

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA GAMING CONTROL BOARD**

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3101-2013

In Re: Application of Tower Entertainment, LLC for a Category 2 Slot Machine License

Docket No. 73496-1

**TOWER ENTERTAINMENT, LLC'S
POST HEARING BRIEF IN SUPPORT OF ITS
APPLICATION FOR A CATEGORY 2 SLOT MACHINE LICENSE**

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Attachment 1: An excerpt from Appendix 32 (Site Plans) of the Slot Operator and Management Company-Application Disclosure and Information Form for Tower Entertainment, LLC

Attachment 2: Shared-use parking analysis map to which Mr. Eric Ostimchuk testified

Tower Entertainment, LLC ("Tower"), by and through its undersigned counsel, respectfully submits this post-hearing brief pursuant to 58 Pa. Code § 441a.7(u) in support of its application to the Pennsylvania Gaming Control Board ("Board") for a Category 2 slot machine license for a licensed facility in the City of Philadelphia.

I. EXECUTIVE SUMMARY

As set forth herein, Tower has established by clear and convincing evidence not only that it is eligible and suitable for licensure, but that Tower is best suited for licensure because Tower alone proposes **much more than a casino**. Tower's proposed facility, the Provence, is an integrated urban entertainment destination anchored by a casino that also features an unparalleled array of non-gaming amenities that will be attractions in their own right – independent of the casino. In this regard, the Provence is what Commissioner Fajt and others wisely recognized Pennsylvania needs: "something that's more than a casino ... something more than just slot machines and tables." (PAGV Tr., 49:1-5).¹ As such, the Provence dwarfs the competing proposals both in its physical dimensions and in its ability to maximize the potential to generate revenue, employment, economic development and tourism while minimizing concerns regarding market saturation and cannibalization. Consequently, the Provence presents the most fiscal and economic benefits for Pennsylvania. In addition, the Provence will transform the North Broad corridor of Center City Philadelphia, and importantly, Tower has demonstrated it can successfully complete the facility in a single definitive phase. Thus, Tower should be the clear choice for the final Category 2 slot machine license for these three fundamental reasons.

¹ References to "Tower Tr.," "PAGV Tr.," "Market Tr.," "PHL Local Tr." and "Stadium Tr.," are to the transcript of the respective applicant's licensing hearing. References to "HSP Tr.," and "City Tr.," are to the transcript of the Intervenor's hearing and the public input hearing for the City of Philadelphia held on September 24, 2013, respectively.

Fiscal and Economic Benefits. The expert testimony proffered by Tower and the City of Philadelphia conclusively establishes that the Provence is the clear leader in every criteria of fiscal and economic benefits.

- The Provence will generate the most gaming revenue and taxes and the most non-gaming revenue and taxes.
- The Provence will stimulate the most direct and indirect economic spending activity.
- The Provence will directly create the most employment opportunities and induce the most indirect employment opportunities.
- The Provence will most enhance tourism in Philadelphia and Pennsylvania.

Urban Transformation. The record is clear that Tower is uniquely capable of major urban transformation with extensive public input testimony and expert testimony.

- The Provence is optimally located along the North Broad Street corridor anchored by the Pennsylvania Convention Center, Temple University and the Benjamin Franklin Parkway with abundant land ripe for development.
- The Provence is projected to spur over 2 million square feet of additional development representing over \$2 billion of economic activity.
- Mr. Blatstein has a demonstrated record of major urban transformation throughout Philadelphia which was recognized and commended in the testimony from the City of Philadelphia and City Council President Darrell Clarke.
- Mr. Blatstein's transformative development of Northern Liberties generated nearly \$500 million in investment and construction activity, increased real estate values by over \$1 billion and supported 2,200 new Pennsylvania jobs.

Certainty. Tower, with its management company – Isle of Capri Casinos, Inc. ("Isle of Capri"), demonstrated its ability to successfully complete, open and operate the Provence.

- Tower will construct the Provence over an 18-month construction schedule and has the documented sources of financing more than sufficient for the \$600 million in hard and soft costs.
- Mr. Blatstein is an established real estate developer in Philadelphia with 36 years of experience with major urban transformation during which time he has never failed to deliver on a project.

II. AS AN INTEGRATED URBAN ENTERTAINMENT DESTINATION, THE PROvence OFFERS FAR MORE THAN A CASINO WHICH IS PRECISELY WHAT PENNSYLVANIA AND PHILADELPHIA NEED WITH THE FINAL CATEGORY 2 LICENSE.

Pervasive throughout the licensing hearings and the earlier public input hearings was that Pennsylvania and Philadelphia need more than just another casino. Commissioner Fajt expressed this very assessment when he observed:

Obviously the issue of saturation is something that is out there, it's the elephant in the room if you will. And it's something that I'm personally concerned about. I don't believe that... we have the capacity to open just another casino, ... [instead] **we need something that's more than a casino... something more than just slot machines and tables.**

(PAGV Tr., 48:22-49:5). Qualified gaming market experts also echoed the same assessment.

Michael Pollock, an expert with Spectrum Gaming Group on "gaming policy and analysis for more than three decades" (Tower Tr., 23:14-15), confirmed in his testimony for the Provence:

[N]ew entrants in an established marketplace will be held to a higher standard. They will have to distinguish themselves for the better product to grow the market and establish its own market share. ... [C]annibalization in a crowded market can only be addressed by a project that embraces a different business model.

(Tower Tr., 24:11-19). AKRF, the industry expert for the City of Philadelphia, similarly opined that "[w]ith a trend toward increased competition among casinos in the region, a second in-city casino needs to work to attract new gaming revenues by broadening its appeal to the local and regional customer bases ... through programming – diversifying entertainment options to attract a broader customer base." (AKRF Report, Oct. 29, 2013, at p. 41).

Tower embraced this mission to deliver more than a casino since the earliest conception of the Provence by engaging Paul Steelman to design the facility. With experience that includes 3,000 casino projects in over 40 countries, Mr. Steelman is distinguished for designing casino-anchored entertainment destinations for Wynn Resorts, Sands, and MGM among many others. (Tower Tr., 16:13-17:21 [Blatstein and Steelman]). While he designed a casino for the Provence

“to compete on a worldwide stage” (Tower Tr., 19:17 [Steelman]), his design complements the casino with a vast array of non-gaming attractions independent of and complementary to the casino. The ratio between gaming and non-gaming amenities in his design surpasses each of the competing proposals by wide margins. (Tower Tr., 22:6-13 [Steelman]). In fact, **the approximately 120,000 square foot casino at the Provence** is larger than each of the competing proposals (AKRF Report, at p. 18) but still **comprises less than 20 percent of the Provence (excluding parking garages)**. (Tower Ex. C, at p. 1).²

As a visual illustration of this remarkable ratio of gaming and non-gaming amenities, please see Attachment 1, which is an excerpt from the Provence’s site plans in Tower’s application. (Tower Ex. 1, Application of Tower Entertainment, LLC, Appendix 32). As shown on Attachment 1, the Provence’s non-gaming amenities start on the ground floor activating two full blocks of Callowhill Street and 16th Street. (*Id.*) The hotel entrance is also located prominently on Broad Street. (*Id.*; Tower Tr., 105:15-20 [Blatstein]). In addition, the non-gaming amenities continue on the upper levels and rooftop. (*Id.*; Tower Tr., 118:18 [Blatstein]).

Numerous experts and established industry leaders opined that the Provence clearly and unequivocally distinguishes itself among the competing proposals by offering more than just a casino. Mr. Pollock explained that as an “integrated urban entertainment” destination, the Provence “will have the unique ability both among the competing Philadelphia applicants and among urban casinos in other cities to attract new gaming and non-gaming revenue to the Commonwealth of Pennsylvania.” (Tower Tr., 25:6-20). Mr. Scott Fisher, an industry expert on gaming market analysis, emphasized that the Provence will be a destination venue for a variety

² References to “Tower Ex. __” are to the exhibit identified as such in Tower’s Pre-Hearing Memorandum (A-Q), the Stipulation entered into by Tower and the Office of Enforcement Counsel (1-9), or by motion during Tower’s licensing hearing (10-12).

of gaming and non-gaming purposes. (Tower Tr., 29:19-22 [Fisher]). Virginia McDowell, Chief Executive Officer of Isle of Capri, applauded the Provenge as a place business travelers cannot miss when in Philadelphia. (Tower Tr., 34:11-15 [McDowell]). Mr. Steelman described it as a new tourist attraction for the City of Philadelphia in its own right – a place where “people come and spend their day here, their weekend” or more. (Tower Tr., 18:5-9 [Steelman] and 73:18-19 [Blatstein]). Ultimately, the Provenge will be the “kind of phenomena” that Deputy Mayor Alan Greenberger described in his testimony “that even if you weren’t interested in gaming as an individual, but you had relatives or friends coming, you would take advantage of.” (City Tr., 69:9-13).

As no other proposal can match the array of attractions that will be available at the Provenge, Tower has the unique ability to deliver the most fiscal and economic benefits for the City of Philadelphia and the Commonwealth of Pennsylvania, which is what is needed with the final Category 2 license.

A. THE FISCAL AND ECONOMIC BENEFITS FROM *ONGOING OPERATIONS* AT THE PROVENGE FAR EXCEED THE COMPETING PROPOSALS.

1. *Gaming Revenue and Taxes.*

Tower conclusively demonstrated through qualitative and quantitative expert testimony that the Provenge “has the greatest potential to induce growth in the market”. (Tower Tr., 29:24-25 [Fisher] (emphasis added)). Spectrum Gaming Group’s expert analysis demonstrates that the Provenge will **generate approximately \$439 million in gaming revenue** in its second year of operation – **\$106 million more than the second-best proposal.**³ Importantly, the

³ Mr. Fisher further testified that “year two revenues ... most accurately reflect[] a stabilized year of operation”. (Tower Tr. 30:6-7 [Fisher]). Spectrum conservatively projected approximately \$389 million in the Provenge’s first year of operations. (Tower Ex. M, at p.6).

Providence will generate approximately \$219 million in new gaming revenue –\$103 million more than the second-best proposal. (Tower Tr., 30:1-20 [Fisher]). Applying the applicable tax rates on slot machines (54%) and table games (16%) to the Providence's year 2 revenues, the **Commonwealth and City of Philadelphia can expect \$187,934,412 in annual gaming tax revenue from the Providence.**

2. *Economic Spending and Non-Gaming Taxes.*

Tower further demonstrated that the economic impacts from the gaming and non-gaming operations would surpass each of the competing proposals. Stephen Mullin, an expert in urban economic development and measuring the economic impacts therefrom, calculated that ongoing operations at the Providence would annually generate over \$750 million statewide economic spending and approximately \$20 million in annual non-gaming taxes for the Commonwealth. (Tower Tr., 53:25-54:4 [Mullin]). In addition, his analysis projected the Providence would generate \$6.7 million in annual non-gaming taxes for Philadelphia. (Tower Ex. C., at p.16).

3. *Employment Opportunities.*

As would be expected with the greater size and scale of the Providence, no other applicant would create as many new employment opportunities for the City and Commonwealth. The Providence will directly lead to approximately 2,500 jobs at the facility itself, with approximately 700 jobs directly related to gaming. (Tower Tr., 35:18-21 [McDowell]). Tower further demonstrated through expert testimony that the total economic impacts of ongoing operations at the Providence would support the creation of 7,900 jobs in Pennsylvania. (Tower Tr., 54:1-2 [Mullin]).

4. *Tourism.*

With the diversity of gaming and non-gaming attractions at the Providence, the Providence will be able to maximize gamer visits with 5.5 million gamer visits projected by Spectrum

Gaming Group. (Tower Ex. H, at p. 4). Within an easy walking distance of the Pennsylvania Convention Center (Tower Tr., 50:4-5 [Ostimchuk]), the Provence will be able to market closely to tourists and business travellers in Philadelphia for conventions. (Tower Tr., 24:16-25:20 [Pollock]). Thus, the Provence will be “not only convenient and comfortable to local Philadelphia customers, but also a must-see and must-do destination for tourists, conventioners and visiting business travelers.” (Tower Tr., 32:22-33:1 [McDowell].)

B. THE FISCAL AND ECONOMIC BENEFITS FROM CONSTRUCTION OF THE PROVENCE FAR EXCEED THE COMPETING PROPOSALS.

Similarly, the vast difference in the size and scale of the Provence among the competing proposals generates far greater fiscal and economic benefits during the construction phase as well.

1. *Economic Spending and Non-Gaming Taxes.*

Mr. Mullin calculated that construction of the Provence would generate nearly \$900 million in overall economic activity and an infusion of \$15 million in non-gaming tax revenue. (Tower Tr., 53:21-24 [Mullin]). In addition, his analysis projected an infusion of \$4.9 million in non-gaming taxes for Philadelphia from constructing the Provence. (Tower Ex. C., at p.16).

2. *Employment Opportunities.*

Construction of the Provence will directly create approximately 1,500 construction jobs on site. (Tower Tr., 63:23 [Keating]). Tower further demonstrated through expert testimony, that the total economic impacts of constructing the Provence would support nearly 6,400 jobs in Pennsylvania. (Tower Tr., 53:22 [Mullin]).

C. MARKET 8’S “ROBUST” REVENUE PROJECTIONS HAVE NO IMPACT ON THE SUPERIORITY OF THE PROVENCE.

Commissioner Fajt and the Board have good reason to express a “healthy skepticism” about Market 8’s questionable revenue projections. First, Market 8’s projections impossibly

exceed the actual win-per-unit-per-day of Pennsylvania's existing facilities as highlighted by the Board itself during its questioning of Market East Associates, L.P. (Market Tr., 140:20). In addition, their putative expert, Peter Tyson, relied on "overly optimistic" assumptions in his analysis of the revenue potential in Philadelphia that fatally undermine his conclusions. (Tower Tr., 31:7-21 [Fisher]).

Even assuming *arguendo* that Mr. Tyson's optimistic assumptions were reliable, Mr. Tyson's aggressive views on market growth have no impact on the superiority of the Provence. When Spectrum Gaming Group re-calibrated its conservative model with Mr. Tyson's "overly optimistic" assumptions, the Provence was projected to generate in excess of \$700 million in gaming revenue alone. (Tower Tr., 31:14-18 [Fisher]). However, such a projection and Mr. Tyson's "overly optimistic" assumptions inflating the projection are no doubt unreliable. (Tower Tr., at 31:18-21[Fisher]).

Further demonstrating the error in Mr. Tyson's analysis, the City of Philadelphia's independent expert AKRF projected Market8 would only generate \$320.3 million in gaming revenue during a stabilized year. (AKRF Report, at p. 45). In other words, AKRF independently determined that **Mr. Tyson overestimated Market8's revenue potential by approximately \$200 million** observing that Mr. Tyson had grossly overestimated the projected visitation for Market 8 (*Id.*, at p.47).

Thus, the record should be clear that the Provence is far superior to its competition in generating overall gaming revenue and, most importantly, in terms of growing the gaming market with new gaming revenue.

D. INDEPENDENT EXPERT ANALYSIS PROFFERED BY THE CITY OF PHILADELPHIA CONFIRMS TOWER'S EXPERT TESTIMONY THAT THE PROVENCE WILL GENERATE THE MOST FISCAL AND ECONOMIC BENEFITS.

Unique to this application proceeding, the City of Philadelphia – as the host city for the proposed facility – engaged its own expert to measure the fiscal and economic benefits of each of the competing proposals. This independent expert analysis universally ranked the Provence first in every fiscal and economic benefit criteria:

- **Gaming Revenue.** AKRF projected the Provence would generate \$435 million of gaming revenue in a stabilized operating year – approximately \$115 million more than any other competing proposal. (AKRF Report, at p. 45).
- **New Gaming Revenue.** AKRF projected the Provence would maximize new gaming revenues for the Commonwealth with the least impact on SugarHouse. (City Tr., 43:25-44:18 [Neill]; AKRF Report, at p.48-49).
- **Non-Gaming Revenue.** AKRF projected “the Provence to have the most non-gaming revenue by far” – approximately \$201 million in non-gaming revenue and nearly \$120 million more than any other competing proposal competing proposal. (AKRF Report, at p. 51).
- **Gaming Tax Revenue.** AKRF concurs with Tower’s expert analysis that the Provence would generate the most gaming tax revenue by a wide margin. (*Id.*, at p. 54).
- **Non-Gaming Tax Revenue.** AKRF concurs with Tower’s expert analysis that the Provence would generate the most gaming and non-gaming tax revenue by a wide margin. (*Id.*, at p. 57).
- **Permanent Jobs, Wages and Economic Activity.** AKRF concurs with Tower’s expert analysis that ongoing operations at the Provence would generate the most permanent jobs, wages and economic activity. (*Id.*, at p. 28).
- **Construction Jobs, Wages and Economic Activity.** AKRF concurs with Tower’s expert analysis that construction of the Provence will generate the most jobs, wages, and total economic activity among the competing proposals. (*Id.*, at p. 22).
- **Tourism.** AKRF similarly concluded that the Provence would generate the most gamer visits, projecting 1 million more gamer visits at the Provence than any other competing proposal. (*Id.*, at p.47)

III. THE PROVENCE WILL TRANSFORM CENTER CITY PHILADELPHIA'S NORTH BROAD STREET CORRIDOR SPURRING ADDITIONAL FISCAL AND ECONOMIC BENEFITS FOR PENNSYLVANIA AND PHILADELPHIA.

Tower demonstrated through expert testimony that its proposed location along Center City's North Broad Street corridor is the optimal location to spur the most spin-off economic development and maximize the benefit to the community. Tower has clear site control of the largest contiguous property in Center City Philadelphia from Broad Street to 17th Street along Callowhill Street – three full city blocks – plus additional property at 15th and Spring Garden Streets. (Tower Tr., 15:21-24 [Blatstein]). In contrast, Market 8 sits on merely half a block forcing it to propose a bi-level gaming floor and restricting it to offering other amenities on a tiny fraction of the available space. (Market Tr., 33:19-34:6 [Soper]). In addition, the Provence will be located immediately at the on and off ramps of I-676 providing excellent access to the three major highways connecting in Philadelphia. (Tower Tr., 15:21-24 [Blatstein]). In contrast, Market8 sits five blocks from I-676. (Market Tr., 22:6 [Goldenberg]).

Moreover, Center City is a demonstrably better location for the second licensed facility with significantly greater ability to spur spin-off development and significantly less impact on Philadelphia's existing facility. (City Tr., 20:13-19 [Greenberger]). When asked by Commissioner Woods about the relative cannibalistic impact of the competing proposals, SugarHouse's principal Neil Bluhm testified that "I don't want anybody to think that the number isn't significant if it's in the sports stadium area where the three casinos are, because we have a huge amount of business that comes from South Philly." (HSP Tr., 59:5-12 [Bluhm]). In addition, SugarHouse effectively disproved the notion that co-locating the facility with the sports stadiums would create any special benefits when Mary Cheeks, Chief Financial Officer for both SugarHouse and Rivers Casino, testified that "On game days, our volume [at Rivers Casino] is significantly impacted ... I would say it hurts the business. And in the Pittsburgh market, it's

primarily the football stadium and the baseball stadium. Here in Philadelphia it would be all four [sports]. So I would say [the South Philadelphia locations] would be problematic.” (HSP Tr., at 28:23-29:05). In addition, Deputy Mayor Greenberger further testified that “the greatest level of community concern has been expressed to us about the three proposals in South Philadelphia.” (City Tr., 20:13-19 [Greenberger]).

A. THE PROVENCE WILL BE THE CATALYST FOR MAJOR URBAN TRANSFORMATION SPURRING MORE THAN 2 MILLION SQUARE FEET OF ADDITIONAL DEVELOPMENT.

Most importantly, this North Broad Street corridor is “Center City’s last undeveloped frontier.” (Tower Tr., 52:11-12 [Mullin]). Presently, this corridor is “full of empty garages, vacant lots, empty parking lots and buildings [ripe] for development”. (Tower Tr., 52:21-25 [Mullin]). Nevertheless, it is already anchored by the Pennsylvania Convention Center two blocks to the south, the expanding Temple University campus to the north and the museum attractions along the Ben Franklin Parkway to the west. (Tower Tr., 56:3-10 [Mullin]).

The available land and existing anchors create a unique opportunity for the Provence to spur spin-off economic development unmatched among the competing proposals. (Tower Tr., 52:24-25 and 55:7 [Mullin]). Tower’s expert on urban economic development concluded that the Provence will spur more than two million square feet of development and **generate over \$2 billion of economic activity**. (Tower Tr., 55:7-14 [Mullin]). This spin-off economic development would comprise a mix of new commercial, retail, entertainment and residential development. (*Id.*).

Tower’s testimony regarding the Provence’s broader impact on the North Broad Street corridor is further corroborated by the testimony proffered by the City of Philadelphia. Initially, Deputy Mayor Greenberger emphasized the importance for the chosen proposal to spur additional economic development. (City Tr., 11:16-20 [Greenberger]). His testimony then

continued by recognizing the Provence's unique ability to spur spin-off economic development describing the Provence as "the opportunity for a major investment in a critical section of Center City" and calling it a "highly attractive element" of Tower's proposal. (City Tr., 24:9-12 and 26:17-23 [Greenberger]). In addition, the City praised Tower's desire to "reuse [] a major historic building, the former Inquirer Building, an icon in the City's skyline" as a boutique hotel. (Tower Tr., 25:5-8 [Greenberger]).

Consistent with Tower's own urban economic development expert, Deputy Mayor Greenberger further explained that:

The Provence has the potential to spur additional economic development in that section of the City and to complement the wide-range of existing investments, including the expansion of the Pennsylvania Convention Center, who's new main entrance on North Broad Street is two and a half blocks from the proposed casino ... ties into a new level of development along [Callowhill] Street ... [and] has the potential to connect on the way down to the Barnes Foundation and the other cultural institutions along the Ben Franklin Parkway.

(City Tr., 24:16-25:6).

In contrast, the City believed that "the three proposals in South Philadelphia are less likely to induce further development and less likely to generate a new audience" (City Tr., 20:13-19 [Greenberger]). AKRF further testified on behalf of the City that **in its expert opinion, Market 8 lacked the non-gaming amenities – particularly retail – to match the opportunity presented by the Provence.** (City Tr., 49:20-25 [Rowan]).

B. NO OTHER APPLICANT HAS THE DEMONSTRATED RECORD OF TRANSFORMING PHILADELPHIA NEIGHBORHOODS.

The Provence not only projects to have the greatest influence on urban transformation, its principal – Bart Blatstein – is the only applicant with a demonstrated record of major urban transformation. The Board heard extensive testimony during its public input hearings in April and May 2013 on Mr. Blatstein's vision for and transformation of Northern Liberties that started

with purchasing a former industrial brownfield at sheriff's sale and converting that land and surrounding land into several major developments, including the Piazza at Schmidt's, Liberties Walk and the Shops at Schmidt's as well as several other related developments. (Suitability Report, at p. 9-10 and Ex. 5 (Public Input Summary)).

This extensive development in Northern Liberties produced monumental change transforming Northern Liberties from a blighted, undesirable neighborhood to one of the most popular in Philadelphia. As such, the City of Philadelphia stressed in its testimony to the Board that Mr. Blatstein and Tower have a:

[D]emonstrated record of major urban development and transformation in Philadelphia, notably in the Northern Libert[ies] section of the City. The potential for this type of **catalytic effect** on North Broad Street is a **highly attractive element** of [Tower's] proposal.

(City Tr., 26:17-23 [Greenberger] (emphasis added)). City Council President Darrell Clarke further described Mr. Blatstein as a "visionary" while highlighting his extensive experience in urban transformation:

[Mr. Blatstein's] love of this city is evident in the numerous transformational projects he has undertaken over the years. Rather than looking to develop or redevelop parcels in the city's more established and densely-populated neighborhoods, Bart looks elsewhere. Where others see blight and decay, he sees opportunity for transformation and neighborhood revival. He's done it time and time again. He has finished every project he has set out to build.

(Hearing Tr., 5/8/13, 13:14-23 [Chief Counsel reading a letter from Councilman Clarke for inclusion in the record]). Numerous other individuals testified to the same vision and certainty that Mr. Blatstein delivers with his urban transformation projects. (Suitability Report, Ex. 5 (Public Input Summary)).

Moreover, Tower further demonstrated through expert testimony that its documented record of urban transformation is much more than anecdotal. Mr. Mullin measured the actual economic impacts of Mr. Blatstein's impact on the neighborhood of Northern Liberties in

Philadelphia. In total, Mr. Blatstein's investment generated nearly \$500 million in investment and construction activity, increased real estate values by over \$1 billion, supporting nearly 2,200 new Pennsylvania jobs and resulting in over \$12 million in new state tax revenues every year. (Tower Tr., 56:24-57:11 [Mullin])).

C. THROUGHOUT THE APPLICATION, CONSTRUCTION, AND OPERATIONS, TOWER HAS BEEN AND WILL REMAIN COMMITTED TO SERVING THE INTERESTS OF THE COMMUNITY.

Since the start and throughout the application, Mr. Blatstein has personally attended over 50 meetings with community stakeholders, including 30 with the six neighborhood associations immediately surrounding the Provence. (Tower Tr., 40:2-5 [Sasso]). This open dialogue with the community is consistent with Mr. Blatstein's long history of urban development and community involvement about which the Board received extensive testimony during the public input hearings. (e.g. Suitability Report, Ex. 5 (Public Input Summary) at p.14).

As a result of open dialogue with the community and neighborhood stakeholders, Tower entered into a Community Development Agreement with a broad coalition of community stakeholders, including its host neighborhood – Logan Square Neighborhood Association, the neighborhood associations immediately surrounding the Provence, and several other stakeholders. (Tower Ex. P). In the agreement and before the Board, Tower has committed to:

- Funding specific traffic improvements, encouraging public transportation for employees;
- Continuing to work with the Pennsylvania Department of Transportation and the City on any further traffic improvements that may become necessary;
- Developing an additional 716-space parking garage and, if necessary, an additional 1,000 space parking garage;
- Implementing a neighborhood public safety plan in consultation with neighborhood groups, Allied Barton and Tyco to provide a security presence around the Provence, including both personnel and advanced technology;

- Streetscaping around the Provence to improve the neighborhood for pedestrian traffic;
- Helping local businesses participate in the Provence's procurement of goods and services during construction and operations;
- Preferential hiring for local residents; and
- **Creating and funding a new charitable foundation** which will use the funding to finance additional neighborhood revitalization efforts in the community around the Provence.

(Tower Tr., 40:6-42:5 [Sasso]; Tower Ex. 10, at p. 114; Tower Ex. P). Tower's diversity program further complements its commitment to the community with a 38 percent diversity participation benchmark during construction and a requirement that vendors doing business with the Provence achieve diversity goals consistent with Tower's diversity goals. (Tower Tr., 60:18-19 and 61:8-61:11 [Burrell]). In addition, Isle of Capri's own commitment to recruit, train and upgrade diversity in all employment classifications and to enhance the representation of diverse groups in its operation is a core tenet of its business. (Tower Tr., 36:18-21 [McDowell].)

IV. TOWER HAS CONCLUSIVELY DEMONSTRATED ITS ABILITY TO SUCCESSFULLY COMPLETE, OPEN, AND OPERATE THE PROVENCE IN A SINGLE PHASE.

A. TOWER DEMONSTRATED IT CAN CONSTRUCT THE PROVENCE IN A SINGLE DEFINITIVE PHASE WITHIN THE EIGHTEEN MONTH SCHEDULE.

Tower demonstrated that construction of the Provence will be more than capably managed by the Daniel J. Keating Company. (Tower Tr., 78:21-25 [Blatstein]). The Daniel J. Keating Company was responsible for construction of the \$500 million expansion to the Pennsylvania Convention Center, a construction project completed on schedule and on budget. (Tower Tr., 63:12-17 [Keating]). Moreover, Pierce Keating, the chairman and majority owner of the Daniel J. Keating Company, demonstrated a specific plan to construct the Provence over eighteen months by having separate teams focused on each of the key components of the

construction project. (Tower Tr., 64:2-9). This eighteen month schedule reflects Tower's commitment to develop all of the Provence's gaming and non-gaming amenities in a single definitive phase. (Tower Tr., at 95:8-95:18 [Blatstein]).

Importantly, the support of the community and government leaders will facilitate the rapid development of the Provence within the eighteen month schedule. In the Community Development Agreement described above, all of the surrounding neighborhood associations agreed not to obstruct development of the project. (Tower Ex. P). In addition, City Council President Darrell Clarke, whose district encompasses the Provence and surrounding neighborhoods, expressed his commitment "to ensuring that this facility becomes a significant contributor to the economic wealth of Philadelphia [and a] the catalyst that ignites an explosion of new development along the under-developed swath of North Philadelphia land between City Hall and Temple University." (Tower Ex. Q, at p.1-2). Finally, one of the chief priorities for the City of Philadelphia is for the facility to maximize spin-off economic development. (City Tr., 11:16-20 [Greenberger]). To that end, the City of Philadelphia testified that the Provence is "highly attractive" and an "opportunity for a major investment in a critical section of Center City". (City Tr., 24:9-12 and 26:17-23 [Greenberger]). Accordingly, the record should be clear that Tower can develop the Provence efficiently and effectively over an eighteen month schedule with the support of the key stakeholders in any development project.

B. TOWER'S FINANCING MAXIMIZES ITS FLEXIBILITY AND ENSURES THE PROVENCE WILL BE FULLY FUNDED.

Tower demonstrated it has **more than sufficient financing** available for the Provence from five distinct sources in addition to Mr. Blatstein's own resources. These sources include two sources for senior capital from well-established gaming industry lenders: Credit Suisse Securities and Highbridge Principal Strategies, which have demonstrated the availability of \$475

million and \$600 million in financing for the Provence, respectively. In addition, there are two independent, third party sources for junior capital: Summit Partners and Providence Equity Capital Markets, which have demonstrated the availability \$85 million and \$75 million in financing for the Provence, respectively. Additionally, Isle of Capri has committed \$25 million in financing for the Provence as well. (Tower Tr., 65:11-66:13 [Blatstein]). Lastly, Mr. Blatstein's personal primary equity commitment of \$100 million, consisting of the Inquirer building property which Mr. Blatstein already owns through a separate wholly-owned company, and a substantial contingent equity commitment from his own personal resources. (Tower Tr., 65:15-16 [Blatstein]). In total, Mr. Blatstein's primary and contingent equity commitment exceeds the combined primary and contingent equity commitment by all the partners in Market East Associates, LP. (See Market Tr., 66:18-20 and 68:21-22[Eteess]).

This financing structure maximizes Tower's flexibility by leveraging all of the third-party sources along with Mr. Blatstein's and Isle of Capri's own resources. (Tower Tr., 66:16-18 [Blatstein]). Tower's budget **only calls for \$600 million in hard and softs** but Tower has demonstrated **the availability of \$1,235 million** in third-party financing – more than double the necessary funds (even before considering Mr. Blatstein's and Isle of Capri's resources). (Tower Tr., 65:14-15 [Blatstein]). This flexibility provides certainty not only that Tower will have sufficient funding for the Provence but also that Tower will have the most favorable pricing. (Tower Tr., 66:16-18 [Blatstein]).

Testimony from the Board's Supervisor of Financial Investigations, Rich O'Neil, further confirmed Tower's financial fitness. (Tower Tr., 155:9-155:15 [O'Neil]). When asked directly about Tower's ability to raise the \$600 million in hard and soft costs, Chief Enforcement

Counsel also advised that Tower “provided the information that we needed to feel comfortable with [the] ability to raise that \$600 million.” (Tower Tr., 125:21-126:5 [Pitre]).

C. MR. BLATSTEIN IS PHILADELPHIA’S PREMIER URBAN DEVELOPER WITH 36 YEARS OF EXPERIENCE WITHOUT EVER FAILING TO DELIVER A PROJECT.

As described above, several individuals testified to Mr. Blatstein’s unparalleled development experience in Philadelphia neighborhoods for the past 36 years during the Board’s public input hearings. This testimony not only highlighted his vision and ability to transform blighted, underdeveloped neighborhoods, but also highlighted Mr. Blatstein’s universal success delivering on every project to which he committed. Mr. Blatstein himself testified: **“I have never not followed through with a project. Never. And that’s in 36 years.”** (Tower Tr., 67:6-7).

In addition to his notable accomplishment in Northern Liberties, this history includes numerous urban developments in Philadelphia summarized in Tower’s Suitability Report, including but not limited to:

- The renovation and conversion of the former state office building at the intersection of North Broad and Spring Garden Streets into a successful apartment building;
- Entertainment, retail and student housing redevelopment known as Avenue North on North Broad Street adjacent to Temple University in North Philadelphia;
- The River View Plaza and Columbus Crossing Shopping Center on Christopher Columbus Boulevard in South Philadelphia;
- The Manayunk Theater Complex on the site of a once vacant industrial plot along the Schuylkill River in Northwest Philadelphia; and
- The construction and development of the Bridge Five Condominiums also along the Schuylkill River in Northwest Philadelphia.

(Suitability Report, at p. 9-10).

D. THE MULTIPLE GARAGES WITH A TOTAL OF OVER 2,400 DEDICATED PARKING SPOTS COMMITTED WILL BE MORE THAN SUFFICIENT FOR THE PROVENCE.

With the largest contiguous land holdings in Center City and additional property half a block away, the Provence has the unique capacity to deliver more than sufficient **dedicated** parking spots to satisfy any concerns regarding sufficient parking. (Tower Tr., 15:21-24 and 112:11 [Blatstein]). In addition, Mr. Blatstein's extensive urban development experience in Philadelphia demonstrates his expertise in delivering accessible projects with sufficient parking, which is an expertise that is unique among the applicants. (Tower Tr., 42:25-43:22 [Blatstein] and 226:8-14 [Ostimchuk]).

In total, the Provence will have over 2,400 dedicated parking spots efficiently dispersed among four garages. (Tower Tr., 76:8-13, 79:21-80:1 [Blatstein]). Two garages – with a total of 900 valet parking spots – will be developed as part of the main building underneath the main attractions in the building (*i.e.* underneath the footprint shown on Attachment 1). (Tower Tr., 112:25-113:2 [Blatstein]). Tower will also build a connection bridge to connect an existing garage with over 800 parking spaces directly to the second floor of the main building. (Tower Tr., 76:8-13, 79:21-80:1, 111:15-16 [Blatstein]). In response to community feedback, Tower also committed to an additional 716 self-park garage at 15th and Spring Garden Street half a block away. (Tower Tr., 112:1-11 [Blatstein]). Squeezed into half a block on East Market Street, Market 8's dedicated parking simply does not have a comparable capacity. (Tower Tr., 75:3-5 [Blatstein]).

With the self-park and valet parking dispersed among four garages, Tower further has the unique ability to manage arriving and departing traffic among five means of ingress and egress out of those garages. (Tower Tr., 78:18-22 [Blatstein]). If one entrance or exit is blocked, entering and exiting traffic could avoid the stoppage with alternative means of ingress and

egress. (*Id.*) In stark contrast, Market 8's small footprint restricts it to one means of ingress and egress (Market Tr., 32:6-8 [Soper]). Without alternative means of ingress, Market 8 is uniquely susceptible to a single backup or traffic incident blocking their one vehicular entrance, which would cause backups along 8th Street through Chinatown along the five-block route from I-676. (Market Tr., 38:22-25 [Markham]).

During the development of the Provence, Tower retained Mr. Ostimchuk to ensure that the dedicated parking would be sufficient. Mr. Ostimchuk testified that in his expert opinion, 2,400 parking spaces would be "more than sufficient to meet the anticipated need." (Tower Tr., 225:11-13). He further explained that he reached that conclusion by reviewing the applicable zoning code standard developed for the more vehicle-dependent waterfront locations and conservatively adjusting it for the Provence's Center City location. (Tower Tr., 226:8-14 [Ostimchuk]). As a result, as few as 1,609 parking spaces should be needed. (Tower Tr., 93:4-15 [Ostimchuk]). The Provence's 2,400 dedicated parking spots exceed this baseline by 150%.

Nevertheless, Tower's total capacity for parking exceeds the 2,400 dedicated parking spots for which Tower has committed by **another 150%**. First, the 716 self-park garage at 15th and Spring Garden Street can accommodate an additional 350 spaces with valet parking for a total of 1,074 valet parking spots. (Tower Tr., 225:22-226:4 [Ostimchuk]). Second, Tower can build an adjacent garage with 1,000 additional parking spots if necessary. (Tower Tr., 93:17-20 and 232:19-24 [Blatstein]).

Altogether, this represents the capacity for over 3,750 dedicated parking spots without considering the abundant parking available for "shared-use" in the immediate walking distance from the Provence. Notably, the 3,750 dedicated parking spots would be more parking than proposed by any other applicant. It should also be noted that the 2,400 dedicated parking spots

committed by Tower would be second-most among the competing proposals without considering Tower's additional capacity. (Tower Tr., 102:10 [McCall] and 65:14-15 [Blatstein]; *see also* Stadium Tr., 40:26 [Weinberg]; PHL Local Tr., 29:16-24 [Gardner]).

In addition to the Provence's dedicated parking, Mr. Ostimchuk also explained that the Provence's Center City location permits it to benefit from "shared-use" parking, which means: a "parking space [that] can be occupied by a commuting employee during the workday and by a casino patron after the employee leaves for the night." (Tower Tr., 49:7-11). Tower acknowledges that Mr. Spector raised a myriad of frivolous objections on behalf of the Intervenor to this "shared-use" analysis but even discounting the approximately 1,200 shared-use parking spaces trivially contested by Mr. Spector, there are 4,081 parking spaces within a convenient walk of the Provence as shown on the shared-use parking analysis map to which Mr. Ostimchuk testified. (Tower Tr., 225:17-24). This shared-use parking analysis map is reproduced for the convenience of the Board as Attachment 2 hereto.

E. THE AGREED-UPON TRAFFIC IMPROVEMENTS WILL BE MORE THAN SUFFICIENT FOR THE PROVENCE.

Traffic Planning & Design ("TPD"), on behalf of Tower, participated in the more than 13-month traffic study and review process with the Pennsylvania Department of Transportation ("PennDOT") and their expert consultant, Orth-Rodgers & Associates ("Orth-Rodgers"). (Tower Tr., 144:13-25 [Hanney]). As part of this traffic study and review process, Tower committed to the specific traffic improvements requested by PennDOT as well as additional study of any traffic impacts during operations and additional traffic improvements that may be recommended by the further study. (Tower Tr., 48:9-23 [Ostimchuk]; *see also* Tower Tr., 147:5-148:17 and 241:23-242:21 [Hanney]).

As a result of this extensive process and Tower's significant commitments to the Board and PennDOT, Mr. Ostimchuk testified clearly and unequivocally in his expert opinion that the roadway and transit access to the Provence would be "more than sufficient from the perspective of traffic impact on the surrounding roadways and neighborhoods." (Tower Tr., 50:16-22). Mr. Frank Hanney further testified for PennDOT and Orth-Rodgers that if Tower is granted the license, Tower has committed to provide the further analysis and design improvements "necessary for traffic mitigation." (Tower Tr., 148:19-23).

While the Intervenors did not conduct their own traffic study, Mr. Spector presented testimony from a traffic engineer to quibble over insignificant details in this 13-month traffic study and review process. (Tower Tr., 241:13 [Hanney]). For example, Mr. Tavani caught a minute error in one TPD spreadsheet that, when corrected, increased the projected vehicular trips from 906 to 918 – an increase of just twelve cars per hour or one car every five minutes. (Tower Tr., 230:5-17 [Ostimchuk]). Mr. Ostimchuk was clear in his rebuttal testimony that Mr. Tavani's testimony has no meaningful impact on TPD's conclusions. (Tower Tr., 230:5).

Mr. Hanney was even more explicit when he testified on behalf of PennDOT that the difference between 37 percent of visitors arriving by vehicle and 43 percent was **"statistically insignificant when trying to determine what exactly the [traffic] needs are."** (Tower Tr., 241:9-14 (emphasis added)). Ultimately, the trivial disagreements raised in testimony by Mr. Spector and Mr. Tavani over the modal split in vehicular and non-vehicular trips to the Provence is inconsequential in Mr. Hanney's expert opinion: they **"won't significantly change the results or the needs from a transit purpose. The location of those improvements nor mitigation costs."** (Tower Tr., 241:14-18 (emphasis added)). This rebuttal testimony from Mr. Hanney was also consistent with his earlier testimony in response to questioning from the Board regarding

TPD's trip generation methodology, during which he explained that "the scope of improvements required to address the traffic impacts of this potential, would not be significantly changed by the [vehicular traffic] being somewhat higher" (Tower Tr., 151:25-152:3 [Hanney]).

F. THE DIVERSITY OF GAMING AND NON-GAMING ATTRACTIONS AT THE PROvence FURTHER SAFEGUARDS TOWER.

The City of Philadelphia's expert effectively demonstrated Philadelphia's latent demand for more restaurant, bars and retail. (City Tr., 48:16-49:14 [Rowan]). Philadelphia only has 1.6 restaurants and bars and only 2.3 retail establishments per 1,000 residents, which substantially trails comparable major cities. (AKRF Report, at p.62). For example, Manhattan has 2.7 restaurants and bars per 1,000 residents (168% more than Philadelphia) and 5.9 retail establishments per 1,000 residents (256% more than Philadelphia). (*Id.*).

As an integrated urban entertainment destination offering much more than a casino, the Provence is well positioned to tap that latent demand with extensive retail, entertainment and outstanding restaurants, headlined by Tom Colicchio and Andrew Carmellini, two nationally recognized chefs. (Tower Tr., 67:8-68:7 [Blatstein] and 20:1-21:13 [Steelman]). Both Tom Colicchio and Andrew Carmellini have established outstanding reputations with several standard-setting, successful restaurants in New York City and expanded into other cities across the country. (Tower Ex. O). Tom Colicchio is also well known as the host for the television show Top Chef. (Tower Tr., 67:16 [Blatstein]).

Both Tower's expert and the City's expert recognized that "[a]s regional markets mature and more states have developed casinos, non-gaming programming – including restaurants, retail, entertainment, and spas – are becoming a growing revenue stream in the casino industry." (AKRF Report, at p.51; *accord* Tower Tr., 24:11-25:5 [Pollock]). In recognition of this trend,

the Provence is well-positioned to maximize both gaming and non-gaming revenues with its array of gaming and non-gaming attractions.

V. TOWER BEST FULFILLS THE EXPLICIT LEGISLATIVE INTENT FOR THE AUTHORIZATION OF GAMING IN PENNSYLVANIA AS EXPRESSED BY THE GENERAL ASSEMBLY ITSELF.

As expressly stated by the General Assembly in the Pennsylvania Race Horse Development and Gaming Act (4 Pa. C.S. § 1101 *et seq.*), the authorization of gaming was intended to (i) “provide a significant source of **new revenue** to the Commonwealth”; (ii) “provid[e] **new employment opportunities**”; (iii) “provide broad **economic opportunities** to the citizens of this Commonwealth”; and (iv) “**enhance** the further development of the **tourism** market throughout this Commonwealth”. 4 Pa. C.S. § 1102(2), (2.1) (3), (5), and (6) (emphasis added).

Awarding the license to Tower best promotes these salutary goals. As described above, the record is clear that the Provence will have the greatest fiscal and economic benefits in each of the General Assembly’s express criteria. Equally significant to the direct fiscal and economic benefits from the Provence is the potential to spur economic development along the underdeveloped North Broad corridor in Center City. In this regard, the independent testimony from the City of Philadelphia confirmed that the Provence:

has the potential to spur additional economic development in that section of the City and to complement the wide-range of existing investments, including the expansion of the Pennsylvania Convention Center, who’s new main entrance on North Broad Street is two and a half blocks from the proposed casino ...

(City Tr., 24:16-25:6). Thus, the Provence should be the clear choice for the final Category 2 slot machine license as it represents the type of project that is much more than a casino and which can spur unparalleled fiscal and economic benefits for Philadelphia and the Commonwealth.

VI. CONCLUSION

For all of the foregoing reasons, Tower respectfully submits that it is eligible, suitable and best suited to be awarded the final Category 2 slot machine license.

Dated: February 10, 2014

Respectfully submitted,



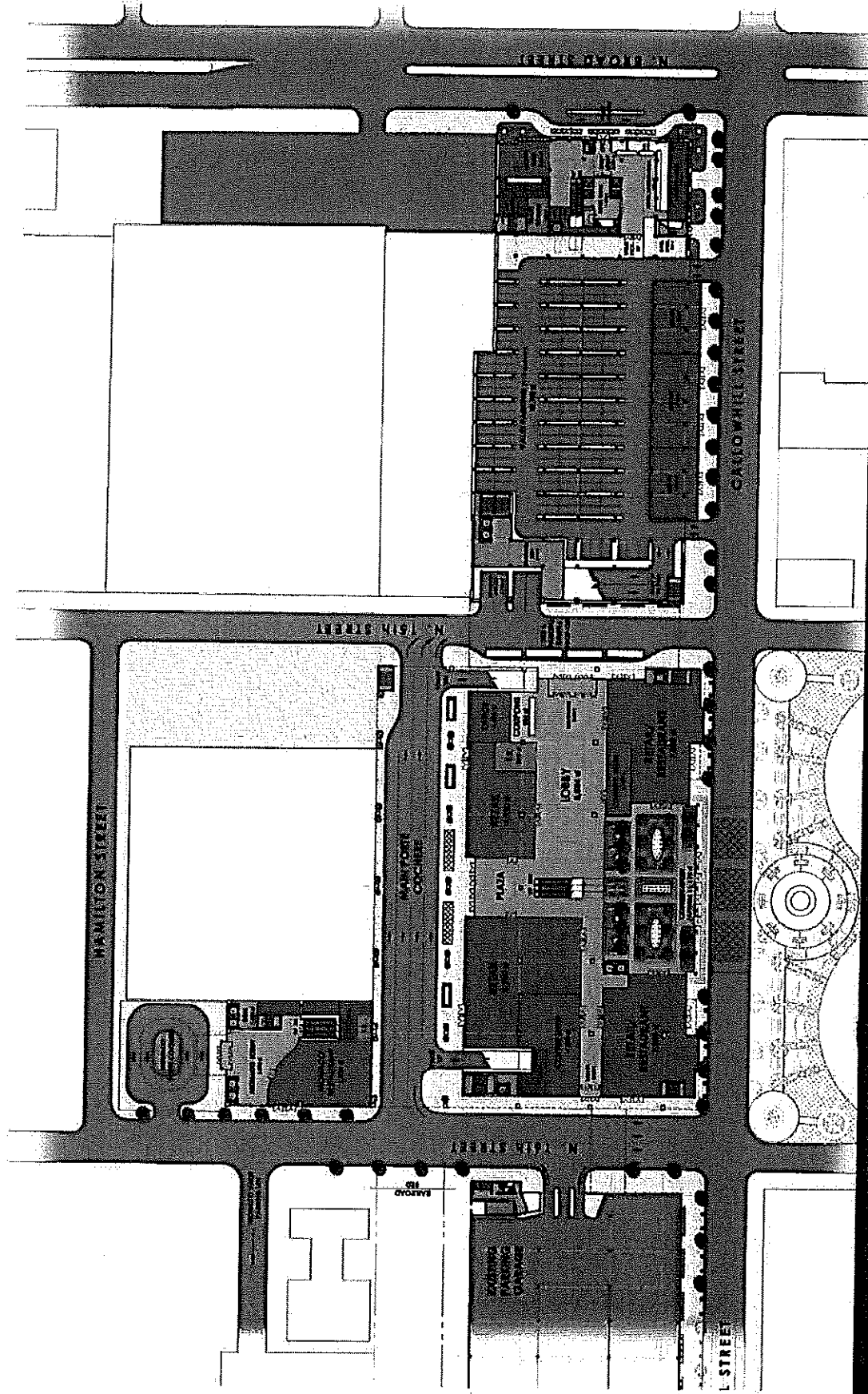
Raymond A. Quaglia (Pa. 63146)
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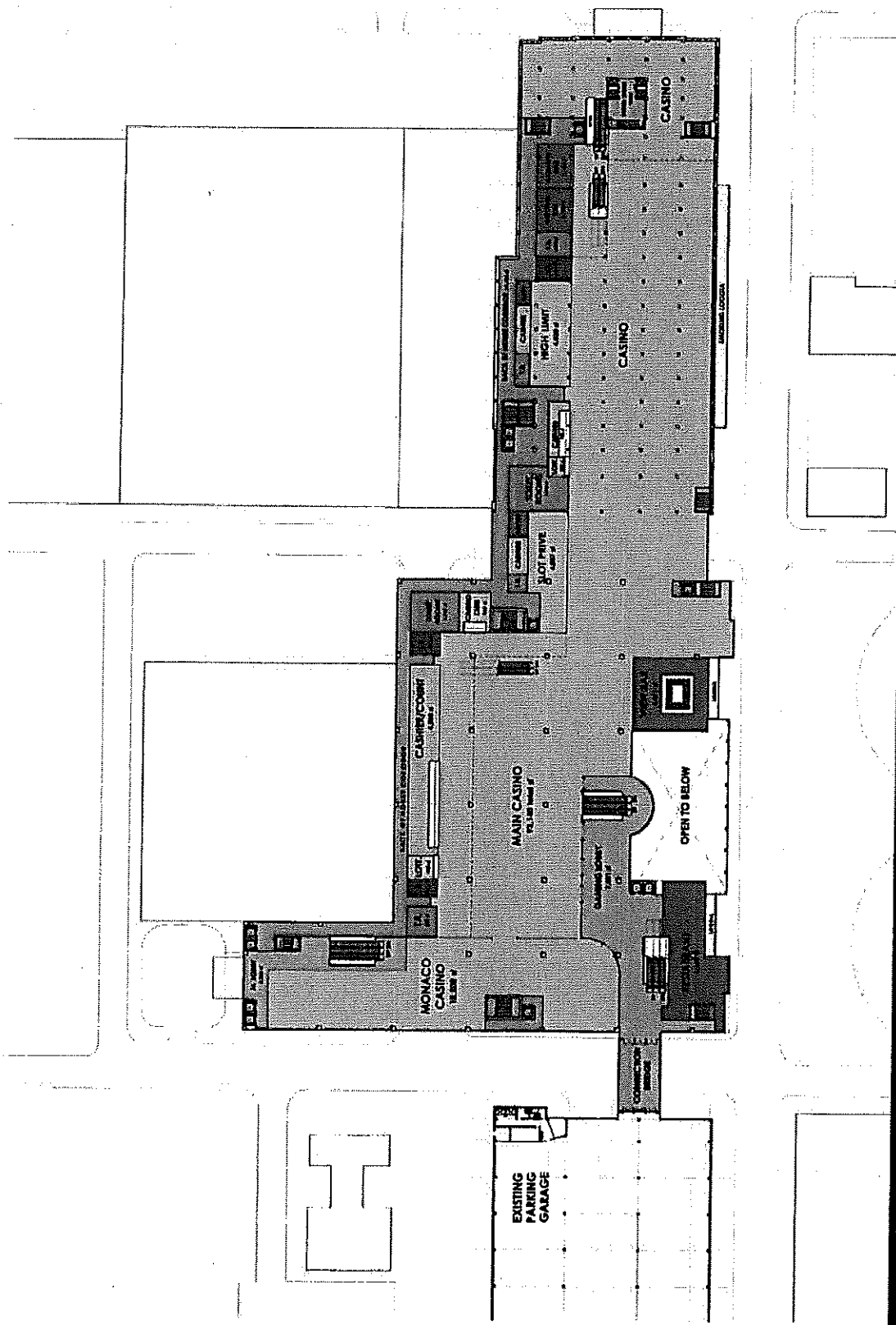
Attachment 1

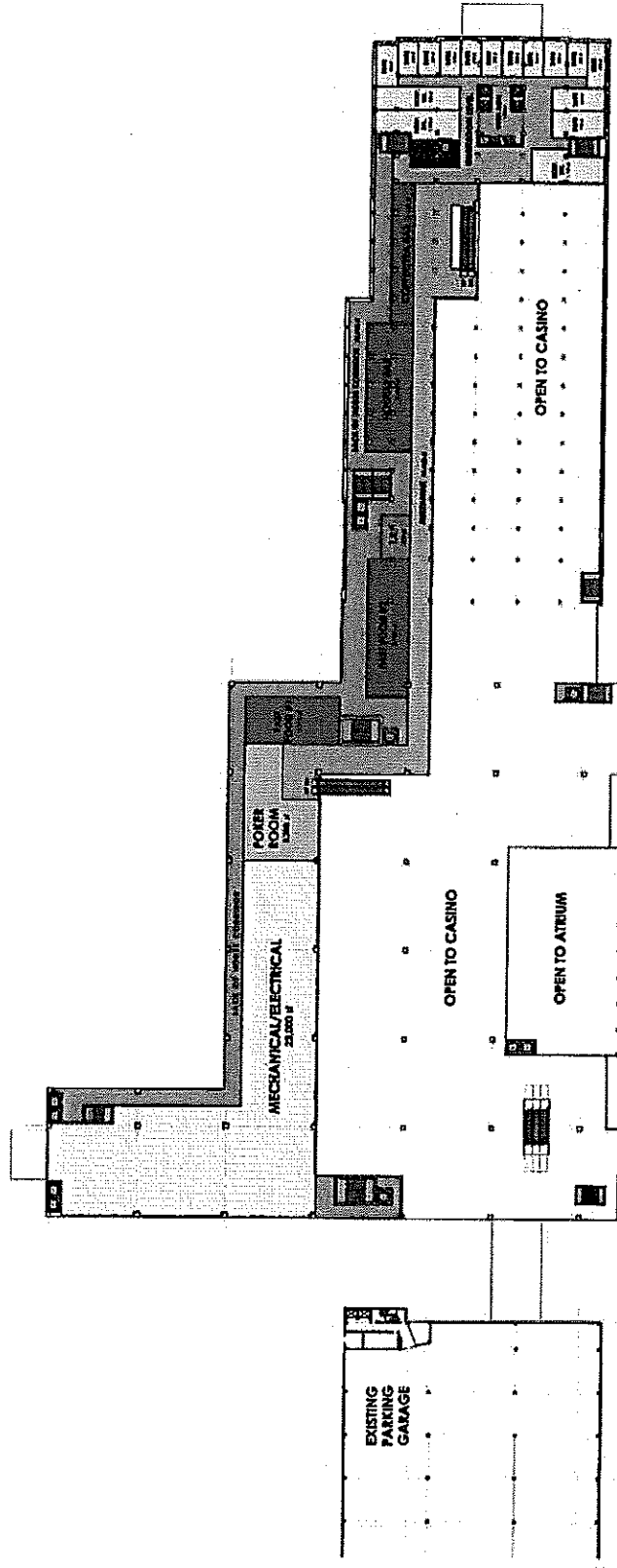
Excerpt from Appendix 32 (Site Plans) of the Slot Operator and Management Company- Application Disclosure and Information Form for Tower Entertainment, LLC

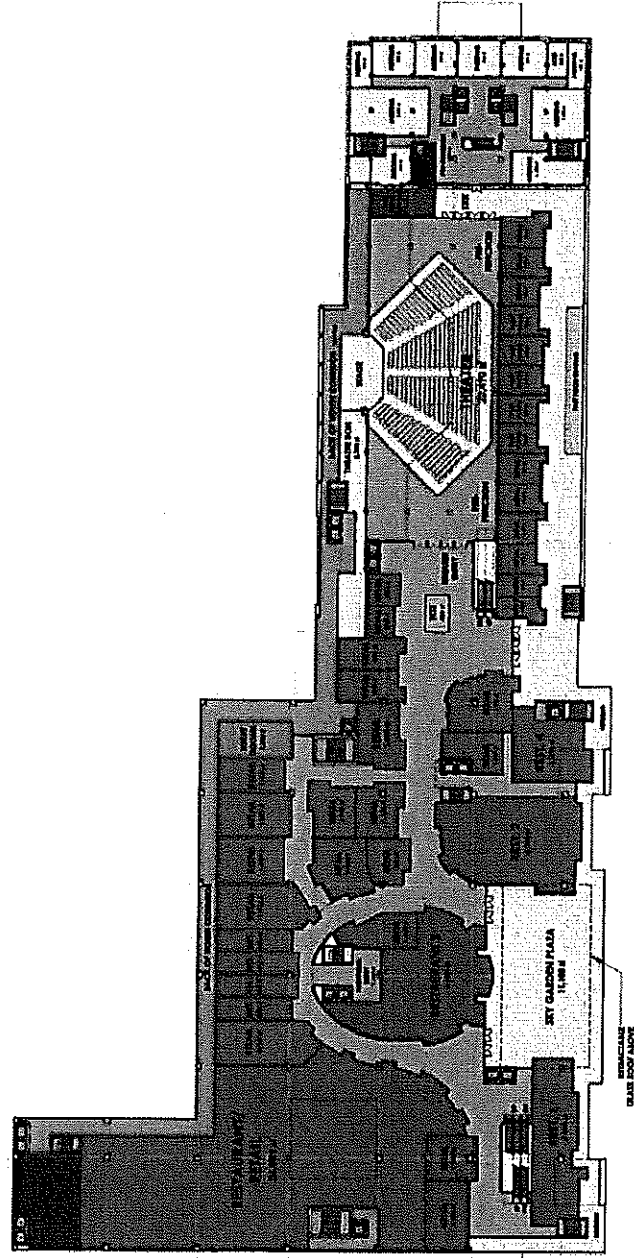
Please note that the excerpt intentionally omits areas dedicated exclusively to back of house and parking, such as the below-ground valet parking levels.



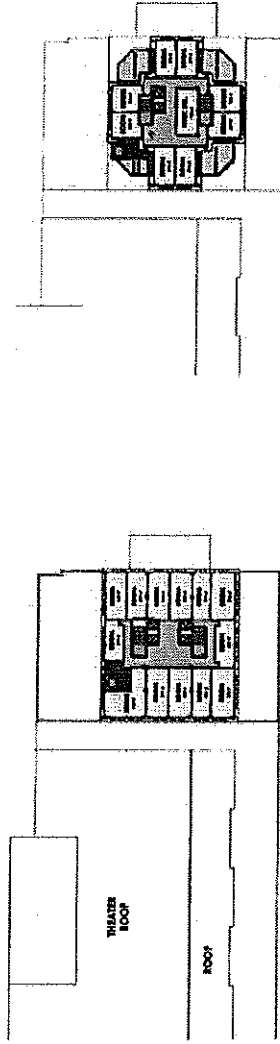
The Province Ground Level Plan



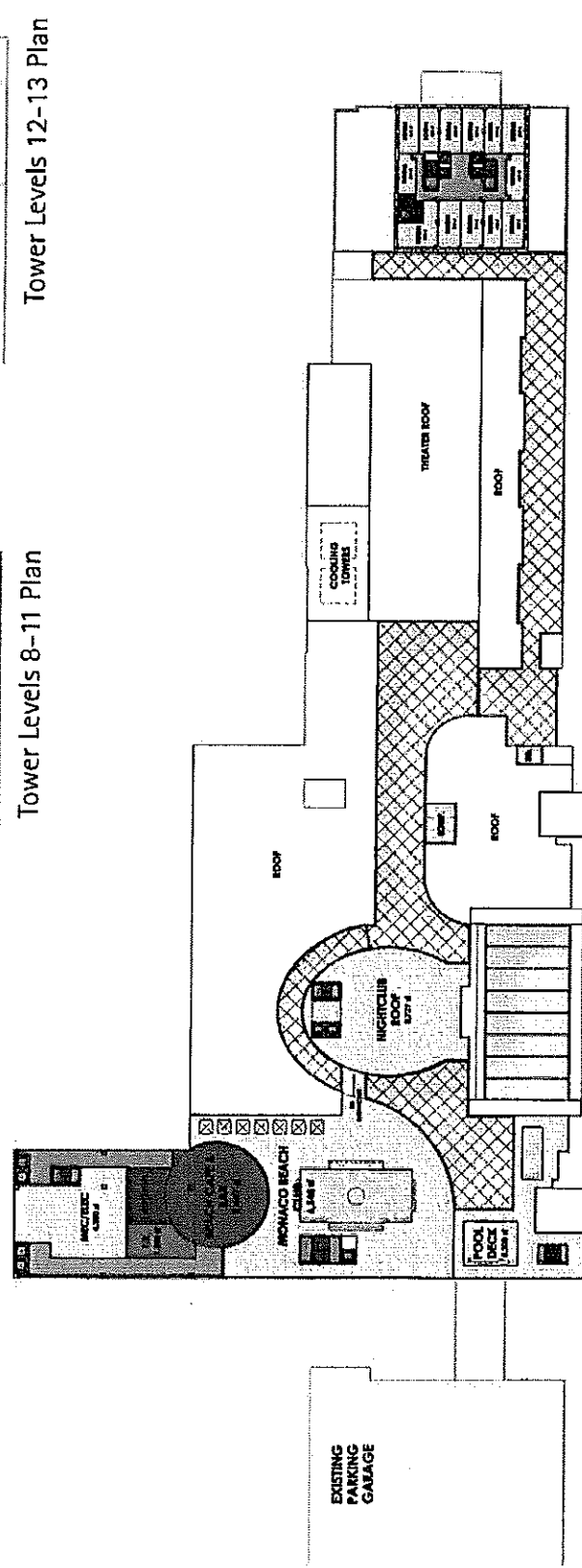




EXISTING
PARKING
GARAGE



Tower Levels 8-11 Plan



Tower Levels 12-13 Plan

Attachment 2

Shared-Use Parking Analysis Map to which Mr. Eric Ostimchuk Testified

Please note that this map identifies Tower's four garages with over 2,400 dedicated parking as Lots 1, 2, 3 and 4. Lots 1 and 2 are underneath the footprint of the main building shown on Attachment 1. The fifth garage with an additional 1,000 additional parking spots is not shown but would be immediately adjacent to the right of Lot 4. In addition, this map excludes the approximately 1,200 contested shared-use parking spots. Please also see Section IV.D of the foregoing brief for more detailed information.

SHARED-USE PARKING

SITE

CONTROLLED PARKING: 2774
SHARED USE PARKING: 4081
TOTAL: 6,855 SPACES

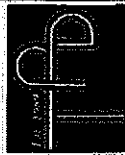
LOT A: 180 SPACES
 LOT B: 73 SPACES
 LOT C: 110 SPACES
 LOT D: 100 SPACES
 LOT E: 700 SPACES
 LOT F: 1,050 SPACES
 LOT G: 70 SPACES
 LOT H: 200 SPACES
 LOT I: 120 SPACES
 LOT J: 210 SPACES
 LOT K: 806 SPACES
 LOT L: 210 SPACES
 LOT M: 162 SPACES
 LOT N: 90 SPACES

SHARED USE PARKING: 4081

LOT A: 180 SPACES
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LOT I: 120 SPACES
LOT J: 210 SPACES
LOT K: 806 SPACES
LOT L: 210 SPACES
LOT M: 162 SPACES
LOT N: 90 SPACES

BASED ON WEEKEND OBSERVATIONS ON 01/10-01/11 AND 01/17-01/18

Note: values represent available spaces. Standard type indicate Friday observations, italic type indicate Saturday observations



CERTIFICATE OF SERVICE

I, Michael D. Fabius, hereby certify that on the 10th day of February, 2014, I caused a true and correct copy of the foregoing to be served upon the following via electronic mail and regular U.S. mail, postage prepaid:

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