



## NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, and Chapter 107 of the Session Acts of 2022, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

**Wednesday | August 17, 2022 | 11:00 a.m.**  
**VIA REMOTE ACCESS: 1-646-741-5292**  
**MEETING ID/ PARTICIPANT CODE: 111 490 2595**

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on [www.massgaming.com](http://www.massgaming.com).

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

### PUBLIC MEETING - #388

1. Call to Order
2. Review of Draft Application for License to Hold or Conduct a Racing Meeting for Future Applicants – Todd Grossman, General Counsel; Dr. Alex Lightbown, Director of Racing and Chief Veterinarian **VOTE**
3. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as "Massachusetts Gaming Commission Meeting" at [www.massgaming.com](http://www.massgaming.com) and emailed to [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us). Posted to Website: August 12, 2022 | 3:30 p.m.

August 11, 2022

*Cathy Judd-Stein*

*Cathy Judd-Stein, Chair*

*This meeting is open to all interested individuals for viewing.  
If there are any questions pertaining to accessibility and/or further assistance is needed, please email  
[crystal.beauchemin@massgaming.gov](mailto:crystal.beauchemin@massgaming.gov).*



Massachusetts Gaming Commission



Division of Racing

## **APPLICATION FOR LICENSE TO HOLD OR CONDUCT A RACING MEETING**

APPLICATION OF: \_\_\_\_\_

TO HOLD OR CONDUCT A RACING MEETING AT: \_\_\_\_\_

IN CALENDAR YEAR 20\_\_.

Pursuant to the provisions of G.L. c. 128A and 128C the Applicant hereby applies for license to hold or conduct the following type of racing meeting:

\_\_\_ thoroughbred      \_\_\_ standardbred.

### **APPLICATION FEE AND SURETY REQUIRED:**

Please enclose a certified check or bank draft payable to the Massachusetts Gaming Commission in the sum of \$300 in accordance with G.L. c. 128A, §4.

Please enclose a surety bond issued by a surety qualified to do business in the Commonwealth of Massachusetts and approved by the Commission in the amount of \$125,000 which is conditioned upon the payment of all sums which may become payable to the Commission under G.L. c. 128A in accordance with G.L. c. 128A, §3(o).

**SECTION 1: BACKGROUND INFORMATION**

**1.1.** Applicant's name: \_\_\_\_\_

**1.2.** Applicant is (check one):

- \_\_\_\_\_ An individual
- \_\_\_\_\_ A limited partnership (LP)
- \_\_\_\_\_ An unincorporated association
- \_\_\_\_\_ A general partnership
- \_\_\_\_\_ A trust
- \_\_\_\_\_ A corporation
- \_\_\_\_\_ A limited liability company (LLC)
- \_\_\_\_\_ Other (specify: \_\_\_\_\_)

**1.3.** Name and contact information (including email) for the individual who will serve as the primary contact for the Applicant:  
\_\_\_\_\_

**1.4.** Trade name or d/b/a (if applicable):  
\_\_\_\_\_

**1.5.** Address of principal office:  
\_\_\_\_\_

**1.6.** Mailing address (if different):  
\_\_\_\_\_

**1.7.** Location of the proposed racetrack (include address if available):  
\_\_\_\_\_

**1.8.** County in which proposed racetrack is located: \_\_\_\_\_

**1.9.** Contact Information for Applicant's lead attorney:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Board of Bar Overseers number: \_\_\_\_\_

**1.10.** Is Applicant incorporated, organized, or otherwise in Massachusetts?

\_\_\_ YES  
\_\_\_ NO

If the answer to this question is yes, please attach as **Exhibit 1.11** all organizational documents filed with the Secretary of the Commonwealth or otherwise.

If the answer to this question is no, submit as **Exhibit 1.11** a statement providing the state of incorporation or organization, the entity's qualification to do business in Massachusetts, and the name and address of the registered agent for service of process in Massachusetts.

*If Applicant is an individual, skip this question.*

**In completing sections 2 through 5, please consider the following. As described in G.L. c. 128A, § 3(i), in reviewing this application, the Commission will take into consideration, in addition to any other appropriate and pertinent factors, the following: the financial ability of an applicant to operate a race track; the maximization of state revenues; the suitability of racing facilities for operation at the time of the year for which racing dates are assigned; the circumstance that large groups of spectators require safe and convenient facilities; the interest of members of the public in racing competition honestly managed and of good quality; the necessity of having and maintaining proper physical facilities for racing meetings and the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities.**

## SECTION 2: PROJECT SUMMARY AND FINANCING

- 2.1.** Please attach as **Exhibit 2.1** a complete description of the proposed premises and facilities, including any accompanying amenities and/or attractions. Please also attach any renderings or photographs depicting the area and/or vision for the proposed project.
- 2.2.** Submit as **Exhibit 2.2** as much of the following information related to the proposal as is available.
- (a) Grandstand:
- (1) Seating capacity, including box seats, reserved seats, general admission, and total seating capacity.
  - (2) Will the Grandstand be enclosed?
  - (3) Will the Grandstand be heated?
  - (4) Will any portion of Grandstand be air conditioned?
  - (5) Type of construction of Grandstand.
  - (6) Ground area covered by the Grandstand.
- (b) Club House
- (1) Seating capacity, including box seats, reserved seats, general admission, and total seating capacity.
  - (2) Will the Club House be enclosed?
  - (3) Will the Club House be heated?
  - (4) Will any portion of the Club House be air conditioned?
  - (5) Type of construction of Club House

- (6) Ground area covered by the Club House
- (c) Bleachers
  - (1) Seating Capacity
  - (2) Type of construction of Bleachers
  - (3) Ground area covered by the Bleachers
- (d) Parking Space:
  - (1) Area
  - (2) Automobile capacity
  - (3) Will parking area be lighted?
  - (4) Is parking area treated? And if so how?
  - (5) Is parking area numbered?
  - (6) Is charge made for parking? And if so how much?
  - (7) Are the parking area and walkways cleared of snow and ice?
- (e) Number of pari-mutuel ticket windows/kiosks anticipated and approximate locations.
- (f) Description of anticipated restrooms for patrons of in Grandstand, Club House and/or other locations.
- (g) Description of anticipated system of sewerage disposal. If not connected to public sewer, give details of system used.
- (h) Description of anticipated number of outlets for fresh, pure drinking water for patrons in grandstand, clubhouse and/or other locations.

*Please note: the Commission may condition any license award on Applicant completely and satisfactorily answering this question.*

**2.3.** Submit as Exhibit **2.3** as much of the following information as is available:

- (a) Size of track
- (b) Number of chutes
- (c) Number of stables
- (d) Number of stalls
- (e) Number of tack rooms
- (f) Number of tack rooms heated
- (g) Number of shower baths in stable area
- (h) Toilet facilities in stable area
- (i) Fire protection in stable area including, number of sprinklers, number of fire alarm boxes, and other fire protective measures in stable area
- (j) Recreation room
- (k) Track kitchen, including seating capacity
- (l) Size of jockey or driver's room and equipment available including number of shower baths, toilets, hot-boxes, etc.
- (m) List of other accommodations, facilities or services in stable area.

*Please note: the Commission may condition any license award on Applicant completely and satisfactorily answering this question.*

2.4. List any other planned accommodations, amenities, facilities, or services to be offered. You may attach your response as **Exhibit 2.4** if more space is required.

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2.5. Submit as **Exhibit 2.5** a proposed construction timeline, and the name of Applicant’s general contractor, if known.

2.6. Submit as **Exhibit 2.6** any traffic studies performed for the proposed project.

2.7. Submit as **Exhibit 2.7** a statement of the total capital investment anticipated for the project, including the method used to calculate the figure, as well as any supporting documentation, analysis, or studies.

2.8. Describe and attach as **Exhibit 2.8** the financing structure and plan for the proposed project including identifying all sources of capital. Include current capital commitments as well as plan and timing for meeting future capital needs.

2.9. Submit as **Exhibit 2.9** a detailed budget of the total project cost. Identify separately construction costs (e.g.- labor, materials), design costs, legal and professional fees, consulting fees and all other development costs.

2.10. Submit as **Exhibit 2.10** any economic impact or economic development studies performed relating to the project.

2.11. Submit as **Exhibit 2.11** any feasibility, viability, or economic impact studies performed for the proposed project.

**SECTION 3: SCHEDULE OF PROPOSED RACES**

**SECTION 4: IS THIS APPLICATION FOR A LICENSE TO HOLD OR CONDUCT RACING MEETINGS IN CALENDAR YEAR 2023? (CHECK ONE)**

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO

**If no, in what calendar year does the Applicant propose to hold or conduct racing meetings?**

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4.1. Pursuant to G.L. c. 128A, §§ 2(4)-(5) and 3, an application must state “the days on which it is intended to hold or conduct” a racing meeting, and “[t]he hours of each day between which it is intended to hold or conduct” racing.

Submit as **Exhibit 3.2** a statement of the date or dates on which Applicant intends to conduct a racing meeting or racing meetings, and the hours of each such day during which Applicant intends to hold races. (Please note that a future licensee may file supplementary materials or amendments for new or additional license dates in accordance with G.L. c. 128A, § 2.)

**SECTION 5: NON-COMMISSION APPROVALS**

**5.1.** Have Applicant’s proposed facility and premises been approved by local authorities in accordance with G.L. c. 128A, § 13A?

YES  
 NO

Submit as **Exhibit 4.1** documentation of the Applicant’s local approvals.

**5.2.** If Applicant has not obtained all local approvals required under G.L. c. 128A, § 13A, please explain the present circumstances including when the Applicant expects to obtain such approvals.

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**5.3.** Has horse racing been approved by vote in the county in which Applicant proposes to hold or conduct racing meetings, in accordance with G.L. c. 128A, § 14?

YES  
 NO

Submit as **Exhibit 4.3** documentation of such county vote.

**5.4.** Submit as **Exhibit 4.4** a schedule of any other state or Federal environmental, land use, hospitality-related, or other permits, licenses, or approvals required for the Applicant to construct and operate its facility. For each, please also describe the approval’s relevance to Applicant’s facility; documentation of any such approvals that have already been obtained; and, for any such approvals that have not yet been obtained, Applicant’s progress towards and plans for acquiring them, including a detailed timeline.

*Please note: the Commission may impose a license condition requiring that the Applicant acquire all needed approvals.*

**SECTION 6: QUALIFIERS AND SUITABILITY**

**In evaluating this application, the Commission will consider whether the applicants are persons**

likely to conduct racing in accordance with approved practices and in a manner consistent with the public safety, health, morals, and welfare. See Bay State Harness Horse Racing & Breeding Ass'n, Inc. v. State Racing Comm'n, 342 Mass. 694, 699–700 (1961). Further, in accordance with G.L. c. 128A, § 3(i) the Commission must consider “the interest of members of the public in racing competition honestly managed . . . .” With these principles in mind, please respond to the following questions.

For purposes of completing this section, the term “qualifier” shall mean the following, respectively:

- (1) In case of an individual Applicant, the individual.
- (2) In case of a partnership Applicant, the partnership entity, and all individual and entity partners, including limited and silent partners.
- (3) In case of a corporate Applicant, the corporate entity, any associated holding or intermediary entities, and all officers, directors, and stockholders or beneficial owners of ten per cent or more of the stock.
- (4) In the case of an LLC Applicant, all members and managers of the LLC.
- (5) In the case of a trust Applicant, all trustees.
- (6) In the case of an unincorporated association Applicant, all members of the association.
- (7) In all cases, anyone other than a conventional institutional lender that is involved with the financing of the construction and/or operation of the proposed new facility.
- (8) In all cases, anyone who will have the ability to exercise influence or control over the construction or operation of the proposed new facility.

- 6.2. Address suitability standards and forms to be used.
- 6.3. Submit as **Exhibit 5.3** a list of all of Applicant’s Qualifiers.
- 6.4. If Applicant is a corporation, submit as **Exhibit 5.4** a statement showing:
  - (a) Class(es) of stock issued or to be issued;
  - (b) Par value;
  - (c) Votes per share;
  - (d) Number of shares of each class authorized;
  - (e) Number of shares of each class issued;
  - (f) Number of shares of each class subscribed; and
  - (g) Total number of shares of each class and the percentage of shares owned by the largest 10 shareholders.
- 6.5. If Applicant is an LLC or other organized entity that does not issue stock, submit as **Exhibit 5.5** a schedule of ownership listing all members/managers and percentage of entity held. List beneficial owners, even if beneficial owners are not Qualifiers.
- 6.6. If business entity is a partnership or other organized entity, submit as **Exhibit 5.6** a schedule listing the partners or others holding an interest and the percentage of the entity held. List beneficial owners, even if beneficial owners are not Qualifiers.
- 6.7. Submit as **Exhibit 5.7** the following information for each of the Applicant’s Qualifiers.
  - (a) For each individual Qualifier, provide the name place of birth, date of birth and legal residence of the Qualifier.
  - (b) For each entity Qualifier, provide the name and the details required for entity applicants by Questions 5.4-5.6.



**6.8.** Please submit as **Exhibit 5.8** a document that identifies any existing racetrack or gaming facility which the Applicant and/or any of its qualifiers presently owns, operates, or has, or had, a financial or other interest. Additionally, please indicate whether any of the Applicant's qualifiers are presently qualifiers (or the equivalent) at any other racetrack or gaming facility.

**6.9.** Has Applicant or any of its Qualifiers ever had a financial or other interest in a racetrack or gaming license revoked or suspended by order of any governing authority, an application for a racing license or gaming license that was denied by a licensing authority, or conducted or participated in any racing meeting pari-mutuel wagering in a location where such racing or wagering was not authorized by law?

YES

NO

If the answer to this question is yes, submit as **Exhibit 5.9** a thorough explanation of the circumstances of the revocation, suspension, denial, or unauthorized racing or wagering.

**6.10.** Have voluntary proceedings in bankruptcy been instituted by, or have involuntary proceedings in bankruptcy ever been brought against the Applicant or any of its Qualifiers?

YES

NO

If the answer to this question is yes, submit as **Exhibit 5.10** a list describing the name of the person or entity filing for bankruptcy, the type of petition filed in bankruptcy, the date of the filing, the court in which filed and the date of final discharge, or if ongoing, indicate the expected date of final discharge.

**6.11.** Are there outstanding any unsatisfied judgments or decrees against, or tax delinquencies to the Commonwealth of Massachusetts or its political subdivisions, by the Applicant or any of its Qualifiers?

YES

NO

If the answer to this question is yes, submit as **Exhibit 5.11** a list describing, for judgments or decrees, the type of the judgment, the court or other body entering the judgment, the date of the judgment, the person against whom the judgment is entered, the amount of the judgment and the reason why the judgment is unsatisfied; and for tax delinquencies, all delinquencies, the reason for such delinquencies, and when each delinquency will be cured.

**6.12.** Has Applicant or any of its Qualifiers ever been accused of, charged with, or settled any matter relating to harassment or discrimination, or are there any restraining orders against Applicant or any of its Qualifiers?

YES

NO

If the answer to this question is yes, submit as **Exhibit 5.12** a list of all accusations, charges, and settlements including the date of each incident and a thorough explanation of the circumstances.

- 6.13.** Submit as **Exhibit 5.13** all of the following that are available:
- (a) A copy of Applicant's employee handbook
  - (b) A copy of all of Applicant's policies and procedures regarding internal controls including but not limited to those policies that deal with the handling and protection of money, the placing of wagers both in person and via account deposits, security and surveillance, and method of accounting. Alternatively, a plan for establishing such internal controls.
  - (c) A copy of Applicant's audit committee and compliance committee charters as well as a list of the audit and compliance committee members and their relationship to the Applicant
  - (d) Any other policies that demonstrate the Applicant's proficiency in general industry standards for business and financial practices, procedures, and controls.

*Please note: the Commission may condition any license award on Applicant supplying complete and satisfactory information relative to its internal controls and associated practices.*

- 5.14** Submit as **Exhibit 5.14** the following documents: a copy of the Applicant's most recent audited financial statements, most recent audited or unaudited quarterly financial statement, and an audited profit and loss statement for the Applicant's most recent fiscal year. Please include a description of any interest held by Applicant or any of its Qualifiers in any concessionaire. In the event that the Applicant does not have the requested document, please attach a statement explaining why not.

*Please note: the Commission may condition any license award on Applicant supplying complete and satisfactory financial statements.*

- 6.15.** Submit as **Exhibit 5.15** a list of which, if any of the Applicant's Qualifiers will be involved in funding the proposed project. For each such Qualifier, explain the amount and form of funding the Qualifier intends to provide for the project, and documentation supporting the Qualifier's capacity to provide that funding.
- 6.16.** Submit as **Exhibit 5.16** copies of all policies of insurance carried by Applicant as well as a statement setting forth all other types of insurance carried, or anticipated to be carried, for the protection of employees and patrons.

*Please note: the Commission may impose a license condition requiring Applicant to obtain satisfactory worker's compensation insurance, public liability insurance, jockey insurance, and driver's insurance.*

- 6.17.** Applicant may submit as **Exhibit 5.17** a statement explaining any other information relevant to its capacity to hold or conduct honestly managed racing meetings.

*Please note: if awarded a license the licensee will be required to maintain its suitability on an ongoing basis.*

- 6.18.** Applicant may submit as **Exhibit 5.18** a statement explaining any other information relevant to "the financial ability of an Applicant to operate a racetrack" and "the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities."

*Please note: if awarded a license, the licensee's continued ability to demonstrate the financial ability to successfully operate a racetrack will be part of the Commission's ongoing suitability review.*

## SECTION 7: PUBLIC INTEREST

**In evaluating this application, the Commission will consider “the interest of members of the public in racing competition honestly managed and of good quality.” G.L. c. 128A, § 3(i).**

- 7.1. Submit as **Exhibit 6.1** a statement setting forth the reasons why the Applicant believes that its proposal will be beneficial to the public at large, the Commonwealth, the Applicant, and racing stakeholders.
- 7.2. Submit as **Exhibit 6.2** a copy of all executed agreements with representative horsemen’s organizations. If the Applicant has not yet executed any such agreement, explain Applicant’s plans for executing such.

*Please note: an executed ‘purse agreement’ will be required in advance of the commencement of any racing operations.*

- 7.3. Submit as **Exhibit 6.3** the following information, as well as any supporting documentation, analysis, or studies:
  - (a) Projected purses to be paid for the first three years of operation;
  - (b) Projected handle for the first three years of operation;
  - (c) Projected tax revenue and other revenues to be paid to the Commonwealth in the first three years of operation;
  - (d) Projected pari-mutuel revenue to be generated and paid to the Commonwealth in the first three years of operation;
  - (e) Projected attendance for the first three years of operation; and
  - (f) Projections of how many individuals Applicant will employ in the first three years of operation.

*Please note: the Commission may impose a license condition requiring Applicant to submit satisfactory updated projections.*

- 7.4. Submit as **Exhibit 6.4** a statement describing any support or opposition to the proposed project expressed by the governing body or other government officials of the host and surrounding/nearby communities, including evidence of support or opposition, if in writing.
- 7.5. Submit as **Exhibit 6.5** a description of the Applicant’s plan to attract and employ a diverse workforce (minority, women, veteran) in both construction and operational phases of the proposal. Similarly, please describe the Applicant’s plan to make use of minority, women, and veteran’s business enterprises as vendors in the construction and operational phases.

## SECTION 8: FACILITIES AND EQUIPMENT

**In evaluating this application, the Commission “must consider the circumstance that large groups of spectators require safe and convenient facilities;” and “the necessity of having and maintaining proper physical facilities for racing meetings.” G.L. c. 128A, § 3(i).**

- 8.1. How does Applicant control the real property on which the race track is proposed to be located (check all that apply):

Fee Simple Ownership

- Lease
- Easement
- Other Interest

Submit as **Exhibit 7.1** documentation of all Applicant's fee simple, leasehold, easement, or other interests in the real property on which the racetrack and facilities are proposed to be located.

If Applicant does not control the real property on which the racetrack is intended to be located by fee simple ownership, include the name and address of the fee simple owner or lessor of the real property. If the fee simple owner or lessor is a corporation, LLC, partnership or other business entity, also include a list of the officers, directors, managers, member or other persons with an interest in the fee simple owner or lessor.

- 8.2.** Does Applicant need to acquire any additional real property interests for the purposes of establishing or operating Applicant's proposed facility?

- YES
- NO

If the answer to this question is yes, submit as **Exhibit 7.2** a statement explaining the interests still to be acquired, their relevance to Applicant's proposed project, and the Applicant's progress towards and plans for acquiring them.

*Please note: the Commission may impose a license condition requiring that the Applicant acquire all needed real property interests.*

- 8.3.** Submit as **Exhibit 7.3** the exact property description, by metes and bounds, including the number of acres in premises, and a plot plan showing the entire proposed premises.

*Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information in response to this question.*

- 8.4.** Submit as **Exhibit 7.4** as much information as is available about equipment planned to be used at the proposed facility and premises, including: the trade name of the equipment; the date of purchase or the date of present contract or lease and expiration date of said contract; or an explanation as to how Applicant will procure any equipment not yet procured:

- (a) Pari-Mutuel Equipment;
- (b) Starting Gate;
- (c) Photo Finish Camera;
- (d) Film Patrol;
- (e) Timing Devices;
- (f) Inter-communication system;
- (g) Public Address System;
- (h) Closed Circuit Television System;
- (i) Horse Shoe Board; and
- (j) Scales.

*Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information on equipment to be used at the proposed facility and premises.*

- 8.5. Does the Applicant anticipate leasing or renting any part of the proposed premises to a third-party vendor, or allowing an entity other than the licensee to operate any parts of the proposed premises (i.e.- restaurants, entertainment, etc.)?

If yes, please submit as **Exhibit 7.5** a list describing all such agreements.

*Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information relative to this issue.*

- 8.6. Submit as **Exhibit 7.6** as much information as is available relative to security measures which will be employed for the protection of patrons, employees, occupational licensees, and horses, and the control of traffic within the premises and on roads leading to and from the said premises. This statement should include but not be confined to:
- (a) Number of uniformed police officers projected to be on duty each day inside the track;
  - (b) Whether such police officers will be regular police officers or special officers;
  - (c) Number of uniformed police officers detailed to traffic within the premises and on roads leading to and from the premises before, during and after racing hours;
  - (d) Number of plain clothes officers or detectives assigned within the track proper;
  - (e) System to be used for the detection and suppression of illegal gambling within the premises;
  - (f) Name of person who will be in charge of security within the track proper;
  - (g) Name of person who will have supervision of traffic control within the premises of the Applicant and will act as liaison between the Applicant and local police authorities in the control of traffic outside of the premises of the Applicant;
  - (h) Name of police authority that has been consulted in setting up security measures within the track and the control of traffic within and outside of the premises of the Applicant.
  - (i) A detailed statement of measures which will be employed in the policing of the stable area. This statement should include but not be confined to:
  - (j) Is stable area enclosed? If so, describe:
    - (1) Method of enclosure;
    - (2) Number of gates to enclosure, where located and method of control;
    - (3) System of passes to be issued to persons employed in stable area;
    - (4) Method to be followed in allowing persons in and out of stable area;
    - (5) Number of uniformed police officers to be assigned to the stable area indicating the number in daytime hours and nights;
    - (6) Number of plain clothes officers or detectives to be assigned to the stable area, days and nights; and
    - (7) Name of person who will oversee policing in the stable area.

*Please note: the Commission may condition any license award on Applicant providing complete and satisfactory information about the security measures listed above.*

## SECTION 9: WAGERING AND SIMULCASTING

- 9.1. Does Applicant intend to offer account deposit wagering?

YES  
 NO

If the answer is yes, submit as **Exhibit 8.1** a general proposal for account deposit wagering, including any service providers Applicant intends to use for the Applicant's account wagering operations.

*Please note: the Commission may condition any license award on Applicant providing a complete and satisfactory proposal for account deposit wagering in accordance with 205 CMR 6.20.*

- 9.2. In accordance with G.L. c. 128C, § 5, “no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 900 live races over the course of not less than 100 calendar days during that racing season with no fewer than 7 races completed on any of those 100 calendar days.”

Does Applicant intend to simulcast?

YES  
 NO

Does the Applicant anticipate meeting the statutory minimum number of live races and race days in order to simulcast?

YES  
 NO

*Please note: the Commission may condition any license award on Applicant providing additional, satisfactory information on proposed simulcast imports and exports in accordance with G.L. c. 128C.*

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## SECTION 10: GENERAL CONDITIONS, ATTESTATION, AND SIGNATURES

Applicant understands and agrees that approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

By submitting this application, Applicant agrees to indemnify, save, and hold harmless the Commission and its staff, in their professional and personal capacities, from any and all liability arising from either unsafe conditions at the Applicant's premises, or any default in the payment of purses.

Applicant agrees to comply with all federal, state, or local laws, rules, regulations or ordinances, now in effect or hereafter adopted applicable to Applicant's activities allowed under a license granted by the Commission.

Applicant shall maintain, in an approved depository, those amounts deducted from the pari-mutuel handle for distribution for the purposes specified in G.L. c. 128A, 128C, and Commission rules.

Applicant and its managing officers shall be jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to G.L. c. 128A, 128C, and Commission regulations.

Applicant and its managing officers shall ensure that all purse monies, disbursements, and appropriate nomination race monies are available to make timely distribution in accordance with G.L. c. 128A, and Commission regulations.

Applicant agrees that if a license is granted, it will become the duty of Applicant, as long as the license shall remain in effect, to file with the Massachusetts Gaming Commission such reports as may be required by G.L. c. 128A and 128C now in effect or as hereafter amended and such rules and regulations as it has adopted or may hereafter adopt, and to make such payments as may be required by law, and for failure so to do, the licensee shall incur the penalties set forth in G.L. c. 128A and 128C, or in such rules and regulations as said Massachusetts Gaming Commission has adopted or may hereafter adopt.

Applicant agrees that any construction on the premises covered by this application shall be subject to the inspection by employees of the Commission, and to that end further agrees that the Commission, its agents, representatives or employees, shall have access to the same during construction, and further agrees to so construct in strict accordance with such plans and specifications as may hereafter be approved by the Commission and to pay for the cost and expense incurred for the study and approval of the plans and specifications and inspection of the construction by the Massachusetts Gaming Commission. Applicant further agrees that all buildings erected or to be erected on the premises here involved may be inspected by the Massachusetts Gaming Commission and their duly authorized agents, representatives, or employees at any time, with or without prior notice to Applicant.

Applicant agrees that all exhibits, statements, plans reports, papers, etc. submitted with the application are made a part hereof and are incorporated into this application as if set forth herein in full. Further, the applicant agrees that it shall have an affirmative obligation to abide by every statement made in this application to the Commission should it be awarded a license.

Applicant states under penalty of perjury that the answers provided in this application are true and correct to the best of its knowledge and understanding. Applicant agrees that any license which may hereafter be granted is predicated upon statements and answers herein contained and that if the Commission determines that any information provided herein is false or misleading said license may be revoked.

Applicant: \_\_\_\_\_

By (print name): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**AFFIDAVIT BY INDIVIDUAL APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_ .

\_\_\_\_\_, being duly sworn, upon \_\_\_\_\_ oath  
deposes and says that: The answers, statements and declarations made in the foregoing application are  
true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Signature of officer  
adminstrating oath

\_\_\_\_\_  
Title of such officer

**AFFIDAVIT BY CORPORATE APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_ .

\_\_\_\_\_, being duly sworn, upon \_\_\_\_\_ oath deposes and says that:

1. \_\_\_\_\_ is the \_\_\_\_\_ of the corporation named as the Applicant and signed the foregoing application.
2. \_\_\_\_\_ was duly authorized by the Board of Directors of said corporation to sign said application in its name and in its behalf.
3. \_\_\_\_\_ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Signature of officer  
adminstrating oath

\_\_\_\_\_  
Title of such officer

**AFFIDAVIT BY PARTNERSHIP APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_.

\_\_\_\_\_, being duly sworn, upon \_\_\_\_ oath deposes and says that:

1. \_\_\_\_\_ is a partner of the partnership named as the Applicant in the foregoing application.
2. \_\_\_\_\_ is duly authorized to sign said application in its name and on its behalf.
3. \_\_\_\_\_ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_ Signature of Affiant

\_\_\_\_\_ Title

\_\_\_\_\_ Signature of officer administering oath

\_\_\_\_\_ Title of officer

**AFFIDAVIT BY LIMITED LIABILITY COMPANY APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_ .

\_\_\_\_\_, being duly sworn, upon  
\_\_\_\_\_ oath deposes and says that:

1. \_\_\_\_\_ is the \_\_\_\_\_ of the  
Limited Liability Company named as the Applicant and signed the foregoing application.
2. \_\_\_\_\_ was duly authorized to sign said application in its name and in its behalf.
3. \_\_\_\_\_ has read and fully understands all of the questions pertaining to such Applicant and  
that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Signature of Officer administering oath

\_\_\_\_\_  
Title of such Officer

# Which Requirements May Not Be Made a Condition of Licensure?

Requirement	Mandatory?	Details
Application filed with MGC by 10/1/21 (128A, § 2)	Y	"Such application shall be filed with the commission on or before the first day of October ..."
The name of the applicant (128A, § 2)	Y	"Such application shall state..." "Such license shall state-- (1) The name of the person to whom the same is issued"
The post office address of the applicant, and if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders. (128A, § 2)	Y	"Such application shall state..."

Requirement	Mandatory?	Details
The location of the race track where it is proposed to hold or conduct such meeting (128A, § 2)	Y	<p>"Such application shall state..."</p> <p>"Such license shall state--</p> <p>(2) The location of the race track where the racing meeting thereby authorized is to be held"</p>
The days on which it is intended to hold or conduct such a meeting (128A, § 2)	Y	<p>"Such application shall state..."</p> <p>"Such license shall state--</p> <p>(3) The days on which such meeting may be held or conducted"</p>
The hours of each day between which it is intended to hold or conduct racing at such meeting (128A, § 2)	Y	<p>"Such application shall state..."</p> <p>"Such license shall state--</p> <p>(4) The hours of each day between which racing may take place at such meeting"</p>

Requirement	Mandatory?	Details
<p>The answers to such other questions as the commission may prescribe (128A, § 2)</p>	<p>N</p>	<p>Commission likely has discretion with regard to the questions it prescribes</p> <p><u>205 CMR 14.01:</u></p> <p>The commission may deem an application for a license submitted pursuant to M.G.L. c. 128A, § 2 complete as of the date first filed, notwithstanding the fact that the applicant provided additional or supplemental information in support of that application at a later time, provided all such additional or supplemental information has been provided to the commission no later than 90 days before the proposed commencement of a meeting requested in the application.</p>

Requirement	Mandatory?	Details
That the applicant will comply, in case such license be issued, with all applicable laws and with all applicable rules and regulations prescribed by the commission (128A, § 2)	Y	"Such application shall state..."
Applications <b>shall be signed and sworn to</b> ,... if made by an association or corporation, by the president or vice president thereof (128A, § 2)	Y	
With such application there <b>shall be delivered</b> to the commission a certified check or bank draft, payable to the commission, weekly in advance for the full amount of the license fee required by this chapter (128A, § 2)	Y	"Such license shall state-- (5) That the required license fee has been received by the commission."

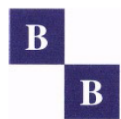


Requirement	Mandatory?	Details
Reasonable notice and a public hearing in the city or town wherein the license is to be exercised (128A, § 3)	Y	It is the duty of the Commission to schedule such a hearing prior to 11/15
<p><b>No license shall be issued</b> to any person who is in any way in default, under the provisions of this chapter, in the performance of any obligation or in the payment of any debt to the commission; provided, however, that no license shall be issued to any person who has, within 10 years of the time of filing the application for the license, been convicted of violating section 5. (128A, § 3(5)(h))</p>	Y	

Requirement	Mandatory?	Details
<p><b>No license shall be issued</b> to permit horse or dog racing meetings to be held on premises owned by the commonwealth or any political subdivision thereof. (128A, § 3(5)(l))</p>	Y	
<p>No license shall be issued unless the person applying therefor shall have executed and delivered to the commission a bond payable to the commission in the amount of \$125,000 with a surety or sureties approved by the commission conditioned upon the payment of all sums which may become payable to the commission under this chapter (128A, § 3(5)(o))</p>	N	<p>A harness racing association or horse racing association awarded a license pursuant to M.G.L. c. 128A must provide the commission with the bond required pursuant to M.G.L. c. 128A, § 3(o) <b>within 30 days of the award of the license.</b> 205 CMR 14.01 (emphasis added)</p>

Requirement	Mandatory?	Details
<p><b>No license shall be granted</b> by the commission for a racing meeting in any city or town,..., unless the location of the race track where such meeting is to be held or conducted has been once approved by...the selectmen as provided by said section thirty-three of said chapter two hundred and seventy-one, after a public hearing, seven days' notice of the time and place of which hearing shall have been given by posting in a conspicuous public place in such city or town and by publication in a newspaper published in such city or town, if there is any published therein, otherwise in a newspaper published in the county wherein such city or town is situated. (128A, § 13A)</p>	<p>Y</p>	<p><u>Berkshire Downs, Inc. v. State Racing Comm'n</u>, 350 Mass. 695, 699–700 (1966)  (SJC addressed whether racing license application failed to comply with c. 128A, § 13A because the approval by the selectmen of the location of the track was not ratified by the town until after the date for granting or dismissing the application had passed. It determined that approval and ratification were required before the commission had authority to act on the application.)</p>

Requirement	Mandatory?	Details
<p><b>Licenses shall not be granted</b> under this chapter for the holding or conducting of any horse racing meeting...within any county unless a majority of the registered voters of such county voting on the following described questions relative to granting such licenses when said questions were last submitted to them have voted in the affirmative. (128A, § 14)</p>	Y	



**BUTTERS BRAZILIAN LLP**

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July 18, 2022

Todd Grossman  
General Counsel  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, Massachusetts 02110  
Via email: [todd.grossman@massgaming.gov](mailto:todd.grossman@massgaming.gov)

Dr. Alexandra Lightbown  
Director of Racing  
Massachusetts Gaming Commission  
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Boston, Massachusetts 02110  
Via email: [alexandra.lightbown@massgaming.gov](mailto:alexandra.lightbown@massgaming.gov)

Re: Public Comment – New Racing Meeting Application

Dear Mr. Grossman and Dr. Lightbown,

I am writing on behalf of Commonwealth Investors, LLC, to commend the Massachusetts Gaming Commission (“MGC”) for developing a new racing meeting application. It signals that the MGC continues to support the redevelopment of live thoroughbred racing in Massachusetts. I look forward to filling it out and submitting it back to you this year.

Since 2019, I have represented a group of horse lovers who have been trying to identify a suitable location to develop a new thoroughbred racing and equine facility. Massachusetts has a tremendous history of thoroughbred racing. Unfortunately, it was an unintended casualty of the Expanded Gaming Act. As the lights have gone dim on the race track at Suffolk Downs, the group that I represent has been tirelessly working to develop a new facility built for the needs of today’s racing community.

As you know, last fall, I submitted to you the first new racing meeting application in decades. As I prepared the application, it became clear that the existing racing meeting

application was ill-suited to learning about a new applicant. The application appeared to be tailored for a renewal application and it had not been updated in many years.

The new application is excellent. It calls for responses that are relevant to the consideration of a new facility. As well, it recognizes that in the first instance, the MGC will be considering a well-formulated plan, not an existing facility, that it may license conditioned on reasonable project benchmarks. This idea of “conditional” licensure is certainly lawful, but it is also a practical necessity. It is a welcome addition to the application process.

Likewise, the application recognizes that certain elements of the project will not be resolved at the time of the application and need not be considered by the MGC to issue a license. This provides comfort to new applicants that they are not submitting an incomplete document; rather, they are submitting an application to develop a project that will evolve over time subject to the oversight of the MGC.

I have some limited comments about the application, and those comments largely accompany this document through a redlined version of the application. I respectfully request that you consider these amendments to the application.

I have one substantive comment as to Section 8 that warrants greater discussion, which relates to the ability of the MGC to permit simulcasting, including advanced deposit wagering, while the licensee develops the facility. I believe that the MGC has the authority to authorize simulcasting during development pursuant to G.L. c. 128C, § 2, as described below.

First, I quickly review Section 8. Section 8 addresses Simulcasting and Wagering. Question 8.1 reads:

*Does Applicant intend to offer account deposit wagering?*

\_\_\_\_\_ *YES*

\_\_\_\_\_ *NO*

*If the answer is yes, submit as Exhibit 8.1 a general proposal for account deposit wagering, including any service providers Applicant intends to use for the Applicant’s account wagering operations.*

I have no issue with Question 8.1 and believe it is appropriate. My concern is with the preamble to questions 8.2. Question 8.2 reads:

*In accordance with G.L. c. 128C, § 2, “no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 900 live races over the course of not less than 100 calendar days during that racing season with no fewer than 7 races completed on any of those 100 calendar days.”*

*Does Applicant intend to simulcast?*

\_\_\_\_\_ *YES*

\_\_\_\_\_ *NO*

*Does the Applicant anticipate meeting the statutory minimum number of live races and race days in order to simulcast?*

\_\_\_\_\_ *YES*

\_\_\_\_\_ *NO*

*Please note: the Commission may condition any license award on Applicant providing additional, satisfactory information on proposed simulcast imports and exports in accordance with G.L. c. 128C.*

My concern about the preamble to 8.2 is its unqualified reference to the number of races/race days. Section 2 of Chapter 128C authorizes the MGC to permit simulcasting without requiring the licensee to meet any numerical racing threshold if the “Commission determines that a licensee cannot conduct a full schedule of live racing performances due to weather conditions, race track conditions, strikes, work stoppages, sickness or quarantine not within the control of the licensee ....” (Emphasis added). Any new racing meeting licensee will need time to build a race track. Simulcasting with advance deposit wagering may be set up quickly through the availability of mobile applications. Permitting simulcasting as soon as a licensee is able can increase the financial viability of the project, allow the licensee to begin generating revenue, enable the licensee to create more jobs, create tax revenue, and generate buzz for the brick-and-mortar facility. Most importantly, the MGC has the authority to permit simulcasting where the race track is not yet built. The preamble leaves the reader with the impression that the MGC does not have this authority and will have a chilling effect on potential new applicants, which is contrary to the MGC’s wishes and mandate. The MGC should send a clear message to applicants that it has the authority pursuant to G.L. c. 128C, § 2 to permit simulcasting while a race track is being developed by a qualified licensee.

Further, G.L. c. 128C, § 2, authorizes the MGC to permit simulcasting if certain conditions, including race track conditions, do not permit live racing. In 2020, the MGC authorized Plainridge Park to simulcast even though the licensee held fewer than 100 days of live racing because of the pandemic. Likewise, the race track at a new facility will need to be built, and thus race track conditions will impede a full live racing schedule, such that the MGC may authorize simulcasting without a full schedule of live racing.

There is a second reason to omit the preamble from 8.2. The number of live racing days and the number of races held and completed have been modified by the Legislature many times, and we may expect the Legislature to modify this in the future. The MGC has advocated for reworking the horseracing laws to create greater certainty and avoid the need for annual reauthorization. The MGC’s 2021 Annual Report reads with respect to horse racing: “the [MGC] favors an approach that includes a comprehensive statutory amendment that takes a more long-term view that includes provisions that allow, for example, the Commission to set the minimum number of race days, to make use of the Race Horse Development Fund to provide

broader assistance to the racing industry, and to award new licenses to qualified applicants.”  
2021 Annual Report, p. 6 (emphasis added).

Rather than create an application that is subject to change, I encourage the Commission to ask the questions about wagering and simulcasting without taking a legal position that is subject to further analysis by the Commission, and that the Legislature has historically modified, and may modify in the future.

I look forward to presenting a new project to the MGC soon.

Yours Truly,

*Patrick Hanley*

Patrick Hanley





Division of Racing

**APPLICATION FOR LICENSE TO  
HOLD OR CONDUCT A RACING MEETING**

NAME OF APPLICANT APPLICATION OF: \_\_\_\_\_

TO HOLD OR CONDUCT A RACING MEETING AT: \_\_\_\_\_  
(location)

IN FOR CALENDAR YEAR 20\_\_.

Pursuant to the provisions of G.L. c. 128A and 128C the Applicant hereby applies for license to hold or conduct the following type of racing meeting:

\_\_\_ thoroughbred    \_\_\_ standardbred.

**APPLICATION FEE AND SURETY REQUIRED:**

Please enclose a certified check or bank draft payable to the Massachusetts Gaming Commission in the sum of \$300 in accordance with G.L. c. 128A, §4.

Please enclose a surety bond issued by a surety qualified to do business in the Commonwealth of Massachusetts and approved by the Commission in the amount of \$125,000 which is conditioned upon the payment of all sums which may become payable to the Commission under G.L. c. 128A in accordance with G.L. c. 128A, §3(o).

For a new applicant, a surety bond may be submitted prior to racing, but not at the time of the application.

**SECTION 1: BACKGROUND INFORMATION**

1.1. Applicant's name: \_\_\_\_\_

1.2. Applicant is (check one):

- \_\_\_\_\_ An individual
- \_\_\_\_\_ A limited partnership (LP)
- \_\_\_\_\_ An unincorporated association
- \_\_\_\_\_ A general partnership
- \_\_\_\_\_ A trust
- \_\_\_\_\_ A corporation
- \_\_\_\_\_ A limited liability company (LLC)
- \_\_\_\_\_ Other (specify: \_\_\_\_\_)

1.3. Name and contact information (including email) for the individual who will serve as the primary contact for the Applicant:

\_\_\_\_\_

1.4. Trade name or d/b/a (if applicable):

\_\_\_\_\_

1.5. Address of principal office:

\_\_\_\_\_

1.6. Mailing address (if different):

\_\_\_\_\_

1.7. Location of the proposed racetrack (include address if available):

\_\_\_\_\_

1.8. County in which proposed racetrack is located: \_\_\_\_\_

1.9. Contact Information for Applicant's lead attorney:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Board of Bar Overseers number: \_\_\_\_\_

1.10. Is Applicant incorporated, organized, or otherwise in Massachusetts?

\_\_\_ YES  
 \_\_\_ NO

If the answer to this question is yes, please attach as **Exhibit 1.11** **copies of** all organizational documents filed with the Secretary of the Commonwealth or otherwise.

If the answer to this question is no, submit as **Exhibit 1.11** a statement providing the state of incorporation or organization, the entity's qualification to do business in Massachusetts, and the name and address of the registered agent for service of process in Massachusetts.

*If Applicant is an individual, skip this question.*

**In completing sections 2 through 5, please consider the following. As described in G.L. c. 128A, § 3(i), in reviewing this application, the Commission will take into consideration, in addition to any other appropriate and pertinent factors, the following: the financial ability of an applicant to operate a race track; the maximization of state revenues; the suitability of racing facilities for operation at the time of the year for which racing dates are assigned; the circumstance that large groups of spectators require safe and convenient facilities; the interest of members of the public in racing competition honestly managed and of good quality; the necessity of having and maintaining proper physical facilities for racing meetings and the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities.**

## SECTION 2: PROJECT SUMMARY AND FINANCING

- 2.1. Please attach as **Exhibit 2.1** a complete description of the proposed premises and facilities, including any accompanying amenities and/or attractions. Please also attach any renderings or photographs depicting the area and/or vision for the proposed project.
- 2.2. Submit as **Exhibit 2.2** as much of the following information related to the proposal as is available.
  - (a) Grandstand:
    - (1) Seating capacity, including box seats, reserved seats, general admission, and total seating capacity.
    - (2) Will the Grandstand be enclosed?
    - (3) Will the Grandstand be heated?
    - (4) Will any portion of Grandstand be air conditioned?
    - (5) Type of construction of Grandstand.
    - (6) Ground area covered by the Grandstand.
  - (b) Club House
    - (1) Seating capacity, including box seats, reserved seats, general admission, and total seating capacity.
    - (2) Will the Club House be enclosed?
    - (3) Will the Club House be heated?
    - (4) Will any portion of the Club House be air conditioned?
    - (5) Type of construction of Club House

- (6) Ground area covered by the Club House
- (c) Bleachers
  - (1) Seating Capacity
  - (2) Type of construction of Bleachers
  - (3) Ground area covered by the Bleachers
- (d) Parking Space:
  - (1) Area
  - (2) Automobile capacity
  - (3) Will parking area be lighted?
  - (4) Is parking area treated? And if so how?
  - (5) Is parking area numbered?
  - (6) Is charge made for parking? And if so how much?
  - (7) Are the parking area and walkways cleared of snow and ice?
- (e) Number of pari-mutuel ticket windows/kiosks anticipated and approximate locations.
- (f) Description of anticipated restrooms for patrons of in Grandstand, Club House and/or other locations.
- (g) Description of anticipated system of sewerage disposal. If not connected to public sewer, give details of system used.
- ~~(h) Description of anticipated number of outlets for fresh, pure drinking water for patrons in grandstand, clubhouse and/or other locations.~~

*Please note: the Commission may condition any license award on Applicant completely and satisfactorily answering this question.*

**2.3.** Submit as Exhibit 2.3 as much of the following information as is available:

- (a) Size of track
- (b) Number of chutes
- (c) Number of stables
- (d) Number of stalls
- (e) Number of tack rooms
- (f) Number of tack rooms heated
- (g) Number of shower baths in stable area
- (h) Toilet facilities in stable area
- (i) Fire protection in stable area including, number of sprinklers, number of fire alarm boxes, and other fire protective measures in stable area
- (j) Recreation room
- (k) Track kitchen, including seating capacity
- (l) Size of jockey or driver's room and equipment available including number of shower baths, toilets, hot-boxes, etc.
- (m) List of other accommodations, facilities or services in stable area.

*Please note: the Commission may condition any license award on Applicant completely and satisfactorily answering this question.*

- 2.4. List any other planned accommodations, amenities, facilities, or services to be offered. You may attach your response as **Exhibit 2.4** if more space is required.

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- 2.5. Submit as **Exhibit 2.5** a proposed construction timeline, and the name of Applicant’s general contractor, if known.
- 2.6. Submit as **Exhibit 2.6** any traffic studies performed for the proposed project.
- 2.7. Submit as **Exhibit 2.7** a statement of the total capital investment anticipated for the project, including the method used to calculate the figure, as well as any supporting documentation, analysis, or studies.
- 2.8. Describe and attach as **Exhibit 2.8** the financing structure and plan for the proposed project including identifying all sources of capital. Include current capital commitments as well as plan and timing for meeting future capital needs.
- 2.9. Submit as **Exhibit 2.9** a detailed budget of the total project cost. Identify separately construction costs (e.g.- labor, materials), design costs, legal and professional fees, consulting fees and all other development costs.
- 2.10. Submit as **Exhibit 2.10** any economic impact or economic development studies performed relating to the project.
- 2.11. Submit as **Exhibit 2.11** any feasibility, viability, or economic impact studies performed for the proposed project.

Commented [PH1]: 2.10 and 2.11 should be combined

**SECTION 3: SCHEDULE OF PROPOSED RACES**

- 3.1. Is this application for a license to hold or conduct racing meetings in calendar year 2023? (check one)  
 YES  
 NO

If no, in what calendar year does the Applicant propose to hold or conduct racing meetings?  

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- 3.2. Pursuant to G.L. c. 128A, §§ 2(4)-(5) and 3, an application must state “the days on which it is intended to hold or conduct” a racing meeting, and “[t]he hours of each day between which it is intended to hold or conduct” racing.  
  
Submit as **Exhibit 3.2** a statement of the date or dates on which Applicant intends to conduct a racing meeting or racing meetings, and the hours of each such day during which Applicant

intends to hold races. (Please note that a future licensee may file supplementary materials or amendments for new or additional license dates in accordance with G.L. c. 128A, § 2.)

**SECTION 4: NON-COMMISSION APPROVALS**

4.1. Have Applicant’s proposed facility and premises been approved by local authorities in accordance with G.L. c. 128A, § 13A?

- YES
- NO

Submit as **Exhibit 4.1** documentation of the Applicant’s local approvals.

4.2. If Applicant has not obtained all local approvals required under G.L. c. 128A, § 13A, please explain the present circumstances including when the Applicant expects to obtain such approvals.

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4.3. Has horse racing been approved by vote in the county in which Applicant proposes to hold or conduct racing meetings, in accordance with G.L. c. 128A, § 14?

- YES
- NO

Submit as **Exhibit 4.3** documentation of such county vote.

4.4. Submit as **Exhibit 4.4** a schedule of any other state or Federal environmental, land use, hospitality-related, or other permits, licenses, or approvals required for the Applicant to construct and operate its facility. For each, please also describe the approval’s relevance to Applicant’s facility; documentation of any such approvals that have already been obtained; and, for any such approvals that have not yet been obtained, Applicant’s progress towards and plans for acquiring them, including a detailed timeline.

*Please note: the Commission may impose a license condition requiring that the Applicant acquire all needed approvals.*

**SECTION 5: QUALIFIERS AND SUITABILITY**

**In evaluating this application, the Commission will consider whether the applicants are persons likely to conduct racing in accordance with approved practices and in a manner consistent with the public safety, health, morals, and welfare. See Bay State Harness Horse Racing & Breeding Ass'n,**

**Commented [PH2]:** Many of the questions contained in Section 5 call for information that is sensitive from a personal/financial/business standpoint and should be submitted subject to non-dissemination.

**Inc. v. State Racing Comm'n, 342 Mass. 694, 699–700 (1961). Further, in accordance with G.L. c. 128A, § 3(i) the Commission must consider “the interest of members of the public in racing competition honestly managed…….” With these principles in mind, please respond to the following questions.**

For purposes of completing this section, the term “qualifier” shall mean the following, respectively:

- (1) In case of an individual Applicant, the individual.
- (2) In case of a partnership Applicant, the partnership entity, and all individual and entity partners, including limited and silent partners.
- (3) In case of a corporate Applicant, the corporate entity, any associated holding or intermediary entities, and all officers, directors, and stockholders or beneficial owners of ten per cent or more of the stock.
- (4) In the case of an LLC Applicant, all members and managers of the LLC.
- (5) In the case of a trust Applicant, all trustees.
- (6) In the case of an unincorporated association Applicant, all members of the association.
- (7) In all cases, anyone other than a conventional institutional lender that is involved with the financing of the construction and/or operation of the proposed new facility.
- (8) In all cases, anyone who will have the ability to exercise influence or control over the construction or operation of the proposed new facility.

- 5.2. Address suitability standards and forms to be used.
- 5.3. Submit as **Exhibit 5.3** a list of all of Applicant’s Qualifiers.
- 5.4. If Applicant is a corporation, submit as **Exhibit 5.4** a statement showing:
  - (a) Class(es) of stock issued or to be issued;
  - (b) Par value;
  - (c) Votes per share;
  - (d) Number of shares of each class authorized;
  - (e) Number of shares of each class issued;
  - (f) Number of shares of each class subscribed; and
  - (g) Total number of shares of each class and the percentage of shares owned by the largest 10 shareholders.
- 5.5. If Applicant is an LLC or other organized entity that does not issue stock, submit as **Exhibit 5.5** a schedule of ownership listing all members/managers and percentage of entity held. List beneficial owners, even if beneficial owners are not Qualifiers.
- 5.6. If business entity is a partnership or other organized entity, submit as **Exhibit 5.6** a schedule listing the partners or others holding an interest and the percentage of the entity held. List beneficial owners, even if beneficial owners are not Qualifiers.
- 5.7. Submit as **Exhibit 5.7** the following information for each of the Applicant’s Qualifiers.
  - (a) For each individual Qualifier, provide the name place of birth, date of birth and legal residence of the Qualifier.
  - (b) For each entity Qualifier, provide the name and the details required for entity applicants by Questions 5.4-5.6.
- 5.8. Please submit as **Exhibit 5.8** a document that identifies any existing racetrack or gaming facility which the Applicant and/or any of its qualifiers presently owns, operates, or has, or had, a

financial or other interest. Additionally, please indicate whether any of the Applicant's qualifiers are presently qualifiers (or the equivalent) at any other racetrack or gaming facility.

- 5.9. Has Applicant or any of its Qualifiers ever had a financial or other interest in a racetrack or gaming license revoked or suspended by order of any governing authority, an application for a racing license or gaming license that was denied by a licensing authority, or conducted or participated in any racing meeting pari-mutuel wagering in a location where such racing or wagering was not authorized by law?

YES  
 NO

If the answer to this question is yes, submit as **Exhibit 5.9** a thorough explanation of the circumstances of the revocation, suspension, denial, or unauthorized racing or wagering.

- 5.10. Have voluntary proceedings in bankruptcy been instituted by, or have involuntary proceedings in bankruptcy ever been brought against the Applicant or any of its Qualifiers?

YES  
 NO

If the answer to this question is yes, submit as **Exhibit 5.10** a list describing the name of the person or entity filing for bankruptcy, the type of petition filed in bankruptcy, the date of the filing, the court in which filed and the date of final discharge, or if ongoing, indicate the expected date of final discharge.

- 5.11. Are there outstanding any unsatisfied judgments or decrees against, or tax delinquencies to the Commonwealth of Massachusetts or its political subdivisions, by the Applicant or any of its Qualifiers?

YES  
 NO

If the answer to this question is yes, submit as **Exhibit 5.11** a list describing, for judgments or decrees, the type of the judgment, the court or other body entering the judgment, the date of the judgment, the person against whom the judgment is entered, the amount of the judgment and the reason why the judgment is unsatisfied; and for tax delinquencies, all delinquencies, the reason for such delinquencies, and when each delinquency will be cured.

- 5.12. Has Applicant or any of its Qualifiers ever been accused of, charged with, or settled any matter relating to harassment or discrimination, or are there any restraining orders against Applicant or any of its Qualifiers?

YES  
 NO

If the answer to this question is yes, submit as **Exhibit 5.12** a list of all accusations, charges, and settlements including the date of each incident and a thorough explanation of the circumstances.

- 5.13. Submit as **Exhibit 5.13** all of the following that are available:  
 (a) A copy of Applicant's employee handbook



- (b) A copy of all of Applicant's policies and procedures regarding internal controls including but not limited to those policies that deal with the handling and protection of money, the placing of wagers both in person and via account deposits, security and surveillance, and method of accounting. Alternatively, a plan for establishing such internal controls.
- (c) A copy of Applicant's audit committee and compliance committee charters as well as a list of the audit and compliance committee members and their relationship to the Applicant
- (d) Any other policies that demonstrate the Applicant's proficiency in general industry standards for business and financial practices, procedures, and controls.

*Please note: the Commission may condition any license award on Applicant supplying complete and satisfactory information relative to its internal controls and associated practices.*

**5.14** Submit as **Exhibit 5.14** the following documents: a copy of the Applicant's most recent audited financial statements, most recent audited or unaudited quarterly financial statement, and an audited profit and loss statement for the Applicant's most recent fiscal year. Please include a description of any interest held by Applicant or any of its Qualifiers in any concessionaire. In the event that the Applicant does not have the requested document, please attach a statement explaining why not.

*Please note: the Commission may condition any license award on Applicant supplying complete and satisfactory financial statements.*

- 5.15.** Submit as **Exhibit 5.15** a list of which, if any of the Applicant's Qualifiers will be involved in funding the proposed project. For each such Qualifier, explain the amount and form of funding the Qualifier intends to provide for the project, and documentation supporting the Qualifier's capacity to provide that funding.
- 5.16.** Submit as **Exhibit 5.16** copies of all policies of insurance carried by Applicant as well as a statement setting forth all other types of insurance carried, or anticipated to be carried, for the protection of employees and patrons.

*Please note: the Commission may impose a license condition requiring Applicant to obtain satisfactory worker's compensation insurance, public liability insurance, jockey insurance, and driver's insurance.*

- 5.17.** Applicant may submit as **Exhibit 5.17** a statement explaining any other information relevant to its capacity to hold or conduct honestly managed racing meetings.

*Please note: if awarded a license the licensee will be required to maintain its suitability on an ongoing basis.*

- 5.18.** Applicant may submit as **Exhibit 5.18** a statement explaining any other information relevant to "the financial ability of an Applicant to operate a racetrack" and "the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities."

*Please note: if awarded a license, the licensee's continued ability to demonstrate the financial ability to successfully operate a racetrack will be part of the Commission's ongoing suitability review.*

## SECTION 6: PUBLIC INTEREST

**In evaluating this application, the Commission will consider “the interest of members of the public in racing competition honestly managed and of good quality.” G.L. c. 128A, § 3(i).**

- 6.1. Submit as **Exhibit 6.1** a statement setting forth the reasons why the Applicant believes that its proposal will be beneficial to the public at large, the Commonwealth, the Applicant, and racing stakeholders.
- 6.2. Submit as **Exhibit 6.2** a copy of all executed agreements with representative horsemen’s organizations. If the Applicant has not yet executed any such agreement, explain Applicant’s plans for executing such.

*Please note: an executed ‘purse agreement’ will be required in advance of the commencement of any racing operations.*

- 6.3. Submit as **Exhibit 6.3** the following information, as well as any supporting documentation, analysis, or studies:
  - (a) Projected purses to be paid for the first three years of operation;
  - (b) Projected handle for the first three years of operation;
  - (c) Projected tax revenue and other revenues to be paid to the Commonwealth in the first three years of operation;
  - (d) Projected pari-mutuel revenue to be generated and paid to the Commonwealth in the first three years of operation;
  - (e) Projected attendance for the first three years of operation; and
  - (f) Projections of how many individuals Applicant will employ in the first three years of operation.

*Please note: the Commission may impose a license condition requiring Applicant to submit satisfactory updated projections.*

- 6.4. Submit as **Exhibit 6.4** a statement describing any support or opposition to the proposed project expressed by the governing body or other government officials of the host and surrounding/nearby communities, including evidence of support or opposition, if in writing.
- 6.5. Submit as **Exhibit 6.5** a description of the Applicant’s plan to attract and employ a diverse workforce (minority, women, veteran) in both construction and operational phases of the proposal. Similarly, please describe the Applicant’s plan to make use of minority, women, and veteran’s business enterprises as vendors in the construction and operational phases.

## SECTION 7: FACILITIES AND EQUIPMENT

**In evaluating this application, the Commission “must consider the circumstance that large groups of spectators require safe and convenient facilities;” and “the necessity of having and maintaining proper physical facilities for racing meetings.” G.L. c. 128A, § 3(i).**

- 7.1. How does Applicant control the real property on which the race track is proposed to be located (check all that apply):

Fee Simple Ownership

- Lease  
 Easement  
 Other Interest

Submit as **Exhibit 7.1** documentation of all Applicant's fee simple, leasehold, easement, or other interests in the real property on which the racetrack and facilities are proposed to be located.

If Applicant does not control the real property on which the racetrack is intended to be located by fee simple ownership, include the name and address of the fee simple owner or lessor of the real property. If the fee simple owner or lessor is a corporation, LLC, partnership or other business entity, also include a list of the officers, directors, managers, member or other persons with an interest in the fee simple owner or lessor.

- 7.2. Does Applicant need to acquire any additional real property interests for the purposes of establishing or operating Applicant's proposed facility?

- YES  
 NO

If the answer to this question is yes, submit as **Exhibit 7.2** a statement explaining the interests still to be acquired, their relevance to Applicant's proposed project, and the Applicant's progress towards and plans for acquiring them.

*Please note: the Commission may impose a license condition requiring that the Applicant acquire all needed real property interests.*

- 7.3. Submit as **Exhibit 7.3** the exact property description, by metes and bounds, including the number of acres in premises, and a plot plan showing the entire proposed premises.

*Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information in response to this question.*

- 7.4. Submit as **Exhibit 7.4** as much information as is available about equipment planned to be used at the proposed facility and premises, including: the trade name of the equipment; the date of purchase or the date of present contract or lease and expiration date of said contract; or an explanation as to how Applicant will procure any equipment not yet procured:
- (a) Pari-Mutuel Equipment;
  - (b) Starting Gate;
  - (c) Photo Finish Camera;
  - (d) Film Patrol;
  - (e) Timing Devices;
  - (f) Inter-communication system;
  - (g) Public Address System;
  - (h) Closed Circuit Television System;
  - (i) Horse Shoe Board; and
  - (j) Scales.

*Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information on equipment to be used at the proposed facility and premises.*

- 7.5. Does the Applicant anticipate leasing or renting any part of the proposed premises to a third-party vendor, or allowing an entity other than the licensee to operate any parts of the proposed premises (i.e.- restaurants, entertainment, etc.)?

If yes, please submit as **Exhibit 7.5** a list describing all such agreements.

*Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information relative to this issue.*

- 7.6. Submit as **Exhibit 7.6** as much information as is available relative to security measures which will be employed for the protection of patrons, employees, occupational licensees, and horses, and the control of traffic within the premises and on roads leading to and from the said premises. This statement should include but not be confined to:
- (a) Number of uniformed police officers projected to be on duty each day inside the track;
  - (b) Whether such police officers will be regular police officers or special officers;
  - (c) Number of uniformed police officers detailed to traffic within the premises and on roads leading to and from the premises before, during and after racing hours;
  - (d) Number of plain clothes officers or detectives assigned within the track proper;
  - (e) System to be used for the detection and suppression of illegal gambling within the premises;
  - (f) Name of person who will be in charge of security within the track proper;
  - (g) Name of person who will have supervision of traffic control within the premises of the Applicant and will act as liaison between the Applicant and local police authorities in the control of traffic outside of the premises of the Applicant;
  - (h) Name of police authority that has been consulted in setting up security measures within the track and the control of traffic within and outside of the premises of the Applicant.
  - (i) A detailed statement of measures which will be employed in the policing of the stable area. This statement should include but not be confined to:
  - (j) Is stable area enclosed? If so, describe:
    - (1) Method of enclosure;
    - (2) Number of gates to enclosure, where located and method of control;
    - (3) System of passes to be issued to persons employed in stable area;
    - (4) Method to be followed in allowing persons in and out of stable area;
    - (5) Number of uniformed police officers to be assigned to the stable area indicating the number in daytime hours and nights;
    - (6) Number of plain clothes officers or detectives to be assigned to the stable area, days and nights; and
    - (7) Name of person who will oversee policing in the stable area.

*Please note: the Commission may condition any license award on Applicant providing complete and satisfactory information about the security measures listed above.*

## SECTION 8: WAGERING AND SIMULCASTING

- 8.1. Does Applicant intend to offer account deposit wagering?

YES  
 NO

If the answer is yes, submit as **Exhibit 8.1** a general proposal for account deposit wagering, including any service providers Applicant intends to use for the Applicant's account wagering operations.

*Please note: the Commission may condition any license award on Applicant providing a complete and satisfactory proposal for account deposit wagering in accordance with 205 CMR 6.20.*

- 8.2. In accordance with G.L. c. 128C, § 2, “no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 900 live races over the course of not less than 100 calendar days during that racing season with no fewer than 7 races completed on any of those 100 calendar days.”

Does Applicant intend to simulcast?

YES  
 NO

Does the Applicant anticipate meeting the statutory minimum number of live races and race days in order to simulcast?

YES  
 NO

*Please note: the Commission may condition any license award on Applicant providing additional, satisfactory information on proposed simulcast imports and exports in accordance with G.L. c. 128C.*

**Commented [PH3]:** Comment:

Remove preamble. See detailed comments in my cover letter.

DRAFT

## SECTION 9: GENERAL CONDITIONS, ATTESTATION, AND SIGNATURES

Applicant understands and agrees that approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

By submitting this application, Applicant agrees to indemnify, save, and hold harmless the Commission and its staff, in their professional and personal capacities, from any and all liability arising from either unsafe conditions at the Applicant's premises, or any default in the payment of purses.

Applicant agrees to comply with all federal, state, or local laws, rules, regulations or ordinances, now in effect or hereafter adopted applicable to Applicant's activities allowed under a license granted by the Commission.

Applicant shall maintain, in an approved depository, those amounts deducted from the pari-mutuel handle for distribution for the purposes specified in G.L. c. 128A, 128C, and Commission rules.

Applicant and its managing officers shall be jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to G.L. c. 128A, 128C, and Commission regulations.

Applicant and its managing officers shall ensure that all purse monies, disbursements, and appropriate nomination race monies are available to make timely distribution in accordance with G.L. c. 128A, and Commission regulations.

Applicant agrees that if a license is granted, it will become the duty of Applicant, as long as the license shall remain in effect, to file with the Massachusetts Gaming Commission such reports as may be required by G.L. c. 128A and 128C now in effect or as hereafter amended and such rules and regulations as it has adopted or may hereafter adopt, and to make such payments as may be required by law, and for failure so to do, the licensee shall incur the penalties set forth in G.L. c. 128A and 128C, or in such rules and regulations as said Massachusetts Gaming Commission has adopted or may hereafter adopt.

Applicant agrees that any construction on the premises covered by this application shall be subject to the inspection by employees of the Commission, and to that end further agrees that the Commission, its agents, representatives or employees, shall have access to the same during construction, and further agrees to so construct in strict accordance with such plans and specifications as may hereafter be approved by the Commission and to pay for the cost and expense incurred for the study and approval of the plans and specifications and inspection of the construction by the Massachusetts Gaming Commission. Applicant further agrees that all buildings erected or to be erected on the premises here involved may be inspected by the Massachusetts Gaming Commission and their duly authorized agents, representatives, or employees at any time, with or without prior notice to Applicant.

Applicant agrees that all exhibits, statements, plans reports, papers, etc. submitted with the application are made a part hereof and are incorporated into this application as if set forth herein in full. Further, the applicant agrees that it shall have an affirmative obligation to abide by every statement made in this application to the Commission should it be awarded a license.

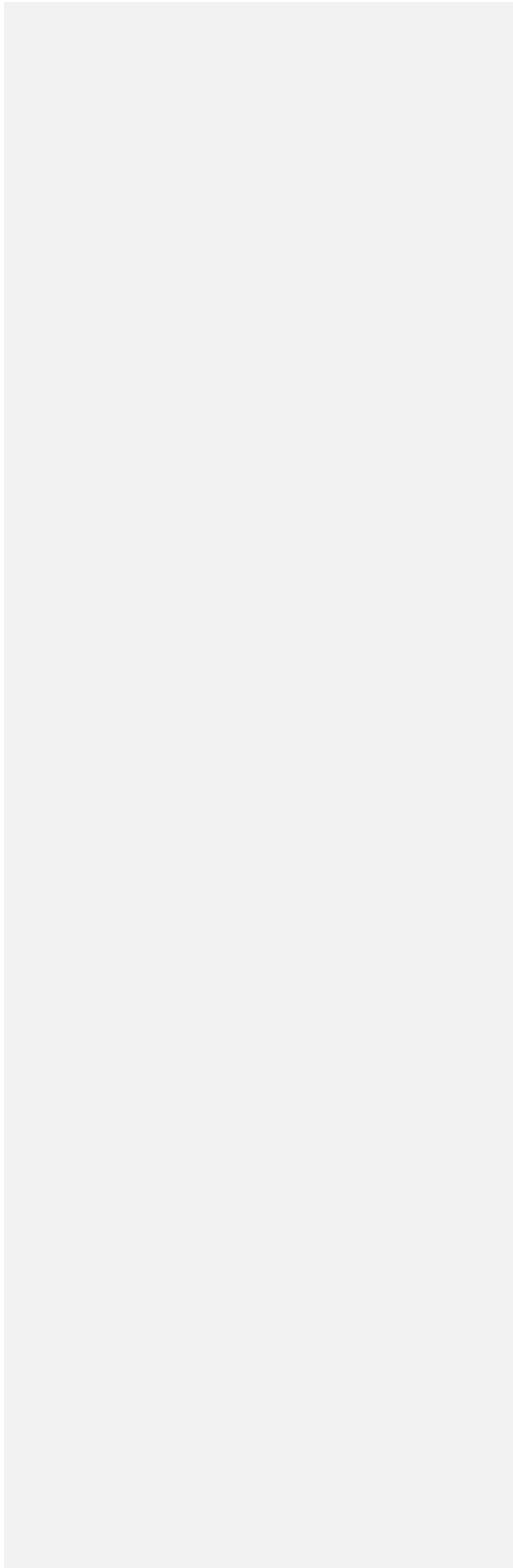
Applicant states under penalty of perjury that the answers provided in this application are true and correct to the best of its knowledge and understanding. Applicant agrees that any license which may hereafter be granted is predicated upon statements and answers herein contained and that if the Commission determines that any information provided herein is false or misleading said license may be revoked.

Applicant: \_\_\_\_\_

By (print name): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



**AFFIDAVIT BY INDIVIDUAL APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_ .

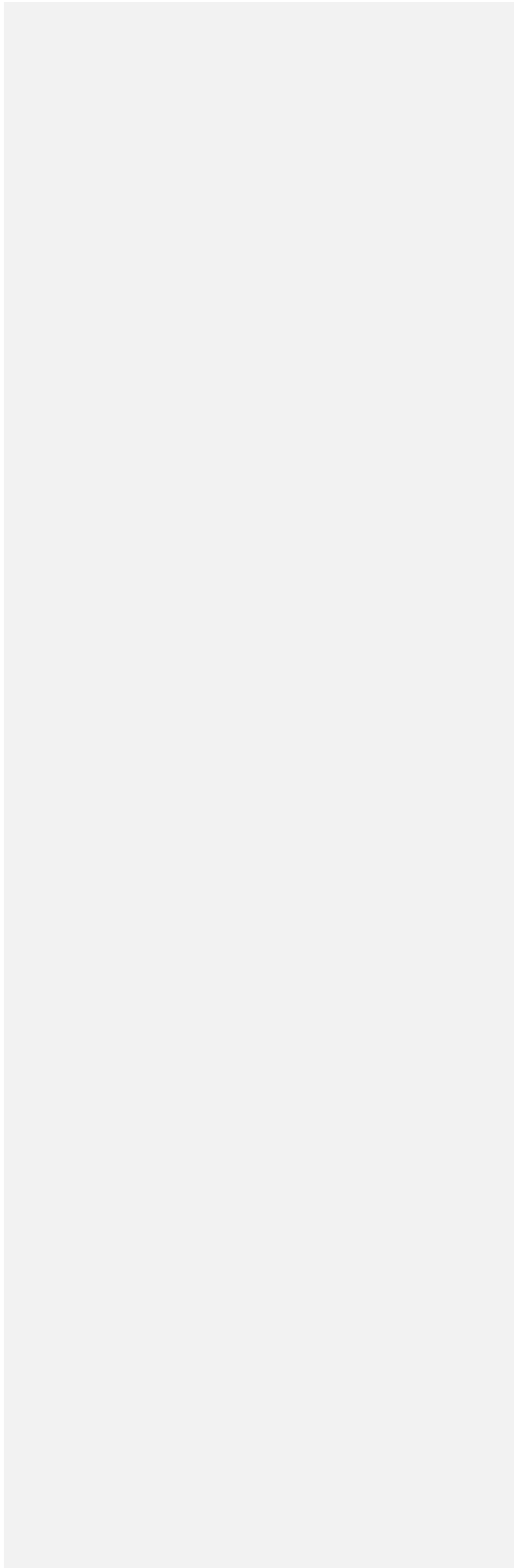
\_\_\_\_\_, being duly sworn, upon \_\_\_\_\_ oath  
deposes and says that: The answers, statements and declarations made in the foregoing application are  
true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_ Signature of Affiant

\_\_\_\_\_ Signature of officer  
adminstrating oath

\_\_\_\_\_ Title of such officer





**AFFIDAVIT BY CORPORATE APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_ .

\_\_\_\_\_, being duly sworn, upon \_\_\_\_\_ oath deposes and says that:

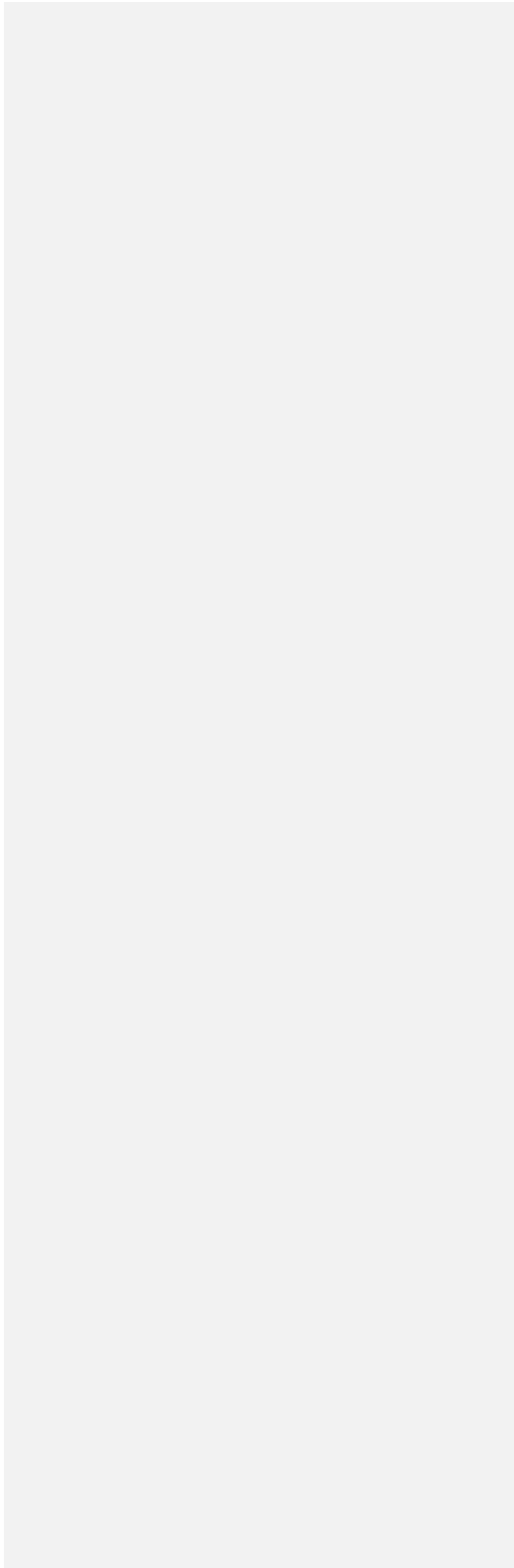
- 1. \_\_\_\_\_ is the \_\_\_\_\_ of the corporation named as the Applicant and signed the foregoing application.
- 2. \_\_\_\_\_ was duly authorized by the Board of Directors of said corporation to sign said application in its name and in its behalf.
- 3. \_\_\_\_\_ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_ Signature of Affiant

\_\_\_\_\_ Signature of officer  
adminstrating oath

\_\_\_\_\_ Title of such officer



**AFFIDAVIT BY PARTNERSHIP APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_.

\_\_\_\_\_, being duly sworn, upon \_\_\_\_ oath deposes and says that:

- 1. \_\_\_\_\_ is a partner of the partnership named as the Applicant in the foregoing application.
- 2. \_\_\_\_\_ is duly authorized to sign said application in its name and on its behalf.
- 3. \_\_\_\_\_ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

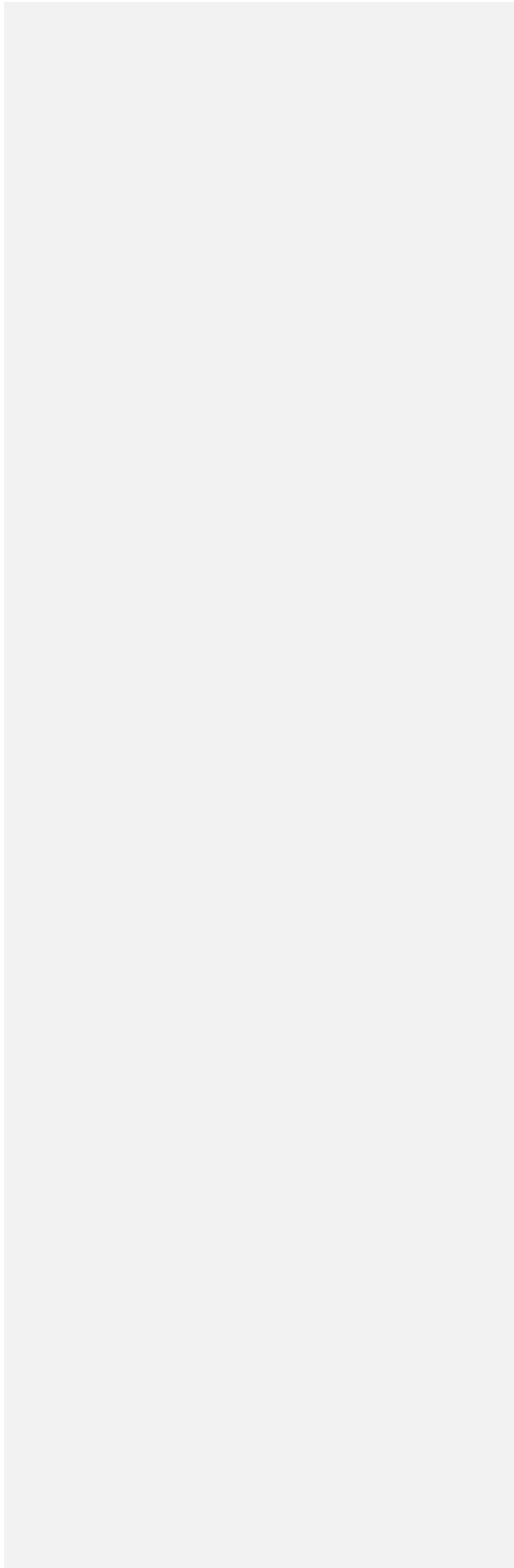
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_ Signature of Affiant

\_\_\_\_\_ Title

\_\_\_\_\_ Signature of officer administering oath

\_\_\_\_\_ Title of officer



**AFFIDAVIT BY LIMITED LIABILITY COMPANY APPLICANT**

Commonwealth of Massachusetts, County of \_\_\_\_\_.

\_\_\_\_\_, being duly sworn, upon \_\_\_\_\_ oath deposes and says that:

- 1. \_\_\_\_\_ is the \_\_\_\_\_ of the Limited Liability Company named as the Applicant and signed the foregoing application.
- 2. \_\_\_\_\_ was duly authorized to sign said application in its name and in its behalf.
- 3. \_\_\_\_\_ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Signature of Officer administering oath

\_\_\_\_\_  
Title of such Officer



July 14, 2022

Dear Chair Judd-Stein,

New England United 4 Justice (NEU4J) is an organization committed to promoting social, economic, and racial justice in the Greater Boston Region. We have a strong grassroots organizing model that centers the leadership and voice of low-income residents in the neighborhoods we serve. We engage and empower families to speak up and become a part of the solution to improve the City focused on worker rights, childcare, housing and voter protections and engagement.

We have been a community partner with various coalition and labor leaders in the continue efforts to ensure low income, communities of color have access to quality job opportunities in our City and across the Region and our organization, was one of many, that played a role in the opening of ENCORE and the job opportunities that the Casino presented.

We support the many additions the Massachusetts Gaming Commission (MGC) has brought to this new draft application. These improvements will provide greater transparency and a deeper understanding of what is being proposed throughout the state. Many of these additional questions were included in the RFA-2 application and have led to the success stories we see today at licensed MGC establishments.

Following the essence of the enabling statute, that the “commonwealth must provide for new employment opportunities in all sectors of the economy, particularly opportunities for the unemployed” we ask that you include modified versions of question 3-11, which was previously included in the RFA-2 Application, in the new horse track operator license:

***3-11 Labor Harmony***

*Outline the applicant’s plans for ensuring labor harmony during the construction and operational phases of the project including whether the applicant plans to enter into any Project Labor Agreements or agreements governing labor harmony in the project’s permanent job positions. (Reference may be made to the response to question 3-10). If the applicant does not intend to enter into any such agreements, please explain.*

In combination with the MGC’s modifications, this will ensure the MGC and community stakeholders are aware of the real economic impact a given proposal will have and what job opportunities are available to the host community.

Thank you again for the opportunity to provide comment on this important matter for many working families. Please do not hesitate to contact me if you have any questions.

**Noemi Ramos**

Mimi.neunited4justice@gmail.com  
617-905-9939 Direct Line  
617-265-7100 Office Line

## **New England Horsemen's Benevolent and Protective Association, Inc**

A National Organization



P.O. Box 550247 Waltham, MA. 02455 617-744-3603

[www.newenglandhbpa.com](http://www.newenglandhbpa.com)

President – Anthony Spadea

Executive Director – Paul Umbrello

Directors Owners- Shirley Dullea, Chris Trakas Robert Manning, Joseph Lewko, Al Tassone

Directors Trainers – Tim Kirby, Kevin McCarthy, Leona McKanas George Saccardo, Matt Clarke

Todd Grossman General Counsel  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor Boston,  
Massachusetts 02110  
Via email: [todd.grossman@massgaming.gov](mailto:todd.grossman@massgaming.gov)

Dr. Alexandra Lightbown Director of Racing Massachusetts  
Gaming Commission  
101 Federal Street, 12th Floor Boston,  
Massachusetts 02110  
Via email: [alexandra.lightbown@massgaming.gov](mailto:alexandra.lightbown@massgaming.gov)

Re: Public Comment – New Racing Meeting Application

Dear Mr. Grossman and Dr. Lightbown, I am writing on behalf of the New England HBPA to support the redevelopment of live thoroughbred racing in Massachusetts as it pertains to the racing application.

As the Horsemen's group that has represented the New England Horsemen over the last 85 years it has been quite a challenge for us to find suitors to find a piece of land and build a new facility. Since the announcement of the closing of Suffolk Downs in 2014 It was the NEHBPA that worked with SSR to continue the festival racing from 2015-2019 to continue to help our local horsemen and women and with the demolition of the barn area became impossible for us to continue to race at the facility while trying to find a new suitable location.

It is more imperative at this time we consider the obstacles of land, costs and town approvals to name a few to build a new facility compared to the previous application. While it is in our best interest to protect the horsemen it is also important to make the application process of building a new facility flexible and attractive for any applicant.

In regards to above I have some comments about the application and I respectfully request that you consider these amendments to the application.

#### Section 5 Subsection 5.9

Each question should be broken out as follows;

- Has Applicant or any of its Qualifiers ever had a financial or other interest in a racetrack? YES NO
- A gaming license revoked or suspended by order of any governing authority? YES NO
- An application for a racing license or gaming license that was denied by a licensing authority?  
YES NO
- Has conducted or participated in any racing meeting pari-mutuel wagering in a location where such racing or wagering was not authorized by law? YES NO

#### Section 8 Sub Section 8.2

Needs further discussion and concern around the language pertaining to race days and races. It is assumed that the 100 days and 900 races apply to the Standard Breds?

For the New England Horsemen (NEHBPA) we want to race as many days as we can but we also know that to start any meet initially will be a challenge for us to even race 20 days. It will take time, solid purse structures and a great venue to attract enough horses for any meet never mind 100 days. Again, the assumption is this pertains to the Standard Breds.

We suggest that as long as a Purse Agreement has been signed by the NEHBPA and Racing Licensee agreeing to the number of race days and purse structure then there should be no restriction on race days and races pertaining to this application.

Sincerely

Paul Umbrello

Executive Director

New England Horsemen's Benevolence and Protective Association

NEHBPA

## Public Comments Related to DRAFT Application for License to Hold or Conduct a Racing Meeting

**From:** Larry Mason <[REDACTED]@aol.com>  
**Sent:** Wednesday, July 6, 2022 8:23 PM  
**To:** MGCcomments <[MGCcomments@massgaming.gov](mailto:MGCcomments@massgaming.gov)>  
**Subject:** Fwd: Horse Racing , parimutuel wagering, Mass Stare Lottery, Charitable Gaming.

You don't often get email from [REDACTED]@aol.com. [Learn why this is important](#)

Sent from my iPhone

Begin forwarded message:

**From:** Larry Mason <[REDACTED]@aol.com>  
**Date:** July 6, 2022 at 8:21:50 PM EDT  
**To:** [webmaster@masslottery.com](mailto:webmaster@masslottery.com)  
**Subject:** Horse Racing , parimutuel wagering, Mass Stare Lottery, Charitable Gaming.

To whom it may concern,

Can you please give me a contact person on issues surrounding the subject matters.

Under the current law does the Massachusetts Gaming Commission have jurisdiction over all three.

Massachusetts has a serious problem today with restoring Thoroughbred Horse Racing and wagering. In 1934 it was legalized. In 1971 the Massachusetts Stare Lottery was formed.

Suffolk Downs closed its doors voluntarily and sold the property. The Massachusetts Gaming Commission approved the sale and allowed them to keep the Simulcast Signal rights. Today they still operate a Off-Track betting site while horsemen and farms went under.

Many attempts have been made to build a new Thoroughbred Race Track. All met with the ones who travel from location to location to stop a process.

A vote is required from the Massachusetts Gaming Commission from the community. All fall short with help from the traveling hate groups with a sport legalized in 1934.

Every Town and City in Massachusetts with no vote at all receives the Massachusetts State Lottery, Scratch Tickets, Keno, numbers games and Charitable Gaming. But Thoroughbred Horse Racing nope.

Today the Town of Plymouth says no to Thoroughbred Racing on property that belongs to Plymouth County 26 Towns and 1 City. Last year alone they received \$4,160,906 Million from the Massachusetts State Lottery for allowing gambling in their Community with Charitable Gaming. However, Legal Thoroughbred Horse Racing and Wagering they held signs saying No Horse Racing, No Gambling, No

thank you in Plymouth.

So how is that not discrimination and segregation from one form of gambling to another they already approved of. How is that not a violation of someone's right to choose a way of life and a right to work.

So far Wareham said No and Sturbridge said No but the Massachusetts State Lottery does not pull their funding and remove the Lottery and Charitable gaming from their community.

Why is it that one State Commission (Massachusetts State Lottery) can destroy another State Commission (Massachusetts Racing Commission)

Everyone can walk in a store, bar, gas station or restaurant and chose not to play any products put out by the Lottery why is it different for Thoroughbred Horse Racing. If you don't want to play don't go or just watch a legal sport.

You two must work together and let the Town , City or County know if you vote NO for the Thoroughbred Horse Racing and wagering (Gambling) you lose the Lottery and funding as well.. It's only fair and levels the playing field for everyone.

These Towns, Cities all approved gambling in their communities when they cashed that first check.

Thank you.

Lawrence A Mason



Forwarded to Alex L. on July 11, 2022

---

From: Lisa Perlini [REDACTED]@aol.com>  
Sent: Saturday, July 9, 2022 9:12 AM  
To: MGCcomments <MGCcomments@massgaming.gov>  
Subject: Horse Track Operator License Draft Application Comment

[You don't often get email from [REDACTED]@aol.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

As a resident of Plymouth Massachusetts for over 20 years, I have seen a lot of positive development in this town. I have also seen some over development. And, I am vehemently AGAINST a horse track operator license being approved not only in the proposed location, but anywhere in our town.

I recognize it was non-binding, but please take our communities vote of non-approval into strong consideration.



Thank you  
Lisa Perlini



Forwarded to Alex L. on July 11, 2022

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From: Larry Mason <[REDACTED]@aol.com>  
Sent: Thursday, July 14, 2022 12:22 PM  
To: MGCcomments <[MGCcomments@massgaming.gov](mailto:MGCcomments@massgaming.gov)>  
Subject: Application for Thoroughbred Racing

[You don't often get email from [REDACTED]@aol.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Commission,

Plymouth has 65,000 residents. Around 46,423 registered voters. A small majority voted NO to stop the process of Due Diligence. We all had been told many more meetings would take place once they had their Studies, Plans and layout. Boston South and Vince said at the one meeting he couldn't give figures until the process evolves. So a small minority (6,000) decided to stop it with a Non-Binding vote. Ya the percentage they toss around is misleading 80%. Some should have you believe it was 80% of 46,423 registered voters.

We have already approved Thoroughbred racing and wagering in Plymouth County that has 382,603 registered voters. MARSHFIELD , BROCKTON and MIDDLEBOROUGH has had Thoroughbred Racing and wagering in Plymouth County.

If you go by the letters sent to the MGC from the Plymouth Board of Selectman about the will of the people. Well the second referendum question called for a Mayor and to become a City that one was overwhelmingly passed but No Mayor or City.

Plymouth can not control County Land and hurt the other 25 Towns and 1 City. Plymouth has been receiving money from the Massachusetts State Lottery in local aid for being a "host community " for gambling since 1971.

Recent records indicate Plymouth might have received funds in the past for racing in Plymouth County. It's on their budget.

This is absolutely bonkers that Suffolk Downs closed Thoroughbred horsemen and farms went under Meanwhile Suffolk Downs continues on with the Simulcast. You have a bill to give all the money to the Standardbreds. So those Two would be against any future Thoroughbred Race Track.

Be very clear those 6 days of Live Thoroughbred racing destroyed the Breeding and Racing Industry. Well for those who call Massachusetts home. Other States loved the money from purses to spend in their own States.

Lawrence A Mason

Forwarded to Alex L. on July 18, 2022

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**From:** Noemi Ramos <[mimi.neunited4justice@gmail.com](mailto:mimi.neunited4justice@gmail.com)>

**Sent:** Thursday, July 14, 2022 2:20 PM

**To:** MGCcomments <[MGCcomments@massgaming.gov](mailto:MGCcomments@massgaming.gov)>

**Subject:** Mass Gaming Commission, Horse Racing Application Community Response

You don't often get email from [mimi.neunited4justice@gmail.com](mailto:mimi.neunited4justice@gmail.com). [Learn why this is important](#)

Good day, it has come to our attention that the Mass Gaming Commission is asking for community responses to their Horse Racing Applications and we wanted to provide some brief insights to our thoughts.

Please see a community response and recommendation from our organization

We hope to hear from you and we hope that we can come to some conclusion on how we can continue to uplift and protect what workers need in our communities.

Thank you for your time

--

**Noemi Mimi Ramos**

New England United 4 Justice Director

617-905-9939 - Cell

617-265-7100 - Office

[www.facebook.com/neu4j](http://www.facebook.com/neu4j)

Right to the City Boston

617-905-9939 - Cell

[mimi@righttothecity.org](mailto:mimi@righttothecity.org)

[www.facebook.com/RightToTheCityBoston](http://www.facebook.com/RightToTheCityBoston)

[See included PDF for the attached letter]

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**From:** Frank Callahan <[Fcallahan@massbuildingtrades.org](mailto:Fcallahan@massbuildingtrades.org)>  
**Sent:** Friday, July 15, 2022 11:00 AM  
**To:** MGCcomments <[MGCCcomments@massgaming.gov](mailto:MGCCcomments@massgaming.gov)>  
**Cc:** Rich Marlin <[Rich.marlin@massbuildingtrades.org](mailto:Rich.marlin@massbuildingtrades.org)>; Frank Callahan <[Fcallahan@massbuildingtrades.org](mailto:Fcallahan@massbuildingtrades.org)>  
**Subject:** MA Building Trades Unions Comments, MGC Racing Meeting

You don't often get email from [fcallahan@massbuildingtrades.org](mailto:fcallahan@massbuildingtrades.org). [Learn why this is important](#)



Cathy Judd-Stein  
Chair, Massachusetts Gaming Commission  
101 Federal Street  
Boston Ma. 02110

Dear Chair Judd-Stein:

On behalf of the Massachusetts Building Trades Council, I would like to submit comments to your proposed - APPLICATION FOR LICENSE TO HOLD OR CONDUCT A RACING MEETING.

The Massachusetts Building Trades Council was extensively involved in the passage of Chapter 194 of the Acts of 2011. This was one of the largest jobs acts in the history of the Commonwealth.

We were particularly involved in the language in Chapter 194 regarding workforce development. Our goal was to ensure that gaming jobs in Massachusetts are high road jobs with good wages and benefits for the people that build and work there.

We ask that you amend your Racing Proposal in Section 6 to include the language included in Section 18 Chapter 194:

## SECTION 6: PUBLIC INTEREST

whether the applicant has a contract with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies: (i) the number of employees to be employed at the gaming establishment, including detailed information on the pay rate and benefits for employees and contractors; (ii) the total amount of investment by the applicant in the gaming establishment and all infrastructure improvements related to the project; (iii) completed studies and reports as required by the commission, which shall include, but need not be limited to, an economic benefit study, both for the commonwealth and the region; and (iv) whether the applicant has included detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming establishment

Thank you for your consideration. If you have any questions please contact Rich Marlin @ 617-459-6501

Sincerely,



Francis X. Callahan, Jr  
President

**Massachusetts Building Trades Unions**

**35 Highland Ave, Malden, MA, 02148**

Office: [781-321-6282](tel:781-321-6282)

[Massbuildingtrades.org](http://Massbuildingtrades.org) | <https://www.facebook.com/MassBuildingTrades> | [https://twitter.com/Mass\\_BTC](https://twitter.com/Mass_BTC)

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From: Larry Mason <[REDACTED]@aol.com>  
Sent: Sunday, July 3, 2022 5:14 PM  
To: MGCcomments <MGCcomments@massgaming.gov>  
Subject: Plymouth Thoroughbred Race Track

[You don't often get email from [REDACTED]@aol.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Commission,

I Lawrence Mason live in Plymouth County and I approve of the licensing of Boston South and a Thoroughbred Race Track. Brockton, Marshfield and probably more have all allowed for Parimutuel wagering and Horse Racing in Plymouth County.

In 1934 Thoroughbred Horse Racing and Parimutuel wagering was legalized in Massachusetts. In 1971 the Massachusetts State Lottery came to every Town and City without a vote.

Plymouth has received local aid funding as a host community from the Massachusetts State Lottery since 1971. Last year Plymouth received \$ 4,160,906 from gambling in Plymouth. They even bet on the Keno style Horse Racing Game.

Plymouth has the Massachusetts State Lottery in Stores, Restaurants, Bars and Gas Stations plying everything from numbers games, scratch tickets and Keno.

Why would one State agency put another out of business. If a Town or City is allowed to vote for Horse Racing and Horse Racing Wagering then all forms of betting and receiving local aid host community from the Massachusetts State Lottery must end.

In my opinion It's wrong and a form of discrimination and violation of someone's rights.

The Town of Plymouth has charity gambling nights that the Select Board must approve and they collect a fee and percentage of the evening.

Suffolk Downs caused all this mess today. However, they are allowed to profit with a simulcast signal while everyone else goes under farms and families.

Lawrence A Mason  
[REDACTED]

Forwarded to Alex L. on July 5, 2022

Thank you for the request and opportunity to submit my comments and concerns in writing to the Commissioners. I believe I addressed the most important issues involved, and will try to detail them below. Certainly if anyone has any questions they can feel free to contact me.

### MGL c.128A, section 2

Most importantly, the proposed new application process is inconsistent with and contrary to MGL c.128A, section 2, which requires that an application “shall” be filed in one calendar year for racing in the following calendar year. There is no provision in chapter 128A for an application for racing in future years. In fact, the statute clearly contemplates that a yearly application “shall” be filed for any subsequent years and such has been the practice for decades.

Additionally, the Massachusetts Gaming Commission (“Commission” or “MGC”), has in recent years proposed legislation giving you the ability to award multiyear licenses, but the legislature has not seen fit to give you that ability or discretion.

Although it is likely that once a facility is built and licensed the Commission might not be able to refuse a subsequent license without good cause, it is precisely for this reason that the MGC should not contemplate approving any license—and especially not a conditional one for a dream--without ensuring that the proposal will meet all of the requirements of the law and be of benefit to the Commonwealth and its citizens and taxpayers.

### No viable proposal under current law has been proposed in decades

The written comments submitted to the Commission that are now available make clear that not even racing proponents believe racing to be a viable sport or means of revenue. They acknowledge that there are not enough horses available to come to Massachusetts to race the statutory minimum number of days. The proponents also continue to aver that financially they will request and require the ability to begin gambling immediately--perhaps even before breaking ground on a track or other racing related facilities. It appears the focus of all proponents in recent memory for racing in Lancaster, Spencer, Rowley, Sturbridge, Wareham, Great Barrington, Brockton, Plymouth, and Revere, has been gambling and subsidies, not racing. In any event, each has looked to have subsidies and gambling as a necessary prerequisite for any plan to race. In Rowley one argument presented was that traffic would not be an issue because they did not

anticipate many in person spectators. They expected the gambling to be conducted online.

#### Necessary Minimum Requirements for an Application to be Submitted

In addition to all of the concerns above, as for the draft application process, there are no proposed absolute minimums that must be submitted for an initial application.

The process contemplates that likely any request will be to race on what is now an empty lot that will take years to build. Obviously not all of the planned or required facilities will be in existence, yet that does not negate the necessity to require comprehensive plans and that all of the necessary groundwork has been completed.

Thus, at a minimum, especially in fairness to all applicants if there is more than one, you need to have specific minimum requirements for submittal of an application. There need to be certain enumerated questions that require an answer. At a bare minimum, that would need to be following sections of the application:

Most importantly, Section 4.1 Local approval pursuant to 128A section 13A.

In addition to asking if the approval has been obtained, there must be a requirement that an attested copy of the actual approval is affixed to the application, and that any and all conditions attached to such approval are stated and be added requirements for any license. Incomplete or misleading or misstated evidence of local approval have been submitted recently and in the 1990's (with the former Racing Commission). In one town, there had been no process whatsoever under section 13A. No publication, no public hearing, no statutory local approval.

#### All Promises should be part of the application and condition precedent to any license

An additional requirement that is necessary in the interest of integrity, fairness, and openness, is that the applicant should be required to list any and all promises made by the applicant, or any principal or attorney or agent of any applicant, to the local municipality or nearby municipalities. Such promises to be listed and made a condition of the license. Further, in any case where any such promise is contrary to federal or state or local law, or preempted by federal state or local law, especially any provision of 128A 128C, or 23K, such inconsistency shall require an automatic denial of the license application. Proponent requests in the last few years for local approval of a horse racing location have been coupled with promises that the proponents knew would be preempted by state law. MGL chapter 23K absolutely contemplates that the MGC will be

a watchdog to ensure the integrity of all applications and operations. That needs to start at this very beginning of the process.

#### Section 4.4

Answers to section 4.4 must be a requirement for any initial application. The application should state what specific other laws and approvals are required for the facilities contemplated, and detail how the requirements will be met. It should include specific evidence that all such planned facilities are consistent with current local zoning.

The draft application is notably silent on requiring any plans to ensure the welfare of horses on site and their aftercare. This should be included and a requirement. Also required should be questions related to planned compliance with the new Federal HISA regulations (Horseracing Integrity and Safety Authority).

#### Other required sections for any initial application:

2.2 The application should include detailed plans for parking of customers, staff, trainers, and others. Location and size of all areas for automobiles, trucks, horse trailers, and RVs, specifying which areas will have 24 hour parking. Whether and where RV areas will be set aside for customers as well as track workers.

Specific engineered plans for all facilities and tracks; including all amenities and grading, shape, and size of any proposed track.

Specifics as to the system of proposed waste management, with engineered plans as necessary.

Specifics as to proposed system of manure management and management of deceased horses. Including independent assessment of plans to protect the environment and local aquifer and water bodies.

2.5 Construction timeline. There absolutely needs to be a clear and reasonable construction timeline required.

2.6 Independent traffic study

2.7 Information on capital investment

2.8 Information on the financing structure



2.9 Proposed budget, including all sources of revenue and payments to the hosting municipality.

2.10 A detailed and reasonable economic impact or development study. This must include an independent economic analysis of all proposed activities: racing, simulcasting, how the purses are to be funded; how the funding and economics would be if the race horse development fund is terminated; and an analysis of all costs and revenue to the municipality and abutting communities.

2.11 An independent feasibility study to show the availability of horses to race at the place and times proposed, and detailing why or how this project would work where all other TB racing in New England has died out and the last remnant, Suffolk Downs, closed as a result of losing money year after year despite state subsidies.

Where the Suffolk Downs and Wareham proponents have claimed such racing cannot exist without a casino of some sort, overwhelming evidence needs to be presented as to how or why any proposal that is not tied to a casino expects to flourish and be an asset to the commonwealth.

#### Proposed Race Schedule

3. Schedule of proposed race days. Chapter 128A requires that an application "shall" state the proposed race days and hours for the following calendar year. Chapter 128C requires a minimum number of actual races and race days in order to simulcast. The feasibility study contemplated in 2.11 must show how any proposal is of benefit to taxpayers and the local community.

Thank you again for the opportunity to express these concerns.

Barbara Kellogg

Horse owner; Massachusetts Landowner and Taxpayer