



pennsylvania
OFFICE OF OPEN RECORDS

Executive Director
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: Right to Know Law Appeal - Denial or Partial Denial by Agency

Dear Executive Director:

This is an appeal under the Pennsylvania Right to Know Law, 65 P.S. §67.101. I requested documents from PA Gaming Control Bd. . The Agency denied or partially denied my request for information. I am appealing the denial of my request, under section 1101 of the Law and provide the following information in accordance with the Law:

Requester's name: Adam H. Cutler
Address/City/State/Zip: 1709 Benjamin Franklin Pkwy, 2nd Floor, Philadelphia, PA 19103
Date of Right to Know request: Oct. 13, 2009 Date of Agency Response: Oct. 15, 2009
Telephone and fax number: (215)627-7100; Fax (215)627-3183
Concise statement of facts (may attach additional pages if necessary)

See attached

Name and address of Agency: PA Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106

Name and title of the Agency official who denied the request for information:

Andrew H. Bender, Open Records Officer

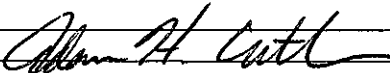
Description of the records requested: See attached

List any grounds upon which the requester asserts that the record is a public record:

See attached

Address any grounds relied upon by the Agency for denial of the request:

See attached

Respectfully Submitted,  (must be signed)

Required documents to include with appeal – copies of original RTK request, Agency denial

November 5, 2009

STAFF

Jennifer R. Clarke
Executive Director

Judith A. Gran
Director, Disability Project

Adam H. Cutler
*Director, Public Health and
Environmental Justice Project*

James Eiseman, Jr.
Sonja D. Kerr
Senior Attorneys

Michael Churchill
Of Counsel

Edwin D. Wolf
*Executive Director
1974-1976*

VIA E-MAIL

Terry Mutchler, Executive Director
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
openrecords@state.pa.us

Re: Right to Know Law Appeal - Denial by Agency

Executive Director Mutchler:

I write on behalf of my client, the Chinatown Preservation Alliance, to appeal the October 15, 2009 denial of its October 13, 2009 Open Records request directed to the Pennsylvania Gaming Control Board (attached, respectively, as Exhibits A and B hereto). The Chinatown Preservation Alliance (CPA) is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania to preserve, protect and promote the general welfare of and quality of life in the area of the City of Philadelphia commonly known as Chinatown and of the residents, community organizations and institutions, and businesses located there. Philadelphia Chinatown has, for approximately 140 years, been the cultural center for ethnic Chinese and other Asian populations in the Philadelphia region. CPA is one of many neighborhood organizations deeply concerned about the creation of casinos in Philadelphia and has an interest in monitoring the progress that Philadelphia Entertainment and Development Partners, L.P., is making toward construction of its licensed casino at the approved location, as well as in monitoring the Pennsylvania Gaming Control Board's enforcement of its September 1, 2009 Order directing Philadelphia Entertainment and Development Partners, L.P., to make certain written submissions concerning the progress of the casino project (attached as Exhibit C hereto).

STATEMENT OF FACTS

On September 1, 2009, the Pennsylvania Gaming Control Board (PGCB) ordered Philadelphia Entertainment and Development Partners, L.P. (PEDP), as a condition of extending PEDP's Category 2 slot machine license, to provide certain updates, reports and information beginning on October 1, 2009 including, but not limited to, the following: written monthly updates to the Bureau of Investigations and Enforcement (BIE) regarding (a) PEDP's efforts to develop a facility; (b) PEDP's efforts and progress to obtain financing for the facility; and (c) the status of all outstanding licenses, certifications and permits required by all federal, state,

county, local or other agency as prerequisites for construction and development of the facility. *See* Exhibit C (PGCB Docket No. 1367, Order dated September 1, 2009).

PEDP submitted a timely report to BIE on October 1, 2009, which we requested from the PGCB on October 13, 2009 pursuant to the Pennsylvania Right-to-Know Law (RTKL).¹ Specifically, we requested “All documents and records, including any correspondence or appendices associated with them, submitted to the Gaming Control Board, including to any of its bureaus, offices or employees, by Philadelphia Entertainment & Development Partners, L.P. (PEDP), or any person acting on behalf of PEDP or any of its partners or investors, pursuant to the Board’s September 1, 2009 Order.”

By letter dated October 15, 2009 the PGCB’s Open Records Officer informed us that the documents requested were not “public records” for the purposes of the RTKL. The PGCB’s Open Records Officer cited several statutory exceptions listed in the RTKL that purportedly supported the denial:

- 65 P.S. § 67.708(b)(17) – information related to or resulting in a noncriminal investigation;
- 65 P.S. § 67.708(b)(17)(iv) – information related to or resulting in a noncriminal investigation that includes information made confidential by law;
- 65 P.S. § 67.708(b)(6)(A) – personal identification information;
- 65 P.S. § 67.708(b)(3)(iii) – building plans or infrastructure records whose disclosure of critical systems may threaten the safety or physical security of a facility.

On October 16, 2009 PEDP, through its legal counsel, submitted a letter to Gregory C. Fajt, Chairman of the PGCB (the October 16 Letter). The October 16 Letter served as PEDP’s submission of its initial plan, another condition of the PGCB’s September 1, 2009 Order extending PEDP’s slot machines license. The October 16 Letter, which bears no statement that its contents are in any way confidential, was made public through various sources, including without limitation local media such as PlanPhilly.org.²

GROUND FOR APPEAL

Our position is that the PGCB Open Records Officer’s total denial of our request was in error. We ask that the Office of Open Records grant our appeal and order the disclosure of the requested documents, subject to any appropriate redaction pursuant to Section 67.706 of the RTKL.³

¹ 65 P.S. § 67.101, *et seq.*

² Oct. 16, 2009 letter available at PlanPhilly.com, http://www.planphilly.com/sites/planphilly.com/files/LETTER_DATED_10-16-09_RE_INITIAL_PLAN.pdf (last accessed Nov. 5, 2009).

³ 65 P.S. § 67.706.

Both the BIE and PGCB qualify as Commonwealth agencies subject to the RTKL and its disclosure obligations.⁴ It is well-settled that there is a presumption that agency records are public; Commonwealth agencies have the burden of establishing by a preponderance of the evidence that the requested public record is exempt from disclosure.⁵ An agency must show by the “greater weight of the evidence” that the records are not public.⁶ In addition, an agency must state the “specific reasons for the denial” of each record.⁷ Despite this, the PGCB Open Records Officer, in his denial of our open records request, failed to explain how the asserted exceptions applied to the documents requested, instead merely quoting several exceptions verbatim from the statute.

The PGCB has failed to support its claim of exception under 65 P.S. 67.708(b)(17) pertaining to information related to or resulting in a noncriminal investigation.

The PGCB’s Open Records Officer (ORO) first points to the general power of the BIE to conduct investigations as support for the assertion that the records sought are nonpublic.⁸ This assertion is not supported by evidence. The Office of Open Records has held that not “every inquiry or activity conducted by an agency rises to the level of... investigation.”⁹ Despite the ORO’s claim that the reports sought are “investigative in nature,” nothing in the ORO’s letter explains how the records at issue pertain to an investigation, nor is there any evidence presented in the denial that BIE is performing or intends to perform an investigation of any kind. Indeed, the requested documents were not prepared by the BIE; they were prepared and submitted by the licensee, PEDP, at the direction of the PGCB and as one of several conditions for a 24-month extension of the time for PEDP to make slot machines available for play. The records sought are simply not a result of or incident to any investigation initiated by the BIE or the PGCB.

The Office of Open Records has held that it “rejects as a matter of interpretation and common sense that every inquiry and activity conducted by an agency rises to the level of the kinds of noncriminal investigation contemplated in Section 708(b)(17).”¹⁰ Permitting an agency to do so “improperly negates the broad reach of the RTKL and frustrates its purpose.” *Id.* If the RTKL is interpreted to permit an agency to withhold public records whenever they involve a mere inquiry, this exception will quickly swallow the rule. In addition, the reports are the product of an order by the PGCB attempting to hold PEDP accountable for the promises PEDP has made to the PGCB in exchange for the issuance and extension of a Category 2 slot machine license. Absent public access to the monthly

⁴ 65 P.S. §§ 67.102, 67.301.

⁵ 65 P.S. § 67.708(a)(1).

⁶ *Com. v. Brown*, 567 Pa. 272, 284, 786 A.2d 961 (2001).

⁷ 65 P.S. § 67.903(2).

⁸ 4 Pa. C.S.A. § 1517.

⁹ *Nelle v. Penn-Delco Sch. Dist.*, OOR Dkt. AP 2009-0477, at 6.

¹⁰ *HCR-Manor Care v. Pennsylvania Department of Health*, OOR Dkt. AP 2009-0121, at 7.

updates, that effort to hold PEDP accountable would be rendered meaningless, and the public would lose the ability to monitor the PGCB's enforcement of its September 1, 2009 Order.

The 65 P.S. 67.708(b)(17)(iv) exemption, relating to information pertaining to an investigation made confidential by law, does not apply to the records requested.

The ORO asserts that the records are confidential in accordance with Sections 1206(f) and 1207 of the Gaming Act.¹¹ Section 1206(f) pertains to the confidentiality of inquiries into the good character of applicants and background investigations. The ORO's denial fails to address how the information submitted by PEDP is related in any way to these exemptions. The information CPA has sought was not submitted by PEDP pursuant to Section 1310(a), or as part of a "background investigation" by the PGCB, a term which is narrowly defined in Section 1103 of the Gaming Act.¹² PEDP already has a license, and has already gone through the good character and background investigations required under the Gaming Act. The documents requested were submitted as a condition of the extension of PEDP's time to make slot machines available for play under its existing license. The protections afforded applicants who are undergoing criminal and character investigations are not applicable to PEDP in the context of these required disclosures. In addition, BIE's general regulatory authority to restrict access to confidential information under Section 1207 in no way exempts BIE from the RTKL, which clearly was intended by legislators to subject all Commonwealth agencies to clear standards concerning the disclosure of agency records.

Even if the information contained in the requested report is deemed confidential within the meaning of Sections 1206(f) or 1207 of the Gaming Act, the actual contents of the October 1 report are no longer confidential as a matter of fact, because the substance of the October 1 report has already been publicly disclosed. On October 16, 2009 PEDP submitted a letter from its legal counsel to the Chairman of the PGCB. This letter, which was made public in local media reports, expressly asserted its "consistency with the monthly updates Foxwoods is submitting to the BIE," clearly stating that the information contained therein repeated the information in the October 1, 2009 monthly update report to the BIE.¹³ The PGCB cannot claim confidentiality as grounds for withholding information in one document when that same information has been disclosed to the public through another.

The denial letter does not address PGCB's duty to redact nonpublic information when it is able to do so.

Despite the mandate of the RTKL, the ORO ignores redaction of nonpublic information as a means of making public the requested documents. According to the RTKL, an

¹¹ 4 Pa. C.S.A. §§ 1206(f), 1207.

¹² "Background investigation" is defined as "[a] security, criminal, credit and suitability investigation of a person as provided for in this part. The investigation shall include the status of taxes owed to the United States and to the Commonwealth and its political subdivisions." 4 Pa. C.S.A. § 1103.

¹³ See Oct. 16 Letter, *supra* note 2.

“agency may not deny access to the record if the information which is not subject to access is able to be redacted.”¹⁴ Any material within the requested documents that bears on personal financial information, or any other exception that is proven to apply, should simply be redacted, and the remaining public information should be made available to CPA in response to its request.

The 65 P.S. 67.708(b)(3)(iii) exception for records containing building plans that could expose vulnerability of critical systems is inapplicable to the specific records requested.

In the letter submitted on October 16, 2009, PEDP discusses “Next Steps,” one of which is to retain design and construction professionals. Seeing how PEDP has not yet even selected any architects or designers, it is difficult to imagine how the report submitted to the BIE on October 1, 2009 could properly fall under this exception. The PGCP’s assertion of the infrastructure security exception is therefore without any factual merit.

Further, the Office of Open Records has held that an agency attempting to establish the infrastructure security exception must show both (1) the reasonable likelihood of endangerment and (2) a threat to the physical security of the building.¹⁵ In addition, the agency must “substantiate” the use of this exception by showing that releasing the requested records is “reasonably likely” to endanger the security of the building. *Id.* The ORO’s denial makes neither of these showings in connection with its assertion of the Section 708(b)(3)(iii) exception. Indeed, there is no demonstrable risk, much less a reasonable likelihood, that public disclosure of the monthly update reports or other requested documents will in any way endanger the physical security of the proposed casino or surrounding infrastructure.

CONCLUSION

The PGCB has not met and cannot meet its burden of showing by a preponderance of the evidence that the requested documents (including without limitation PEDP’s monthly update reports to the BIE submitted on October 1, 2009) are nonpublic records. In fact, the ORO fails to proffer any evidence in support of the asserted exceptions, instead simply providing a laundry list of cited exceptions in the statute without explanation of their relevance. This shotgun approach to exceptions is without merit, particularly in light of the RTKL’s requirement that an “agency may not deny access to the record if the information which is not subject to access is able to be redacted.” 65 P.S. § 67.706. Even if some of the materials in the requested records may contain information that is proven to be confidential as a matter of law (and that has not already been publicly disclosed), or plans that are proven to fall within the (b)(3)(iii) exception, or financial information that is proven to fall within the (b)(6)(i) exception, that information ought to be properly redacted and the remainder disclosed to the public, as the RTKL intends. The RTKL exceptions were not intended to justify the complete withholding of information in which

¹⁴ 65 P.S. § 67.706.

¹⁵ *Benevy v. Lansford*, OOR Dkt. AP 2009-0365, at 6.

the public has an interest and a right, particularly where the public seeks to monitor an agency's enforcement of its own orders.

We ask the Office of Open Records to grant our appeal and order disclosure of the requested records, subject to any appropriate redaction. We thank the Office of Open Records for its time and consideration of this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Adam H. Cutler". The signature is fluid and cursive, written over a horizontal line.

Adam H. Cutler
PA Attorney ID No. 76605
PUBLIC INTEREST LAW CENTER
OF PHILADELPHIA
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103
Tel: (215) 627-7100, ext. 224
Fax: (215) 627-3183
E-mail: acutler@pilcop.org

EXHIBIT A



PENNSYLVANIA GAMING CONTROL BOARD
P.O. BOX 69060
HARRISBURG, PENNSYLVANIA
17106-9060

Andrew H. Bender
Phone: (717) 346-8300
Fax: (717) 346-8350
E-mail: pgcb@state.pa.us

Chairman
GREGORY C. FAJT

Commissioners
RAYMOND S. ANGELI
JEFFREY W. COY
JAMES B. GINTY
KENNETH T. MCCABE
SANFORD RIVERS
GARY A. SOJKA

Ex-Officio Members
ROBERT M. MCCORD
STEPHEN H. STETLER
RUSSELL REDDING

October 15, 2009

Adam H. Cutler
Public Interest Law Center of Philadelphia
125 S. Ninth Street, Suite 700
Philadelphia, PA 19106
acutler@pilcop.org

Re: Right to Know Law Request 09-029

Dear Mr. Cutler:

This letter acknowledges receipt by the Pennsylvania Gaming Control Board of your written request for records under the Pennsylvania Right-to-Know Law, 65 P. S. §§ 67.101 et seq. Your request was received on October 13, 2009. A copy of your request is attached for reference. For purposes of this letter, the "identified records" are those identified in your letter.

We have reviewed your request for "All documents and records, including any correspondence or appendices associated with them, submitted to the Gaming Control Board, including to any of its bureaus, offices, or employees, by Philadelphia Entertainment & Development Partners, L.P. (PEDP), or any person acting on behalf of PEDP or any of its partners or investors, pursuant to the Board's September 1, 2009 Order..." We have determined that the identified records are not "public records" for purposes of the Right to Know Law; therefore, your request is denied.

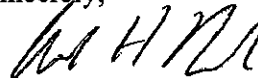
In its Order of September 1, 2009, the Board places requirements on PEDP to submit certain reports to the Board or the Bureau of Investigations and Enforcement ("BIE"). At issue in your letter are the reports due to BIE "beginning October 1, 2009." These reports, including any correspondence or appendices associated with them, are investigative in nature and, as such, are not public records. See 4 Pa.C.S. §1517.

More specifically, the reports, correspondence or appendices submitted by PEDP to BIE pursuant to the Board's September 1, 2009 Order are confidential in accordance with the Gaming Act and cannot be released. See 4 Pa.C.S. §1206(f) and §1207. Additionally, the Right to Know Law exempts these records from disclosure under; 65 P.S. §67.708(b)(17) – record of an agency relating to a noncriminal investigation; 65 P.S. §67.708(b)(17)(iv) – record that includes information made confidential by law; 65 P.S. §67.708(b)(6)(A) – relating to personal financial information; and 65 P.S. §67.708(b)(3)(iii) – building plans or infrastructure records that could expose vulnerability of critical systems.

You have the right to appeal this denial of information in writing to Terry Mutchler Executive Director, Office of Open Records (OOR), Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

If you choose to file an appeal you must do so within 15 business days of the mailing date of this response. In order to appeal you must send to the OOR and simultaneously to me, in the same manner as the appeal is sent to the OOR (e-mail, fax, mail or hand delivery): 1) this response, 2) your request and 3) the appeal form that is available on the OOR website at: <https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf>. You also should consult the Citizen's Guide to the Appeal Process on the OOR website: <https://www.dced.state.pa.us/public/oor/rtkcitizensguidetoappeals.pdf>.

Sincerely,



Andrew Bender
Open Records Officer
P.O. Box 69060
Harrisburg, PA 17106
717-346-8300 (phone)
717-346-8350 (fax)

Attachment:

EXHIBIT B

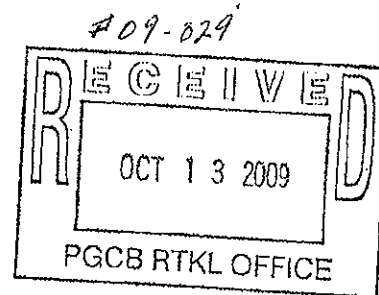
GB, PGCB RTKL Requests

From: Adam Cutler [acutler@pilcop.org]
Sent: Monday, October 12, 2009 5:51 PM
To: GB, PGCB RTKL Requests
Subject: Open Records Request

Please see the attached Open Records Request. Thank you in advance for your prompt response.

Adam H. Cutler

Director, Public Health and Environmental Justice Law Clinic
Public Interest Law Center of Philadelphia
125 S. Ninth Street, Suite 700
Philadelphia, PA 19107
215-627-7100, ext. 224
215-627-3183 (fax)
acutler@pilcop.org



WE ARE MOVING!

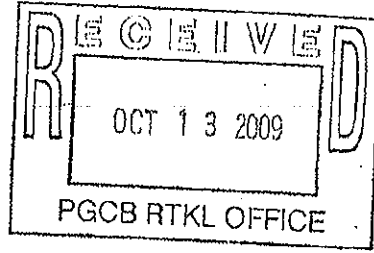
AFTER October 31, OUR ADDRESS IS:

**Public Interest Law Center of Philadelphia
1709 Benjamin Franklin Parkway, Second Floor
Philadelphia, PA 19103**



PUBLIC INTEREST LAW
CENTER OF PHILADELPHIA
AFFILIATED WITH THE LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER LAW

#09-029



October 12, 2009

STAFF

Jennifer R. Clarke
Executive Director

Judith A. Gran
Director, Disability Projects

Adam H. Cutler
Director, Public Health and
Environmental Justice Clinic

James Eistman, Jr.
Santia D. Kere
Senior Attorneys

Michael Churchill
Of Counsel

Edwin D. Wolf
Executive Director
1974-1976

VIA Fax: (717) 346-8350
Via email: pgcbrtklrequests@state.pa.us
And via regular mail

Pennsylvania Gaming Control Board
ATTN: Open Records Office
303 Walnut Street, Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17101-1825

Re: Right to Know Act Request

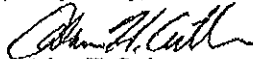
Dear Open Records Officer:

On behalf of the Chinatown Preservation Alliance, a nonprofit organization incorporated in the state of Pennsylvania, I enclose a request on the Pennsylvania Gaming Control Board's Right-to-Know Act form concerning Philadelphia Entertainment and Development Partners, L.P.'s submittals pursuant to the Board's September 1, 2009 Order. I am a legal resident of the Commonwealth of Pennsylvania.

If you would like to contact me in writing, I would prefer receiving your writing via email as it is more expeditious.

Thank you for your attention to this matter.

Respectfully,


Adam H. Cutler

REQUEST FOR ACCESS TO PUBLIC RECORDS UNDER THE PENNSYLVANIA RIGHT-TO-KNOW-LAW

TO: Open Records Officer Pennsylvania Gaming Control Board PO Box 69060 Harrisburg, PA 17106	FOR PGCB PURPOSES ONLY RTKL Request No.: <u>09-029</u> Date Request Received: <u>10-13-09</u> Date Request Due: <u>10-20-09</u> Date Response Sent: _____ <input type="checkbox"/> e-mail <input type="checkbox"/> fax <input type="checkbox"/> mail <input type="checkbox"/> telephone call Comments: _____
<div style="border: 2px solid black; padding: 5px; width: fit-content; margin: auto;"> RECEIVED <div style="border: 1px solid black; padding: 2px; display: inline-block;">OCT 13 2009</div> PGCB RTKL OFFICE </div>	
REQUESTER: Name <u>Adam Cutler, Esquire</u> Address <u>125 South 9th Street, Suite 700</u> City/State/Zip <u>Philadelphia, PA 19107</u> Telephone <u>215-627-7100</u> Facsimile <u>215-627-3183</u> E-Mail <u>acutler@pilcop.org</u>	SEND RESPONSE TO (if different): Name <u>same</u> Address _____ City/State/Zip _____ Telephone _____ Facsimile _____ E-Mail _____

Pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101, et seq., I hereby request that the Pennsylvania Gaming Control Board provide me access to the records identified or described below:

(Please specifically identify the record being requested, specify what it is about/concerns, what format it is in (if you know), and format in which you are requesting the record.)

All documents and records, including any correspondence or appendices associated with them, submitted to the Gaming Control Board, including to any of its bureaus, offices or employees, by Philadelphia Entertainment & Development Partners, L.P. (PEDP), or any person acting on behalf of PEDP or any of its partners or investors, pursuant to the Board's September 1, 2009 Order. If the documents and records are already in digital or PDF format, or if conversion to digital or PDF format is not cost prohibitive, then such format is preferred by the requester.

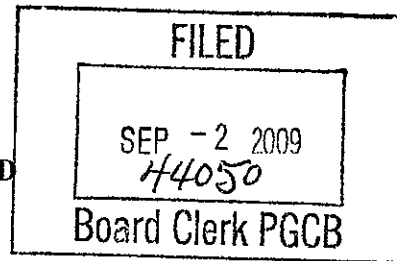
The requester prefers to receive written communications via email, if reasonably possible. Thank you.

Please Note:

- *Under the Pennsylvania Right-to-Know Law PGCB may charge for the cost of postage, duplication, certification, and other costs necessarily incurred to respond to your request.
- *The PGCB may post requests and responses on its website.
- *Under 65 P.S. §1304, a court may impose sanctions, including attorney fees and costs of litigation for the filing of frivolous requests and appeals.

EXHIBIT C

BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD



IN RE: :
PHILADELPHIA ENTERTAINMENT AND :
DEVELOPMENT PARTNERS, L.P., d/b/a : PGCB Docket No. 1367
FOXWOODS CASINO PHILADELPHIA :
:

ORDER

AND NOW, this 1st day of September 2009, the Board hereby **GRANTS** Philadelphia Entertainment and Development Partners, L.P., d/b/a Foxwoods Casino Philadelphia's ("Foxwoods") May 22, 2009 Petition to Extend Time to Make Slot Machines Available for a period of twenty-four months to run from May 29, 2009, or until May 29, 2011. The authorization granted herein is limited to operating slot machines at the location contained at the Columbus Boulevard site, and to develop a facility substantially similar to that which was presented in Foxwoods' application materials and as approved by the Board in its February 1, 2007 Adjudication and Order.

In addition, the Board fully expects Foxwoods, as a good corporate citizen, to act in a manner which will seek to minimize any adverse effects to the neighboring community.

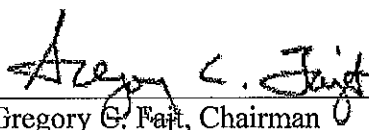
The Board further **ORDERS** and **DIRECTS** that its decision is subject to the following conditions:

1. Within 45 days of the date of this Order, Foxwoods shall provide the Board with a written plan to make a minimum of 1,500 slot machines available for play, on or before May 29, 2011, at the Columbus Boulevard site;

2. Foxwoods shall provide the Bureau of Investigations and Enforcement (“BIE”) written monthly updates, beginning October 1, 2009, regarding its efforts to develop a facility with a minimum of 1,500 slot machines available for play, on or before May 29, 2011, at the Columbus Boulevard site;
3. Foxwoods shall provide BIE written monthly updates, beginning October 1, 2009, regarding its efforts and progress to obtain financing for developing a facility with a minimum of 1,500 slot machines available for play, on or before May 29, 2011;
4. Within 6 months of the date of this Order, Foxwoods shall submit to BIE all financing documents and commitments for financing regarding development of its facility with a minimum of 1,500 slot machines available for play, on or before May 29, 2011;
5. Within 3 months of the date of this Order, Foxwoods shall submit to BIE all architectural renderings, artist renderings, conceptual proposals, engineering opinions, any and all other documents relating to construction of a facility, substantially similar to that approved by the Board on December 20, 2006. The submissions must provide for a minimum of 1,500 slot machines available for play, on or before May 29, 2011, at the Columbus Boulevard site;
6. Within 3 months of the date of this Order, Foxwoods shall submit to BIE a timeline for commencement and completion of all phases of development regarding its facility with a minimum of 1,500 slot machines available for play, on or before May 29, 2011;
7. Foxwoods shall provide BIE with monthly updates, beginning October 1, 2009, regarding the status of all outstanding licenses, certifications and permits required by all federal, state, county, local or other agency as prerequisites for construction and

development of its facility with a minimum of 1,500 slot machines available for play, on or before May 29, 2011, at the Columbus Boulevard site;

8. Foxwoods shall notify the Board prior to or immediately upon becoming aware of any impending change of ownership or change in control, material change in financial status, including debt position, restructuring, receivership, merger, dissolution, bankruptcy or transfer of assets to any third party; and
9. Foxwoods will be required to periodically provide updates as to the status of its project, including, but not limited to, financing, zoning, permits and certifications, at public meetings, as scheduled by the Board.

By: 
Gregory G. Fajt, Chairman
Pennsylvania Gaming Control Board

If you disagree with the Board's Adjudication and Order, you have the right to file an appeal with the Commonwealth Court of Pennsylvania within thirty (30) days of the date of this Order. See, Pennsylvania Rule of Appellate Procedure 1512.