

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

115.05: Phase 1 Determination by the Commission

(1) After the proceedings under 205 CMR 115.04, the commission shall issue a written determination of suitability pursuant to M.G.L. c. 23K, §§ 4(15), 12 and 17.

(2) Negative Determination. If the commission finds that an applicant failed to meet its burden of demonstrating compliance with the suitability standards in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a negative determination of suitability.

(3) Positive Determination. If the commission finds that an applicant has met its burden of demonstrating compliance with the suitability in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a positive determination of suitability which may include conditions and restrictions.

(4) The commission shall not entertain a Phase 2 application for any applicant unless and until the commission has issued a positive suitability determination on that applicant.

(5) No appeal from Commission's Determination of Suitability. Pursuant to M.L.G. c. 23K, § 17(g) the applicant shall not be entitled to any further review.

(6) A host community may not hold an election in accordance with M.G.L. c.23, §15(13) until the commission has issued a positive determination of suitability to the applicant in accordance with 205 CMR 115.05(3) unless the following conditions are satisfied:

- a) Prior to the request by the applicant for an election in accordance with 205 CMR 124.02(1), the governing body of the community formally approves of holding the election prior to a positive determination of suitability having been issued to the applicant by the commission; and
- b) at the expense of the applicant, prior to the election the community has conducted a process for informing the community about the commission's determination of suitability standards and procedures, which shall include, but not be limited to, the provision of a notice designed to be received by voting households within the community informing such households that an election is to be held for which the applicant has yet to be issued a positive determination of suitability, that the commission will make its determination of suitability after completing a thorough background investigation of the applicant, its principal operating officers and investors, and that the commission will not permit the applicant or its principal operating officers or investors to proceed with the application

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