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Gaming & Hospitality

## GAMING & HOSPITALITY LEGAL NEWS

### NEVADA'S GAMING POLICY COMMITTEE PASSES A RESOLUTION REGARDING MARIJUANA AND THE GAMING INDUSTRY

by Jennifer Gaynor, Kate Lowenhar-Fisher, Greg Gemignani, and Jeff Silver

On March 5, 2018, Nevada's Gaming Policy Committee convened briefly to pass a resolution that provides clarity for Nevada gaming licensees regarding the interactions they may and may not have with the state-legal marijuana industry.

This meeting followed from the discussion and testimony received at the last Gaming Policy Committee meeting in November 2017. As discussed in our article "Nevada's Gaming Policy Committee Convenes to Discuss Marijuana and the Gaming Industry," at that meeting it was made clear that gaming licensees have a sometimes-tricky line to walk in order to remain in strict compliance with state and federal law in a state where both medical and recreational marijuana are legal.

The three key issues discussed in the November meeting and dealt with in the Resolution include:

1. The propriety of events on the premises of a licensed gaming establishment that cater to or promote the use, sale, and cultivation or distribution of marijuana;
2. The propriety of a licensee contracting or maintaining a business relationship with an individual or entity engaged in the sale, cultivation, or distribution of marijuana; and
3. The propriety of a licensee receiving financing from or providing financing to an individual, entity or establishment that sells, cultivates, or distributes marijuana.

The resolutions adopted on March 5 include that Nevada gaming licensees:

- shall not directly "participate in the marijuana industry";
- shall not "contract with or maintain business relationships with or enter into landlord/tenant agreements with individuals or entities for the purpose of engaging in the sale, cultivation or distribution of marijuana";

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- shall not “receive financing from or provide financing to individuals, entities or establishments that sell, cultivate or distribute marijuana”;
- shall “continue to follow all federal direction regarding AML obligations and SAR reporting, in line with FINCEN guidance”;
- shall be allowed to “host conventions, trade shows, or similar conferences that may be related to marijuana but whose focus is primarily networking between participants . . . and other trade or educational activities that do not facilitate the actual possession or consumption of marijuana on a licensed property”;
- shall “take care to ensure that any events on the premises of a licensed gaming establishment do not promote illegal activities or foster incidents which might negatively impact the reputation of Nevada’s gaming industry”; and
- shall “conduct necessary due diligence and exercise discretion and sound judgment to prevent violations of Nevada or federal law in all business and financial activities.”

Although these resolutions are not legally binding, they do serve as policy recommendations for the Nevada Gaming Control Board and Gaming Commission and provide some additional clarity for gaming licensees.

Some of these recommendations are not news – it’s long been the policy of Nevada’s gaming regulators that licensees cannot directly participate in or have business relationships with the marijuana industry, including that any individuals who hold a gaming license shall not also be a landlord to a marijuana business. The guidance that licensees may host marijuana-industry trade shows and conferences, however, is sure to be welcome news in a town where conferences are big business.

*Jennifer Gaynor, Kate Lowenhar-Fisher, and Greg Gemignani are Members in Dickinson Wright’s Las Vegas office, and Jeff Silver is Of Counsel in the Las Vegas office. See the masthead for their contact information.*

## **PROPERTY TAXES: ARE CASINOS PAYING MORE THAN THEIR FAIR SHARE?**

*by Mark D. Lansing*

As the proliferation of casinos continues throughout the country, the valuations they once commanded in property assessments (personal or real) has arguably declined. Newer facilities, or those built in the last 10-15 years, often had property tax agreements associated with their construction. The older agreements, depending upon the “success” of the casinos, may prove to be reverse or negative agreements (i.e., if they were assessed properly on the assessment rolls or grand lists, they would be paying less in property taxes than what results from the agreements). Thus, like many properties (e.g., generation plants) that have similarly entered into property tax agreements lasting decades, a review of those agreements as they age is imperative to ensure they continue to result in equitable property tax treatment.

Similarly, older casino facilities built prior to the era of property tax agreements used to encourage their construction may also be paying inequitable property taxes as the gambling market becomes more saturated. Owners that aggressively manage their property taxes achieve valuations more in line with realistic values of the real and personal property in the marketplace.

Simply put, being aggressive in managing property taxes is a necessity for competitiveness in the marketplace. Property taxation, especially in states having greater dependence on it for revenue generation, often is excessive when the property owner fails to have a program that annually monitors valuation changes in the assessments and marketplace and then challenges overassessments.

*Mark Lansing is a Member in Dickinson Wright’s Washington, D.C. office. At no cost, Mark will perform an assessment analysis to determine if your property is over assessed. If you are interested, please contact Mark at 202.466.5964 or [mlansing@dickinsonwright.com](mailto:mlansing@dickinsonwright.com).*