

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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PUBLIC HEARING

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BEFORE: MARY DIGIACOMO COLINS, CHAIRMAN  
Raymond S. Angeli, Jeffrey W. Coy, James B.  
Ginty, Kenneth T. McCabe, Sanford Rivers,  
and Gary A. Sojka, Members

HEARING: Wednesday, October 22, 2008  
3:00 p.m.

LOCATION: Pennsylvania State Museum  
300 North Street  
Harrisburg, PA 17102

WITNESSES: Frank T. Donaghue, Ira Lubert, Peter Tyson,  
Ray Quaglia, Stephen Mullin, Kenneth  
Kochenour, Edward McBride, C. Patrick  
McCoy, Kenneth O'Brien, P.E., Cyrus Pitre,  
Scott T. Wyland, Thomas C. Bonner, James  
Talerico, Susan Hensel, Doug Sherman

Reporter: Kenneth D. O'Hearn

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CHAIRMAN COLINS:

To begin, Commissioner McCabe will be here very shortly. I'm Mary Colins. I'm the Chairman of the Pennsylvania Gaming Control Board. And we're here to hold the Category Three Suitability hearing for Valley Forge Convention Center Partners, LP. And the Category Three licenses are for facilities to be located in well-established resort hotels. The authority for these licenses is found at Section 1305 of the Pennsylvania Horserace Development and Gaming Act.

There are two Applicants for these licenses. The Board will be conducting hearings for each in the next two days. We'll consider and evaluate both Applicants, and then we'll have the task of exercising our discretionary authority to decide whether the Board believes awarding these licenses will be --- will best serve the Commonwealth and the public interest, as outlined in Act 71.

Now, the purpose of these proceedings is to provide Valley Forge Convention Center Partners, LP a final hearing to introduce testimony and evidence to prove, to the Board's satisfaction, that they are

1 suitable, as well as to convince the Board that the  
2 Applicant should be selected for an available license.

3           In addition, these hearings will provide  
4 the opportunity for the Applicants to answer any  
5 questions that the Board may have relating to the  
6 application. It's noteworthy that the Board  
7 previously heard testimony and received evidence on  
8 the issue of whether Valley Forge has met all of the  
9 Act's eligibility criteria.

10           The evidence previously received,  
11 including testimony and briefs, are before the Board  
12 in the record, and therefore, we do not anticipate  
13 that the --- that that issue will be repeated with  
14 evidence today, or by the information today. Again,  
15 this is the primary issues before the Board today, are  
16 matters of suitability.

17           The public has previously had  
18 opportunities to be heard with respect to these  
19 Applicants during the Public Input Hearings and  
20 through written comments and correspondence. All of  
21 that public testimony and the comments will be taken  
22 into consideration by the Board as it deliberates on  
23 each Applicant.

24           Additionally, Category One slot Licensee  
25 Greenwood Gaming has been granted intervener status in

1 these proceedings, and the Board has granted Greenwood  
2 Gaming 15 minutes to make a presentation to the Board  
3 following Valley Forge's presentation. Thereafter,  
4 Valley Forge will be given the opportunity to make a  
5 brief rebuttal if they so choose.

6           Suitability factors that the Board will  
7 take into consideration when reviewing the  
8 applications, as with all Applicants, are defined in  
9 Section 1325 of the Act. And upon conclusion of the  
10 two hearings, the Board will take the matter of  
11 awarding these Category Three licenses under  
12 advisement.

13           As required by the Act, a Decision of the  
14 Board will not be forthcoming on those Applicants  
15 until such time as the Board has had the opportunity  
16 to deliberate and determine eligibility and  
17 suitability for the award of the license consistent  
18 with the public interest.

19           Like all other Applicants, the  
20 application has undergone an extensive review by  
21 staff, and this hearing is to provide a final  
22 opportunity for the Applicant to demonstrate to the  
23 Board's satisfaction, not only that it is suitable for  
24 the license but that it should receive one of the  
25 available licenses.

1 Now, before we begin, I'd like to ask all  
2 individuals who will present testimony today, to  
3 please stand so that you can be sworn. Thank you.

4 -----

5 WITNESSES SWORN EN MASSE:

6 -----

7 CHAIRMAN COLINS:

8 Thank you very much. Our acting  
9 Executive Director Frank Donaghue now will address the  
10 review of the application by staff.

11 ATTORNEY DONAGHUE:

12 Okay. Thank you, Chairman. Good  
13 afternoon members of the Board. The application of  
14 Valley Forge Convention Center, LP was filed with the  
15 Pennsylvania Gaming Control Board on June 29th, 2007.  
16 Thereafter, on October 16th of 2007, the Board  
17 conducted an eligibility hearing regarding this  
18 Applicant, but deferred deciding on the issue of  
19 eligibility until such time as the Applicant was  
20 before the Board and presented its case as to  
21 suitability.

22 A Public Input Hearing was then held in  
23 Montgomery County, Pennsylvania, on May 20th, 2008,  
24 during which time Valley Forge made a presentation  
25 concerning its project, including oral testimony, as

1 well as the submission of documentary exhibits.  
2 During the course of that hearing, speakers, other  
3 than the Applicant, presented either their support  
4 for, or opposition of the proposed project. This  
5 hearing was recorded and transcribed.

6           Additionally, the Pennsylvania Gaming  
7 Control Board placed materials submitted by Valley  
8 Forge on its website to allow greater public access to  
9 the information concerning the proposal, the  
10 projections, the studies and all materials presented  
11 to the Board. These documents including local impact  
12 reports, the dissemination of the information  
13 permitted the Board's receipt of written submissions,  
14 both in support of and opposition to the project.

15           As of the deadline for submission of the  
16 written comments, the Board has received 114  
17 submissions. In addition, the Bureau of Licensing  
18 (BOL), the Bureau of Investigations and Enforcement  
19 (BIE), and the Financial Taskforce has undertaken a  
20 review of the application consistent with the mandates  
21 of the Gaming Act. The result of this Licensing and  
22 investigative phase of the application process is the  
23 creation of a suitability report, which summarizes the  
24 findings of the Bureaus with respect to the Gaming  
25 Act's licensing eligibility and suitability

1 requirements.

2           Further, in the application, Valley Forge  
3 submitted a traffic study. The Pennsylvania Gaming  
4 Control Board retained the firm of Jacob, Edwards and  
5 Kelcey to review the study and issue a report.  
6 Unfortunately, we have received word today that Steve  
7 Cunningham of Jacobs, Edwards and Kelcey had a family  
8 emergency and would not be here today to make a  
9 presentation to the Board.

10           However, I have been informed that the  
11 Office of Chief Counsel (OCC) and Counsel for Valley  
12 Forge have conferred, and Valley Forge is in agreement  
13 with Mr. Cunningham's recommendation, namely that  
14 there has to be an additional traffic light installed.

15           Should the Board have any further  
16 questions of Mr. Cunningham, you may certainly keep  
17 the record open for an appearance by him at a later  
18 date. With that being said, I'd like to turn over the  
19 proceedings to Doug Sherman, acting Chief Counsel, to  
20 discuss stipulations and exhibits for the record.

21                           ATTORNEY SHERMAN:

22           Thank you. Valley Forge Convention  
23 Center Partners, LP and the Office of Chief Counsel  
24 have entered into a stipulation regarding the  
25 procedure employed by the Bureau of Licensing, Bureau

1 of Investigation and Enforcement and the Financial  
2 Taskforce. This stipulation has been marked as  
3 Exhibit Eight.

4           The culmination of the work described in  
5 the exhibit has resulted in an evidentiary record  
6 which includes the full application, local impact  
7 statements, traffic studies, the transcript of the  
8 public input and eligibility hearings, the written  
9 comments presented to and received by the Board, the  
10 suitability report, the stipulated testimony,  
11 memoranda and other documents filed of record.

12           The parties have entered into a  
13 stipulation that each of these items, which are  
14 identified and offered as Exhibits One through 11 are  
15 to be admitted into the record as a stipulated  
16 evidentiary record for the Board's consideration.

17           In addition, the transcript of these  
18 proceedings and any other evidence submitted and  
19 admitted as exhibits in connection with this  
20 Applicant's licensing hearing today would likewise be  
21 part of the record for the Board's review and  
22 consideration. I believe Counsels for the Applicant  
23 and the other respective parties may also be moving  
24 items into evidence during their presentations. Thank  
25 you.

1 (Exhibits One through Eleven  
2 marked for identification.)

3 CHAIRMAN COLINS:

4 Thank you. Regarding the request for the  
5 admission of the Exhibits One through Eleven, are  
6 there any objections?

7 ATTORNEY QUAGLIA:

8 No objection.

9 CHAIRMAN COLINS:

10 All right. That being the case, is there  
11 a motion for the admission of these exhibits into the  
12 record and then a second? Anyone so move?

13 COMMISSIONER GINTY:

14 So moved.

15 COMMISSIONER SOJKA:

16 Second.

17 CHAIRMAN COLINS:

18 All right. All in favor of the  
19 submission?

20 AYES RESPOND

21 CHAIRMAN COLINS:

22 Opposed?

23 NO RESPONSE

24 CHAIRMAN COLINS:

25 The exhibits are admitted. Very good.

1 Now, we will proceed with Valley Forge and ask you to  
2 identify yourself for the record, please, and then you  
3 can proceed.

4 ATTORNEY QUAGLIA:

5 Thank you. Good afternoon, Your Honor,  
6 members of the Board. I am Ray Quaglia from the  
7 Ballard Spahr firm, making my now, annual autumn  
8 appearance before the Board on behalf of the  
9 Applicant. To my left is Ira Lubert from whom the  
10 Board will be hearing momentarily and to my right is  
11 my partner, Adrian King.

12 Having prevailed, along with our friends  
13 at Bushkill in the war of attrition among the initial  
14 four Applicants for a Category Three license, we are  
15 here today to demonstrate the suitability of this  
16 Applicant for licensure.

17 We would like to begin by as we always  
18 do, by thanking the Board's staff for all of their  
19 hard work to get us to this juncture. Without trying  
20 to name everyone who devoted their time and effort to  
21 this application, I would be remiss not to acknowledge  
22 my personal gratitude to Steve Cook, Linda Lloyd,  
23 Cathy Coffey (phonetic) and Chris Greene (phonetic),  
24 and of course, Dale Miller. They kept our feet to the  
25 fire and occasionally in the fire throughout this

1 arduous application process, and they did it with the  
2 responsiveness, courtesy and professionalism  
3 characteristic of the Board staff. We would not be  
4 here today without them, and we thank them for all  
5 their hard work and their dedication.

6           The Applicant has an additional three  
7 exhibits that have been provided with the staff that  
8 we would like to mark. Exhibit 12 is Upper Merion  
9 Township Resolution 2008-33, approved October 2nd,  
10 2008 with the attached exhibit --- or executed  
11 memorandum of understanding between the township and  
12 the Applicant. Exhibit 13 is the commitment letter  
13 from Delaware Valley Real Estate Fund, LP, dated  
14 October 7th, 2008. And Exhibit 14 is our slide  
15 presentation for today on disc and on hard copy, which  
16 has also been given to the staff today. If there is  
17 no objection, we would respectfully move the admission  
18 of those three exhibits.

19                   (Exhibits Twelve through Fourteen  
20                   marked for identification.)

21                   CHAIRMAN COLINS:

22                   All right. Is there an objection? No,  
23 okay. Then they're accepted into the record. Thank  
24 you.

25                   ATTORNEY QUAGLIA:

1           Thank you very much. We have endeavored  
2 today to limit our case in chief to one hour in order  
3 to provide ample time and opportunity to respond to  
4 any inquiries from the Board. As Judge Colins noted,  
5 Greenwood Gaming as intervened in this application and  
6 has been allotted an opportunity by the Board to make  
7 its own presentation.

8           We have reviewed Greenwood's prehearing  
9 memorandum and have attempted to address, as part of  
10 our case in chief, the issues that they raise.  
11 However, since they will not be making their  
12 presentation until after we have finished our case, we  
13 respectfully request leave to call a single witness in  
14 rebuttal if appropriate.

15                   CHAIRMAN COLINS:

16           Well, we'll cross that bridge when we get  
17 to it.

18                   ATTORNEY QUAGLIA:

19           Okay. Thank you, Your Honor. Our first  
20 witness this afternoon is on my left, Ira Lubert, the  
21 Chairman of Valley Forge Convention Center Partners,  
22 LP. Mr. Lubert has more than 35 years real estate and  
23 hotel experience. He is the co-founder of  
24 Independence Capital Partners, an \$11 billion family  
25 of private equity and real estate funds. Mr. Lubert

1 is the General Partner of Valley Forge Colonial, LP as  
2 well as the Applicant. He is a 1973 graduate of the  
3 Penn State Food Service & Hotel Management School, and  
4 is a past and present member of the Penn State Board  
5 of Trustees.

6 MR. LUBERT:

7 Thank you very much. And I'd also like  
8 to begin by thanking the Board for its indulgence and  
9 all the time you spent on our application.

10 You know, this application is the latest,  
11 but not the last chapter in the success story of  
12 Valley Forge Convention Center, which I've been  
13 writing since 1994. At that time, the properties that  
14 made up this Complex were embroiled in lengthy and  
15 complex bankruptcy. People had lost their jobs and  
16 labor and management relations were at an all time  
17 low.

18 In 1994, acting through a limited  
19 partnership that I controlled, I began acquiring the  
20 several parcels that made up the Complex and set about  
21 remaking and repositioning the property into a first  
22 class suburban resort and conference center. My  
23 partners and I improved and upgraded all the hotel  
24 rooms, the Convention Center, the restaurants and all  
25 the meeting space. We hired additional employees and

1 we improved labor management relationships, and we're  
2 really not finished yet.

3           We're currently in the process of joining  
4 the exclusive Hilton family of hotels. We're  
5 upgrading the franchise of the Radisson Hotel to a  
6 Doubletree Hotel, which is a Hilton franchise. As  
7 part of that process, we are spending \$10 million to  
8 upgrade all the Radisson Hotel guest rooms and common  
9 areas. We're also adding a full-service spa to our  
10 substantial existing amenities.

11           A slot machine license would not only  
12 help these ongoing efforts to take this property to  
13 the next level, but will keep us competitive in the  
14 important convention marketplace. The financing for  
15 the necessary construction is committed. We have a  
16 commitment from the Delaware Valley Real Estate  
17 Investment Fund and several co-lenders, including  
18 Prominent Union Pension Funds in the form of a \$107  
19 million senior secured credit facility.

20           DVREIF co-lenders include the Union Labor  
21 Life Insurance Company, the National Electrical  
22 Benefit Fund, ASB Capital Management, UNITEHERE,  
23 and/or the Multi-Employer Property Trust or their  
24 affiliates.

25           You know, as we all know, we are in very

1 difficult times for businesses and real estate today.  
2 I've been involved in several complex real estate and  
3 operating business transactions over the years, and  
4 I'll let my track record speak for itself, as it  
5 relates to successfully completing this project.

6           The Board has heard a lot about ownership  
7 in this case. The lawyers can speak to the legal  
8 nuances, but let me be clear. I have made some minor  
9 changes among my limited partners to apply for this  
10 license, but this property has been mine since 1994,  
11 and it remains mine today. That means the buck stops  
12 with me. It has stopped here since 1994, and it will  
13 continue to stop here in the future.

14           Today the Board will hear from us,  
15 additional compelling evidence to support our  
16 application. Slot machines at Valley Forge are  
17 projected to generate up to \$60 million in gaming win  
18 each year, create a unique strategy with the  
19 substantial tourism generated by Valley Forge National  
20 Historical Park and the King of Prussia Mall, and lead  
21 to increased spending and employment, significant tax  
22 revenues to state and local government and qualitative  
23 community benefits.

24           We have the space to accommodate our  
25 Entertainment Center and the financing in place. We

1 enjoy the unconditional support of our host community,  
2 Upper Merion Township. We have retained an industry  
3 veteran, Patrick McCoy, who you'll hear from later, to  
4 handle slot operations at the Complex. Finally, our  
5 transit access and our parking are more than adequate  
6 to handle our gaming patrons.

7           Again, we very much appreciate the  
8 Board's consideration of our application. Thank you.

9           ATTORNEY QUAGLIA:

10           Thank you, Mr. Lubert. Our next witness  
11 is Peter Tyson, Vice President of PKF Consulting, who  
12 will be testifying concerning his market assessment of  
13 the Applicant. Mr. Tyson is a market and financial  
14 expert in the hotel resort and gaming industries. He  
15 has 40 years experience in the Pennsylvania  
16 hospitality industry.

17           Mr. Tyson is a consultant to the greater  
18 Philadelphia Tourism & Marketing Corporation and the  
19 Philadelphia Convention & Visitors Bureau and has over  
20 30 years experience as a Gaming Consultant in the  
21 United States and abroad. He has previously testified  
22 before the Board in support of the Category Two  
23 applications of SugarHouse and Crossroads, as well as  
24 at last year's eligibility hearing for Valley Forge.

25           Mr. Tyson, good afternoon. If you could

1 describe briefly, for the Board, the business of PKF  
2 Consulting.

3 MR. TYSON:

4 Good afternoon, Madame Chairman, members  
5 of the Board. PKF Consulting is the oldest and  
6 largest hospitality consulting firm in the United  
7 States, with 12 offices nationwide, including  
8 Philadelphia. In addition to our market and financial  
9 consulting, we publish extensive industry data for  
10 hotels, resorts and conference centers.

11 ATTORNEY QUAGLIA:

12 What was the nature and scope of PFK's  
13 engagement for the Valley Forge project, Mr. Tyson?

14 MR. TYSON:

15 PKF was retained in 2007 to prepare  
16 casino revenue projections for the 500 slot machines  
17 at the Valley Forge Convention Center Complex. More  
18 recently, we were asked to estimate the potential  
19 gaming revenue impact of Valley Forge on Philadelphia  
20 Park, which is approximately 25 miles away.

21 Additionally, for purposes of comparing  
22 Valley Forge with the other remaining Category Three  
23 Applicant, Bushkill or Fernwood, we were asked to  
24 compare the Valley Forge area's tourism market with  
25 the Poconos tourism market and compare our Valley

1 Forge gaming revenue projections with gaming revenue  
2 projections submitted for Foxwoods --- or for  
3 Fernwood, excuse me.

4 ATTORNEY QUAGLIA:

5 PKF's June 11th, 2007 Market Assessment  
6 is in the record at appendix 47 to the application.  
7 But for the Board's benefit, Mr. Tyson, what were  
8 PKF's principal conclusions?

9 MR. TYSON:

10 First, we projected a stabilized Year  
11 Three casino win for Valley Forge of approximately \$60  
12 million. That includes \$23 million of Valley Forge  
13 specific win, or win that could not be generated or  
14 would not be generated by any other Pennsylvania  
15 licensee.

16 Second, we conclude that the impact on  
17 Philadelphia Park of putting 500 slot machines, 25  
18 linear miles away in the western suburbs of  
19 Philadelphia would be de minimis.

20 Finally, with respect to the comparison  
21 between Valley Forge and Bushkill, we concluded that  
22 the Valley Forge area tourism market is substantially  
23 larger than the Poconos tourism market in several  
24 respects, and that the projected \$60 million Valley  
25 Forge casino win is more than twice that projected for

1 Fernwood by its own consultants.

2 ATTORNEY QUAGLIA:

3 And how did you derive your projected \$60  
4 million in casino win for Valley Forge?

5 MR. TYSON:

6 We began with certain assumptions,  
7 including the following. Number one, the placement of  
8 a casino with 500 slot machines and related food and  
9 beverage facilities within the Valley Forge Convention  
10 Center Complex. Two, regional competition, both  
11 existing and proposed. Three, a customer base that  
12 includes area residents and hotel guests at the Valley  
13 Forge Convention Center Complex itself, attendees of  
14 events held at the Convention Center and guests at  
15 other area hotels.

16 Number four, specific marketing efforts  
17 focused on the western suburbs of Philadelphia and the  
18 area west of Valley Forge midway out to Penn  
19 National's Hollywood Racino. And finally, management  
20 by a select team of industry professionals led by  
21 Patrick McCoy, approving gaming industry executive.

22 As most of the members of the Board have  
23 heard on numerous occasions, descriptions of the drive  
24 time or gravitational win projection methodology which  
25 we used and is used by the Financial Suitability

1 Taskforce and other industry consultants, I, again,  
2 this time around, won't take up your valuable time to  
3 go through my projections chapter and verse.

4           However, I believe there is some key  
5 factors relating to a casino in Valley Forge that  
6 should be emphasized. The slide that you see on the  
7 screen indicates the relative positions of the  
8 existing and proposed casinos in the region. They're  
9 represented by red dots for existing casinos and  
10 racinos and green dots for licensed other venues.

11           These proposed casinos are venues with  
12 which the subject casino will compete to varying  
13 degrees, and the market zone map, the broader map is  
14 the one that we use for our analysis. The zones that  
15 you will see are defined by --- determined by the  
16 drive times from Valley Forge to the approximate  
17 midpoints to each of the other venues under the basic  
18 principal that all things being equal, most patrons  
19 will display a tendency to favor the more convenient  
20 gaming venue.

21           As all of the existing racinos and the  
22 proposed Category Two casinos in the Philadelphia area  
23 are or will be located in the Delaware River corridor.  
24 The proposed Valley Forge slots facility will  
25 naturally orient its marketing towards and attract

1 most of its customers from Philadelphia's western  
2 suburbs, including, as I mentioned earlier, hotel  
3 guests at the Valley Forge Convention Center Complex  
4 and other area hotels and event attendees at the  
5 Valley Forge Convention and Exhibit Center.

6           Adult population by ZIP code was utilized  
7 to determine the market potential within each drive  
8 time zone. As this slide shows most of Philadelphia's  
9 western suburbs are located within a 20 minute drive  
10 of the Valley Forge Convention Center Complex and much  
11 closer to a Valley Forge location than to either  
12 Chester Downs or Philadelphia Park.

13           Frequent traffic congestion on the  
14 Turnpike, the Blue Route and the Expressway, and this  
15 is no news to any of you from the Philadelphia area,  
16 particularly during peak periods and seemingly never  
17 ending highway construction projects on these routes  
18 have certainly deterred and will continue to deter  
19 many residents of the western suburbs from visits to  
20 the casinos at Philadelphia Park, Chester Downs and  
21 eventually in the city. Thus the primary market to be  
22 served by Valley Forge, which is the western suburbs,  
23 is and will continue to be under penetrated, in our  
24 opinion.

25           Our estimated penetrations or market

1 shares of the 1.35 million adults residing within the  
2 portions of the counties in the three defined zones  
3 you just saw, plus the over 600,000 event attendees  
4 and hotel guests staying at or visiting the Valley  
5 Forge Convention Center. And the hotel guests at  
6 other hotels in Valley Forge and King of Prussia  
7 helped us base our projections through the application  
8 of industry supported propensity, frequency and  
9 win-per-visit metrics.

10           On these bases, we projected a stabilized  
11 year casino win of \$59.8 million, or \$328 per unit per  
12 day for Valley Forge in 2007 dollars. We further,  
13 conservatively, estimated that more than one-third of  
14 this casino win, or approximately \$23 million, would  
15 be Valley Forge specific win that would not otherwise  
16 be generated by any of the existing licensees.

17           It is our understanding that your  
18 Financial Suitability Taskforce found the Applicant's  
19 estimates of gaming revenue, which were modestly  
20 higher than ours, to be reasonable. We're therefore  
21 quite comfortable that our stabilized year casino  
22 revenue projections and our revenue projections for  
23 the interim periods are both reasonable and  
24 attainable.

25                           ATTORNEY QUAGLIA:

1                   Thank you. And please describe for the  
2 Board how you determined that the impact of slot  
3 machines at Valley Forge on Philadelphia Park would be  
4 de minimis.

5                   MR. TYSON:

6                   Contrary to the position taken by  
7 Greenwood and Philadelphia Park in their pre-hearing  
8 memorandum, in our opinion, the bottom line is that  
9 500 slots located in the western suburbs would present  
10 little competition to any of the other four  
11 Philadelphia area licensees, each with from 3,000 to  
12 5,000 slots, and particularly, the Philadelphia Park,  
13 when its permanent facility is completed and  
14 stabilized.

15                   Greenwood's contention in their  
16 memorandum that, quote, the Philadelphia area is  
17 already saturated with licensed slot facilities,  
18 closed quote, is over-reactive in our mind. The fact  
19 is that Greenwood applied for and acquired a license  
20 with full knowledge that at least 12,000 and as many  
21 as 20,000 slot machines would be licensed and  
22 operating in the Philadelphia area.

23                   With each of the four licensees planning  
24 approximately 3,000 machines initially, an additional  
25 500 machines at Valley Forge would represent only a

1 4.2 percent --- represent only 4.2 percent more  
2 machines than the 12,000 always anticipated at a  
3 minimum, and certainly nowhere near that percentage of  
4 the 20,000 machines potentially slated for the market.  
5 Therefore, it's our professional opinion that 500 slot  
6 machines in Valley Forge will not be materially  
7 dilutive overall and will not have a material adverse  
8 impact on Philadelphia Park specifically. Nothing in  
9 Greenwood's submission demonstrated otherwise.

10           In fact, if Philadelphia Park's permanent  
11 is built --- is being built to accommodate up to 5,000  
12 slots, overall market saturation is apparently not a  
13 major concern to them for the foreseeable future.

14           Specifically, we had already prepared an  
15 analysis to address this issue even before receipt of  
16 Greenwood's memorandum. In our analysis, we  
17 re-distributed the wins estimated by ZIP code for  
18 Valley Forge back to the most approximate gaming  
19 venues based on their locations and relative drive  
20 times net of what we've described before as Valley  
21 Forge specific win, which is expected to be solely  
22 generated to the benefit of Valley Forge.

23           This specific or incremental win reflects  
24 additional residential visits induced by the proximity  
25 of the venue, mostly in terms of enhanced visitor ---

1 visit frequency. Plus visits by hotel guests or  
2 convention center attendees, who otherwise would not  
3 travel to the more remote venues of to play.

4           However, the specific win that we  
5 projected was minimized somewhat as turn away  
6 conditions at Valley Forge are anticipated on peak  
7 nights when, frankly, overflow is expected to go to  
8 Philadelphia Park or the other venues in the area due  
9 to the small size of the Valley Forge venue.

10           Our conclusion is that a stabilized  
11 Valley Forge win of \$59.8 million would adversely  
12 impact the win at Philadelphia Park Casino by no more  
13 than 3.5 percent. This impact is de minimis with  
14 respect to the total win level at Philly Park by  
15 either of two measures. First, we compared our  
16 estimated dollar impact of approximately \$11 million  
17 to the stabilized win level for Philadelphia Park's  
18 permanent facility of \$316 million, as estimated by  
19 the Financial Suitability Taskforce in 2005, adjusted  
20 for interim inflation. This would equate to a de  
21 minimis impact of only three and a half percent.

22           Examined another way, an \$11 million  
23 impact would represent only 3.3 percent of the \$337  
24 million win reported by Philly Park's temporary  
25 facilities for the 12 months ended August 31st, 2008.

1 This impact amount would represent an even smaller  
2 percentage of the greater win levels expected at  
3 Philadelphia Park, once it's permanent and certainly  
4 more competitive facility is complete and stabilized.

5           Generally speaking, Philadelphia Park's  
6 new facility should experience relatively limited  
7 impact from Valley Forge for three primary reasons.  
8 Number one, Philadelphia Park's customers will not  
9 have to pay a \$10 entrance fee as they will at Valley  
10 Forge. Number two, Philadelphia Park's customers will  
11 not face as crowded conditions on peak nights and  
12 should actually get overflow demand from Valley Forge  
13 on peak nights. And number three, Philadelphia Park  
14 also offers a racetrack and off-track betting, which  
15 are not offered at Valley Forge in which broadens its  
16 market appeal.

17           ATTORNEY QUAGLIA:

18           Thank you. And if you could please  
19 describe for the Board your comparative analysis of  
20 Valley Forge and the other remaining Category Three  
21 Applicant, Bushkill, with respect to tourism and  
22 revenues?

23           MR. TYSON:

24           Certainly. According to research  
25 commission and released by the Commonwealth, the

1 four-county Poconos region was estimated to have  
2 attracted some 2.1 million overnight leisure person  
3 trips in 2005. By contrast, the four-county  
4 Philadelphia countryside region attracted 8.9 million  
5 overnight leisure person trips in 2005, over four  
6 times the number attracted by the Poconos.

7           Currently, the Poconos region offers some  
8 6,500 hotel rooms, according to Smith Travel Research,  
9 while the Philadelphia countryside offers some 17,800  
10 hotel rooms, over three times the number available in  
11 the Poconos. Montgomery County alone has 7,300 hotel  
12 rooms, more than the entire four-county Poconos  
13 region. Thus, as a leisure or tourist destination,  
14 the area around Valley Forge is more significant by  
15 these measures than is the Poconos area.

16           It is, therefore, our opinion that a  
17 casino at the Valley Forge Convention Center would  
18 capitalize upon and create a unique synergy with the  
19 area's already broad tourism mosaic centered on the  
20 area's historical and cultural attractions. The King  
21 of Prussia Mall, which draws about 26 million visitors  
22 a year, and the Center's own expansive and popular  
23 convention meeting and exhibit facilities. As a  
24 result, it is our opinion that a Valley Forge casino  
25 would enhance Commonwealth tourism more than a casino

1 at Fernwood would.

2                   Finally, with respect to revenues, as I  
3 previously testified, we have projected gaming  
4 revenues of \$60 million for Valley Forge. By  
5 comparison, the Innovation Group projected gaming  
6 revenues of approximately \$27 million for Fernwood in  
7 a June 2007 report, included in Bushkill's Impact  
8 Statement. Thus, the projected gaming revenue for  
9 Valley Forge is more than double that projected for  
10 Fernwood.

11                   Thank you very much. I appreciate this  
12 opportunity to appear before you again and look  
13 forward to answering your questions.

14                   ATTORNEY QUAGLIA:

15                   Thank you, Mr. Tyson. Our third witness  
16 this afternoon is Stephen Mullin, Principal and Senior  
17 Vice President at Econsult Corporation, who will be  
18 testifying concerning the economic impact of the  
19 Applicant's proposed Entertainment Center. Mr. Mullin  
20 has his Master's in Economics from the University of  
21 Pennsylvania. He has previously served as Commerce  
22 Director and Finance Director for the City of  
23 Philadelphia, and is currently an adjunct professor at  
24 the University of Pennsylvania and at Drexel  
25 University.

1           Econsult's report is in the record as  
2 Exhibit A to appendix 41 of the application, but for  
3 the Board's benefit, Mr. Mullin, would you briefly  
4 summarize the benefits that would flow from awarding a  
5 Category Three slot machine license to Valley Forge?

6           MR. MULLIN:

7           Yes. Thank you, Ray. And good afternoon  
8 to members of the Board. Based on the market data  
9 provided in just --- provided to us and just presented  
10 to you by Peter Tyson of PKF, and the construction and  
11 operation pro formas provided by the Applicant, we  
12 project three categories of potential benefits.

13           First, increased total spending and  
14 employment, which we call economic activity impact.  
15 Second, tax revenues to state and local government,  
16 which we refer to as the fiscal impact. And third,  
17 qualitative benefits to the region. Let me address  
18 each in turn.

19           First, the potential spending, earnings  
20 and employment generated directly and indirectly by  
21 the proposed Entertainment Center are significant. In  
22 particular, we are projecting \$45 million in  
23 additional spending, over 500 new jobs, including the  
24 150 new positions that are planned for the  
25 Entertainment Center itself, and over \$13 million in

1 wages and employee earnings. These are annual  
2 forecasts.

3           Next, the forecasted tax revenues include  
4 gaming taxes on the direct operations of the  
5 Entertainment Center, as well as additional taxes on  
6 the non-gaming indirect activities, including spending  
7 by vendors, additional hotel taxes and spending of  
8 wages and salaries by the employees. We project that  
9 these taxes will annually amount to nearly \$32 million  
10 to the Commonwealth and nearly \$3 million to local  
11 governments.

12           Finally, there are important qualitative  
13 benefits that will result from awarding a license to  
14 Valley Forge. First, the Entertainment Center at  
15 Valley Forge would likely help generate the highest  
16 gaming recapture rate for Pennsylvania residents who  
17 are currently leaving Pennsylvania to gamble.  
18 Additionally, as Peter Tyson just presented, the  
19 proposed Entertainment Center will help strengthen the  
20 area's collective destinations and attractions,  
21 including the Valley Forge National Historical Park,  
22 the King of Prussia Mall, the Schuylkill Valley  
23 Greenway, and other sites, all of which are important  
24 components in southeastern Pennsylvania's convention,  
25 hospitality and tourism industry.

1 I appreciate the opportunity to provide  
2 this summary of our findings, and I thank you very  
3 much for your attention.

4 CHAIRMAN COLINS:

5 Thank you. What we're going to do, I'm  
6 going to ask the Board to keep in mind your questions,  
7 and at the end of all the presentations, we'll ask our  
8 questions. But what I do want to do is ask if Chief  
9 Counsel has any questions of this witness? Any Cross  
10 Examination?

11 ATTORNEY SHERMAN:

12 No, Chairman Colins.

13 CHAIRMAN COLINS:

14 Thank you. Okay. Thank you.

15 ATTORNEY QUAGLIA:

16 Thank you. Our fourth witness today,  
17 batting in the cleanup spot, our own Ryan Howard, Ken  
18 Kochenour. Mr. Kochenour is the Chief Executive  
19 Officer of GF Management, which runs the Valley Forge  
20 Convention Center Complex. He is also the president  
21 of the Applicant.

22 Mr. Kochenour is, I believe, our only  
23 witness today who has not previously testified before  
24 the Board. By way of introduction, Mr. Kochenour,  
25 would you briefly summarize for the Board your own

1 education and experience?

2 MR. KOCHENOUR:

3 Yes, I will. First of all, thank you,  
4 Madame Chairman and Board members. I graduated from  
5 York College of Pennsylvania with a degree in Police  
6 Science in 1994 (sic). I was fortunate enough to be  
7 able to participate in the Law Enforcement Assistant  
8 Program, better known as LEAP, which is a federal  
9 grant for the assistance of further education in law  
10 enforcement.

11 I then spent four years as a police  
12 officer in Doylestown Township, Bucks County. In  
13 1978, I joined Shawnee at Highpoint, where I  
14 progressed to be Vice President of Management for  
15 Shawnee Management. In 1988, I founded GF Management,  
16 which is a hospitality management company, which Ira  
17 Lubert is the majority owner. I have been business  
18 partners with Ira Lubert for 20 years.

19 In 1994, the Valley Forge Convention  
20 Complex retained GF Management as its management  
21 company, and we have been the management company  
22 since.

23 ATTORNEY QUAGLIA:

24 And just so the record is correct, Mr.  
25 Kochenour, you graduated college in '74; correct?

1                   MR. KOCHENOUR:

2                   '74, yes.

3                   ATTORNEY QUAGLIA:

4                   As President of the Applicant, what role,  
5 if any, will you play with respect to the gaming  
6 operations?

7                   MR. KOCHENOUR:

8                   I will play a supervisory or reporting  
9 role on behalf of the Board. We have retained a very  
10 experienced gaming operator, Patrick McCoy, who will  
11 be directly responsible for the gaming side of the  
12 business. Current Managing Director, Jason Reader,  
13 will continue to be responsible for the hotel side of  
14 the business and all non-gaming operations. Both Mr.  
15 McCoy and Mr. Reader will report to the Board through  
16 me. The Board will closely supervise gaming  
17 operations, as we closely supervise hotel operations.

18                   ATTORNEY QUAGLIA:

19                   And how, if at all, would the  
20 introduction of slot machine gaming further the plans  
21 or vision of you and Mr. Lubert for the Valley Forge  
22 Convention Center Complex?

23                   MR. KOCHENOUR:

24                   We view the slot machines as a great new  
25 amenity which will upgrade and improve our current

1 complex. I would like to share with you an overview  
2 of the Convention Center and its relationship to the  
3 two hotels.

4                   What you are looking at is --- the  
5 Complex is 850,000 square feet. You have the  
6 Scanticon Hotel, which is 95,000 square feet, with 160  
7 rooms. You have the Radisson Hotel, which is 392,000  
8 square feet with 328 hotel rooms. Connecting the  
9 hotel is the Convention Center with 363,000 square  
10 feet, covering three levels. You have the concourse  
11 or ground level, which is where the slot machine  
12 gaming amenity will be. You have the main level,  
13 which is your main entrance into the Convention  
14 Center, and you have the mezzanine level.

15                   ATTORNEY QUAGLIA:

16                   And what non-gaming entertainment options  
17 would the Applicant be providing to patrons of the  
18 Entertainment Center?

19                   MR. KOCHENOUR:

20                   As the Board heard at our eligibility  
21 hearing last year, we have many currently existing  
22 amenities. We have fantasy and theme rooms. We have  
23 three full restaurants. We have convention, meeting  
24 and banquet facilities. We have exhibit and tradeshow  
25 space. We have ballrooms and show rooms. We have Ice

1 Night Club. We have a 3,000 square foot health club  
2 in which we'll be adding a full-service spa in 2009.  
3 We have racquetball facilities. We have an outdoor  
4 swimming pool. We have a gift shop and we have  
5 shuttle service.

6 We provide shuttle service direct to the  
7 King of Prussia Mall, which is just minutes away from  
8 our facility, and we also provide shuttle service to  
9 the adjacent Valley Forge National Park.

10 As well as the amenities, which I've just  
11 mentioned, there are other exciting things going on at  
12 the hotel. We are currently in the process of  
13 substantially upgrading our Radisson Hotel. We will  
14 be changing the hotel flag to a Doubletree. A  
15 Doubletree is a more upscale franchise, as a member of  
16 the Hilton brand. This will give us access to the  
17 Hilton reservation system.

18 In converting to a Doubletree, the cost  
19 will be \$10 million, but that would give us much  
20 improved guestrooms and public areas. We expect the  
21 project to be finished by August of '09.

22 Together with the new improved hotel  
23 facilities, the existing amenities, the availability  
24 of slot machines, we will greatly improve our appeal  
25 as a tourist and conference destination.

1                   ATTORNEY QUAGLIA:

2                   And in practical terms, Mr. Kochenour,  
3 how does the Applicant intend to incorporate 500 slot  
4 machines into the complex?

5                   MR. KOCHENOUR:

6                   We will incorporate these slot machines  
7 very quickly and effectively, by converting available  
8 and existing space.

9                   What you are looking at is an overview of  
10 54,000 square feet, which is the concourse level. If  
11 you look, you will see in blue a gaming area of 18,000  
12 square feet. To put that into perspective, with the  
13 size of the complex, it's less than 2.1 percent of the  
14 total square footage. So on this floor you'll have  
15 the 18,000 square foot gaming area. It will be next  
16 to a 15,000 square foot state of the art meeting  
17 center with a 4,000 square foot pre-function area.

18                   In addition to that, we have kept 17,000  
19 square feet as what I would call flex space, and that  
20 will be used for additional amenities, expansion of  
21 the gaming floor, or whatever additional uses will  
22 enhance the complex.

23                   ATTORNEY QUAGLIA:

24                   And what is the expected timing and cost  
25 for the construction of the Entertainment Center?

1                   MR. KOCHENOUR:

2                   From the time we receive a final,  
3 non-appealable license, it should take from 6 to 12  
4 months to be able to be up and finished and  
5 operational. We have a \$40 million renovation budget  
6 with committed funding through Delaware Valley Real  
7 Estate Investment Fund.

8                   ATTORNEY QUAGLIA:

9                   What commitments, if any, has the  
10 Applicant made to its host community, Upper Merion  
11 Township?

12                   MR. KOCHENOUR:

13                   Earlier this month we entered into a  
14 memorandum of understanding with Upper Merion  
15 Township. We've agreed that we will contribute  
16 \$415,000 towards area traffic improvements. We will  
17 improve or add additional parking if needed and  
18 necessary. We will staff, have training of emergency  
19 and security personnel to minimize the burden on  
20 township police and emergency personnel. We will also  
21 contribute \$75,000 annually to a Quality of Life Fund  
22 to improve the quality of life for the township  
23 residents, which will be determined by the Upper  
24 Merion Township Board.

25                   ATTORNEY QUAGLIA:

1                   And to your knowledge, Mr. Kochenour,  
2 does Upper Merion Township support the award of a  
3 license to Valley Forge?

4                   MR. KOCHENOUR:

5                   Yes.

6                   ATTORNEY QUAGLIA:

7                   Thank you very much. And on that note,  
8 our next witness, who will attest to the community  
9 support for the award of a license to this Applicant,  
10 is Edward McBride. Mr. McBride is a resident and  
11 elected township supervisor of Upper Merion Township,  
12 where the Convention Center Complex is located. He  
13 has previously testified in support of this  
14 application at the Applicant's Public Input Hearing on  
15 May 20th, 2008.

16                   Good afternoon, Mr. McBride.

17                   MR. MCBRIDE:

18                   Good afternoon.

19                   ATTORNEY QUAGLIA:

20                   We appreciate your taking the time to be  
21 with us again today. Your testimony at the Public  
22 Input Hearing is part of the record, and I won't ask  
23 you to repeat yourself. My only question is whether  
24 Upper Merion Township continues to support this  
25 project today?

1                   MR. MCBRIDE:

2                   Yes, we do. The Valley Forge Convention  
3 Center Complex is a significant property in our  
4 township that has a checkered history with some very  
5 bad periods. Having looked extensively at all aspects  
6 of what the introduction of gaming would mean to our  
7 community, we are optimistic that the owners have a  
8 well thought out plan to make the Complex more vibrant  
9 and a successful business and increase the prosperity  
10 of the township while minimizing the adverse impact on  
11 our residents.

12                   On May 15th, 2008, the Township  
13 Supervisors voted in favor of recommending that the  
14 Board approve this application. At that time, we  
15 still had several areas of concern that we wanted to  
16 address with the Applicant. I'm happy to report that  
17 they have been as good as their word in addressing  
18 those concerns.

19                   As Mr. Kochenour testified, we have  
20 executed a memorandum of understanding that was voted  
21 on and approved by the Upper Merion Board of  
22 Supervisors on October 2nd, 2008.

23                   I am before you today, to ask on behalf  
24 of the Township that the Board approve the application  
25 of Valley Forge Convention Center Partners, LP. Thank

1 you.

2 ATTORNEY QUAGLIA:

3 Thank you very much, Mr. McBride. Our  
4 next witness this afternoon is C. Patrick McCoy, the  
5 President of Real McCoy Gaming, and the Applicant's  
6 proposed Vice President of Slot Operations. Mr.  
7 McCoy, I suspect that some or all of the Board members  
8 are familiar with your credentials, but would you  
9 please briefly summarize for the record your  
10 experience in the gaming industry?

11 MR. MCCOY:

12 Thank you. And good afternoon members of  
13 the Board. I have more than 25 years of gaming  
14 experience. After seven years in public accounting as  
15 a CPA and Audit Manager for Arthur Young, one of the  
16 former big eight accounting firms, I joined the  
17 Atlantic City Casino industry in 1980, initially as  
18 Controller at Caesars, and progressed over the  
19 following ten years through senior financial positions  
20 at Bally's and Trump's Castle in Atlantic City.

21 As Senior VP of Finance for Resorts  
22 International's Paradise Island Casino in the Bahamas  
23 through 1991 through '93, my responsibilities expanded  
24 to include broader operational areas, which led to my  
25 return to Atlantic City, where for the following 12

1 years, I generally held the position of Executive Vice  
2 President of Operations for Bally's, then the Atlantic  
3 City Hilton, and finally Caesars, Atlantic City.

4 Over those years, I was at one time or  
5 another responsible for, virtually, all areas of the  
6 properties, including casino operations and marketing,  
7 security and surveillance and administration as well  
8 as all other areas.

9 I've worked closely with New Jersey  
10 regulators on many areas, including diversity and  
11 responsible gaming, and I take pride in having earned  
12 a reputation with them of being competent, cooperative  
13 and forthright.

14 From late 2005 until the end of 2006, I  
15 was the President and CEO of Riverwalk Casino, in  
16 which capacity I was found by this Board to be  
17 suitable for licensure in Pennsylvania. It was  
18 shortly after the Riverwalk Venture that I became  
19 involved in the Category Three slot license of Valley  
20 Forge Convention Center Partners.

21 ATTORNEY QUAGLIA:

22 And what is your role with respect to  
23 this Category Three project?

24 MR. MCCOY:

25 I have a conditional employment agreement

1 directly with the Applicant to serve as Vice President  
2 of Slot Operations, wherein I would be responsible for  
3 all aspects of the slot operations. Employment  
4 agreement is conditioned on a final unappealable slot  
5 license award and final unappealable local zoning  
6 awards.

7 I was fortunate to become involved with  
8 this project prior to submission of the initial  
9 application in June 2007, and was therefore able to  
10 have considerable input into the Applicant's  
11 submission regarding the gaming floor, layout and  
12 design, staffing and operational projections, the  
13 access plan, the marketing plan, the diversity plan  
14 and the responsible gaming program. I've consistently  
15 been a part of the project team throughout this  
16 licensure process.

17 ATTORNEY QUAGLIA:

18 The Diversity Plan is in the record at  
19 appendix 45, Exhibit B to the application. But Mr.  
20 McCoy, would you please, briefly, summarize for the  
21 Board the pertinent provisions?

22 MR. MCCOY:

23 As I've mentioned, I've had a great deal  
24 of successful experience with New Jersey's former  
25 Equal Employment and Business Opportunity Plans, which

1 closely mirror the objectives of Pennsylvania's  
2 Diversity Plans. The Diversity Plan that I designed  
3 for Valley Forge includes policies and procedures for  
4 insuring that the complex continues its longstanding  
5 commitment to a diverse employee workforce. That  
6 means equal opportunity with regard to employment,  
7 contracting and purchasing opportunities as well as a  
8 safe, respectful and positive work environment for  
9 everyone.

10 The existing facility at Valley Forge  
11 already enjoys a workforce compliment that compares  
12 favorably with local county statistics, particularly  
13 with regard to management positions. Additionally, we  
14 would seek to engage a diverse group of business  
15 partners, including a diverse construction workforce  
16 and to work closely with appropriate organizations to  
17 maintain a process that's fair and accessible.

18 ATTORNEY QUAGLIA:

19 And you mentioned the Responsible Gaming  
20 Program that is also in the record at appendix 43 of  
21 the application. But again, would you please briefly  
22 describe it for the Board?

23 MR. MCCOY:

24 A Responsible Gaming Program is designed  
25 to educate and alert patrons and employees about

1 problem gaming. It provides methods for patrons  
2 experiencing problems controlling themselves to enlist  
3 our help in reducing their gaming exposure and also  
4 provides procedures for our employees to intervene in  
5 situations that appear to indicate inappropriate  
6 behavior.

7                   We're also very aware of the attraction  
8 of gaming to those who are underage and will train our  
9 employees to identify and minimize instances of  
10 underage gaming. Responsible alcoholic beverage  
11 service will be an integral part of the training, the  
12 beverage service personnel. And lastly, the  
13 Responsible Gaming Committee established under this  
14 plan, of which I would be a member, will ensure that  
15 our policies and procedures are monitored and issues  
16 are addressed as they arise.

17                   ATTORNEY QUAGLIA:

18                   Thank you, very much, Mr. McCoy. The  
19 Applicant's next witness, addressing the access and  
20 parking criteria is Kenneth O'Brien, P.E., a  
21 Transportation Engineer and Senior Project Manager  
22 with McMahon Associates. Mr. O'Brien has 14 years of  
23 experience in traffic engineering and is licensed in  
24 Pennsylvania and New Jersey.

25                   He is a member of the Institute of

1 Transportation Engineers and has conducted numerous  
2 Traffic Impact Studies and Parking Studies. Mr.  
3 O'Brien, what was the nature and scope of McMahon's  
4 engagement for the Valley Forge Project?

5 MR. O'BRIEN:

6 Good afternoon members of the Board. We  
7 were hired to evaluate the incremental traffic impacts  
8 of the proposed Entertainment Center and to provide  
9 recommendations for efficient traffic movements into  
10 and out of the site.

11 We performed a Traffic Impact Study and  
12 prepared a Traffic Impact Study report. We were also  
13 asked to evaluate parking conditions at the site.

14 ATTORNEY QUAGLIA:

15 The Traffic Impact Study report prepared  
16 by McMahon Associates is in the record at appendix 41,  
17 Exhibit B of the application. But in simple terms,  
18 Mr. O'Brien, what were your conclusions?

19 MR. O'BRIEN:

20 We concluded that the proposed  
21 Entertainment Center will generate a relatively low  
22 volume of new or additional traffic. As a result, the  
23 project will have only a minimal impact on the  
24 operation of the roadways and intersections in the  
25 vicinity of the site.

1           Additionally, the existing parking supply  
2 is adequate to handle the new or additional guests  
3 generated by the Entertainment Center.

4           ATTORNEY QUAGLIA:

5           Would you please describe the methodology  
6 that McMahon used to reach these conclusions?

7           MR. O'BRIEN:

8           First, we analyzed the existing traffic  
9 conditions at the site. We conducted manual turning  
10 accounts at each access point to the Valley Forge  
11 Convention Center Complex and at the site adjacent  
12 intersection of North Gulph Road at First Avenue  
13 during the weekday morning, weekday afternoon, and  
14 Saturday midday peak periods.

15           This study area was based on discussions  
16 with the Township Traffic Engineer and is consistent  
17 with PennDOT requirements. We then subjected the peak  
18 hour volume information to detailed capacity level of  
19 service analysis in accordance with standard  
20 methodologies to determine the operation of each of  
21 the intersections in the study area.

22           This analysis determines the average  
23 delay that vehicles have to wait as they travel  
24 through an intersection. This delay is then assigned  
25 a level of service category or grade ranging from A to

1 F with a level service D or better, typically  
2 considered passing or acceptable operating conditions.

3           Next, we projected future conditions  
4 without the proposed Entertainment Center. We  
5 increased existing traffic volumes by a PennDOT  
6 recommended growth rate and then added the traffic  
7 from other future developments that are expected to  
8 impact the traffic operations within the study area.  
9 We then subjected those future traffic volume levels  
10 to capacity level service analysis.

11           Finally, we projected future conditions  
12 with the proposed Entertainment Center, in order to  
13 project how much new or additional traffic the  
14 Entertainment Center will generate, we utilized  
15 information published by the Institute of  
16 Transportation Engineers. We also reviewed trip  
17 generation estimates, prepared by Pennoni Associates,  
18 the Traffic Engineer for Upper Merion Township, based  
19 on traffic counts conducted at three local gaming  
20 facilities.

21           Based on that information, we project the  
22 increase trip generation resulting from the addition  
23 of the Entertainment Center to the complex to be no  
24 more than and likely less than 250 trips during the  
25 morning peak hour, 295 trips during the weekday

1 afternoon peak hour and 320 trips during the Saturday  
2 in the day peak hour.

3           We then distributed these estimates  
4 through the Roadway Network to project future traffic  
5 volumes with the proposed Entertainment Center and  
6 subjected those projected volumes to capacity level  
7 service analysis. With respect to parking, we  
8 evaluated the adequacy of the existing capacity to  
9 meet future needs. To determine future needs, we took  
10 current needs and increased them by the addition cars  
11 resulting from our projected increased trip  
12 generation.

13           ATTORNEY QUAGLIA:

14           And what were your findings?

15           MR. O'BRIEN:

16           We found that the study area  
17 intersections generally operate at an acceptable Level  
18 Service D or better during the peak hours, although a  
19 limited number of movements experienced some delay  
20 during the peak hours, those delays are generally  
21 expected to improve in the future with the completion  
22 of the Route 422 river crossing improvements already  
23 underway by the area municipalities, Montgomery County  
24 and PennDOT.

25           We found that the addition of the

1 proposed Entertainment Center will not have a material  
2 adverse impact on either of the existing conditions or  
3 the programmed improvements. We also found that the  
4 existing parking capacity at the Valley Forge  
5 Convention Center Complex is sufficient to meet the  
6 future parking needs with the Entertainment Center.

7 ATTORNEY QUAGLIA:

8 Have you had an opportunity today to  
9 review the October 10th, 2008 Review Letter prepared  
10 by the Board's staff by Steven Cunningham at Jacobs  
11 Engineering?

12 MR. O'BRIEN:

13 Yes.

14 ATTORNEY QUAGLIA:

15 Is there anything in Mr. Cunningham's  
16 letter that is inconsistent with or would cause you to  
17 change your findings with respect to the Valley Forge  
18 site?

19 MR. O'BRIEN:

20 No.

21 ATTORNEY QUAGLIA:

22 Thank you very much, Mr. O'Brien. And  
23 our final witness in our case in chief to conclude our  
24 case in chief is, again, Mr. Lubert.

25 MR. LUBERT:

1           You've now heard from our team that we've  
2 assembled to hopefully address the questions of the  
3 suitability for Valley Forge. We believe, and I truly  
4 hope you find that we are suitable and will be a  
5 tremendous asset for the Commonwealth and not only the  
6 local community of Upper Merion if you grant us this  
7 license. So at this time, I'd like to just set it off  
8 with any questions that you might have us. Thank you.

9           CHAIRMAN COLINS:

10           Thank you. Thank you very much. First,  
11 let me ask if Office of Enforcement Counsel or Office  
12 of Chief Counsel have questions of any of the  
13 witnesses just presented?

14           ATTORNEY PITRE:

15           I have no questions, Madame Chair.

16           ATTORNEY SHERMAN:

17           None from the Office of Chief Counsel.

18           CHAIRMAN COLINS:

19           Okay. And now let me ask the members of  
20 the Board. We'll start with Commissioner Ginty, if  
21 you have any questions?

22           COMMISSIONER GINTY:

23           I just have one. This is for the  
24 attorneys. Assuming there are two applicants for two  
25 Category Three licenses that are before the Board

1 right now. Assume we find that Valley Forge meets all  
2 the statutory requirements of the Category Three  
3 licensee as laid out in statute, do we have the  
4 discretion nevertheless to refuse the license because  
5 of either real or perceived competitive issues that it  
6 might cause another casino?

7 ATTORNEY QUAGLIA:

8 That's an excellent question,  
9 Commissioner Ginty. Obviously, the Board does enjoy a  
10 certain amount of discretion to conduct its business.  
11 We would submit that under the known facts as they  
12 are, as have been presented through the Applicant's  
13 expert testimony, vis-à-vis the non-expert argument of  
14 Greenwood's Counsel, that the record that is going to  
15 exist would be insufficient to make that finding, if  
16 that's a fair answer to your question.

17 COMMISSIONER GINTY:

18 I'll let you off the hook on it. You  
19 know, the thing was if we did make that --- well, I  
20 won't let you off the hook. If we did make that  
21 finding, would we nevertheless have the discretion to  
22 turn down the license?

23 ATTORNEY QUAGLIA:

24 The best way I can answer that would be  
25 to say that if it were --- if it were the case that a

1 finding supported by sufficient evidence would mean  
2 that by granting a license to Valley Forge the  
3 collective impact on revenue to the Commonwealth would  
4 be negative or even, such that Valley Forge would not  
5 be generating any additional revenue but simply taking  
6 a piece of what already exists. Then under those  
7 circumstances, I think the Board would be in line to  
8 exercise its discretion to that effect.

9 COMMISSIONER GINTY:

10 Now, at least as I can tell --- and I'll  
11 ask Counsel for Greenwood when he gets here, this ---  
12 was this issue previously raised so that you've had an  
13 opportunity to address that?

14 ATTORNEY QUAGLIA:

15 I'm sorry?

16 COMMISSIONER GINTY:

17 Was the issue of competitiveness as a  
18 condition of licensing --- did you address that  
19 anywhere in your pleadings?

20 ATTORNEY QUAGLIA:

21 No, we have had Mr. Tyson address the  
22 fact ---

23 COMMISSIONER GINTY:

24 The facts.

25 ATTORNEY QUAGLIA:

1 --- of whether there's an impact.

2 COMMISSIONER GINTY:

3 Okay.

4 ATTORNEY QUAGLIA:

5 But certainly, if the Board would like  
6 additional information or briefing on the legalities  
7 of the issue, we're more than happy to provide it.

8 CHAIRMAN COLINS:

9 Well, you'll have an opportunity for a  
10 Rebuttal witness, and then you'll have an opportunity  
11 for briefs. So why don't we wait, and then it's up to  
12 you to put your case on; okay?

13 ATTORNEY QUAGLIA:

14 Thank you, Your Honor.

15 CHAIRMAN COLINS:

16 Anything else?

17 COMMISSIONER SOJKA:

18 Jim, more?

19 COMMISSIONER GINTY:

20 No, I'm fine.

21 COMMISSIONER SOJKA:

22 I have just a couple informational  
23 questions that I'm sure you can clear up quickly.  
24 One, the issue of patrons on the gaming floor being  
25 also patrons of other amenities. It's very clear

1 about things like the spa and handball courts and  
2 whatever, but are you considering all attendees at  
3 conventions also participants of your amenities?

4 ATTORNEY QUAGLIA:

5 I think I'd like to refer that question  
6 to Mr. McCoy.

7 MR. MCCOY:

8 Well, we've submitted an access plan as  
9 part of the submission that has yet to be resolved  
10 with staff. But to the extent that those attendees  
11 would have reached the \$10 level, then, yes. And  
12 we'll work out the details of what the --- what  
13 satisfies that requirement with staff.

14 COMMISSIONER SOJKA:

15 Right. So if the hundreds and hundreds  
16 of people that might be attending the --- maybe  
17 thousands of people that might be attending, say, an  
18 antique show, and they hold a ticket for entrance,  
19 they are using an amenity and could also then gamble?

20 MR. MCCOY:

21 To the extent it meets the statutory  
22 limit, yes.

23 COMMISSIONER SOJKA:

24 Right. Okay. The other quick question I  
25 had, and it may not even be possible to answer it.

1 We've heard from the local community, has anyone ---  
2 is it possible to get some kind of comment or some  
3 kind of statement from the Valley Forge Park people.  
4 Have they commented at all on the presence of this and  
5 what it might mean to them?

6 ATTORNEY QUAGLIA:

7 I think the best way to answer that is  
8 this --- and I know from personal experience being on  
9 the Board of the National Center for the American  
10 Revolution, which has, quite frankly, garnered a lot  
11 of opposition, that being a project to put a museum on  
12 privately-owned land. And I think the best way to  
13 answer that, we're aware of no opposition from any of  
14 the friends groups. I certainly could be wrong.

15 I'm just saying that we have not received  
16 any opposition, any notice of opposition by folks who  
17 are more oriented towards the park, that being Valley  
18 Forge. I think that's the best way to answer it. And  
19 I can assure you that those people certainly know how  
20 to voice their opposition.

21 COMMISSIONER SOJKA:

22 Oh, yeah. I wasn't even really so much  
23 concerned about opposition groups as I was the actual  
24 people operating the park, if they had a comment at  
25 all, or comments had been solicited from them?

1                   ATTORNEY QUAGLIA:

2                   We have had discussions in the past with  
3 people affiliated with the park service, and they have  
4 not indicated any opposition.

5                   COMMISSIONER SOJKA:

6                   Okay. Thank you.

7                   CHAIRMAN COLINS:

8                   Commissioner Rivers?

9                   COMMISSIONER RIVERS:

10                  Thank you. An issue that I'm concerned  
11 about and that's the issue of zoning. Have you  
12 received, or have you applied for all of the necessary  
13 zoning permits to the point that if this is a go,  
14 there are no issues?

15                  ATTORNEY KING:

16                  I think the way to answer that question  
17 is this, we are not, in terms of zoning, we are not  
18 doing any new construction for this facility. This  
19 facility is going to be constructed entirely within  
20 the existing boundaries of a facility that already  
21 exists. So that does not apply.

22                  Will we need building permits and things  
23 of that nature, yes, as you would for any type of  
24 construction project on an existing or a new facility.  
25 I would also draw your attention to the memorandum of

1 understanding that we entered into with the Township,  
2 and --- I don't have it in front of me, but I believe  
3 it specifically discusses cooperation and working  
4 together to make that process as smooth as possible.

5 COMMISSIONER RIVERS:

6 You also made reference to, and correct  
7 me if I'm wrong, that you see this facility being used  
8 as an overflow facility as it relates to Greenwood.  
9 And I guess my concern is if that is, in fact, the  
10 case, how do you justify allowing people, because they  
11 can't get into one facility to come into your facility  
12 without using the amenities of the resort hotel as a  
13 patron?

14 ATTORNEY QUAGLIA:

15 I believe, Commissioner Rivers, the  
16 testimony was the other way around.

17 COMMISSIONER RIVERS:

18 Okay. Then I apologize.

19 ATTORNEY QUAGLIA:

20 They were qualified --- if they were  
21 eligible to play the slot machines at Valley Forge,  
22 but we were over crowded, they would then go to  
23 Greenwood, Philadelphia Park.

24 COMMISSIONER RIVERS:

25 Okay.

1                   ATTORNEY KING:

2                   And if I could just go back to your prior  
3 question, I'd like to refer you to the section of the  
4 MOU that deals with land use approvals. The Township  
5 agrees --- and I'm reading from section 3-C on page  
6 three. The Township agrees that the proposed  
7 improvements at the Convention Center will not require  
8 land development approval, but will require the filing  
9 for and issuance of building permits in the  
10 satisfaction of the applicable Township ordinances.

11                   The Township further agrees that  
12 currently, as outlined by state law, the slots use is  
13 in --- the slots use is a use accessory to the  
14 Convention Center, not requiring an application to the  
15 Zoning Hearing Board.

16                   COMMISSIONER RIVERS:

17                   Thank you.

18                   ATTORNEY QUAGLIA:

19                   And that is our Exhibit 12 that was  
20 introduced today.

21                   COMMISSIONER RIVERS:

22                   My final question. You talked about the  
23 number of visitors to the Convention Center and  
24 hotels. Could you give me that number again, please?  
25 And the reason I ask for that number, I, then also am

1 concerned about the length of stay of the individuals  
2 who visit the hotels and the Convention Centers,  
3 because I think a lot of your numbers were derived  
4 from those individuals.

5 MR. TYSON:

6 I'll have to dig for the exact numbers,  
7 but I believe the attendance at the Convention Center  
8 for exhibits, tradeshows, et cetera, was approximately  
9 475,000 last year. And we computed on the hotel  
10 occupancy. Again, the two hotels combined is  
11 approximately 480 rooms. They ran an occupancy of 70  
12 percent. I believe we had a double occupancy of about  
13 40 percent. It was something in that vicinity, but it  
14 was roughly another 130,000 or 140,000 guests of the  
15 hotels, so it came out to 600,000.

16 COMMISSIONER RIVERS:

17 And the average length of stay?

18 MR. TYSON:

19 The average length of stay, I don't  
20 recall --- 2.1 nights.

21 COMMISSIONER RIVERS:

22 Thank you.

23 COMMISSIONER GINTY:

24 A follow-up question, and I also  
25 understand better than 70 percent of those guests are

1 from out of Pennsylvania?

2 MR. LUBERT:

3 Yes. That is correct.

4 CHAIRMAN COLINS:

5 Very good. Commissioner McCabe?

6 COMMISSIONER MCCABE:

7 Thank you. And you may have answered  
8 this question prior to me coming. I came in a little  
9 late, and I apologize. But could you explain to me  
10 how you think you meet the definition of being a  
11 resort as per the Act.

12 MR. LUBERT:

13 We have, as we showed on a slide, I  
14 believe, prior to you walking in, many amenities, and  
15 we can put the slide back up, for the property. There  
16 are, I believe, 12 amenities that we have directly to  
17 the property, and then we have amenities outside that  
18 we contract for.

19 COMMISSIONER MCCABE:

20 Okay. My next --- I have a concern about  
21 this, and I don't know, we may have to talk about  
22 this, but what I heard the consultant say when I read  
23 the material that we have is that for an individual to  
24 be able to go into the casino, they have to pay a \$10  
25 entrance fee.

1           That is not, in my opinion, in accordance  
2 to the law of that the casino is just another amenity  
3 for the use of people using the resort complex. What  
4 are your plans? I see that you were going to have a  
5 kiosk that they had to go to, put \$10 in, you get a  
6 ticket, you go in. That's, in my opinion, not  
7 utilizing the facility. Buy a hamburger for ten  
8 bucks, that's using the facility, and you can get in.

9           MR. MCCOY:

10           It's not designed --- the access plan  
11 that we submitted is not designed to treat the \$10  
12 just as an entrance fee, but it is to ensure that  
13 anyone that does go on the casino floor has committed  
14 to an expenditure of at least \$10 to use the  
15 facilities. And certainly, anyone that's a hotel  
16 guest is presumed under the law to be able to use it.

17           COMMISSIONER MCCABE:

18           I have no problem with people staying at  
19 the hotel, eating at the restaurant, going to the  
20 swimming pool, going to conventions. My concern is  
21 and part of the drive time analysis is pulling people  
22 from the neighborhood that just have to pay a \$10  
23 entrance fee from a kiosk. Because that's what's in  
24 our --- at least in my paperwork here, that there's a  
25 --- going to get a \$10 ticket from a kiosk, and then

1 they can go in.

2 MR. LUBERT:

3 Sorry. There's no intention to have a  
4 \$10 kiosk to go into the casino. There's no entrance  
5 fee to the casino.

6 COMMISSIONER MCCABE:

7 Okay.

8 MR. LUBERT:

9 It's anyone who enters the Complex must  
10 spend at least \$10 in other aspects of the facility.  
11 And once they've spent at least \$10 in any other  
12 aspect of the facility, it could be food, rooms, some  
13 of the examples we've given, then they would have, by  
14 right, the ability to enter the casino.

15 COMMISSIONER MCCABE:

16 I have no problem with that. I just read  
17 in my --- I heard the consultant say pay a \$10  
18 entrance fee, and then in the paperwork that I have I  
19 read that it was a \$10 kiosk, and I don't know if I  
20 could accept that.

21 The next thing is I just ask Mr. McCoy,  
22 from, again, the paperwork that we have, that your  
23 problem gaming, compulsive gaming plan, needs some  
24 work I think with our people to get with Nan Horner  
25 and work on that. I guess seven of the 13 criteria

1 were not addressed and some other things. So I'd just  
2 ask you to continue to work on that problem gaming,  
3 compulsive gaming plan with her.

4 And then the last question, are you going  
5 to put a bar in the casino?

6 MR. MCCOY:

7 The plan is right now to include a bar on  
8 the casino floor, yes.

9 COMMISSIONER MCCABE:

10 And then do you have to get a separate  
11 license for that or will that just carry over from  
12 your bar license that you already have?

13 MR. LUBERT:

14 We already have existing bar licenses  
15 throughout the Complex. And we've been --- it's been  
16 represented to us that as long as it's within the  
17 Complex, we have the ability to serve alcoholic  
18 beverages.

19 COMMISSIONER MCCABE:

20 Thank you. That's it.

21 CHAIRMAN COLINS:

22 Commissioner Coy?

23 COMMISSIONER COY:

24 Thank you, Madame Chairman. Just two  
25 quick questions. Two things have changed since --- at

1 least two things have changed since previous hearings,  
2 when you were before us. One is the financial markets  
3 and the credit availability and its cost and the other  
4 one is the smoking ban in Pennsylvania. So I guess  
5 I'd ask you to comment on both, whether or not things  
6 have changed substantially enough in your regard, with  
7 regard to credit financing and the credit availability  
8 and the cost thereof, and two, on the fact that we do  
9 have a smoking ban law in Pennsylvania now.

10 MR. LUBERT:

11 Thank you. While it's true that this is  
12 the worst economic environment that I've seen in my  
13 30-plus years as it relates to credit, we are --- we  
14 have been successful in getting a commitment for  
15 financing, which I think frankly speaks to the  
16 viability of the project.

17 COMMISSIONER COY:

18 Does it have a time limit on it?

19 MR. LUBERT:

20 It does not at this time, no.

21 COMMISSIONER COY:

22 You're fortunate.

23 MR. LUBERT:

24 I know. I can honestly tell you that  
25 many other projects haven't been as successful and as

1 fortunate as we have. And frankly, I read that one of  
2 the other Applicants had to withdraw because of a lack  
3 of financing. Again, I think it speaks to several  
4 things. I think it speaks to the project itself, the  
5 viability of the project as it relates to the benefits  
6 to the community and the state, and I frankly think it  
7 speaks a little bit to myself as a principal who's  
8 been involved in this kind of business for as many  
9 years as I have.

10 COMMISSIONER COY:

11 But it doesn't and has not changed the  
12 project in terms of debt repayment and so on to any  
13 significant measure?

14 MR. LUBERT:

15 It has not. The debt to equity ratio is  
16 still within range.

17 And then your second question on the  
18 smoking ban.

19 COMMISSIONER COY:

20 Yeah. And what are you going to do about  
21 that?

22 MR. LUBERT:

23 I, frankly, don't know. I'm not a  
24 smoker. I don't think it's going to have an effect  
25 with only 500 slots, but you know, we do have people

1 that go through the conventions all the time. But my  
2 best guess is it won't have a negative effect that  
3 dramatically, but if someone else has a different  
4 opinion ---.

5 COMMISSIONER COY:

6 So you don't think that compliance with  
7 the law will affect your operations?

8 MR. LUBERT:

9 Do not. Do not.

10 COMMISSIONER COY:

11 Thank you.

12 CHAIRMAN COLINS:

13 Commissioner Angeli?

14 COMMISSIONER ANGELI:

15 On one hand, you mentioned that the  
16 impact of this --- of the casino will have a de  
17 minimis effect on Philadelphia Park or other casinos.  
18 On the other hand, you say that your total revenue  
19 impact is about \$60 million. Are you assuming that  
20 that \$60 million is coming from a different population  
21 or ---?

22 MR. TYSON:

23 Actually, and to --- first of all, I  
24 apologize. My use of the term entrance fee in my  
25 testimony, which was well picked up, was an improper

1 term to use. Obviously, that's a minimum expenditure  
2 that the outside folks would have to make. We  
3 prepared these estimates for the first time back I  
4 believe about a month after we did the casino revenue  
5 numbers, which was August to September of '07. So  
6 this was done quite sometime ago, but we anticipated  
7 this issue coming up.

8           And we basically said, as I tried to  
9 explain earlier, although it's a difficult concept to  
10 explain, we think of the \$60 million, about \$23  
11 million will be generated solely because Valley Forge  
12 Casino is where it is, either additional trips,  
13 enhanced frequency by local people or hotel guests in  
14 particular, both at the site and in the area. The  
15 remaining \$37 million of the \$60 million stabilized  
16 win very frankly will come from the other existing  
17 licensees. And we assumed, as we did on all these,  
18 that all the Category Two's would be opened up.  
19 Philly Park, as I said before, was about an \$11  
20 million impact, and it all was based primarily on the  
21 highways that lead from Valley Forge to the other  
22 venues. We felt Chester Downs would see a small  
23 impact of around three percent, less than two percent  
24 at SugarHouse and Foxwoods, Penn National we thought  
25 might see one percent, and then Sands Bethworks, less

1 than a half. And that all totals up to --- I don't  
2 know what the total percentage is, I didn't add it all  
3 up, but 2.1 percent of the win of all the other  
4 casinos.

5           So yes, you know, it's market penetration  
6 to a degree, but it's also generation of additional  
7 revenues, gaming revenues.

8           COMMISSIONER ANGELI:

9           Thank you. I guess this is ---  
10 Commissioner Sojka brought this up. I just want to  
11 clarify something on --- the National Park that's  
12 there, you know, National Parks, you can have a  
13 membership to --- you can buy one membership for all  
14 National Parks throughout the whole country. And if I  
15 buy a membership --- if I buy my national membership  
16 to all the National Parks, does that allow me to come  
17 and play in your casino?

18           MR.LUBERT:

19           It does not. The membership to National  
20 Parks have nothing to do with our venue at all. If  
21 someone were a member of a park, they would still have  
22 to come in and either stay at our hotel, eat at our  
23 restaurants or use our amenities at a fee, and they  
24 would have to have spent at least \$10 in our venue  
25 unrelated to the National Park ---.

1                   COMMISSIONER ANGELI:

2                   But you included that as one of the  
3 amenities that has ---.

4                   MR. LUBERT:

5                   It's an amenity because it happens to be  
6 next door to our facility, but we don't have any  
7 financial relationship or ownership with the National  
8 Park whatsoever.

9                   COMMISSIONER ANGELI:

10                  Okay. And I'm looking at all the  
11 organizational charts and I'm just trying to clarify  
12 something here. Valley Forge Convention Center  
13 Partners, then you have Valley Forge Convention  
14 Center, then you have Valley Forge Colonial. At the  
15 time of the merger, when all this was put together,  
16 you know, who is the managing partner of all this?

17                  MR. LUBERT:

18                  I am.

19                  COMMISSIONER ANGELI:

20                  Okay. Thank you.

21                  ATTORNEY QUAGLIA:

22                  If I may, Your Honor, to go back to the  
23 question raised by Commissioner McCabe earlier about  
24 the amenities, and I appreciate, as Judge Colins  
25 pointed out in the beginning, that we've addressed

1 this in detail, and obviously we would respectfully  
2 refer to the Board, to the prior transcript and  
3 briefs. But just to note, since the question was  
4 asked, the definition of amenities was added to the  
5 Gaming Act in November 2006, and it gives --- the Act  
6 specifically defines amenities to give as examples  
7 including but not limited to sports and recreational  
8 activities and facilities, such as a golf course or  
9 golf driving range, tennis courts or swimming pool,  
10 health spa, convention meeting and banquet facilities,  
11 entertainment facilities and restaurant facilities.  
12 And we submit that we have, in fact, all of those on  
13 the premises, with the exception of golf and tennis.

14 COMMISSIONER MCCABE:

15 Thank you.

16 CHAIRMAN COLINS:

17 Thank you.

18 COMMISSIONER ANGELI:

19 My last question is --- I might not have  
20 this correct from the last time you gave a  
21 presentation, but there was an issue with the Radisson  
22 and ownership and some kind of link to the Radisson,  
23 either a Right of First Refusal or something to keep  
24 you from purchasing that. Has that all gone away  
25 or ---?

1                   MR. LUBERT:

2                   I have been the general partner of this  
3 Complex since 1994. And although, as I said in my  
4 opening remarks, I have some limited partners that are  
5 not in this partnership and a couple new ones are. I  
6 have always been the general partner and retained that  
7 role all the way through this process for the last 14  
8 years. And I am the majority owner of this Complex.

9                   COMMISSIONER ANGELI:

10                  Okay. Thank you.

11                  CHAIRMAN COLINS:

12                  I have some questions for Mr. Tyson. To  
13 go back to the issue of the revenue impact on the  
14 other licensees and some of your numbers, on your  
15 slide you indicated that this Applicant --- by placing  
16 the license with this Applicant, that it would  
17 generate \$60 million in additional revenue for the  
18 Commonwealth. Is that correct?

19                  MR. TYSON:

20                  No. I think it's \$60 million in casino  
21 revenue, so ---.

22                  CHAIRMAN COLINS:

23                  Casino revenue, okay. But you're telling  
24 us that of that \$60 million, that some of that revenue  
25 would come from the other licensees; is that correct?

1                   MR. TYSON:

2                   That's correct.

3                   CHAIRMAN COLINS:

4                   All right. So then what is the real  
5 number there? Is it \$23 million in revenue, new  
6 revenue, casino revenue?

7                   MR. TYSON:

8                   Roughly \$22.9 million in new revenue.

9                   CHAIRMAN COLINS:

10                  Okay. And what would be the reason ---  
11 what would --- where would that come from, the  
12 out-of-state ---? Have you formed an opinion? Does  
13 it come from the out-of-state visitors to the  
14 Convention Center? Where does that \$23 million come  
15 from?

16                  MR. TYSON:

17                  It comes from two sources. And I do have  
18 a long chart that allocates it. A majority of it  
19 comes from either residents of the area or attendees  
20 to the events at the Convention Center, who, with  
21 gaming right next door, virtually, would either go  
22 more often or would go when they would not get in a  
23 car and go to Chester Downs. They would not get in a  
24 car and go to Philly Park. So that's incremental new  
25 business that's new to the area.

1                   CHAIRMAN COLINS:

2                   So you maintain it's new revenue that  
3 would not be realized otherwise?

4                   MR. TYSON:

5                   That's correct.

6                   CHAIRMAN COLINS:

7                   Now, let's look at your figure, \$27  
8 million for Bushkill Fernwood. Does that take into  
9 account revenues that would have --- could be  
10 attributable to other licensees, such as Sands  
11 Bethworks or Mount Airy?

12                   MR. TYSON:

13                   I didn't analyze Innovation Group's  
14 report that closely. I mean, that's their number that  
15 they put into their impact statement. So you'd have  
16 to go see exactly where they say that their casino win  
17 is going to come from. That's not my estimate.

18                   CHAIRMAN COLINS:

19                   All right. So you don't know if it's  
20 apples to apples or apples to oranges there?

21                   MR. TYSON:

22                   I do not. I'm sure you could dissect  
23 their report, and it's probably similar to mine, says  
24 here's ---.

25                   CHAIRMAN COLINS:

1 Well, you might want to dissect that and  
2 provide that info in a brief.

3 MR. TYSON:

4 I could do that. I could do that, Your  
5 Honor.

6 CHAIRMAN COLINS:

7 Well, that's up to Counsel. You might  
8 want to talk to him about that.

9 And the next question I have, I guess, is  
10 for Counsel on this, and that relates to Section  
11 1305(b) of the statute. And that --- I guess this is  
12 a question about statutory construction and how the  
13 specific language, the specific provision of 1305(b)  
14 fits into the argument of the analysis that to put  
15 a --- that too much concentration or that the Board  
16 has the discretion to study --- to evaluate something  
17 based on concentration. Is there a statutory  
18 construction argument to be made on that issue?

19 ATTORNEY QUAGLIA:

20 I think we have someone who would be  
21 delighted to answer that question.

22 CHAIRMAN COLINS:

23 And specifically, 1305(b) states that  
24 there may not be a license, a Category Three license,  
25 placed within 15 miles of another license. It's a

1 specific provision.

2 ATTORNEY KRAUSE:

3 Yes.

4 CHAIRMAN COLINS:

5 Do you understand my question?

6 ATTORNEY KRAUSE:

7 Yes, I do, ---

8 CHAIRMAN COLINS:

9 Okay.

10 ATTORNEY KRAUSE:

11 --- and expected it. There are two  
12 pieces of statutory construction that I think are very  
13 important.

14 COMMISSIONER ANGELI:

15 Could you identify yourself, please?

16 ATTORNEY KRAUSE:

17 I'm sorry. Bob Krause. I'm with Ballard  
18 Spahr and one of the Counsel for the Applicant. I've  
19 been before you before. As you know, I was there when  
20 the Act was being developed, and so I do have a great  
21 remembrance of ten years that we worked on trying to  
22 get it passed. And the mileage that's in, not only  
23 Section 1305 but also in the earlier sections, in 1301  
24 and 1302 of the 20 miles and the other mileages around  
25 the other rings was a great deal of debate. The

1 legislature took into account all of the things that  
2 they had to take into account in setting the miles.  
3 They had done that previously in the Racehorse  
4 Industry Reform Act. In 1988, when they allowed off-  
5 track wagering, there was a 15 linear mile circle ---  
6 well, actually, there were three circles, a primary,  
7 secondary and further out rings that were put around  
8 racetracks to specifically address what the  
9 legislature decided was proper and improper  
10 competition. And in this particular case, first of  
11 all, they set 15 miles. They could have set 20. They  
12 could have set 50, but they set 15. Now ---.

13 CHAIRMAN COLINS:

14 Well, let's talk about statutory  
15 construction.

16 ATTORNEY KRAUSE:

17 Yep.

18 CHAIRMAN COLINS:

19 When you have a specific provision like  
20 that as opposed to a provision that talks about  
21 discretionary decisions, such as economic development,  
22 things of that nature, what, in your opinion, governs?

23 ATTORNEY KRAUSE:

24 Oh, well, here, it's a negative decision  
25 on a positive. It doesn't say that if you're 18 miles

1 away, you get a license. It says that if you're  
2 within 15 miles, you can't get one. So that is  
3 correct.

4                   Now, I think what's more important here,  
5 though, Section 1305 of the Act was substantially  
6 amended in November of '06, very --- almost the whole  
7 thing was rewritten. The one thing that wasn't  
8 rewritten was 1305(b) didn't change. The Act was  
9 written originally with two resorts in mind. There's  
10 no doubt about that. Both of those resorts originally  
11 applied to you, and they both withdrew. You then held  
12 your own hearing to try to figure out how to get other  
13 applicants to be interested. And the legislature knew  
14 when it amended the Act in November of '06, Nemaquin  
15 had already withdrawn and Seven Springs, those of us  
16 in the industry knew they were going to withdraw.

17                   So the legislature knew then that there  
18 might be a Category Three within --- near --- not  
19 Nemaquin and not Seven Springs, so to speak. So the  
20 legislature could have said if they wanted to, they  
21 could have changed 15 miles to 20 or 50. They could  
22 have changed it as it applied to Philadelphia Park or  
23 Penn National or Meadows or any other place. They  
24 didn't. They amended. They added the definition of  
25 amenities. They added several other parts to 1305.

1 They didn't touch the 15 miles. And I think what the  
2 legislature was saying was, look, we think 15 miles is  
3 the proper amount of area. Now, 500 machines --- and  
4 I think Mr. Tyson pointed that out. 500 machines on  
5 20,000 doesn't change anything.

6 I will tell you my own experience. When  
7 this law was being drafted and I saw 1305, I asked the  
8 leadership at Penn National, whom, as you know, I  
9 represent do you care if there's a resort nearby? And  
10 they looked and they said that will not affect our  
11 ability to conduct business. 500 machines is not a  
12 casino. It's an amenity to allow tourism. It's an  
13 amenity to draw people. It's not a casino.

14 CHAIRMAN COLINS:

15 Let me ask this question. And whoever  
16 has the expertise to answer it can answer it. But on  
17 the issue of concentration, let's look at Atlantic  
18 City. Atlantic City has how many casinos? It's got  
19 what, 13? I think 13 casinos. I'm not quite sure.  
20 Maybe someone can explain to me, Mr. Tyson or someone,  
21 how concentration works. If you add up all the  
22 revenues of all those casinos and you take 12 of them  
23 away, does that mean that the remaining casino gets  
24 all of that revenue? All that revenue then drops into  
25 the remaining casino? Do you understand what I'm

1 saying? If you have 12 casinos, the revenue is a  
2 hundred million each, you take --- you know, take 12  
3 of them away, does all of that then end up in that one  
4 casino? Is that how concentration works? And I guess  
5 what I'm saying is if the license is not --- if you do  
6 not win the license, does the \$23 million revenue  
7 figure that you threw out at us, does that  
8 automatically then go to the other licensees in the  
9 area?

10 MR. LUBERT:

11 Let me just start with that. In the  
12 specific --- your last point, about the \$23 million,  
13 when the --- a good portion of that is coming as  
14 people that are coming to the Convention Center  
15 itself, the hotels. We believe that revenue would be  
16 lost to the Commonwealth. That would not go somewhere  
17 else, the \$23 million we talked about.

18 As it relates to your first point about  
19 Atlantic City's 12 or 13 casinos, ---

20 CHAIRMAN COLINS:

21 I just used that as an example.

22 MR. LUBERT:

23 --- I'm just saying that's concentration,  
24 where if you have concentration, in my opinion, it  
25 draws people because they can have more than one

1 experience. So they can come to one casino, if they  
2 don't happen to like how it's operating, they go to  
3 another one, and they can have an experience, if you  
4 will, or alternative to an experience.

5           The point about how much revenue between  
6 us and Philadelphia Park, but keep in mind, as  
7 proposed today, you have SugarHouse and Foxwoods less  
8 than a mile-and-a-half away from each other and  
9 Philadelphia Park and Chester very close. So there  
10 are going to be people that are going to go from back  
11 and forth, the same argument made about if you didn't  
12 have Foxwoods, would it all go to SugarHouse? I don't  
13 think it would. I think you have people wanting to  
14 have convenience, quality of service, location  
15 specifics, amenity differentials, all of those  
16 aspects. And that's why again, we are really  
17 utilizing the 500 slots. And what I thought was  
18 intended for this was an amenity to a resort property.

19           CHAIRMAN COLINS:

20           Okay. Thank you. Very good. Are there  
21 any other questions before we go to the Intervener?  
22 Yes, Cyrus? This is Office of Enforcement Counsel,  
23 Mr. Pitre.

24           ATTORNEY PITRE:

25           As a point of clarification in relation

1 to the question posed by Commissioner Coy with regard  
2 to the financing of the project, I think some  
3 explanation needs to be provided to the Board in that  
4 regard because the information before me indicates  
5 that there is no commitment letter but there is an  
6 avenue in which to provide financing. And I think  
7 that needs to be explained to the Board.

8 MR. LUBERT:

9 We have a term sheet from the lending  
10 organization, and that is a term sheet that is --- you  
11 know, there are no guarantees, obviously, for a term  
12 sheet. But we have a term sheet based on the project  
13 itself, their evaluation of the project and the  
14 principals or the sponsors for the project.

15 ATTORNEY PITRE:

16 And that term sheet provides for some  
17 equity contribution or does it provide ---?

18 MR. LUBERT:

19 No equity contribution from them.

20 ATTORNEY PITRE:

21 Should that falls apart, do you feel  
22 confident that you could raise the monies to commit to  
23 the project?

24 MR. LUBERT:

25 I feel confident that if this didn't

1 happen, that --- you know, I've been in this business  
2 for 30 years, and I've had many track --- many  
3 projects like this. In fact, for the Board I'm  
4 involved in the Pittsburgh project that fell apart  
5 through a lack of financing and partnered with Mr.  
6 Bluhm. And we actually brought it to Neil, and we put  
7 together that group for financing, which was seven  
8 times more financing than this project. And I was  
9 involved with him in this. So you know, although I  
10 can --- you know, there are no guarantees, and I hope  
11 the Board can appreciate this, I would never make a  
12 statement that says I guarantee something, especially  
13 in these economic times. But I will tell you that  
14 I've been involved in many complex transactions in my  
15 life, and I think a large part has to do with what I  
16 said before. This project itself, in this kind of  
17 economic environment, speaks for itself. And that's  
18 how we're able to get this term sheet. And I also  
19 believe the fact that I'm the sponsor of this project  
20 played a large role in their comfort level to wanting  
21 to work with us.

22 CHAIRMAN COLINS:

23 Okay.

24 ATTORNEY PITRE:

25 I have no further questions.

1                   CHAIRMAN COLINS:

2                   All right. Thank you very much. Now,  
3 Philadelphia Park, as the Intervener, may come  
4 forward. Mr. Bonner?

5 OFF RECORD DISCUSSION

6                   ATTORNEY WYLAND:

7                   Good afternoon.

8                   CHAIRMAN COLINS:

9                   Good afternoon. Go right ahead.

10                  ATTORNEY WYLAND:

11                  I'm Scott Wyland, Counsel for Greenwood  
12 Gaming and Entertainment. I'm here to introduce Mr.  
13 Bonner, who will present remarks on behalf of the  
14 Intervener.

15                  MR. BONNER:

16                  Thank you, Madame Chairman, Members of  
17 the Board. It's our pleasure to be here today. We  
18 thank you for the opportunity to participate as  
19 Intervener in this proceeding. You have my prepared  
20 comments before you. But I'd just like to offer a  
21 couple initial comments based on what you've heard  
22 thus far today. We are not here out of any animus  
23 towards the application or the Applicant. We're here  
24 out of concern for the \$450 million investment we have  
25 and they're in the process of making at Philadelphia

1 Park and out of concern for the anti-competitive  
2 effects that additional slot machine inventory in the  
3 market will have on Philadelphia Park Casino.

4           The focus of our comments today is  
5 suitability. You've heard in the papers that we filed  
6 our belief that the Applicant is not suitable under  
7 the statutory standards contained in the Gaming Act  
8 and that the application will simply drain revenue  
9 away from Greenwood and other Philadelphia area  
10 casinos and provide little incremental revenue for the  
11 Commonwealth. And we think that as a consequence of  
12 those factors, the application will not advance the  
13 purposes of the Gaming Act or the best interests of  
14 the Commonwealth.

15           We've heard from the Applicant today that  
16 over 60 percent of the anticipated gaming revenues  
17 that will be generated by the casino at Valley Forge  
18 will come from other casinos, and only 40 percent of  
19 that new revenue will come from sources other than the  
20 existing casinos or from new business. It's my  
21 belief, in response to Commissioner Ginty's question,  
22 that this Board has very broad discretion with respect  
23 to the award of this license. This Board is not  
24 obligated to award a license, even if it finds an  
25 Applicant suitable. In its discretion, it can decide

1 and wait and see if there is a more suitable applicant  
2 that might be out there. I would submit to you that  
3 another application that may come in the future that  
4 generates all new gaming revenue that does not  
5 currently exist and cannibalizes no existing revenue  
6 from existing casinos might be a decision that the  
7 Board could make properly under the law. So I think  
8 you have --- you have no obligation to make a  
9 decision. I think that there may be other  
10 applications out there that might not pose the issues  
11 that this Applicant poses which we're discussing  
12 today.

13                   Our fundamental concern is that the  
14 Philadelphia area market for slots gaming is already  
15 saturated and that granting Valley Forge a Category  
16 Three license will merely redistribute existing slot  
17 revenues, and they've agreed to that --- with that to  
18 a certain extent.

19                   When the gaming law was enacted, the  
20 legislature understood that there likely would be four  
21 slots in Philadelphia, the two existing horseracing  
22 facilities at Philly Park and Harrah's which hold  
23 Category One licenses and the two Category Two  
24 licenses that are allocated to the eligible applicants  
25 in Philadelphia. All four of these casinos have now

1 been licensed, as you well know. You've also awarded  
2 a discretionary Category Two license to the Sands  
3 Bethworks facility in Bethlehem, which we consider to  
4 be in the Greater Philadelphia regional market.

5           Once all of these authorized slot casinos  
6 are up and running, there will be five casinos  
7 competing for the slot patrons in the Philadelphia  
8 market. Valley Forge would make the sixth, obviously,  
9 and would significantly overlap the core market of  
10 each of the already-authorized five Philadelphia area  
11 casinos.

12           Our experience in about a year-and-a-half  
13 of operations is that the Philadelphia slot market is  
14 extremely local. We have about 350,000 customers who  
15 are members of our Players Club, and they're the  
16 customers for whom we can capture data. About 65  
17 percent of those database customers, or 225,000, live  
18 within 25 miles of Philadelphia Park. Virtually all  
19 of our repeat patrons live within that same 25-mile  
20 radius. So the customers who are frequent repeat  
21 customers, which is a high percentage of our business,  
22 virtually all of them live close, because it's  
23 convenient. They can make a quick, short trip to our  
24 property and then return home.

25           As you well know, currently, only

1 Philadelphia Park and Harrah's are operating in the  
2 Philadelphia area. This chart shows that  
3 approximately one-third of the customers who live  
4 within our closed-in market, which we've defined as  
5 the 25-mile market, also are within that same Harrah's  
6 closed-in market. So one-third of the customers who  
7 might find it as convenient to get to Philadelphia  
8 Park would find it as convenient to get to Harrah's.  
9 This is a function of multiple casinos operating in  
10 one concentrated market.

11                   More than half of the Philadelphia Park  
12 patrons live within 25 miles of Foxwoods and  
13 SugarHouse, as indicated by the next chart. Sands  
14 Bethworks, a little bit more remote, less of an  
15 impact, but five percent of the Philadelphia Park  
16 patrons within 25 miles of Philly Park also live  
17 within 25 miles of Sands Bethworks. And then finally,  
18 50 percent of Philadelphia Park patrons also live  
19 within 25 miles of Valley Forge, as indicated on this  
20 chart.

21                   Our conclusion is that it will be a  
22 highly concentrated market once all of these licenses  
23 are up and running. Overlaying the Valley Forge  
24 license on the other five operators, Valley Forge is  
25 indicated in the black circle, as you can see, adds

1 another layer of competition over the 25-mile radiuses  
2 where the other casinos would be operating.

3           We believe that licensing Valley Forge  
4 will just aggravate this market in which five licenses  
5 are already allocated, and Valley Forge would add a  
6 sixth. Our experience has shown that a major  
7 criterion of repeat business is proximity and  
8 convenience. We're trying hard to expand our reach  
9 beyond a 25-mile radius. And with a slots-only  
10 offering, without the variety of table games, we find  
11 it difficult to entice patrons to make more than a  
12 25-mile trip to get to our casino. And that's been  
13 our experience during the first year-and-a-half or so  
14 of operations.

15           We have no expectation that our ability  
16 to offer horseracing, in addition to slots, will help  
17 us hold onto existing casino customers if Valley Forge  
18 were to open. As much as we all hope that there will  
19 be a crossover between horseracing and slots racing,  
20 our experience to date is that there is not crossover.  
21 So our ability to offer horseracing is not a  
22 distinguishing competitive factor that Philly Park  
23 would offer as compared to the offering that Valley  
24 Forge would be making. We also don't think that the  
25 requirement that Valley Forge patrons are required to

1 make a \$10 amenity purchase would be a significant  
2 factor that would dissuade customers from visiting  
3 that property. There are ways through marketing  
4 programs to basically re-bait that. And again, we  
5 don't think that that distinguishes the operation that  
6 is being proposed. Even if Valley Forge were the type  
7 of a well-established resort hotel that we believe the  
8 legislature had in mind when it authorized the  
9 issuance of Category Three licenses, we think that the  
10 Board should think long and hard before it authorizes  
11 another casino in this market for the reasons that  
12 we've indicated.

13                   Greenwood has a very substantial  
14 investment in our existing facility, about \$150  
15 million. We're on the way to completing our new  
16 facility, which is about \$300 million. As market  
17 competition increases in our limited, defined region,  
18 the return on this existing capital investment will  
19 diminish if competition takes business away from us.  
20 And in addition, we have a 450-acre site that we do  
21 plan to build out as the market matures and as time  
22 marches on. To the extent that we make less and  
23 competition increases, that acts as a disincentive to  
24 commit the substantial capital dollars that are  
25 required for these additional amenities on our site.

1                   Our belief is that the Philadelphia  
2 market will be well served by the five licenses that  
3 have been awarded to date and that the addition of a  
4 sixth license will not bring added value to either the  
5 Commonwealth or to the gaming public. As we've  
6 discussed earlier, the Gaming Act requires that the  
7 Category Three license maximize new revenues and not  
8 just redistribute existing revenues. We believe that  
9 there is more of a redistribution of existing revenues  
10 than there is of attraction of new revenues proposed  
11 by the Valley Forge operation. We think that the  
12 addition of a casino at Valley Forge will result in  
13 adverse economic impacts to Greenwood and the other  
14 existing licensees and will not be in the interest of  
15 the Commonwealth.

16                   Holding one license in reserve for a  
17 Category Three will make possible a future grant of a  
18 license to a true, well-established resort hotel  
19 somewhere else in the Commonwealth, one that would not  
20 have the impact of cannibalizing any existing revenues  
21 at all and would bring all new gaming revenues to the  
22 Commonwealth. And we would recommend that in your  
23 deliberations you keep that in mind as you exercise  
24 your discretion whether the award of a license to  
25 Valley Forge would be appropriate. I thank you for

1 the time and would be happy to address any questions  
2 that you may have.

3 CHAIRMAN COLINS:

4 Mr. Pitre, do you have any questions?

5 ATTORNEY PITRE:

6 I have no questions for Mr. Bonner.

7 CHAIRMAN COLINS:

8 Commissioner Ginty?

9 COMMISSIONER GINTY:

10 I have a couple of questions. One, in  
11 your introductory remarks you referred to the anti-  
12 competitive effect that granting a license to Valley  
13 Forge would have. What would be the anti-competitive  
14 effects.

15 MR. BONNER:

16 Perhaps I misspoke, Commissioner. It  
17 would be a competitive effect that would pose  
18 additional challenges to us.

19 COMMISSIONER GINTY:

20 That's what I thought.

21 MR. BONNER:

22 Yes.

23 COMMISSIONER GINTY:

24 I have to admit. You --- you did not  
25 make this argument a year ago, that this was a

1 disqualifying occurrence under the statute.

2 MR. BONNER:

3 We're addressing the suitability issue at  
4 this particular time, and we're advancing factors that  
5 we think would enable the Board to conclude that the  
6 Applicant is not suitable because of these reasons  
7 that we're advancing. This is the first opportunity  
8 we've had, Commissioner, to advance the suitability  
9 argument.

10 COMMISSIONER GINTY:

11 Oh, so you don't look at this as a  
12 statutory disqualification but a suitability one?

13 MR. BONNER:

14 We're presenting these as suitability  
15 issues at this point. We've already put into the  
16 record our concerns with respect to eligibility.

17 COMMISSIONER GINTY:

18 And the eligibility ones were focused on  
19 definition of resort and ownership?

20 MR. BONNER:

21 That is correct.

22 COMMISSIONER GINTY:

23 Okay. So this just goes to suitability.

24 MR. BONNER:

25 These issues go to suitability. To the

1 extent it's appropriate to be considered with respect  
2 to eligibility, we would think it would be fair for  
3 you to do that as well.

4 COMMISSIONER GINTY:

5 I'll go back to my other question. Two  
6 licenses, two applications. If we find that Valley  
7 Forge otherwise meets the criteria for a Category  
8 Three license, do we have the discretion to deny that  
9 license? And by the way, Mr. Krause very nicely said  
10 we don't.

11 MR. BONNER:

12 I don't presume to advise the Board,  
13 obviously, Commissioner, but it's my view that the  
14 statute gives to this Board as it gives to most  
15 administrative agencies broad discretion to enforce  
16 and exercise the powers under the statute. I think  
17 the way the particular section with respect to  
18 Category Three licenses is written makes it clear that  
19 it's entirely within the Board's discretion. And even  
20 though you may find an applicant is suitable, I  
21 believe you have the discretion to say, well, maybe  
22 there's a more suitable applicant out there, and I do  
23 not believe you're obligated to make an award of a  
24 license. That's my view from my reading of the  
25 section.

1                   COMMISSIONER GINTY:

2                   Well, they're not exactly standing in  
3 line to come in for a Category Three license. And we  
4 do have another obligation is to get gaming up and  
5 running in Pennsylvania. I would appreciate --- I  
6 mean, I think this is, at least to me, a question of  
7 whether the Board has discretion here, and I'd  
8 appreciate something on that.

9                   MR. BONNER:

10                   We will include that in our brief that  
11 we'll submit Commissioner.

12                   CHAIRMAN COLINS:

13                   Commissioner Sojka? I'm sorry.  
14 Commissioner Ginty, are you ---? Okay. Commissioner  
15 Sojka?

16                   COMMISSIONER SOJKA:

17                   And again, I understand that the issue is  
18 suitability. But just for the purposes of adding as  
19 much information and as much --- and as many different  
20 facets in being able to look at this problem as  
21 possible, you've heard the group from Valley Forge  
22 explain again their reasons why they feel this is an  
23 established resort hotel. And I know you've said it  
24 before, but could you tell us clearly why, from your  
25 perspective, that is an incorrect statement?

1                   MR. BONNER:

2                   As we had indicated in the prior  
3 submissions we made, Commissioner, with respect to the  
4 eligibility criteria, we believe that the Applicant is  
5 not the owner of the entire Complex for the reasons  
6 that we've advanced. And certainly, we heard Mr.  
7 Lubert say he is the general partner of the entity or  
8 the various entities that have owned these. But one  
9 of the reasons we set up limited partnerships is to  
10 create diverse, separate, legally distinct ownership  
11 among different entities. So we challenge the  
12 Applicant's eligibility with respect to the ownership  
13 issue, and we challenge the eligibility with respect  
14 to the definition of resort and the amenities that are  
15 required to be included within that resort to make it  
16 meet the statutory standard.

17                   COMMISSIONER SOJKA:

18                   Could you be more specific as to what ---  
19 they listed all of those amenities. Is your argument  
20 that those simply do not add up to a resort?

21                   MR. BONNER:

22                   That's basically the argument,  
23 Commissioner, that yes, those things are there, but we  
24 don't think that that is the type of a destination  
25 resort, year-round resort that the statute

1 contemplates.

2 COMMISSIONER SOJKA:

3 From the perspective of your definition  
4 then of a resort, the destination word is the key  
5 word?

6 MR. BONNER:

7 I think that's what the statute intended,  
8 without using that word, Commissioner.

9 COMMISSIONER SOJKA:

10 Thank you.

11 CHAIRMAN COLINS:

12 Commissioner Rivers?

13 COMMISSIONER RIVERS:

14 No questions.

15 CHAIRMAN COLINS:

16 Commissioner McCabe?

17 COMMISSIONER MCCABE:

18 No questions.

19 CHAIRMAN COLINS:

20 Commissioner Coy?

21 COMMISSIONER COY:

22 Yeah, Mr. Bonner. I guess I can't help  
23 myself, but you've tantalized us with the fact that  
24 you're going to be another suitor in waiting. And I'm  
25 wondering if the Board may know more about this or

1 should we just wait?

2 CHAIRMAN COLINS:

3 Well, --- I'll wait until he answers.

4 COMMISSIONER COY:

5 I'm just wondering.

6 CHAIRMAN COLINS:

7 I can barely contain myself.

8 MR. BONNER:

9 The question is do I know if there is  
10 one?

11 COMMISSIONER COY:

12 Well, I think you said that; didn't you?

13 MR. BONNER:

14 No, I didn't. I didn't --- if I did, I  
15 misspoke. I said there may be. There may be another  
16 applicant in a different geographic area of the state  
17 where no cannibalization of existing revenue would  
18 occur, and I think it's appropriate to consider.

19 COMMISSIONER COY:

20 Then I apologize. I ---.

21 CHAIRMAN COLINS:

22 Mr. Bonner, are you speculating, sir?

23 MR. BONNER:

24 I may be, Madame Chairman.

25 CHAIRMAN COLINS:

1 Are you or are you not speculating?

2 MR. BONNER:

3 Oh, I have no knowledge that there is  
4 another applicant.

5 COMMISSIONER COY:

6 I really --- I understood you to say  
7 that. And that's why I apologize if I  
8 misunderstood ---.

9 MR. BONNER:

10 If I misspoke, I apologize. I have no  
11 knowledge of another applicant.

12 COMMISSIONER COY:

13 We're both sorry.

14 CHAIRMAN COLINS:

15 Commissioner Angeli?

16 COMMISSIONER ANGELI:

17 This may just be an observation, but I'm  
18 always curious about the Category Three's, that if you  
19 have 500 slot machines in a resort area and there's  
20 another casino nearby and you're playing the 500 slot  
21 machines, it would appear that --- you know, people  
22 who do that would say, well, you know, this is as very  
23 limited venue here, but down the street there's a  
24 bigger venue. Why don't we go down there? Do you  
25 think that might enhance Philadelphia Park by having

1 somebody ---? Because there's about 23 or 30 percent  
2 of new players coming into the 500 slot machines.  
3 Wouldn't they come down the street and play the bigger  
4 venue? Do you think that's a ---?

5 MR. BONNER:

6 The offering that we have at Philadelphia  
7 Park is no different in kind from what Valley Forge  
8 could offer in that it's a slots casino. The  
9 difference would be quantity and that there might be  
10 greater opportunity to gain access to a machine during  
11 a peak period at Philly Park when those machines might  
12 not be available to Valley Forge. The question is  
13 whether somebody is going to drive 25 miles to get  
14 there. We believe that 25 miles is a trip customers  
15 are willing to make, and that's why we're presenting  
16 this --- our concerns to you with respect to the  
17 overlapping circles within that 25-mile radius. I  
18 don't know if I've answered your question. It may  
19 happen. I don't know.

20 COMMISSIONER ANGELI:

21 Yeah. I mean, you have in a way because  
22 I keep focusing on the new players that --- and the  
23 new dollars that come in as opposed to the dollars  
24 that aren't going to Philadelphia Park right now. It  
25 was just an observation that I thought about this

1 because in almost every venue we have, it's going to  
2 affect someone. And I just thought that, you know,  
3 it's just the nature of the beast that you're sitting  
4 around for a four-day or five-day convention, playing  
5 500 slot machines, you say, well, you know, there's a  
6 bigger venue down the street where there's 2,500 or  
7 whatever it could be. So it's a --- I think from my  
8 perspective it's a possibility that it might enhance  
9 your business. I may be right and I may be wrong, but  
10 it doesn't require an answer, just an observation.

11 MR. BONNER:

12 That may be a possibility. More  
13 operators tend to generate greater business, and there  
14 may be some cross fertilization. It's a possibility.

15 COMMISSIONER ANGELI:

16 Thank you. I have no further questions.

17 CHAIRMAN COLINS:

18 Mr. Bonner, I have to go back to this  
19 point in your presentation where you talked about the  
20 possibility that another applicant might be out there  
21 somewhere who might apply and this Board should  
22 consider that as part of the record before it. The  
23 reason I want to go back to it is because as  
24 Principles of Administrative Law, this Board has  
25 strived to base its decisions on the record before it,

1 on the evidence presented. And case law is clear not  
2 on speculation. That's an improper basis for a  
3 Decision. So the fact that you consider --- that you  
4 think that there might be another applicant out there  
5 somewhere who might apply should the Board open the  
6 process again at some point, do you think that that's  
7 appropriate evidence for a Board to base a decision  
8 on, that ---?

9 MR. BONNER:

10 Madame Chairman, I don't know whether  
11 that's appropriate evidence. I offered that partly in  
12 response to Commissioner Ginty's question with respect  
13 to an obligation to award a license if you find an  
14 applicant suitable. And I offered that as a  
15 possibility that I don't think you do have that  
16 obligation to award a license. And if you didn't  
17 award a license today, maybe at sometime in the future  
18 there would be another applicant.

19 CHAIRMAN COLINS:

20 But you're not suggesting that the Board  
21 consider that possibility in terms of making a  
22 decision, are you? Are you suggesting that we  
23 consider a speculation like that as part of our  
24 decision-making process?

25 MR. BONNER:

1 I think I'm suggesting, Madame Chairman  
2 that, in my view, this Board has very broad discretion  
3 with respect to the applications before it for the  
4 issue of the Category Three licenses. I don't think  
5 you have to issue both licenses if you can find some  
6 reasonable basis on which ---

7 CHAIRMAN COLINS:

8 In the record; right?

9 MR. BONNER:

10 --- not to do it?

11 CHAIRMAN COLINS:

12 Reasonable basis where? Where would that  
13 reasonable basis come from?

14 MR. BONNER:

15 Well, it would have to be --- obviously,  
16 it has to be in the record. I'm not suggesting that  
17 you act on speculation.

18 CHAIRMAN COLINS:

19 Good. I just want to make that clear.

20 Good.

21 MR. BONNER:

22 No. I'm not suggesting that at all. But  
23 I think you have very broad discretion to act based on  
24 what is in the record.

25 CHAIRMAN COLINS:

1                   Great. Okay. I agree with that. I  
2 agree that the record should govern our Decision.  
3 Thank you very much. Anything else?

4                   MR. BONNER:

5                   Thank you, all.

6                   CHAIRMAN COLINS:

7                   All right. Sir?

8                   ATTORNEY WYLAND:

9                   We respectfully request that our exhibits  
10 be moved into evidence. That would be Mr. Bonner's  
11 remarks, his written testimony, and the slides from  
12 the PowerPoint, which we provided to the Board.  
13 Importantly, there are four documentary exhibits  
14 within that PowerPoint slide show that would be  
15 important for the record.

16                   CHAIRMAN COLINS:

17                   Are there any objections? Mr. Pitre, did  
18 I ask you if you had questions of Mr. Bonner?

19                   ATTORNEY PITRE:

20                   Yes.

21                   CHAIRMAN COLINS:

22                   Good. Thank you. Thank you very much.  
23 Appreciate it. Thank you. The exhibits are accepted.  
24 Is there Rebuttal, brief Rebuttal?

25                   ATTORNEY QUAGLIA:

1           Would we be able to have a couple minutes  
2 to consult about the issue of rebuttal?

3           CHAIRMAN COLINS:

4           You can. You can have a few minutes to  
5 talk about it.

6           ATTORNEY QUAGLIA:

7           Thank you, very much.

8           CHAIRMAN COLINS:

9           Just take like two or three minutes.

10          ATTORNEY QUAGLIA:

11          Absolutely. Thank you.

12 SHORT BREAK TAKEN

13          CHAIRMAN COLINS:

14          All right. Do you have a Rebuttal  
15 witness?

16          ATTORNEY QUAGLIA:

17          Very brief, Your Honor. I was going to  
18 provide a very brief Rebuttal. And we will obviously  
19 respond in full in our papers, as I know the Board  
20 would prefer. But very briefly, to follow-up on Your  
21 Honor's remarks, for the Board, this is an evidentiary  
22 hearing. The idea is to present admissible evidence  
23 for the Board to consider in its deliberations.

24                 Now, Philadelphia Park has known about  
25 this application for a year-and-a-half. They have

1 tried to intervene in this application for over a  
2 year. They did not and we submit could not provide a  
3 single expert witness to come up and tell you that  
4 having 500 slot machines at Valley Forge will, in  
5 fact, have a material adverse impact on Philadelphia  
6 Park. No one can say that. All we have is the  
7 testimony from the general Counsel of Greenwood, of  
8 Philadelphia Park, that he thinks that it would be a  
9 bad thing to have these 500 additional machines at  
10 Valley Forge.

11                   Now, we did see --- the only actual  
12 evidence that we saw from Philadelphia Park were  
13 certain overlay maps of geographic proximity. We note  
14 that what those maps showed were that three other  
15 Category One and Two casinos, Foxwoods, SugarHouse,  
16 which are coming in Philadelphia, and Chester Downs  
17 are closer to Valley Forge than Philadelphia Park is.  
18 None of those licensees has raised one word in  
19 objection to this application because they know that  
20 500 machines, one-fiftieth of a convention center  
21 complex, does not compete with a 5,000 --- potentially  
22 5,000-machine, full-fledged casino.

23                   COMMISSIONER GINTY:

24                   I can't pass it up. Did you just  
25 testify?

1                   CHAIRMAN COLINS:

2                   Yes, I know. I was going to say, you're  
3 giving us your closing argument ---

4                   COMMISSIONER GINTY:

5                   That's a good argument.

6                   ATTORNEY QUAGLIA:

7                   Thank you.

8                   CHAIRMAN COLINS:

9                   --- which is duly noted. We accept it as  
10 an argument. Do you have a witness who will actually  
11 testify in terms of Rebuttal?

12                   ATTORNEY QUAGLIA:

13                   No, Your Honor. No. I am the sole  
14 Rebuttal.

15                   CHAIRMAN COLINS:

16                   Okay. Fine. Then you can continue with  
17 your argument.

18                   ATTORNEY QUAGLIA:

19                   I am nearly finished.

20                   CHAIRMAN COLINS:

21                   That's all right. You have the burden.  
22 You can keep going.

23                   ATTORNEY QUAGLIA:

24                   We note for the record that the ---  
25 Philadelphia Park is certainly aware that they are

1 getting new competition from Philadelphia, from  
2 Foxwoods and SugarHouse. That has not stopped them  
3 from making the substantial financial commitments  
4 they've made and to doubling their number of slot  
5 machines.

6           And finally, because we can't resist,  
7 Your Honor, this idea that there is as hypothetical  
8 other applicant out there. The Board has been through  
9 this process before. There were two initial  
10 Applicants. They withdrew. There were four more  
11 Applicants. Two of them have withdrawn. If the Board  
12 were not to issue a license to one of these two  
13 Applicants for some reason, who knows? Again,  
14 speculating, who knows if you would ever have anyone  
15 else stepping forward at this point. And with that,  
16 we will conclude. We thank you, very much for your  
17 time and consideration today.

18           CHAIRMAN COLINS:

19           All right. Thank you. Anything from Mr.  
20 Pitre or any further statements?

21           ATTORNEY PITRE:

22           No further statements. Thank you.

23           CHAIRMAN COLINS:

24           Then let me just go through my paperwork  
25 here for just one minute before I close the hearing.

1 All right. There being --- the exhibits have all been  
2 accepted. I'm looking for the time frame in which to  
3 --- oh, wait. Is Mr. Talerico going to testify?

4 ATTORNEY DONAGHUE:

5 At this time, Chairman Colins, ---

6 CHAIRMAN COLINS:

7 I'm sorry.

8 ATTORNEY DONAGHUE:

9 --- I would like to turn it over to staff  
10 so that they can give you their reports and  
11 conclusions on the areas that each have examined.  
12 First, I'm going to turn it ---

13 CHAIRMAN COLINS:

14 Right.

15 ATTORNEY DONAGHUE:

16 --- to Jim Talerico, who is the  
17 Supervisor of our Financial Investigations Unit. He  
18 will be providing testimony on the conclusions of the  
19 Financial Suitability Taskforce. Then I will turn it  
20 over to Chief Enforcement Counsel, Cyrus Petrie for a  
21 short presentation.

22 CHAIRMAN COLINS:

23 Okay. Good.

24 ATTORNEY DONAGHUE:

25 And then to the Director of Licensing,

1 Susan Hensel.

2 CHAIRMAN COLINS:

3 All right. Fine. Go on, Mr. Talerico.

4 MR. TALERICO:

5 Good afternoon, Chairman Colins, members  
6 of the Board. My name is James Talerico, and I am the  
7 supervisor for BIE's Financial Investigation Unit. I  
8 am here to provide a statement based on the work  
9 performed concurrently by BIE's Financial  
10 Investigations Unit and staff and  
11 PricewaterhouseCoopers, jointly referred to as the  
12 Financial Suitability Taskforce. At this time, based  
13 upon the information contained in the application and  
14 the Financial Suitability Analysis performed, the  
15 Financial Suitability Taskforce did not find anything  
16 material which would preclude Valley Forge convention  
17 Center Partners, LP, from obtaining a Category Three  
18 license.

19 CHAIRMAN COLINS:

20 Thank you. Thank you, very much. Mr.  
21 Pitre?

22 ATTORNEY PITRE:

23 And I would just add for the entire  
24 Bureau of Investigation and Enforcement that there are  
25 no issues that would preclude suitability in this

1 instance. And this matter, as far as BIE is  
2 concerned, is fully prepared for the Board's  
3 consideration.

4 CHAIRMAN COLINS:

5 Thank you, very much. Susan Hensel from  
6 Licensing, Director of the Bureau of Licensing.

7 MS. HENSEL:

8 At this point in time, based on the  
9 materials and information in the application and the  
10 cooperation received from the Applicant, the Bureau of  
11 Licensing is not aware of any suitability issues that  
12 would preclude licensure of Valley Forge Convention  
13 Center Partners, LP as a Category Three slot operator.

14 CHAIRMAN COLINS:

15 Thank you. And Mr. Donaghue, is that it  
16 or does that ---?

17 MR. DONAGHUE:

18 Yes, that --- we do not have any  
19 additional items to be presented by staff at this  
20 time.

21 CHAIRMAN COLINS:

22 Very good. All right. Then the briefing  
23 schedule is October 29th for the filing of any post  
24 hearing memoranda of law or brief with the Office of  
25 Hearings and Appeals. And may I have a motion to

1 close the record and adjourn the hearing, please?

2 COMMISSIONER SOJKA:

3 So moved.

4 COMMISSIONER ANGELI:

5 Second.

6 CHAIRMAN COLINS:

7 Okay. All in favor?

8 AYES RESPOND

9 CHAIRMAN COLINS:

10 Then the hearing is concluded and,  
11 subject to the acceptance of the briefs, the record is  
12 closed. Thank you very much.

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HEARING CONCLUDED AT 5:25 P.M.

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