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The _____ MICHIGAN GAMING _____ Newsletter



FERGUSON TURNS DOWN GREEKTOWN BOARD POSITION

On Wednesday, April 27, 2011, it was announced that Joel Ferguson will turn down an offer to serve on the Greektown Casino board of directors in order to retain his position on the Michigan State University (“MSU”) Board of Trustees.

Mr. Ferguson, who was first elected to the MSU Board of Trustees in 1986, has served as the group’s chairperson since 1992. In addition, he has served in a variety of public service positions, including being appointed by former governor John Engler to the Michigan Broadband Development Authority Board of Directors in 2002. Mr. Ferguson is also known for his work developing housing projects throughout the state and as former president of WLAJ-TV in Lansing.

Mr. Ferguson was offered a position on the Greektown Casino board during 2010 as part of Greektown’s bankruptcy reorganization process. At the time, it was thought that Ferguson might leave his position at MSU once the required Michigan Gaming Control Board suitability investigation was completed. Section 6 of The Michigan Gaming Control and Revenue Act of 1997 prohibits any person who “holds an elective office of a governmental unit of this state, another state, or the federal government” from serving as a director to a company that holds a casino license issued by the Michigan Gaming Control Board. As such, Mr. Ferguson could not serve in his role as MSU Trustee, a position filled by statewide election, while also serving as a director on the Greektown Casino Board.

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MICHIGAN GAMING CONTROL BOARD RELEASES DETROIT CASINO REVENUES FOR MARCH 2011

The Michigan Gaming Control Board (“MGCB” or “Board”) released the March, 2011 total adjusted revenue figures for the three Detroit casinos – MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino. Specifically, revenue for MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino was \$54.47 million, \$45.24 million, and \$33.1 million respectively.

Month in 2011	Total Adjusted Revenue 2011		
	MGM Grand Detroit	MotorCity Casino	Greektown Casino
	Total Adjusted Revenue	Total Adjusted Revenue	Total Adjusted Revenue
January	\$48,709,927.15	\$38,680,985.61	\$27,673,308.06
February	\$46,916,833.57	\$38,591,311.83	\$28,992,514.21
March	\$54,466,307.80	\$45,244,701.71	\$33,101,456.98
Total	\$95,626,760.72	\$77,272,297.44	\$56,665,822.27

Month in 2011	Total Adjusted Revenue 2011		
	All Detroit Casinos		
	Total Adjusted Gross Receipts	Total State Wagering Tax	Total Detroit Wagering Tax
January	\$115,064,220.82	\$9,320,201.89	\$12,542,000.07
February	\$114,500,659.61	\$9,274,553.43	\$12,480,571.90
March	\$132,812,466.49	\$10,757,809.79	\$14,476,558.85
Total	\$229,564,880.43	\$18,594,755.32	\$39,499,130.82

All three casinos are subject to a wagering tax of 19%, with 10.9% of this levy to go to the City of Detroit, and 8.1% to be paid to the State of Michigan. The figures above do not include: 1) wages and benefits paid to casino employees; and 2) payments to suppliers, service providers or vendors.

The market shares for MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino for the month of March, 2011 were 41%, 34% and 25%, respectively.

INDIAN GAMING AMENDMENT INTRODUCED IN U.S. SENATE

On April 8, 2011, Senators Diane Feinstein (D-CA) and Jon Kyl (R-AZ) introduced a bill in the U.S. Senate that would amend the Indian Gaming Regulatory Act of 1988 (“IGRA”) to establish geographical limits regarding where tribes could open off-reservation casinos.

Senate Bill 771, titled the “Tribal Gaming Eligibility Act,” would amend Section 20 of IGRA that allows tribes to conduct gaming activities on lands outside of the tribe’s reservation. Currently, Section 20 places a prohibition on gaming activities on off-reservation lands acquired by tribes after October 17, 1988, the effective date of IGRA. However, the law allows for specific exceptions to the prohibition, including

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certain land that has been placed into trust, and if the gaming activity is determined by the Secretary of the Interior and state officials to be in the “best interest” of the tribe.

If enacted the Tribal Gaming Eligibility Act would require the Secretary of the Interior to make specific findings in determining whether gaming activity would be in the tribe’s “best interest.” Specifically, the Secretary must determine whether the tribe has a “substantial, direct, and modern connection” to the newly acquired land. This is defined as land located within a 25-mile radius of the tribal government headquarters, that the tribe has a routine presence on the land, and that the tribe has not been recognized by the federal government within five years preceding the date of certification. If the tribe does not have a reservation, then the Secretary must determine if the newly acquired land is within 25 miles of “an area in which a significant number of members of the Indian tribe reside,” that the land was included in the tribe’s request for federal recognition, and that the tribe is not currently conducting any gaming activity.

In addition, the bill would require the Secretary to determine that the tribe has a “substantial, direct, aboriginal connection to the land.” This determination includes whether the tribe has a historical connection to the land, any removal actions taken by the federal or state governments, whether the tribe’s language is used in the area, the proximity to the tribe’s cultural sites, and other items showing a strong connection to the newly acquired land.

The bill would apply only to new trust applications submitted by tribes. However, commentators opposing the bill have stated that the bill would effectively prohibit any future off-reservation gaming activity because of the strict finding required under the new legislation. Senator Feinstein and other supporters of Senate Bill 771 have stated that the new legislation would curb the expansion of tribal gaming activities beyond what was intended in the original language of IGRA.