore, Boston demonstrates that its existence was and is predicated on the infusion of monies over decades from state and federal Government.

Logan International Airport was built with federal government monies and is regulated by Masport a state agency. The Boston Exhibition & Convention Center was built with state and federal monies and is regulated by Massport. Historical landmarks in and around greater Boston are regulated maintained and controlled by federal and state agencies. All commerce in the greater Boston harbor, all environmental mandates pursuant to Boston Harbor, all traffic within Boston Harbor is regulated and controlled by the federal government and the state. Most important all state highways including known state thoroughfares in and thru Boston are maintained, regulated and controlled by the state.

Thus, Boston cannot arbitrarily claim possession of state roadways, the airport, or harbor in making any claim for being impacted as they become state and federal issues not borne by the city. Of course, we can examine this in an alternative measure recognizing all business travel to and from the suburbs to Boston impacts Everett and Revere and as such they are impacted by Boston. This claim lacks substance once more because the roadways are state financed, maintained and regulated.

In conclusion, I respectfully provide the aforesaid considerations for your judgment knowing also that the mandates within the Ma. Gaming legislation previously passed should pre-empt Boston from enjoining itself as a host community as opposed to a surrounding community.

Sincerely,



Wayne A. Matewsky

State Representative

Wayne A. Matewsky

Cc: Mayor of Everett: Carlo De Maria
House Speaker: Robert De Leo
Everett United



April 30, 2014

Catherine Blue, General Counsel
 Massachusetts Gaming Commission
 84 State Street, 10th Floor
 Boston, MA 02109

Dear General Counsel Blue:

We appreciated the opportunity to speak with you Monday afternoon and address your questions regarding the Binding Agreement between Suffolk Downs and Mohegan Sun. We wanted to follow up with further clarifications for you and the Commission.

As you know, this Saturday, Kentucky Derby Day, we will open another season of live racing at Suffolk Downs. Even with yesterday's fire that destroyed our track kitchen, Chip Tuttle and his team are working nonstop to ensure another successful Opening Day. As we do so, we remain hopeful that there will be thoroughbred racing at Suffolk Downs for many years to come to support the jobs of our workforce, the livelihoods of the hundreds of small businesses who depend on the racing operation, and the agribusiness that sustains working open space and family farms.

We wrote to the Commission in January, shortly after our tenant Mohegan Sun Massachusetts filed its RFA-2 application, reiterating Suffolk Downs' commitment to continuing racing while recognizing the financial challenges of doing so without considerable infusions of capital. Nothing has changed since January. Indeed, we have advanced our plans for the future of racing by beginning the permitting process to relocate our barns from the parcel leased to MSM. Suffolk Downs stands by its January pledge that, if Mohegan Sun Massachusetts earns the Category 1 license in our region, we will continue live racing for at least the initial 15-year duration of that gaming license.

On our Monday call, you asked in particular about the provision entitled "Race Track Operation" in the Binding Agreement. So that there remains no ambiguity on this point, to the extent the Commission has questions or concerns regarding the relevance of the "Race Track Operation" provision, we wish to inform the Commission that it may consider this provision to be stricken and of no further force or effect. We thought it would be appropriate to note the necessary corollary to our pledge to continue racing – if, by continuing to race, Suffolk Downs would invalidate or jeopardize Mohegan Sun's application or gaming license, we would not do it. We would not let racing or any other activity on the remainder of Suffolk Downs' land get in the way of a successful gaming establishment on the leased parcel in Revere. While we believe there is no colorable legal theory that would sustain such a view, and while we remain committed to continuing racing as outlined in our January letter, we want to make clear that we would discontinue racing operations in the event that racing at Suffolk Downs would be considered a legal impediment to Mohegan Sun's Revere-only gaming license application.

Telephone: 617-567-3900

EASTV75775111.6

525 McClellan Highway, East Boston, Massachusetts 02128

Made in Massachusetts 



Catherine Blue, General Counsel
Massachusetts Gaming Commission
Page 2

Each year, Opening Day brings renewed enthusiasm to the racing family at Suffolk Downs, and this year is no different. We are confident that Mohegan Sun presents the best choice for the Region A gaming license, and look forward to making good on our pledge once it is awarded the license.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles A. Baker III", with a long, sweeping flourish extending to the right.

Charles A. Baker III
Secretary, Sterling Suffolk Racecourse, LLC

cc: Todd Grossman, Deputy General Counsel, MGC
Jennifer Durenberger, Director of Racing, MGC
Chip Tuttle, COO, Suffolk Downs
David Rome, Esq., General Counsel, Mohegan Sun
Kevin Conroy, Esq.