



Global Gaming Ventures (Southampton) Limited
11 John Princes Street
London W1G 0JR

(Registered in England. Registered Number 09055769)

16th April 2015

URGENT – BY EMAIL

Martin Grout Esq
Licensing Officer
Southampton City Council
Civic Centre Road
Southampton SO14 7LS.

Dear Mr Grout

Casino Competition (the ‘Competition’): Licensing Committee Meeting 9th April 2015

We refer to your letter of 15th April regarding the above. GGV is unable to accept the arguments you advance, and accordingly we request that this matter be put before the Licensing Committee (the ‘Committee’) as a matter of urgency. Our position is as follows:

1. The legal obligation on the Committee to run the Competition fairly takes precedence over all other considerations. A decision to allow a favoured scheme or applicants an extra three months (especially coming, as it does, on top of an earlier three month extension for the same applicants) to prepare, change or improve their applications is self-evidently unfair to those applicants that have complied with the rules and are ready to submit on the appointed day. The prospect (real or imaginary) of an unidentified public benefit cannot justify such a gross procedural unfairness.
2. In Paragraphs 28 to 31 of the 9th April decision the Committee explains how it arrived at its view and the ‘finely balanced’ arguments it weighed. However at no point does the Committee address the basic question of whether the extension is consistent with the fair conduct of the Competition. We submit that had it asked itself this fundamental question (as it ought) the conclusion would have been that a further extension is obviously unfair.
3. Your letter of 15th April asserts that a part of the hearing on 9th April was a ‘case management conference’. But the hearing was not a case management conference, it was a hearing convened to decide on the three questions which were set out on

the agenda. Extending Stage 2 for three months was not one of them and consideration of such an extension was not on the agenda. One applicant (Genting) and at least one interested party (the Watermark developer, Hammerson) were not present on 9th April and, being entirely unaware of any case management issues being under consideration, could not therefore make their views known. Since Hammerson (via its planning consultants) has twice previously written to the Committee to state that further delays should be avoided, it might well be that it would have opposed an extension to the Stage 2 deadline.

4. In any event, if 9th April was a case management conference we would have expected the Committee to ask the applicants explicitly during the meeting what they thought about a further three month delay to Stage 2 or indeed a range of possible periods of delay. There was no such question. Had there been, GGV would most certainly have objected in the strongest possible terms. We have always stressed to the Committee the importance of sticking to its published rules and the agreed timetable and we had objected (successfully) to an extension to July when this was addressed in December.
5. As your letter of 15th April correctly observes, we opposed the addition of a fourth item to the agenda on 9th April regarding a request for broad guidance from Kymeira about the acceptable extent of possible changes to premises between Stage 1 and Stage 2. After listening to arguments, the Committee ultimately agreed to consider just a much narrower question on vertical movement on the same footprint (this being a possibility raised by counsel for RPW only on the day of the hearing).
6. But in any event, we are totally at a loss to see why the vertical travel issue is at all relevant to a possible delay to Stage 2. Whichever decision the Committee made on this subject, it was clear that the Royal Pier applicants were still unable or unwilling to submit their applications on time. It cannot seriously be contended that belatedly asking for guidance on the vertical travel point on the day of the hearing entitles the enquirer to a three month extension regardless of the answer.
7. Although GGV's arguments did not fully prevail and a part of Kymeira's question dated 3rd April 2015 was addressed, this was at least formally decided by the Committee (after retiring to consider it) and added to the agenda. There was no equivalent proposal to add to the agenda consideration of the possibility of a three month delay to Stage 2. Indeed, we are unable to ascertain where the idea of a three month delay came from. None of the Royal Pier applicants proposed this. Had it been proposed to add it to the agenda GGV would certainly have objected, however and the Committee could then have heard arguments and made a proper decision on how to address it.
8. We reserve our position on the procedural issue of whether, having decided in December that notice and a public hearing was needed to consider extending Stage 2 to July, the Committee was free to reverse its decision later without notice or a public hearing. But we submit that to make such a decision without even drawing the attention of applicants and other interested parties to the fact that this was

being considered (and hence without hearing their views) is clearly unfair and procedurally flawed. The minutes of the Committee meeting on 16th December 2014 describe the then decision to refuse a July extension and extend only to 16th April as 'fair' and representing 'a proportionate balance'. What has changed since December?

9. Box 13 in the Committee briefing papers for 9th April did suggest that consideration be given to a much shorter 3 week delay to 7th May to allow applicants time to adjust their Stage 2 applications in light of the outcome on 9th April. We are at a loss to understand why the Committee seems not to have considered this possibility. An applicant that was ready to proceed to Stage 2 submissions on 16th April would perfectly easily be able to incorporate any impact of the Committee's decision in an additional three weeks. GGV would have accepted such a delay as a pragmatic decision rather than being as obviously unfair as the much longer delay to 10th July.
10. We also note that during the hearing on 9th April no applicant actually asked the Licensing Committee for a three month delay (presumably, in the case of at least two of them because they had already asked for the same delay in December and been turned down). The period of 2-3 months was mentioned by counsel for Aspers only in response to a question from the Licensing Committee's legal adviser about how long it would take to prepare a new bid.

It is impossible to avoid mentioning (again) that Southampton City Council has expressed a preference to see the casino licence go to the Royal Pier and stressing (once again) that the Committee must be seen to be entirely uninfluenced by this view.

As it happens, GGV believes that this preference for RPW cannot survive the scrutiny which is involved in Stage 2 of the Competition for numerous reasons including a hopeless lack of commercial viability and the undeliverable nature of the scheme in its current structure. We suggest that applicant disclosures at last week's hearing fully support this view.

But this is academic. Come what may the Committee must not let any pre-existing policy preference or relationship with RPW influence or appear to influence its conduct of the Competition. We fear that, distracted by the other issues under consideration on 9th April, the Licensing Committee did not sufficiently consider this vital point.

We submit that it is easy to see the unfairness by looking at the issue in reverse. Had GGV asked for a three month extension to improve our application would we have been given it? If the answer to this is 'No' then the answer must also be 'No' for the Royal Pier applicants.

We feel that there is a gross unfairness here and we therefore respectfully request that the matter be referred back urgently to the Licensing Committee for it to reconsider the Stage 2 timetable and revert to an earlier submission deadline. We believe that 5pm on Thursday 14th May would be a fair and practical date to close Stage 2.

Yours sincerely

Tony Wollenberg
Chairman