



The Commonwealth of Massachusetts

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October 29, 2013

Mr. Stephen Crosby
Chairman, Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

Re: Suitability of Crossroads Massachusetts, LLC / Foxwoods

Dear Chairman Crosby and Commissioners:

Thank you for the opportunity to provide testimony on the suitability of Crossroads Massachusetts, LLC / Foxwoods for a resort casino gaming license in Milford, MA. I request that the Commission find this applicant unsuitable as a gaming partner for the Commonwealth and its municipalities.

As you know, the issuance of a gaming license engenders long-term, contractual relationships between the casino developer/operator, the Commonwealth, and the host/surrounding communities. In light of the concerns outlined below, it is neither prudent nor in the best interest of Massachusetts taxpayers to enter into such a relationship with this applicant.

Each of the concerns below speaks directly to one or more of the criteria used by the Commission to determine applicant suitability. While the information is publicly available, I welcome the Commission's efforts to confirm its veracity through its investigative process.

The proposed developer¹ and/or developer/operator² have demonstrated:

1. A pattern of ambivalence toward criminal activity and corruption

- a. The recent past Chairman of Foxwoods' management council³ was federally convicted in July, 2013 of embezzling \$100,000 over a two-year period. According to the US Attorney who successfully prosecuted the case, the individual continued his criminal behavior and remained in an executive position after being asked to cease. Operational checks designed to prevent such abuse were routinely overridden;
- b. The Treasurer of the Foxwoods management council³ resigned in October, 2013 and pled guilty to a federal charge of embezzling \$700,000. This individual was federally indicted in January 2013, yet there is no record that Foxwoods management called for an inquiry;
- c. The current Foxwoods Chief of Staff, who has direct authority over the police force and virtually all aspects of Foxwoods' Connecticut operations, has been convicted of a criminal offense three times, at least once for a violent offense. This individual has been involved in Foxwoods operations for some time and despite his criminal past, was promoted to his current role overseeing public safety;

- d. The current CEO of Warner Gaming previously served in senior management at Station Casinos. During his tenure, he was directly in charge of the finance department that authorized a check to improperly influence the Gaming Commission in obtaining a casino license. When called to testify, this individual defied the authority of the Missouri Gaming Commission and refused. Station Casinos was subsequently fined \$1m and entered into an agreement with the Commission to sell its properties and leave the state.

2. A history of poor fiscal management and inability to meet financial obligations

- a. In 2010, after accruing \$2.3b in debt, Foxwoods defaulted and was forced to restructure, repaying creditors only cents on the dollar and resulting in millions in financial losses to investors. Despite its recent financial restructuring, Foxwoods still retains \$1.7b in debt casting doubt on its ability to meet future obligations to the Commonwealth and/or its municipalities;
- b. According to Standard & Poor's, Foxwoods' CCC+ credit rating means it is "currently vulnerable to nonpayment, and is dependent upon favorable business, financial, and economic conditions for the obligor to meet its financial commitment on the obligation. In the event of adverse business, financial, or economic conditions, the obligor is not likely to have the capacity to meet its financial commitment on the obligation." This should raise considerable concern in a gaming environment in which market competition continues to intensify.

3. A history of challenging financial commitments to partner communities

- a. For the past seven years, Foxwoods Connecticut has challenged the Town of Ledyard's ability to collect taxes on business assets and continues to challenge the town's rights in court despite multiple court rulings in the town's favor. The town of Ledyard estimates that it is owed more than \$300,000 in unpaid back taxes, interest and fees, raising concerns about whether the applicant will adhere to commitments made to Massachusetts and its municipalities.

4. A poor track record in planning, managing and financing projects

- a. Foxwoods was awarded a gaming license in Philadelphia, PA in 2006 that was rescinded by the state in 2010 because there had been no progress on the project;
- b. Foxwoods announced a partnership in June 2006 with another tribe to construct a casino in Pauma, CA. In September 2009 they withdrew;
- c. Foxwoods announced an application for Mulvan, Sumner County, Kansas casino in 2007 but rescinded the application in 2010;
- d. The current application for Foxwoods, Massachusetts has already demonstrated similar concerns relative to the organization's ability to develop the Milford project in a timely and organized manner:
 - i. Foxwoods only recently filed a critical document, its Environmental Notification Form (ENF), with the state. Completed ENF submissions allow for thorough state, municipal and public scrutiny of project details, assumptions and impacts. Because the submission was made at such a late date, the state will not provide the results of their review until after the local vote. This late filing means that residents in the prospective partner communities are deprived of the opportunity to review crucial project information in advance of negotiations and the local vote. This is in stark contrast to the other projects competing for a Region A license, both of which submitted ENFs to the state early this year.

- ii. Despite impending application deadlines, Foxwoods has yet to engage surrounding communities relative to required agreements.

Additionally, I will again call your attention to the need to include all parties "in interest" on the list of qualifiers subject to state investigation including all seven members of the Mashantucket Pequot Tribal Nation. The current qualifier list includes only two Council members. Alternatively, if all seven members are not subject to investigation, I request that the Commission provide a justification for excluding certain members of the Council from review.

In summary, the information detailed above raises serious concerns about the suitability of this applicant and the advisability of the state and/or its municipalities entering into legal and financial agreements with this applicant. As such, I request that the applicant be found "unsuitable" and removed from consideration for a Massachusetts gaming license.

Thank you for your time and attention to this important matter. I look forward to presenting this information personally to the Commission at the upcoming suitability hearing. Per my communication with the Commission dated September 19, 2013, I ask that you make my office aware of the hearing date as soon as it is scheduled.

Respectfully,



Carolyn C. Dykema
State Representative
8th Middlesex District

Cc:

Sen. Karen Spilka
Sen. Jamie Eldridge
Sen. Richard Moore
Rep. Danielle Gregoire
Rep. Matthew Beaton
Rep. John Fernandes
Town of Holliston, Board of Selectmen
Town of Hopkinton, Board of Selectmen
Town of Southborough, Board of Selectmen
Town of Westborough, Board of Selectmen
Town of Milford, Board of Selectmen

¹Crossroads Massachusetts, LLC

²Mashantucket Pequot Tribal Nation

³Mashantucket Pequot Tribal Council, a seven-member Tribal Council of the Mashantucket Pequot Tribal Nation.