



Lebanon County Commissioners

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#2692.

William G. Carpenter
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County Commissioners

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County Administrator
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October 29, 2008

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

IRRC Regulation #2692

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Mr. Kaufman:

We urge the Independent Regulatory Review Commission to disapprove final-form regulation #125-85 issued by the Pennsylvania Gaming Control Board on September 30, 2008. The final-form regulation blatantly violates both the express statutory language and the clear Legislative intent of the Pennsylvania Race Horse Development and Gaming Law (Act 71 of 2004). The regulation is also not in the public interest because it denies Lebanon County and East Hanover Township, Lebanon County, of necessary compensation and funding for the many public expenses associated with the operation of the Hollywood Casino at the Penn National Racetrack.

The Gaming Board seeks to dramatically constrict the meaning of "licensed facility" by its new definition. The revised definition limits the licensed facility to the casino gaming floor instead of the entire racetrack facility as intended by the Legislature. As a Category 1 facility, the Hollywood Casino must be located at a licensed thoroughbred racetrack, and it is uncontroverted that 22 acres of the Penn National Racetrack's approximately 600 acres is located in Lebanon County, not Dauphin County. Hollywood Casino could not be licensed as a Category 1 facility under the Gaming Act without the inclusion of the entire Penn National Racetrack as part of the "licensed facility."

The Gaming Act definition states that a "licensed facility" is the "physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines." The Act further states that "if a licensed facility is located in more than one county [or municipality], the amount available shall be distributed on a pro rata basis determined by the percentage of acreage located in each county [or municipality]." The Gaming Board has dramatically changed these important statutory terms to mean merely the gaming floor area, not the "physical land-based location" or "acreage" of the full licensed Racetrack facility. The Gaming Board's newly restricted interpretation of the statutory term "licensed facility" is both clearly erroneous and fails to effectuate the intent of the General Assembly.

This change would deny Lebanon County our pro rata share of 3.66% of the Local Share Assessment allocated to the host county from Hollywood Casino by the Gaming Act. The changed definition would also deny East Hanover Township, Lebanon County, its 3.66% of the Local Share Assessment allocated to the host municipality from Hollywood Casino by the law. Lebanon County and its East Hanover Township must spend substantial additional public funds for public services related to the operation of Penn National and Hollywood Casino, and for the additional costs of residential growth, tourism, public transport, road costs, law enforcement and essential emergency services necessitated by the Hollywood Casino.

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
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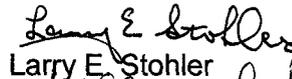
In short, the Gaming Board would give tens of millions of dollars annually for Dauphin County – and nothing at all for Lebanon County. *100% for Dauphin, zero for Lebanon.* This, despite the uncontroverted fact that the licensed facility at Penn National Racetrack actually straddles the two county lines. This is clearly not what the General Assembly intended. The Local Share Assessment funds for the host municipalities for any gaming facility are an essential part of the Gaming Act. For these reasons, the final-form regulation is against the public interest.

We urge the Commission to disapprove final-form regulation #125-85 for these reasons and for the additional reasons cited by the IRRC Comments on the record, by Members of the General Assembly representing Lebanon and Dauphin Counties and those cited by East Hanover Township, Lebanon County.

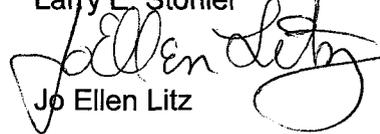
Sincerely,



William G. Carpenter



Larry E. Stohler



Jo Ellen Litz

WGC/LES/JEL

pc: Frank T. Donaghue, Acting Executive Director, Pennsylvania Gaming Control Board
Honorable Robin Wiessmann, State Treasurer
Keith Welks, Deputy State Treasurer
Honorable Thomas W. Wolf, Secretary of Revenue
David Barasch, Deputy Secretary of Revenue
Honorable Dennis Wolff, Secretary of Agriculture
Honorable Tom Corbett, Attorney General
Barbara Adams, Esq., General Counsel
Senator Mike Folmer
Representative Mauree Gingrich
Representative RoseMarie Swanger