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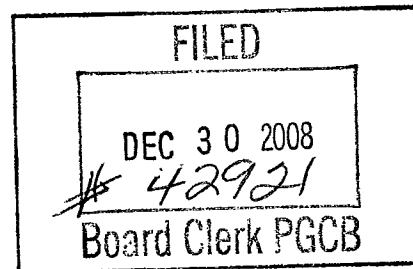
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Attorneys for Petitioners,

Senators Farnese and Stack and

Representatives Keller, McGeehan,

M O'Brien and J. Taylor



IN RE:

THE APPLICATION OF

HSP GAMING, L.P. FOR AN

EXTENTION OF TIME

: COMMONWEALTH OF PENNSYLVANIA

: BEFORE THE PENNSYLVANIA GAMING

: CONTROL BOARD

:

: Docket No. 1356

MEMORANDUM OF LAW IN SUPPORT OF PETITION TO INTERVENE

Petitioners seek to intervene in the proceedings before the Board to oppose the application of HSP Gaming for additional time to make slot machines available to play. Petitioners submit this Memorandum of Law in support of their Petition.

Senator Farnese and Representative M. O'Brien reside within the City of Philadelphia and their legislative districts encompass the proposed development site of the Sugarhouse Casino. These legislators seek to intervene in their individual capacity as taxpayers who live, work and own property within the City of Philadelphia.

Representative O'Brien lives and has an office in close proximity to the site of the proposed Sugarhouse Casino. A large portion of that site is owned by the Commonwealth of Pennsylvania, and held in trust for its citizens. As individual taxpayers who live and work within the City of Philadelphia, they have a direct interest in the property and wage tax relief which will result from the revenues to be generated by the slot machines in question. Therefore, these legislators have a direct, substantial

and immediate interest in seeing that the economic benefits of the Gaming Act are not further delayed by the requested extension of time.

Senator Farnese, Representative M. O'Brien, Senator Stack and Representatives Keller, McGeehan and J. Taylor seek to intervene as amicus in their legislative capacity. They are elected members of the Pennsylvania General Assembly¹, who represent citizens in the districts which encompass the casino site and/or which are contiguous with the Delaware River. Petitioners and their constituents are taxpayers and citizens of the Commonwealth who live and/or work within the City of Philadelphia. Petitioners and their constituents have a direct, substantial and immediate interest in ensuring that the legislative intent of the Gaming Act is achieved by providing "a significant source of new revenue to the Commonwealth to support property tax relief, wage tax reduction, economic development opportunities and similar initiatives." 4 Pa. C.S. §1102(3).

The regulations adopted by the Board provide that the Board may grant a petition to intervene if it determines that:

- (1) The person has an interest in the proceeding which is substantial, direct and immediate.
- (2) The interest is not adequately represented by a party to the proceeding.
- (3) The person may be bound by the action of the Board in the proceeding.

58 Pa. Code §493a.12(c).

Standing as Legislators

The decision to grant a petition to intervene is within the discretion of this Board. 58 Pa. Code §493a12(a). The Board should exercise its discretion in favor of allowing

¹ Senator Farnese is presently Senator Elect, and will be sworn in early next month.

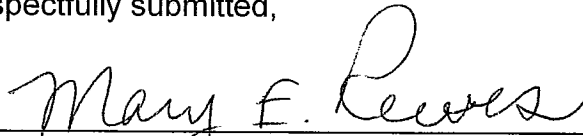
the Legislators to intervene as amicus so that their views may be heard. See e.g., *Levdansky v. D.E.P.*, 1998 E.H.B. 571 (1998). There can be little doubt that these members of the General Assembly have a strong interest in making sure that the spirit and the letter of its legislation is carried out consistently with the legislative intent with which it was adopted. See, e.g., *Shapp v. Sloan*, 480 Pa. 449, 476, 391 A.2d 595 (1978).

Standing as Taxpayers

Senator Farnese and Representative M. O'Brien have standing as taxpayers who live, work and own property within the City of Philadelphia. The Gaming Act was intended to provide tax relief to these specific taxpayers by providing "a significant source of new revenue to the Commonwealth to support tax relief, wage tax reduction, economic development opportunities and other similar initiatives." 4 Pa. C.S. §1102(3). In particular, the taxpayers who live in the City of Philadelphia and/or near the Sugarhouse site have a specific pecuniary interest in any Board decision which would further delay the local property and wage tax relief intended by the Act. See 4 Pa. C.S. § 1409, and §1400-1408 generally. See, generally, *Cashdollar v. State Horse Racing Commission*, 143 Pa. Cmwlth. 650, 600 A.2d 646 (1991); *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (Pa. 1975). Moreover, Representative O'Brien lives and has an office in close proximity to the site of the proposed casino, and therefore has a direct interest in the Board's decisions regarding the license. Therefore, the Board should certainly exercise its discretion to grant the Petition of these Legislators to intervene as individuals.

For the reasons set forth in this Memorandum of Law and in the Petition to Intervene, the Petition should be granted.

Respectfully submitted,

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