



**2018**  
ANNUAL REPORT



## December 2018

### **Governor**

Charles D. Baker

### **Attorney General**

Maura Healey

### **Treasurer**

Deborah Goldberg

Chairs of the House and Senate  
Committees on Ways & Means

Chairs of the Joint Committee  
on Economic Development &  
Emerging Technologies

Clerks of the House and Senate

## **HONORABLE MADAMS AND MESSRS.**

We are pleased to deliver the seventh annual report of the Massachusetts Gaming Commission. This report covers the details of our operations as of the end of the Fiscal Year 2018 (June 30, 2018), and is submitted in accordance with section 70 of Chapter 23K.

During FY18 we continued to implement the operational readiness process in anticipation of the opening of MGM Springfield. This fiscal year we also increased funding for workforce development activities that leverage existing efforts at the state and local levels to help provide opportunities for employment.

The third full year of operations for Plainridge Park Casino concluded on June 30, 2018. The total gaming tax revenues collected for the fiscal year were \$170.0M with \$68.0M of that directed to Local Aid.

The opening of the downtown Springfield casino was August 24, 2018. Although our Investigations and Enforcement Bureau initiated an investigation on Wynn Resorts and the company's response to allegations of inappropriate conduct by its former chairman, construction at the Encore Boston Harbor continues in Everett.

We are always available to discuss with you at your convenience the efforts the Commission is making, the results it is achieving and any other aspect of our operations about which you would like additional information.

Sincerely,  
Massachusetts Gaming Commission

# MISSION

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**The mission of the Massachusetts Gaming Commission is to create and maintain a fair, transparent, and participatory process for implementing the expanded gaming law** passed by the Legislature and signed by the Governor in November 2011. The Commission strives to ensure that its decision-making and regulatory systems engender the confidence of the public and participants, and that they provide the greatest possible economic development benefits and revenues to the people of the Commonwealth, reduce to the maximum extent possible the potentially negative or unintended consequences of expanded gaming, and allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

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# LETTER FROM THE CHAIR

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The Massachusetts Gaming Commission (MGC) has been in existence since March 21 of 2012, and this report entails the seventh fiscal year of operations in the process of implementing the expanded gaming legislation (**Chapter 194 of the Acts of 2011 — An Act Establishing Expanded Gaming in the Commonwealth**) enacted by the General Court and signed into law by the Governor in November 2011.

The Commission made significant progress towards its mission during FY18. We continue to operate the regulatory framework to enable this Commission to oversee and regulate the gaming licenses that the Gaming Act allows.

## DURING FY18 THE COMMISSION:

1. Oversaw the third full year of operations at Plainridge Park Casino (PPC). For FY18 (ending June 30, 2018) Gross Gaming Revenues totaled \$170.0M (an \$11.82M increase from the prior year) resulting in taxes of \$83.2M (\$68M to Local Aid and \$15.2M to the Race Horse Development Fund)
2. Promulgated or amended thirty sets of regulations that govern many important aspects of gaming and racing operations including progressive games and equipment, gaming devices and electronic gaming equipment, licensing and registration of casino employees, surveillance, tax remittance and reporting, administrative closure of applications and complementary services and promotional gaming credits
3. Released important reports including the *Social and Economic Impacts of Expanded Gambling in Massachusetts: 2018* summarizing the impacts of expanded gaming to date. Other reports included the *Analysis of the Wave 2 of the Gambling Cohort Study (MAGIC)* as well as a second- year analysis of Lottery Revenue and Plainridge Park
4. Completed the evaluation of two major responsible gaming initiatives: (1) We staff and operate a GameSense Info Center at PPC, and (2) We deployed "PlayMyWay," a voluntary budgeting tool for slot players. These programs are first-of-their-kind in the United States
5. Continued to oversee and regulate the racing and simulcasting operations in the Commonwealth, including disbursements to purses and for the benefit of horsemen and breeders associations for a total of \$16.55M (\$9.5M disbursed to standardbred and \$7.0M disbursed to thoroughbred)
6. Held 25 public meetings of the Commission, and an additional four public hearings. The Commission streams all its public meetings live via the MGC website and transcribes the meetings and hearings in full. Further, there were 27 additional open meetings (Access and Opportunity Committee, Public Health Trust Fund Executive Committee, Horse Racing Committee, etc.)
7. Authored a *White Paper on Sports Betting* in anticipation of the United States Supreme Court decision to strike down key elements of the law that prohibited most states from sanctioning and regulating sports betting (PASPA)

Finally, during FY18 the Legislature enacted and the Governor signed St. 2017 Chapter 100 §3 as part of broader CORI reform efforts. This provision gives MGC the discretion to exempt individuals in certain job categories from registration. This effectively reconciled important provisions in the Gaming Act that had resulted in an automatic disqualification from employment to people with a criminal offense in their records.

# MAJOR MILESTONES ANTICIPATED FOR FISCAL YEAR 19

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**The first 10 months of operations of the MGM Springfield casino will follow the August 24, 2018 opening.** Gaming revenue for the first partial third quarter (from opening through September 30, 2018) amounted to \$36.4M, which resulted in \$9.1M in gaming taxes. For FY19 the Commonwealth could expect to collect approximately \$59.9M for the first partial year of operations from this Category 1 license.

**The fourth full year of operations of Plainridge Park Casino will conclude on June 30, 2019.** Gaming revenue for the first quarter of FY19 was \$44.9M which resulted in \$22.0M in revenues to the Commonwealth. Given increased competition from MGM Springfield, PPC could see prior year revenues decrease.

**Regulatory, staffing and oversight of the Everett operation** will accelerate in anticipation of the projected opening of Encore Boston Harbor in June 2019. We do not anticipate significant revenue from this Category 1 licensee in FY19.

**We will continue to improve our responsible gaming efforts.** We have convened a group of Northeast regulators and operators in our efforts to implement a **Regional Voluntary Self-Exclusion Program**. This program would be the first effort of its kind in the nation.

**We will continue our research and program evaluation activities.** We have begun a strategic planning process for the research agenda to continue making our research and program evaluation activities as useful as possible for regulation, mitigation, and the informing of policymakers.

**Standardbred racing will continue at Plainridge Park Casino and is expected to include 108 days of live racing for the calendar year 2019. Thoroughbred racing will continue at Suffolk Downs and is expected to include at least 4 days of live racing for the calendar year 2019.**

We continue to evaluate the feasibility of thoroughbred racing given available monies for purses.

**We will continue to work to maximize the economic benefits from a casino.** We convene and connect licensees to the Commonwealth's workforce and small business resources. We provide grants to leverage and supplement state and local workforce development programs.

**We will continue our transition to regulatory aspects of the operations of casinos, including:**

- Furtherance of regulations that govern operations and functions at the gaming establishments
- Implementation of further rules and procedures to ensure the integrity of the game
- Compliance, monitoring and audit programs for the oversight of operations of licensees

**We monitor developments that affect the gaming industry to make policy recommendations.** Topics like the status of the Mashpee Wampanoag Tribe have significant implications for **Region C** (Southeastern Massachusetts). Other topics include online gaming, sports betting, illegal gambling and the status of the Wampanoag Tribe of Gay Head (Aquinnah) and their potential impact on the young gaming industry in Massachusetts.



MGM  
MGM  
MGM

CASINO WARS



# KEY PROVISIONS OF THE GAMING ACT

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**Chapter 194 of the Acts of 2011 (“The Gaming Act”)** includes significant features to ensure public confidence and a robust gaming industry that generates economic development while providing mitigation measures to protect potentially vulnerable groups.

## **A STRONG, INDEPENDENT REGULATORY FRAMEWORK**

- Five full-time commissioners appointed by the three constitutional officers
- Rigorous standards for suitability and licensure of companies, vendors and employees
- On-site presence of gaming agents, state police and responsible gaming agents (GameSense Advisors)
- Detailed regulations and strict oversight to ensure integrity of the operations and fairness of the games

## **A ROBUST AND FUNDED RESEARCH MANDATE**

The Gaming Act enshrines the role of research in enhancing responsible gaming and mitigating the negative consequences of expanded gaming in Massachusetts. To this end, the Secretary of Health and Human Services and the Commission established a Public Health Trust Fund Executive Committee to oversee and execute on this mandate. The act directs the parties to:

- Understand the social and economic effects of expanded gaming including conducting a baseline study and subsequent studies of all relevant critical, social and economic variables
- Obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling
- Make annual, scientifically-based recommendations for policy to the Legislature

## **STRONG LOCAL CONTROL**

- Host communities vote on the host community agreement negotiated between the applicant and the local executive
- Surrounding communities have a process for addressing mitigation concerns (that must also be funded and addressed by the applicants)
- Reimbursement to communities for mitigation costs

## **POLICIES TO MAXIMIZE THE BENEFITS TO THE COMMONWEALTH**

- A competitive and transparent process for license solicitation, evaluation and award of up to three Category 1 licenses and one Category 2 license to maximize capital investment
- Clear directives and specific criteria to realize economic benefits to support local, small and diverse businesses, employ the unemployed and underemployed while protecting vulnerable groups and other Commonwealth assets including the Lottery and impacted live entertainment venues



# RECOMMENDATIONS FOR LEGISLATIVE ACTION

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In accordance with M.G.L. Chapter 30 §33 and Chapter 23K (the Gaming Act); **we submit recommendations for legislative action. The topics for consideration are:**

- 1. Consider addressing the expiring nature of the racing statutes in a permanent manner.** The current statutes that govern live racing and simulcasting in the Commonwealth (M.G.L. Chapters 128A and 128C) expire on July 31, 2019. As part of the Gaming Act (Chapter 194 of the Acts of 2011, §104), the Commission was tasked with providing findings and recommendations to the Legislature (given its then pending expiration of July 31, 2014). These recommendations were submitted in April 2013, in a report that included a draft proposed new M.G.L. Chapter 128D. While the Legislature did not enact the proposed Chapter 128D, different efforts to address this (in the House and Senate) resulted in four annual extensions of sections 128A and 128C (St. 2105 Chapter 10 §59, St. 2016 Chapter 176, St. 2017 Chapter 56 and St. 2018 Chapter 159). These extensions have allowed Suffolk Downs to continue simulcasting while requiring they conduct at least one day of live racing. However, in our opinion, the current short-term nature of the law creates uncertainty to the viability of live horse racing in the Commonwealth. Accordingly, the Commission favors an approach that includes a comprehensive statutory amendment that takes a more long-term view including allowing the Commission to set the minimum number of race days and use the Race Horse Development Fund to provide more assistance to the racing industry (both standardbred and thoroughbred).
- 2. Consider addressing the rapidly evolving nature of online gaming in a holistic way.** In 2016 the Legislature created a special commission that produced a report on July 31, 2017. In our opinion and as stated in the special commission's final report, the Commonwealth should provide a flexible, omnibus regulatory framework (and update outdated relevant statutes) as opposed to addressing the legality and regulation of each new game or online technology on a one-off basis, which may also include sports betting.
- 3. Consider exempting members of the Gaming Policy Advisory Committee, its subcommittees and local advisory committees from certain conflicts of interest and ethics restrictions.** M.G.L. Chapter 23K, §68 created a Gaming Policy Advisory Committee (GPAC) and subcommittees (specifically a Subcommittee on Community Mitigation) and Local Community Mitigation Advisory Committees (LCMACs) to provide advice to the Commission on gaming policy and related mitigation matters. By statute, the LCMACs include appointees from the host and surrounding communities to the casinos. The people in the best position to provide informed input in many of these advisory roles are local officials, municipal and regional employees. However, it has been determined that municipal and regional employees may be in violation of the state's conflict of interest law (M.G.C. Chapter 268a) if they were to provide advice to the Commission while also performing their local duties which typically include gaming-related matters. MGC worked closely with the State Ethics Commission to craft language to allow those municipal and regional planning employees to provide the best advice to the Commission while also meeting their gaming-related local and regional duties.



FIELD

Pay Double  
12

Don't Pass Bar

PASS LINE

CALL BETS



# AGENCY DIVISIONS

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## INVESTIGATIONS AND ENFORCEMENT BUREAU AND DIVISION OF LICENSING

The Investigations and Enforcement Bureau (IEB) is comprised of 1) the Investigations Division, which includes Massachusetts State Police (MSP) staff and a team of civilian financial investigators; 2) the Gaming Agents Division, comprised of civilian agents, which is charged with providing regulatory oversight and on-site monitoring of licensed gaming establishments; and 3) the Chief Enforcement Counsel whose duties include legal review of investigations and acting as the attorney for the IEB in licensing and enforcement actions by the bureau. The Director of the IEB also oversees the Division of Licensing, which administers the licensing and registration functions on behalf of the Commission for employees of, and vendors to, the gaming establishments.

The IEB conducts probity investigations to determine suitability for licensure and registration for all gaming establishment employees and vendors, per licensing regulations (205 CMR 134.00), which also define thresholds, standards and procedures for licensing and registration. On January 2018, the IEB initiated an investigation into the circumstances reported in the Wall Street Journal regarding inappropriate behavior by Wynn Resorts CEO Steve Wynn and the company's response. As of the writing of this report, the investigation continues.

There are three levels of employee licensure: Key Gaming Employee — Executive, Key Gaming Employee — Standard, and Gaming Employee. All three levels of licensure require a background check before employment may commence at a gaming establishment. Some employees not classified by regulation as either Key Gaming or Gaming Employees must register as a Gaming Service Employee, unless exempted from classification by the Commission. Background checks for those employees may commence after employment begins. The depth of background check is commensurate with the level of licensure/registration.

Pursuant to St. 2017 Chapter 110 §3, the Commission may, in its discretion, exempt certain service employees by job description from the registration requirement, which had previously acted as somewhat of a barrier for some seeking employment.

**In FY18, the IEB and the Division of Licensing received and processed 2,026 applications for individual licensure or registration and over 658 applications for business entity licensure or registration.** MGC also licensed an additional 14 casino qualifier individuals and 6 casino entity qualifiers.

At PPC, gaming agents perform a variety of tasks including slot machine moves and inspections, operational audits, compliance reports, patron complaints, machine jackpots over certain thresholds, and tips from the **Fair Deal** tip line.

As part of the Commission's mission to ensure the integrity of the games, MGC promulgated an important set of regulations regarding the rules for table games and gaming equipment. These rules are typically quite detailed, and their associated procedures are enforced and designed to minimize advantage play. During the coming year, we anticipate training additional staff. This also includes the additional preparation of table game monitoring and associated procedures.

During FY18, we successfully processed licensing applications via an upgraded version of a **Licensing Management System** (LMS). The system is a web-based digital tool to capture information from individuals to be licensed by MGC. The easy-to-use system allows for efficiencies in the licensing process. Users upload different documents as necessary and when available. The system provides for the documentation and preservation of all requirements of the licensing and investigatory processes.

The LMS has dramatically enhanced our Division of Licensing's ability to administer, track, document and communicate with licensees, and on-site staff on the status of the licenses and registrations. Also, the IEB utilizes the LMS to reflect actual workflows and track and record background investigations in our ongoing effort of building an entirely digital agency.

## OFFICE OF THE OMBUDSMAN

The Office of the Ombudsman is responsible for coordinating and communicating interactions among the Commission and many stakeholders: State agencies, applicants, licensees, host and surrounding Communities, and multiple other interested parties.

### COMMUNITY MITIGATION GRANTS

The Community Mitigation Fund receives monies from the licensing fees and the taxes on gross gaming revenues and is designed to address unanticipated adverse impacts that may result from the construction and operations of casinos. It may also be used for planning, either to determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts. When fully funded, the Community Mitigation Fund will have approximately \$20M annually for local mitigation projects.

The Office of the Ombudsman reviews requests for mitigation dollars and makes recommendations to the Commission on the disbursements from the Community Mitigation Fund. **To date, the Commission has allocated approximately \$12.3M in grants to host, surrounding and neighboring communities, governmental agencies and public safety organizations.** During FY18, the Community Mitigation grants were as follows:

1. **One-Time Reserve Grants in the amount of \$100,000.** This grant reserved \$100,000 for the communities which were a host community, surrounding community, nearby or adjacent community. To date, a total of 28 communities associated with Region A (Eastern Massachusetts), Region B (Western Massachusetts) and the slots-parlor have been granted reserves for a total of \$2,800,000.
2. **Specific Mitigation Grants.** These grants were developed to assist communities with an unanticipated or anticipated mitigation need specific to that Community. During FY18 these grants were as follows:
  - **Hampden County District Attorney's Office: \$125,000**  
\$100,000 for an additional Assistant District Attorney to assist with potential increased caseloads that may result from the operation of the MGM Springfield facility, and \$25,000 to develop a tracking system for casino-related cases. The grant provides flexibility to pay for the portion of a victim witness advocate.

- **Hampden County Sheriff's Department: \$765,000**  
Lease assistance for the Western Massachusetts Recovery and Wellness Center for 2018 and 2019. The Center needed to move from its prior location which was located within the current footprint of the MGM Springfield facility.
- **Massachusetts State Police: \$1,814,544**  
Hiring, training, and compensation of Troopers for the expansion of the Gaming Enforcement Unit.
- **Springfield Police: \$160,498**  
Training and equipment for Recruit Officers to attend Police Training Academy, and additional personnel costs. Five Springfield Police Officers and one Lieutenant will be assigned to the MGM Springfield Gaming Enforcement Unit.

3. **Transportation Grants.** These grants were developed to assist communities in transportation and transportation-related impacts. The Commission continues to support regional approaches to mitigation needs and recognizes that some mitigation requires the commitment of more than one community. The 2018 Guidelines for the Community Mitigation Fund allowed multiple communities to submit a joint application.

- **Attleboro: \$100,000**  
Traffic study of and improvements (e.g., signal coordination) to a study area that consists of Route 123 from its intersections at Route 1, northerly along Route 1 to the North Attleborough corporate line.
- **Boston: \$200,000**  
Assistance with the design of the Sullivan Square / Rutherford Avenue Project.
- **Chelsea: \$200,000**  
100% Design / Engineering of Beacham / Williams Street Corridor.
- **Everett / Somerville: \$425,000**  
Design and permitting of station enhancements / a weather protected connecting structure (connector) for enhanced access to the Assembly Square MBTA Station. A completed connector would work in tandem with a proposed bicycle and pedestrian bridge to provide connections from the station to the Encore Boston Harbor facility, the City of Everett, and regional bicycle and pedestrian paths.

- **Medford: \$198,600**  
Survey, final design documents and complete permitting for the proposed South Medford Connector bicycle and pedestrian path, designed to provide enhance regional connections.
- **Revere / Saugus: \$275,000**  
Funding for preliminary traffic designs for elements within Phase 1 of the Route 1 Improvement Project in order to plan for potential Encore Boston Harbor traffic.
- **West Springfield: \$200,000**  
Professional engineering consultant to collect data, analyze and design improvements to portions of both Park Street (Route 20) and Park Avenue (Route 20) between the intersections of Elm Street (Route 20) and Union Street, easterly to the North End Bridge Rotary at Route 5 to mitigate transportation impacts associated with additional casino traffic.

**4. Workforce Development Pilot Program.** FY18 was the second year that MGC allocated funding for Workforce Development purposes as part of the Community Mitigation Fund. This program was conceived as a pilot program to help increase job readiness in both Regions A and B in anticipation of the casino openings. A total of \$900,000 for the Workforce Development Pilot Program was approved for this fiscal year funding round as follows:

- **Boston Private Industry Council: \$300,000**  
Funding for the Greater Boston Casino Pipeline Initiative (GBCPI) including funding for English for Hospitality classes, "Community Supports" local outreach to job seekers, BEST's Pre-Apprenticeship Program funding and gaming school scholarships.
- **Holyoke Community College: \$300,000**  
Work Ready collaboration between Holyoke Community College (HCC), Springfield Technical Community College (STCC) and Springfield Public Schools including \$70,000 for HCC gaming scholarships, \$57,306 for HCC / STCC line cook training; \$100,000 for year two of the SPS Ahead of the Game program for literacy and math skills GED / HiSET; and \$82,693 for year two of the STCC / HCC Hampden Prep Program for local education (high school credential) and career readiness exploration and certificate.

- **MetroNorth Regional Employment Board (MNREB): \$300,000**  
MetroNorth Casino Careers Consortium (MNCCC) including \$95,000 for the NECAT Everett Culinary Training Program, \$10,000 for the Career Casino Advisors program, \$60,000 for English for Employment, and \$50,000 for Job Readiness Training.

## 5. Non-Transportation Planning

- **Malden: \$50,000**  
Planning to assist in the completion of a Broadway Corridor Framework Plan to study existing physical and economic conditions and project gaming facility related impacts on the Corridor. The effort will also provide recommendations relating to land use, economic development, and implementation.
- **Revere: \$50,000**  
\$42,000 to continue the services of an economic development consultant to address Encore Boston Harbor opportunities over an additional period of 6 months. The balance of the grant, \$8,000, would be used to undertake marketing and promotional efforts about these development opportunities and the potential linkage with the Encore Boston Harbor casino.
- **West Springfield: \$40,000**  
Funding for an architectural and engineering consultant to conduct a Police Facility Needs Assessment and Location Study. The Town of West Springfield will experience space constraints in its current facility resulting from the hiring of eight new officers to address potential MGM Springfield calls for service.

**6. Tribal Gaming Technical Assistance Reserve \$200,000**

- **Southeastern Regional Planning and Economic Development District (SRPEDD): \$200,000**

This reserve would provide funding to SRPEDD to assist in the determination of potential impacts that may be experienced by communities that are geographically proximate to the proposed facility. The Commission determined that this reserve should continue until there is a decision regarding the tribal facility.

**LICENSEE REPORTING AND CONSTRUCTION OVERSIGHT**

The Office of the Ombudsman also helps the Commission remain up to date on the activities of its licensees, including the progress of the construction of the Encore Boston Harbor and MGM Springfield facilities, and the status of all three current facilities in meeting the terms of their licenses. The Office of the Ombudsman coordinates reports due to the Commission from licensees as well as developments regarding their progress against a large number of license conditions. This office includes the role of a Construction Project Oversight Manager for the oversight of efforts from licensees and other design, permitting, and construction requirements.

The Ombudsman further coordinates and supports legislatively mandated Advisory Committees and sub-committees which support the Commission on the Community Mitigation Fund guidelines on an annual basis.

**INFORMATION TECHNOLOGY DIVISION**

The Information Technology Division (ITD) supports both internal and external business processes of MGC and provides infrastructure, connectivity, hardware, software, as well as data management and security for the integrity and efficiency of MGC's operations and its oversight of licensees.

The Gaming Technology Unit (GTU) is responsible for planning, organizing, managing, and implementing the regulations, policies, procedures, and testing needed to ensure the integrity of electronic gaming devices (EGDs) and associated software and equipment. The GTU oversees the issuance of certifications and permits for the use of EGDs in Massachusetts. The Unit is also responsible for the evaluation, inspection, and investigation of electronic gaming devices and associated equipment, and the oversight of all EGD assets in the jurisdiction.

We have implemented a Central Monitoring System (CMS), for the oversight, reconciliation, inventory and control of all activity of the electronic gaming devices (slots) at the casinos. This system enables MGC to maintain a strict accounting and control of gaming revenues and corresponding taxes due to the Commonwealth in a highly efficient manner.



Gaming Agents

# RESEARCH & RESPONSIBLE GAMING

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The Office of Research and Responsible Gaming leads MGC's efforts to mitigate gambling-related harm through the development and implementation of casino-based responsible gaming programs. In addition, this office directs the implementation of a comprehensive gaming research program as mandated by Section 71 of Chapter 23K.

The Director of Research and Responsible Gaming serves as key liaison to the Public Health Trust Fund. The Gaming Act created this fund, and it is managed by an executive committee co-chaired by the Chair of the Commission and the Secretary of Health and Human Services or their designees. When fully funded, the Public Health Trust Fund will direct approximately \$15M annually to gaming research, responsible gaming and problem gambling prevention and treatment programs. MGC and the Executive Office of Health and Human Services set an annual budget for expenditures from the Public Health Trust Fund, which includes funding for the yearly gaming research program.

## **SOCIAL AND ECONOMIC IMPACTS OF GAMBLING IN MASSACHUSETTS**

The cornerstone research effort of the Commission is a comprehensive, multi-year study of the **Social and Economic Impacts of Gambling in Massachusetts** (SEIGMA). This study constitutes the most in-depth and comprehensive investigation of the impacts of introducing casino gambling ever undertaken. Led by the UMass Amherst School of Public Health and Health Sciences and supported by the UMass Donahue Institute, a multi-disciplinary research team collects, analyzes and reports each year the actual impacts, which in turn provide key information to policymakers.

This year, SEIGMA released a report summarizing the impacts of expanded gaming to-date.

## **SOCIAL AND ECONOMIC IMPACTS OF EXPANDED GAMBLING IN MASSACHUSETTS: 2018**

### **Social and Health Impacts**

As of mid-2018 (i.e., after the opening of Plainridge Park Casino and prior to the opening of MGM Springfield and Encore Boston Harbor), the evidence indicates the following:

- There has been no significant change in the prevalence of problem gambling or related indices (treatment seeking, bankruptcy, divorce/separation, suicides) at either a state level or in the PPC host and surrounding communities.
- There has been no significant change in the overall amount of crime at a state level or in the PPC host and surrounding communities.
- There has been no significant change in population health (health, happiness, stress, substance use, addictions) at either a statewide level or in the PPC host and surrounding communities that can be attributed to casino introduction.

### **Economic and Fiscal Impacts**

As of mid-2018 (i.e., after the opening of Plainridge Park Casino and prior to the opening of MGM Springfield and Encore Boston Harbor), the evidence indicates the following:

- The building of all three casinos has had significant direct economic benefits. All three casino companies have spent a considerable amount of money within the state building these facilities and employing a large local workforce in the construction. This amounted to \$150.2M for PPC, with nearly 87% of this being spent in the state and approximately 81% of the construction workforce being from Massachusetts.
- The operation of PPC is also creating significant economic benefits, as most of the \$176M-\$186M annual revenue appears to represent new money from 'recaptured' Massachusetts casino patrons

(i.e., Massachusetts residents who reported they would have gambled out-of-state if not for PPC) and out-of-state patrons. Furthermore, the large majority of this revenue stays in the state. Of the \$129.5M in operational expenses (taxes, wages, supplies) in PPC's first year of operation, 87% was spent within Massachusetts. Also, slightly more than 500 people have ongoing employment at the casino, with approximately 71% being in-state employees. A significant portion of these are 'new' jobs as people taking the positions were either unemployed or working part-time prior to beginning work at the casino.

- Government impacts from casino gambling have not been extensively analyzed. However, it is clear that some regulatory costs are incurred at a state level are offset by revenue from casino business taxes and licensing fees. At a regional level, there are some financial costs in the community hosting the casino due to strain on infrastructure and local government services as well as the fact that the local populace will disproportionately contribute to casino revenue. However, this is offset by revenue from Host and Surrounding Community agreements with the casino, casino property taxes, and Local Aid from the state government from taxes on casino gross gaming revenue.

### **MASSACHUSETTS GAMING IMPACT COHORT (MAGIC)**

Since 2015, the same research team that leads the SEIGMA study has been conducting a longitudinal cohort study of gambling and problem gambling in Massachusetts. The MAGIC study surveys the same individuals (a sample of 3,139 Massachusetts residents) over time in an effort to obtain information on how gambling and problem gambling develops, progresses, and remits. The survey also identifies demographic groups particularly at risk of experiencing gambling-related harm. This research also highlights risk and protective factors important in developing effective prevention, intervention, treatment, and recovery support services. The stability and movement in and out of different gambling behaviors is a key focus of the MAGIC study.

### **ANALYSIS OF MAGIC WAVE 2: INCIDENCE AND TRANSITIONS**

The second wave of MAGIC was conducted from March 2015–September 2015 (an average of 16.5 months after Wave 1). Changes in gambling participation within the cohort were examined by comparing the self-reported past-year behaviors of the members of the cohort at Wave 1 and Wave 2. Results from this study suggest that the incidence of problem gambling may be relatively high, despite the fact that casinos are not yet operating in the Commonwealth. If true, it would indicate that additional prevention and treatment resources for the state are required. The results also suggest that remission from problem gambling is quite high. If true, then additional treatment resources may be especially beneficial in accelerating such transitions. Future analyses will focus on predictors of problem gambling onset and whether there are gender differences in these predictors as well as predictors of problem gambling remission and the extent to which accessing treatment is one of these factors.

#### **KEY FINDINGS:**

- Recreational Gamblers and Non-Gamblers display the most stable pattern of gambling behavior.
- 80% of Recreational Gamblers stayed Recreational Gamblers.
- 64% of Non-Gamblers remained Non-Gamblers. A sizable portion transitioned into the Recreational Gambling category.
- Only 49% of Problem or Pathological Gamblers stayed in this category.
- Sizable portions transitioned into At-Risk Gambling and Recreational Gambling categories.
- At-Risk Gamblers display the most unstable pattern of gambling behavior:
  - Only 37% remained in this category.
  - Most transitioned to Recreational Gambling.
  - A significant minority transitioned to Problem or Pathological Gambling.



## TRANSITIONS BETWEEN GAMBLING BEHAVIOR GROUPS FROM WAVE 1 TO WAVE 2

		WAVE 2									
		Non-Gambler		Recreational Gambler		At-Risk Gambler		Problem or Pathological Gambler		Shift	
GAMBLING STATUS		N	%	N	%	N	%	N	%	N	%
WAVE 1	Non-Gambler	298	64.4	158	34.1	7	1.5	0	0.0	16.5	35.6
	Recreational Gambler	177	8.3	1,723	80.3	223	10.4	22	1.0	422	19.7
	At-Risk Gambler	8	2.0	201	50.9	148	37.5	38	9.6	247	62.5
	Problem or Pathological Gambler	-	-	16	20.3	23	29.1	39	49.4	40	50.6
	<b>TOTAL</b>	<b>484</b>		<b>2,098</b>		<b>401</b>		<b>99</b>			

The full report can be found at <https://massgaming.com/wp-content/uploads/MAGIC-Wave-2-Report-1-10-18.pdf>

### RESPONSIBLE GAMING INITIATIVES

The ongoing Responsible Gaming programs currently deployed at PPC but expected to be implemented in both Category 1 casinos are:

#### THE VOLUNTARY SELF-EXCLUSION PROGRAM (VSE)

As required by statute, the Voluntary Self-Exclusion Program is available to assist patrons who recognize that they have experienced a loss of control over their gambling and wish to invoke external controls. Once on the list, persons are prohibited from entering the gaming floor, and if they do, gambling wins and losses are transferred to the MGC Gaming Revenue Fund. Enrollment terms are 6 months, 1 year, 3 years, or 5 years. The VSE contract covers all Massachusetts casino properties. The self-exclusion process utilizes an engaged approach, ensuring that the patron obtains the assistance needed, is responded to in a respectful, timely, and discreet manner, and feels supported.

- There are currently 329 participants in the VSE Program. To date, 56 participants have removed themselves from the list at the conclusion of their term.

MGC contracted with the Cambridge Health Alliance, Division on Addiction to provide an evaluation of the Voluntary Self-Exclusion Program. This initial report summarizes data collected from the program and its enrollees during its first 29 months of operation in Massachusetts.

#### KEY FINDINGS INCLUDE:

- Overall, VSE enrollees were satisfied with the enrollment process and held positive impressions of it as well as the GameSense Advisors who facilitated enrollment; however, program satisfaction declined over time, possibly indicating a need for program-related maintenance activities.
- More than 40% of VSE enrollees who completed the follow-up interview indicated that enrollment influenced them to access additional help and resources.
- Enrollees who completed the follow-up interview indicated that the program was helpful to them because of the support it provided, as well as its role as a deterrent because of the risk of being caught.
- Enrollees who completed the follow-up interview reported statistically significant improvements in gambling problems, mental health, and relationship quality.
- Enrollees who completed the follow-up interview significantly reduced the frequency and amount they gambled. Though more than 70% continued to gamble, 80% reported that they were gambling less at follow-up than prior to enrollment.

The full report can be found at <https://massgaming.com/wp-content/uploads/VSEeval.pdf>

Also, we continue our efforts of convening a Regional Voluntary Self-Exclusion Program with neighboring states with casino gambling in New England (Connecticut, Rhode Island, Maine) and New York. We anticipate that during FY19, we will be well on our way to a multi-state compact that will be the first-in-the-nation.

#### GAMESENSE

GameSense is an innovative responsible gaming program adopted by the Massachusetts Gaming Commission as part of its mission to 1) promote positive play and 2) reduce gambling-related harm.



To encourage responsible gaming, GameSense works to support positive play for all players. Positive play is when a player holds attitudes and beliefs that minimize their risk for developing gambling problems. GameSense works to encourage positive play by increasing informed player choice. Informed player choice includes, but is not limited to, a deeper understanding about how gambling and individual games work, how much one is spending, and debunking common gambling myths. PlayMyWay is offered as a GameSense tool that allows players to set a budget and receive reminders of their budget so they can self-monitor their play activity.

To reduce gambling related harm, GameSense works to provide at-risk and problem gamblers with information relevant to their specific needs. This includes connecting players to self-assessment tools, providing information to help them recognize the signs of problem gambling and community-based resources if they wish to seek professional help. If a player feels that their gambling is beyond their control, they can also enroll in the Voluntary Self-Exclusion Program, which excludes them from participating in gambling activities.

To increase visibility and awareness of the program, GameSense Info Centers are located near high-traffic gambling areas of the casino. GameSense Advisors are on-site 16 hours per day, 7 days a week to educate and engage with casino patrons and staff.

MGC contracted with the Cambridge Health Alliance, Division on Addiction to provide an evaluation of the GameSense program. A compendium of four evaluations spanning more than two years summarizes data collected from the program.

#### KEY FINDINGS INCLUDE:

- Within one year of launch, 54% of patrons surveyed reported being aware of the GameSense program and the level of awareness increased (43% to 69%) between February 2016 and July 2016.
- Nearly three in five (59%) patrons surveyed reported learning something new about gambling from the GameSense Advisor. As a result of this interaction, 22% reported having changed how they gamble. One in three (33%) patrons who had an in-depth conversation with a GameSense Advisor said this conversation caused them to think about their own gambling.

- GameSense Advisors recorded 5,659 direct interactions with patrons between December 2015 to May 2016, and 7,878 direct interactions between August 2016 to February 2017.
- Nine out of ten believed GameSense could benefit anyone who gambles. Moreover, the overwhelming majority of patrons (98%) who spoke with a GameSense Advisor reported being satisfied with the information provided.
- One in three (32%) patrons who had an in-depth conversation with a GameSense Advisor sought them out to learn about or enroll in PlayMyWay, and 90% of enrollments in the Voluntary Self-Exclusion Program were completed by GameSense Advisors (314 out of 349 enrollments).

The full report can be found at <https://massgaming.com/wp-content/uploads/Comprehensive-Evaluation-of-the-Plainridge-Park-Casino-GameSense-Program-7-26-18.pdf>

#### PLAYMYWAY

This tool prompts rewards card holders to voluntarily choose a daily, weekly and/or monthly budget to track their spending while at PPC.



Enrolled participants receive automatic notifications after they reach 50% and 75% of the spend budget. Players will also receive a notification when they reach 100% of the budget, and if they continue to play, notifications will be received at 25% intervals. A player can choose to stop at any point or keep playing. There is no penalty or consequence for playing beyond the set budget as it is intended to help players make decisions and monitor their gambling in real time.

As of October 2018 over 20,000 PPC patrons have enrolled in PlayMyWay representing 7.5% of eligible players. Of the number of people who have enrolled, 2,900 (or 16%) have unenrolled.

MGC contracted with the Cambridge Health Alliance, Division on Addiction to provide an evaluation of PlayMyWay. A compendium of four evaluations spanning more than two years summarizes data collected from the program.

#### KEY FINDINGS INCLUDE:

- PlayMyWay users had significantly more cash activity than non-users on slot machines and electronic table games. For example, during the entire study period, PlayMyWay users inserted significantly more cash into slot machines than non-users but also withdrew more funds than non-users (lost less).
- PlayMyWay users tended to wager less money as well as lose less money per day compared to non-users. Over time, PlayMyWay users also exhibited slightly more variation in amount wagered than non-users.
- About half of enrollees never approached their self-determined budgets, and therefore never received any notifications. The observation of patterns of ongoing notification indicated that most people who received notifications from PlayMyWay did not stop gambling.
- The initial evaluation of PlayMyWay provides the first look into how real gamblers use and interact with PlayMyWay at Plainridge Park Casino. Data limitations prevented evaluators from assessing key differences in gambling behavior between PlayMyWay users and non-users, and among PlayMyWay users before, during, and/or after using PlayMyWay. These limitations also hampered a complete assessment of how budget notifications might relate to both gambling and cash activity. Additional evaluation is currently underway and expected to be complete within the next few months.

The full report can be found at <https://massgaming.com/wp-content/uploads/PlayMyWay-Preliminary-Evaluation-11-21-17.pdf>



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# I BUILT THIS LIFE BY BUILDING ROADS

Women in construction get great pay, benefits, training and pension to help achieve their life goals. Build a life that works for you.

LEARN MORE AT: [BuildALifeMA.org](http://BuildALifeMA.org)



Centina Brooks  
Operating Engineer / Home Owner

# CASINO PROPERTY & PROJECT SUMMARIES

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## PLAINRIDGE PARK CASINO

PPC is the Category 2 licensee in Plainville, Massachusetts. The facility also hosts standardbred live racing and simulcasting operations.

<b>Conditional Award of the License</b>	February 2014
<b>Operations Certificate/Date Opened</b>	June 24, 2015
<b>Gaming Space</b>	43,800 square feet
<b>Capital Investment Amount</b>	\$250M
<b>Employees</b>	503 employees as follows: 35 Key Gaming Employees, 190 Gaming Employees and 278 Service Employees
<b>Tax on Gross Gaming Revenues</b>	49%
<b>Slots/Gaming Positions</b>	1,250 slots/1,414 Gaming Positions
<b>Table Games</b>	N/A
<b>Additional Amenities</b>	2 Full-Service Restaurants [“Flutie’s Sports Bar” and “Slack’s Oyster House & Grill”] 3 food court style eateries [“B-Good” “Dunkin’ Donuts” “Slice”] Live Entertainment [“Revolution Lounge”] Additional racing concessions/outlets



## ENCORE BOSTON HARBOR

Encore Boston Harbor is a Category 1 licensee for Region A in Everett, Massachusetts. The facility will sit on a previously contaminated site on the bank of the Mystic River at the site of the former Monsanto plant.

<b>Conditional Award of the License:</b>	September 2014
<b>Projected Opening Date</b>	June 2019
<b>Gaming Space</b>	190,461 square feet
<b>Total Investment Amount</b>	\$2.5B
<b>Total Employment</b>	4,000 permanent jobs (projected)
<b>Tax on Gross Gaming Revenues</b>	25%
<b>Slots</b>	2,574
<b>Table Games</b>	141 gaming tables, 91 poker tables
<b>Additional Amenities</b>	5-star hotel (671 rooms), 56,602 sf retail space, 10 outlets of food and beverage, multipurpose venue, spa/gym, convention space, outdoor space, indoor garden, indoor pool



## MGM SPRINGFIELD

MGM Springfield is a Category 1 licensee for Region B in Springfield, Massachusetts. The facility is located on approximately 14 acres in downtown Springfield in the congregation of parcels bound by Main, State, Union and East Columbus Streets.

<b>Conditional Award of the License</b>	June 2014
<b>Opening Date</b>	August 24, 2018
<b>Gaming Space</b>	126,262 square feet
<b>Total Gross Area</b>	759,157 square feet
<b>Total Investment Amount</b>	\$960M*
<b>Tax on Gross Gaming Revenues</b>	25%
<b>Parking</b>	3,375 covered on site
<b>Total Employment</b>	3,000 permanent jobs (projected)
<b>Slots</b>	3,000
<b>Table Games</b>	100
<b>Other Amenities</b>	4-star hotel (250 rooms), 8 outlets for food and beverage, 26,000 sf of retail space, bowling alley, cinema and 54 residential units

\*Does not include \$60.7M for land and \$75.5M for capitalized interest







# RACING OPERATIONS

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MGC is also responsible for the operational and fiscal oversight of the standardbred and thoroughbred racing operations and pari-mutuel facilities in the Commonwealth (under M.G.L. Chapters 128A and 128C).

FY18 marked the fourth year that the Race Horse Development Fund had monies available to supplement purses, and accordingly the Commission approved disbursements for the prescribed purposes.

## LIVE RACING AND SIMULCASTING AT LICENSED FACILITIES

### STANDARDBRED RACING

Calendar Year 2018 was the first year in which no race days were stipulated by statute (the Gaming Act stipulated an increase in race days for the first three years after award of a gaming license to a prior racing licensee). A racing meet of 110 days was held at Plainridge Park Casino in Plainville. For the meet, the Division of Racing issued approximately 1,320 occupational licenses.

The highlight of the 2018 harness racing season was the Sire Stakes finals in October. Approximately \$800,000 was distributed as purses. The events included the exhibition of "Foiled Again", the standardbred that has won the most purse money in U.S. history.

For the upcoming Calendar Year 2019, the number of race days will be 108. MGC solicited public comments and conducted public hearings to obtain input from stakeholders (operators, horsemen, etc.) and approved the racing application as presented.

### THOROUGHBRED RACING

For the Calendar Year 2018, live thoroughbred racing was conducted at Suffolk Downs for a total of 8 days. For the meet, the Division of Racing issued approximately 1,200 occupational licenses. For the Calendar Year 2019, Suffolk Downs applied for 4 racing days, with the possibility of adding days. We anticipate that racing will not continue at Suffolk Downs after July 1, 2019.

### SIMULCASTING

Simulcasting is conducted year-round on seven licenses at the following facilities:

- Plainridge Park Casino
- Raynham Park
- Suffolk Downs, including Twin Spires, TVG, Xpressbets, Wonderland

For 2018, total pari-mutuel handle in the Commonwealth is expected to reach \$227M (approximately a 3.6% increase from the prior year).

During 2018, the Division of Racing continued efforts to enhance the safety and welfare of racing participants, as well as monitor and regulate the racing operations in the Commonwealth.

### KEY ACTIVITIES INCLUDED:

- Participation in the annual Association of Racing Commissioners International (ARCI) conference, and continuing education; the annual Organization of Racing Investigators conference and training; the Racing Officials accreditation program; and the Thoroughbred Racing Protective Bureau/ARCI Wagering Technology and Security Conference
- Cutting-edge updates to racing regulations
- Implementation of a new in-house financial reporting system

**DISBURSEMENTS OUT OF THE RACE HORSE DEVELOPMENT FUND**

During FY18, the Commission made disbursements in accordance with Chapter 23K and the recommendations for the split (between standardbred and thoroughbred horsemen) of the statutory Horse Racing Committee. The distributions out of the Race Horse Development Fund were as follows:

ENTITY	AMOUNT	STATUTORY PURPOSE
HARNESS HORSEMEN'S ASSOCIATION	381,956	Health & Welfare of Harness Horsemen
MASSACHUSETTS THOROUGHBRED BREEDERS ASSN	956,697	Thoroughbred Breeders Program
NEW ENGLAND HBPA	229,352	Health & Welfare Thoroughbred Horsemen
PLAINVILLE GAMING AND REDEVELOPMENT LLC	7,639,118	Standardbred Live Racing Purses
STANDARDTBRED OWNERS OF MASSACHUSETTS	1,527,824	Standardbred Breeders Program
STERLING SUFFOLK	4,453,802	Thoroughbred Live Racing Purses
<b>Grand Total</b>	<b>\$15,188,749</b>	



Plainridge Park Casino Racing

# TAX COLLECTIONS & AGENCY FINANCES

MGC's Division of Administration and Finance (A&F), led by the Chief Financial and Accounting Officer, is responsible for the strict oversight of the revenues at gaming facilities and the collection of taxes due to the Commonwealth from those operations. The taxes and assessments on gross gaming revenues for Category 1 facilities is 25%. The taxes and assessments on gross gaming revenues at the Category 2 facility is 49%.

The Division is also in charge of completing all financial transactions and coordinating with other functional areas to complete all administrative functions. The Division is responsible for accounting, budgeting, payroll, HR, and classification and compensation functions within the MGC structure.

## GAMING REVENUES AND TAX COLLECTIONS

From July 1, 2017 through June 30, 2018, PPC reported \$170.0 million in gross gaming revenues which generated \$68M in tax dollars to Local Aid and \$15.3M in assessments to the racehorse development fund. Below is a chart by month. The same information can be found at [massgaming.com/revenue](http://massgaming.com/revenue)

## SLOT MACHINE REVENUE

MONTH	COIN IN	SLOT GGR	HOLD %	PAYOUT %	TOTAL IN COLLECTED STATE TAXES	TOTAL IN COLLECTED RACE HORSE ASSESSMENTS	TOTAL IN COLLECTED STATE TAXES AND RACE HORSE ASSESSMENTS
July 2017	\$ 194,625,671	\$ 15,442,096	7.93%	92.07%	\$ 6,176,838	\$ 1,389,789	\$ 7,566,627
August	\$ 184,302,185	\$ 14,220,614	7.72%	92.28%	\$ 5,688,246	\$ 1,279,855	\$ 6,968,101
September	\$ 181,888,412	\$ 14,895,275	8.19%	91.81%	\$ 5,958,110	\$ 1,340,575	\$ 7,298,685
October	\$ 175,514,522	\$ 13,562,865	7.73%	92.27%	\$ 5,425,146	\$ 1,220,658	\$ 6,645,804
November	\$ 168,442,924	\$ 12,900,720	7.66%	92.34%	\$ 5,160,288	\$ 1,161,065	\$ 6,321,353
December	\$ 166,215,233	\$ 12,722,209	7.65%	92.35%	\$ 5,088,884	\$ 1,144,999	\$ 6,233,883
January 2018	\$ 158,131,225	\$ 12,493,164	7.90%	92.10%	\$ 4,997,265	\$ 1,124,385	\$ 6,121,650
February	\$ 163,656,092	\$ 13,875,608	8.48%	91.52%	\$ 5,550,243	\$ 1,248,805	\$ 6,799,048
March	\$ 190,673,169	\$ 15,828,132	8.30%	91.70%	\$ 6,331,253	\$ 1,424,532	\$ 7,755,785
April	\$ 183,304,282	\$ 14,594,193	7.96%	92.04%	\$ 5,837,677	\$ 1,313,478	\$ 7,151,154
May	\$ 183,441,966	\$ 14,622,782	7.97%	92.03%	\$ 5,849,113	\$ 1,316,050	\$ 7,165,163
June	\$ 182,655,960	\$ 14,858,491	8.13%	91.87%	\$ 5,943,397	\$ 1,337,264	\$ 7,280,661
<b>Total</b>	<b>\$2,132,851,346</b>	<b>\$ 170,016,148</b>	<b>N/A</b>	<b>N/A</b>	<b>\$ 68,006,459</b>	<b>\$ 15,301,453</b>	<b>\$ 83,307,913</b>

For the first quarter of FY19 (July–September of 2018), PPC brought in \$44.8M in Gross Gaming Revenues for a total of \$21.9M in taxes and assessments due to the Commonwealth. It is possible that PPC could see revenues lower than the prior year, due to increased competition from MGM Springfield and the Tiverton Hotel and Casino in Tiverton, Rhode Island.

## AGENCY FY18 FINANCIAL RESULTS

MGC approved an initial FY18 budget of \$29.15M from the Gaming Control Fund. After three quarters of adjustments and increases for hiring related to the opening of MGM Springfield, MGC’s revised final budget was \$30.96M. To meet the projected spending, MGC required an assessment of \$24.52M to licensees.

The final expenditures for FY18 were \$29.59M and revenues (after balancing forward \$2.6M of FY19 slot fees received in FY18) were \$30.54M. The result was a \$947K excess revenue in FY18 which was credited to licensees in FY19. Below is a summary of spending and revenue for the Gaming Control Fund.

## GAMING CONTROL FUND

CATEGORY	BUDGET PROJECTIONS		ACTUALS
	Initial Projection	Actuals To Date Total	
<b>Expenses</b>			
<b>MGC Regulatory Cost</b>			
AA REGULAR EMPLOYEE COMPENSATION	6,148,832		5,853,402
BB REGULAR EMPLOYEE RELATED EXPEN	78,400		67,614
CC SPECIAL EMPLOYEES	43,200		25,927
DD PENSION & INSURANCE RELATED EX	2,274,415		2,085,374
EE ADMINISTRATIVE EXPENSES	661,724		406,046
FF PROGRAM, FACILITY, OPERATIONAL SUPPLIES	-		1,680
GG ENERGY COSTS AND SPACE RENTAL	1,247,229		1,282,797
HH CONSULTANT SVCS (TO DEPTS)	1,382,756		1,950,893
JJ OPERATIONAL SERVICES	4,591,189		3,825,125
KK Equipment Purchase	78,444		20,868
LL EQUIPMENT LEASE-MAINTAIN/REPAIR	32,107		26,952
NN NON-MAJOR FACILITY MAINTENANCE REPAIR	1,500		1,363
PP STATE AID/POL SUB/OSD	114,244		144,263
TT PAYMENTS & REFUNDS POL ISA	50,000		-
UU IT Non-Payroll Expenses	3,776,877		3,772,467
<b>MGC Regulatory Cost Subtotal:</b>	<b>20,480,967</b>		<b>19,464,774</b>
<b>EE — Indirect Costs</b>	<b>1,648,870</b>		<b>1,579,832</b>
<b>Office of Attorney General</b>			
ISA to AGO	2,633,905		2,386,077
TT Reimbursement for AGO 0810-1204(up to 449,364	-		91,694
AGO State Police	1,068,417		915,149
<b>Office of Attorney General Subtotal:</b>	<b>3,702,322</b>		<b>3,392,921</b>

**GAMING CONTROL FUND CONT.**

<b>CATEGORY</b>	<b>BUDGET PROJECTIONS</b>	<b>ACTUALS</b>
<b>Expenses</b>	<b>Initial Projection</b>	<b>Actuals To Date Total</b>
<b>Research and Responsible Gaming/Public Health Trust Fund</b>		
AA REGULAR EMPLOYEE COMPENSATION	205,317	206,689
BB REGULAR EMPLOYEE RELATED EXPEN	6,000	5,433
CC SPECIAL EMPLOYEES	-	-
DD PENSION & INSURANCE RELATED EX	74,592	74,029
EE ADMINISTRATIVE EXPENSES	8,000	9,598
FF PROGRAM, FACILITY, OPERATIONAL SUPPLIES	500	34
HH CONSULTANT SVCS (TO DEPTS)	1,444,351	1,478,104
JJ OPERATIONAL SERVICES	-	11,266
MM PURCHASED CLIENT/PROGRAM SVCS	25,000	-
PP STATE AID/POL SUB/OSD	2,074,723	2,007,939
UU IT Non-Payroll Expenses	75,000	11,080
ISA to DPH	1,140,197	1,071,694
<b>Research and Responsible Gaming/Public Health Trust Fund Subtotal:</b>	<b>5,053,681</b>	<b>4,875,867</b>
<b>ISA to ABCC</b>	<b>75,000</b>	<b>281,331</b>
<b>Gaming Control Fund Total Costs</b>	<b>30,960,839</b>	<b>29,594,726</b>

<b>CATEGORY</b>	<b>BUDGET PROJECTIONS</b>	<b>ACTUALS</b>
<b>Revenues</b>	<b>Initial Projection</b>	<b>Actuals To Date Total</b>
Gaming Control Fund Beginning Balance 0500	879,066	879,066
Phase 1 Collections (restricted) 0500	121,806	142,966
Phase 1 Refunds 0500	-	-
Phase 2 Category 1 Collections (restricted) 0500	4,559	4,559
Region C Phase 1 Investigation Collections 0500	-	-
Region C Phase 2 Category 1 Collections 0500	-	-
Grant Collections (restricted) 0500	-	-
Region A slot Machine Fee 0500	1,945,200	1,945,200
Region B Slot Machine Fee 0500	1,800,000	1,800,000
Slots Parlor Slot Machine Fee 0500	750,000	750,000
Gaming Employee License Fees (GEL) 3000	30,000	98,140
Key Gaming Executive (GKE) 3000	35,000	8,700
Key Gaming Employee (GKS) 3000	20,000	26,225
Non-Gaming Vendor (NGV) 3000	30,000	42,100
Vendor Gaming Primary (VGP) 3000	135,000	209,986
Vendor Gaming Secondary (VGS) 3000	40,000	5,000
Gaming School License (GSB)	-	100
Gaming Service Employee License (SER) 3000	5,400	13,425
Subcontractor ID Initial License (SUB) 3000	-	-
Temporary License Initial License (TEM) 3000	-	-
Veterans Initial License (VET) 3000	-	-
Transfer of Licensing Fees to CMF 0500	-	-
Assessment 0500	24,518,396	24,518,396
Misc. 0500	52,982	98,223
FY19 Slot Assessment Collected in FY18	-	(2,695,200)
<b>Grand Total</b>	<b>30,367,409</b>	<b>30,542,087</b>
<b>Balance in Gaming Control Fund — Positive/(Negative)</b>	<b>-</b>	<b>947,361</b>



# WORKFORCE, SUPPLIER & DIVERSITY DEVELOPMENT

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During FY18 MGC worked with community groups and the Legislature to reconcile certain parts of the Gaming Act relative to automatic disqualification to people with criminal offenses in their records. This past year, the Legislature enacted and the Governor signed St. 2017 Chapter 100 §3 as part of broader CORI reform efforts. This provision gave MGC the discretion to exempt individuals in certain job categories from the registration requirement.

During the year, MGC reviewed the job requirements of certain positions (kitchen, restaurant, maintenance and some office staff) and exempted job classifications from registration, and thus those individuals are now subject only to the particular requirements of casino management. As a result, approximately 800 individuals at MGM Springfield were not required to be registered. We believe that this effort makes certain non-gaming related jobs are more accessible as opportunities for advancement.

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## DIVERSITY MONITORING AND COMPLIANCE

MGC established processes and systems to ensure the Gaming Act's goals for business and workforce development and diversity during construction and operations are realized. MGC's efforts and those of licensees include requirements to:

- Set diversity hiring goals and submit strategic plans for the inclusion of minorities, women and veterans in the workforce and during construction
- Regularly report progress towards diversity goals
- Support workforce development programs and develop affirmative action plans for the training and hiring of the underemployed and unemployed
- Coordinate with stakeholders and representatives from across the Commonwealth to strategize and support the hiring of Massachusetts residents and contracting with local diverse small businesses

We continue convening an **Access and Opportunity Committee (AOC)** as part of those efforts. The AOC brings together state officials and community leaders, diversity advocates and licensees — MGM Springfield and Encore Boston Harbor — to help ensure that diversity goals are achieved through open, inclusive dialogue. During this fiscal year, MGC convened 10 monthly Access and Opportunity Meetings. MGM Springfield and Encore Boston Harbor provided detailed diversity reports on the

percentage of minorities, women and veterans working on the construction of the resort-casinos and the dollar amount contracted with minority-, woman-, and veteran-business enterprises compared to the initial goals set by each casino. Specific items addressed at the AOC include:

- Detailed report on hours by trade and subcontractor participation for each project
- Discussion of recommended actions to increase the numbers and participation
- Discussion of timeline and upcoming contracting and hiring opportunities

In addition, we partnered a Vendor Advisory Team with MGM Springfield via monthly meetings and phone calls to review bid opportunities and assist in identifying potential Massachusetts vendors for MGM. Participants included the Hispanic-American Institute, MA Office of Business Development, Springfield Regional Chamber, MA Supplier Diversity Office, New England Business Association, MA Small Business Development Center, MA Department of Agricultural Resources, MA Department of Fish and Game, Veterans Business Outreach Center of New England, Center for Women and Enterprise, Small Business Administration, Latino Chamber of Commerce, MA Department of Veterans Services and the Executive Office of Housing and Economic Development.

### DIVERSITY AUDIT

On July 2018, MGC staff conducted a comprehensive review of MGM Springfield's construction diversity reporting. This review included an evaluation of the methods by which diversity data is collected, disseminated and reported to MGC by the licensees, as well as verification of the accuracy of the data. The review also included an assessment of the controls in place and testing of the supporting documentation at the subcontractor level. The review team was satisfied that the diversity numbers reported to MGC for the construction period fairly represent the actual numbers contracted and there is enough documentation at the licensee to support those figures.

### WORKFORCE DEVELOPMENT EFFORTS – WESTERN MASSACHUSETTS

FY18 was a busy year for Western Massachusetts and MGC staff in preparation of the opening of MGM Springfield. MGC co-convened with the Hampden County Regional Employment Board monthly meetings of the MGC/MGM Workforce Opportunity Team to identify and respond to project challenges, keep area workforce stakeholders informed about recruiting timelines and assist MGM Springfield in identifying and marketing employment opportunities to underemployed and unemployed residents of the Commonwealth.

The group included representatives from the Governor's Workforce Skills Cabinet, City of Springfield, EOLWFD-Division of Career Services, Massachusetts Casino Career Training Institute/Holyoke Community College, Springfield Technical Community College, Springfield Works Career Center, FutureWorks One Stop Career Center, CareerPoint One Stop Career Center, Partners for Community and Affiliates, Springfield Partners for Community Action, Franklin Hampshire Regional Employment Board and Springfield Public Schools.

### DIVERSITY AND TECHNICAL ASSISTANCE GRANT PROGRAM

This year the Commission continued its award of grants to enhance supplier diversity. The focus of this program is to help diverse firms succeed in the casino industry's markets for goods and services as well as during the construction phase. This fiscal year the grantees included:

- **The Hispanic American Institute, Chelsea Chamber of Commerce and North Shore Latino Business Association: \$12,000 Awarded**  
For bilingual outreach and technical assistance including one-on-one counseling to businesses regarding opportunities with Encore Boston Harbor. Efforts included networking events and seminars which resulted in engaging 70+ business owners (51 were WBEs, 56 were MBEs, 32 were minority women, 62 business owners were immigrants/non-native English speakers)
- **Build A Life That Works Campaign/Northeast Center for Tradeswomen's Equity: \$50,000 Awarded**  
Now in its second year, the "Build A Life That Works" recruitment initiative seeks to inspire women to pursue a career in the union building trades as a viable path to equal pay for equal work, benefits and a better future. This first-of-its-kind, statewide effort aims to increase tradeswomen in the building trades to 20% by 2020.



Build A Life That Works Campaign



- Hampden County Sheriff’s Department: \$12,716 Awarded**

This funding was utilized to train 60 current custodial inmates and a recently released population for certification in the Customer Service Gold program from the American Hotel and Lodging. It also provided trainees with information about CORI employment laws and available casino opportunities. This program had a 96% graduation rate.
- Quaboag Valley Community Development Corporation (QV CDC): \$7,722 Awarded**

This grant promoted awareness of vendor opportunities and job openings through direct network outreach and advertising. It funded free culinary ServSafe courses and Job Readiness Skills courses for underemployed and unemployed job seekers, as well as an informational session for potential vendors.
- Asian American Civic Association (AACA): \$15,000 Awarded**

This grant made available program enhancements to increase minority access and job opportunities to the casino industry, including a job fair, and an informational session for 165 students enrolled in ESOL and job readiness training.
- BEST Hospitality Training: \$15,000 Awarded**

This hospitality training pipeline focused on casino careers. Efforts included a marketing strategy and informational sessions for 59 job seekers and work with community organizations to promote BEST’s English for Hospitality curriculum.
- Chelsea Collaborative and La Comunidad: \$12,260 Awarded**

This organization collaborated to support a workforce pipeline initiative to bridge the unemployment and income gap for Chelsea and Everett-area residents by expanding adult education offerings through ESOL reaching 160 students (nine classes) computer courses, and SkillSmart Training. Over 150 individuals benefitted from individualized case management of which 87% identified as Latino and 20% were unemployed.

## ADDITIONAL EFFORTS — WORKFORCE DEVELOPMENT

The Commission anticipates that over 15,000 individuals will need to be considered for employment to fill the remaining 4,000 needed permanent positions. To effectively respond to this workforce challenge, MGC continues work with established partnerships. Other partnerships and local efforts include:

- **“Hampden Prep”** Springfield Technical Community College, in collaboration with Holyoke Community College (HCC) workforce readiness program
- **Massachusetts Casino Career Training Institute**
- **HCC MGM Culinary Arts Institute** (opened 2018)
- **Lasell College and Encore Boston Harbor** collaboration designed to prepare students for careers in the hospitality industry



HCC MGM Culinary Arts Institute

**RESULTS ON DIVERSITY HIRING & CONTRACTING**

**MGM SPRINGFIELD SUPPLIER DIVERSITY/WORKFORCE**

AS OF AUGUST 31, 2018

SUPPLIER DIVERSITY	DESIGN & CONSTRUCTION		
Demographic	Goal	Results	Value
MBE	5%	7.4% awarded	\$41M
WBE	10%	20.5% awarded	\$113.1M
VBE	2%	6.3% awarded	\$34.7M

As of August 31, 2018 MGM Springfield had awarded contracts totaling \$552.3M with **\$188.8M in qualified contracts to M/W/VBEs.**

WORKFORCE	CONSTRUCTION	
Demographic	Goal	Results
Minorities	15.3%	21.78%
Women	6.9%	8.55%
Veterans	8%	8.71%

At the end of FY18, MGM Springfield had exceeded diversity goals in all Women, Minority and Veteran participation categories. Also, 71% of the total hours worked at the MGM Springfield facility were by Massachusetts residents.

**ENCORE BOSTON HARBOR SUPPLIER DIVERSITY/WORKFORCE**

AS OF JUNE 30, 2018

SUPPLIER DIVERSITY	DESIGN		CONSTRUCTION	
	Goal	Results	Goal	Results
MBE	7.9%	8.9% awarded	5%	6% awarded
WBE	10%	7.8% awarded	5.4%	10.8% awarded
VBE	1%	6.6% awarded	1%	2.6% awarded

As of June 30, 2018, Encore Boston Harbor had awarded contracts (design and construction) totaling \$1.32B with **\$233.1M in qualified contracts to M/W/VBEs.**

WORKFORCE	CONSTRUCTION	
Demographic	Goal	Results
Minorities	15.3%	25%
Women	6.9%	6.8%
Veterans	3%	6.4%

As of the end of FY 18 over 3.1M work hours had been completed on the Encore Boston Harbor project by over 5178 individuals. 86.36% of total hours worked were by MA residents.

# PLAINRIDGE PARK CASINO SUPPLIER DIVERSITY/WORKFORCE

AS OF JUNE 30, 2018

SUPPLIER DIVERSITY	OPERATIONS	
Demographic	Goal	Results
Minorities	6%	12%
Women	12%	25%
Veterans	3%	2%

WORKFORCE	OPERATIONS	
Demographic	Goal	Results
Minorities	10%	25%
Women	Not Stated*	54%
Veterans	Not Stated*	5%

\*These figures (goals) were not stipulated as part of the PPC Operations Plan

## MGC SUPPLIER DIVERSITY EFFORTS

MGC works with a Vendor Advisory Group to connect diverse Massachusetts companies to business opportunities with casino licensees. Also, MGC is committed to ensuring that its internal supplier base is representative of the Commonwealth's diversity.

On May 2018, we were honored to receive the Quasi-Public Organization of the Year Award from the Supplier Diversity Office of the Operational Services Division (OSD). The award, signed by Governor Charlie Baker and Lieutenant Governor Karyn Polito recognized MGC for its "outstanding participation in the Commonwealth's Supplier Diversity Program."

The award recognizes MGC's efforts to fulfill the Expanded Gaming Act's mission to ensure that all Massachusetts residents and businesses benefit from new opportunities afforded by expanded gaming. This is the second consecutive year MGC has received this recognition.



Access and Opportunity Committee

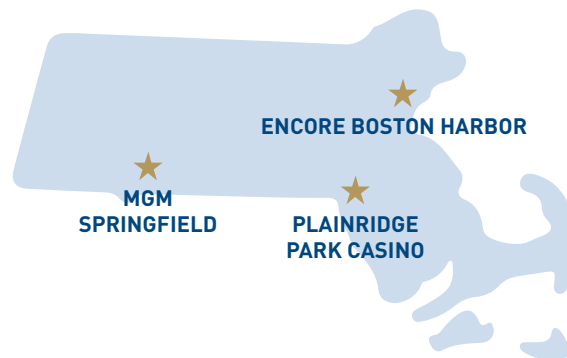


Gaming Agent Inspections

# CASINO INDUSTRY IMPACT REPORT 2017

## OVERVIEW

In 2017, Plainridge Park Casino had been operating over a year, having opened June 2015. MGM Springfield and Encore Boston Harbor had both broken ground and were under construction. Both the operations and construction phases of the three casinos contributed significantly to the workforce opportunities and economic impacts for Massachusetts residents and business owners, as well as minority, veteran, and woman employees and business owners.



## INDUSTRY JOBS IMPACT

**JOB CREATION** The impact the casinos had on the workforce during 2017.



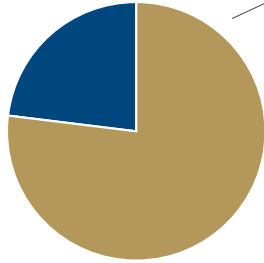
\* **2017 Construction:** During 2017, both MGM Springfield and Encore Boston Harbor were under construction.

\* **2017 Operations:** Inclusive of all 3 licensees, although MGM and EBH had not yet opened.

INDUSTRY JOBS IMPACT CONT.

MA RESIDENT WAGES\*

OVER \$18.7 MILLION



That's over 77% of the  
**\$24,380,083**  
total wages paid

MA EMPLOYMENT

The total number of permanent employees (not including construction) who were living in MA upon hire.



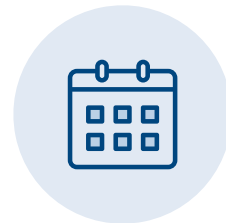
**473** out of **716**  
MA residents employed Total jobs

\* MA Resident Wages reported for casino operations salaries/benefits only. Not inclusive of wages paid out to construction workforce.

CONSTRUCTION EMPLOYMENT

**4,891**

MA residents on casino construction projects



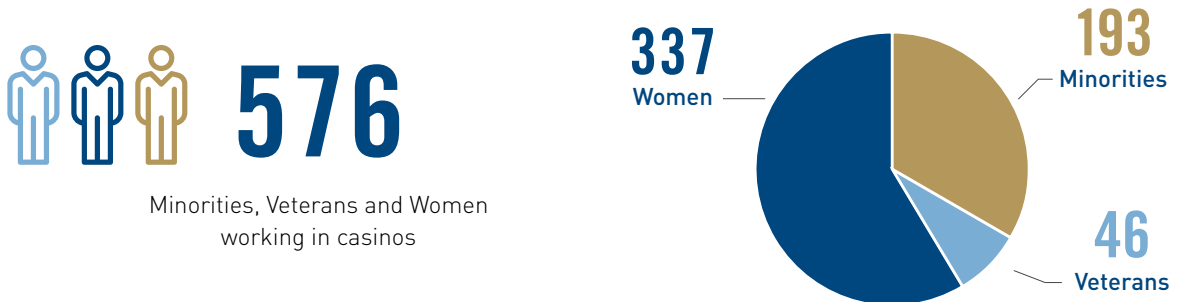
OVER 2.6 MILLION  
TOTAL PROJECT HOURS LOGGED IN 2017

That's over **51,000** hours per week!

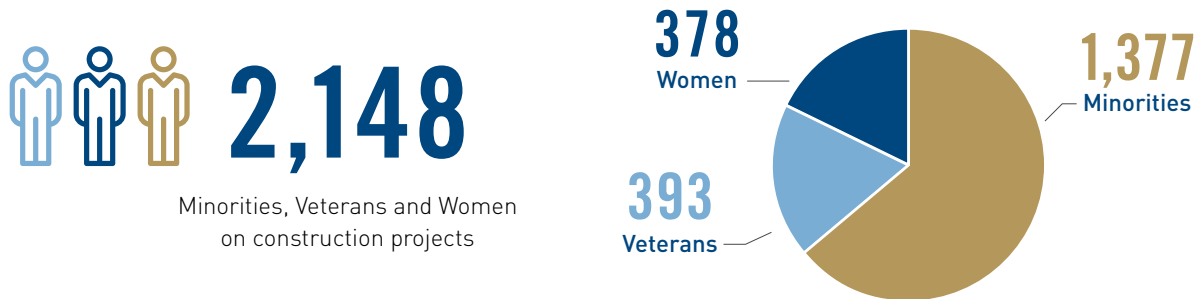
### WORKFORCE DIVERSITY

With one casino operational and two under construction, 80% of permanent casino employees and 34% of the construction project workforce were composed of minorities, veterans and women.

#### Operations



#### Construction



### INDUSTRY ECONOMIC IMPACT ON BUSINESS

#### MA VENDOR/SUPPLIER SPEND

The impact on local businesses serving the casino industry.

**OVER \$617.7 MILLION**  
**SPENT WITH MA BUSINESSES IN 2017**



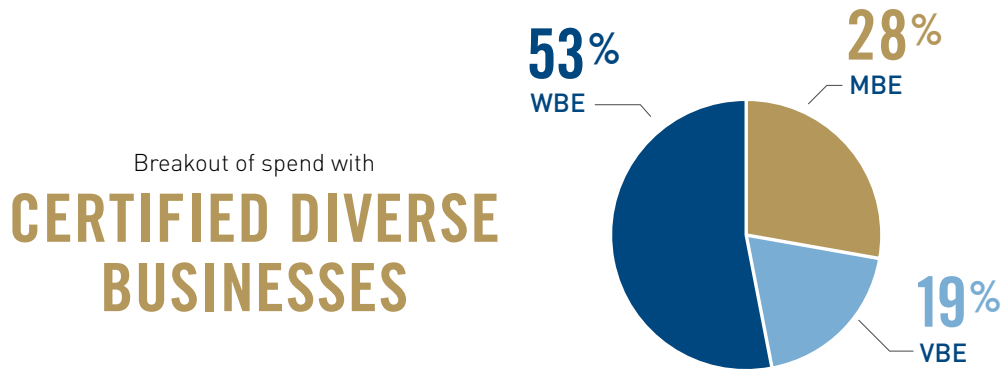
**INDUSTRY IMPACT ON DIVERSE-OWNED BUSINESS**

**DIVERSE VENDOR SPEND**

Casino spending with minority-owned (MBE), veteran-owned (VBE), and woman-owned (WBE) businesses.



**OVER \$174.8 MILLION**  
**SPENT WITH DIVERSE [MBE/VBE/WBE]**  
**VENDORS/SUPPLIERS IN 2017**



**PROGRAMMING IMPACTS**

**SUPPORT FOR WORKFORCE AND DIVERSITY INITIATIVES**

MGC provides grants, sponsorships and other funding to organizations in support of diversity and workforce development.



**\$347,109 TOTAL FUNDING**  
**BY MGC IN 2017**

Organizations Supported	Grants	Campaign for Women in Construction	Diversity Programs and Event Sponsorships
<b>12</b>	<b>\$207,000</b>	<b>\$125,000+</b>	<b>\$14,000+</b>



# LITIGATION MATTERS

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## **CITY OF BOSTON/REVERE/MOHEGAN SUN ET AL. V. MGC**

On September 22, 2015, Judge Sanders, in the Suffolk Superior Court — Business Litigation session, heard oral argument on MGC's motions to dismiss concerning the claims asserted by the City of Boston, City of Revere, Mohegan Sun, the International Brotherhood of Electrical Workers 103 ("IBEW") and the individual citizens. These claims (by the non-Boston entities) included allegations that the MGC failed to follow the Gaming Act, that the gaming act and certain of its regulations were unconstitutional and that MGC violated the Open Meeting Law.

On December 3, 2015, MGC's motion was granted, and all of Boston's claims were dismissed. On that same date, the Court dismissed all of the claims of the IBEW, Revere, Mohegan Sun and the individual citizen plaintiffs except for Mohegan's claim of a right to certiorari review. All of the parties except for Boston appealed to the single justice of the Appeals Court but were denied. MGC then appealed to the full Appeals Court and also sought direct appellate review by the Supreme Judicial Court. The other dismissed plaintiffs (aside from Boston) have appealed their respective dismissals to full Appeals Court.

The Supreme Judicial Court heard oral argument on December 5, 2016, and published a decision on March 10, 2017. In its decision, the Supreme Judicial Court affirmed the dismissal of Revere and the Union's claims against MGC while remanding the citizen claims of open meeting law violations and Mohegan Sun's certiorari claim back to the Superior Court. The administrative record in the certiorari claim has now been assembled; however, a briefing schedule has not yet been established pending the Investigation and Enforcement Bureau's report on their Wynn investigation.

The Open Meeting Law claims have been bifurcated from the certiorari claim and written discovery has been completed. Deposition discovery is complete; however, the plaintiffs have filed a motion to expand discovery. That motion will be heard in December 2018. The parties will file motions for summary judgment in late fall 2018, with a hearing in March 2019.

## **FBT V. MGC**

On November 14, 2016, the Commission was sued for tortious interference with respect to the plaintiff's agreement to sell property to the licensee for the Category 1 facility in Everett. The plaintiff is requesting damages as determined at trial. On April 7, 2017, the Commission filed a motion to dismiss the suit, which was granted by the court on June 7, 2017; however, the plaintiff filed an amended complaint while the court was in the process of issuing its decision. The court's decision stands, and the Commission has filed a motion to dismiss the claims in the amended complaint. The Commission's motion to dismiss was argued in October 2017. In his order on the motion, Judge Leibensperger raised questions concerning whether he had subject matter jurisdiction necessary to rule on the motion. The parties jointly had the matter reassigned to a judge in Middlesex County to remedy the jurisdictional questions, and the motion was argued again in front of Judge Kaplan. In May 2018, Judge Kaplan dismissed the FBT plaintiff's claims for a per se taking and impairment of contract rights but allowed their regulatory taking claims to survive. The Commission filed an Answer as to the surviving count on June 15, 2018, and on July 5, 2018, filed a Third Party Complaint adding Wynn MA, LLC as a defendant. Wynn MA, LLC has been served with the Third Party Complaint and is expected to file a response to that document by October 25, 2018. Discovery has now started, and the Commission is working on its responses to written discovery requests.

## OTHER MATTERS — THE LAND-IN-TRUST CHALLENGE TO THE TRIBE

### LITTLEFIELD ET AL. V. UNITED STATES DEPT. OF THE INTERIOR ET AL. (D. MASS. 2016)

MGC is not a party to this legal challenge, but as an interested observer and as directed by Statute, MGC will continue to monitor the developments and status of the Mashpee Wampanoag Tribe (“Mashpee” or “Tribe”) and their efforts to build a casino in Taunton.

In this matter, the plaintiffs and defendants filed cross-motions for summary judgment on the plaintiff’s first cause of action concerning the Tribe’s eligibility as beneficiaries under the Indian Reorganization Act (“IRA”) and the authority of the Secretary of the Interior to take land into trust for their benefit. In finding for the plaintiffs, Judge Young interpreted the definition of “Indian” set forth in section 479 of the IRA. The definition states:

The term “Indian” as used in this Act shall include [1] all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include [3] all other persons of one half or more Indian blood.

The Supreme Court decision in *Carcieri v. Salazar* previously held that the term “now under Federal jurisdiction” refers to those tribes that were under federal jurisdiction when the IRA was enacted in 1934. The Mashpee, in this case, were arguing that they qualified as Indian under the IRA under the second definition; however, such an argument necessarily turns on the interpretation of the term “such members.” The plaintiffs argued that the term “such members” referred to the preceding use of “members” and thus the descendant of a recognized Indian tribe could only qualify as Indian for land in trust purposes if that tribe was under federal jurisdiction in 1934. The Mashpee were not federally recognized until 2007. The government, in turn, argued that the term “such members” was ambiguous.

Judge Young reviewed the definition and use of the word “such” in several other cases ultimately concluding that the Secretary erred in finding that the Mashpee fell within the second definition of “Indian” in the IRA. He explained that the Mashpee were not a tribe under federal jurisdiction in 1934 (taking them out of the first definition) and that the term “such members” from the second definition referred back to the use of members

in the first definition. Given that recognition under the second definition requires descent from members of a tribe under Federal Jurisdiction in 1934 and the Mashpee were not recognized until nearly 70 years later, **Judge Young concluded that the Secretary lacked the authority to acquire land in trust for the Mashpee** and remanded the matter to the Secretary for further proceedings consistent with his opinion.

The Bureau of Indian Affairs filed a motion for reconsideration, which was denied by the District Court, and the Mashpee Wampanoag filed a motion to intervene, which was granted. In December 2016, the U.S. Department of the Interior and the Mashpee Wampanoag each filed a notice of appeal to the U.S. Court of Appeals for the First Circuit. On April 24, 2017, the Mashpee Wampanoag filed an assent to the motion to stay briefing pending the revised decision from the Department of the Interior. On May 8, 2017, the federal appellants in this matter moved to withdraw their appeal. The Department of the Interior has not issued a revised decision but instead has requested a further briefing from the parties. The Mashpee Wampanoag have asked the court to further stay the matter pending a decision from the Department of the Interior, and the court has agreed to the requested stay. The Commission will continue to monitor this matter.

Recently, on September 7, 2018, the Department of the Interior produced a revised decision in accordance with the request of the United States District Court for the District of Massachusetts. After evaluation of the voluminous materials submitted by the tribe, the Department concluded that the Tribe did not satisfy the “under Federal jurisdiction” requirement of the first definition of “Indian” as put forth by the IRA. Specifically, the assistant secretary wrote that “The record before me contains little indicia of Federal jurisdiction beyond the general principle of plenary authority, and little if any evidence demonstrating that the United States took any actions establishing or reflecting Federal obligations, duties, responsibilities for or authority over the Tribe in or before 1934.” The combination of the Department’s finding and the District Court’s ruling that the Tribe did not qualify under the second definition of “Indian” in IRA, could result in the Tribe losing its land in trust and its official tribal status entirely. In accordance with the instructions provided by the First Circuit Court of Appeals, the Tribe is now required to explain how, following the Department’s decision, the Tribe can be qualified to have land taken in trust by the federal government. Attorneys for the Tribe have requested additional time to address this issue.

## **CHALLENGE TO THE AQUINNAH WAMPANOAG TRIBE'S PLAN TO INTRODUCE ELECTRONIC BINGO GAMING ON THE TRIBE'S MARTHA'S VINEYARD LANDS**

### **COMMONWEALTH OF MASSACHUSETTS, ET AL V. THE WAMPANOAG TRIBE OF GAY HEAD (AQUINNAH), ET AL (D. MASS. 2015)**

MGC is also not a party to this litigation, but, again, pursuant to its statutory mandate, the Commission is monitoring the case because the Aquinnah Tribe's entitlement to conduct commercial gaming is at issue.

The case originated in 2015 on a complaint by the Commonwealth, joined by a local Martha's Vineyard community organization and the Town of Aquinnah (collectively, the "Commonwealth Plaintiffs"), to block the Aquinnah Tribe's stated intention to open an electronic bingo facility on its reservation land. The Tribe had obtained approval from the National Indian Gaming Commission to do so pursuant to the federal Indian Gaming Regulatory Act (IGRA). (Under IGRA, a federally recognized Tribe may sponsor electronic bingo games — so called, "Class 2" gaming — on its lands without the approval of state authorities. For conventional casino gaming, for example in a resort with table games, state approval under IGRA is required through a formal compact process.)

The principal basis of the Commonwealth Plaintiffs' complaint was that the Aquinnah Tribe had surrendered whatever rights it otherwise would have had to conduct gaming on its tribal lands on account of the Tribe in 1987 having entered into an agreement to settle pending litigation involving the Tribe's claims to substantial portions of Martha's Vineyard. The Tribe alleged that these lands had been conveyed to non-tribal members over a period of many decades in violation of federal law restricting the transfer of Indian land to non-Indians. That settlement agreement was incorporated into a federal statute, the Indian Claims Settlement Act of 1987 (the "1987 Federal Act").

The Tribe acknowledged that pursuant to the settlement agreement it waived its right to conduct gaming on the property transferred to it in the settlement. However, the Tribe submitted that the 1987 Federal Act was impliedly repealed and superseded by the permissive provisions of IGRA, which was passed and became law a year later in 1988.

In November 2015, the US District Court in Boston (Saylor, J.) granted the Commonwealth Plaintiffs' motion for summary judgment. The Court concluded that the Tribe had exercised insufficient governmental authority over its lands to qualify for IGRA-approved gaming. It also concluded that, in any event, the Tribe was bound by the terms of its 1987 settlement agreement because IGRA did not repeal the 1987 Federal Act.

In April 2017, however, the First Circuit Court of Appeals reversed the District Court, rejecting its conclusion as to the insufficiency of the Tribe's exercise of governmental authority and finding that, in fact, IGRA did impliedly repeal the 1987 Federal Act.

The Commonwealth Plaintiffs' motion for *en banc* review by the First Circuit was denied.

On August 8, 2017, the Commonwealth Plaintiffs filed an application for certiorari review before the Supreme Court of the United States. The application is pending.

The Commission will continue to monitor closely developments in the case.



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