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The _____ MICHIGAN GAMING _____ Newsletter



MICHIGAN SUPREME COURT HEARS ORAL ARGUMENT ON PROPOSED CASINO BALLOT PROPOSAL

On Thursday, August 30, 2012, the Michigan Supreme Court heard oral arguments relating to whether a proposal to allow eight new casinos in the state of Michigan should be on the November ballot. Proponents of the ballot proposal filed an appeal with the court after the Michigan Board of State Canvassers did not certify the language for the ballot on Monday, August 27, 2012.

The casino ballot proposal was one of four ballot appeals filed with the court, and the court heard oral arguments on all four matters. The opponents of the ballot proposal have contended that it conflicts with existing language in the constitution, and thus required publication of the specific existing constitutional language being impacted as part of the petition process. Article XII, Section 2 of the Michigan Constitution requires this if the existing constitutional provisions are being “altered or abrogated.”

The proponents of the ballot proposal have argued that such specificity is not required if the provisions of the ballot proposal language can be harmonized with the existing constitutional language by a court in the future, and argued that such harmonization could occur.

The ballot proposal provides for eight new casinos, each of which are to receive liquor licenses. An existing constitutional provision (Article IV, Section 40) provides that the Liquor Control Commission shall “exercise complete control of the alcoholic beverage traffic” within the state. Opponents of the ballot proposal have argued that the proponents should have published Article IV, Section 40 as part of the petition process.

(Continued on page 2)

Chief Justice Robert P. Young, Jr. made it clear from his questioning that he would like to determine clear definitions for the relevant terms “altered or abrogated” and directed many of his questions to this topic.

A decision by the Michigan Supreme Court is expected soon, as according to existing state guidelines, the ballot initiatives must be certified by Board of State Canvassers by September, 7, 2012, in order to be placed onto the ballot.

POKAGON BAND ANNOUNCES DEVELOPMENT PLAN FOR SOUTH BEND, INDIANA

On Friday, August 24, 2012, the Bureau of Indian Affairs (“BIA”) published a Notice of Intent to Prepare an Environmental Impact Statement in regards to a proposed plan by the Pokagon Band of Potawatomi Indians (“Tribe”) to develop land in South Bend, Indiana for economic development projects. The proposed development includes plans for 44 housing units, multi-purpose and health facilities, and a Class III gaming facility with ancillary structures.

The Tribe currently holds approximately 165 acres in South Bend that it is seeking to place into trust in order to establish a tribal land base in Indiana. By placing the land into trust, the Tribe would be eligible to receive certain Federal benefits on the land, and would also be eligible to pursue a Class III gaming facility if specific criteria are met.

In order to establish a Class III gaming facility, the Tribe must meet certain federal eligibility requirements as well as negotiate a tribal-state gaming compact with the State of Indiana. There are currently no tribal casinos located in Indiana, though there are thirteen commercial casinos in the state.

The Environmental Impact Study will be prepared to assess the possible adverse effects that the proposed development may have on the geology, air and water quality, traffic, public health, visual aesthetics of the area, and other socioeconomic considerations. The study will include analysis of several different development scenarios and will take into account any public commentary received by the BIA.

The Tribe has 2,883 acres of land in Michigan that is held in trust by the United States. If approved, the South Bend land would be the Tribe’s only trust land in the state of Indiana. In addition to other economic development projects in Michigan, the Tribe operates the Four Winds casino resorts in Hartford Township and New Buffalo. The Tribe also proposed establishing a third gaming facility near its tribal headquarters in Dowagiac earlier this year, which is expected to be completed in 2013.

The BIA will hold a public scoping meeting on September 27, 2012 in South Bend to discuss potential land use issues and to receive commentary from the public. The BIA also will accept written comments on the plan until October 9, 2012.

AGA PREPARES WHITE PAPER ON SWEEPSTAKES CAFÉS

As part of its continued regulatory reform efforts, the American Gaming Association (“AGA”) has prepared a white paper on internet sweepstakes cafes. The paper, tentatively titled “Internet Sweepstakes Cafes: Unregulated Storefront Gambling in the Neighborhood,” discusses the rise of internet sweepstakes cafes and the current efforts on behalf of states to regulate the growing industry. It is authored by David O. Stewart, partner at Ropes & Gray and respected expert in the field of gaming law.

The white paper follows the recent expansion of internet sweepstakes cafes, a variation of the traditional internet café where a patron can purchase a set amount of internet time to use on an on-site computer terminal. These locations, however, also include a number of entries into various sweepstakes contests as part of the purchase of internet time, allowing the patron to play sweepstakes games on the computer and win prizes. The AGA has taken the position that the inclusion of sweepstakes entries with the purchase prize effectively turns these outlets into gambling operations and, therefore, should be treated as such by state and local officials.

(Continued on page 3)

Earlier this year, the Michigan Gaming Control Board published a guide on the topic which put forth the laws governing the conduct, noting the state's ban on the operation of unauthorized lotteries and gift enterprises. While the guide focuses on providing the applicable state statutes that regulate the activity, it does note that "[t]hese establishments may be run under the false premise they are conducting legal promotional sweepstakes. But there is no such exception for this type of gaming under Michigan law."

Furthermore, the state attorney general has taken action against certain operations in the state, including issuing cease-and-desist letters to nine internet sweepstakes cafes on June 8, 2012 which accuse the locations of operating illegal gambling activities. In response to a similar letter issued by the state attorney general, the Flint Business Center, one of the targeted sweepstakes cafes, filed a request for a preliminary injunction against the state in order to prevent the state from taking enforcement measures against the business. However, the injunction was denied by the Genesee County Circuit Court on June 18, 2012.

The AGA is planning on publishing its white paper on the topic this Fall.

HARD ROCK CAFÉ FOUR WINDS GRAND OPENING SEPTEMBER 7

On Tuesday, August 28, 2012, Four Winds Casino announced that the grand opening of Hard Rock Café Four Winds will take place on Friday, September 7, 2012. Popular musicians Sheryl Crow and Uncle Kracker will perform during a private reception beginning at 6:00 p.m. Doors will open to the public at 9:00 p.m. and will be followed by a classic rock performance by The Devonshires at 11:00 p.m.

"Hard Rock Café Four Winds is an ideal place to dine and to take in great live music while enjoying the unique rock n 'roll experience that only the Hard Rock can provide," said Matt Harkness, General Manager for Four Winds Casinos. "We're looking forward to celebrating the grand opening of Hard Rock Café Four Winds on this very special night."

The 12,000 square foot Hard Rock Café Four Winds opened its doors on July 11 and spans two floors. It features seating for more than 275 people and also includes a live stage. It is also decorated in over 150 pieces of rock 'n' roll memorabilia from Hard Rock's collection.

Details on performances at Hard Rock Café Four Winds are available at http://www.fourwindscasino.com/dining/hard_rock_cafe.asp.

GUN LAKE CASINO PRESENTS DONATIONS TO ALLEGAN COUNTY LIBRARIES

On Thursday, August 30, 2012, Gun Lake Casino, through its Charitable Giving Program, presented a total of \$13,000 to 13 Allegan County libraries. Gun Lake Casino presented each library with a \$1,000 check.

"We are thankful we are able to make a positive impact for so many individuals in our community," said John Shagonaby, CEO of the Gun Lake Tribal Authority. "We are committed to giving back to our neighbors in West Michigan."

The Gun Lake Casino is located on U.S. 131, between Grand Rapids and Kalamazoo. It features over 1,500 slot machines, 28 table games, a food court, and a 225-seat café.

GLOBAL GAMING EXPO EARLY BIRD SPECIALS EXPIRE SEPTEMBER 10

Early Bird Discounts for the 2012 Global Gaming Expo (G2E), to be held at The Sands Expo and Convention Center in Las Vegas, Nevada, from October 1-4, expire on September 10.

Early Bird Discounts include group discounts, Native American Casino Registration packages and special hotel and travel deals which registrants may take advantage of on the G2E website.

(Continued on page 4)

Attendees will also have the opportunity to apply for Express Badges for G2E 2012. Expo organizers say the new badges will expedite registration and check-in time, thus creating more ease and convenience.

Over 30,000 gaming professionals from around the world are scheduled to attend this year's G2E from all gaming industry trades and sectors. To register, or for more information about G2E, please visit www.globalgamingexpo.com.