Re: Consolidated Proceedings: City of Boston’s “Declarations” for Host Community Status Regarding Gaming Establishments Proposed by Mohegan Sun Massachusetts, LLC and Wynn MA, LLC

WYNN MA, LLC’S PRE-HEARING MEMORANDUM ON THE PREMISES OF THE GAMING ESTABLISHMENT FOR WHICH WYNN MA, LLC SEEKS APPROVAL IN ITS RFA-2 APPLICATION

Wynn MA, LLC ("Wynn") respectfully submits this pre-hearing memorandum to the Massachusetts Gaming Commission (the "Commission") in support of its position on the following agenda item for determination by the Commission on May 1, 2014: "Determine the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its December 31, 2013 RFA-2 application."

I. PROCEDURAL HISTORY

At its September 4, 2013 public meeting, the Commission heard presentations from the City of Boston ("Boston") and Wynn MA, LLC ("Wynn") on the issue of whether Boston should be determined to be a host community to the Wynn applicant. See Exhibit 1: Transcript of September 4, 2013 Massachusetts Gaming Commission Public Meeting #76. At that public meeting, the Commission stated – and Boston agreed – that the key to determining host community status is the applicant’s site plan.  

1/ Exhibits cited in this Memorandum are attached to the Affidavit of Jennifer Mather McCarthy.  
2/ See Exhibit 1, p. 29: 2-7.
At that public meeting, Wynn provided a detailed site plan which demonstrated that the entire gaming establishment proposed by Wynn is located in Everett. Wynn pledged that no structures or amenities, gaming or nongaming are planned for Boston.\(^3\)

In light of the site plan and the pledge by Wynn, the Commission asked the parties to meet and come to a resolution quickly on the issue of whether or not Boston is a host community.\(^4\) The Commission stated that if a resolution wasn’t possible by the end of the week, the Commission would resolve the issue by an adjudicatory process.\(^5\)

Two days after the public meeting, on September 6, 2013, the City of Boston and Wynn issued the following Joint Statement:

> “Based on new information provided at Wednesday’s public meeting, the parties have agreed to begin discussions about Boston’s status as a Surrounding Community to address impacts that Wynn’s proposed Gaming Establishment would have on Boston generally and on the Charlestown community specifically, and therefore no adjudicatory hearing of the Massachusetts Gaming Commission is necessary on the question of whether Boston is a Host Community.”

See Exhibit 2: Joint Statement between the City of Boston and Wynn.\(^6\)


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\(^3\) See Exhibit 1, p. 68: 4-17.
\(^4\) See Exhibit 1, pp. 80-81.
\(^5\) See Exhibit 1, p. 82: 6-16.
\(^6\) A copy of this document is also attached to the Affidavit of Jacqui Krum (“Krum Affidavit”) at Exhibit B.
\(^7\) A copy of this document is also attached to the Krum Affidavit at Exhibit C.
to Boston’s petition insofar as it sought designation as a surrounding community. See Exhibit 5: Letter from Jacqui Krum to Elizabeth Della Russo, dated January 16, 2014.8/

On March 19, 2014, Boston submitted a Declaration of the City of Boston of Status as a Host Community within Region A Pursuant to M.G.L. 23K, §2, Regarding the Wynn MA, LLC Casino Applicant (the “Declaration”). See Exhibit 6: Boston Declaration. There is no provision in the Gaming Act for a community to declare itself a host community. Under the Gaming Act, host community status is determined by the applicant: the host community is the municipality where the applicant proposes to locate its gaming establishment. See M.G.L. c. 23K, §2.

On April 3, 2014, in response to that Declaration, the Commission published a hearing format and process to resolve Boston’s declared host community status. Specifically, the Commission scheduled a public meeting on May 1, 2014 at which the Commission would determine “the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its RFA-2 application.” In advance of the Commission’s May 1, 2014 public meeting, the Commission requested public comment relative to the agenda item.

Since the September 4 Hearing and the September 6 Joint Statement, there has been no change in the facts relevant to the location of Wynn’s gaming establishment. The gaming establishment proposed by Wynn is still and always has been located entirely within the City of Everett. As such, Boston’s assertion that it is a host community should be rejected and Boston’s status as a surrounding community should be again confirmed.

II. THE PREMISES OF WYNN’S GAMING ESTABLISHMENT FOR WHICH IT SEEKS APPROVAL IN ITS RFA-2 APPLICATION IS LOCATED ENTIRELY IN EVERETT.

The Massachusetts Gaming Act, M.G.L. c. 23K, provides the following definitions:

8/ A copy of this document is also attached to the Krum Affidavit at Exhibit D.
9/ “When a statute’s language is plain and unambiguous, we afford it its ordinary meaning.” Commonwealth v. Keefner, 461 Mass. 507, 511 (2012). “In addition, a statute must be construed so that effect is given to all its
“Host community”, a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.

“Gaming establishment”, the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.

“Surrounding communities”, municipalities in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.

M.G.L. c. 23K, §2.

Under the Gaming Act, a “host community” is defined as “a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.” The Legislature made clear that the operative fact to determine host community status is the location of the gaming establishment proposed by the applicant. See M.G.L. c. 23K, §2. As stated above, Commissioner McHugh confirmed this at the public meeting held on September 4, 2013, when he stated that the applicant’s site plan is key to the determination of host community status:

COMMISSIONER MCHUGH: It would be helpful perhaps in some ways, but the site plan, it seems to me, for determining whether [Boston is] a host community or not is the key, is it not? Can we all agree on that?

COUNSEL FOR BOSTON: Yes.

See Exhibit 1, p. 29: 2-7.

Wynn has proposed locating its gaming establishment in Everett and solely in Everett.10/

Question 4-79 of the RFA-2 Application specifically asks about the applicant’s site plan:

provisions, so that no part will be inoperative or superfluous,” id., and so that the statute is read as a “harmonious whole.” Connors v. Annino, 460 Mass. 790, 796 (2011).

10/ See Wynn’s RFA-2 Application, filed on December 31, 2013, p. 110 and 4-04-01, 4-04-02, 4-05-01, 4-05-02, 4-05-03, 4-05-04, 4-06-01, 4-79-01.
“Provide documentation showing the location of the proposed gaming establishment, including amenities and significant structures, which shall include the address, maps, book and page numbers from the appropriate registry of deeds, assessed value of the land at the time of application and ownership interests over the past 20 years, including all interests, options, agreements in property and demographic, geographic and environmental information.”

See Exhibit 7: Question 4-79 of Wynn’s RFA-2 Application at p. 182. Wynn’s response to Question 4-79 is stated below:

The Wynn Resort in Everett is located on an approximately 33.9 acre site (the “Project Site”) located on Horizon Way off Lower Broadway (Route 99) in Everett, Massachusetts. Please see Attachments 4-79-02 USGS Locus and 4-79-03 Registry of Deeds for a legal description of the Project Site. The Project Site is comprised of approximately 25.6 acres of upland and 8.3 acres below mean high water on the Mystic River that was previously part of the Monsanto chemical manufacturing facility. The Project Site is currently undeveloped and is utilized in part as a materials storage yard. Please see Attachment 4-79-04 Locus Aerial.

As demonstrated from Wynn’s site plan presented in its answer to Question 4-79 and the accompanying attachments, Wynn’s entire gaming establishment is located in Everett.11

Under the Gaming Act, “gaming establishment” is defined as “the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.” M.G.L. c. 23K, §2.

The word “premises” is not defined in the Gaming Act. “In the absence of a statutory definition . . . we first look to [the word’s] usual and accepted meaning . . . We derive such meaning ‘from sources presumably known to the statute’s enactors, such as their use in other legal contexts and dictionary definitions.’” Commonwealth v. O’Keefe, 48 Mass. App. Ct. 566, 567 (2000) (citations omitted); see also Commonwealth v. Meuse, 10 Mass. L. Rep. 661,*4-5

11 See Wynn’s RFA-2 Application, filed on December 31, 2013, p. 182 and 4-79-01, 4-79-02, 4-79-03, 4-79-04, 4-05-01, attached hereto as Exhibits 8, 9, 10, 11, and 12.
(1999) (van Gestel, J.) (turning to dictionary definition where relevant statute, General Laws and published cases did not contain a definition of the word “tattoo”).

There are a few possible definitions of the word “premises.” Merriam-Webster’s Collegiate Dictionary defines “premises” as “a building and the land it is on.” In normal real estate parlance, the word “premises” or “leased premises” is used to describe the actual space within a building leased to a tenant whereas “mortgaged premises” is used to describe the real property pledged to secure an obligation. Looking to the plain and unambiguous language of the statute, Wynn asserts that “the premises of the gaming establishment” is meant to describe the gaming area and all other non-gaming structures related to the gaming area. See M.G.L. c. 23K, §2. In Wynn’s case, this includes the gaming area, hotel, amphitheater, pavilion, restaurants, bars and lounges, nightclubs, spas, meeting and convention spaces and retail spaces.

This interpretation is supported by the Commission’s use of a different term, “gaming establishment site,” to describe an area greater than the “gaming establishment” in the RFA-2 Application. For example, Question 4-4 of the RFA-2 Application asks: “Provide a color rendering of the gaming establishment and all structures located on the gaming establishment site.” See Exhibit 13: Question 4-4 of Wynn’s RFA-2 Application at p. 110. Question 4-11 of the RFA-2 Application asks, “Describe the restaurants, retail spaces, bars, lounges and other non-gaming amenities located within the boundaries of the gaming establishment site, along with the names of their proposed operators.” See Exhibit 14: Question 4-11 of Wynn’s RFA-2 Application at p. 115. The Commission’s use of the term “gaming establishment site” in the RFA-2 Application evidences the Commission’s intent to distinguish between the broader term “gaming establishment site,” which includes the land owned by the Applicant upon which it

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13/ The term “gaming establishment site” does not appear in the Gaming Act or Regulations.
proposes to build its gaming establishment, and the more narrow term "gaming establishment," which includes the gaming area and other non-gaming structures related to the gaming area.

However, the difference in these definitions is of no import in this situation. Wynn asserts that the "premises of the gaming establishment" is meant to include the gaming area and other non-gaming structures related to the gaming area. See M.G.L. c. 23K, §2. A broader interpretation of the word "premises" would also include other non-structure "amenities" such as the harbor walk, docks and internal roadways on the land. An even broader definition of premises would include the buildings and other non-structure "amenities" described above and the land identified in Wynn's Answer 4-79-01 on which the buildings and other non-structure "amenities" are located. Even if the Commission uses the most expansive definition of "premises" to include not only the gaming area and all other non-gaming structures related to the gaming area as specified by the Gaming Act, but also all of the land owned by the Applicant – which Wynn contends is not the definition intended by the Legislature – all of this land in is Everett; none is in Boston.

Because Everett is the "municipality in which [Wynn] has proposed locating its gaming establishment," Everett is the host community.

III. WYNN’S RESPONSE TO ARGUMENTS ADVANCED BY THE CITY OF BOSTON.

Based on statements made in Boston’s Declaration and at the March 20, 2014 public meeting, Wynn understands that Boston makes three arguments to support its position that it is a host community to the gaming establishment proposed by Wynn. First, Boston makes a general, non-specific argument that it is a host community because Boston is a "crucial component" and a "key selling point" to Wynn’s project. See Exhibit 6. Second, Boston argues that it is a host community
because Wynn’s agreements with TD Garden and the Boston Symphony Orchestra constitute providing “amenities” of the gaming establishment in Boston. Third, Boston argues that it is a host community because the Wynn development accesses the project through the City of Boston.\footnote{See Exhibit 6.} All of these arguments fail. Wynn will address each of these anticipated arguments separately.

A. THE GAMING ESTABLISHMENT’S PROXIMITY TO BOSTON DOES NOT MAKE THE CITY OF BOSTON PART OF THE GAMING ESTABLISHMENT.

In its Declaration, Boston contends that it is a host community because the City of Boston is the “crucial component” and “a key selling point” of Wynn’s proposed gaming establishment.\footnote{See Exhibit 6.} Boston further argues that it is a host community because “Wynn is dependent on Boston’s airport, bus and rail service, harbor tunnels, roadways and other means of transportation.”\footnote{See Exhibit 6.} Under the Gaming Act, a “host community” is “a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.” The fact that Boston is a “key selling point” has no bearing on whether or not Boston is a host community. Boston does not and cannot argue that Wynn has \textit{proposed locating} a gaming establishment in Boston, which is the only fact relevant to host community status. If the Legislature had intended for Boston to be a host community to all or certain proposed gaming establishments because it is the capital city of Massachusetts and includes an airport and other important cultural institutions and attractions, the Gaming Act would reflect that. Here, the plain and unambiguous language of the statute makes clear that the host community is defined by the proposed location of the gaming establishment, which is entirely in Everett.

\footnote{See Exhibit 6.}
On the other hand, a “surrounding community” is defined as a “municipalit[y] in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.” M.G.L. c. 23K, §2. Because Boston is in proximity to Wynn’s proposed gaming site, Boston’s transportation infrastructure provides ready access to Wynn’s proposed gaming site, and Boston will likely be impacted by Wynn’s gaming establishment, Boston is by definition a surrounding community.

Further, Boston’s status as a surrounding community has been established many times. As stated above, after appearing before the Commission on this issue in September, Boston conceded its host community claims and agreed to pursue surrounding community negotiations with Wynn. Accordingly, Wynn acknowledged Boston as a surrounding community in its RFA-2 Application, and confirmed this directly to Boston in its January 8, 2013 letter. Thereafter, on January 13, 2014, Boston filed a petition with the Gaming Commission which, among other things, sought designation as a surrounding community. By letter dated January 16, 2014, Wynn assented to Boston’s petition insofar as it sought designation as a surrounding community.


At the Commission’s public meeting held on March 20, 2014, Boston made the over-reaching argument that Wynn’s agreements with TD Garden and the Boston Symphony Orchestra (“BSO”) constitute providing “amenities” of the gaming establishment in Boston. This argument is baseless. The Gaming Act addresses this issue, defining “gaming establishment” to include “a gaming area and any other nongaming structures related to the
gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.”
M.G.L. c. 23K, §2. Cross-marketing agreements are addressed elsewhere in the statute and have
no relevance to determining the location of a proposed gaming establishment.

In an effort to follow the requirements of the Gaming Act that applicants must
specifically promote local businesses and cultural and social facilities, Wynn has entered into
cross-marketing and promotional sponsorship agreements with the BSO and TD Garden. See
Exhibit 15: Boston Symphony Orchestra Agreement and Exhibit 16: Letter from Delaware North
Companies, Inc. – Boston. 18 Even under the most expansive definition of “amenities,” Boston’s
argument fails. Here, neither the BSO nor TD Garden is a “nongaming structure related to the
gaming area.” The BSO and TD Garden are not hotels or restaurants, and they are not
“amenities” related to the gaming area, such as a spa, pavilion or amphitheater. Further, Wynn
does not own the BSO or TD Garden; Wynn has no control over these entities.

Question 4-11 of the RFA-2 Application asks about non-gaming amenities, “Describe the
restaurants, retail spaces, bars, lounges and other non-gaming amenities located within the
boundaries of the gaming establishment site, along with the names of their proposed operators.”
See Question 4-11 of Wynn’s RFA-2 Application at p. 115, attached hereto as Exhibit 14. In its
response to Question 4-11, Wynn described the various nongaming amenities located within the
boundaries of the gaming establishment site, including restaurants, bars and lounges, Wynn Spas,
Wynn nightclubs, and meeting and convention spaces.

Moreover, Boston’s argument conflicts with both the general business development
purpose of the Gaming Act, including specifically promoting local businesses and cultural and
social facilities, and the evaluation criteria set forth in §18 of the Act. See M.G.L. c. 23K, §§1(6)

18 Copies of these documents are also attached to the Krum Affidavit at Exhibits E and F.
and 18. Specifically, §18 of the Act states that the applicant will be judged on how its application proposes to advance:

(2) promoting local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, small businesses, hotels, retail outlets and impacted live entertainment venues; and

(5) building a gaming establishment of high caliber with a variety of quality amenities to be included as part of the gaming establishment and operated in partnership with local hotels and dining, retail, and entertainment facilities so that patrons experience the diversified regional tourism industry.

M.G.L. c. 23K, §18.

Here, the plain and unambiguous language of the statute makes clear that the Legislature did not want the casinos to compete with and stifle local business but rather cooperate and partner with those businesses to expand economic development. The Legislature intended cross-marketing partnership agreements with local businesses. Wynn’s “agreements” with the BSO and TD Garden are examples of exactly what the Legislature intended and desired, and in fact are a criterion upon which Wynn’s application will be evaluated by the Commission. Boston’s argument that cross-marketing partnership agreements confer host community status on the city or town where an applicant’s cross-marketing business partner happens to be located is totally without merit.

C. ACCESS TO THE GAMING ESTABLISHMENT SITE VIA HORIZON WAY DOES NOT MAKE THE CITY OF BOSTON PART OF THE GAMING ESTABLISHMENT.

As an initial matter, Wynn’s December 31, 2013, RFA-2 application showed access to Wynn’s proposed gaming establishment site in Everett. See Exhibit 12: Conceptual Site Plan.\(^\text{19}\) Wynn assumes, therefore, that Boston’s argument is based on Wynn’s alternate access plan,

\(^{19}\) A copy of this document is also attached to the Krum Affidavit at Exhibit A.
which was submitted as part of its RFA-2 application in its Draft Environmental Impact Report
(“DEIR”) at Figure 4-45. See Exhibit 17: Figure 4-45, Alternate Access Plan. Under that
alternate access plan, access to the proposed gaming establishment site would be via Horizon
Way.  

Citing Beale v. Planning Board of Rockland, 423 Mass. 690 (1996), Boston argues that
the access road to Wynn’s “development” takes on the casino use, and as a result, the access road
is part of the gaming establishment. The Beale case holds that use of land in one zoning
district to create a new access road to another zoning district is prohibited where the road would
provide access to uses that would themselves be barred if they had been located in the first
zoning district. In such a situation, the access is considered to be in the same use as the parcel to
which access leads. Boston’s argument fails for three reasons. First, the Beale case is a zoning
case and has no bearing on the determination of the location of the premises of Wynn’s proposed
gaming establishment as defined in M.G.L. 23K, §2. Second, the Legislature is presumed to be
aware of the prior state of the law and therefore the Gaming Act trumps the Beale case. See
approval, it is irrelevant to its status under the Gaming Act and it conflicts directly with the
Gaming Act which establishes a specific statutory scheme to allow gaming use in the
Commonwealth, which requires zoning compliance in the host community only.

20/ Horizon Way (formerly Chemical Lane) is an existing private way, approximately 400 feet long and 50 feet
wide, which begins at Route 99 at the Everett/Boston line and runs in an easterly direction to a dead end in Everett
abutting the gaming establishment site. Route 99 is called Broadway in Everett and Alford Street in Boston. For the
first approximately 150 feet from the Route 99 intersection, the Everett/Boston boundary essentially bisects the
way. The way then continues into Everett for an additional approximately 250 feet terminating between the
proposed gaming establishment site and the MBTA Everett Shops property. In 1985, the Massachusetts Department
of Public Works on behalf of the City of Boston took as a city highway a portion of the way around the intersection
at Route 99 within the Boston municipal boundary. The City of Boston Street Book contains no reference to Horizon
Way or Chemical Lane. See Affidavit of Daniel Gaquin, attached hereto as Exhibit 18.

21/ In its Declaration, Boston states, “The Wynn development accesses the project through the City of Boston,
including the only access being a private way off of the City of Boston roadway.” See Exhibit 6.
1. **Beale is a Zoning Case and has no Bearing on the Location of the Premises of Wynn’s Proposed Gaming Establishment.**

The *Beale* case does not and cannot alter the boundaries of Wynn’s project site or change the location of the gaming establishment, which is the only fact relevant to host community status. See M.G.L. 23K, §2. Wynn’s proposed gaming establishment site is currently accessed via Horizon Way, which is an existing private way. A small portion of Horizon Way is located in Boston, and a smaller segment within the portion in Boston at the intersection of Route 99 is a public way. Horizon Way is not part of Wynn’s gaming establishment or the gaming establishment site.

If Horizon Way is used for access to the gaming establishment site, this does not make Boston part of the premises of the gaming establishment. To the contrary, this fact puts Boston squarely within the definition of a surrounding community. As stated above, under the Gaming Act, a “surrounding community” is defined as a “municipalit[y] in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides *ready access* to an existing or proposed gaming establishment.” M.G.L. c. 23K, §2. Horizon Way, a road that starts in Everett and Boston and then continues into Everett “provides ready access” to Wynn’s gaming establishment site located in Everett.

In *Beale*, the developer required planning board approval under MA Subdivision Control Law (SCL) in Rockland because it was creating a new private road and under the SCL planning boards have general authority to ensure consistency with zoning. Here, unlike *Beale*, Horizon Way is an existing road and the only approval required from Boston to expand the way, if any, is approval from the Public Improvements Commission, which does not have general zoning
Further, the fact that the state has accepted a significant portion of the area of Horizon Way within Boston as a public way means it approves general access for all uses, and the "road taking on the use" argument should not apply.

Moreover, even if Beale requires zoning approval from Boston – and Wynn contends it does not – this would not make Boston part of the gaming establishment and it would not make Boston a host community. It simply means the project would need another approval. The Wynn project will require many permits and approvals for off-site improvements in other municipalities, and that does not make those municipalities host communities.

2. The Legislature is Presumed to Be Aware of Beale.

"The Legislature is presumed to be aware of the prior state of the law as explicated by the decisions of [the] court." See Commonwealth v. Vega, 449 Mass. 227, 231 (2007). In Vega, the court interpreted G.L. c. 112, §172 – which marks as confidential communications to an "allied mental health . . . professional" – as creating an evidentiary privilege for such communications. Id. at 227. Among other things, the court reasoned that, when enacting the statute, "the Legislature was aware that similar language in a cognate statute had been interpreted as creating a privilege." Id. at 231 (referencing Commonwealth v. Collett, 387 Mass. 424 (1982) (interpreting G.L. c. 112, §135 as creating an evidentiary privilege for communications with social workers). Cf. Commonwealth v. Colutri, 448 Mass. 809 (2007) ("We also presume that when the Legislature amends a statute it is "aware of the prior state of the law as explicated by the decisions of this court. . ." (citation omitted)). Under Vega, the Legislature is presumed to be aware of Beale when it enacted the Gaming Act. Therefore, the Gaming Act, supersedes the Beale case, and the determination of gaming establishment and host community status will be defined by the plain, unambiguous language of the statute, not the holding of a prior zoning case.
3. **Boston’s Argument for Zoning Approval Conflicts Directly with the Gaming Act.**

Finally, if Boston’s argument is for zoning approval, it is irrelevant to its status under the Gaming Act and conflicts directly with the Gaming Act which establishes a specific statutory scheme to allow gaming use in the Commonwealth and that scheme only requires zoning compliance in the host community. Where a specific statute conflicts with a more general statute, the specific statute should prevail. See *Alliance to Protect Nantucket Sound, Inc. v. Dep’t of Pub. Utils.*, 461 Mass. 166, 184 (2011); see also *Jaworski v. Earth Removal Board of Millville*, 35 Mass. App. Ct. 795 (1994). This is particularly true if the specific statute was enacted after the more general statute. See *Nantucket Sound*, 461 Mass. at 184. Here, the Gaming Act’s specific statutory scheme to allow gaming in the Commonwealth should supersede general municipal zoning laws.

**IV. CONCLUSION**

For the foregoing reasons, Wynn respectfully requests that the Commission confirm that Wynn’s gaming establishment is entirely in Everett and reject Boston’s assertion that it is a host community, thereby confirming Boston’s status as a surrounding community.

Respectfully submitted,

WYNN MA, LLC

By its Attorneys,

[Signature]

Samuel M. Starr, Esq. BBO #477353
Jennifer M. McCarthy, Esq. BBO #673185
Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C.
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Tel. 617-348-4467

Dated: April 17, 2014
THE COMMONWEALTH OF MASSACHUSETTS

 MASSACHUSETTS GAMING COMMISSION

Re: Consolidated Proceedings:
City of Boston’s “Declarations” for
Host Community Status Regarding
Gaming Establishments Proposed
by Mohegan Sun Massachusetts, LLC
and Wynn MA, LLC

AFFIDAVIT OF DANIEL GAQUIN

I, Daniel Gaquin, hereby declare, based on personal knowledge, as follows:

1. I am a member at the law firm Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., and am counsel of record for the Wynn MA, LLC (“Wynn”) in the above captioned action.

2. I submit this affidavit in support of Wynn’s position on the agenda item for determination by the Commission on May 1, 2014: “Determine the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its December 31, 2013 RFA-2 application.”


4. The taking referenced in footnote #20 is evidenced by Massachusetts Department of Public Works Layout No. 6609 and Order of Taking, dated January 16, 1985, recorded with the Suffolk County Registry of Deeds in Book 11394, Page 325, and shown on Sheet 5 of that certain plan recorded therewith entitled “The Commonwealth of Massachusetts Plan of Road in
the City of Boston, Suffolk County, Altered and Laid Out as a City Highway by the Department of Public Works, Scale: 20 Feet to the Inch.”

5. The City of Boston Street Book can be found at http://cityofboston.gov/publicworks/streetbook.

Signed under the penalties of perjury, this 16th day of April, 2014.

[Signature]
Daniel Gausin, Esq.
Re: Consolidated Proceedings:
City of Boston's "Declarations" for
Host Community Status Regarding
Gaming Establishments Proposed
by Mohegan Sun Massachusetts, LLC
and Wynn MA, LLC

AFFIDAVIT OF JACQUI KRUM

I, Jacqui Krum, hereby declare, based on personal knowledge, as follows:

1. I am Senior Vice President and General Counsel for Wynn Resorts Development, LLC.

2. I submit this affidavit in support of Wynn MA, LLC's ("Wynn's") position on the agenda item for determination by the Commission on May 1, 2014: "Determine the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its December 31, 2013 RFA-2 application."

3. Exhibit A to this affidavit is a true and accurate copy of Wynn's conceptual site plan, which was submitted as part of its RFA-2 application.

4. Wynn's entire proposed gaming establishment is located in Everett, Massachusetts; no part is located in Boston.

5. At the September 4, 2013 Massachusetts Gaming Commission public meeting, Wynn stated that no structures or amenities, gaming or non-gaming are planned for Boston.

6. Two days after the September 4, 2013 public meeting, on September 6, 2013, the City of Boston and Wynn issued a Joint Statement, stating that "[T]he parties have agreed to
begin discussions about Boston’s status as a surrounding community...and therefore no
adjudicatory hearing of the Massachusetts Gaming Commission is necessary on the question of
whether Boston is a Host Community.” A copy of the Joint Statement is attached hereto as
Exhibit B.

7. Wynn acknowledged Boston as a surrounding community in its RFA-2
application, and confirmed this directly to Boston in a letter dated January 8, 2013. A true and
accurate copy of the letter is attached hereto as Exhibit C.

8. In addition, by letter dated January 16, 2013, Wynn assented to Boston’s petition
seeking designation as a surrounding community. A true and accurate copy of the letter is
attached hereto as Exhibit D.

9. The gaming establishment proposed by Wynn is still and always has been located
entirely within the City of Everett.

10. All of the land to be owned by the Wynn applicant is in the City of Everett.

11. In an effort to follow the requirements of Gaming Act that applicants must
specifically promote local businesses and cultural and social facilities, Wynn has entered into
cross-marketing and promotional sponsorship agreements with the Boston Symphony Orchestra
(“BSO”) and TD Garden/Delaware North Companies, Inc. – Boston (“TD Garden”).

12. Wynn does not own the BSO or TD Garden.

13. Wynn does not control the BSO or TD Garden.

14. Exhibit E to this affidavit is a true and accurate copy of the agreement between
Wynn and the BSO, dated December 4, 2013.

15. Exhibit F to this affidavit is a true and accurate copy of the letter from Delaware
North Companies, Inc. – Boston to Catherine Blue regarding the cross-marketing agreement
between Wynn and Delaware North Companies, Inc. – Boston, dated April 17, 2014.
Signed under the penalties of perjury, this 17th day of April, 2014.

[Signature]

Jacqui Krum, Esq.
Conceptual Site Plan

you've got something for us?

MR. ZIEMBA: Yes, Mr. Chairman, I'm very pleased to provide a report that has been provided, a joint statement between both the Wynn Development team and the city of Boston.

CHAIRMAN CROSBY: Thank you. The Ombudsman just gave me this. This, as he said, is a joint statement from both Boston and the Wynn team.

Based on the new information provided at Wednesday's public meeting, the parties have agreed to begin discussions about Boston's status as a surrounding community to address the impacts that Wynn's proposed gaming establishment would have on Boston generally and on the Charlestown community specifically. And therefore no adjudicatory hearing of the Massachusetts Gaming Commission is necessary on the question of whether Boston is a community.

That's great. I am delighted. I am pleased that they were able to get together and agree to this. As far as I'm concerned, we move onto other topics.

COMMISSIONER MCHUGH: Yes. It's an
January 8, 2014

Mayor Martin Walsh  
One City Hall Square  
Boston, MA 02201

Dear Mayor Walsh:

Pursuant to 205 CMR 125.01(1)(a)(1) of M.G.L. c. 23K, Wynn MA, LLC designated the City of Boston a “surrounding community” in its response to the Massachusetts Gaming Commission’s RFA-2 Application for a Category 1 Gaming License, a copy of which was delivered to your office on December 31, 2013.

To obtain a final surrounding community designation, the City of Boston must assent to this designation in writing within ten (10) days of its receipt of the application. Upon receipt of the written assent, the Gaming Commission shall issue a written notice designating the City as a surrounding community to the Wynn Resort in Everett. To confirm the City of Boston’s acceptance of this designation, please countersign this letter and return a copy to me and the Massachusetts Gaming Commission on or before January 10, 2014.

If you have any questions, please do not hesitate to contact me at (702) 770-7558 or via e-mail at jacqui.krum@wynnresorts.com.

Very Truly Yours,

Jacqui Krum  
Senior Vice President and General Counsel

cc: john.s.ziemba@state.ma.us  
    Elizabeth.DelloRusso@cityofboston.gov

Received, Acknowledged and Confirmed

City of Boston, Mayor Martin Walsh
EXHIBIT D
January 16, 2014

Elizabeth Dello Russo,
Senior Assistant Corporation Counsel
City of Boston
Boston City Hall, Room 620
Boston, MA 02201

Re: Boston’s Petition Regarding Surrounding Community Designation By Wynn MA, LLC (“Wynn”)

Dear Ms. Dello Russo:

The purpose of this letter is first to acknowledge the City of Boston’s petition to the Massachusetts Gaming Commission (“MGC”) dated January 13, 2014 which, in part, requests designation as a “surrounding community” to the proposed Wynn Resort in Everett. Wynn is pleased to assent to the petition insofar as it requests designation as a surrounding community.

I am also writing to clarify and correct some of the misstatements and misunderstandings reflected in the City of Boston’s recent petitions to the MGC regarding Wynn’s designation of Boston as a surrounding community.

First, Wynn had already designated Boston as a surrounding community. Wynn’s intention to designate Boston was clearly identified in its RFA-2 application and the actual designation was confirmed by written notice to Mayor Martin Walsh dated January 8, 2014. You were in receipt of that notice by e-mail before the first of the City’s petitions was sent to the Commission on January 9, 2014. There is no flaw in Wynn’s RFA-2 in this regard and no corrective amendment to Wynn’s application is required. The RFA-2 question to which you refer in the City’s petitions asked Wynn to identify all municipalities that “the applicant wishes to designate as a surrounding community ... with which no surrounding community agreement has been executed as of the time filing of [the] application.” Wynn correctly identified Boston as a municipality meeting these criteria.

Second, Everett is the sole host community to the Wynn project. The host community is the municipality in which an applicant proposes to locate a gaming establishment. Wynn proposes to locate a gaming establishment solely in Everett. Nothing has changed in this regard since our hearing with the MGC last summer, after which Boston dropped its host community claims and agreed to engage in surrounding community discussions. While we appreciate the RFA-2 application is voluminous, the information relevant to the location of Wynn’s proposed gaming establishment, the site plan, is a one-page document and is dispositive of Everett being the sole host community for the Wynn project.
Please note that this is same site plan our consultants discussed in the Mayor's office on January 7, 2014, when, at your suggestion, our consultants specifically identified the Boston/Everett municipal boundary relative to the location of Wynn's proposed gaming establishment premises (again, located entirely in Everett) for the Mayor and his new team. A copy of the site plan is also enclosed herewith.

Third, we disagree with the assertion that Wynn has failed to provide adequate information regarding the Wynn project or that it needs to be compelled to cooperate with the City of Boston. There have been many productive and informative meetings between our respective teams and consultants, including the recent meeting with Mayor Walsh and his team on January 7th. Additionally, as noted in your petitions, Wynn has in fact recently delivered volumes of information to the City of Boston in the form of the DEIR and RFA-2 application. Wynn will continue to cooperate with and inform the City of Boston about its project.

As you know from the January 7th meeting, Wynn is eager to commence substantive surrounding community negotiations with Mayor Walsh's new team and we are confident we can reach a mutually acceptable and beneficial surrounding community agreement.

Sincerely,

[Signature]

Jacqui Krum
Senior Vice President and General Counsel
Wynn Resorts Development, LLC

cc. John S. Ziemba, Ombudsman (john.s.ziemba@state.ma.us)
Stephen Tocco
LETTER OF INTENT

This Letter of Intent (this "LOI") is entered into as of December 4, 2013 (the "Effective Date") between Wynn MA, LLC, with an address of 3131 Las Vegas Blvd. South, Las Vegas, NV 89109 ("Wynn"), and the Boston Symphony Orchestra, Inc. with an address of Symphony Hall, 301 Massachusetts Avenue, Boston, MA 02115 ("BSO"). Wynn and BSO may be referred to herein singularly as a "Party" and collectively, as the "Parties".

RECITALS

A. Wynn is in the process of preparing and submitting a response(s) to a Request for Proposal and/or any variations thereof (collectively, the "Proposal Process") issued by the Massachusetts Gaming Commission in connection with Wynn's proposed integrated gaming facility to be located in the City of Everett, Massachusetts (the "Project").

B. The Parties have initiated and wish to further discuss a co-promotional relationship with BSO in connection with the Project.

AGREEMENT

NOW THEREFORE in consideration of the recitals, covenants and other provisions set forth in this LOI, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged the parties agree as follows:

1. Purpose. The Parties agree to exercise good faith efforts to discuss a contractual relationship ("Relationship") for co-promotional activities including, without limitation, the following: (i) Wynn will be a "Chairman's Circle Sponsor" for the December 12, 2013, A Company Christmas at Pops; (ii) Wynn will host a reception for BSO artists and other participants following the performance by Keith Lockhart and the Boston Pops Esplanade Orchestra at The Smith Center in Las Vegas on November 17, 2013; (iii) subject to obtaining a license to develop the Project, Wynn will sponsor the 2014 A Christmas at Pops at a mutually agreed upon sponsorship level; (iv) subject to obtaining a license to develop the Project, Wynn will sponsor the 2015 A Christmas at Pops at a mutually agreed upon sponsorship level; and (v) following the opening of the Project to the public, the Parties would enter into an agreement for further sponsorships and/or group ticket purchases.

2. Other Agreements. Notwithstanding the foregoing, the Parties acknowledge and agree that this LOI does not confer any obligation on either Party to enter into further agreements with the other with respect to the Project. No binding agreements shall exist between the Parties for any purpose until a final, definitive, fully negotiated agreement for a Relationship has been executed and delivered by both Parties. No Party shall have any legal rights or claims against the other Party by reason of any action taken, statements made, writings delivered or other matters undertaken by a Party in reliance upon this LOI, including, without limitation, any expenditure of funds, partial performance of transactions contemplated herein, or any other actions of a Party. The Parties acknowledge that this LOI does not address all essential business terms of the proposed transaction contemplated herein and that such terms will be subject to further negotiation.

3. Term. The "Term" of this LOI shall begin on the Effective Date and, unless otherwise extended by mutual agreement of the Parties, shall continue until the earlier of (i) the date on which Wynn is eliminated as a potential developer for the Project; (ii) the date on which a more definitive agreement is entered into by the Parties; or (iii) the date on which this LOI is terminated by mutual agreement of the Parties; or (iv) the termination of this LOI in accordance with its terms.

4. Termination by Wynn. Wynn may immediately terminate this LOI upon written notice to BSO, without penalty or prejudice and without further liability to BSO (i) on the date on which Wynn decides to abandon or withdraw its efforts with respect to the Project; or (ii) if any member of the Wynn Group: (a) is directed to cease doing business with BSO by any governmental authorities; or (b) determines, in its sole and exclusive judgment, that BSO, its affiliates or any of its or their directors, officers, employees, agents or other representatives is, might be or is about to be engaged in or involved in any activity or relationship that could or does jeopardize any of the businesses or licenses of any of the Wynn Group (including, without limitation, any denial, suspension or revocation (or the threat thereof)). "Wynn Group" shall mean Wynn Resorts, Limited, a Nevada corporation, and its subsidiaries, partnerships, joint ventures and other affiliates.
5. **Confidentiality.** Each of the Parties acknowledges that in the course of their discussions under this LOI, each of the Parties may exchange certain confidential and proprietary information, including but not limited to, data and materials (whether written, oral, or electronic) concerning a Party’s business and affairs or in the case of Wynn, strategy and information related to the Proposal Process and the Project. Each Party agrees not to publish or disclose the other Party’s confidential information to any other person, except to its directors, officers, principals, shareholders, members, partners, managers, employees, agents, representatives, associates, attorneys, accountants, lenders or advisors, as applicable (collectively, “Recipient Representatives”) who: (i) have a need to know such confidential information, and (ii) are bound by professional duties of confidentiality or by a written agreement containing substantially similar obligations of confidentiality. Each Party agrees that it shall be responsible for any breach of this provision by any of its Recipient Representatives. The foregoing confidentiality obligations shall not apply to the extent that: (i) the receiving Party knows such confidential information at the time of disclosure, free of any obligation to keep it confidential; (ii) such confidential information is or becomes generally known in the relevant industry without fault of the receiving Party or its Recipient Representatives; (iii) the receiving Party or any of its Recipient Representative independently develops such information without access to or use of the confidential information; or (iv) the receiving Party or any of its Recipient Representative rightfully obtains such information from a third party who has the right to disclose it without violation of any confidentiality obligations. In the event a receiving Party or any of its Recipient Representative is required by law, regulation, government, or court order to disclose any portion of the disclosing Party’s confidential information, the receiving Party will, to the extent legally permitted to do so, promptly notify the disclosing Party in writing prior to making any such disclosure to allow the disclosing Party to seek a protective order or other appropriate remedy from the proper authority. The receiving Party and Recipient Representatives will reasonably cooperate with the disclosing Party in seeking such order or other remedy or in defining the scope of any required disclosure. Upon termination of this LOI, (i) the receiving Party and Recipient Representatives shall immediately discontinue any use of the disclosing Party’s confidential information for any purpose and (ii) all confidential information will be returned or destroyed at the disclosing Party’s request; provided, however, nothing herein shall require the receiving Party to delete or purge any records in backup or archival systems kept in the normal course of business. Each Party acknowledges the competitive value and/or confidential nature of the other Party’s confidential information and that breach of this provision would cause irreparable harm to the disclosing Party and that monetary damages would be inadequate compensation for such breach or threatened breach. Accordingly, each Party agrees that the disclosing Party shall be entitled to injunctive or other equitable relief against any breach or threatened breach, without the necessity of proving actual damages or the requirement of posting a bond or other security. Such remedies shall not be exclusive but shall be in addition to all other rights and remedies available to such Party at law or in equity. The provisions of this provision shall survive termination of this LOI. Notwithstanding anything herein to the contrary, BSO acknowledges that the executed LOI may become part of Wynn’s state and local gaming applications and may be referenced in public discussion, plans and advertising, and otherwise be used by Wynn in the Proposal Process.

**IN WITNESS WHEREOF** the Parties have executed this LOI the day and year first written above.

**WYNN MA, LLC**

NAME: Jacquie Krum  
ITS: Authorized Signer  
DATED: 12/19/13

**BOSTON SYMPHONY ORCHESTRA, INC.**

NAME:  
ITS: Managing Director  
DATED: 12/19/13
April 17, 2014

Catherine Blue, General Counsel
MASSACHUSETTS GAMING COMMISSION
84 State Street, 10th Floor
Boston, MA 02109
catherine.blue@state.ma.us

Re: Sponsorship Agreement

Dear Ms. Blue:

Please be advised that in December 2013 Delaware North Companies, Inc. – Boston ("DNCB") entered into a sponsorship agreement with Wynn MA, LLC ("Wynn"), pursuant to which Wynn sponsored the 2013 Boston Bruins Holiday Toy Drive. DNCB and Wynn are independent contractors, and neither party has any ownership interest in or control over the other party.

Because the sponsorship agreement includes confidential financial and pricing information, DNCB respectfully declines Wynn's request to disclose the agreement to the Massachusetts Gaming Commission absent the Commission's confidential treatment and protection of such information.

Please contact me if I can provide further information or be of further assistance in this matter.

Sincerely,

Christopher J. Johnson
Vice President of Corporate Partnerships
Delaware North Companies Boston – TD Garden and Boston Bruins
AFFIDAVIT OF JENNIFER MATHER MCCARTHY

I, Jennifer Mather McCarthy, hereby declare, based on personal knowledge, as follows:

1. I am an associate at the law firm Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., and am counsel of record for the Wynn MA, LLC ("Wynn") in the above captioned action.

2. I submit this affidavit in support of Wynn’s position on the agenda item for determination by the Commission on May 1, 2014: “Determine the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its December 31, 2013 RFA-2 application.”

3. Exhibit 1 to this affidavit is a true and accurate copy of the transcript of the relevant pages of the September 4, 2013 Massachusetts Gaming Commission Public Meeting #76.

4. Exhibit 2 to this affidavit is a true and accurate copy of the Joint Statement between the City of Boston and Wynn that was read for the record by the Massachusetts Gaming Commission at its September 6, 2013 Public Meeting.
5. Exhibit 3 to this affidavit is a true and accurate copy of the letter from Jacqui Krum to Mayor Martin Walsh, dated January 8, 2014.

6. Exhibit 4 to this affidavit is a true and accurate copy of the January 13, 2014 Petition filed by City of Boston seeking designation as a surrounding community.

7. Exhibit 5 to this affidavit is a true and accurate copy of the letter from Jacqui Krum to Elizabeth Dello Russo, dated January 16, 2014.

8. Exhibit 6 to this affidavit is a true and accurate copy of the Declaration of the City of Boston of Status as a Host Community within Region A Pursuant to M.G.L. 23K, § 2, Regarding the Wynn MA, LLC Casino Applicant.

9. Exhibit 7 to this affidavit is a true and accurate copy of Question 4-79 of Wynn’s RFA-2 Application, filed on December 31, 2013, at p. 182.

10. Exhibit 8 to this affidavit is a true and accurate copy of Attachment 4-79-01 (Answer) to Question 4-79 of Wynn’s RFA-2 Application, filed on December 31, 2013, p. 182.

11. Exhibit 9 to this affidavit is a true and accurate copy of Attachment 4-79-02 (USGS Locus) to Question 4-79 of Wynn’s RFA-2 Application, filed on December 31, 2013, p. 182.

12. Exhibit 10 to this affidavit is a true and accurate copy of Attachment 4-79-03 (Registry of Deeds) to Question 4-79 of Wynn’s RFA-2 Application, filed on December 31, 2013, p. 182.

13. Exhibit 11 to this affidavit is a true and accurate copy of Attachment 4-79-04 (Locus Aerial) to Question 4-79 of Wynn’s RFA-2 Application, filed on December 31, 2013, p. 182.
14. Exhibit 12 to this affidavit is a true and accurate copy of Attachment 4-05-01 (Conceptual Site Plan) to Question 4-79 of Wynn’s RFA-2 Application, filed on December 31, 2013, p. 182.

15. Exhibit 13 to this affidavit is a true and accurate copy of Question 4-4 of Wynn’s RFA-2 Application at p. 110.

16. Exhibit 14 to this affidavit is a true and accurate copy of Question 4-11 of Wynn’s RFA-2 Application at p. 115.

17. Exhibit 15 to this affidavit is a true and accurate copy of the Letter of Intent between Wynn and the Boston Symphony Orchestra, dated December 4, 2013.

18. Exhibit 16 to this affidavit is a true and accurate copy of the Letter from Delaware North Companies, Inc. – Boston regarding the cross-marketing agreement between Wynn and Delaware North Companies, Inc. – Boston, dated April 17, 2014.

19. Exhibit 17 to this affidavit is a true and accurate copy of Wynn’s alternate access plan, which was submitted as part of its RFA-2 application in its Draft Environmental Impact Report, Figure 4-45.

20. Exhibit 18 to this affidavit is a true and accurate copy of the Affidavit of Daniel Gaquin, signed on April 16, 2014.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 17th DAY OF APRIL 2014.

[Signature]

Jennifer Mather McCarthy

Dated: April 17, 2014
THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #76

(VOLUME 1 of 2)

CHAIRMAN
Stephen P. Crosby

COMMISSIONERS
Gayle Cameron (not present)
James F. McHugh
Bruce W. Stebbins
Enrique Zuniga

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September 4, 2013, 9:30 a.m.

BOSTON CONVENTION AND EXHIBITION CENTER
415 Summer Street, Room 151-B
Boston, Massachusetts
PROCEEDINGS:

CHAIRMAN CROSBY: I am pleased to call to order public meeting number 76 of the Massachusetts Gaming Commission. This one held at the Boston Convention Center September 4, 2013.

At the outset of these meetings, we typically take an opportunity to recognize and welcome elected officials who are attending. I believe Mayor DeMaria from Everett is here. Thank you. It's nice to have you here. And an elected official at one time, former Governor Weld, I think you count. Welcome, nice to have you here. I hope didn't miss any other --

COMMISSIONER ZUNIGA: Town Manager Joe Fernandes?

CHAIRMAN CROSBY: Town Manager Joe Fernandes isn't really an elected official.

One other introductory matter, Commissioner Gayle Cameron would ordinarily be here. As some of you know, she had knee replacement surgery. She's doing fine, but it was just a week or 10 days ago. She wasn't
able to attend this. So, she will not be
taking part in today's meeting, but she will be
back soon.

Lastly, we may need to take a
temporary adjournment while we get more space.
There are apparently more people coming. So,
we are going to go along for a little while.
And if it turns out we need more room and open
the doors, we'll do that. But we'll go-ahead.

Okay. The first item is the
approval of minutes, Commissioner McHugh.

COMMISSIONER MCHUGH: The minutes,
Mr. Chairman and colleagues, are in the book.
There are a couple of typos, which we will
correct in the ordinary course. And I think as
Commissioner Zuniga and I talked a minute ago,
the entry for 10:30 a.m. needs a little
fleshing out to put context there.

The context of that discussion was
that we had at our disposal at least three
maybe a combination of ways of resolving policy
questions that were raised by members of the
public. And I think the context would be
helpful to have those ways, the ones that are
listed here. But context was that discussion
about how we could resolve policy questions if
they arose.

So, I propose we add another
sentence simply to make sure that that context
is there. Otherwise, I would move that the
minutes in the form contained in the book, with
the typos corrected and with that addition be
approved.

CHAIRMAN CROSBY: Second?
COMMISSIONER STEBBINS: Second.
CHAIRMAN CROSBY: All in favor, aye.
COMMISSIONER STEBBINS: Aye.
COMMISSIONER ZUNIGA: Aye.
COMMISSIONER MCHUGH: Aye.

CHAIRMAN CROSBY: Opposed? The ayes
have it unanimously. First item on our agenda
is the Ombudsman report, which will include the
two big public interest topics.

First of all, before I turn it over
to our Ombudsman and our General Counsel, a
couple of people have come in asking where the
sign-up sheet was for speaking. This is not
going to be a public hearing where we will have
an open mic. and invite people to speak.

There are several parties that have been specifically asked to come and make presentations. There are any number of opportunities for people to register their comments with us. As you know, we have a website, mgc.comments. In fact, some of the letters that came on that website are in our briefing book today. That's always reviewed.

There will be public hearings about these proposals as they go forward further in the licensing process. And today we are for one topic just going to be trying to establish some facts. And the second topic trying to just understand what the issues really are before us.

It may turn out after we see the facts clarified and after we understand exactly what the issues are that we will consider offering an opportunity for other people to speak. But that is not our intention today, just so everybody has a heads-up on that.

With that, I will turn it over to Ombudsman John Ziemba and General Counsel
Catherine Blue.

MR. ZIEMBA: Thank you, Mr. Chairman, members of the Commission. As you are aware, we have a full plate today. The first matter up for consideration is discussion of the questions related to whether the city of Boston should be determined to be a host community to the Wynn Mass, LLC applicant.

At the last Commission meeting, there was a discussion of the matter. And the Commission asked me to invite both parties to the Commission meeting to brief the Commission about the issues before us today.

By way of further background, for quite some time, Commission staff have been communicating with both parties in an effort to determine how they can come to a better understanding of the issues. As reported to the Commission at the last Commission meeting, despite efforts by the parties and efforts by the Commission staff, there still remain questions that remain unresolved.

I am pleased to report that both parties have accepted the Commission's
invitation. We have informed both parties that they should limit their presentations to approximately one half-hour. They have been informed that the Commission would like to hear from them about the nature of the issues, about outstanding questions, and about how the parties may be able to reach an understanding, and how the Commission may play a role in helping the parties reach such an understanding.

We have told both parties that the issue is how the definition of host community applies to the situation. However, we understand that the procedures and rights that impact host and surrounding communities are linked. Therefore, we understand that the conversation is not strictly limited to the definition of host community, although both parties have been asked to try to talk about that first and foremost.

Given that context, I would like to turn to General Counsel Blue to outline the statutory construct of the host and surrounding community definitions. After Counsel Blue's
remarks, I will ask the city of Boston to brief the Commission. The city's remarks will be followed by Wynn Mass, LLC's remarks.

After the remarks, there will be an opportunity for the Commission to discuss what they've heard. Both parties understand that the Commission will also raise questions during their presentations. With that I turn to Counsel Blue.

CHAIRMAN CROSBY: Just before you start, I just want to just put my two cents worth in on sort of what I think we're trying to accomplish here.

First and foremost what we'd like to do is facilitate a resolution of this issue between the parties. That is the way it ought to get resolved. It ought to be done and it ought to be done quickly. If this process can facilitate that that's by far the best way to go.

Failing that this process is to give us the underpinnings of the information that we will need to decide it ourselves, which we will do quickly if necessary.
But it's a two-step process. And step one is to facilitate a resolution between the parties which is far and away the preferred way for this to go.

MS. BLUE: Good morning. We thought it would be helpful to start with the definitions in the statute and particularly the definitions that apply to this particular issue. We have up on the screen and Commissioners, it's in your materials, the key definitions.

CHAIRMAN CROSBY: Can everybody hear in the back?

MS. BLUE: The first definition is host community. This comes directly from the statute. A host community is defined as a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.

The sub-definition that plays into that is the definition of a gaming establishment. And a gaming establishment is the premises approved under a gaming license, which includes a gaming area and any other
nongaming structure related to the gaming area and may include but shall not be limited to, hotels, restaurants or other amenities.

The next definition that is important is the definition of surrounding communities. That definition reads municipalities in proximity to a host community, which the Commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.

There are some key differences between host community and the surrounding community's definitions. A host community has the ability to hold a referendum in the community to determine whether the community will accept that gaming establishment.

And they enter into a host community agreement which is a broad - an agreement that covers a broad number of topics that include mitigation in the community but then also
include other issues. Host community regulations are found in 205 CMR 123.

A surrounding community is slightly different. The surrounding communities do not vote on the application for a casino. Surrounding communities are determined in a number of ways. They key ways which are they are designated by the applicant and by the surrounding community or by the Commission. And you can see the process that in the regulations at 205 CMR 125.

Surrounding communities enter into surrounding community agreements that address the impacts or potential impacts from the gaming establishment. And if the surrounding community does not enter into an agreement with an applicant prior to the filing of the RFA-2 application, there is a process by which the community and the applicant can go through binding arbitration. So, they have different obligations and slightly different processes.

The other definition that we think is important to consider here is the definition or the language found in Chapter 23K section
15.13, and this talks about the election.

Section 15.13 pertains only to the question of how elections are held in host communities.

And if you look at the bottom of that, what the language provides is if for the purposes of this clause, which is for the purposes of the election only, unless a city opts out of this provision by a vote of the local governing body, if the gaming establishment is proposed to be located in a city with a population of at least 125,000 if by the most recently in the way of federal census, the host community shall mean the ward in which the gaming establishment is to be located.

We just want to emphasize that this definition applies to the election language and does not supersede the host community definition that is found earlier in this section.

CHAIRMAN CROSBY: This is relevant because there's been commentary in the media that has -- I was asked the question is Charlestown a host community or not. That
would be a misunderstanding. The question is whether Boston is a host community or not. If it were, where the election would be held would be in the appropriate ward.

But that's why we want to clarify that point, because there's been discussion in the media that seems to misunderstand what a host community might be.

MS. BLUE: So, those are the key definitions that impact the discussion we are going to have today. We were hoping that the applicant will discuss this as will the other presenter.

MR. ZIEMBA: Thank you, Counsel Blue. With that I'd like to invite Elizabeth Dello Russo. She's the executive director of the Boston host community advisory committee. And Abim Thomas, outside counsel for the city of Boston to give their remarks.

MS. DELLO RUSSO: Thank you, Ombudsman Ziemba. Elizabeth Dello Russo for the city of Boston. And I'm joined by Counsel Larry Kaplan and Abim Thomas from Goodwin Procter.
I want to thank the Commission for inviting us here today, Chairman Crosby, members of the Commission and Commission staff. We are hopeful for a productive and open conversation.

I also want to acknowledge our elected officials as well Mayor Carlo DeMaria, former Governor Bill Weld, representatives and members from the Charlestown neighborhood and other Boston residents who are here today.

We are here for three important reasons. The first of which is to help to clear up confusion on the part of the Charlestown neighborhood, which the city represents.

We also want to understand the effects of this proposed development on in particular that Charlestown neighborhood, which we feel will have a disparate impact.

We also are here to further our request for information, which has kind of been a long, ongoing process.

First to begin with, on behalf of the Charlestown residents and businesses, there
is Chairman Crosby mentioned a petition that has circulated amongst Charlestown. At this point nearly 500 residents have signed this petition. There is, I think, a point of confusion in the petition regarding Charlestown being its own host.

But the spirit of that petition is that we are hearing clearly from many residents that they are confused about the status. Some are not confused. Some are adamant about the status of Boston. On behalf of Boston, I would say that the city itself is confused about the status here. And part of that confusion is because we're looking for some additional information, which we have not yet obtained.

The confusion I think comes from the developer itself. There have been images that have been made public, which have led to the city and the residents questioning where this development lies, and whether or not it crosses municipal boundaries. And we have some images that we would like to show which illustrate this confusion what appears to be a shifting landscape of boundaries.
I'm sure that we are going to be shown more maps today. And I'm hopeful that we will be. Although long delayed in showing them to the public, to Boston and the residents, we welcome any clarity that maps or images or explanations that this will bring to the public.

I also want to talk about the umbrella issue over things like images and maps, which is the impacts on Charlestown and on Boston, which is really where Boston has spearheaded this entire conversation.

What we are looking for and what we're trying to understand are the impacts. And we believe that that comes directly out of the Act itself, the Gaming Act. So, really what we would like to see is some information so that we can review it as we've done with other applicants and we can let our neighborhood of Charlestown know that we are actively seeking to understand the impacts of which we feel may be significant.

COMMISSIONER MCHUGH: Whether Boston is a host community or a surrounding community
that is going to be part of the process --

MS. DELLO RUSSO: Yes.

COMMISSIONER MCHUGH: -- that has to be undertaken for the application. So, in that sense that's a given. Some form of review and opportunity to focus on mitigating efforts is going to be part of whatever package is ultimately presented to the Commission.

MS. DELLO RUSSO: Thank you, Commissioner. We agree that this kind of the umbrella issue, the status of host versus surrounding.

COMMISSIONER MCHUGH: I understand that. But it's not an all or nothing proposition. In other words, it's not if you're a host community, you get a chance to talk about mitigating impacts, if you're a surrounding community, you don't. You get a chance to talk about mitigating impacts in both cases.

MS. DELLO RUSSO: Correct.

COMMISSIONER MCHUGH: Everybody ought to understand that.

MS. DELLO RUSSO: Thank you.
CHAIRMAN CROSBY: While you were talking, you said the second umbrella issue was the impacts and you said that comes right out of the Gaming legislation itself. Where are you referring to that that comes out of the legislation itself?

MS. DELLO RUSSO: I think that the legislation speaks to, regardless of status of host or surrounding community that if there are impacts, they should be mitigated.

So, I think the city of Boston views this as we are seeking information to understand those impacts. That's really the largest issue before the city of Boston. We are confused about the status.

CHAIRMAN CROSBY: Understanding the impacts doesn't speak to the issue of host community versus surrounding community, which I guess was Commissioner McHugh's point.

Understanding the impacts is very important and will be something that has to happen whether or not Boston is a host community.

MS. DELLO RUSSO: Correct.

CHAIRMAN CROSBY: I don't want to
conflated these two issues. Understanding the
impacts is a relevant topic to either issue, to
either designation. And we are here to figure
out what is the designation, not what are the
impacts.

MS. DELLO RUSSO: Let me clarify the
rub of this, Boston has sent multiple letters
seeking information to understand impacts. And
what we received in response is that once
Boston says it is a surrounding community,
information will be shared with us.

In part, we are looking for
information that clarifies our status. So, if
a developer will only share information upon
our saying we are a surrounding community, when
we are confused on that point I think that is
contrary to the spirit of the gaming law. And
I think that is where we are not being able to
obtain information. And that's why I say the
umbrella issue is the impacts.

COMMISSIONER MCHUGH: But there are
two ways to solve that at least, are there not?
One is to decide whether Boston is a
surrounding community or a host community. And
then the developers pledge to take action in response to that, will have a platform to do it.

And the second way is to have a voluntary exchange of information, which as Chairman Crosby said earlier would be the preferred route. But in either event, that issue ought to be resolved promptly, because it's going to need -- the impact issue is going to need some careful consideration before the applications are filed, right?

MS. DELLO RUSSO: Yes.

CHAIRMAN CROSBY: I think we're on the same page on this. But understanding the impacts will not necessarily clarify the issue if whether you are a host or a surrounding community. If there has been a failure to give you information to make a reasonable determination whether you're a host community or not that's something we are here to try to facilitate. That is definitely on the table. But I think we know what the distinctions are here.

MS. DELLA RUSSO: I would hope,
Commissioner, that if there's a failure to give
information so Boston can understand impacts
that is something that the Commission would
hear us on. I think that time is of the
essence. So, for the city of Boston, for our
residents, we really do need to have some
information so that we can do some analysis.

In other applicants within the city
of Boston, we did years of analysis. So, I
understand that that is not possible in this
instance. This site was selected quite a bit
after. Suffolk Downs has been an ongoing site
for seven or eight years. So, there are some
distinctions there. But Boston is ready and
able to have experts do some analysis so we can
understand impacts and reach the appropriate
agreement.

I think I would like to turn it over
to Abim Thomas to explain why Boston has been
confused on the issue.

MS. THOMAS: Again, thank you
Chairman Crosby, thank you Commissioners for
having us here today. We really appreciate
this opportunity and we'll really rely on the
Commission to help get to the bottom of this issue and to really help clarify this.

Liz hinted just briefly at what the communications have been to date with the developer here. That they unfortunately have not been very forthcoming with information. She discussed how at times when the city has sought information, they have stated that they would provide it but only on the condition that the city of Boston state affirmatively that it is only a surrounding community and not a host community. And in our opinion that's just not the way to have an effective conversation about this topic.

So, I will talk just briefly about - I will quote just briefly really from letters that Wynn has provided to the city. For example, in their letters, the language states: Prior to scheduling a meeting, we want to clarify that Boston is no longer seeking host community status. Following your acknowledgment that Boston is not a host community, we would be prepared to discuss with you Boston's status as a surrounding community.
Again, that’s just even to having a meeting. With respect to gaining information, Wynn has refused to share information except on the condition that Boston declare that it is not a host community. Wynn has stated in its letters to the city, we will share impact studies and traffic reports with you only in the context of surrounding community negotiations.

So, I think Wynn is really putting the cart before the horse here in calling for the city to declare that it is not a host community for this proposed project. It would be irresponsible for Boston to determine that it is not a host community without additional information.

Liz didn’t mention this, but Boston actually went so far as to submit a public records request to the city of Everett in order to get information because the city was having such a hard time getting at this information, and paid close to $850 to obtain that information. So, we couldn't be happier to be here today to really rely on the Commission to
gain us the information we seek. We hope it will be a much cheaper approach to getting this information.

So, I'll just asked Larry Kaplan who is also here on the city's behalf just to talk through some of the information that the city has sought to date.

MR. KAPLAN: Thank you, Mr. Chairman, members of the Commission. Larry Kaplan, I'm from Goodwin Procter. Very briefly, we do want to be on board as to whether we are host or surrounding community.

One of the things we are looking for is a current site plan of the project that will clearly define where the gaming establishment is and all of the amenities. I think Abim will show later, there have been several inconsistent images that have been presented by the Wynn representatives, several of which show the project as being in the city of Boston, which is one of the reasons that there's been confusion as to whether the city is a host community or not. And these are their own images. They are not images that we have
COMMISSIONER MCHUGH: This is a specific request that the city has made to Wynn for a site plan showing the establishment and the amenities? That has been part of a letter that was sent, was it?

MR. KAPLAN: Yes.

CHAIRMAN CROSBY: And you have not received that, the site plan and the amenities? You have not received that?

MR. KAPLAN: No, we have not.

COMMISSIONER MCHUGH: Okay.

MR. KAPLAN: We are interested in the municipal harbor plan that's underway. We'd like to see the extent of that. We'd like to see where exactly that plan is. Where any boardwalks and harbor walks are going to be and whether they are just going to be located in Everett or whether they're going to be located in the city of Boston.

COMMISSIONER MCHUGH: Wouldn't that be part of the site plan? I don't want to cross examine you. I'm just trying to figure out.
MR. KAPLAN: I appreciate that. I think it is, but I am just trying to be a little more specific on some of the things we're looking for, Commissioner.

And I know we're not here to talk necessarily about impacts, because impacts we agree, are whether you're a host or surrounding. But since a great deal of our representation of the Charlestown residents is going to center on traffic impacts and so much of the traffic is going to come over Boston roadways, we would like to see current traffic studies. Because we don't think they're taking into consideration some of the traffic downsizing, if I could say, or road narrowing that the city is going to be undertaken, and that's very important. Because we want to be prepared to at least address these impacts, whether or not we are a host community or a surrounding community.

I know we are not here to talk about impacts, but that's very important to the Charlestown residents. So, I think that's kind of it in a nutshell as to what we would like.
As Liz has mentioned, it has been difficult to get and we're hoping that the Commission can assist us on that.

COMMISSIONER MCHUGH: So, if I understand you, what you are looking for is a site plan?

MR. KAPLAN: We would like to --

Yes.

COMMISSIONER MCHUGH: Putting to one side the traffic, which we all agree is important, but that is important whether you're a host community or a surrounding community. What you are looking for is a site plan that shows, precisely defines --

MR. KAPLAN: -- all buildings and all amenities, Commissioner, correct.

COMMISSIONER MCHUGH: Including the boardwalk, the whole shooting match, in precise terms.

MR. KAPLAN: The whole shooting match.

MS. THOMAS: Yes, in very precise terms. And I'll just cite section 9 of Chapter 23K. It speaks to the location of the proposed
gaming establishment and what the applicant has to provide to the Commission in its application. And we know the application isn't due until the end of the year. But we assume that this is information that the applicant already has.

In the statute it says: In providing the location of the gaming establishment, the applicant is required to include "the address, maps, book and page numbers from the appropriate registry of deeds, assessed value of the land at the time of application, and ownership interests over the past 20 years including all interests, options, agreements and property, and demographic, geographic and environmental information and any other information requested by the Commission."

So again, it's early. I understand they have not submitted their final application yet. But as they are preparing that final application and clearly putting that information together, that would also be information that would be helpful for us to
have.

COMMISSIONER MCHUGH: It would be helpful perhaps in some ways, but the site plan, it seems to me, for determining whether they are a host community or not is the key, is it not? Can we agree on that?

MS. THOMAS: Yes.

COMMISSIONER MCHUGH: Okay.

MS. THOMAS: I'll just go back.

We're just going to show some of the graphics just to explain some of the confusion that there has been to date with respect to the project site.

And I'll start just by showing a completely different site. This is the Suffolk Downs proposal. And I show it just as an example to clear up any additional confusion about whether or not there can even be two host communities.

This is the Suffolk Downs proposal. And the line you see that bisects this proposal shows the border between Boston and Revere.

So, this is an example of a proposal that's located in two cities. You will see from this
image that Suffolk Downs retained a portion of
the track and some of its parking and offsite
facilities in Revere. And Suffolk Downs has
treated Revere as a host community for that
project and negotiated a host community
agreement with Revere, even though the planned
casino itself is located on the Boston city
side of the line.

CHAIRMAN CROSBY: I would say for
the record that I think that was an appropriate
decision.

MS. THOMAS: The next slide I want
to show here is an aerial view of the Monsanto
Chemical site. The Monsanto Chemical site is
relevant because this is how this site is
commonly referred to. You will see the portion
outlined in red here. That's the portion of
this aerial view here that is actually located
in Boston. And outlined in blue there you'll
see is actually the portion that is on land
within the city of Boston.

COMMISSIONER MCHUGH: I don't
understand that. Could you help me with that?
The part in the previous slide, the part that's
in red within the blue circle is what?

    MS. THOMAS: Boston.

COMMISSIONER MCHUGH: What is the rest of the blue circle that is outside?

    MS. THOMAS: It is just to call attention to the red sliver.

COMMISSIONER MCHUGH: So, that's just an attention getter?

    MS. THOMAS: Just an attention getter, yes.

CHAIRMAN CROSBY: To the left of the red line that's in blue is Everett. And to the right of the red line, of the other red line is in Boston?

    MS. THOMAS: That is correct.

CHAIRMAN CROSBY: The straight line, the red line that goes down and dog legs to the left and down again that defines the Monsanto site, so-called?

    MS. THOMAS: It's also part of the Monsanto site, but that too is in Boston. So, what extends into the Mystic River there is also Boston.

COMMISSIONER ZUNIGA: What is to the
right?

MS. THOMAS: Still Boston. I have a pointer here, which I will try to use. This is the site right here. And we'll get into more detail about the site, but this is the site here. One could argue this is the full site. We've seen different images. We'll see more images about the complete site. But this is just an aerial view to help understand the site.

To your question, all of this located to the left here, this is all Everett, everything located to the right here, this is Boston including everything in red. But the red outline defines the parcel of the Monsanto Chemical site.

COMMISSIONER ZUNIGA: What is southeast of the red outline?

MS. THOMAS: Southeast?

COMMISSIONER ZUNIGA: Everything southeast?

MS. THOMAS: More of Boston.

COMMISSIONER ZUNIGA: I'm just speaking of Route 99, all of that.
MS. THOMAS: Boston.

MS. DELLO RUSSO: In the extreme lower right-hand corner, that is not Boston.

Route 99, the roadway you see there, the property immediately to the right of the red that is Boston.

COMMISSIONER ZUNIGA: Once you cross 99 into the site of the energy plant, the power plant that's Everett; is that correct?

CHAIRMAN CROSBY: Use the pointer because I am not sure what you are talking about.

MS. THOMAS: Sorry. Commissioner Zuniga, when you say when you cross 99 to enter into the site are you referring to any particular location?

COMMISSIONER ZUNIGA: Southeast, yes. There's a power plant here, all of this is Everett; is that correct?

MS. DELLO RUSSO: Correct.

COMMISSIONER ZUNIGA: And this is Route 99.

MS. THOMAS: Boston.

COMMISSIONER ZUNIGA: This is
Boston?

MS. DELLO RUSSO: Yes.

MS. THOMAS: Sorry to compete with pointers as well, here also more of Boston.

CHAIRMAN CROSBY: So, there's a little skinny piece of Boston that comes up with Everett on both sides?

MS. DELLO RUSSO: Correct, yes. And this is part of the confusion here. Route 99 does become Everett, it becomes under Everett jurisdiction just around, past the red marker.

CHAIRMAN CROSBY: Say it again.

MS. DELLO RUSSO: Would you like me to stand up?

CHAIRMAN CROSBY: Yes.

MS. DELLO RUSSO: I will do my best here. Here is Route 99. This is Boston jurisdiction. This is Boston, Boston. The red outline is Boston. Route 99 is Boston. Below 99 is not Boston. That is Everett. Then up around here, Route 99 comes under Everett jurisdiction and past the red, it is Everett jurisdiction.

CHAIRMAN CROSBY: And past the red
on the right, is Everett also?

MS. DELLO RUSSO: Past the line here is Boston.

CHAIRMAN CROSBY: From the top up on the right is Everett?

MS. DELLO RUSSO: Yes.

CHAIRMAN CROSBY: I'd like to hear the history of that little piece, James Michael Curley had a hand in that one.

MS. THOMAS: And that is just really as the first image, but I hope this helps to clarify why there's been so much confusion about this site. Again, this is just to provide the backdrop of the Monsanto Chemical site, which is how this site is often referred to.

COMMISSIONER STEBBINS: Excuse me.

Is the piece outlined in red one parcel or several parcels?

MS. DELLO RUSSO: The piece outlined in red is a parcel that pays taxes within the city of Boston. It is part of -- It is owned by a company named, as a matter of public record, FBT Everett Realty.
That company, we believe, owns the Monsanto site. So, it also owns land in Everett, the remainder of that big parcel there. And it is our understanding and some of what we are seeking clarity on that FBT Everett Realty has a lease agreement with the Wynn development. And we're trying to understand does that lease include this red parcel, in which case the lease itself would include Boston land.

MS. THOMAS: So, this next slide is an image that has been provided by the Mayor of Everett's office, again, showing the same parcel outlined in blue. And again, the circle is just very broadly drawn to show this portion of the site that's located within the city of Boston. This image was taken and made available back in March but my understanding is that it even predates March 27. But this is an image that was provided to describe the site yet again.

This image is an image that is provided in the Wynn Everett brochure that shows the hotel and casino development along
with its amenities. And as Larry mentioned, this harbor walk that it also shows, my understanding is that the portion in the right-hand corner there really is representing that piece of land we showed earlier that's located within the city of Boston.

You see the harbor walk that goes along the edge of the river here, it comes along. You see a lot of these amenities the same on the left-hand side of the bank here with the rocks and the landscaping. It's the same along the right-hand side of the bank here. All of this within the city of Boston.

COMMISSIONER ZUNIGA: Although it should be noted that this is a rendering that can be put together in many, many ways and should not be construed as a site plan by anyone.

MS. THOMAS: Absolutely. Just to be clear, all of the images we are showing now are just images to explain to the Commissioners and to the public why there has been so much confusion around this site and why the city has been seeking more information to understand.
exactly what Wynn's plans are for this site.

This image is taken from the Wynn Everett host community agreement. This is an attachment to the host community agreement that is referred to as Exhibit A and referred to as the project site plan. I'll also note that in the Wynn Everett host community agreement, this is also referred to again as the Monsanto Chemical site.

Again, this image is very grainy and probably hard to make out. And you see the border between Everett and the city of Boston. You see that border drawn. And you see it again. There's that sliver. There's that portion that is located in the city of Boston.

But again to be clear, this entire image was the image that was provided to the voters of Everett when the host community agreement was entered into as the project site for the Wynn proposed development.

Here is another image. This is an image that was provided in a Wynn Everett community meeting presentation. Again, this presentation was provided on May 21. Going
back to the earlier slide, as I mentioned, this is the Wynn community host community agreement. This was entered into on April 19.

So, here you have the Wynn proposed site from a presentation virtually one month after the host community agreement was entered into. Again, we see the outline of the site. Again, we see this portion right here of the site that is located within the city of Boston.

Part of that same presentation included the same rendering we saw earlier with the city of Boston off there in the lower right-hand corner. And the same presentation also included this image, which is a current view of the Monsanto site today. Again, with that lower right portion, the water as well as the bank located in the city of Boston.

Here's just another rendering that was provided, this one on June 13. This is a 3-D model of the Wynn proposal, again, with that right bank all located within the city of Boston.

So again, these are just images.

CHAIRMAN CROSBY: I just want to
clarify one thing. Back one slide, I guess the
property line runs --

MS. THOMAS: Again, I didn't draw
the property line here. We can provide you
with the exact property line. But I'll use my
pointer really quickly to try and draw it as
best I can. The property line would come --
And my pointer may no longer be working. I
apologize. -- it juts out into the bank.

CHAIRMAN CROSBY: Is it basically
parallel with the side of the water?

MS. THOMAS: No. It's actually
probably easiest to show -- It's hard to show
on this slide. It's probably easiest to get
the line really from here.

CHAIRMAN CROSBY: From the original.

MS. THOMAS: You'll see how it juts
out. It's really a very, very narrow opening
that provides entry really into that area if
you are to carve out the Boston portion. Does
that answer your question?

CHAIRMAN CROSBY: Yes.

MS. THOMAS: I share these images
really only to provide context for why we are
even here today and why the city of Boston has
sought more information from Wynn to try to
understand more about their development.

We are really here today before the
Commission to rely on the Commission's mission,
which is really to a fair, transparent and
participatory process as well as a speedy
process. So, we're really asking for the
Commission's help in obtaining the information
that we have been seeking because the
Commission is the body with the authority to
get this information.

Under its regulations, the
Commission has the authority to request this
information from Wynn. I'll cite to 205 CMR
112.01 subsection 1, which says the Commission
may request additional information and
documents from the applicant throughout the
application review process.

And Wynn would be required to comply
with this information under the same regulation
which states that "all applicants shall comply
with all requests of the Commission for
information and documents."
We know the Commission is eager to move forward with this matter as is Boston. And that's why we hope that the Commission will not just request this information but also expedite the process for getting it by relying on its regulations, which impose a 10-day deadline for providing this information.

Under 205 CMR 112.02 sub 1 it says:

"Applicant shall respond within 10 days or within the time specified in an information request by the Commission" -- under the same cite I just cited above.

The Commission has not just the authority to request this information but also the ability to eliminate an applicant from the process if the applicant fails to comply with these information requests.

So, pursuant to 205 CMR 112.02 subsection 3, it says: "If the Commission determines that an applicant has knowingly failed to provide information or documents requested by the Commission, the Commission may with respect to such person find the person ineligible to hold the license."
And finally, in our opinion, there is really no better way for us to acquire this information than really through the Commission because we can be assured that the information that will be provided will be accurate and truthful information, or again the applicant will risk its eligibility from a license.

Under 205 CMR 112.03 subsection 3 it says: "No applicant shall knowingly provide materially false or misleading information to the Commission. If the Commission determines that an applicant has knowingly provided materially false or misleading information to the Commission, the Commission shall find that person ineligible to hold the license."

So, therefore we are really grateful to the Commission for offering to help expedite this process. And we ask the Commission for their help in obtaining this information that we have been seeking. With that I'd like to turn it back to Liz.

MS. DELLO RUSSO: Thank you, Abim. I hope that in going through these images and having this open discussion that all parties
can leave here with some clarity, in particular any residents that are here from Boston, from Charlestown.

My hope is you understand why Boston has posed the question. And I think it would be irresponsible of Boston to not have asked the question of what's going on in this parcel and what's going on at this site and asked for information, as I said, to understand the impacts. That is incredibly important to Boston knowing the limited amount of time but also to understand status.

I very much look forward to what the developer will share with us today and we're hopeful for an open discussion here. Thank you.

COMMISSIONER ZUNIGA: Can I ask a question? Maybe Catherine you could help me just put in context some of the regulations that Ms. Thomas was referring to are specifically with the 10-day limit, are specifically for a time after the application has been submitted. Is that not correct?

MS. BLUE: That is correct.
COMMISSIONER ZUNIGA: Thank you.

Your point is well taken.

MS. THOMAS: I'll refer Catherine to the section of the provision that says that the Commission can ask for information at any time throughout the application process and that includes both Phase 1 and Phase 2.

COMMISSIONER ZUNIGA: Understood.

CHAIRMAN CROSBY: Anybody else? To reinforce the point that Commissioner McHugh and I were making before, this is a very legitimate conversation. This is genuinely confusing. And this is the sine qua non of the topic.

When you insist on bringing in the impacts issue you muddy the water. I am now beginning to see what's going on here and people who aren't very aligned talking routinely with one another you are starting to stand on these points of principle that really are getting in the way.

I perfectly appreciate that this is confusing. And I hope we will get this clarified, but to continue to insist on the
impacts conversation is a distraction. And I can understand how when there are tensions, it makes communications difficult. Okay.

MS. THOMAS: Thank you.

COMMISSIONER ZUNIGA: Thank you.

MR. ZIEMBA: Mr. Chairman, now we invite members from the Wynn development team to come brief the Commission. I invite Kim Sinatra. She is the senior vice president and general counsel of Wynn Resorts. And she will introduce the rest of the Wynn team.

MS. SINATRA: Good morning, Chairman Crosby and members of the Commission. My name is Kim Sinatra and I am the general counsel at Wynn Resorts. I am very happy to be here today. This is our first sort of formal/informal appearance before the Commission. And we hope that we have many fruitful discussions as we move forward.

The issue before us is frankly not one that I thought that I would be here about. For us, we are not confused at all but we're hoping that we can dispel any confusion that other parties may have with respect to this
issue. I appreciate the Commission's knowledge and study as well as staff with respect to the issues and the definitions.

We approach this project as we do all projects with a great degree of intention and deliberation. So, we're hoping that we without any big red circles can sort out the cut and dry definitions as well as the configuration of the real estate upon which we propose to invest over a billion dollars in the Commonwealth of Massachusetts.

So, I am accompanied by my magnificent team from Mintz Levin today as well as Mayor DeMaria. First we have a person who probably doesn't need much introduction here which is Mr. Weld. He is accompanied by his partner at Mintz Levin, Peter Biagetti, and Dan Gaquin who is a real estate partner at Mintz Levin.

And I think after an introduction by Mr. Weld, we'll provide you with some maps and a site plan that hopefully dispel the confusion that we have reigning today. With that I am going to turn it over to the team.
MR. WELD: Thank you very much, Mr. Chairman and Commissioners. My name is William Weld. I am a member of the law firm Mintz Levin and the Mass. Bar. My Bar registration number is 522280.

I'm very happy to be here, happy to further, as the Chairman indicated part of the purpose here is to assist the parties in reaching an understanding. That's what I do, as they say. And I'm hopeful that we can see a path today whereby the parties can advance an understanding.

The applicant, Wynn Mass, LLC, has proposed, as you know, a $1.2 billion development located in the city of Everett. It's registered land. It's on the Mystic River. You can look it up in the Middlesex County Registry of the land court. It is parcel B on land court plan 18691A filed with the Middlesex South Registry district of the land court in plan book 485 page 177. The parcel does not contain any land or structure in Boston or in Suffolk County.

There was a referendum on the Wynn
proposal which received an 86 percent affirmative vote on June 22, 2013. There is no other city that is going to be proposed as a host for the Wynn proposal, I can you assure you of that. All of the land is located within Everett as appears from the official filings.

COMMISSIONER MCHUGH: Is all of the land, Mr. Weld, part of that registered land that you just referred to?

MR. WELD: The land I am referring to -- The parcel I referred to in the Middlesex South Registry, that is going to be the parcel that will be the subject of the application filed on December 31. And it doesn't contain anything in Boston or Suffolk County.

COMMISSIONER MCHUGH: So, that all of the gaming establishment it's your position is on that piece of registered land?

MR. WELD: That's right.

MR. GAQUIN: Just to clarify, there is a small piece of recorded land in the middle of that parcel. But primarily the parcel is a registered parcel.

MR. WELD: That's why we have real
estate lawyers to clean up after us.

So, under the definition of host community, which you have before you anyway, but it's up on that chart, it's the municipality in which a gaming establishment is located. Well, there's no establishment there yet. So, the operative part is in which an applicant has proposed locating a gaming establishment. That's going to be Everett.

It is true that the city of Boston is in close proximity to the site, in fact an abutter. And it's also true that there are going to be impacts particularly on Charlestown, which is part of the city of Boston. And there are going to be traffic impacts. And I've walked the site and I've driven around the site. There is a good bit of work that could be done in renovations to Sullivan Square, maybe the Alford Street bridge. And that's going to be in the city of Boston.

So, the implication of this is that Boston is likely or very likely a surrounding community within the meaning of the statutory
definition, which again just very briefly, surrounding communities are municipalities in proximity to a host community, which the Commission finds are likely to experience impacts from the development or operation of the gaming establishment including, and this applies to Boston, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.

That's a perfect definition of the city of Boston as it applies to the Everett proposed project.

As Counsel Blue indicated, surrounding communities don't vote on these projects. And that was raised when the Legislature was considering this statute. And they very expressly made a determination not to give surrounding communities a voice or a vote as to whether the thing goes forward. I remember Senator Stephen Brewer said no, no, no. We can't have that. That will be a poison pill. Nothing would ever get built.

So, the Legislature defines
surrounding community and gave it the rights
that it has very expressly. So, there's a big
distinction, obviously, from being a host
community and a surrounding community.

Mr. Chairman, members, the feelings
that you referred to Mr. Chairman, there is
nothing personal here. We love Tom Menino. We
love the city of Boston. We want the city of
Boston, which is right there, right next door
to receive fair compensation for any and all
impacts on the city of Boston including, I
would think most particularly, on the
Charlestown part of Boston including traffic.

We are not here to ask for any
variance or special treatment or favor. We
just want to make sure that the Commission and
the selection process follows the law in a
matter where the law is pretty clear, in fact
it is completely clear. So, that's all we're
really looking at.

Finally, and I'll yield to my
betters here, a word as to the practical impact
of a decision here on this host community
point. If anybody, the Commission or anyone
else went through a process and decided that although the site and the registered land and the recorded land is 100 percent within the city of Everett, nonetheless the proposal is "located" within the city of Boston because Boston is just so close it might as well be there, might as well be considered a host, the practical impact of that would be to effectively eliminate one of the major competitors for the Eastern Mass. license because that would give Boston the vote.

And that is the power it's really up or down power because the city would have the power to delay engaging on a host community agreement. So, it effectively could kill the project by not exercising and not having a referendum. And it would be an unlawful granting of that power to the city of Boston but nonetheless it would mean that there wouldn't be much point in the Wynn Company's continuing to spend money in pursuit of this goal here.

The second thing I would suggest this is more political than something I can
prove, but you might well end up with no Eastern Mass. casino. And the reason I say that is that although Wynn has had the referendum, the Suffolk Downs proposal still faces two referendums.

And I am sure that the proposal put forward by my good friend Joe O'Donnell who is the principle behind Suffolk Downs, and he is my good friend, has many, many meritorious features, but we are into election season.

There is going to be an election for a new mayor on November 5, new mayor of the city of Boston. I read in the papers today that the Revere City Council just approved their agreement last night. So, the 60- to 90-day period starts running today, which means the earliest that Revere could have its referendum would be November 4, which is the day before the vote for mayor in the city of Boston.

And the Suffolk Downs proposal in fairness has become at least a minor issue in the Boston mayoral campaign already and could become a major issue if it's being decided on
the same day. All I am saying is no outcomes
are certain in a hotly contested election
season.

COMMISSIONER MCHUGH: That may
increase and probably focus on the consequences
of the decision. But as one Commissioner, I
think it is terribly important to me to make it
clear that the decision that the Commission is
making today is a decision based on the
application of law to fact. That’s what we are
doing. And that's all we're doing.

We are trying to look at the
statute. We are trying to figure out what the
facts are and apply the law to the fact. And
the consequences are what the consequences are.
And as one Commissioner, I want that clearly
understood notwithstanding the consequences
that may flow from that exercise.

CHAIRMAN CROSBY: It has been a
suggestion that there was something other than
what Commissioner McHugh said that's been
troubling to us and part of the reason we are
here today.

MR. WELD: That's right. And I
think Counsel Blue laid it out pretty crisply
the applicable law. So, if there was no
Eastern Mass. casino, and I realize this is not
at the heart of the matter but that obviously
would have some fiscal impact since my
understanding is that money has been pretty
well spent.

CHAIRMAN CROSBY: There is another
proposal by the way. There is a third proposal,
by the way, in Eastern Mass.

MR. WELD: Yes, that for another
day. That's really all I've got, Mr. Chairman.
I will yield to Mr. Biagetti for perhaps a
slight further mention on the law. And then
Dan Gaquin, our real estate man here has the
site plan and can answer technical real estate
questions.

MR. BIAGETTI: Thank you, Mr. Weld.
Peter Biagetti, as my colleagues have said, I
am here to help to the extent the Commission
needs it on questions, as Commissioner McHugh
just said, the application of law to the facts
here.

But I think in the spirit,
Commissioner Crosby, that you mentioned at the outset of trying to facilitate resolution here that what I heard in the city's presentation at least on the law was quite heartening. We have consensus, I think, on the two key questions or applications of law here.

Counsel Blue, of course, is exactly right that there are key differences between the definition of host community and the definition of surrounding community, which in turn implicate differences in the roles that the Legislature intended that this Commission would play with regard to each. And let me explain on each of those.

Counsel for the city mentioned we are not here to talk about impacts. We completely agree. Impacts are relevant per the definition of surrounding communities only to a determination, the statute's words, by the Commission of whether or not such impacts or likely impacts are enough to constitute surrounding community status.

And the Commission quite properly has regulations which talk about what those
sorts of impacts are to be on the environment, on traffic, on businesses. But we're not here to talk about those impacts today because this is not a determination today of that surrounding community status.

Those impacts are relevant only to that issue. And Wynn Resorts stands ready to answer any question the Commission has or the city has with regard to those impacts, which are relevant to that determination of surrounding community status and only surrounding community status.

That brings us to the second point of what I heard as consensus. Commissioner McHugh, when you asked whether host community status would be determined only by the site plan and its boundaries, Counsel for the city quite properly agreed.

Nowhere in the definition of host community is there any mention of impacts, and for good reason. The Legislature did not intend for this Commission to have to weigh impacts in its decision or in its approval of a license from an applicant with regard to the
premises that will constitute the location then
of the host community.

The question of host community
status is driven by, per the definition of
gaming establishment, the premises in the
application. That's a question of pure
geography. It begins and ends with
Commissioner McHugh what you rightly call the
boundaries of the site plan. And that's what
we are here to discuss today.

And I am going to yield to my
partner, Mr. Gaquin, because he's going to show
you the documented site plan, not a brochure,
not a photo, which begins and ends the inquiry
into host community status.

MR. GAQUIN: Thank you, Peter. Good
morning, Mr. Commissioner and members of the
Commission. My name is Dan Gaquin. I too am a
partner at Mintz Levin. And I am here on
behalf of Wynn Resorts and the project
applicant, Wynn Mass, LLC. I am a real estate
lawyer. And I've been working on this project
really since Wynn has been involved. I'm very
familiar with the project site.
What I'd like to do is walk you through some land surveys and project plans to provide you with the facts relevant to the question of host community status. That is specifically the location of Wynn's proposed gaming establishment.

The plan to the right here is a land survey that shows the principle project site. It is an approximately 30-acre parcel located off of Horizon Way in Everett. It is controlled by the proposed applicant under an option agreement. The parcel consists of the project with 22 acres of upland and eight acres of submerged land or land under water.

As you can see this subtlety boundary and I have outlined this in blue, is also the Everett/Boston property boundary as well as the boundary of Suffolk and Middlesex County.

CHAIRMAN CROSBY: I'm sorry. I'm not getting this. Is it that?

MR. GAQUIN: I am referring to the plan to my right.

CHAIRMAN CROSBY: Where is the site?
I don't see the site.

MR. GAQUIN: It should be --

CHAIRMAN CROSBY: This doesn't look at all like the site to me. Where's 99, for example?

MR. GAQUIN: It should be the second plan in your package. The first plan, the first sheet is the definitions.

CHAIRMAN CROSBY: So, Alford Street is 99?

MR. GAQUIN: Alford Street is Route 99. Horizon Way comes off of Alford Street and leads to the project site, the gaming establishment premises.

CHAIRMAN CROSBY: So, this is analogous to this.

MS. SINATRA: Chairman Crosby, would it be acceptable if Dan stood up there and --

CHAIRMAN CROSBY: Sure, not only acceptable, it would be appreciated.

MR. GAQUIN: This is Alford Street coming in from Boston to Everett. This is the line, the Boston/Everett line and also the Middlesex/Suffolk County line. Horizon Way is
the current access to the site. Again, this is
the parcel.

CHAIRMAN CROSBY: Usually, north is
at the top. That threw me for starters. Okay.

MR. GAQUIN: Put in the context of
the Gaming Act definitions, this is the
premises where Wynn proposes to establish the
gaming establishment. That is the gaming area
and the nongaming structures related to the
gaming area. This is where they would be
located.

CHAIRMAN CROSBY: The line which is
red and blue, is the border of Boston and
Everett?

MR. GAQUIN: Correct.

CHAIRMAN CROSBY: But the parcel of
land -- This is not the Monsanto plant.

MR. GAQUIN: It's a part of the
Monsanto. And I am going to get to the Boston
parcel.

CHAIRMAN CROSBY: It's only the
portion that you're using supposedly for the
facility for the gaming establishment.

MR. GAQUIN: That's right.
CHAIRMAN CROSBY: This is not the Monsanto parcel. This is the parcel east of that, which is being used for the facility.

MR. GAQUIN: Yes, that is correct. The second plan to the left is a roof plan or a site plan, which shows the structures comprising the gaming establishment premises and the roadway access as proposed by Wynn. Again, the boundary of Everett and Boston is outlined in red. And as you can see, the project lies entirely within the city of Everett.

Let me dwell on access to the -- the current access to the premises for a moment, because I think that appears to be a source of at least some of the confusion regarding Boston's status. The site is currently accessed via Horizon Way, which is a private way. The private way provides access via easement rights.

CHAIRMAN CROSBY: Horizon Way is where?

MR. GAQUIN: Horizon Way is here.

COMMISSIONER ZUNIGA: It's not
within the site plan, in other words.

MR. GAQUIN: Right. This is access. It's a private way that provides access to the site. It is not part of the site. This is Horizon Way, not Alford. This is the proposed access. This is right here. Our proposed access is over here.

CHAIRMAN CROSBY: Horizon Way is --

COMMISSIONER ZUNIGA: Horizon Way is further to the left. It's to the left, isn't it?

MR. GAQUIN: No, it's right here.

CHAIRMAN CROSBY: So, the site runs right through Horizon Way?

MR. GAQUIN: The access uses a portion of Horizon Way. And then we come down here. We've got the rights over this parcel here that extends out.

CHAIRMAN CROSBY: The vertical site line there runs through Horizon Way.

MR. GAQUIN: So, it ends here and Horizon Way comes down.

COMMISSIONER MCHUGH: Your access is to the east of Horizon Way.
MR. GAQUIN: Proposed access is all in Everett. So, regarding the current access to the site, again it's a private way. It provides access via easement rights inherent to all of the abutters to the Way.

A small portion of Horizon Way at the intersection of 99 is located in Boston. So, what does this mean to Boston in relation to the Wynn project? As noted earlier by my colleague Mr. Weld, it means that Boston fits squarely within the definition of a surrounding community. I'll repeat. That is a municipality in proximity to the proposed gaming establishment whose transportation infrastructure provides ready access the proposed gaming establishment.

CHAIRMAN CROSBY: I've just got to clarify this. The gaming establishment site terminates here?

MR. GAQUIN: Correct.

CHAIRMAN CROSBY: And Horizon Way is precisely where?

MR. GAQUIN: Runs here.

CHAIRMAN CROSBY: If it's here, some
of Horizon Way is in Boston. Some of Horizon Way is in Everett?

MR. GAQUIN: That's right.

CHAIRMAN CROSBY: The portion of it which is in Boston is not included in any way in the gaming establishment premises?

MR. GAQUIN: That's correct. These are the gaming establishment premises.

CHAIRMAN CROSBY: Okay.

COMMISSIONER MCHUGH: Before you put that one away, where is the north-south line from that diagram on this diagram?

MR. GAQUIN: The north-south line is here.

COMMISSIONER ZUNIGA: It's the same orientation.

COMMISSIONER MCHUGH: So, a part of this diagram showing the buildings is to the east of that north-south line?

MR. GAQUIN: Yes, this portion right here. We are in discussions with the abutter regarding that land.

COMMISSIONER MCHUGH: But that is all in Everett anyway?
MR. GAQUIN: It may or may not be included in the project, but it's all in Everett, yes.

COMMISSIONER MCHUGH: Thank you.

MR. GAQUIN: This plan shows the project site, the site being the gaming establishment is parcel C, which was referred to in the Boston presentation. It was also alluded to in Mr. Weld's remarks. Parcel C is a separate registered parcel of land and has been since at least 1942.

That land, as you can see from the pictures, mostly land under water in a mud flat and a small sliver that extends out to Horizon Way. The land is currently owned by the owner of the red parcel, which is the owner of the 30-acre proposed gaming establishment site.

COMMISSIONER MCHUGH: That's FBT?

MR. GAQUIN: FBT, and it is under option to a Wynn affiliate that is not the proposed applicant, but anticipating that this may be a source of confusion, we will discuss it today. Some important points about this parcel. One, as I mentioned, this is a
separate parcel of registered land, has been
since at least 1942. Mr. Weld had a plan up
before, which showed that land court plan.

The option is not held, as I
mentioned, by the proposed applicant. And the
land, if acquired, will not be part of the
gaming establishment premises. No structures
or amenities, gaming or nongaming are planned
for that area.

CHAIRMAN CROSBY: Will not and never
will be?

MR. GAQUIN: Will not and never will
be.

CHAIRMAN CROSBY: And is that
something to which you are prepared to
stipulate enforceable?

MR. GAQUIN: Yes.

CHAIRMAN CROSBY: Okay.

MR. GAQUIN: The land is
specifically excluded from the option agreement
that is held by the proposed applicant.

Because the land is owned by the owner and
seller of the Everett parcel, it gave Wynn the
opportunity to control this adjacent site. And
we believe it is prudent to do so to protect
against conflicting or adverse uses and
possibly used for landscaping or to enhance the
view from the site. And we think that would be
an appropriate topic for the surrounding
community discussions.

The site is controlled through a
separate entity in order to maintain control of
the land but also and importantly to ensure
that the land is kept separate distinct from
the gaming establishment premises and to ensure
that Everest is the sole host community.

There have been some earlier concept
plans, renderings like the ones that were shown
in the Boston presentation that show that area
with landscaping, dotted with landscaping or
shaded in green. These were conceptual plans,
very preliminary sketches and renderings and
should not be taken for anything more than
that.

Under no circumstances will this
area be part of the Wynn gaming establishment
or project premises. The land is not used by
or needed for Wynn for the project in any way,
not for zoning or other regulatory compliance. And it is not intended for any particular use. Wynn has no current plans for the land.

As I mentioned, we think it would be appropriate to have that landscaped. It would be to Wynn's benefit to have it landscaped. And there could be other uses for that land, but we think that's an appropriate topic for the surrounding community discussions with Boston.

One final point on that land, for environmental remediation purposes, lot C is a part of the defined disposal site which is a defined term under the Massachusetts contingency plan, but this has no bearing on its status as a separate parcel or relevance to the Wynn project.

If Wynn elects to acquire lot C, it may assume those remediation obligations, but that has yet to be determined. If it does not acquire lot C, those obligations will remain with the existing owner. To conclude on that it is not controlled by the proposed license application. It may never be acquired.
CHAIRMAN CROSBY: It's not controlled by?

MR. GAQUIN: It's not controlled by the applicant. It's controlled by an affiliate, a different affiliate of Wynn. Wynn Mass, LLC is the --

CHAIRMAN CROSBY: That's a technicality, but okay.

MR. GAQUIN: It's not part of the gaming establishment premise or the project site. And as I said, under no circumstances will it be included in the application by Wynn as part of the gaming establishment premises.

That's all I have. I think these surveys bear out quite clearly that the gaming establishment premises as proposed by Wynn is located entirely within the city of Everett. And I'll be glad to answer any questions you have.

CHAIRMAN CROSBY: Has the city been given these plans?

MR. GAQUIN: The city has -- I think the bottom plan is part of the -- What the city has been given is the publicly available
documentation, the expanded environmental
notification form.

CHAIRMAN CROSBY: Has the city given
these plans?

MR. GAQUIN: Not these plants.

CHAIRMAN CROSBY: Why?

MR. GAQUIN: This is a discussion
about parcel C and the Boston land, which is
not a part of the applicant's -- Wynn Mass, LLC
is not proposing to make that part of the
gaming establishment.

CHAIRMAN CROSBY: This package,
you're saying that these are the sine qua non
documents that demonstrate that in your view
Boston is not a host community. That seems to
me a pretty reasonable set of documents that
you would give to the city. And I'm asking if
you have given them to the city. And why have
you not?

MS. SINATRA: Chairman Crosby, I
think everything is publicly available with the
exception of this site plan at the bottom. I
think actually that although it is sitting at
the bottom of that easel, it is probably the
most relevant document because it actually shows the building and the proposed gaming establishment.

We are happy to share that information with the city. Notwithstanding the implication of our being a bit obstreperous, I am going to have to confess that several meetings have been had between our advisors and Ms. Dello Russo. We have exchanged correspondence, and we are happy to be as open, transparent and fair as is possible.

So, we are happy to share the information. We actually even had a public traffic meeting in Charlestown to try to get this moving. So, we're hoping that we are not before you on a repeated basis on issues like this. We are happy to take your guidance. But we would like to put this issue of host versus not host behind us.

COMMISSIONER MCHUGH: To the Chairman's point, just to follow up on that, Ms. Sinatra, is a relevant one. This makes the discussion -- These documents make the discussion possible. These are not renderings.
These are metes and bounds descriptions.

We didn't get, Counsel, to the last two, which look like they are the actual plot plans for the registered land that divide the parcels, show that there are three parcels. I take it each of which is registered land A, B and C separately registered.

MR. GAQUIN: I didn't go into those again because they had already been discussed, but yes.

COMMISSIONER MCHUGH: This, it seems to me is a starting point for an informed discussion.

So, it seems to me that open sharing of this kind of information earlier might have gone a long way toward resolving the problem at hand.

MS. SINATRA: To be clear though, the only slide that the city did not have access to was this one that has the building on it.

MR. WELD: I've handed copies of the packet to counsel, Mr. Chairman and Judge McHugh. And the packet was assembled for
today's hearing. So, we beat it out of everybody to get prepared for this hearing.

So, I think the Commission has done both sides a service by bringing us together here.

CHAIRMAN CROSBY: On the Horizon Way, I assume although it's not very clear you can figure out one way or another to make sure that the site plan does not include any of Horizon Way. I can't exactly see it because you don't have Horizon Way on a lot of these plots. But I assume you can figure that out.

You've apposited an alternative access point, which is this rounded road coming in from Broadway, I guess. That is in Everett, which is good. But who owns that or is that under the control --

MR. GAQUIN: Yes. This is a 2.4 acre parcel of land that falls under the option that this parcel right here. So, the access would swing down through here.

CHAIRMAN CROSBY: So, that access road is one that you do control the ability to institute?
MR. GAQUIN: Yes or will control.

CHAIRMAN CROSBY: Will control, okay.

MS. SINATRA: And Chairman Crosby and members of the Commission, access is something that we continue to work on. Traffic is probably our biggest impact. So, we are working assiduously with our traffic advisors and our architects and planners to make sure that we get the access to be as good as possible.

So, the geometry of that access continues to be a point of discussion. As someone raised earlier, of course, our application is due at the end of the year. And we continue to work and refine the traffic analysis and the geometry of the access. One of the things that we keep top of mind however is that that will be in Everett.

CHAIRMAN CROSBY: There was a question or the attorneys for the city said something about the municipal harbor plan. And Commissioner McHugh suggested that was in effect a subset of the site plan.
MS. SINATRA: Remember that the municipal harbor plan is a plan of the city of Everett and is not anything that we control. Although we've been in discussions with the city of Everett because it will affect our project, it is not a Wynn document. It is not a Wynn product.

MR. TOCCO: The municipal harbor plan is a process driven by the city.

CHAIRMAN CROSBY: By which city?

MR. TOCCO: By the city of Everett. And the city of Boston has a representative that sits on that committee and is involved in that process. It was our assumption that they would be reporting back to the city of what was going on since they were a city appointee. But that's a process that is not finished yet. The traffic is not complete yet.

It is ongoing studies. In the environmental process, they've asked us to look at 20 more intersections. So, it isn't like we have a set of complete documents that we could then turn over to someone. These are all work in process. They will be completed by the time
we get our application. Certainly, we'll be willing to share with them. I've had two meetings and phone calls with the Boston officials. We actually again carried in the environmental impact report so they could have it. We didn't wait to mail it to them. And we suggested we should meet on traffic issues.

And then this issue of host community reared its head. And quite frankly, everybody went into their foxholes. But there were meetings and ongoing discussions to share information until that specific issue reared its head.

CHAIRMAN CROSBY: Okay. Anything Ombudsmen Ziemba?

MR. ZIEMBA: I just had a specific question. When it comes to the access road, you mentioned that the access road you have control of that site or soon will have control of that site?

MR. GAQUIN: Right. As Ms. Sinatra pointed out, the geometry is not yet exact perhaps because it may move up or down. And either we'll use a portion of Horizon Way,
which we have a right to use as an abutter or
we'll use the land that we acquire.

MR. ZIEMBA: And you are in
conversations for the acquisition of that
additional land?

MR. GAQUIN: That's correct.

CHAIRMAN CROSBY: But if that didn't
happen, you would use Horizon Way?

MR. GAQUIN: It would just shift the
access further down.

CHAIRMAN CROSBY: It would shift it
to Horizon Way?

MR. GAQUIN: A portion of it, but we
have rights to use Horizon Way as an abutter.

CHAIRMAN CROSBY: I understand that.

If Horizon Way were the access point to the
property, to the site, I guess we're saying, to
the gaming establishment site, does that alter
in any way this conversation about host
community or otherwise?

MR. GAQUIN: No, Mr. Chairman. It
would mean all the more that Boston has claim
to surrounding community status because the
definition of surrounding community means a
community in proximity whose transportation infrastructure provides ready access to the premises. And that hits that nail on the head.

CHAIRMAN CROSBY: Okay. Anybody else? Our objective here was to try to facilitate a conversation. It's very easy to understand here what went off track. Mr. Weld you articulated the right approach. I don't think everybody has been going by the right approach. We don't really need to have this meeting. But it looks to me like the facts are pretty clear.

And I would hope that everybody could sit down around the table and come to a conclusion and quickly. If that can't happen -- And by quickly, I mean like within hours, days, the time really is short. If Boston were a host community, there would be a host of problems -- yes, if Boston were a host community. If it isn't and it's a surrounding community it is nevertheless going to be a complicated process. So, time is really of the essence never mind the confusion problem.

So, I would like to suggest if the
Commissioners are okay with it that we urge you — We’ve all been there. We understand that things happens but it is time to get this one solved. I would like to urge you to get together and fix it before the week is out.

I’d like to ask Ombudsmen Ziemba to work with you and let us know on a daily basis is this going to happen or do we need to do this? If we do, we will immediately act to do it. But we shouldn't have to. If you could advise us that this is going to get done before the week is out, then I think all to the good and we're off to the races, so to speak. Is that acceptable to you folks?

COMMISSIONER MCHUGH: I would just like to sharpen that a little bit and perhaps the sharpening is unnecessary. But we now have a plot plan. We now have metes and bounds. We now have a pledge that on parcel C there will be no construction.

So, it seems to me that going forward with Mr. Ziemba's good offices, the focus can be on if all of this is so, what are the precise questions about surrounding
community, host community that are left, if
any? That it seems to me not only would
facilitate the discussion but also would
sharpen the issues in the event that we are
called upon to solve them.

The other thing that I would like to
know if a resolution isn't possible by say the
end of the week on this issue, whether either
side has an objection to us resolving this by
an adjudicatory process in which we create a
record that actually incorporates a lot of what
we heard today. And makes a legal judgment
based on the law and our exercise of discretion
and puts an end to it. And if there is an
objection to us doing that what is the basis
for the objection?

So, it seems to me that those three
ingredients of that discussion would be helpful
both to the Commission and I hope to the
parties.

MR. WELD: Sounds just right to us,
Your Honor.

CHAIRMAN CROSBY: Those objections,
if any, would be to us by the end of the week
also if it turns out that the thing doesn’t
resolve by the end of the week.

COMMISSIONER MCHUGH: Right.
COMMISSIONER ZUNIGA: Very good.
CHAIRMAN CROSBY: Counsel for the
city, are you all okay with this way to
proceed?

MS. DELLO RUSSO: We are. Thank you
for the opportunity.

CHAIRMAN CROSBY: Thank you
everybody. I appreciate everybody's coming in.
I’m going to suggest that we take about a 10-
minute break.

(A recess was taken)

CHAIRMAN CROSBY: It is 11:15 and
we’ll reconvene Mass, Gaming Commission public
meeting number 76. We will return to Ombudsman
Ziemba and General Counsel Blue.

MR. ZIEMBA: Thank you, Mr.
Chairman, and members of the Commission, the
second item we are here to discuss today is a
transaction involving the Plainridge Racing
you've got something for us?

MR. ZIEMBA: Yes, Mr. Chairman, I'm very pleased to provide a report that has been provided, a joint statement between both the Wynn Development team and the city of Boston.

CHAIRMAN CROSBY: Thank you. The Ombudsman just gave me this. This, as he said, is a joint statement from both Boston and the Wynn team.

Based on the new information provided at Wednesday's public meeting, the parties have agreed to begin discussions about Boston's status as a surrounding community to address the impacts that Wynn's proposed gaming establishment would have on Boston generally and on the Charlestown community specifically. And therefore no adjudicatory hearing of the Massachusetts Gaming Commission is necessary on the question of whether Boston is a community.

That's great. I am delighted. I am pleased that they were able to get together and agree to this. As far as I'm concerned, we move onto other topics.

COMMISSIONER MCHUGH: Yes. It's an
January 8, 2014

Mayor Martin Walsh
One City Hall Square
Boston, MA 02201

Dear Mayor Walsh:

Pursuant to 205 CMR 125.01(1)(a)1. of M.G.L. c. 23K, Wynn MA, LLC designated the City of Boston a “surrounding community” in its response to the Massachusetts Gaming Commission’s RFA-2 Application for a Category 1 Gaming License, a copy of which was delivered to your office on December 31, 2013.

To obtain a final surrounding community designation, the City of Boston must assent to this designation in writing within ten (10) days of its receipt of the application. Upon receipt of the written assent, the Gaming Commission shall issue a written notice designating the City as a surrounding community to the Wynn Resort in Everett. To confirm the City of Boston’s acceptance of this designation, please countersign this letter and return a copy to me and the Massachusetts Gaming Commission on or before January 10, 2014.

If you have any questions, please do not hesitate to contact me at (702) 770-7558 or via e-mail at jacqui.krum@wynnresorts.com.

Very Truly Yours,

Jacqui Krum
Senior Vice President and General Counsel

cc: john.s.ziemba@state.ma.us
    Elizabeth.DelloRusso@cityofboston.gov

Received, Acknowledged and Confirmed

City of Boston, Mayor Martin Walsh
Before the

MASSACHUSETTS GAMING COMMISSION

Petition of the City of Boston in Accordance With the Requirements of 205 CMR 125.01 and With Respect to Other Matters With Respect to RFA-2 Application filed by Wynn, MA, LLC Seeking a Category 1 License

1. INTRODUCTION AND BACKGROUND

On December 31, 2013, Wynn MA, LLC ("Wynn" or the "Applicant") filed a RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site with the Massachusetts Gaming Commission (the "Commission"), and provided the City of Boston (the "City") with an electronic file containing sections of such filing. The Commission, on its own account or by request of another municipality not the City of Boston, extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 from January 10, 2014 until January 13th, 2014. On January 9, 2013, the City of Boston (the "City") filed a request with the Commission asking for a further extension of time until February 10th, 2014 for the reasons set for the City's letter request. See Attachment 1: City's Request for an Extension.

On January 10, 2014, the Commission denied the City's request, stating that the Commission's schedule did not allow for it to consider the City's request and recommended that the City assent to the designation as a surrounding community but reserve its right to claim host status. See Attachment 2: Commission Denial. Specifically, the Commission recommended "that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status should the City deem it advisable to do so." See Attachment 2: Commission Denial. In its letter, the Commission further states, "if the City determines that it qualifies for host community status … the City could notify the Commission." See Attachment 2: Commission Denial.
Therefore, in accordance with the requirements of M.G.L. c. 23K and 205 CMR 1.00 et. seq (the “Gaming Act”), specifically 205 CMR 125.01, and other relevant provisions of the Gaming Act and with the direction provided by the Commission in its letter of January 10, 2014, without waiving its right to assert host community status, the City petitions for designation as a surrounding community in order to preserve the interests of the City, its residents, businesses and visitors from the siting and development of a resort destination casino as proposed by Wynn. See Attachment 2: Commission Denial.

As previously noted, the City has not, despite repeated requests, been able to obtain relevant information regarding Wynn’s proposed resort destination casino on the former Monsanto site in Boston and Everett (“Wynn Proposal”). See the City’s letter dated December 6th, 2013 attached as Exhibit B to Attachment 1. The sections of the Wynn RFA-2 which have been provided to the City, exclude information which has been provided to the Commission, certain elements of which are relevant to the City’s review. The City and its technical review team, consisting of City personnel and outside consultants with specific transportation and environmental expertise, is reviewing the Draft Environmental Impact Report (“DEIR”) which was filed by Wynn on December 16, 2013, and a copy of which was provided to the City on or by December 18, 2013. The DEIR consists of approximately 4,731 pages. As set forth in the City’s Request for an Extension, the City’s rights and abilities to analyze the resort destination casino proposed by Wynn have been limited due to the minimal information that Wynn has shared with the City to date.

The question of host or surrounding community status for the City is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act; making the need for information from Wynn crucial to the City’s review. Given that, it had requested an extension to: (a) review the voluminous RFA-2 filing and the DEIR which have been made by Wynn; (b) request additional information and clarification of such filings from Wynn and the Commission as appropriate; and (e) receive detailed input from Wynn with respect to its proposal, and while reserving its full rights and ability to claim host community status, the City is filing this petition in accordance with the above stated regulations and as directed by the Commission.
The City requests that the Commission compel Wynn and other applicants to engage in frank and open conversations with each of the interested communities. In a meeting with Wynn representatives this week, the City received assurances that it would be provided with any information that it needed, including revisions to the Application, if necessary. Also, the Applicant agreed to expeditiously address the City’s concerns and enter into appropriate agreements as required by the Gaming Act. The City remains concerned that all appropriate action be taken to preserve and protect the public interest and to protect the best interests of the citizens of Boston and asks for the Commission’s diligent assistance in that regard as again reiterates its request for additional time so that it may better understand the Wynn Proposal and interact with the Applicant. The City has engaged and will continue to engage all of its relevant departments to review and analyze the information which is provided by Wynn.

II. DISCUSSION

A. Need for Petition not Merely Assent - The Applicant’s Failure to Follow 205 CMR 125.01

The process and procedure by which a municipality is designated a surrounding community in accordance with the Gaming Act are set forth in 205 CMR 125.01(1). This section allows for designation by the applicant and assent by the municipality in certain instances. A municipality will attain status as a surrounding community in accordance with the Gaming Act, if it is: “designated as a surrounding community by an applicant for a Category I or Category 2 license in the RFA-2 application, written notice of which designation shall be provided by the applicant to the community's chief executive officer as defined in MGC c. 4, s. 7, cl. Fifth B, at the time the application is filed with the commission.” (Emphasis added.) This process was, by its own admission as set forth below, intentionally not followed by Wynn in its RFA-2 submission, thus compelling the City to submit this Petition, while reserving its rights to claim host community status if the facts so warrant.

In Section 5-15 of its RFA-2, Wynn states:

Wynn has acknowledged that the City of Boston is a “surrounding community,” but it has not yet done so in accordance with applicable law and regulation because the parties have not reached terms for a final agreement.
It is not clear why Wynn has expressly chosen, by its own admission, not to make a designation in accordance with the Gaming Act. It also did not provide a timely notice to the City's Chief Executive Officer as required in accordance with 205 CMR 125.01. On January 9th, 2014, more than a week after the submission of Wynn's RFA-2 to the Commission and following its meeting with Mayor Martin J. Walsh, Mayor Walsh received a letter from Wynn which asks for the City's assent to its status as a surrounding community in accordance with the provisions of 205 CMR 125.01. See Attachment 4: Wynn Letter to Mayor Walsh. Wynn's January 9th Letter does not acknowledge that its RFA-2 submission is intentionally deficient on the designation of Boston as a surrounding community in accordance with the applicable law and regulation, does not correct the deficiency in the Application, nor does it provide the Letter to Mayor Walsh as a supplement to its Application. For these reasons, the City cannot execute such assent given the inadequacy of the Wynn RFA-2 submission, and thus must in accordance with the direction provided by the Commission in its January 10, 2014 Letter, while reserving its rights as set forth above, petition for designation as a surrounding community in accordance with the provisions of 205 CMR 125.01(1) c and 205 CMR 125.01(2). See Attachment 2: Commission Denial.

B. Petition for Designation in Accordance with 125.01

The City qualifies as, at a minimum, a surrounding community to the Wynn Proposal based upon a review of the stated criteria noted in 205 CMR 125.01(2). Moreover, the City may, in fact be a host community. A review of the relevant information is needed by the City to evaluate its position. The City, even in the absence of an opportunity for meaningful review of the relevant materials on the Wynn Proposal – both that which it has in hand and has requested - notes the following factors in support of its Petition: the proposed Casino’s geographic location with respect to the City of Boston, and particularly the Charlestown neighborhood; the point of access to the proposed casino; negative impact upon the City's transportation and other infrastructure given significantly increased vehicular volume especially impacting Alford Street, Sullivan Square and Rutherford Avenue, all of which have been the subject of significant study by the City and which have direct and adverse transportation impacts on the residents of Charlestown; the as yet unquantifiable but demonstrable and negative environmental impacts due to increased congestion, and construction period impacts; public health and safety impacts; housing stock, property value and zoning requirements; educational impacts, including problem
gaming and the proximity to youth population; social and neighborhood development and dynamic impacts, as well as other factors.

While the City has begun its review of the Wynn Proposal, its review is far from complete, and requires substantial additional information from Wynn. Given the materials that the City now has available, it is unclear to the City how either the City or the Commission will be able to make a definitive determination as to the surrounding community status on or before February 6th, 2014 as the Commission states in the Commission’s Denial; Attachment 2, denying the City’s request for an extension of time. The City asks that the Commission reconsider its denial of the City’s request for an extension, given the important public interests which must be protected and the fact that there is sufficient time for the Commission to grant this extension without impacting the Commission’s projected timeframe for the issuance of Category 1 Licenses in accordance with the terms and provisions of the Gaming Act.

Without waiving the right for the City to assert host community status, the City asks that the Commission: (i) reconsider its denial of the City’s request for an extension; (ii) declare that the City is, in the alternative a surrounding community in accordance with the provisions of 205 CMR 125.0; (iii) compel Wynn to amend its Application to properly designate the City of Boston; and (iv) compel Wynn to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the Wynn Proposal in relation to the City.

III. SUMMARY OF PETITION REQUESTS

The City asks that the Commission reconsider its Denial of the City’s request for an extension. In the absence of an extension, without waiving its rights to host community status, the City petitions in accordance with 205 CMR 125.01 for designation by the Commission as a surrounding community within the meaning of the Gaming Act and assents to the designation as a surrounding community on the terms set forth herein. The City further petitions the Commission to compel Wynn to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the Wynn Proposal in relation to the City.
Respectfully submitted,

THE CITY OF BOSTON

On behalf of Mayor Martin J. Walsh
By its Attorney,
William F. Sinnott, Corporation Counsel

Elizabeth Dello Russo, BBO # 670045
Senior Assistant Corporation Counsel
City of Boston
Boston City Hall, Room 620
Boston, MA 02201
(617) 635 – 4037
Elizabeth.dellorusso@boston.gov
CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the following by electronic and/or U.S. mail:

Kim Sinatra, Esquire  
Secretary of Wynn MA, LLC  
3131 Las Vegas Boulevard South  
Las Vegas, NV 89109

Jacqui Krum, Esquire  
Senior Vice President and General Counsel  
Wynn Resort Development  
3131 Las Vegas Boulevard South  
Las Vegas, NV 89109

Daniel O. Gaquin, Esquire  
Mintz Levin Cohn Ferris Glovsky and Popeo PC  
1 Financial Center,  
Boston, MA 02110

Stephen P. Tocco  
ML Strategies  
One Financial Center  
Boston, MA 02111

January 13, 2014
Date

Dated: January 13, 2014

Elizabeth Dello Russo
January 16, 2014

Elizabeth Dello Russo,
Senior Assistant Corporation Counsel
City of Boston
Boston City Hall, Room 620
Boston, MA 02201

Re: Boston’s Petition Regarding Surrounding Community Designation By Wynn MA, LLC (“Wynn”)

Dear Ms. Dello Russo:

The purpose of this letter is first to acknowledge the City of Boston’s petition to the Massachusetts Gaming Commission (“MGC”) dated January 13, 2014 which, in part, requests designation as a “surrounding community” to the proposed Wynn Resort in Everett. Wynn is pleased to assent to the petition insofar as it requests designation as a surrounding community.

I am also writing to clarify and correct some of the misstatements and misunderstandings reflected in the City of Boston’s recent petitions to the MGC regarding Wynn’s designation of Boston as a surrounding community.

First, Wynn had already designated Boston as a surrounding community. Wynn’s intention to designate Boston was clearly identified in its RFA-2 application and the actual designation was confirmed by written notice to Mayor Martin Walsh dated January 8, 2014. You were in receipt of that notice by e-mail before the first of the City’s petitions was sent to the Commission on January 9, 2014. There is no flaw in Wynn’s RFA-2 in this regard and no corrective amendment to Wynn’s application is required. The RFA-2 question to which you refer in the City’s petitions asked Wynn to identify all municipalities that “the applicant wishes to designate as a surrounding community ... with which no surrounding community agreement has been executed as of the time filing of [the] application.” Wynn correctly identified Boston as a municipality meeting these criteria.

Second, Everett is the sole host community to the Wynn project. The host community is the municipality in which an applicant proposes to locate a gaming establishment. Wynn proposes to locate a gaming establishment solely in Everett. Nothing has changed in this regard since our hearing with the MGC last summer, after which Boston dropped its host community claims and agreed to engage in surrounding community discussions. While we appreciate the RFA-2 application is voluminous, the information relevant to the location of Wynn’s proposed gaming establishment, the site plan, is a one-page document and is dispositive of Everett being the sole host community for the Wynn project.
Please note that this is same site plan our consultants discussed in the Mayor's office on January 7, 2014, when, at your suggestion, our consultants specifically identified the Boston/Everett municipal boundary relative to the location of Wynn's proposed gaming establishment premises (again, located entirely in Everett) for the Mayor and his new team. A copy of the site plan is also enclosed herewith.

Third, we disagree with the assertion that Wynn has failed to provide adequate information regarding the Wynn project or that it needs to be compelled to cooperate with the City of Boston. There have been many productive and informative meetings between our respective teams and consultants, including the recent meeting with Mayor Walsh and his team on January 7th. Additionally, as noted in your petitions, Wynn has in fact recently delivered volumes of information to the City of Boston in the form of the DEIR and RFA-2 application. Wynn will continue to cooperate with and inform the City of Boston about its project.

As you know from the January 7th meeting, Wynn is eager to commence substantive surrounding community negotiations with Mayor Walsh's new team and we are confident we can reach a mutually acceptable and beneficial surrounding community agreement.

Sincerely,

Jacqui Krum
Senior Vice President and General Counsel
Wynn Resorts Development, LLC

cc. John S. Ziemba, Ombudsman (john.s.ziemba@state.ma.us)
Stephen Tocco
March 19, 2014

Via Electronic Delivery

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

RE: City of Boston’s Declaration of Host Community Status

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

Attached please find a Declarations of the City of Boston in regards to its status as a host community to the Wynn MA, LLC site.

Very truly yours,

Elizabeth Dello Russo
Senior Assistant Corporation Counsel

Cc: John Ziemba, Massachusetts Gaming Commission
Catherine Blue, Massachusetts Gaming Commission
Eugene O’Flaherty, City of Boston Corporation Counsel
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
The City of Boston hereby declares that it is a host community, pursuant to M.G.L. c. 23K § 2, for the project proposed by Wynn MA, LLC ("Wynn") in connection with Wynn's application to the Massachusetts Gaming Commission for a Category 1 License within Region A.

The City of Boston is a host community to the proposed Wynn development, including its gaming establishment, as the City of Boston is integral and vital to the development, site, construction, use, operation, planning, amenities, marketing, access and appeal of Wynn's project in Region A. The Wynn development accesses the project through the City of Boston, including the only access being a private way off of the City of Boston roadway.

Beyond serving as the only point of access to the site, the City of Boston is a host community to the Wynn proposed development because Wynn is dependent on Boston's airport, bus and rail service, harbor tunnels, roadways and other means of transportation and by offering patrons of Wynn access to the City of Boston and its retail stores, restaurants, museums, cultural institutions, tourist attractions, institutions and other amenities of the City of Boston.

The City of Boston is not merely impacted by Wynn's gaming establishment; rather the City of Boston is the crucial component, a key selling point of Wynn's proposed gaming establishment. The City of Boston is the core attraction of the Wynn project. Without the City of Boston, the Wynn project would not have an ability to be accessed or used by potential customers. Host community status, truly defines and reflects the City of Boston's status as the destination for Wynn's resort casino in Region A in Massachusetts.
EXHIBIT 7
4. Building & Site Design

Applicant: Wynn MA, LLC

Other

4-79 Site Plan
Provide documentation showing the location of the proposed gaming establishment, including all amenities and significant structures, which shall include the address, maps, book and page numbers from the appropriate registry of deeds, assessed value of the land at the time of application and ownership interests over the past 20 years, including all interests, options, agreements in property and demographic, geographic and environmental information.

Please attach a detailed, written response to this question as attachment 4-79-01 and provide a brief overview of your response in this box. The response provided in this box will be released to the public.

The Wynn Resort in Everett is located on an approximately 33.9 acre site (the “Project Site”) located on Horizon Way off Lower Broadway (Route 99) in Everett, Massachusetts. The Project Site is comprised of approximately 25.6 acres of upland and 8.3 acres below mean high water on the Mystic River that was previously part of the Monsanto chemical manufacturing facility. The Project Site is currently undeveloped and is utilized in part as a materials storage yard. The design and construction of the Wynn Resort in Everett will be consistent with local and regional long-range planning efforts to stimulate development of the underutilized segment of the Mystic River waterfront that contains the Project Site.

Wynn has reviewed a number of planning studies and initiatives that include the land containing the Project Site. While differing in their geographical scope and authorship, these plans have consistently identified the Project Site as a location with tremendous potential to transform Everett, especially the Lower Broadway and waterfront areas of Everett.

List of Attachments:

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<th>Attachment Code</th>
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<td>4-79-01</td>
<td>Answer</td>
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<td>USGS Locus</td>
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Check this box if you have additional attachments: ☐
EXHIBIT 8
The Wynn Resort in Everett is located on an approximately 33.9 acre site (the "Project Site") located on Horizon Way off Lower Broadway (Route 99) in Everett, Massachusetts. Please see Attachments 4-79-02 USGS Locus and 4-79-03 Registry of Deeds for a legal description of the Project Site. The Project Site is comprised of approximately 25.6 acres of upland and 8.3 acres below mean high water on the Mystic River that was previously part of the Monsanto chemical manufacturing facility. The Project Site is currently undeveloped and is utilized in part as a materials storage yard. Please see Attachment 4-79-04 Locus Aerial.

The Wynn Resort in Everett will transform the Project Site from a blighted waterfront brownfield that has sat dormant for many years into a vital public gathering space and economic engine for the region. The design and construction of the Wynn Resort in Everett will be consistent with local and regional long-range planning efforts to stimulate development of the underutilized segment of the Mystic River waterfront that contains the Project Site. Please see Attachment 4-05-01 Conceptual Site Plan for the proposed plan for the Project Site.

Wynn has reviewed a number of planning studies and initiatives that include the land containing the Project Site. While differing in their geographical scope and authorship, these plans have consistently identified the Project Site as a location with tremendous potential to transform Everett, especially the Lower Broadway and waterfront areas of Everett.

Attachment 4-79-05 Assessed Value sets forth the assessed value of the Project Site and Attachment 4-79-06 Ownership Interests sets forth the ownership interests in the Project Site over the past 20 years.
EXHIBIT 10
Demonstrate Creativity In Design And Overall Concept Excellence

4-4 Color Rendering
Provide a color rendering of the gaming establishment and all structures located on the gaming establishment site.

List of Attachments:
- 4-04-01 Renderings
- 4-04-02 Harborwalk

Check this box if you have additional attachments: ☐

4-5 Schematic Design
Provide a schematic design, as defined/understood by the AIA, for each structure within the boundaries of the site showing at least the total and usable floor area, interior and exterior themes, and finished, building elevations and perspectives.

List of Attachments:
- 4-05-01 Conceptual Site Plan
- 4-05-02 Casino Level Floor Plan
- 4-05-03 Spa/Convention Floor Plan
- 4-05-04 Roof Level Plan

Check this box if you have additional attachments: ☐

4-6 Proposed Landscaping
Provide a site plan showing the proposed landscaping and other site improvements.

List of Attachments:
- 4-06-01 Landscape Plan
- 4-06-02

Check this box if you have additional attachments: ☐
4-11 Non-Gaming Amenities
Describe the restaurants, retail spaces, bars, lounges and other non-gaming amenities located within the boundaries of the gaming establishment site, along with the names of their proposed operators.

Please attach a detailed, written response to this question as attachment 4-11-01 and provide a brief overview of your response in this box. The response provided in this box will be released to the public.

Stephen A. Wynn, Chairman and Chief Executive Officer of Wynn Resorts, pioneered the integrated destination casino resort business model, and the Wynn Resort in Everett will represent the next phase in the evolution of this model. Similar to Wynn Las Vegas and Macau, the Wynn Resort in Everett will integrate sophisticated architecture, luxurious interior design, and superior entertainment amenities, including a boutique luxury hotel, fine dining restaurants, premium retail offerings, and convenient meeting facilities, into a cohesive product that will create unique guest experiences that existing (and future) regional competitors cannot match. The full complement of non-gaming amenities will drive the Wynn Resort in Everett’s competitive edge in attracting premium domestic and international gaming customers. The Wynn Resort in Everett will not employ the standard operating strategy used currently by regional casino operators, which is reliant on the targeting of local gaming customers within a 90-minute drive radius through heavy promotional spend. As at Wynn Las Vegas, which generates 65% of its total revenue from non-gaming sources, the Wynn Resort in Everett’s superior non-gaming amenities will create a competitive edge in driving premium domestic and international gaming and non-gaming visitation.

List of Attachments:

| 4-11-01 | Answer |
| 4-11-02 | Design Awards |
| 4-11-03 | Wynn Dining |
| 4-11-04 | Bars and Lounges |
| 4-11-05 | Wynn Spas |
| 4-11-06 | Wynn Nightclubs |
| 4-11-07 | Meeting and Convention Space |

Check this box if you have additional attachments: ☐
LETTER OF INTENT

This Letter of Intent (this “LOI”) is entered into as of December 4, 2013 (the “Effective Date”) between Wynn MA, LLC, with an address of 3131 Las Vegas Blvd. South, Las Vegas, NV 89109 (“Wynn”), and the Boston Symphony Orchestra, Inc. with an address of Symphony Hall, 301 Massachusetts Avenue, Boston, MA 02115 (“BSO”). Wynn and BSO may be referred to herein singularly as a “Party” and collectively, as the “Parties”.

RECITALS

A. Wynn is in the process of preparing and submitting a response(s) to a Request for Proposal and/or any variations thereof (collectively, the “Proposal Process”) issued by the Massachusetts Gaming Commission in connection with Wynn’s proposed integrated gaming facility to be located in the City of Everett, Massachusetts (the “Project”).

B. The Parties have initiated and wish to further discuss a co-promotional relationship with BSO in connection with the Project.

AGREEMENT

NOW THEREFORE in consideration of the recitals, covenants and other provisions set forth in this LOI, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged the parties agree as follows:

1. Purpose. The Parties agree to exercise good faith efforts to discuss a contractual relationship (“Relationship”) for co-promotional activities including, without limitation, the following; (i) Wynn will be a “Chairman’s Circle Sponsor” for the December 12, 2013, A Company Christmas at Pops; (ii) Wynn will host a reception for BSO artists and other participants following the performance by Keith Lockhart and the Boston Pops Esplanade Orchestra at The Smith Center in Las Vegas on November 17, 2013; (iii) subject to obtaining a license to develop the Project, Wynn will sponsor the 2014 A Christmas at Pops at a mutually agreed upon sponsorship level; (iv) subject to obtaining a license to develop the Project, Wynn will sponsor the 2015 A Christmas at Pops at a mutually agreed upon sponsorship level; and (v) following the opening of the Project to the public, the Parties would enter into an agreement for further sponsorships and/or group ticket purchases.

2. Other Agreements. Notwithstanding the foregoing, the Parties acknowledge and agree that this LOI does not confer any obligation on either Party to enter into further agreements with the other with respect to the Project. No binding agreements shall exist between the Parties for any purpose until a final, definitive, fully negotiated agreement for a Relationship has been executed and delivered by both Parties. No Party shall have any legal rights or claims against the other Party by reason of any action taken, statements made, writings delivered or other matters undertaken by a Party in reliance upon this LOI, including, without limitation, any expenditure of funds, partial performance of transactions contemplated herein, or any other actions of a Party. The Parties acknowledge that this LOI does not address all essential business terms of the proposed transaction contemplated herein and that such terms will be subject to further negotiation.

3. Term. The “Term” of this LOI shall begin on the Effective Date and, unless otherwise extended by mutual agreement of the Parties, shall continue until the earlier of (i) the date on which Wynn is eliminated as a potential developer for the Project; (ii) the date on which a more definitive agreement is entered into by the Parties; or (iii) the date on which this LOI is terminated by mutual agreement of the Parties; or (iv) the termination of this LOI in accordance with its terms.

4. Termination by Wynn. Wynn may immediately terminate this LOI upon written notice to BSO, without penalty or prejudice and without further liability to BSO (i) on the date on which Wynn decides to abandon or withdraw its efforts with respect to the Project; or (ii) if any member of the Wynn Group: (a) is directed to cease doing business with BSO by any governmental authorities; or (b) determines, in its sole and exclusive judgment, that BSO, its affiliates or any of its or their directors, officers, employees, agents or other representatives is, might be or is about to be engaged in or involved in any activity or relationship that could or does jeopardize any of the businesses or licenses of any of the Wynn Group (including, without limitation, any denial, suspension or revocation of any of the Wynn Group). “Wynn Group” shall mean Wynn Resorts Limited, a Nevada corporation, and its subsidiaries, partnerships, joint ventures and other affiliates.
5. **Confidentiality.** Each of the Parties acknowledges that in the course of their discussions under this LOI, each of the Parties may exchange certain confidential and proprietary information, including but not limited to, data and materials (whether written, oral, or electronic) concerning a Party's business and affairs or in the case of Wynn, strategy and information related to the Proposal Process and the Project. Each Party agrees not to publish or disclose the other Party's confidential information to any other person, except to its directors, officers, principals, shareholders, members, partners, managers, employees, agents, representatives, associates, attorneys, accountants, lenders or advisors, as applicable (collectively, “Recipient Representatives”) who: (i) have a need to know such confidential information, and (ii) are bound by professional duties of confidentiality or by a written agreement containing substantially similar obligations of confidentiality.

Each Party agrees that it shall be responsible for any breach of this provision by any of its Recipient Representatives. The foregoing confidentiality obligations shall not apply to the extent that: (i) the receiving Party knows such confidential information at the time of disclosure, free of any obligation to keep it confidential; (ii) such confidential information is or becomes generally known in the relevant industry without fault of the receiving Party or its Recipient Representatives; (iii) the receiving Party or any of its Recipient Representative independently develops such information without access to or use of the confidential information; or (iv) the receiving Party or any of its Recipient Representative rightfully obtains such information from a third party who has the right to disclose it without violation of any confidentiality obligations. In the event a receiving Party or any of its Recipient Representative is required by law, regulation, government, or court order to disclose any portion of the disclosing Party's confidential information, the receiving Party will, to the extent legally permitted to do so, promptly notify the disclosing Party in writing prior to making any such disclosure to allow the disclosing Party to seek a protective order or other appropriate remedy from the proper authority. The receiving Party and Recipient Representatives will reasonably cooperate with the disclosing Party in seeking such order or other remedy or in defining the scope of any required disclosure. Upon termination of this LOI, (i) the receiving Party and Recipient Representatives shall immediately discontinue any use of the disclosing Party’s confidential information for any purpose and (ii) all confidential information will be returned or destroyed at the disclosing Party's request; provided, however, nothing herein shall require the receiving Party to delete or purge any records in backup or archival systems kept in the normal course of business. Each Party acknowledges the competitive value and/or confidential nature of the other Party's confidential information and that breach of this provision would cause irreparable harm to the disclosing Party and that monetary damages would be inadequate compensation for such breach or threatened breach. Accordingly, each Party agrees that the disclosing Party shall be entitled to injunctive or other equitable relief against any breach or threatened breach, without the necessity of proving actual damages or the requirement of posting a bond or other security. Such remedies shall not be exclusive but shall be in addition to all other rights and remedies available to such Party at law or in equity. The provisions of this provision shall survive termination of this LOI. Notwithstanding anything herein to the contrary, BSO acknowledges that the executed LOI may become part of Wynn’s state and local gaming applications and may be referenced in public discussion, plans and advertising, and otherwise be used by Wynn in the Proposal Process.

**IN WITNESS WHEREOF** the Parties have executed this LOI the day and year first written above.

**WYNN MA, LLC**

NAME: Jacqui Krum  
ITS: Authorized Signer  
DATED: 12/19/13

**BOSTON SYMPHONY ORCHESTRA, INC.**

NAME: Mark Volpe  
ITS: Managing Director  
DATED: 12/14/13
April 17, 2014

Catherine Blue, General Counsel
MASSACHUSETTS GAMING COMMISSION
84 State Street, 10th Floor
Boston, MA 02109
catherine.blue@state.ma.us

Re: Sponsorship Agreement

Dear Ms. Blue:

Please be advised that in December 2013 Delaware North Companies, Inc. — Boston (“DNCB”) entered into a sponsorship agreement with Wynn MA, LLC (“Wynn”), pursuant to which Wynn sponsored the 2013 Boston Bruins Holiday Toy Drive. DNCB and Wynn are independent contractors, and neither party has any ownership interest in or control over the other party.

Because the sponsorship agreement includes confidential financial and pricing information, DNCB respectfully declines Wynn’s request to disclose the agreement to the Massachusetts Gaming Commission absent the Commission’s confidential treatment and protection of such information.

Please contact me if I can provide further information or be of further assistance in this matter.

Sincerely,

Christopher J. Johnson
Vice President of Corporate Partnerships
Delaware North Companies Boston — TD Garden and Boston Bruins
I, Daniel Gaquin, hereby declare, based on personal knowledge, as follows:

1. I am a member at the law firm Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., and am counsel of record for the Wynn MA, LLC (“Wynn”) in the above captioned action.

2. I submit this affidavit in support of Wynn’s position on the agenda item for determination by the Commission on May 1, 2014: “Determine the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its December 31, 2013 RFA-2 application.”


4. The taking referenced in footnote #20 is evidenced by Massachusetts Department of Public Works Layout No. 6609 and Order of Taking, dated January 16, 1985, recorded with the Suffolk County Registry of Deeds in Book 11394, Page 325, and shown on Sheet 5 of that certain plan recorded therewith entitled “The Commonwealth of Massachusetts Plan of Road in
the City of Boston, Suffolk County, Altered and Laid Out as a City Highway by the Department of Public Works, Scale: 20 Feet to the Inch.”

5. The City of Boston Street Book can be found at http://cityofboston.gov/publicworks/streetbook.

Signed under the penalties of perjury, this 16th day of April, 2014.

Daniel Gaquin, Esq.
THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

Re: Consolidated Proceedings:
City of Boston’s “Declarations” for
Host Community Status Regarding
Gaming Establishments Proposed
by Mohegan Sun Massachusetts, LLC
and Wynn MA, LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2014 I electronically mailed the foregoing documents to the Gaming Commission, with electronic copies to all counsel of record for parties:

1. Wynn MA, LLC’s Pre-Hearing Memorandum on the Premises of the Gaming Establishment for which Wynn MA, LLC seeks approval in its RFA-2 application;

2. Affidavit of Jacqui Krum;

3. Affidavit of Jennifer M. McCarthy, Esq.; and


Respectfully submitted,

WYNN MA, LLC

By its Attorneys,

[Signature]

Samuel M. Starr, Esq. BBO #477353
Jennifer M. McCarthy, Esq. BBO #673185
Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Tel. 617-348-4467

Dated: April 17, 2014
April 17, 2014

VIA E-MAIL AND HAND DELIVERY

Stephen Crosby, Chairman
Commissioner Gayle Cameron
Commissioner Enrique Zuniga
Commissioner James F. McHugh
Commissioner Bruce Stebbins
MASSACHUSETTS GAMING COMMISSION
84 State Street, 10th Floor
Boston, MA 02109
mgccomments@state.ma.us

Re: Wynn MA, LLC’s RFA-2 Application

Dear Chairman Crosby, and Commissioners Cameron, Zuniga, McHugh and Stebbins:

In connection with the May 1, 2014 MGC public meeting to determine the premises of the gaming establishment, enclosed please find the following supportive documents of Wynn MA, LLC’s RFA-2 Application:

1. Wynn MA, LLC’s Pre-Hearing Memorandum on the Premises of the Gaming Establishment for which Wynn MA, LLC seeks approval in its RFA-2 application;

2. Affidavit of Jacqui Krum;

3. Affidavit of Jennifer M. McCarthy, Esq.;

4. Affidavit of Daniel Gaquin, Esq.; and

5. Certificate of Service.

Please contact me with any questions regarding the enclosed.

Very truly yours,

Samuel M. Starr

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
Boston | London | Los Angeles | New York | San Diego | San Francisco | Stamford | Washington