

PENNSYLVANIA GAMING CONTROL BOARD

PUBLIC HEARING
WASHINGTON TROTting ASSOCIATION, INC.
PETITION FOR WAIVER FOR FIXED SEATS

JULY 10, 2008, 11:03 A.M.

STATE MUSEUM AUDITORIUM
HARRISBURG, PENNSYLVANIA

BEFORE:

MARY DiGIACOMO COLINS, CHAIRMAN
RAYMOND S. ANGELI
JEFFREY W. COY
JAMES B. GINTY
KENNETH T. McCABE
SANFORD RIVERS
GARY A. SOJKA
KEITH WELKS, EX-OFFICIO REPRESENTATIVE

APPEARANCES:

OFFICE OF ENFORCEMENT COUNSEL
BY: E. BARRY CREANY, ESQUIRE
CYRUS PITRE, ESQUIRE

FOR - PENNSYLVANIA GAMING CONTROL BOARD

FOX ROTHSCHILD
BY: MARIE JONES, ESQUIRE

FOR - WASHINGTON TROTting ASSOCIATION

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

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3 WITNESS

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4 Marie Jones

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5 Michael Jankoviak

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6 Michael Graninger

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1 CHAIRMAN DiGIACOMO COLINS: Good morning,
2 everyone. Good morning. I would like to convene the
3 first matter, please and ask you all to sit down and
4 please turn off your cell phones and BlackBerries, if
5 you would.

6 For the record, I'm Judge Mary Colins. I'm the
7 Chairman of the Pennsylvania Gaming Control Board.
8 There are several matters we will be handling today.

9 Could I ask for some order, please?

10 Thank you.

11 We'll begin -- we usually have the Pledge of
12 Allegiance. We will start with that and then we'll
13 commence with our hearings.

14 (Pledge of Allegiance.)

15 CHAIRMAN DiGIACOMO COLINS: Thank you.

16 There are several matters, which we will be
17 addressing today, several Petitions before we begin our
18 public meeting.

19 The first matter is the Washington Trotting
20 Association, Inc. Petition for Waiver for Fixed Seating.

21 After we have heard testimony on that matter,
22 the next Petition will be the Valley View Downs, LP's
23 Petition for Consideration of Alternative and/or
24 Conditional Licensing Standards.

25 Then the final matter will be the Petition

1 which has been filed by PITG Gaming, LLC.

2 So, now, we'll begin with the Washington
3 Trotting Association, Inc., matter. I see everyone is
4 at counsel's table. The first thing we will do is
5 administer an oath to all who intend to testify on the
6 Washington Trotting Association matter.

7 So, would those who are going to testify please
8 rise and I'll ask the stenographer to administer an
9 oath.

10 (Witnesses sworn en masse.)

11 CHAIRMAN DiGIACOMO COLINS: All right. The
12 Petitioner can begin. Counsel?

13 MS. JONES: Good morning, Chairman Colins,
14 Board Members. Marie Jones from Fox Rothschild, here on
15 behalf of Washington Trotting Association.

16 With me is Michael Graninger, Vice President
17 and General Manager. At the far end of the table is
18 Michael Jankoviak, Director of Slot Operations and Mark
19 Grimm, Deputy Chief Fire Marshall of North Strabane Fire
20 Department.

21 WTA has petitioned the Board to ask for relief
22 from the fixed seating regulation. Our Petition asks
23 for the relief for both the temporary and permanent
24 facility.

25 However, we are progressing so well towards

1 moving into the permanent facility, we are withdrawing
2 the request as to the temporary facility.

3 So, today we're just going to focus on the
4 permanent facility. Today you will hear testimony
5 regarding patrons' concerns and dissatisfaction with the
6 fixed seating requirements in use at the Meadows, and
7 concerns that certain disabled individuals have
8 expressed to the Meadows.

9 You'll also hear from Mr. Grimm indicating that
10 such change to the fixed seating requirement does not
11 violate the Fire Codes or any other health and safety
12 codes and would not be a hazardous condition.

13 I first want to ask Michael Jankoviak to
14 testify, and I would like him to explain to the Board
15 his position as the Director of Slot Operations.

16 MR. JANKOVIAK: Good morning. Thank you for
17 the opportunity to come before you today and discuss an
18 issue to the Meadows and many of our patrons.

19 As you know, the Meadows currently provides
20 fixed seating for our guests, which means the seat
21 cannot be moved or altered in any way by the persons
22 using the seat. We are requesting that we be permitted
23 to require non-fixed seats in our permanent casino.

24 Simply put, the fixed seats have become a
25 problem for many of our guests who have special needs.

1 Not only is it inconvenient for our guests but it
2 effects the right to be self-sufficient and causes
3 embarrassment.

4 Each time a guest with a special need wants to
5 play another machine, they must wait for an attendant to
6 remove the chair, which also causes disruptions to
7 neighboring patrons.

8 We have also received complaints that fixed
9 seats cannot accommodate all body types, including
10 people who may be full figured or those who are short or
11 tall in stature.

12 The inability to adjust the seat can cause
13 significant back and neck pain because they cannot reach
14 the slot machine at the standard distance set by the
15 seat.

16 These ergonomic concerns could be eliminated
17 with non-attached seating, which would enable the guest
18 to move the chairs themselves or adjust them to fit the
19 individual body type.

20 Further, our guests who do not have special
21 needs have complained that there is not sufficient space
22 between the fixed seats, often causing a disruption to a
23 neighboring patron when they exit the machine.

24 Recently, the Tri-County Patriot for
25 Independent Living, a local group representing Americans

1 with disabilities visited our facility. They, too,
2 expressed these same concerns and support the request
3 that is before you today.

4 Thank you, again, for the opportunity to speak
5 to you. I will be happy to answer any questions that
6 you may have.

7 MS. JONES: Mike, can you briefly explain to
8 the Board how the control of removal works.

9 MR. JANKOVIAK: What usually happens is a guest
10 contacts a slot attendant. The slot attendant then
11 contacts the slot technician that comes over with a key
12 that unlocks the mechanism that attaches the seat to the
13 slot machine.

14 Depending on business levels, this could take 5
15 to 15 minutes before a guest with special needs is able
16 to play that machine.

17 This happens every time the guest wants to play
18 a new machine. So, we would like to accommodate them
19 any way we can.

20 MS. JONES: Do you see any concerns with safety
21 issues with the fixed seating and the egress?

22 MR. JANKOVIAK: Yes. As they -- with the
23 egress as they exit to the right, they could be exiting
24 into the flow of traffic, as they exit for an emergency.
25 This could cause concern.

1 MS. JONES: You have worked in other
2 jurisdictions where there is no fixed seating, correct?

3 MR. JANKOVIK: Yes. I was in Nevada in slot
4 operations for ten years. We had no issues with seating
5 whatsoever concerning safety or comfort.

6 MS. JONES: Comparing that experience to what
7 you see at the Meadows right now, how do you judge the
8 two experiences?

9 MR. JANKOVIK: Fixed seating is a concern
10 right now. We have many complaints relating to safety
11 and comfort at the Meadows that we haven't experienced
12 at other jurisdictions.

13 MS. JONES: Thank you, Mr. Graninger, do you
14 have any other experience with patron complaints at the
15 Meadows?

16 MR. GRANINGER: Well, it's a daily thing. The
17 State Police, the on-site agents have witnessed the same
18 complaints from people that are tall or short or big.
19 It's a daily thing.

20 It's not any -- it's not about anything except
21 making our guests comfortable and putting them in a safe
22 environment.

23 MS. JONES: And you have also worked in various
24 jurisdictions where there was not a fixed seating
25 requirement. Did you see any concerns there?

1 MR. GRANINGER: No concern. I have been doing
2 this 41 years. There has never been a concern about a
3 slot stool.

4 MS. JONES: Thank you. Next, Mr. Grimm, you
5 are the Deputy Chief Fire marshal for North Strabane
6 Township?

7 MR. GRIMM: That is correct.

8 MS. JONES: On April 15th, you wrote a letter
9 to Kevin Hayes, the then Director of Gaming Operations
10 regarding the Petition for Removal of Fixed Slot Seating
11 Requirement, correct?

12 MR. GRIMM: That is correct.

13 MS. JONES: In that letter, you indicated to
14 remove the fixed seating does not violate any North
15 Strabane Township Fire Codes or any health and safety
16 codes, correct?

17 MR. GRIMM: Correct.

18 MS. JONES: Do you have any concerns with
19 removal of the fixed seating requirement?

20 MR. GRIMM: I do not.

21 MS. JONES: Do you have any concerns with the
22 slot seating being unfastened in the event of a fire?

23 MR. GRIMM: I do not.

24 MS. JONES: And would it be easier and quicker
25 for the patrons in the event of an emergency to exit

1 without the fixed seating?

2 MR. GRIMM: I believe it would.

3 COMMISSIONER RIVERS: Excuse me. We can't hear
4 you.

5 MR. GRIMM: I'm sorry. I believe it would not
6 be a problem.

7 CHAIRMAN DiGIACOMO COLINS: I still couldn't
8 hear you.

9 MR. GRIMM: The answer is, I do not believe it
10 would be a problem.

11 MS. JONES: And the question was if the seats
12 were unfastened and there was an emergency, does he see
13 a problem with them being unfastened.

14 CHAIRMAN DiGIACOMO COLINS: That is vague.
15 What do you mean by a problem?

16 MS. JONES: A problem with say, in the event of
17 an emergency, the individual knocking a stool over and
18 other individuals coming through that.

19 CHAIRMAN DiGIACOMO COLINS: Is it a safety
20 hazard? Would it be a safety hazard?

21 MR. GRIMM: No, I believe it would not.

22 COMMISSIONER RIVERS: Are you speaking as an
23 expert witness on this situation.

24 MR. GRIMM: I am.

25 COMMISSIONER RIVERS: So would you tell us your

1 qualifications, please?

2 MR. GRIMM: I'm currently the Deputy Fire
3 Chief/Fire Marshal and 22 years in the fire service.
4 I'm certified in the International Code Council.

5 COMMISSIONER RIVERS: As it stands right now,
6 are there any requirements that the State of
7 Pennsylvania have as it relates to this fixed seating?

8 MR. GRIMM: Currently, there are not.

9 CHAIRMAN DiGIACOMO COLINS: We have a
10 regulation, don't we?

11 MS. JONES: Right, with the exception of your
12 regulation that we're seeking waiver of.

13 COMMISSIONER GINTY: Chief, have you talked to
14 any of your counterparts and other jurisdictions that
15 have casinos?

16 MR. GRIMM: I have not.

17 COMMISSIONER GINTY: Have you talked to any
18 international or national or statewide fire safety
19 associations?

20 MR. GRIMM: I have not, but the Code Book that
21 we go through, the International Code Council is where I
22 made my decision on what they have on code.

23 COMMISSIONER GINTY: Miss Jones, I was not here
24 when the original regulation was adopted, and I believe
25 it was adopted because it was at least a perceived

1 safety issue in the case of fire.

2 Chief, are you familiar with the incident in
3 New Jersey some number of years ago where there was a
4 fire?

5 CHAIRMAN DiGIACOMO COLINS: In Nevada.

6 COMMISSIONER GINTY: In Nevada.

7 MR. GRIMM: I'm not aware of it.

8 MS. JONES: You're referring to, I believe, the
9 MGM fire in Nevada. Yes, and that was the basis of the
10 regulation that was enacted in New Jersey, which I
11 understand is the basis of the regulation enacted in
12 Pennsylvania.

13 That fire at MGM was over 20 years ago before
14 sprinkler systems had to be installed. At the Meadows,
15 there, of course, is proper fire and sprinkler systems.

16 Basically, the regulation was adopted at a time
17 of different technology and in at least my opinion,
18 would be outdated based on the sprinkler system and
19 other safeties.

20 COMMISSIONER GINTY: But nevertheless, we have,
21 for better or for worse, the Board adopted regulation.

22 MS. JONES: That is correct, when you initially
23 were adopting the regulations.

24 COMMISSIONER GINTY: Well, my problem is
25 creating an exception for one casino as opposed to the

1 other casinos. We would be saying it's not a safety
2 issue in the Meadows, but it could be a safety issue in
3 others.

4 MS. JONES: I don't believe that is what you
5 would be saying. I believe that you would be saying
6 that we have taken the initiative to petition the Board
7 and ask for a waiver of this regulation.

8 So, you would be saying that based on the
9 information that you have that it could be waived from
10 here. Whether or not another facility would then want
11 to come forward and similarly petition, that would be up
12 to them. They could have done so prior to this date.

13 CHAIRMAN DiGIACOMO COLINS: All right. Go on.
14 You have a question -- are you going to question this
15 witness?

16 COMMISSIONER McCABE: Yes.

17 You mentioned all of these complaints. Are any
18 of these complaints are in writing?

19 MR. JANKOVIK: Yes, I have several letters and
20 e-mails from patrons, as well as verbal.

21 COMMISSIONER McCABE: Can you present them to
22 us for the record?

23 MS. JONES: We will. We will get you a
24 supplement to that. I do have, that I would like to
25 move into evidence, a letter from the Tri-County

1 Patriots for Independence. That is dated July 8th.

2 I gave it to Office of Enforcement Counsel this
3 morning. If you would like, I could read the relevant
4 section.

5 COMMISSIONER RIVERS: Yes.

6 MS. JONES: On August 28th, 2007, Tri-County
7 Patriots for Independent Living and Americans with
8 Disability Accessibility Guidelines Survey of the
9 temporary site for the Meadows racetrack and casino in
10 Washington, PA.

11 We found that most of the site was compliant,
12 and we applaud the casino's initial efforts.

13 However, before construction on the permanent
14 casino is completed, there are a few issues that we had
15 previously detailed and would like to, again, bring to
16 attention.

17 Relevant to this discussion is Item 4. Slot
18 machines were accessible by some players with
19 disabilities but attention needs to be given to
20 increasing accessibility.

21 Most machines are either placed too high or
22 have stationary chairs that do not permit a wheelchair
23 to access.

24 People who use wheelchairs are entitled to the
25 same access as those who do not. This includes the

1 ability to participate in the use of slot machines
2 independently. Stationary chairs prohibit this from
3 occurring.

4 We would appreciate a meeting with you to
5 discuss changing the relevant regulations. We look
6 forward to meeting with you in a timely fashion. That
7 was signed by Andrew Copper, the Deputy Director of the
8 Tri-County Patriots for Independent Living.

9 COMMISSIONER McCABE: Thank you. I have two
10 more questions. What type of seats are you proposing to
11 put in here instead of the permanent seats?

12 MR. JANKOVIAK: Just the standard slot stools.

13 COMMISSIONER McCABE: What are they going to
14 be?

15 MR. JANKOVIAK: The standard slot chairs.

16 COMMISSIONER McCABE: Can you describe them for
17 us?

18 MR. JANKOVIAK: Just a four-legged, stand-alone
19 chair that can be moved in any direction to accommodate
20 the player.

21 MR. McCABE: Is it a chair or a stool?

22 MR. JANKOVIAK: It would be a stool -- a chair.
23 Well, a chair with a back on it.

24 COMMISSIONER McCABE: Okay. Have you run these
25 changes past your insurance carrier and how do they feel

1 about making these changes? Is your insurance rates
2 going to go up? Are they satisfied that this change
3 will not affect the safety of the patrons?

4 MR. GRANINGER: Our insurance carrier is not
5 going to increase our insurance, but all of the venues
6 in the country except for New Jersey have the same type
7 of slot chair. There is no increase between us or the
8 Nevada properties and our insurance.

9 COMMISSIONER McCABE: Thank you.

10 COMMISSIONER SOJKA: Could I ask a couple,
11 Mary?

12 CHAIRMAN DiGIACOMO COLINS: Sure.

13 COMMISSIONER SOJKA: The Americans with
14 Disabilities Act, you've made reference to it with
15 regard to your local or regional organization. Is there
16 any implication at all that the current fixed chairs are
17 in direct violation of ADA?

18 MS. JONES: They are not in direct violation as
19 there is the controlled removal aspect. However, it is
20 not, as stated by the Tri-County Patriots for
21 Independent Living, it is not easily accessible. It is
22 an accommodation, but it is not easily accessible for
23 the disabled.

24 COMMISSIONER SOJKA: Which raises for me
25 another issue. This is not an unfriendly question. I

1 had a child in a wheelchair for years. I'm aware of
2 these issues.

3 There is more than simply the ability to move
4 up to something. You made in direct reference to the
5 height issue.

6 If you ask for relief in this area, that is the
7 removal of chairs, does it then fall to you to also
8 respond to the other half of that issue and that is to
9 lower a number of your machines making them truly
10 accessible to persons who are in wheelchairs.

11 MS. JONES: I believe, and Mr. Graninger can
12 talk more to this but we have different size slot
13 machines, different heights. So, I think I would
14 accommodate them.

15 Mike?

16 MR. GRANINGER: Well, I think the height issue
17 is actually the person not the machine. The machine can
18 be played by someone in a wheelchair fairly easy.

19 We were speaking of height and weight and a lot
20 of other issues. It concerns a lot of our players. Our
21 average age is 60 years old, so it concerns them.

22 COMMISSIONER GINTY: I'm surprised. Aren't you
23 subject to the Disability Act?

24 COMMISSIONER SOJKA: Yes, the ADA.

25 COMMISSIONER GINTY: You've got to have

1 wheelchair accessible slots, I would assume.

2 MS. JONES: Yes, they are compliant.

3 COMMISSIONER GINTY: They are?

4 MS. JONES: Yes, they are compliant.

5 COMMISSIONER RIVERS: The stools that you are
6 contemplating purchasing, will they be able to go up and
7 down or are they fixed at one height?

8 MR. GRANINGER: We have a choice of what we
9 want to get. We have ones that go up. You can buy ones
10 that vibrate. You can buy them -- you can. Depending
11 on the type of machine --

12 COMMISSIONER RIVERS: As you plan to go
13 forward, are you contemplating purchasing the type that
14 are movable in terms of up and down?

15 MR. GRANINGER: If we see the need, we'll
16 definitely do what our customers want.

17 CHAIRMAN DiGIACOMO COLINS: What is the -- have
18 you done a cost analysis as to what it will cost you and
19 your permanent facility in terms of having the free
20 stools as opposed to the fixed ones?

21 MR. GRANINGER: It's not negligible. It's not
22 about money. It's about the comfort of our guests.

23 CHAIRMAN DiGIACOMO COLINS: Have you done a
24 cost analysis?

25 MR. GRANINGER: They're about the same.

1 CHAIRMAN DiGIACOMO COLINS: Now, how many --
2 how many requests per day do you get to remove a slot
3 seat? Do you keep a record of that?

4 MR. JANKOVIAK: We do not keep a record. We
5 get about three or four a day.

6 CHAIRMAN DiGIACOMO COLINS: And it takes, what,
7 between 5 and 15 minutes to remove a seat?

8 MR. JANKOVIAK: Correct, depending on the
9 business that day. We like our slot technicians to
10 remove the chairs. They have been trained. It's a
11 safety issue for us.

12 CHAIRMAN DiGIACOMO COLINS: So, you're asking
13 us to waive a regulation, the application of the
14 regulation as to you in its entirety because the removal
15 of the seat could cost you between 15 and 45 minutes per
16 day; is that correct?

17 MR. JANKOVIAK: Negative. We just want to
18 accommodate our guests.

19 MS. JONES: I have to say, Chairman Colins,
20 when you look at that, it's, you know, 15 minutes for
21 three or four patrons. With the current size of the
22 facility, it would, of course, expand.

23 Our concern here is the guests' complaints and,
24 you know, some of the other concerns that have been
25 expressed.

1 MR. GRANINGER: Chairman, I would like to add
2 something also. It's three to four requests a day. You
3 can go through our facility. You can watch people in
4 the wheelchairs reaching over and around trying to play
5 these machines because they're too embarrassed to ask
6 for the chair to be removed time and time again
7 throughout their play.

8 COMMISSIONER RIVERS: When these chairs are
9 removed, where are they stored or placed?

10 MR. GRANINGER: We store them in the slot tech
11 office.

12 COMMISSIONER GINTY: This could be just me.
13 You make a very good case perhaps for, you know,
14 revisiting the regulation; but I remain concerned in
15 doing this in a piecemeal fashion.

16 Cyrus, I don't know, could we keep the record
17 open? I mean, if we had enough support, a broader
18 support that would suggest that we should relook at the
19 regulation and we could run a waiver in this case and
20 reconsider the regulation?

21 CHAIRMAN DiGIACOMO COLINS: Why don't we turn
22 it over to the Office of Chief Counsel for questions to
23 see if he has questions of your witnesses.

24 Are you finished your questioning of your
25 witnesses?

1 MS. JONES: I actually have one more item I
2 would like to move into the evidence.

3 CHAIRMAN DiGIACOMO COLINS: Okay. Very good.

4 MS. JONES: I would like to move into evidence
5 a letter from the Code Enforcement Officer of North
6 Strabane Township. He is the Building Code Official.
7 It's dated July 8th. I also gave a copy to Enforcement
8 Counsel. I'm going to read this, if that's okay.

9 After viewing the gaming floor and reviewing
10 the changes requested by the Meadows Casino, I have no
11 objection to the proposed changes to remove the fixed
12 seating system now employed.

13 The proposal will meet the Americans with
14 Disabilities Act and will not change any means ingress
15 or egress as per the 2006 International Building Code.

16 If you have any questions concerning this
17 matter, please feel free to contact me. That was signed
18 Scott Galbraith.

19 CHAIRMAN DiGIACOMO COLINS: That's accepted
20 into evidence.

21 MR. CREANY: Barry Creany for the Office of
22 Enforcement Counsel. I had a few questions for some of
23 the witnesses, but I think a lot of what I was prepared
24 to ask has already been addressed by the Board.

25 Maybe first with respect to the removal of the

1 seats, you're saying that the option is these non-fixed
2 seats, slot seating will be removed; and it will be with
3 a backed type of seating.

4 Are you planning to have that throughout the
5 entire gaming floor or just a limited number of areas?

6 MR. JANKOVIAK: It will cover the entire gaming
7 floor.

8 MR. CREANY: And when in the future if this
9 waiver is granted or the regulations change, if that is
10 something that we still have an ADA issue with somebody
11 in a wheelchair and they need that stool, what are your
12 plans to address that kind of a concern that might have
13 stools out in the aisle?

14 MR. JANKOVIAK: We would remove all of the
15 chairs from the gaming floor and put them in the slot
16 technicians' office.

17 MR. CREANY: Who is currently responsible for
18 overseeing those kind of operations? Is it your
19 department?

20 MR. JANKOVIAK: Yes. It is the slot
21 technicians that have been trained in the removal of the
22 chair.

23 MR. CREANY: And they are roaming the floor
24 constantly?

25 MR. JANKOVIAK: Correct and have radio

1 communication with the floor attendants.

2 MR. CREANY: Okay. I then had a couple of
3 questions for Mr. Grimm. You have an area of expertise
4 within fire safety; is that correct?

5 MR. GRIMM: That is correct.

6 MR. CREANY: Do you also have any experience
7 with the International Building Code or the code
8 enforced in North Strabane Township?

9 MR. GRIMM: I do.

10 MR. CREANY: And do you believe a non-fixed
11 type of seating would be compliant with that?

12 MR. GRIMM: I believe it would.

13 MR. CREANY: Is it your understanding that the
14 duty to keep the pathways clear of any obstructions in
15 the event of an emergency is the responsibility of an
16 operator or the facility owner?

17 MR. GRIMM: Yes.

18 MR. CREANY: And to that extent, do you see any
19 issues from the Building Code standpoint with respect to
20 this change?

21 MR. GRIMM: No, I don't.

22 MR. CREANY: And you had already stated the
23 Fire Safety Code and you don't see any problems with
24 that kind of a change?

25 MR. GRIMM: No. We checked the code, and the

1 code is open.

2 MR. CREANY: What about the mention of the
3 positioning of the chairs as such that they rotate out
4 so that they might be headed in the path of an exit? Is
5 that a problem currently?

6 MR. GRIMM: I believe it is a problem in the
7 event of an evacuation. You're going to have patrons
8 evacuating different areas. The way stools -- I'm
9 sorry, the seats' swing can pose a problem.

10 MR. CREANY: Then I would pose this to any of
11 the witnesses that can answer but with respect to that,
12 is there a way to adjust the current seating? I know
13 we're not talking about changes within the temporary but
14 when we get to permanent to align things so that
15 wouldn't be an issue on the gaming floor that we don't
16 have these sort of counter directions for the chairs?

17 MR. GRANINGER: No. It would be impossible for
18 every stool to face the exit, the fire exit.

19 MR. CREANY: Is that because the stools open to
20 one side and your pathways are between two different
21 banks of slots?

22 MR. GRANINGER: Well, some are facing one way,
23 some are facing the other. Everybody can exit toward
24 the fire exit.

25 MR. CREANY: Okay. I have no further

1 questions. Thank you.

2 CHAIRMAN DiGIACOMO COLINS: Are you saying that
3 the fixed stools are, in fact, a safety hazard? Is that
4 what you're telling us?

5 MR. GRIMM: The seats that are in effect right
6 now?

7 CHAIRMAN DiGIACOMO COLINS: Yes. You're saying
8 the seats that are place, the fixed stools that are in
9 place as a result of our regulations are, in fact, a
10 safety hazard?

11 MR. GRIMM: I would believe it would be a
12 safety hazard especially if you would have to evacuate
13 the structure.

14 CHAIRMAN DiGIACOMO COLINS: Okay. Well, what
15 are you basing that on?

16 MR. GRIMM: On the way the stools are set up
17 and how they motion to the right or left.

18 CHAIRMAN DiGIACOMO COLINS: Okay. Now, if you
19 have -- whether you have the fixed stool -- let's go to
20 the handicap issue and the accessibility issue. Whether
21 you have a fixed stool or you have a stool that is not
22 fixed, a freestanding one, if someone in a wheelchair
23 wants to play a slot machine, the seating has to be
24 removed either way; does it not?

25 MR. JANKOVIK: Correct, but with a --

1 CHAIRMAN DiGIACOMO COLINS: It's a time
2 difference.

3 MR. JANKOVIAK: Correct. Any --

4 CHAIRMAN DiGIACOMO COLINS: It's a question of
5 how much time it takes, right?

6 MR. JANKOVIAK: Any member of the Meadows
7 Casino could remove a chair that is not fixed from the
8 casino floor.

9 CHAIRMAN DiGIACOMO COLINS: Okay. So, it takes
10 more time if it's fixed and less time if it's
11 freestanding?

12 MR. JANKOVIAK: Correct.

13 MS. JONES: Also, for instance, with a
14 nonfixed, if a patron has somebody with them, they can
15 move the slot stool over a little bit to let the
16 disabled patron in. Where with them being fixed, they
17 couldn't do that.

18 It's not just, again, a timing issue. It is
19 making it easier for the patron and more accessible.

20 CHAIRMAN DiGIACOMO COLINS: So, again, it's
21 basically the way that we have issued our regulation
22 which dictates that stools are to be fixed to slot
23 machines is in your opinion a fire safety hazard?

24 MR. GRIMM: I believe it would be a fire safety
25 hazard in the event of an evacuation. That is correct.

1 MR. PITRE: Well, the question that I have, if
2 you have stools and any patron can move a stool, what
3 happens when those patrons decide they want to put these
4 stools in the aisle and there's an emergency and you
5 have stools in the aisle, doesn't that pose the same
6 problem when there's an evacuation?

7 MR. GRIMM: It would pose a problem, but the
8 way -- correct me if I am wrong, the way it is set up,
9 they have casino employees throughout the aisles to make
10 sure that doesn't happen.

11 MR. PITRE: But in the way it is set up now,
12 once those stools are removed, the fixed seating is
13 removed, they're placed in the slot technicians' office?

14 MR. JANKOVIK: Correct.

15 MR. PITRE: It requires an individual working
16 at the casino to remove that fixed seating; but with
17 unfixed seating, anybody can move that and anybody can
18 put it anywhere.

19 It goes -- the point I want to make to the
20 Board is that while we really don't object to any
21 waiver, the Board needs to give this some serious
22 consideration.

23 I think it requires the record to remain open.
24 When I say it needs to give it serious consideration,
25 there are presently four, five -- well, four permanent

1 facilities open. We have a fifth opening next week.
2 They all have fixed seating. They all have invested
3 money in it with that understanding that it's a
4 requirement of the reg. We also have --

5 CHAIRMAN DiGIACOMO COLINS: And now, we hear
6 testimony from someone who purports to be a fire expert
7 saying that our regulation is creating a safety hazard.

8 So, now, we have these existing casinos out
9 there and testimony that we've created a safety hazard
10 by this fixed seating regulation. So, indeed, we need
11 the record open; and we need more expert testimony on
12 this.

13 MR. PITRE: That's exactly my point, Chairman
14 Colins, because we also need to take into consideration
15 the opinion of first responders.

16 CHAIRMAN DiGIACOMO COLINS: Because now we
17 might have to require all of the existing casinos to
18 remove their fixed seating based on what the testimony
19 is. So --

20 MR. PITRE: I think we need input of State
21 Police on this since they are on-site and would be
22 responding.

23 We also have to take into consideration that an
24 individual committing a crime may throw stools in the
25 aisleway as obstacles. I mean, there are several --

1 this can go back and forth.

2 So what I'm saying is the Board needs to give
3 this some serious consideration and that we request that
4 the record remain open so we can get more expert input
5 because what potentially is going to happen is that we
6 could have every casino in the Commonwealth seeking to
7 remove their fixed seating. I think in that respect, we
8 need to get a complete picture of the Commonwealth.

9 COMMISSIONER RIVERS: Rather than talk about
10 the tales of doom, I think there is a lot of information
11 out there now.

12 When you talk about people throwing chairs or
13 people doing X, Y to Z with these stools, why don't we
14 contact other jurisdictions to find out if, in fact,
15 they ever have had a problem with these stools?

16 MR. PITRE: And that's an excellent point.

17 COMMISSIONER RIVERS: Yeah. I hate that when
18 we start talking about the negative side, we come up
19 with all tales of woe.

20 It sounds like they put a lot of time, effort,
21 and energy in it. I appreciate the fact that yes, we
22 have a regulation. Yes, we have required others to do
23 this, just as they were required in their temporary
24 facility.

25 At the same time, they're asking for some

1 relief. I don't think we should paint a tale of woe as
2 they present their particular case.

3 That's my concern that, I think, we give them
4 the opportunity; and I agree to keep the record open so
5 that we can, in fact, get good information.

6 COMMISSIONER COY: Madam Chairman?

7 CHAIRMAN DiGIACOMO COLINS: Go on, please.

8 COMMISSIONER COY: Just one question, I guess
9 I'll ask Miss Jones. You obviously have an expert
10 witness today arguing on behalf of your case. Do you
11 believe that you can -- if you wanted to, do you believe
12 you can bring the Board an expert witness that would
13 take the opposite side of the fence here?

14 MS. JONES: Absolutely.

15 COMMISSIONER COY: I thought so.

16 COMMISSIONER GINTY: Here is the problem we
17 have, the Chief could be absolutely right; but you know,
18 if one of the other casinos comes here, maybe the other
19 Chief in the other jurisdiction wouldn't agree with you.
20 I mean, is that possible?

21 MR. GRIMM: Very possible.

22 COMMISSIONER GINTY: Where does that put the
23 Board? You know, it is an industry issue. It should be
24 addressed as an industry issue as opposed to piecemeal
25 waivers.

1 COMMISSIONER ANGELI: I would like to follow up
2 on that though. The interesting point would be if you
3 could -- if you surveyed the other casino industries
4 that are already in Pennsylvania currently, would they
5 be in favor of switching from what they have to stools?
6 Do we know that?

7 MS. JONES: I don't know the answer to that,
8 and they are indicating no also.

9 CHAIRMAN DiGIACOMO COLINS: Well, and perhaps
10 that's one reason for viewing this not in a piecemeal
11 fashion but as a regulatory change perhaps.

12 Perhaps, this is the type of thing that has to
13 go through the IRRC process, which is a very deliberate
14 process requesting public comment, industry comment.
15 So, you know, we'll leave the record open.

16 When do you expect to be able to come back with
17 some more information for us? Next meeting? Maybe at
18 the end of August?

19 MR. CREANY: Commissioners, I take
20 responsibility for the OEC side of the experts. We
21 really hadn't had the issue of experts and focus up
22 until about a week ago. I did contact our State Fire
23 Commissioner and asked him his position on it and also a
24 fellow named Ron Syler, who is the State Building Code
25 Official.

1 A couple of years ago, Pennsylvania went to a
2 Statewide Code and it allows municipalities to take over
3 responsibilities.

4 What I found out from them is that all of the
5 municipalities within which we see the future
6 development, they're regulated on a local basis. So,
7 they have their own code enforcement; but they're all
8 applying the same code.

9 As far as the International Building Code,
10 which is really what Pennsylvania has adopted as its
11 Uniform Construction Code, there's nothing in it that
12 regulates equipment.

13 They deal with the aisles. They deal with the
14 floor plans and such, the escapes, and the sprinklers.
15 They only touch on the issues that we're dealing with
16 today when it comes down to what they refer to as reach
17 range requirements for ADA.

18 So under their Chapter 11, those machines have
19 to be within a certain range and not an obstruction in
20 themselves. They can't be accommodated.

21 We had contacted Mr. Syler. He was available
22 for today. So at this point, we had wanted to suggest
23 that we can't go on the record recommending that these
24 be waived at this time.

25 I think it would require some additional

1 testimony and experts and also others as to the
2 experience we're seeing in the other casinos. Maybe it
3 is something that the Board would want to do on an
4 industry-wide basis, but we would like it to remain
5 open.

6 CHAIRMAN DiGIACOMO COLINS: Let's be prepared
7 to finish this up at our hearing on August 28th. We'll
8 dispose of the issue at that time.

9 MS. JONES: That's fine, Chairman Colins. Even
10 though we understand that you would like to survey the
11 industry, we would obviously still want our Petition for
12 Waiver to be considered separately than, say, a change
13 in the regulation because we are in a time constraint
14 with respect to ordering our slot stools.

15 I will get with Office of Enforcement Counsel
16 and we will supply you with the additional information
17 or testimony by the end of August.

18 CHAIRMAN DiGIACOMO COLINS: And August 28th is
19 within your time frame?

20 MS. JONES: Yes, it is.

21 CHAIRMAN DiGIACOMO COLINS: Okay. Good. Very
22 good. Thank you.

23 MS. JONES: Thank you.

24 (The hearing concluded at 11:38 a.m.)

25

1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the notes
3 taken by me on the within proceedings and that this is a
4 correct transcript of the same.

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Hillary M. Hazlett, Reporter
Notary Public

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