



# Brockton, Massachusetts

*"City of Champions"*

*Bill Carpenter – Mayor*

April 21, 2016

Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

Chairman Crosby and Honorable Commissioners:

I am writing in response to the Plainville-area legislators' letter asking you to delay your decision regarding Region C. As Mayor of Brockton, I respectfully ask the Massachusetts Gaming Commission (MGC) to approve a Region C commercial license for the proposed Brockton casino resort. Mass Gaming & Entertainment (MGE) and its primary operator, Rush Street Gaming, is the most successful developer of regional casinos in the country and is prepared to make a more than \$675 million investment into this project that will bring much needed economic, social and public safety benefits to Brockton, the surrounding region and the Commonwealth.

A Brockton casino resort is the best bet for the Commonwealth in all scenarios. Studies by leading advisory firms have shown that the Commonwealth will receive an estimated \$70 million more a year in tax revenue with a casino resort in Brockton, along with a one-time payment of \$85 million. In addition, if there are casinos in Brockton and Taunton (which is speculative at best) the Commonwealth is projected to make \$40 million more per year, which is more than it would collect with only a casino in Taunton.

The facts show that the Commonwealth stands to do better with a Brockton casino resort than without it. Without a resort casino in Southeastern Massachusetts, residents in Plymouth and Bristol Counties and the Cape & Islands as well as Interstate 495 communities south of the Mass Pike will take their tax dollars to full-fledged resort casinos in Rhode Island and Connecticut rather than a slot parlor in Plainville.

Along with tax revenue for the Commonwealth, a Brockton casino resort would provide 1,800 permanent jobs as well as 2,000 temporary union construction jobs. There would also be a ripple effect of additional jobs from construction and operations. In addition, MG&E has committed to buying local and utilizing local services, which will provide a huge boost to economic development in the region. My understanding is that as part of the extensive evaluation process for the Region C commercial license, MGC has conducted a comprehensive financial analysis of the gaming landscape. I am confident that your analysis will satisfy the request for an independent study and that there is no need to delay a decision regarding Region C.

I strongly support a Brockton casino resort and the important benefits it will bring to the region. While other casino projects throughout the state have faced delays, a Brockton project could be the first one up and running and generating revenue for the Commonwealth. I again ask for your approval of the Region C commercial license for the Brockton casino resort.

Sincerely,

Bill Carpenter  
Mayor, City of Brockton



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

**SHAWN C. DOOLEY**  
**STATE REPRESENTATIVE**

COMMITTEES:  
WAYS AND MEANS  
FINANCIAL SERVICES  
REVENUE  
REDISTRICTING

9<sup>th</sup> NORFOLK DISTRICT  
MEDFIELD • MILLIS • NORFOLK  
PLAINVILLE • WALPOLE • WRENTHAM  
ROOM 167  
TEL (617) 722-2810  
Shawn.Dooley@MAhouse.gov

Mr. Stephen Crosby,  
Chairman  
Massachusetts Gaming Commission  
101 Federal St., 12<sup>th</sup> Floor  
Boston, MA 02110

Dear Chairman Crosby,

We are writing to you in relative to the Commission's contemplation of a Category I gaming license in Region C.

As strong proponents of responsible expanded gaming in the Commonwealth, we closely follow all deliberations with the potential to affect the integrity of public revenue collections, local employment and the Commonwealth's racing industry. The Region C matter that you are currently approbating raises many questions. The most profound of these however, would seem to be to what extent the issuance of a Category I license in Region C would affect those revenues collectable by the Commonwealth as a result of the violation of a Compact, negotiated by the Commonwealth in good faith and authorized by this Legislature.

The prospect of a tax free casino operating within the Commonwealth was not a rationale for either the Legislature's decision to expand gaming, nor we are sure, for the more than 1.2 million Massachusetts voters who supported our decision via referendum at the last election. It seems any decision to entertain such a prospect is questionable. Absent clear, conclusive, objective analysis that considers the competitive advantage a tax free casino would command and how that advantage compromises revenues collected by the Commonwealth at casinos that will be at a disadvantage by a sovereign competitor's no tax status we also believe any such decision is inauspicious.

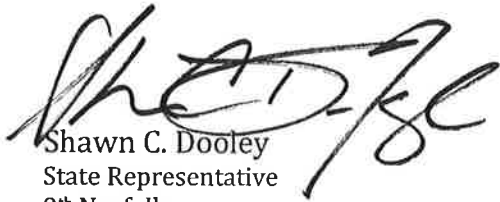
Accordingly, we ask and suggest that the Commission either request from the Department of Revenue or otherwise so perform such an analysis that conclusively demonstrates that a tax free casino in Taunton does not negatively impact total

2016 APR 19 PM 1:24  
MASSACHUSETTS GAMING  
COMMISSION

Commonwealth tax collections prior to any decision relative to a Category I license in Region C

There is much at stake in this decision, including the entire premise behind expanded gaming in Massachusetts. We have serious concerns that total revenue collection by the Commonwealth is not being given the consideration that it deserves. We thank you for the hard work that you do every day and look forward to your reply.

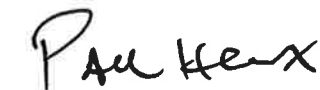
Sincerely,



Shawn C. Dooley  
State Representative  
9<sup>th</sup> Norfolk



F. Jay Barrows  
State Representative  
1<sup>st</sup> Bristol




Paul Heroux  
State Representative  
2<sup>nd</sup> Bristol




Steven Howitt  
State Representative  
4<sup>th</sup> Bristol



Elizabeth Poirier  
State Representative  
14<sup>th</sup> Bristol



Richard Ross  
State Senator  
Norfolk, Bristol and Middlesex



Jeffrey Roy  
State Representative  
10<sup>th</sup> Norfolk



The Commonwealth of Massachusetts  
MASSACHUSETTS SENATE

SENATOR MICHAEL D. BRADY  
Second Plymouth and Bristol District

MICHAEL.BRADY@MASENATE.GOV  
WWW.MASENATE.GOV

STATE HOUSE, ROOM 109E  
BOSTON, MA 02133

TEL. (617) 722-1200  
FAX (617) 722-1116

April 13, 2016

Mr. Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

Dear Chairman Crosby,

I am writing to you today to express my strong support of Mass Gaming & Entertainment (MG&E) and their proposed casino in the City of Brockton. As you know I have already expressed my support in the past, but as the Commission enters its final phase of deliberations I wanted to reiterate my position one final time. Simply put, this resort casino represents a once in a lifetime opportunity to improve our community, and the residents of Brockton will experience its benefits from the moment it breaks ground.

MG&E is prepared to make an investment of more than \$675 million in Brockton, which will create 1,800 permanent, good-paying jobs, as well as 2,000 temporary union construction jobs. The economic impact of the casino goes much further than direct job creation, however. Local businesses, like those that focus on construction and operations, will feel a huge boost, as MG&E has pledged to utilize local workers as much as possible.

Not just construction workers and contractors will experience the economic boom, however. The casino will revitalize downtown Brockton, and the area will blossom into a booming area for businesses as visitors from all over the region and the state flock to our restaurants and shops.

I support MG&E not only because of the positive economic impact their casino will have on our community, but because they are truly committed to the people of Brockton. Their promise to provide more than \$12 million in annual payments to our city means we will be able to improve our public schools, public safety, and infrastructure for years to come.

Thank you in advance for your consideration.

Sincerely,

Michael D. Brady  
State Senator  
2<sup>nd</sup> Plymouth & Bristol District

2016 APR 15 AM 11:02  
MASSACHUSETTS SENATE

## MacLachlan, Amy (MGC)

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**From:** Stephen O'Brian <sobrian4@gmail.com>  
**Sent:** Wednesday, April 20, 2016 11:39 AM  
**To:** MGCcomments (MGC)

I urge you not to grant a casino license to Mass Gaming and Entertainment to build a casino in Brockton.

The Brockton Fairgrounds, the proposed location is near 2 shopping centers, the Registry of Motor Vehicles, 2 churches, and 2 schools, including Brockton High School and its 4000-plus students. It is also a thickly settled residential area. It is not a suitable location for a casino, a 250-room hotel and parking spaces for 3000 cars.

I live on the West Side and I like it the way it is. I don't want my neighborhood to be turned into an entertainment zone as the mayor envisions. I don't want bars, night clubs, restaurants, and whatever else the mayor and his city planner have up their sleeve to be located in my neighborhood.

This would lower property values and that is unfair to the tax-paying local residents.

When the May 12 casino yes-or-no vote was held, the precincts bordering the fairgrounds voted emphatically NO. The neighbors of the proposed casino site said NIMBY- Not In My Backyard.

I feel the same way about the casino as I do about the proposed power plant for the South Side. If the neighbors of the project don't want it, it shouldn't be built.

Furthermore, the promise of more jobs may be an empty promise. Experts say every slot machine kills 1-2 jobs per year by taking money out of the local economy.

Also, Many of us have doubts about the ethics of the developer, Neil Bluhm. He is giving financial support to the East Taunton residents who are filing a lawsuit to stop a tribal casino from being built in Taunton. This financial tactic may be legal, but it does not seem ethical. Shouldn't the ethics of the developer be taken into account when a casino license is awarded?

We've learned from Bernie Sanders that we don't have to let billionaires dictate the process. You don't have to toady to this out-of-state billionaire and his cohorts.

Many Brockton residents believe that a casino would be detrimental to our quality of life and that we would be better off without it. Don't do this to Brockton.

Please do not grant Mass Gaming and Entertainment a license to build a casino in Brockton.

Stephen O'Brian  
408 Forest Avenue  
Brockton, MA 02301  
(508) 586-3432

**MacLachlan, Amy (MGC)**

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**From:** Stand UP for Brockton <standupforbrockton@gmail.com>  
**Sent:** Tuesday, April 19, 2016 2:34 PM  
**To:** MGCcomments (MGC)  
**Subject:** Region C letters and petition  
**Attachments:** MGC letters 041916.pdf; MGC letters 041916TBC.pdf; No Brockton Casino Petitions.pdf; The Lies.pdf

I have been asked to forward these to the Commissioners.

Thank you,

Pastor Reid

--  
Stand UP for Brockton  
<http://www.nocasinoinregionc.info>

# The Lies

Prepared by Stand UP for Brockton

# “I Don’t Lie” – Neil Bluhm

- I know that the Chief made references I have thick skin that I may be lying. I don’t lie. But I certainly won’t be lying to my regulator who if I get a license will beholden to and be straightforward and truthful for the entire period that we are in business together.
- - Transcript of Public Hearing # 184  
(3/24/2016)



# The Claim Has Been Made

- It is the public testimony of Neil Bluhm that he does not lie.
- Let's look at the evidence to see if this is true

# Mashpee Tribe Will Not Get Their Land in Trust

- We have heard this claim by Neil Bluhm from the very beginning and all throughout the process of the public hearings, the rallies, the press releases as related to a Region C license since February 2015.
- “As you know, on September 18, 2015, the U.S. Department of Interior announced its decision to approve our land-in-trust application, which included approximately 321 acres of land in Mashpee and Taunton.” - Cedric Cromwell

# Mashpee Tribe Will Not Have the Financing

- We have continually heard from Neil Bluhm that the Mashpee Tribe will not have financing.
- MR. JONES: The financing, what we're doing is we are being asked to go ahead and provide financing for the entire project is frontloaded in certain portions. So, right now phase 1 is fully financed. – MGC Public Meeting # 181 (3/15/2016)

# A Guessing Game?

- The scaled back proposal for Taunton's phase 1 shows that Genting sees the risks and does not accept the financial numbers of their projection consultants according to Neil Bluhm.
- Could it really be that Genting sees the risks are related to possible saturation of the market with RI moving a casino to Tiverton on the MA border?

# Will You Sue About Taunton?

- You certainly remember what Rush Street CEO Neil Bluhm said when Commission Chairman Steve Crosby asked him point-blank if Rush Street would file suit to stop the Taunton casino? His response included a declaration that he would have no standing in that matter.
- Yet he has financed the suit against the U.S. Government filed by some East Taunton residents.

# Brockton's Economic Recovery?

- The CEO of Rush Street Gaming told you that rejecting his Brockton casino will — quote — “crush a town.” Is he a prophet?
- This same city has rebounded several times in its history from economic troubles. It can do it again! And without a casino.

# Solid Financial Ground & Forecasts

- Neil Bluhm continues to claim to be on solid financial ground and that his numbers are the right ones for Brockton.
- Yet, his company cost the pension fund for MA employees \$25,000,000 in the early 1990's by making bad investments with our money.

# Financial Forecasts

- Neil Bluhm on multiple occasions claims the Innovation Group he has hired has the right numbers and not the Spectrum Group.
- Yet, interestingly the MGC and the casino industry in MA is based upon projections from reports prepared by the Spectrum Group for the Commonwealth of Massachusetts.



**The Commission has received a total of 65 form letters of opposition to awarding a Category 1 License to Mass Gaming & Entertainment in Region C. The form letters appear as follows:**

April 10, 2016

RE: MG&E Brockton

Dear Gaming Commission members,

Rush Street Gaming CEO Neil Bluhm has said repeatedly that rejecting his Brockton casino will crush the city of Brockton.

But half the voters in Brockton said they don't want his casino, and more than half of the speakers at the public hearings you have conducted in the city said the same. We do not want a casino and the trouble it will bring.

Mr. Bluhm spent \$1.6 million trying to win the casino referendum in Brockton. And now he is paying for a lawsuit to prevent the Mashpee Wampanoag Tribe from opening a competing casino in Taunton.

He thinks his company's money talks, but its actions speak louder. Do not issue a casino license in Brockton to Rush Street Gaming/Mass Gaming & Entertainment.

Respectfully,

*Carol Crofton*

**The Commission has received a total of 67 petition signatures in opposition to awarding a Category 1 License to Mass Gaming & Entertainment in Region C. The signatures appear as follows:**

I oppose the gambling casino proposed for the Brockton Fairgrounds, across from Brockton High School, and strongly urge the Gaming Commission NOT to grant it a license for operation in Region C. After all, with a casino now slated for nearby Taunton, one over which the state has no control, Region C will already carry the burden of a gaming facility in our backyard.

Name	Address	Phone	Email
Elizabeth Riordan	18 Mesa Rd Brockton MA 02301		
Melanie Mor Ellen Ciambarella	160 Geraldyn Dr Brockton 242 Terri Rd, Raynham		Melalexjave@yahoo.com Ellen.Ciambarella@verizon.net
Cynthia Griffin Griffin	108 Copeland St Brockton MA		
Terry Trunkio	1371 Pleasant St Brockton		
Michael Spatola	19 Circle Dr Brockton MA 02301		
Kathleen Adams Kathleen Adams	20 Michael Rd Bridgewater MA 02324		kataadams8@verizon.net

## MacLachlan, Amy (MGC)

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**From:** Jeen9643@aol.com  
**Sent:** Tuesday, April 19, 2016 1:24 PM  
**To:** MGCcomments (MGC)  
**Cc:** brockton.interfaith.outreach@gmail.com  
**Subject:** MG&E Brockton

Dear Sirs and Madam,

I have expressed my disdain in previous writings for the proposed Casino in Brockton and I come before you once again to implore you to engage good common sense in your decision.

Gambling is not a viable career choice for the young people of our world however, one would be very naive to believe that none of our young people will grow up to be engaged in the practice of gambling in one way or another. I do believe that a neighborhood is not the location for a Casino, if Brockton had a piece of land sort of off the beaten path, that would likely be a more desirable location. To put a Casino in the heart of city and especially an urban neighborhood with two schools and a college in such close proximity is seemingly not the wisest choice. A Casino in such a location targets the most vulnerable citizens of our city and will only lead to the further demise of a once thriving city. It would seem that our elected officials could certainly come up with a better suited manner to revitalize our economy other than a Casino.

I am sure that you have heard all of the exceptions (ie: the traffic, the crime, the water, etc.) but the most important of all is that this will spoil forever after a beautiful neighborhood and devalue the property of the people living in the immediate proximity.

I implore you to please exercise careful consideration of this license and deny it. Yes, deny it not for me but for the future of my city and the young people growing up in this city. Deny it because the proponents of this project are self serving and not of the utmost character as I saw presented by others at these meetings.

The Rush Street Gaming is not the upstanding business that they propose to be and that kind of business is not needed in our city.

Our city needs to get it's crime under control and build itself up to make it a city that legitimate business will want to come to and then and only then will our city survive. It will not survive under this Casino project as the benefits that some are foolish enough to buy into will only be temporary and when the Casino fails my city will certainly be worse for the wear!!

Thank you

Joyce Nyhan

## MacLachlan, Amy (MGC)

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**From:** Calvin White <nyjfan71@aol.com>  
**Sent:** Tuesday, April 19, 2016 1:12 PM  
**To:** MGCcomments (MGC)  
**Subject:** Against the casino

I am writing this email against the casino coming to Brockton. I have been a resident for close to 35 years with multiple family members living in Brockton as property owners not renters. The city alone is beyond corrupt with the AG investigating the mayor the misuse of funds these have been an ongoing issues for years .The city has enough trouble with crime drugs and its homeless population. I feel with Brockton's current reputation the casino would be a huge failure and the last thing to change that stereotpye would be a casino.

Thank you for listening to my opinion.

Life long Brockton resident  
Sent from my iPad

## MacLachlan, Amy (MGC)

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**From:** anne beauregard <tranquilitytreasure@yahoo.com>  
**Sent:** Tuesday, April 19, 2016 9:03 AM  
**To:** MGCcomments (MGC)  
**Subject:** Region C Decision Brockton

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Commissioners:

Once again I am appealing to you to consider the best for Brockton. On Friday the 15th the front page of the Enterprise wrote that if there were no further deliberations late next week that on the 28th you would announce the decision here in this city. Meanwhile on page six of the same newspaper the associated press had an article with the headlines "Crime up around new casino" well it was about Plainville's new casino and they certainly did not want more crime and nor does this city, especially since this casino would be located near three schools and a neighborhood.

Thank you for all your hard work.

Sincerely,

Anne Beauregard  
Ward 5 City Councillor

## MacLachlan, Amy (MGC)

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**From:** DianeTig@aol.com  
**Sent:** Monday, April 18, 2016 4:31 PM  
**To:** MGCcomments (MGC)  
**Subject:** MG&E Brockton

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Gaming Commission,

I sincerely hope you will not approve a casino for the city of Brockton. First off, the location for this planned casino is terrible. We do not need this here. With Twin Rivers, Plainridge and the soon to be built First Light casino in Taunton, we have more than enough to meet people's gambling needs. I for one would not go there even though I live in this city, I am that opposed to it. Let the tribe have their casino (they have waited long enough) and let our city remain casino free.

Thank you

Diane F. Hollis



**MacLachlan, Amy (MGC)**

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**From:** Ron Pack <rnpack@yahoo.com>  
**Sent:** Monday, April 18, 2016 4:03 PM  
**To:** MGCcomments (MGC)  
**Subject:** Brockton casino

DEAR MA GAMING COMMISSION

I write you in the hopes you reject the Brockton Casino. We don't need or want this casino, it won by barely 1/2 of a percent. Carney should of put it where his dog track is there's no residences or schools near it & rte 138 could be widened by at least 2 more lanes for easy access to rte 495 & rte 24. Where he wants it at the fairgrounds it will abut neighborhood residences all around by 20 ft at places. Thats not where a casino should be built. It's 3 main routes into our city have schools on each of them, a grade school on rte 124, a middle school on west st from rte 27, & the high school on rte 123 from rte 24. We have enough crime with violence & drugs we don't need anymore in this city that a casino will bring. I don't have to tell you the Taunton casino will over saturate the area also.

Thank You Kindly  
Ronald J. Packard  
462 Summer St.  
Brockton, Ma 02302  
508-451-9088

ronald j. packard

## MacLachlan, Amy (MGC)

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**From:** trobe14 <trobe14@comcast.net>  
**Sent:** Sunday, April 17, 2016 11:49 AM  
**To:** MGCcomments (MGC)  
**Subject:** MG&E BROCKTON

Commissioners, please award MG&E the region C license. Mr. Bluhm's casinos are all 1st class and the city so desperately needs the jobs and revenue. The people, either thru their own votes or through their elected officials voices, have chosen for this business to come to Brockton. Please, give it due diligence and make the right decision for the City and surrounding areas.

Thank you  
Thomas Roberts  
72 Carl ave.  
Brockton, Ma.

Sent from my Samsung Galaxy Tab® S

## MacLachlan, Amy (MGC)

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**From:** Donna Emschweiler <demschweiler@yahoo.com>  
**Sent:** Saturday, April 16, 2016 7:59 PM  
**To:** MGCcomments (MGC)  
**Subject:** casino in Brockton

I am a resident of Brockton and have lived here for 38 years. I think I know the city pretty well. The proposed casino is within distance of the Brockton High School 2 Junior High schools and 2 elementary schools.

I would like to bring up the Vans warp tour of the late 1990's that was hosted at the fairgrounds The city and state were not notified of the event the traffic on the west and south side of Brockton were literally shut down for the entire day. The librarian at the West Side library did not make it to work, the traffic was too much. People who had doctor appointments had to reschedule because the traffic to this event was so congested that people parked on route 24 and walked to the fairgrounds.

Have you event taken into consideration the traffic patterns - during school times to and from school all the buses and foot traffic. You have major intersections that transverse this area. event at light traffic times they are busy.

Please consider not having Brockton as a site for a casino.  
The city needs work and jobs, but you will not bring the appropriate training and jobs that are needed to move this city forward into the future.

Donna Emschweiler  
Mary Kay Independent Beauty Consultant, and Independent Business Owner  
39 Fern Street, Brockton, Ma 02301  
508.451.6008  
[www.marykay.com/demschweiler](http://www.marykay.com/demschweiler)

Donna Emschweiler  
Mary Kay Independent Beauty Consultant  
508.451.6008  
[www.marykay.com/demschweiler](http://www.marykay.com/demschweiler)

## MacLachlan, Amy (MGC)

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**From:** Rich Ansel <richansel@yahoo.com>  
**Sent:** Saturday, April 16, 2016 6:01 PM  
**To:** MGCcomments (MGC)  
**Subject:** Brockton Casino

As a longtime resident(22 years) of Brockton, I feel the casino is not a gamechanger, but definitely would be a positive for our city and wouldn't negatively affect the surrounding communities. It is a clean industry, will add decent paying jobs and the additional revenue paid by the casino would be a welcome boost to the city coffers. That said, there definitely are arguments from those opposed; but at days end it is a balancing act; and I believe the positive contributions outweigh the negatives.

Sincerely yours,  
Rich Ansel

**MacLachlan, Amy (MGC)**

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**From:** marlin emschweiler <m\_emschweiler@yahoo.com>  
**Sent:** Saturday, April 16, 2016 9:27 AM  
**To:** MGCcomments (MGC)  
**Subject:** Casino in Brockton

3/16/2016

Dear Sirs,

I am writing to you in regards of a casino in Brockton. I do not feel it is warranted. With all the schools and churches in that area, it will be disruptive. There will be much traffic in that area that will cause serious problems for pedestrians trying to cross the streets, as well of possible vehicle crashes.

If you remember a few years ago when the Warp Tour was at the Fair Grounds; well that became a nightmare in the area. Both route 24 and 27 turned into a gridlock with cars parking on the highway and to the Fair Grounds. In that area of Brockton, the volume of traffic was so high that people could not get to their doctor appointment, libraries, etc.

Thank you,

Marlin Emschweiler

## MacLachlan, Amy (MGC)

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**From:** Robert Corey <robertcorey@verizon.net>  
**Sent:** Friday, April 15, 2016 8:27 PM  
**To:** MGCcomments (MGC)  
**Subject:** MG&EBrockton

Sirs,

As a life-long resident of Brockton, I have seen the city transform from a thriving, attractive and healthy community to a blighted city with a disappearing middle class with one of the highest rates of poverty and crime in the state. Brockton has transformed from a successful manufacturing and retail center to a city that is now primarily based on a service economy resulting in low paying jobs. Despite the decline of this once proud city, we are in a perpetual state of traffic gridlock. I firmly believe that a casino in Brockton would exacerbate the above problems. In addition, most of the residents, including many of those in surrounding towns, have precious little money for discretionary spending, never mind that a huge percentage are dependent on government assistance. Nobody with a modicum of intelligence believes the "music men" of Rush Street and especially the self-interested George Carney, that a Brockton casino will solve our economic and social problems. Look at what Carney did to the once glorious Brockton Fair besides his other businesses in the area. They're all about profit and urban ugliness. Please spare us another nail in our coffin. And now with the start of construction for the Taunton casino twenty miles down the highway already underway, it is ludicrous to think that another casino in Brockton could ever succeed.

Sincerely,

Robert Corey

**MacLachlan, Amy (MGC)**

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**From:** b1o1b1s1@comcast.net  
**Sent:** Friday, April 15, 2016 3:27 PM  
**To:** MGCcomments (MGC)  
**Subject:** casino voting

To whom it may concern, I would like to have someone look into the illegal voting for the Brockton casino. Mayor Carpenter and the Brockton Housing Authority illegally solicited votes from the elderly tenants living in the BHA's developments. They also spent thousands of tax payers dollars sprucing up the developments for Rush Street Gaming CEO's. Thank You.

## MacLachlan, Amy (MGC)

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**From:** jjurek506@comcast.net  
**Sent:** Friday, April 15, 2016 7:51 AM  
**To:** MGCcomments (MGC)  
**Subject:** Comments Brockton Casino

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

----- Forwarded Message -----

From: [jjurek506@comcast.net](mailto:jjurek506@comcast.net)  
To: [mgccomments@state.ma.us](mailto:mgccomments@state.ma.us)  
Cc: [isabellopez@gmail.com](mailto:isabellopez@gmail.com)  
Sent: Fri, 15 Apr 2016 11:43:54 -0000 (UTC)  
Subject: MG&E Brockton

Gentlemen:

This in protest about the proposed casino to be located at the Brockton Fairgrounds: No doubt you've received many con as those pro.

As a majority of one, my objections are also well known to you. But perhaps there are a few that I've not heard extensively discussed at your hearings or not at all.

In connection with the proposed influx of out-of-town visitors via Route 24 into our already crowded city cheered by Rush Gaming, even if these gamblers stay at the proposed luxury hotel, they will not live in Brockton.

Rather, as visitors as there are at the fair each summer, they will as in the past have likely disrespect for the location or the families who live on Belmont Street. I must be frank. They have been known to discard their trash, empty their car ashtrays, drop empty beer containers, used condoms and even urinate on private property. Since alcohol will be served at the casino, drunkenness is also not out of consideration and the lack of consideration and courtesy it often accompanies.

I am also concerned about the parking lot at Our Lady of Lourdes Church, directly across the street. It will be a magnet for all of the above as well as unacceptable parking, especially during Masses, evening activities including CCD classes and even funerals.

Our parishioners would be effectively unfairly barred. And our already overwhelmed (and I might add hardly overpaid) maintenance would need to clean up these disgusting deposits almost daily.

I will not argue about the increased traffic, location so favored by Rush Gaming but adjacent to our high school and the increased use of water which is often at a premium for our own citizens.

There is also the promise of cooperation with local businesses. The fine details of that cooperation remain unclear. But the reach of Rush Gaming into the Brockton community to include long established businesses is unsettling. Their influence could in the long run be less than beneficial.

Finally, the touted benefits of having this casino dropped into the middle of a long residential community do not outweigh the negativity it will create. Those of us in opposition, ask that you consider the long-term effect and award the license to the Native Americans.

Thank you.

June Jurek  
Brockton MA



## MacLachlan, Amy (MGC)

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**From:** Nancy Church <churchnancy@hotmail.com>  
**Sent:** Friday, April 15, 2016 7:16 AM  
**To:** MGCcomments (MGC)  
**Subject:** Casino

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

No to the Brockton casino. Honor the State's commitment to the Wampanoag Tribe in Massachusetts. We don't need a casino just 30 minutes from every state resident. It will only water down the potential success for everyone else. Casinos are expanding at our borders as well. Surely there are other, more honorable, businesses we can attract to increase economic development in our state. Enough is enough with the gambling interests.

I do feel badly about the huge investment already made by the Brockton developers without any guarantee of going forward. What a flawed process this seems to be.

Nancy Church  
Centerville, MA 02632

Sent from Windows Mail

## MacLachlan, Amy (MGC)

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**From:** Lynn Smith <madeline-smith@hotmail.com>  
**Sent:** Thursday, April 14, 2016 9:04 PM  
**To:** MGCcomments (MGC)  
**Subject:** Brockton Casino

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I have lived and owned a home in Brockton since 1985. I have seen this city struggle, and actually be placed under the supervision of the Department of Revenue when its finances were not in order. But there is something positive and encouraging happening in Brockton now, and I ask that you do not approve the casino because my opinion it will negatively impact outsiders' perceptions of who we are becoming, and will slow down the organic growth we are seeing as part of our economic development team's efforts. By city workers and the administration taking their eye off the ball of our long-term growth, by focusing on this casino, we the taxpayers will be harmed.

I am not a union member, so cannot speak in favor of a personal union job - but I wonder why the outside union workers will not support the inside casino workers to unionize. MGM in Springfield did, but Rush Street Gaming will not. They have been fined multiple times by the Labor Relations Board for the way they treat current workers in other states trying to form a union.

I am not a small business owner, so cannot speak to all the revenue the casino will bring me. But I know that most of the small business owners here in Brockton have no idea what the fee is to be on the approved list. And I know they have not talked with other business owners in other casino towns about the traffic that drives right past their front doors every day. Unless you are a gas station, no uptick in business.

I am not the head of a community college, so I cannot speak to the money received for training college students to be blackjack dealers. I am not the superintendent of public schools, who supported the casino only after a \$750,000 pledge to an educational foundation. But I know that 4500 kids will look at that casino every day from their school busses. And I know that free drinks will be served to the patrons from 8 am to 3 am - and many of them will be in their cars on the street at the same time those busses are pulling in and out.

But I am a person in long term recovery, and I say we would never negotiate with a heroin dealer on how much more addiction he can bring into our city, but we are doing just that with this casino operator. Right in the middle of the worst addiction crisis this city has ever seen.

But I am a person who has to defend Brockton every day to those who tear it down, who state they would never come to this city, ever, to gamble here, when they can go to Everett and Springfield and now Taunton. This is not a resort or destination casino. It will not attract high rollers from outside the city. It is a convenience casino that will break the backs of the poorest and most at-risk people in our city. I know, because I work with them on a daily basis.

I am not the person who will have to figure out what to do when casino revenue forecast is lowered, like in Baltimore, when concessions are forced on the city, when promises are not kept, and when the white elephant closes like in Atlantic City I will not be in charge of what to do with it. You are.

One casino license was promised in our area C. Great pains were made in the original law to include the Wampanoag as part of area C, with calculations as to revenue to be paid to the state. You have done your job. A license has been awarded to Taunton. It's time to get Everett and Springfield and Taunton built.

You do not have to say no - you can say 'not right now'. That is the prudent decision to make. Brockton, not right now.

**Madeline (Lynn) Smith**

**34 Carl Avenue, Brockton, MA 02302**

[madeline-smith@hotmail.com](mailto:madeline-smith@hotmail.com)

774.381.8050 cell

508.587.7993 home

## MacLachlan, Amy (MGC)

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**From:** Jeanne Holmes <jeannelholmesesq@gmail.com>  
**Sent:** Tuesday, April 12, 2016 10:22 PM  
**To:** MGCcomments (MGC)  
**Subject:** Brockton - Region C - Applicant Suitability Issue  
**Attachments:** 1.65 million fine - Bluhm.docx

Forwarded to Amy.

Good Evening,

As you may be aware, Bluhm has paid \$1.65 million fine for violating gaming rules. This fine is one of the largest gaming-related fines in modern times and follows from an Illinois Gaming Board investigation spurred in part by questions over a security and maintenance contractor's ties to reputed mob figures.

If you are unaware, attached is a report about this blatant violations by Neil Bluhm, who is the applicant before you for the Region C license.

I don't believe that this is the type of person that is suitable for a gaming license in Massachusetts. I believe that the MGC will be asking for trouble and embarrassment if they were to award a license to a man who has shown blatant disregard for gaming rules in other states.

Additionally, the city of Brockton has enough law breakers already; we certainly do not need another law breaker in the city to add to our problems. In the past, Bluhm has referred to fines as just the cost of doing business and this latest fine is confirmatory of his practices. However, I suggest that the MGC should be looking for applicants that believe that the more appropriate way to do business would be to follow the rules and laws and not break them.

Thank you,

Jeanne L. Holmes

<http://www.bettergov.org/news/rivers-casino-pays-165-mil-fine-after-mob-inquiry>

***Gaming site hires contractor whose top exec has ties to reputed mob figures. Probe by regulators ends with hefty penalty – and unanswered questions.***

Rivers Casino has paid one of the largest gaming-related fines in modern times – \$1.65 million – following an Illinois Gaming Board investigation spurred in part by questions over a security and maintenance contractor’s ties to reputed mob figures.

Last year, the Better Government Association discovered that Rivers – Illinois’ newest and most lucrative casino – hired United Service Cos. for security and cleaning work at the Des Plaines gaming site.

United is run by Richard “Rick” Simon, who has had admitted business and personal ties to reputed mob figures, including his late friend and boss, Ben Stein. Simon made news earlier in the week when it came to light that former Chicago Police Supt. Garry McCarthy launched a security consulting business affiliated with United.

The BGA asked Rivers officials last May about United’s hiring because Illinois casinos are not supposed to have even a hint of organized crime connections – something that helped sink Rosemont’s years-long push to score a gaming license.

The gaming board, which regulates casinos and video gaming in Illinois, can penalize gaming license holders for anything that “would discredit or tend to discredit the Illinois Gaming industry,” including “employing persons of notorious or unsavory reputation,” according to state rules.

Rivers officials said at the time they hadn’t known about Simon’s background – even though it had been documented for years in news reports – and then notified the gaming board about United’s

work for Rivers. The gaming board started a probe, which was later combined with another investigation into problems with patron promotions at Rivers.

In August, the gaming board proposed a \$2 million fine against Rivers, though the regulators didn't directly take the casino to task for hiring United.

Instead, the gaming board slammed Rivers for the way Simon's company was hired – without competitive bids and, in some instances, even a formal contract, in violation of procurement protocols that are supposed to ensure the integrity of casino operations, according to the state agency's disciplinary complaint.

The gaming board also raised regulatory issues with Rivers unrelated to United. For instance, the casino was accused of allowing patrons to enter a "\$250,000 Sign Up and Win New Member Giveaway" after the promotional period had ended.

Rivers entered into settlement talks with the gaming board and an agreement was reached in late January and early February to pay \$1.65 million, according to the settlement agreement.

A spokesman for Rivers and Neil Bluhm, chairman of the venture that owns Rivers, wouldn't comment other than to say the fine has been paid and "United Services is no longer a vendor."



Don Tracy

Don Tracy, chairman of the gaming board, said "I think it was a fair settlement," and the fine was "the biggest one in my tenure."

Tracy was appointed to the post last year by Gov. Bruce Rauner, though he has yet to be confirmed by the Illinois Senate.

More than a decade ago, Elgin's Grand Victoria Casino was accused of hiring a contractor with reputed mob ties and hit with a proposed \$7.2 million fine by the gaming board. Grand Victoria and the agency later settled on a \$3.2 million payment.

Rivers was "responsible about it, they didn't duck the issues, they started negotiating right away, they cooperated," Tracy said.

The settlement agreement says the gaming board "acknowledges that all issues alleged in the Complaint were discovered and self-reported by Rivers." Yet, Rivers only reported the United hiring after the BGA contacted the casino while doing research for a news story.

Other questions remain, including:

Why was there no mention of Simon's connections in the final gaming board report?

How was the gaming board fine calculated?

Is Rivers barred from using United in the future?

Why didn't the gaming board know of Simon and United until the BGA started making inquiries?

Mark Ostrowski, the gaming board's administrator, would not return phone calls.

Simon declined to comment.

This story was written and reported by the Better Government Association's Robert Herguth, who can be reached at [rherguth@bettergov.org](mailto:rherguth@bettergov.org) or (312) 821-9030.

## MacLachlan, Amy (MGC)

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**From:** Stand UP for Brockton <standupforbrockton@gmail.com>  
**Sent:** Friday, April 08, 2016 3:39 PM  
**To:** MGCcomments (MGC)  
**Subject:** Fwd: [Fwd: Blum Casino Pays Record Fine]  
**Attachments:** untitled-[2].html

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Commissioners,

I forward this to you asking if Neil Bluhm is the type of partner we want in Massachusetts.

Pastor Reid  
Stand UP for Brockton

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Rivers Casino has paid one of the largest gaming-related fines in modern times – \$1.65 million – following an Illinois Gaming Board investigation spurred in part by questions over a security and maintenance contractor’s ties to reputed mob figures.

<http://www.bettergov.org/news/rivers-casino-pays-165-mil-fine-after-mob-inquiry>

<http://chicago.suntimes.com/news/rivers-casino-pays-1-65m-after-mob-inquiry/>

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Stand UP for Brockton  
<http://www.nocasinoinregionc.info>



## MacLachlan, Amy (MGC)

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**From:** sharonlittle333 <sharonlittle333@gmail.com>  
**Sent:** Friday, April 08, 2016 2:36 PM  
**To:** MGCcomments (MGC)  
**Subject:** Casino in Brockton

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Gaming Board:

My name is Sharon Little, a life long resident of Brockton. I wanted to testify in front of you in Brockton but, myself and other residents aren't informed of hearings until there over.

I wanted to inform you of the misleading tatics that are being done involving this casino.

I was on the Executive Board of the NAACP. There was never any vote to back the casino. Mr. Steve Bernard, the president of the NAACP, good friend to Mayer Carpenter. Made a video with the Casino people and informed the Community that the NAACP was behind the casino.

Myself and other NAACP members were outraged and asked Mr. Bernard when did we vote on this? You don't have a right to mislead people.

We then asked Mr. Bernard if he was getting paid by the Casino and he had members removed from the meeting. It was public information, he was being paid by the Casino and missed used the NAACP, to trick people into voting for the Casino.

Mr. Bernard wasn't the only community organization that played this deceptive game with the resident for their own personal gain.

Brockton, kids deserve a chance like all other children. It baffles me that it would even be considered to put an establishment of this nature near a school. The only reason this is being considered is because majority of the students are minorities.

The vote around this Casino for the people who voted for it means nothing. They have been lead to believe that this Casino leads to the yellow brick road of high paying jobs for everyone and millions of dollars for Brockton that going to help the Community.

It's not hard to trick people who are suffering and looking for a way out. How can it make sense to put a Casino in a City that is plagued with violence. No one that can afford to be at that Casino, will come to Brockton. The people who will be sitting at those slot machines will be the poor residents that can't afford it. Adding more destruction to a community that plagued with drugs and gun violence.

It's just plain ignorant to say the children won't get in the Casino, that the prostitution problem not going to get worse, more drug dealers will come.

For people who are naive enough to believe this, must think it's a myth that children are getting their brains blown out in broad day light in the most Powerful Country in the World. It's appalling that people who know nothing about the struggles of Urban America are considering this.

It's Alarming that this is even being considered by educated people that have the power to stop it. But if it was their children there would be chuckles and they would ask the people proposing this, "your joking right"?

I'm not a Republican but I believe Charlie Baker, is all of Massachusetts Governor and wants the best and will protect all of us no matter what color you are.

I hope he ask the Gaming Board one question. "Would you put this in your children or grand children school, back yard. Would you want your innocent children to pass a Casino, every day?"

Urban City kids are already plagued with adult situations, so why not put a Casino in there schools back yard. But the City, doesn't have one location that they can be kids.

When your making your decision please remember, we're talking about innocent kids. That were supposed to protect at all cost no matter if they live in urban Suburbs or the Hood.

This Casino, location should have never been considered, because of the kids.

Mr. Carney has property everywhere, why subject our kids to this?

I'll tell you why because there mostly minority kids. When his kids are in Aspen, with the wealth they will derive from this, poor minority kids will be wondering around the Casino, trying to find the hidden yellow brick road that was promised under the prostitutes, drug dealers and crackheads in a City that was supposed to protect them.

Please vote NO. Don't do this to us, we didn't ask for this life we were born in to it and you might not believe it but we're like everyone else we love and want the best for our kids. Adults approving a Casino so close to not one but two schools, is giving up on our kids. It sends a clear message they don't matter and no one cares it's mostly minority kids.

Governor Baker please protect our kids.

Sent from my MetroPCS 4G LTE Android device

## MacLachlan, Amy (MGC)

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**From:** Frank Lagace <frlagace@msn.com>  
**Sent:** Wednesday, April 06, 2016 3:39 PM  
**To:** MGCcomments (MGC)  
**Subject:** Rush Street - MG&E proposal vs. Mashpee Wampanoag First Light Casinos, Region C

Forwarded to the Commissioners copied Amy M. And John Z.

Dear Chairman Crosby and honored Commissioners,

I ask that you award the Region C license to Rush Street Gaming - MG&E (MG&E). Their organization clearly intends to produce a casino expected by the Legislature in The Expanded Gaming Act. As you are aware MG&E is fully funded, designed an attractive property, have a facility design that will fit the intended neighborhood without being obnoxious, provide the enormous financial benefits that the Commonwealth seeks and Brockton needs and will probably be the first casino operating in the Commonwealth.

Do not let the Mashpee Indians sway your decision in any way towards their project. The Mashpee have not received an approved management contract from the National Indian Gaming Commission (NIGC) that is required for them to game and possibly begin construction. As you probably are aware, they have started construction by demolishing extant buildings on the site in East Taunton. I urge you to research the NIGC's mission, procedure and policies and contact NIGC to determine if the Mashpee's management contract is on file and in conformance with the NIGC and ask for an estimate as to when or if their application will be approved

Also I ask that you consider possible exaggeration and subterfuge on the Mashpee tribe's part. Firstly they use the word Mashpee and Wampanoag interchangeably to suit their needs. The Mashpee are a tribe of Indians that have historically occupied the area of upper Cape Cod. They have been in that area exclusively by choice. But they are also Wampanoag. Hence the term Mashpee Wampanoag. This confusion must be understood by the Commission. The Wampanoag are a group of Indian tribes such as the Mashpee extending from the Massachusetts/ Rhode Island border, to Cape Ann and throughout all of Cape Cod. However the Mashpee have been strictly a tribe on upper Cape Cod by choice. They have never been a tribe in East Taunton as the federal IRA and IGRA stipulate. They use the word Wampanoag to claim the expanse of Massachusetts land described above to satisfy IRA and IGRA requirement to prove aboriginal land rights but when it comes to a casino the word Mashpee is used. I believe 65 tribes made up the Wampanoag nation. Since the Mashpee claim to be Wampanoag inhabiting the large expanse of land in eastern Massachusetts to secure a casino in East Taunton, they therefore theoretically must share their casino revenues with any existing tribe that is now part of the Wampanoag nation. They can not have it both ways. They are either Mashpee, ineligible to claim aboriginal land in East Taunton and ineligible for Land in Trust, or they are Mashpee Wampanoag who are claiming a third of eastern Massachusetts and thus must share their casino revenue with the remaining Wampanoag nation tribes.

Also, it is hard to believe that the Mashpee intend to spend one billion dollars. As you recall they plan to start with a 55% scaled down casino with a food court and one upscale restaurant as phase one. They have stated that they are seeking funding for the next three phases, yet they say they can spend one billion dollars. This is incongruous. Either they have the credit to borrow one billion dollars easily to build more than just phase one or they are seeking funding for the following three phases for some unknown reason. It is interesting to

wonder why Genting will fund phase one but not the remaining three. And I do not think that the Commonwealth perceived casinos built in uncertain phases. The point of the Expanded Gaming Act is to quickly stop the flow of gaming revenue from going to other states. An Indian casino built in fits and starts is unacceptable according to the Commonwealth's wishes and needs. And most importantly, probably in this entire comment, is that the Commonwealth has no legal means to access real financial data and documents from the Mashpee to determine their plans and means because they are literally a country unto themselves, reluctant to share financial data, and the Commonwealth may not have any access to their casino plan finances.

Finally, as you know there is a suit filed in the First Circuit District Court challenging the Department of the Interior's taking of the land in East Taunton and placing it in Federal Land in Trust for the perpetual use by the Mashpee Indians as they wish with no local or state government control. This case is expected to proceed to the Supreme Court of the United States and most probably be upheld at the Appellate level or denied cert by the Supreme Court of the United States since the Court very rarely if ever changes its own precedent which was set by the famous Carcieri ruling thus making the Carcieri ruling res judicata. And also as you know the Mashpee insist on proceeding with their plans while the Complaint works through the Courts.

Therefore, for the above stated discussion, I respectfully ask that you award the Region C casino license to MG&E. Allow the revenue that the Legislature desires to stay in the Commonwealth and the revenue that the city of Brockton sorely needs post haste. There is absolutely no comparison between the Mashpee plans and MG&E's proposal. The Mashpee have indicated that they are going to build in stages with no time certain schedule nor financing even though they claim to plan to spend one billion dollars which frankly is ludicrous. MG&E has funding and will construct a complete facility as desired by the Legislature from start to finish with no interruptions and begin operation in a completed facility with all desired amenities. There is no question of comparison. MG&E can fulfill the Commonwealth's goals rapidly and grandly. The Mashpee Indians can not. Please award the Region C casino license to MG&E as it is obvious that it is a suitable candidate Region C licensure.

Respectfully, Gratefully and Sincerely,

Francis R. Lagace  
36 Stevens Street  
East Taunton

Sent from Windows Mail

## MacLachlan, Amy (MGC)

---

**From:** Jeanne Holmes <jeannelholmesesq@gmail.com>  
**Sent:** Saturday, April 02, 2016 10:33 AM  
**To:** MGCcomments (MGC)  
**Subject:** Brockton Casino Application  
**Attachments:** MGC emails.docx

Good Morning,

I mentioned when I spoke on March 28th that the proponents had been using list servers, including the Metro South Chamber, to bring proponents to the meetings. Attached is a document that contains multiple emails sent by the Yes for Brockton campaign. There is also an email sent directly from Metro South Chamber of Commerce telling people to come to the various meetings. So presumably the process is still being actively financed and paid for by a lobbying group, political group and/or others, who are not even residents in Brockton.

Ironically, all of these emails were sent to someone who has very publicly indicated opposition to the casino. The person has never provided their email to the Yes for Brockton lobbying and/or political action group. Therefore, there is a serious question about how they obtained the person's email and whether it was legal or not. I would note that the person that received the emails is very involved with many city groups in the city, both political and non-political, that have large lists of emails. Presumably, the political lobbying group obtained the person's email address through one or several of these city group lists and thus, was included in the email blasts that are in the attachment. The emails in the attachments are the only ones that I was able to obtain but who knows how many more were sent using other list servers on which this person's email was not on those lists.

I am not sure if any of this is illegal or unethical but I felt you should see these for yourself. I also felt that it was important for you to know as you assess who is really for the casino in Brockton; is it really wanted by the residents and those who live in the city or is it really just wanted by the politicians and the business people, i.e. those in the Metro South Chamber, many of whom do not even live in Brockton but simply have personal financial gain in mind? Feel free to contact me if you need any further information or have any questions.

Jeanne Holmes-Kireilis

--- On Wed, 1/13/16, YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>  
> Subject: Please Attend January 28th Public Hearing to Support Brockton's Resort Casino  
> To:  
> Date: Wednesday, January 13, 2016, 4:41 PM  
>  
>  
> @media screen and  
> (max-width:480px){#yiv8726055480 table .filtered99999 ,  
> #yiv8726055480 img .filtered99999 , #yiv8726055480 td  
> .filtered99999 , #yiv8726055480  
> span[class="yiv8726055480HideInMobile"]  
> {display:none;}#yiv8726055480 td .filtered99999 ,  
> #yiv8726055480 table .filtered99999 , #yiv8726055480 span  
> .filtered99999 {display:block;}#yiv8726055480  
> .yiv8726055480FooterText {line-height:1.6  
> !important;}}  
>  
> Dear \_\_\_\_\_ ,  
>  
>  
> On January 28th at 4:00 PM, the Massachusetts  
> Gaming Commission is holding a public hearing on the  
> proposed resort casino in Brockton. They want to hear from  
> members of the surrounding communities about the casino  
> proposal.  
>  
> We need as many people as possible to attend the  
> hearing and show their support for the Brockton resort  
> casino. Please join us!  
>  
> Surrounding  
> Community Hearing  
>  
> Date:  
> Thursday, January 28th  
>  
> Time: 4:00  
> PM  
>  
> Where: Holbrook  
> Junior-Senior High School Auditorium  
>  
> 245 S. Franklin Street, Holbrook, MA  
>  
> What: Need you to  
> show your support for the Brockton Resort  
> Casino

>  
> Brockton has an incredible opportunity to create  
> jobs and grow the economy with a destination resort  
> casino. Supporters like you helped ensure that  
> Brockton said yes to this project, and now you can play a  
> role in making sure that we get to seize that opportunity.  
>  
>  
> This hearing will be open to public  
> comment so it is vital that we have  
> supporters lending their voices. We know the benefits  
> can be significant, so showing the strength of our support  
> at the Surrounding Community Hearing will make a huge  
> difference in the eyes of the Gaming Commission.  
>  
>  
> It is important to note that residents of all the  
> communities surrounding Brockton are invited to the  
> hearing.  
> HolbrookEast  
> BridgewaterAbingtonStoughtonPembrokeWhitman  
> Avon  
> EastonWest  
> Bridgewater  
> Please reach out to your friends and family in  
> Brockton and the above surrounding communities to make sure  
> they come to the hearing. Please let me know if you can  
> attend this critical hearing on January 28th by replying to  
> this email, and let us know who you plan to  
> bring.  
>  
> Supporters will receive t-shirts and help show  
> support holding rally signs that will also be provided.  
> Thank you for all of your help thus far - we hope you can  
> help show this project's support once  
> again.  
>  
>  
>  
> -Esmael  
>  
>  
> YES for Brockton,  
> PO Box 4619, Brockton, MA 02303SafeUnsubscribe™  
>  
> this email | Update  
> Profile |  
> About  
> our service

> providerSent by [campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)  
> in collaboration  
> withTry  
> it free  
> today  
>  
>

--- On Wed, 1/20/16, Metro South Chamber of Commerce <[avandam@metrosouthchamber.com](mailto:avandam@metrosouthchamber.com)> wrote:

> From: Metro South Chamber of Commerce <[avandam@metrosouthchamber.com](mailto:avandam@metrosouthchamber.com)>  
> Subject: Action Alert: Support Brockton's Resort Casino  
> To:  
> Date: Wednesday, January 20, 2016, 3:03 PM  
>  
>  
> Attend January 28th  
> Public HearingHaving trouble viewing this email?  
> Click  
> here  
>  
>  
> On January 28th at 4:00  
> PM, the Massachusetts Gaming Commission is holding  
> a public hearing on the proposed resort casino in Brockton.  
> They want to hear from members of the surrounding  
> communities about the casino proposal.  
>  
> We need as many people as possible to  
> attend the hearing and show their support for the Brockton  
> resort casino. Please join us!  
>  
> Surrounding  
> Community Hearing  
>  
> Date: Thursday, January 28th  
>  
> Time: 4:00 PM  
> Where: Holbrook Junior-Senior High  
> School Auditorium  
>  
> 245 S. Franklin Street, Holbrook, MA  
>  
> What: Need you to show your support for the  
> Brockton Resort Casino  
>  
> The Metro South region has an  
> incredible opportunity to create jobs and grow the economy  
> with a destination resort casino.



>  
> This hearing will be open to public  
> comment so it is vital that we have  
> supporters lending their voices. We know the benefits  
> can be significant, so showing the strength of our support  
> at the Surrounding Community Hearing will make a huge  
> difference in the eyes of the Gaming  
> Commission.  
>  
> It is important to note that residents  
> of all the communities surrounding Brockton are invited to  
> the hearing:  
>  
> Holbrook,  
> East Bridgewater, Abington, Stoughton, Pembroke, Whitman,  
> Avon, Easton, and West Bridgewater  
>  
> Please reach out to your friends and  
> family to make sure they come to the hearing. Please let us  
> know if you can attend this critical hearing on January 28th  
> by replying to this email, and let us know how many people  
> you plan to bring. Supporters will receive promotional  
> items including rally signs. Thank you for all of your help  
> thus far - we hope you can attend, and help make a positive  
> impression with the Gaming Commission - Thursday, January  
> 28th at 4:00 pm.  
>  
>  
>  
> Metro South Chamber of  
> Commerce  
> 60 School Street  
> Brockton, Massachusetts  
> 02301  
>  
> 508.586.0500  
>  
> [www.metrosouthchamber.com](http://www.metrosouthchamber.com)  
>  
> Forward  
> this Chamber eUpdate  
>  
>  
> This email was sent to by  
> [avandam@metrosouthchamber.com](mailto:avandam@metrosouthchamber.com)  
> | Update  
> Profile/Email Address | Rapid removal with SafeUnsubscribe™  
> | About  
> our service provider.

>  
> Metro South Chamber of Commerce  
> | 60 School Street |  
> Brockton |  
> MA |  
> 02301  
>

-- On Tue, 1/26/16, YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>  
> Subject: Public Hearing to Support Brockton's Resort Casino - ON THURSDAY  
> To:  
> Date: Tuesday, January 26, 2016, 10:01 AM

>  
>  
> @media screen and  
> (max-width:480px){#yiv4625140289 table .filtered99999 ,  
> #yiv4625140289 img .filtered99999 , #yiv4625140289 td  
> .filtered99999 , #yiv4625140289  
> span[class="yiv4625140289HideInMobile"]  
> {display:none;}#yiv4625140289 td .filtered99999 ,  
> #yiv4625140289 table .filtered99999 , #yiv4625140289 span  
> .filtered99999 {display:block;}#yiv4625140289  
> .yiv4625140289FooterText {line-height:1.6  
> !important;}}

> Dear ,

>  
>  
>  
> On January 28th at 4:00 PM, the Massachusetts  
> Gaming Commission is holding a public hearing on the  
> proposed resort casino in Brockton. They want to hear from  
> members of the surrounding communities about the casino  
> proposal.

>  
> We need as many people as possible to attend the  
> hearing and show their support for the Brockton resort  
> casino. Please join us!

>  
> Surrounding  
> Community Hearing

>  
> Date:  
> Thursday, January 28th

>

> Time: 4:00  
> PM  
>  
> Where: Holbrook  
> Junior-Senior High School Auditorium  
>  
> 245 S. Franklin Street, Holbrook, MA  
>  
> What: Need you to  
> show your support for the Brockton Resort  
> Casino  
>  
> Brockton has an incredible opportunity to create  
> jobs and grow the economy with a destination resort  
> casino. Supporters like you helped ensure that  
> Brockton said yes to this project, and now you can play a  
> role in making sure that we get to seize that opportunity.  
>  
>  
> This hearing will be open to public  
> comment so it is vital that we have  
> supporters lending their voices. We know the benefits  
> can be significant, so showing the strength of our support  
> at the Surrounding Community Hearing will make a huge  
> difference in the eyes of the Gaming Commission.  
>  
>  
> It is important to note that residents of all the  
> communities surrounding Brockton are invited to the  
> hearing.  
> HolbrookEast  
> BridgewaterAbingtonStoughtonPembrokeWhitman  
> Avon  
> EastonWest  
> Bridgewater  
> Please reach out to your friends and family in  
> Brockton and the above surrounding communities to make sure  
> they come to the hearing. Please let me know if you can  
> attend this critical hearing on January 28th by replying to  
> this email, and let us know who you plan to  
> bring.  
>  
> Supporters will receive t-shirts and help show  
> support holding rally signs that will also be provided.  
> Thank you for all of your help thus far - we hope you can  
> help show this project's support once  
> again.  
>  
> -Esmael

>  
>  
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> PO Box 4619, Brockton, MA 02303SafeUnsubscribe™  
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--- On Tue, 2/23/16, Brockton Casino Team <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: Brockton Casino Team <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>  
> Subject: Sign Up to Speak on 3/1  
> To:  
> Date: Tuesday, February 23, 2016, 9:03 AM

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> .yiv3562599727FooterText {line-height:1.6  
> !important;}}

>  
> Dear  
>  
>

>  
> The crucial moment for the Brockton resort casino  
> proposal is coming up next week. On Tuesday,  
> March 1st, from 4:00pm to 7:00pm, the Massachusetts  
> Gaming Commission is hosting its final public  
> hearing, to talk about the resort casino at the  
> Conference Center at Massasoit Community College (located at  
> 770 Crescent Street, Brockton, MA).  
>  
>

>  
> We need you to commit to being there, and  
> bringing others if you can, but we also need your  
> voice, as this hearing is open to public comment.  
>  
>  
> This is the last time that the Mass. Gaming Commission  
> can hear directly from Brockton residents.  
>  
>  
> You can confirm that you are able to speak by emailing  
> [mgcccomments@state.ma.us](mailto:mgcccomments@state.ma.us) --  
> in the email SUBJECT write "Request to Address the  
> Commission/MG&E Brockton", and then put your name in  
> the body of the actual email.  
>  
> This will simply put you on the list and you can  
> decide from there what you'd like to say. Once you  
> submit your name, just forward us the email at [campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com) and  
> we will note your willingness to speak.  
>  
> This opportunity to create jobs and grow the economy  
> with a destination resort casino can only happen if the  
> community speaks up, and we need you there on March 1st to  
> help show this project's support once again.  
>  
>  
>  
> --The Brockton  
> Casino Resort Team  
>  
>  
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--- On Thu, 2/25/16, Brockton Casino Team <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: Brockton Casino Team <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>

> Subject: Join Us on March 1st

> To:

> Date: Thursday, February 25, 2016, 9:09 AM

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> .filtered99999 {display:block;}#yiv1681746544

> .yiv1681746544FooterText {line-height:1.6

> !important;}}

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>

> Good morning,

>

>

> Tuesday, March 1st is a critical date for the future of

> the Brockton resort casino. And we need you to attend the last public

> hearing for local residents to voice their support for

> the proposed casino.

>

> Currently, the Massachusetts Gaming Commission is

> actively considering whether to award a casino license to

> Mass Gaming & Entertainment in order to open a \$677 million

> full-service resort casino in Brockton.

>

> To give the Brockton casino the best chance of success,

> we need you to attend on March 1st as a show of strength

> before the Gaming Commission members.

>

> WHERE: Conference Center at Massasoit

> Community College (located at 770 Crescent Street, Brockton,

> MA).

>

> WHEN: Tuesday, March 1st, from 4:00pm to

> 7:00pm

>

> RECEPTION: We are hosting a pre-hearing

> reception in the Conference Center for our supporters at

> 3:00pm.  
>  
> ATTIRE: We will give our supporters a free  
> t-shirt to wear during the hearing.  
>  
> Brockton has an incredible opportunity to create 1,800  
> new jobs and grow the economy with a destination resort  
> casino. Let's not let this opportunity pass us by.  
>  
> --The Brockton Casino Resort Team

>  
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--- On Mon, 3/21/16, Brockton Casino Team <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: Brockton Casino Team <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>  
> Subject: March 28th: Part Two of the Last Casino Hearing  
> To:  
> Date: Monday, March 21, 2016, 5:11 PM  
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>

> The

> Massachusetts Gaming Commission has decided to return  
> to Brockton to conclude its public  
> deliberations on the Brockton resort casino, and they will  
> do so on Monday, March  
> 28th, 4:00pm at the Shaw's Center in Brockton,  
> MA.

>

>

> This means that we need to send the  
> Massachusetts Gaming Commission one last, clear message: we  
> support the Brockton casino! Actions speak louder than  
> words, so we simply need you to be there next Monday -- it  
> will make a huge difference.

>

>

>

> Please

> tell us if you can attend the conclusion of Brockton's  
> public meeting.

>

>

>

> While we spoke loud and clear at the hearing on  
> the 1st, they are returning to Brockton one more time, right  
> before they make their decision. Job creation and  
> economic development like this would be a game changer for  
> Brockton - we all know that and we made that clear to the  
> MGC. Now, without much left to say, we need to simply  
> be there, to show our support and send the clear message  
> that Brockton will not be ignored.

>

>

>

> Tell

> us that you can help at this link.

>

>

> Supporters like you helped ensure that the  
> proposed Brockton resort casino has made it this far, and  
> now we need your help to bring this home.

>

> Send a message with your presence on the  
> 28th.



> Thank you.  
>  
>  
> --The Brockton Casino Resort  
> Team  
>  
>  
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--- On Wed, 3/23/16, YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>  
> Subject: March 28th at 4pm - One Last Hearing  
> To:  
> Date: Wednesday, March 23, 2016, 4:26 PM  
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> padding-bottom:9px !important;}
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>
> Good afternoon,
>
>
> The Massachusetts Gaming
> Commission has decided to return to
> Brockton to conclude its public
> deliberations on the Brockton resort casino, and they will
> do so on Monday, March 28th,
> 4:00pm at the Shaw's Center in Brockton,
> MA.
>
> They're giving Brockton one last look, and we
> want to make sure they see our strength in
> numbers.
```

>  
> Please  
> tell us if you can attend the conclusion of Brockton's  
> public meeting.  
>  
> Without much left to say, we need to simply be  
> there, to show our support and send the clear message that  
> Brockton will not be ignored. We are so close to  
> finding out about the chance for this game-changing economic  
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>  
> Tell  
> us that you can help at this link.  
>  
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> now we need your help to bring this home.  
>  
> Send a message with your presence on the  
> 28th.  
>  
> Thank you.  
>  
> --The Brockton Casino Team  
>

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-- On Fri, 3/25/16, YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)> wrote:

> From: YES for Brockton <[campaign@yesforbrockton.com](mailto:campaign@yesforbrockton.com)>  
> Subject: This Monday, March 28th at 4PM - One Last Hearing  
> To:  
> Date: Friday, March 25, 2016, 9:33 AM  
>

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>  
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> The Massachusetts Gaming  
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>  
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>  
> --The Brockton Casino Team

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## MacLachlan, Amy (MGC)

---

**From:** Stand UP for Brockton <standupforbrockton@gmail.com>  
**Sent:** Tuesday, March 29, 2016 4:53 PM  
**To:** MGCcomments (MGC)  
**Subject:** MG&E Thoughts to Consider  
**Attachments:** Brockton Hearing Notes for 032816 40 slides.pdf

Please accept the attached document as a response from Stand Up for Brockton for the recent events and issues that have come to light concerning the application for the Region C casino license. This would have been our 10 minute summary at 3/28/16 hearing in Brockton.

Thank you.

Pastor Richard Reid

--

Stand UP for Brockton  
<http://www.nocasinoinregionc.info>

March 28, 2016 Host Community  
Meeting Comments for the  
Citizens of Brockton who Oppose  
the Proposed Region C Casino

# Millions of Dollars Gone

- Can we trust the financial projections given by Neil Bluhm?
- As a former public employee of the Commonwealth I am not so fast to trust his numbers. In 1988-1992 his investing of MA pension funds generated a loss of \$25,000,000 for the taxpayers of MA.
- "We lost money, and we feel we made a mistake on the part of our investors," Neil G. Bluhm, JMB's president, said. "This was a major mistake."
- Yet his company still collected their fees. " 'We're entitled to be paid, regardless of whether the investment was a profit or a loss,' Mr. Bluhm explained in his testimony."
- My response is clearly, "NO!". The evidence reveals MA has already lost enough gambling with Neil Bluhm



# Fined for Violations Regularly

- Rush Street Gaming fined \$2,000,000 and suspensions in Illinois.
- The fines and suspensions were related to not following internal procedures in hiring a security and maintenance vendor.
- Also guilty of lax control over gaming promotions.
- The evidence is they cannot follow the rules of operating a casino.

# Underage Gambling Offenses

- Pennsylvania casinos owned by Rush Street Gaming fined \$458,000 for multiple instances of underage gambling, including children as young as 14 and 15 years of age.
- We cannot take a chance with our youth in Brockton especially as they want to build a casino next to Brockton High.

# Labor Unrest

- Jobs promised at \$50k per year, but the evidence reveals that this is rare in the other casinos owned by Rush Street Gaming
- More than 100 complaints to the National Labor Board since 2009
- In MA, the poverty level for a family of 4 is \$30,375. This is the level of the majority of the jobs offered at a casino. The result is a high turnover of employees.

# Union Jobs

- Most of the construction jobs will be union jobs.
- Unions are discouraged and prevented by Rush Street Gaming in their other casinos. These problems and issues have resulted in Unite Here! Opposing a casino in Region C being awarded to Rush Street Gaming and its partners.

# The Chicago Way

- During multiple presentations before the Mass Gaming Commission the attitude displayed by Neil Bluhm and his team has been one of offering threats stating not giving them the casino license will “put a stake in the heart of the City of Brockton”.

# Misreading the Opposition

- Throughout this past year we have heard from Neil Bluhm that the Mashpee Tribe will not get the “Land in Trust”. But it happened!
- We have continually heard from Neil Bluhm that the Mashpee Tribe will not have financing, yet once again he was wrong. They are financed by a company that Rush Street Gaming dwarfs.

# Indian Compact: Valid or Not

- This new argument was introduced by Neil Bluhm's team on 3/24/16.
- Interestingly the only two parties covered by the compact have no issue with the understanding that it is a valid agreement that they are willing to follow. But now a third party that has no standing in the compact challenges its validity.
- The fact that land was taken in trust by the Dept of the Interior shows they have approved and activated the compact.

# Bluhm Makes Wrong Assumption

- The scaled back proposal for Taunton's phase 1 shows that Genting sees the risks and does not accept the financial numbers of their projection consultants according to Neil Bluhm.
- Could it really be that Genting sees the risks are related to possible saturation of the market with RI moving a casino to Tiverton on the MA border?



# Recent Online Promotions

- The revelation of recent online games to lure new gamblers to Plainridge Casino is further evidence of the addictive nature of gambling and using online games targets younger and younger players with unrealistic expectations of winning and hooking the youth to become long term gamblers.

# Failed Goals: Convenience Casino

- The Mass Gaming & Entertainment LLC application before you would build nothing more than Predatory Convenience Gambling to target the residents of Brockton and nearby communities who can least afford it.
- Putting a casino directly across the street from one of the country's largest high schools is absurd.
- This application fails to meet the requirements of the casino gaming act approved by voters: The MG&E proposal is NOT a destination resort. Brockton is NOT a resort community. A casino targeting residents of a troubled city struggling with crime and drugs and its neighbors in surrounding towns is NOT what Massachusetts voters were promised.

# Not What Was Approved

- Granting a commercial casino license for the Rush Street Gaming/Mass Gaming & Entertainment, LLC application would in create the very situation the Expanded Gaming Act was supposed to prevent. Allowing a casino in Brockton, plus the Tribal casino authorized in Taunton will mean **FOUR CASINOS** within a 45-minute drive — and a fifth casino just 10 minutes further.
- That is Plainridge, Twin River, the Tribal Casino in Taunton, another casino just over the border in Tiverton, Rhode Island — and Brockton. Plus, even another casino in Everett.
- This would be a disastrous situation. There is **NO WAY** all of these casinos would survive. They will be asking for tax breaks, rebates and other give-backs to be able to continue providing the (fewer) jobs and tax revenue they promised. Just look at what is happening in Maine and Atlantic City.
- Licensing a commercial casino in Brockton would be first big step on a ruinous road to casino saturation. That is not what Massachusetts voters were promised or what they approved.

# No Competition Means It Is Too Risky

- If there is so much market demand and so much money to be made and benefits to be produced by this proposed casino, why do you have just a single application for a commercial casino license in Region C?
- When voters were sold on the idea of three casinos and a slots parlor, we were fed the idea that the world's greatest resort developers would be competing fiercely to win the rights to build.
- But, what do we have here? Just one applicant. No competition at all.
- What happened?
- It is obvious that Region C cannot support a Brockton casino, another in Taunton, another in Plainville and the Rhode Island casinos.

# Mitigation or Our Children's Future

- Brockton is not a wise choice for a so-called resort casino. Aside from some token mitigation payments, the surrounding communities will get nothing but trouble.
- We should have higher aspirations for our communities and our children than allowing a gambling casino across from a high school, near residential neighborhoods. Mayor Carpenter is talking about an “entertainment district” around the casino. I ask you, what types of ‘entertainment’ businesses go next to a casino?
- The Rush Street Gaming proposal in no way resembles the destination resort that the voters were sold. The fact that nobody except Rush Street Gaming has even bothered to file an application should tell the gaming commission all it needs to know.

# Too Close to Act Upon

- The residents in surrounding communities did not have the opportunity to cast votes on the proposed casino in Brockton. But the voters in Brockton did.
- Rush Street Gaming spent \$1.6 million dollars and had the city's most powerful politician and paid supporters running a slick, professional campaign. Those who believe it is harmful and a threat to their children's futures to allow a gambling casino across the street from Brockton High School had no money or political machine to make their voices heard in a campaign.
- The result?
- The election was basically a tie, with the million-dollar-plus campaign attracting only 148 more votes. The people of Brockton do not want this casino.
- Please consider this when you judge this application.

# Entertainment or Crime Zone

- Brockton's mayor hopes to create an 'entertainment district' around the casino. That is not appropriate, but I must note that the city does already have a so-called gentlemen's club located next to a hospital.
- Since the Commonwealth's one casino opened in Plainville, more than 1,097 underage people have attempted to enter to gamble.
- How many more will be drawn to a so-called destination resort casino in Brockton — located directly across Forest Avenue from Brockton High School?

# I Do Not Lie

- “I do not lie, especially to my regulators”, this is the claim of Neil Bluhm on 3/24/16.
- You certainly remember what Rush Street CEO Neil Bluhm said when Commission Chairman Steve Crosby asked him point-blank if Rush Street would file suit to stop the Taunton casino? He said, “No”.
- After that, how can the commission ever trust what Rush Street Gaming promises? This application to put a casino in Brockton should be rejected. Mr. Bluhm and his casino company are not worthy of a commercial casino license in Massachusetts.



# Try, Try and Try Again

- I would like to point out that this Brockton casino is the third try by Rush Street Gaming to get a gambling license in Massachusetts. First, Rush Street withdrew its bid for a slots license in Worcester. Then it abandoned its pursuit of a slots license in Millbury. Now, they are trying to build an alleged 'resort' casino in Brockton.
- They have gone from slots parlors to a casino in Brockton—and will stop at nothing to get it, even misleading the Massachusetts Gaming Commission in public, to your faces.

# A Stake in the Heart of Brockton

- The CEO of Rush Street Gaming told you that rejecting his Brockton casino will — quote — “crush a town.”
- I would like to point out that Brockton is the same “town” where half the voters said they don’t want his casino.
- He also told you that he would get on his jet and leave if he doesn’t get the license. But he spent \$1.6 million dollars just on the election in Brockton.
- His words and promises are meaningless. Please show him the way to the airport by voting not to issue a license in Region C.

# A Troubled City Worse Off

- Let's please be clear and honest. The Mass Gaming application before you would build nothing more than Predatory Convenience Gambling to target the residents of Brockton and nearby communities who can least afford it.
- Putting a casino directly across the street from one of the country's largest high schools is absurd.
- Brockton is NOT a resort community. A casino targeting residents of a troubled city struggling with crime and drugs and its neighbors in surrounding towns is NOT what Massachusetts voters were promised.
- High-rolling gamblers with plenty of money to spend are NOT traveling to Brockton.

# Breaks for the Casinos

- Plainridge, Twin River, the Tribal Casino in Taunton, another casino just over the border in Tiverton, Rhode Island — and Brockton. Plus, even another casino in Everett.
- There is NO WAY all of these casinos would survive. But before they start going under, they will be asking for tax breaks, reductions, rebates and other ways to break the glorious promises of riches they have made.
- They will all claim to be going out of business without the breaks. Just look at Atlantic City. Is that what we want?

# Cannibalizing Region C

- I would like to use Commission Chairman Crosby's own words in asking that the gaming commission not approve the Brockton license.
- According to news stories in October, Chairman Crosby told WGBH's "Greater Boston" radio show that — quote — “Nobody wants four casinos. Nobody wants two in southeastern Mass.”
- Since then, it is now certain that the Mashpee Wampanoag Tribe can build its casino in Taunton. Licensing a casino in Brockton on top of that would create the very situation Mister Crosby warned against.
- I quote him again. Quote: "They would cannibalize one another. Neither one of them would do as well."

# Targeting Our Youth

- A casino next to Brockton High School and near West Middle School will target our youth as the next generation of gamblers.
- Trees, a pond, a set back from the roadways cannot keep teens off the property and once on the property some will most certainly gain entrance to the casino.
- This is unacceptable!

# High Paying Jobs: A Reality?

- The evidence from the other Rush Street Gaming facilities reveal the high paying jobs are limited to a handful of casino employees. The reality is that many of the jobs are close to the poverty level, especially if the employee has a family of four.

# Don't Roll the Dice in Brockton

- Every slot machine kills one to two local jobs by taking money out of the local economy.
- Local businesses cannot compete when customers choose to spend money at a casino and not in the local community, forcing the local businesses to lay off staff and eventually close their doors.
- The Boston Federal Reserve in a 2006 report states, “Casinos that cater to a local market may have no net ancillary” economic benefits.



# A Problematic Future for Brockton

- Gambling addictions, as experienced in other communities that now have casinos, double in communities surrounding casinos, and personal bankruptcies increase by almost 20 percent.

# Who Is In Charge?

- Multiple times I have witnessed Neil Bluhm tell the commissioners what will happen and he rearranges the agenda on the fly.
- This may be the way one operates business in Chicago, but it is not the Massachusetts way.
- Confidence is one thing but arrogance is something else and threats just do not work. It might just be time for Mr. Bluhn to “get on his jet plane and go home”.

# Who Will Clean Up the Mess?

- The churches and social service non-profits will be the ones to pick up the messes left behind when lives are ruined by gambling addictions.
- What does it say when mental health counselors and gambling addiction counselors need to be on site?

# Legal or Not?

- The recent challenge to the validity of the 2013 Indian Compact is simply smoke and mirrors being used by Team Bluhm.
- The reality is there are only two parties involved, the Commonwealth & the Tribe.
- Is the Compact active? Yes, when signed and approved it had conditions that were not yet achieved. Now they are in place, therefore it is active and valid.

# Time to Fire Up the Jet

- Logan air command tower: “All systems go, flight Rush Street Gaming has been cleared for take off.
- Mr. Bluhm, please follow through with your threat to take your money elsewhere and get on your plane and return to Chicago.

# Dept. of Interior Approval

- Given that there were yet unachieved conditions in 2013, it is no surprise that the Secretary of Interior did not fully sign off on the Compact.
- Now that all the conditions have been met with the land being taken in trust.
- This action speaks volumes in that it is the implied approval of the Compact. So it is valid!

# Futile Lawsuit

- The attempt to sue the federal government's Dept. of the Interior partially funded by Neil Bluhm's team is a long shot. It took the government years of legal wrangling to come to their decision to take the land in trust. It is logical to think that they took this possibility into consideration. This lawsuit should have no bearing whatsoever on a Mass Gaming Commission decision.

# Brockton's Future

- Without a doubt our city is in trouble but recovery is possible. Although most of our leaders think that the casino is the light at the end of the tunnel, but the reality is that light is a train that will wreak havoc as it derails. There are real solutions out there that are fiscally sound and beneficial for all the residents of Brockton and our neighboring communities.



# What is the Truth?

- Mr. Bluhm says the Mashpee Tribe does not have secure funding.
- Genting testifies before the MGC that Phase 1 is fully funded right now.
- Mr. Bluhm was convinced that the land would never be taken in trust for the Mashpee Tribe
- He was wrong.
- Ground breaking on April 5<sup>th</sup> in Taunton.

# Saturation is a Real Problem

- Did you know there is serious concern that too many casinos in the New England area will have a negative impact on any estimated revenues? The saturation of the gaming market is being studied by Fitch, which rates casino company debt and bonds, by the Massachusetts Gaming Commission, which decides on any new licenses, and by the gambling industry itself. SugarHouse Casino in Philadelphia is often used as a 'case study' for the proposed Brockton casino. Here's what the general manager of that casino just said at a conference in Atlantic City: "There's a finite amount of gaming revenue out there. We are in a very volatile time and we're in a frenzy of gaming expansion. It needs to stop." Wendy Hamilton, general manager of Philadelphia's SugarHouse casino. <http://www.wcvb.com/money/gambling-market-saturated-yet-casinos-keep-on-coming/33271212>

# Brockton is Not Ready

- Did you know that the City of Brockton has not had a strong performance when it comes to managing big projects? From the lawsuit over the proposed power plant, to millions of dollars not collected from the stadium project, from millions paid each year to Aquaria for nonuse of water, from not being able to send out accurate water bills to not being able to collect a fair share of sewer use payments from Stonehill College, to a struggle to contain gang violence and crime in our city – our big project record clearly indicates that we are not equipped to handle the challenges and risks that a casino will bring. <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

# Money Promised: But This Could Happen in Brockton

- Did you know that a new casino in Baltimore is already breaking its promises of revenue to that city? “The facility is producing a third less revenues than expected. Not only has this shortfall undercut “local impact grants” slated for South Baltimore communities to mitigate the negative effects of the casino (crime, prostitution, traffic congestion, etc.), but it has turned the mayor of Baltimore’s “20 cents by 2020” property tax relief plan for homeowners on its head.”  
<https://www.baltimorebrew.com/2015/04/13/its-now-official-sagging-casino-revenues-equal-no-property-tax-cut-this-year/>

# Students at Risk Despite Traffic Mitigations

- Did you know that Massachusetts banned Happy Hours and Two for One drink nights many years ago because of the dangerous increase in drunk driving events? And yet a casino can offer gamblers free drinks – free – from 8 am to 2 am every day. In Brockton this danger is across the street from a school where 4500 students travel back and forth, in and out, every day throughout the day.  
<https://malegislature.gov/Laws/SessionLaws/Acts/2011/Chapter194>

# Union or No Way

- Did you know it has been promised that the construction jobs to build a casino will be union, but no such promise has been made to allow casino workers to unionize without enduring the punishment workers trying to unionize received in other Rush Street Gaming casinos? Rush Street to date has not agreed to simply sign a neutrality agreement to allow workers to unionize. And as casino revenues across the country dry up, casino workers are finding out that their full time jobs with benefits are turning into part-time jobs with no benefits.  
<http://www.nydailynews.com/new-york/company-build-casinos-new-york-labor-complaints-article-1.1931553>



**Todd & Weld** LLP

Howard M. Cooper  
E-mail: hcooper@toddweld.com

March 28, 2016

**By Hand**

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

Re: Mashpee Wampanoag Tribe  
Region C – Mass Gaming & Entertainment, LLC

Dear Chairman Crosby:

On behalf of the Mashpee Wampanoag Tribe (the "Tribe"), I write to respond briefly to the March 22, 2016 letter from Nixon Peabody LLP sent on behalf of their client, Mass Gaming & Entertainment, LLC ("MGE").

MGE's letter repeats a number of previously advanced assertions which have long been demonstrated to be without merit, and to which I will not respond. MGE's letter, however, also includes certain "new" assertions which do require a response because, unfortunately, they outright misrepresent the actual facts and the applicable law. Indeed, MGE's never previously advanced and recent contrivance that the Tribe's Compact with the Commonwealth of Massachusetts entered into on November 15, 2013 ("the Compact") is somehow not valid is so lacking in merit that it would, I believe, be deemed frivolous if directed to the Secretary of the Interior or asserted in a judicial forum, for the reasons explained below.

Likewise, MGE's argument, without citation, that the Commission should ignore the plain language of Part 2.6 of the Compact and not read that language together with the language of Section 91(e) of the Expanded Gaming Act ("the Act") in understanding the limits of its own authority is wrong. Among other things, MGE's argument misses the point that a Resolve is a valid enactment of law by the Legislature, and MGE ignores that the language of Part 2.6 of the Compact is a clear and unambiguous expression of the Legislature's intent to limit the Commission's authority to award a license in Region C to the sole circumstance where there has been a determination that the United States will not take land into trust for the Tribe – an event which even MGE cannot dispute has already happened.

The discussion below takes each of these points in turn.

**i. As recognized by the United States of America and the Commonwealth of Massachusetts, the Compact Is Valid, Binding and Enforceable.**

There is a good reason that, despite making every conceivable assertion it could to date in order to advance its own financial interests, MGE has not previously asserted that the Compact is somehow invalid: there is no basis in fact or law for it.



In an effort to avoid the plain language of Part 2.6 of the Compact, MGE asserts that the Compact itself is not a binding law because a Resolve passed by the General Court and signed by the Governor somehow has less legal effect than any other law. Of course, MGE cites no legal authority for this absurd position because it cannot – such a nonsensical assertion appears never to have been advanced seriously in any reported decision in the Commonwealth.

The Massachusetts General Court's own Legislative Research and Drafting Manual makes crystal clear that a Resolve "*has the same force and effect as a general or special law.*" See Massachusetts General Court Legislative Research and Drafting Manual (5<sup>th</sup> Ed., 2010), at Part 5.H<sup>1</sup> (emphasis supplied). I attach a copy of the relevant portion of the Manual hereto at Tab A. The reason for this statement in the Manual is obvious: a Resolve is passed in the same manner as any other law of the Commonwealth. Indeed, the Massachusetts Declaration of Rights makes clear the process by which laws are enacted in the Commonwealth, Mass. Const. Pt. 2, C. 1, § 1, art. II. In enacting the Compact into law, the Legislature and the Governor followed that process; namely through an affirmative vote of both houses of the General Court and execution of the legislation by the Governor. True and accurate copies of the history of the passage of the respective Resolves reflecting that each was introduced as a bill passed by both houses of the General Court before ultimately being signed into law by the Governor are attached here at Tab B and C. Again, there can be no serious or good faith dispute that the Compact is a valid and binding law passed by the Massachusetts House and Senate and signed into law by the Governor in the same manner as all other laws are promulgated under the Massachusetts Declaration of Rights.

In a tortured rendering of the language of the Compact and the Indian Gaming Rights Act 25 U.S.C. Section 2701, et seq. ("IGRA"), MGE next argues that there is no valid compact between the Tribe and the Commonwealth because the Compact by its terms becomes effective only if a "notice of [its] approval" is published in the Federal Register. However, neither the terms of Compact nor IGRA provide any basis for such a nonsensical argument.

It is incorrect that the Compact by its terms requires approval as opposed to a "deemed approved" by the United States. MGE misleadingly truncates the actual language of the Compact to support its erroneous argument. The relevant sentence in the Compact reads in whole as follows: "This Compact shall become effective upon the publication of a notice of approval by the United States Secretary of the Interior in the Federal Register *in accordance with 25 U.S.C. sections 2710(d)(3)(B) and 2710(d)(8)(D).*" Part 22 (emphasis supplied). The latter section of IGRA which the Compact references, in turn, provides that "The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, *or considered to have been approved, under this paragraph.*" *Id.* (emphasis supplied). As cannot be disputed here, the United States deemed the Compact approved. Contrary to MGE's representation, the Compact itself explicitly incorporated and contemplated this type of approval. I attach hereto at Tab D a letter from the Secretary of the Interior dated January 6, 2014 notifying the Tribe that the

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<sup>1</sup> Indeed, it appears that MGE has misleadingly attempted to confuse a Resolve with a "resolution."





Compact has been deemed approved. The Secretary sent a similar letter to Governor Patrick. See Tab D at p.3.

As a matter of federal law, there is no difference between the validity of a compact expressly approved or a compact deemed approved. Indeed, Section 2710(d)(8)(D) explicitly refers to compacts approved by *either* express approval *or* deemed approval. Further, Section 2710(d)(3)(B) provides for the effective date of *all* compacts, without distinguishing between the manner of their approval: "Any State and any Indian tribe may enter into a Tribal-State compact governing gaming activities on the Indian lands of the Indian tribe, but such compact shall take effect only when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register." The Assistant Secretary, citing this very provision of IGRA, published a "Notice of Tribal-State Class III Gaming Compact taking effect" as between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts in the Federal Register on February 3, 2014. 79 Fed. Reg. No. 22, Feb. 3, 2014,

MGE's assertion here is, frankly, offensive. There is a long and sad history of the United States entering into agreements with Native American tribes which have not been worth the paper they have been written on. The idea that MGE would suggest that the Commonwealth of Massachusetts would enter into the Compact without making it enforceable and that the United States of America would somehow cross its fingers while approving and announcing it plays into the worst fears of Native Americans.

**ii. Part 2.6 of the Compact Sets Forth a Clear and Unambiguous Statement of the Legislature's Intent in Limiting the Commission's Authority.**

Even assuming erroneously and for the sake of argument both that the Compact is somehow a "lesser" type of law and that Part 2.6 is only "background,"<sup>2</sup> the language of Part 2.6, as passed by the Legislature, is a clear and unambiguous statement of legislative intent with respect to what the Commonwealth meant when it passed the Act and, in particular, section 91(e) of the Act. That expression of intent, without doubt, is to limit the authority of the Commission with respect to the award of a commercial casino license in Region C solely to the circumstance where it has been determined that the Tribe will not have its land taken into trust.

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<sup>2</sup> MGE's assertion that Part 2 of the Compact in its entirety is "background only" and does not set out any substantive rights unless specifically indicated in Part 9 is incorrect. A review of the actual language does not indicate that Part 2 is to be ignored as background only, but instead reveals only that nothing in Part 2 sets forth a concession in exchange for revenue allocations: "The actions and agreements of the Commonwealth described in this Part 2 are set forth as background only, *and have not been undertaken as concessions under IGRA in exchange for the Revenue Allocations agreed to by the Tribe in Part 9, unless specifically indicated in Part 9.*" Compact, Part 2.13 (emphasis supplied). Nowhere does the Compact state that the language of Part 2 should not be considered a law or taken as an expression of the Legislature's intent.



As a matter of basic statutory construction, such a clear and unambiguous statement of legislative intent *must* be given effect here even if the effect is limited to informing the meaning of the Act at Section 91(e). See Adams v. City of Boston, 461 Mass. 602, 609 (2012) (“If we determine that the intent of the Legislature is unambiguously conveyed by the statutory language, we simply end our analysis and give effect to the legislative intent.”); Wheatley v. Massachusetts Insurers Insolvency Fund, 456 Mass. 594, 601 (2010) (“Our primary duty in interpreting a statute is “to effectuate the intent of the Legislature in enacting it.”). Put simply, to the extent that the Commission has previously indicated (albeit incorrectly where the language of the Act is unambiguous in limiting its authority) that it is struggling to understand the scope of its mandate under Section 91(e), it *must* consider and follow the clear expression of legislative intent in the Compact about the meaning of Section 91(e)— after all the same Legislature considered and passed both laws.

Indeed, as the Tribe has previously argued, the effect of *all* legislation enacted by the Commonwealth must be given effect here. See Ciardi v. F. Hoffmann–La Roche, Ltd., 436 Mass. 53, 62 (2002) (“Statutes addressing the same subject matter clearly are to be construed harmoniously so as to give full effect to all of their provisions and give rise to a consistent body of law.”); Ropes & Gray LLP v. Jalbert, 454 Mass. 407, 412 (2009) (explaining statutes must be construed “so as to give effect to each word, and no word shall be regarded as surplusage”); Franklin Office Park Realty Corp. v. Comm’r of Dep’t of Env’tl. Prot., 466 Mass. 454, 464 (2013) (“A basic tenet of statutory construction requires that a statute be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous.”) (internal quotations and citations omitted).

In short, the Commission cannot ignore the language of Part 2.6 of the Compact which makes clear that the Act prohibits the Commission from even issuing “a request for Category 1 license applications in Region C unless and until it determines that the Tribe *will not have land taken into trust for it.*” Compact, at Part 2.6 (emphasis supplied). Doing so will result in years of litigation, including inevitable appeals to the Supreme Judicial Court, and a cloud on any commercial casino license which the Commission issues in Region C.

**iii. The Sole Event Which Would Authorize the Commission Even to Request Applications for a Category 1 License in Region C Has Not Occurred.**

Finally, MGE asserts, again without citation, that the Secretary’s decision not to approve the first compact between the Tribe and the Commonwealth somehow means that the Tribe did not satisfy the condition set forth in Section 91(e) of the Act requiring approval of a compact by a date certain. MGE Letter at 15. MGE is, once again, wrong. Section 91(e) required only that the Tribe and the Commonwealth negotiate a compact and that the compact be approved by the Legislature by July 31, 2012—and it cannot be disputed that this happened.

Indeed, the Commission has already agreed with the Tribe that the Secretary’s initial denial of the Compact did not permit or require the Commission to solicit applications for Category 1 Licenses in Region C, and the Commission is bound to that position under the doctrine of judicial estoppel having successfully taken this correct position in litigation.



In *KG Urban Enters., LLC v. Patrick* the Commission maintained in its successful Opposition to Plaintiff's Motion for Summary Judgment that neither of the "triggering events" under Section 91(e) for the Commission to request applications for Category 1 Licenses in Region C had occurred as of October 28, 2013 (a date after the initial compact had been rejected by the Secretary). Because the Commission was successful in doing so, it is judicially estopped from taking a contrary position in considering MGE's application. See Canavan's Case, 432 Mass. 304, 308 (2000) ("A party who has successfully maintained a certain position at trial cannot in a subsequent trial between the same parties be permitted to assume a position relative to the same subject that is directly contrary to that taken at the first trial.") (quoting Paixao v. Paixao, 429 Mass. 307, 309 (1999)).

As the Commission stated in its opposition brief, in relevant part:

The factual background and procedural history of this dispute are set out at length in the State Defendants' memorandum in support of their motion for summary judgment (docketed as paper # 140). Simply stated, the parties are in substantial agreement as to the factual predicate underlying KG Urban's claims. Specifically, the parties agree:

...

- That Section 91(e) of the Gaming Act created two triggering events upon the occurrence of which the Massachusetts Gaming Commission (the "Commission") "shall consider bids for a Category 1 license in Region C": either (a) if no tribal-state compact had been negotiated between the Governor and the Mashpee Wampanoag Tribe, and approved by the Massachusetts Legislature, before July 31, 2012; or (b) if the Commission "determine[d] that the tribe will not have land taken into trust by the United States Secretary of the Interior." St. 2011, c. 194, § 91(e);
- That *neither of these triggering events under Chapter 91(e) has occurred;*

State Defendants' Opposition to Plaintiff's Motion for Summary Judgment, at 1-2, a true and correct copy of which is attached hereto at Tab E (emphasis supplied).

As previously explained in my February 29, 2016 letter, the Commission is likewise judicially estopped from taking any position contrary to that which it successfully took in *KG Urban* when it did not dispute that Section 91(e) "does bar issuance of a license of a [Category 1] license [in Region C] if a compact is approved by the legislature by July 31 and the Commission has not then determined that the tribe will not have land taken into trust." *KG Urban Enters., LLC v. Patrick*, 693 F.3d 1, 6 (1st Cir. 2012). MGE attempts to avoid this clear estoppel, but nevertheless concedes, correctly, that the Commission as a party to the *KG Urban* lawsuit "accept[ed] KG Urban's construction of the statute" quoted immediately above and prevailed. MGE Letter at 16.



Thank you for the opportunity to highlight some of the more egregious misstatements of fact and law set forth in MGE's letter.

Very truly yours,

Howard M. Cooper

HMC/ckb

Enc.

cc: Attorney General Maura Healey  
Edward Bedrosian, Executive Director  
Gayle Cameron, Commissioner  
Lloyd Macdonald, Commissioner  
Bruce Stebbins, Commissioner  
Enrique Zuniga, Commissioner  
Catherine Blue, Esq.  
Chairman Cedric Cromwell  
Mashpee Wampanoag Tribal Council  
Mashpee Wampanoag Tribal Gaming Commission  
Arlinda Locklear, Esq.

**MASSACHUSETTS GENERAL COURT**  
**LEGISLATIVE RESEARCH AND DRAFTING MANUAL**

Fifth Edition  
2010

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Representatives**

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February 2010

Dear Legislative Drafter:

The House and Senate Counsel have prepared this manual to help legislative lawyers and other staff who are drafting or reviewing bills for the Massachusetts General Court. We hope you will find it useful.

Its purpose is to promote uniformity in drafting style, and to make the resulting statutes clear, simple and easy to understand and use. This manual is not a substitute for advice and drafting assistance from the House and Senate Counsel. Rather, we hope it will encourage you to call or visit our offices for further help.

We welcome any corrections, suggestions for improvement and other comments.

Sincerely,

Alice E. Moore  
Counsel to the Senate

David Namet  
Acting Counsel to the House

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motion to discharge the committee is prohibited, however, if the clerks fail to place an unreported plan on the calendar at the end of the 40-day period, a member may move to discharge the committee, and the motion may be decided by a majority vote of the branch in which the motion is made.

The question before each branch is “Shall this reorganization plan be approved?” The legislature cannot change or amend the plan.

While under consideration, amendments shall not be allowed, but as motions to postpone, to commit, to recommit, to lay on the table (Senate only), to take a recess, to close debate, to order the main question, and to reconsider are allowed. If the matter was placed before the body because no action had been taken by the fifty-second day, then only motions to take a recess, to adjourn, to order the main question or to close debate are in order.

Unless disapproved by a majority vote of either branch within 60 days of filing by the Governor, the plan shall stand approved.

## **H. Resolves**

A resolve is a legislative mandate to undertake certain actions, usually in the form of special commissions to study legislative or executive branch issues or to discharge moral obligations. It has the same force and effect as a general or special law. A special commission can be made up of members of the legislature or appointees by the Governor or members of the executive branch by virtue of their positions. Resolves normally have reporting requirements to the legislature and expire on a date certain. If an expiration date is not listed in a resolve, then a resolve approved by the Governor in an even-numbered year expires on the last Wednesday in December in that even-numbered year or if the resolve is approved by the Governor in an odd-numbered year it expires on the last Wednesday in January in the following year (*see* G.L. c. 4, § 2A). (*see* example 6 in section D of Part 2.)

When drafting a resolve providing for a special commission, remember that section 2A of chapter 4 of the General Laws requires that if senators or representatives are to be members of the special commission they “shall be designated by the president of the senate and the speaker of the house of representatives, respectively.”

Also, be aware that special commissions are subject to section 11A ½ of chapter 30A of the General Laws governing open meetings of governmental bodies.



THE 189<sup>TH</sup> GENERAL COURT OF  
THE COMMONWEALTH OF MASSACHUSETTS

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**Actions for Resolve H.4261**

Date	Branch	Action
7/12/2012	House	Referred to the committee on Economic Development and Emerging Technologies
7/12/2012	Senate	Senate concurred
7/13/2012	Joint	Hearing scheduled for 07/16/2012 from 11:00 AM-01:00 PM in B-1
7/16/2012	House	Resolve reported favorably by committee and referred to the House committee on Steering, Policy and Scheduling
7/17/2012	House	Committee reported that the matter be placed in the Orders of the Day for the next sitting for a second reading
7/18/2012	House	Read second and ordered to a third reading, rules suspended, ordered to a third reading
7/18/2012	House	Read third
7/18/2012	House	Passed to be engrossed - 121 YEAS to 32 NAYS (See YEA and NAY in Supplement, No. 313)
7/19/2012	House	Motion to reconsider negatived
7/19/2012	Senate	Read, rules suspended, read second and ordered to a third reading
7/19/2012	Senate	Read third
7/19/2012	Senate	Motion to lay on the table pending and postponed to the next session
7/26/2012	Senate	Taken out of the Orders of the Day
7/26/2012	Senate	Motion to lay on the table negatived
7/26/2012	Senate	Passed to be engrossed
7/26/2012	House	Resolve passed
7/26/2012	House	Motion to reconsider negatived - 27 YEAS to 126 NAYS (See YEA and NAY in Supplement, No. 333)
7/26/2012	Senate	Resolve passed - see Roll Call, No. 274 (Yeas 27 - Nays 9)
7/26/2012	Senate	Laid before the Governor
7/30/2012	Governor	Signed by the Governor, Chapter 1 of the Resolves of 2012

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# HOUSE . . . . . No. 4261

Message from His Excellency the Governor for the passage of a resolve relating to the Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts. July 12, 2012.

## The Commonwealth of Massachusetts



DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT  
STATE HOUSE • BOSTON 02133  
(617) 725-4000

July 12, 2012.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached "Resolve Relating to the Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts." Under a separate message, I have also filed today the "Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts." This Compact has been executed today with the federally-recognized sovereign Mashpee Wampanoag Tribe.

I urge your early and favorable consideration of this Resolve.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick".

DEVAL L. PATRICK,  
*Governor.*



# The Commonwealth of Massachusetts

In the Year Two Thousand Twelve.

RESOLVE RELATING TO THE TRIBAL-STATE COMPACT BETWEEN THE  
MASHPEE WAMPANOAG TRIBE AND THE COMMONWEALTH OF  
MASSACHUSETTS.

- 1 *Resolved*, that pursuant to section 91 of chapter 194 of the acts of 2011, the general court hereby
- 2 approves and ratifies the Mashpee Wampanoag Tribe-Commonwealth of Massachusetts tribal-
- 3 state compact, as appearing in House document numbered 4260, between the Mashpee
- 4 Wampanoag Tribe and the Commonwealth of Massachusetts.



THE 189<sup>TH</sup> GENERAL COURT OF  
THE COMMONWEALTH OF MASSACHUSETTS

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**Actions for Resolve H.3376**

Date	Branch	Action
3/28/2013	House	Referred to the committee on Economic Development and Emerging Technologies
4/1/2013	Senate	Senate concurred
5/13/2013	Joint	Hearing scheduled for 05/15/2013 from 11:00 AM-01:00 PM in B-2
9/6/2013	Joint	Hearing scheduled for 09/10/2013 from 12:00 PM-01:00 PM in Western New England University
9/12/2013	House	Resolve reported favorably by committee and referred to the committee on House Steering, Policy and Scheduling
10/7/2013	House	Committee reported that the matter be placed in the Orders of the Day for the next sitting
10/7/2013	House	Rules suspended
10/7/2013	House	Read second and ordered to a third reading
10/9/2013	House	Order adopted, see H3689
10/9/2013	House	Read third
10/9/2013	House	Passed to be engrossed - 116 YEAS to 38 NAYS (See YEA and NAY in Supplement, No. 230)
10/9/2013	House	Motion to reconsider negatived
10/10/2013	Senate	Read and referred to the committee on Senate Ways and Means
11/7/2013	Senate	Order relative to subject matter adopted
11/7/2013	Senate	Committee recommended ought to pass
11/7/2013	Senate	Rules suspended
11/7/2013	Senate	Read second, ordered to a third reading, read third and passed to be engrossed
11/12/2013	House	Resolve passed
11/12/2013	Senate	Resolve passed and laid before the Governor
11/15/2013	Governor	Signed by the Governor, Chapter 2 of the Resolves of 2013

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# HOUSE . . . . . No. 3376

Message from His Excellency the Governor for the passage of a resolve relating to the Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts. March 27, 2013.

## The Commonwealth of Massachusetts



DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT  
STATE HOUSE • BOSTON 02133  
(617) 725-4000

March 27, 2013.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached "Resolve Relating to the Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts." Under a separate message, I have also filed today the "Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts." This Compact was executed last week with the federally-recognized sovereign Mashpee Wampanoag Tribe.

I urge your approval and ratification of this Resolve.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Deval Patrick", written over a faint circular stamp.

DEVAL L. PATRICK,  
*Governor.*

# The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen.

Resolve relating to the Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts.

1        Resolved, that pursuant to section 91 of chapter 194 of the acts of 2011, the general court  
2 hereby approves and ratifies the Mashpee Wampanoag Tribe-Commonwealth of Massachusetts  
3 tribal-state compact, as appearing in house document numbered 3375, between the Mashpee  
4 Wampanoag Tribe and the Commonwealth of Massachusetts.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

JAN 06 2014

The Honorable Cedric Cromwell  
Chairperson, Mashpee Wampanoag Tribe  
483 Great Neck Road South  
Mashpee, Massachusetts 02649

Dear Chairman Cromwell:

On November 18, 2013, the Department of the Interior (Department) received the tribal-state class III gaming compact (Compact) between the Mashpee Wampanoag Tribe (Tribe) and the Commonwealth of Massachusetts (Commonwealth).

Under the Indian Gaming Regulatory Act (IGRA), the Secretary may approve or disapprove a compact within 45 days of its submission. See 25 U.S.C. § 2710 (d)(8). If the Secretary does not act to approve or disapprove a compact within the prescribed 45-day period, IGRA provides that it is considered to have been approved by the Secretary, "but only to the extent that the Compact is consistent with the provisions of [IGRA]." See 25 U.S.C. § 2710 (d)(8)(C). Under IGRA, the Department must determine whether the Compact violates IGRA, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligation of the United States to Indians. See 25 U.S.C. § 2710 (d)(8)(B).

## DECISION

We appreciate the diligence and hard work of the Tribe and the Commonwealth in addressing the concerns we raised in our letter of October 12, 2012, wherein we disapproved the first compact that was submitted to the Department. The Compact now addresses the concerns we relied upon as a basis for disapproval. We do have a remaining concern with the Compact regarding potential state regulation of class II gaming, but it does not rise to the level requiring the Department to disapprove it. The Compact includes terms that provide a theoretical possibility based on a number of future contingent events whereby the Commonwealth could someday claim the authority to attempt to exercise regulatory authority over discrete types of class II games at the Approved Gaming Site. It is speculative whether these contingencies may ever occur, and even more speculative as to how the Commonwealth and Tribe would actually proceed should such a scenario arise. The IGRA draws a bright line providing that only tribes and the National Indian Gaming Commission may regulate class II gaming.

Nothing in IGRA or its legislative history indicates that Congress intended to allow gaming compacts to be used to expand state regulatory authority over tribal activities that are not directly related to the conduct of class III gaming. To the extent that the parties implement this compact at some undefined point in the future in a manner to grant the state authority over class II gaming, such action would not be lawful. We caution the parties that, in implementing the Compact, they should avoid applying its provisions in a manner that does not directly relate to

the operation of class III gaming activities, and thus avoid any potential violation of IGRA regarding the limited scope of tribal-state gaming compacts. Accordingly, pursuant to Section 11 of IGRA, the Compact will take effect by operation of law. *See* 25 U.S.C. §2170 (d)(8)(C).

## **BACKGROUND**

The Compact was entered into on March 19, 2013, on behalf of the Tribe by its Chairperson and Vice Chairperson and on behalf of the Commonwealth by its Governor. The Compact was subsequently approved by the Commonwealth's legislature and signed into law by the Governor on November 15, 2013. The Compact governs the Tribe's conduct of gaming on a proposed site within the Commonwealth (within or near the City of Taunton, Massachusetts). It authorizes the Tribe to operate certain games within a single facility on eligible lands pursuant to IGRA. (See Compact at § 4.1.)

## **ANALYSIS**

Unlike class III gaming, the actual exercise of regulatory authority over class II gaming is reserved exclusively to tribes and the National Indian Gaming Commission under IGRA. *See* 25 U.S.C. § 2710 (b). Additionally, our regulations specifically define a compact as an agreement between a tribe and a state that "establishes between the parties the terms and conditions for the operation and regulation of the tribe's class III gaming activities." 25 C.F.R. § 293.2 (b)(2). We noted in our October 12, 2013 disapproval letter a general concern with the apparent regulation of the Tribe's conduct of class II gaming activities. *See* 2012 Compact at 17. While we did not rely upon this concern as a basis for disapproval, the parties nonetheless attempted to address the concern. The Compact as it exists today, addresses most of our concern by expressly providing that it does not limit the Tribe's right to operate any gaming within IGRA's definition of class II gaming. (See Compact at § 4.1.)

However, the Compact may leave open a theoretical possibility whereby the Commonwealth may attempt to regulate discrete aspects of class II gaming at the Approved Gaming site. This provision applies only to the Approved Gaming Site as defined in the Compact and does not apply to the operation of class II gaming on other gaming-eligible lands. If, at some future date, the Commonwealth violates the exclusivity provisions in the Compact, the Tribe is no longer required to share class III revenues. The Tribe would continue to be able to offer all class III gaming, including slot machines which are generally acknowledged as being more lucrative than class II machines. Sections 9.2.1.4(c) and 9.2.5(c) provide that if the Tribe chooses to offer certain class II gaming in addition to full class III gaming, then the Commonwealth could collect revenue sharing and could consider bids and issue a Category 1 or other commercial gaming license. Under this hypothetical, it is unclear why the Commonwealth would choose to violate the existing exclusivity provision thereby eliminating any obligation on the Tribe to share revenue. It is equally unclear whether the Tribe would choose to offer certain electronic class II gaming given its right to continue to operate more lucrative class III machines without any obligation to share any revenues with the Commonwealth. Nevertheless, if the State violates the exclusivity provision and the Tribe exercises its ability to offer certain class II machines, the Compact then provides for payments to be made to the State and for the State to consider issuing a license.

We acknowledge that the Department has not always spoken with a clear voice on this use. In prior determinations, the Department approved compacts that included provisions regarding the operation of class II gaming. We understand that in such situations, approval was based in part on the fact that the provisions may have had no practical effect. Similarly, it appears that this Compact will have no concrete practical effect, absent potential future actions by both of the parties.

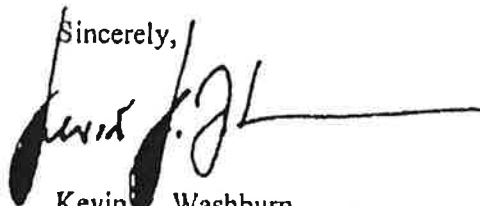
I want to take this opportunity to emphasize that IGRA does not permit the regulation of class II gaming in tribal-state compacts. In the future, states and tribes should avoid including any language in a compact that could be construed as providing for the potential state regulation of class II gaming.

### CONCLUSION

We congratulate the Tribe and Commonwealth on working together to achieve this important agreement. The Compact will take effect upon publication of notice in the *Federal Register* pursuant to section 11 of IGRA. 25 U.S.C. § 2710 (d)(3)(B).

A similar letter has been sent to the Honorable Deval Patrick, Governor of the Commonwealth of Massachusetts.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin C. Washburn", with a long horizontal line extending to the right.

Kevin C. Washburn  
Assistant Secretary -- Indian Affairs

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KG URBAN ENTERPRISES, L.L.C.,

Plaintiff,

v.

DEVAL L. PATRICK, IN HIS OFFICIAL  
CAPACITY AS GOVERNOR OF THE  
COMMONWEALTH OF MASSACHUSETTS, ET  
AL.,

Defendants.

CIVIL ACTION  
NO. 1:11-CV-12070-NMG

**STATE DEFENDANTS' OPPOSITION  
TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Governor Deval L. Patrick and the chairman and members of the Massachusetts State Gaming Commission (together, the "State Defendants") hereby oppose the motion of the plaintiff, KG Urban Enterprises, L.L.C. ("KG Urban") for summary judgment. In so doing, the State Defendants renew their request that the Court enter summary judgment in their favor, pursuant to their September 23, 2013 motion.

Background/Points of Contention

The factual background and procedural history of this dispute are set out at length in the State Defendants' memorandum in support of their motion for summary judgment (docketed as paper # 140). Simply stated, the parties are in substantial agreement as to the factual predicate underlying KG Urban's claims. Specifically, the parties agree:

- That the Massachusetts Legislature enacted, and the Governor signed, the Act Establishing Expanded Gaming in the Commonwealth (the "Gaming Act") in November, 2011;



- That Section 91(e) of the Gaming Act created two triggering events upon the occurrence of which the Massachusetts Gaming Commission (the “Commission”) “shall consider bids for a Category 1 license in Region C”: either (a) if no tribal-state compact had been negotiated between the Governor and the Mashpee Wampanoag Tribe, and approved by the Massachusetts Legislature, before July 31, 2012; or (b) if the Commission “determine[d] that the tribe will not have land taken into trust by the United States Secretary of the Interior.” St. 2011, c. 194, § 91(e);
- That neither of these triggering events under Chapter 91(e) has occurred;
- That the Commission nonetheless elected, in April 2013, to open Region C to commercial applicants, “with the Commission deciding whether to issue a commercial license to an applicant after taking into account economic and other circumstances as they exist at the time of the licensing decision[,] in light of the statutory objective[s] that govern expanded gaming in the Commonwealth and the discretion with which the expanded gaming statute clothes the Commission.” See Transcript of Commission’s 4/18/13 public meeting, attached as Exhibit A to April 23, 2013 Letter of Daniel J. Hammond (docketed as paper # 104);
- That the Commission set September 30, 2013, as the deadline for commercial applicants to make their submissions to the Commission; and
- That KG Urban is the only commercial applicant to have made such an application with respect to a location in Region C.

What remains for this Court to decide, then, are three interrelated legal questions. First – and dispositive, in the State Defendants’ view – is whether the Commission’s opening of Region C to commercial applicants (including KG Urban, which has already applied for licensure) has extinguished KG Urban’s cause of action, as it has foreclosed the potentially indefinite waiting

period of which the First Circuit warned. The State Defendants believe that this question must be answered in the affirmative, and that therefore the Court's inquiry should end here. If the Court should disagree, however, then it must also determine: (2) whether any surviving claim is a claim for differential treatment based on race, such that it is entitled to strict-scrutiny review; and (3) after applying the appropriate level of scrutiny, whether KG Urban is entitled to the relief it seeks on the facts of this case. The State Defendants will address each of these questions in turn, below.

### ARGUMENT

#### **A. The Commission's Opening of Region C to Commercial Applicants Did Not Buttress KG Urban's Equal-Protection Claim; It Defeated It.**

In its opening memorandum, KG Urban argues that even though the Commission has now granted the only functional relief sought in KG Urban's amended complaint – i.e., opening Region C to commercial applicants – such relief not only is “insufficient to remedy [KG Urban's] Equal Protection harm,” but actually “increase[s] [the company's] need for prompt relief from this Court.” KG Urban Opening Memorandum at 20 (emphasis in original). This counterintuitive analysis not only misattributes the “harm” suffered by KG Urban in Region C, but more fundamentally misconstrues the nature of KG Urban's claims against the State Defendants, as those claims have been evaluated by the First Circuit. Indeed, the First Circuit's analysis compels the conclusion that those claims have not been buttressed or amplified by the Commission's actions in opening Region C; on the contrary, they have been foreclosed.

From the outset, KG Urban has attempted to position its argument as an airtight syllogism: that is, (a) unless specifically authorized to do so under federal law, states may not accord differential classification to Indian tribes, lest such treatment invite strict scrutiny as a racial preference under the Equal Protection Clause; (b) the Bureau of Indian Affairs (“BIA”) has

not yet approved a compact between the Commonwealth and the Mashpee Wampanoag Tribe, nor has it approved the tribe's application to have land taken into trust on its behalf for gaming purposes, both of which it must do in order for the Commonwealth to claim it is according differential treatment to the tribe in furtherance of the tribe's rights under the IGRA; and, therefore (c) the Commonwealth has effected a racial preference, which cannot survive strict-scrutiny review.

On review, however, the First Circuit rejected the plaintiff's characterization, which asserted that the Commonwealth committed an Equal Protection violation simply by enacting Section 91(e). Rather, the First Circuit recognized that the question of whether the Gaming Act's treatment of the Mashpee Wampanoag Tribe was in furtherance of the purposes of the IGRA, and therefore permissible under the Equal Protection Amendment, turned entirely on the BIA's *ultimate resolution* of the tribe's compact-approval and land-into-trust applications. If both of those proceedings (and any attendant judicial review) were resolved in the tribe's favor, then "the Commonwealth can argue that § 91 establishes a parallel mechanism, meant to facilitate the purposes of the IGRA, if not precisely authorized by the IGRA, for a limited period of time." KG Urban Enterprises, L.L.C. v. Patrick, 693 F.3d at 1, 25 (1<sup>st</sup> Cir. 2012). In other words, the First Circuit acknowledged that the question of who prevails in this case is tied inextricably to the question of whether the Mashpee Wampanoag Tribe ultimately succeeds in vindicating its rights under the IGRA. Id. Were it to do so, then it will have been entirely lawful for the Commonwealth to have accorded a different classification to the tribe in the Gaming Act; if not, then KG Urban may press its "race-based" Equal Protection claim.

The First Circuit further recognized, however, that any victory that KG Urban might obtain under the latter scenario (after determinations by the BIA and subsequent judicial review)

could potentially be a Pyrrhic one. The court was clearly concerned that, if KG Urban can only know at some point in the distant future whether it possesses a meritorious claim, then it would be functionally deprived of an economic opportunity. Therefore, the First Circuit cautioned that the State Defendants' defense – that Section 91(e) was designed to facilitate the implementation of the IGRA – would remain viable only “for a limited time.” KG Urban, 693 F.3d at 25. It implied that, if KG Urban was forced to wait (without the ability to apply for a Region C license) for an indefinite period, while the open-ended proceedings before the BIA lurched forward, then the company's loss could take on a constitutional dimension. Accordingly, the First Circuit remanded this case to this Court with instructions to pay heed to “the passage of time and the continuation of the status that there are no ‘Indian lands’ in the region.” 693 F.3d at 25. While the First Circuit set no parameters regarding how long a wait should precipitate intervention by this Court, it did enumerate factors – such as the length of land-into-trust proceedings, delays occasioned by a rejection of a tribal-state compact, and passivity on the part of the Commission in exercising its rights under Section 91(e) to open Region C to competitive bidding – that could result in an excessive (and potentially actionable) wait on the part of KG Urban.

But having exercised its discretion to open Region C to commercial bidders –without reference to the two explicit triggers in Section 91(e) – the Commission extinguished any surviving claim of discrimination based on an indefinite wait. Because of the Commission's action, the “limited time” permitted by the First Circuit for the State Defendants to facilitate the potential IGRA rights of the Mashpee Wampanoag Tribe is both finite and complete. KG Urban has been authorized to submit a commercial application for a full-service casino in Region C, and it has done so. Under the First Circuit's analysis, its Equal Protection claim cannot succeed.

KG Urban protests that, even if this is so, the company still runs the risk of suffering harm because the criteria the Commission will consider in awarding a Region C license are somehow different from those it will use in evaluating bids in the other two regions. In fact, they are not. For its part, KG Urban does not explain why it believes the criteria are different, nor does it present any evidence to demonstrate that different rules will apply in different regions. In voting to open Region C to commercial applicants, the Commission stated that it would “decid[e] whether to issue a commercial license to an applicant after taking into account economic and other circumstances as they exist at the time of the licensing decision[,] in light of the statutory objective[s] that govern expanded gaming in the Commonwealth and the discretion with which the expanded gaming statute clothes the Commission.” See Transcript of Commission’s 4/18/13 public meeting, attached as Exhibit A to April 23, 2013 Letter of Daniel J. Hammond (docketed as paper # 104). This language is no more than a summary of the statutory criteria that the Commission is required to apply in evaluating applications in all regions. See St. 2011, c. 194, § 16, codified at M.G.L. c. 23K, §§ 18(7) (Commission “shall evaluate” benefits of proposed site location vis-à-vis competition from out-of-state casino); 18(11) (Commission “shall evaluate” extent to which proposal maximizes total revenues received by the Commonwealth); and 18(13) (Commission “shall evaluate” extent to which proposal offers “the highest and best value to create a secure and robust gaming market in the region and the [C]ommonwealth”).<sup>1</sup>

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<sup>1</sup> KG Urban repeats in its opening memorandum assertions that it has made before: namely, that “the Commission has reserved the right to scuttle the commercial application process if the Mashpee [Wampanoag Tribe] have made some (unspecified) degree of progress toward an IGRA casino by the time the Commission makes its ultimate decision on the commercial applications.” KG Urban Opening Memorandum at 21. While an earlier proposal rejected by the Commission would have opened Region C provisionally to commercial applicants, subject to a termination of the process in the event that the Mashpee Wampanoag Tribe prevailed in its federal

Rather, what KG Urban appears to be complaining about is the possibility that, after evaluating all of the statutory factors, the Commission may elect not to award *any* Category 1 license in Region C. Because KG Urban was the only commercial applicant to request licensure in Region C, its claim is essentially that any result in Region C, other than an award of a commercial license to KG Urban, violates equal protection. But a determination by the Commission not to award any license is expressly anticipated, in all three regions, by a section of the Gaming Law that KG Urban does not challenge: “Within any region, if the commission is not convinced that there is an applicant that has both met the eligibility criteria and provided convincing evidence that the applicant will provide value to the region in which the gaming establishment is proposed to be located, and to the commonwealth, no gaming license shall be awarded in that region.” G.L. c. 23K, § 19(a) (emphasis added). Thus, the award of a Category 1 license in Region C, if any, will hinge upon the same factors that the Commission will consider in Regions A and B, including the potential economic and other benefits to the region and to the Commonwealth, in light of, among other things, competing casinos within or without Massachusetts. The Equal Protection Clause entitles KG Urban to no more.

**B. Any Alternative Equal Protection Claim Would Fail.**

**1. Such a Claim Would Turn on Different Classification by Geographical Region, Not by Race.**

If KG Urban presses an alternative Equal Protection claim in the wake of the Commission’s opening of Region C to commercial applicants, it could argue no more than that commercial applicants in Region C were somehow being treated less favorably than commercial

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administrative proceedings, the action ultimately approved by the Commission contains no such proviso. On the contrary, the Commission has voted to conduct full review of commercial applicants in Region C.

applicants in Regions A and B. KG Urban has submitted no evidence that this is so. However, even if such a claim were viable, it would be subject only to rational-basis scrutiny. See Hodel v. Indiana, 452 U.S. 314, 331 (1981) (“Social and economic legislation that does not employ suspect classifications or impinge on fundamental rights must be upheld . . . when the legislative means are rationally related to a legitimate government purpose”).

KG Urban suggests that, unlike commercial applicants in other regions, Region C bidders may be subject to evaluation through the lens of whether the proposed casino will be economically viable notwithstanding possible competition from an IGRA casino in the same region. This possibility of different treatment, it suggests, would be the residue of racial preferences created by Section 91(e), and must therefore be judicially excised. This argument is specious for at least two reasons.

First, Region C is hardly alone in subjecting potential applicants to scrutiny of economic factors that bear on the viability of a proposed casino. Applicants in all three regions will have to demonstrate, among other things, that their proposed casinos will be economically advantageous notwithstanding competition from casinos in other regions or in adjacent states, or from any slots parlor that may be licensed. All will need to withstand scrutiny of the demographics of their proposed location, as well as the transportation network and infrastructure demands on their host community and adjacent cities and towns. Possible competition from an IGRA casino (if such a facility is even a viable possibility in the fall of 2014) is not different in kind from the factors the Commission will be evaluating in all regions.

Second, to the extent that the presence (or imminent possibility) of an Indian casino in Region C is a unique consideration inapplicable to other regions, this differing landscape was not created by the Massachusetts Legislature, and is certainly not a consequence of Section 91(e).

The presence of recognized Indian tribes in Region C of the Commonwealth (but not in the other two regions) is a pre-existing condition dating from before the colonial era. The legal capacity of an Indian tribe to secure at least some gaming rights without state licensure was created by the IGRA itself, a federal law not currently challenged by the plaintiff. That the Mashpee Wampanoag Tribe may succeed in building and operating a resort-style casino is a potential consequence of St. 2011, c. 194, §§ (a)-(d) (sections of the Gaming Law authorizing the Governor to enter into a compact with the Mashpee Wampanoag Tribe; such a compact is a prerequisite to obtaining authority from the BIA to build a Category 1, resort-style casino).

In short, any Equal Protection claim based on the assertion that different evaluation criteria will be applied in Region C would be doomed to failure, because (a) applicants in Region C do not receive differential treatment; and (b) even if they did, such treatment would be based on characteristics of that region that exist separate and apart from the challenged legislation. In any event, such a claim would be subject only to rational-basis scrutiny by this Court and, as *KG Urban* admitted before the First Circuit,<sup>2</sup> as a consequence would be doomed to fail.

**2. The Commonwealth Had a Rational Basis  
For Treating Region C Differently Than Region A and B.**

As noted above, any alternative Equal Protection claim brought by *KG Urban* can only allege differential treatment on the basis of geographical region, not on the basis of race. Given that such claims are reviewed only to ensure that the Legislature may have had some conceivable rational basis for drawing the distinction that it did,<sup>3</sup> Section 91(e) of the Gaming Act easily clears this hurdle.

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<sup>2</sup> See *KG Urban*, 693 F.3d at 16-17.

<sup>3</sup> Under this “most relaxed and tolerant form of judicial scrutiny under the Equal Protection Clause,” *City of Dallas v. Stanglin*, 490 U.S. 19, 26 (1989), “it is only the invidious discrimination, the wholly arbitrary act, which cannot stand consistently with the Fourteenth



Put simply, the facts on the ground in November, 2011, were materially different in Region C than in the other two regions created by the Gaming Act. Two federally recognized Indian tribes had historical ties to that region. One, the Gay Head Wampanoag Tribe of Aquinnah, had tribal lands in the region, but had contracted away any rights it may have had to conduct gaming on those lands. The other, the Mashpee Wampanoag Tribe, lacked tribal land, but already had a pending application to have land taken into trust on its behalf for the purpose of gaming. See 77 Fed. Reg. 32,132, 32,133 ((May 31, 2012). Recognizing the limited control the Commonwealth had over potential Indian gaming in Region C, the Legislature elected to create a window to see whether one of those tribes would achieve the required federal approvals, during which Region C would not be opened to commercial bidders. As construed by the Commission, Section 91(e) also conferred discretion upon the Commission to open Region C to commercial applicants if the duration of this “window” period threatened to become excessive.

These were entirely rational concerns that may have motivated the Legislature to enact the procedures and time limits encompassed by Section 91(e). As such, KG Urban can demonstrate no violation of the Equal Protection Clause.

### CONCLUSION

For the reasons set forth above, the State Defendants respectfully request that this Court deny KG Urban’s motion for summary judgment, and grant the State Defendants’ motion for summary judgment.

Respectfully submitted,

MARTHA COAKLEY

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Amendment.” New Orleans v. Dukes, 427 U.S. 297, 303-04 (1976). Courts will presume the existence of a rational relationship between state action and a legitimate governmental purpose, subject to rebuttal of that presumption by the challenging party. Bowen v. Owens, 476 U.S. 340, 345 (1986).

*Attorney General of Massachusetts*

/s/ Daniel J. Hammond

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October 18, 2013

**Certificate of Service**

I hereby certify that this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent to those listed on the NEF as non-registered participants on or before October 18, 2013.

/s/ Daniel J. Hammond