

ORDER 2013-121

AN ORDER OF THE INDIANA GAMING COMMISSION CONCERNING: (1) A DEVIATION FROM THE TRANSFER APPLICATION PROCESS; AND (2) GRANTING THE EXECUTIVE DIRECTOR AUTHORITY TO ISSUE A FINAL APPROVAL OF THE REIT STRUCTURE, TRANSFER THE GAMING LICENSE, AND ISSUE A PERMANENT SUPPLIER'S LICENSE

Penn National Gaming ("Penn") is the parent company of Indiana Gaming Company, L.P. d/b/a Hollywood Casino Lawrenceburg ("Hollywood"). Penn has proposed separating its operating assets from its real property assets by creating a Real Estate Investment Trust ("REIT") named Gaming and Leisure Properties, Inc. ("GLPI"), a publicly held company which will ultimately hold Hollywood's real property assets through a wholly-owned subsidiary, GLP Capital, LP, authorized to do business in Indiana. Penn has obtained a private letter ruling from the Internal Revenue Service regarding the REIT. The private letter ruling from the IRS requires a series of transactions that must occur in sequence for Penn to successfully implement the transfer of assets to the REIT.

As related to Indiana, upon completion of the transfer of assets, GLPI would own the real estate at Hollywood. GLPI currently holds a temporary supplier's license issued by the Commission. The operational responsibilities would remain with Hollywood. The restructuring plan necessitates converting Hollywood from a limited partnership to a limited liability company by transferring the casino license from Indiana Gaming Company, L.P. to Indiana Gaming Company, LLC, which has not yet occurred, but will occur pursuant to the process necessitated by the IRS's private letter ruling. Even so, the ultimate owner of the licensee, Penn, will remain the same. The officers, directors, and key persons will also remain the same and the transfer of the license is one of form, not substance.

IC 4-33-4-21 provides that a licensed owner must apply for and receive Commission approval before an owner's license is transferred, sold, or purchased. 68 IAC 2-1-4(d) provides that an applicant that changes from one form of legal entity to another is a new applicant and requires a new Part I of the application and an application fee. Because a new Part I of the application is burdensome, a waiver under 68 IAC 2-1-13 as to a new Part I of the application was requested.

COMMISSION ACTION

Approval of deviation of requirement for new Part I of application and transfer of license:

Based on the foregoing, and pursuant to 68 IAC 2-1-13, the Commission finds that the requirement to submit a new Part I would be impractical and burdensome, and that because the ultimate owner will remain the same, a waiver would fulfill the purpose of the rule, is in the best interest of the public and the gaming industry in Indiana, and does not violate IC 4-33. Therefore, the Commission hereby **APPROVES** a deviation of 68 IAC 2-1-4 as necessary to allow the transfer of the license issued to Indiana Gaming Company, L.P to Indiana Gaming Company, LLC without a new Part I.

Assignment of authority to the Executive Director to approve REIT structure, transfer the gaming license, and approve a permanent supplier license:

The Commission has also reviewed Penn's proposed REIT structure and, per IC 4-33-3-18 hereby **ASSIGNS** the Executive Director the authority to issue a final approval of the REIT structure in sequence according to a schedule which satisfies the IRS's private letter ruling, to transfer the gaming license to Indiana Gaming Company, LLC, and to approve a permanent supplier's license for GLP Capital, LP, per IC 4-33-7 and 68 IAC 2-2.

The assignation of this authority to the Executive Director is conditioned upon the following: (1) a favorable conclusion after consultation with Dr. Charlene Sullivan, the Commission's outside financial analyst, that the transaction should be approved; and (2) no material changes to the proposed transaction as approved in the private letter ruling issued by the IRS. If there are any substantive changes to Penn's proposed transaction or if the Commission's staff concludes that the transaction is unsound after consulting with Dr. Sullivan, the Executive Director may decline to issue a final approval, which would require Penn to appear and present the proposal for consideration at a Commission meeting.

IT IS SO ORDERED ON THIS 27th DAY OF JUNE, 2013

THE INDIANA GAMING COMMISSION:



Matt Bell, Chair

ATTEST:



Marc Fine, Vice-Chair