

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: MOUNTAINVIEW THOROUGHBRED RACING ASSOCIATION,  
LLC - PETITION TO MODIFY GAMING FLOOR AT HOLLYWOOD  
CASINO AT PENN NATIONAL RACE COURSE

OHA DOCKET NUMBER 12824-2024

\* \* \* \* \*

HEARING

\* \* \* \* \*

BEFORE: MEMBERS OF THE BOARD:

DENISE J. SMYLER, CHAIRMAN

Frank Dermody

Shawn Dillon

David S. Hickernell

Sara Manzano-Diaz

Nedia Ralston

Frances J. Regan

HEARING: Wednesday, August 21, 2024

10:05 a.m.

Reporter: Derek Richmond

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LOCATION: Pennsylvania Gaming Control Board  
Office of Hearings and Appeals  
Strawberry Complex  
Second Floor  
Harrisburg, PA 17101

WITNESSES: Tony Frabbiele, Alex Hvizda

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## A P P E A R A N C E S

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13 ADRIAN R. KING, JR., ESQUIRE

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18 Counsel for Petitioner

19

20 ALSO PRESENT:

21 Michele Collins, Vice President and Assistant

22 General Manager for Hollywood Casino at Penn

23 National Race Course

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NONE OFFERED

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CHAIR: And speaking of Hollywood Casino at Penn National Race Course, we will now hear from the license holder Mountainview Thoroughbred Association, LLC and the Office of Enforcement Counsel regarding Hollywood's Petition to Modify their Gaming Floor.

I would ask if there are any non-attorneys, who will be presenting evidence today in this proceeding, please stand to be sworn in by the Court Reporter at this time.

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(WHEREUPON, WITNESSES SWORN EN MASSE.)

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CHAIR: I would also ask everyone who is going to speak if you state and spell your name for the Court Reporter prior to speaking.

Hollywood, you may begin.

ATTORNEY KING: Chairwoman Smyler, Members of the Gaming Control Board, good morning. Adrian King, A-D-R-I-A-N, King, K-I-N-G, from the Ballard Spahr Law Firm here on behalf of the license holder, Mountainview Thoroughbred Racing Association. And as you know, we hold a couple of different

1 licenses. We're here with respect to the Category 1  
2 License held by Hollywood Casino at Penn National  
3 Race Course.

4                   As you just stated. We're here for  
5 our Petition to Modify the Gaming Floor, and  
6 specifically, we're going to be talking about  
7 reduction in the number of slot machines at the  
8 facility and also reorganization of the floor.  
9 Sorry about this.

10                   Let me just quickly let you know who's  
11 here. Tony Frabbiele, who's our Vice President and  
12 General Manager for the facility. Seated next to  
13 him, to his right is Alex Hvizda, who's the Regional  
14 Director of Compliance and then Michele Collins, who  
15 is to Alex's right, Michele's the Vice President and  
16 Assistant Manager.

17                   We're going to break this into two  
18 parts. Tony is going to talk about the modification  
19 to the floor plan reduction, and then Alex is going  
20 to talk about just the latest with respect to skill  
21 games and, in particular, in the vicinity of the  
22 property, which as you know from prior hearings, we  
23 do believe has material effect on the casino industry  
24 on the retail side with respect to our slot machines.  
25 So we did want to give you an update and I think

1 you'll see we've done some very specific research  
2 with respect to immediately around this property.

3                   So with that, I'm going to turn it  
4 over Tony.

5                   MR. FRABBIELE: Thank you, Adrian.  
6 Madam Chair, Members of the Board, thank you for  
7 hearing our Petition this morning. Tony Frabbiele,  
8 T-O-N-Y, F-R-A-B-B-I-E-L-E, Vice President and  
9 General Manager.

10                   I wanted to start off and just show a  
11 graph that shares with you the history of our  
12 property in our market as it relates to slot gaming  
13 revenues across the Commonwealth and particularly, I  
14 think, the point of 2020 where we were impacted by the  
15 COVID closures, as well as incoming capacity at the  
16 end of 2020 into 2021, the brick and mortar side, you  
17 saw a significant change in revenues that were going  
18 through brick and mortar properties. And when you  
19 look at 2024, this year, PNRG, our property, Penn  
20 National Race Course, we're down to ten percent over  
21 prior year.

22                   The market by brick and mortar casinos  
23 on the slot side is down two percent, and we  
24 attribute that to the increased capacity in the  
25 marketplace with additional brick and mortar casinos,



1 along with the growth of iCasino and unregulated  
2 skill games. As Adrian stated, we'll have more on  
3 skill games as we go forward, and we don't know  
4 exactly what those revenues are, but we can only take  
5 our best guess at what that is.

6           So what we've been focused on is how  
7 do we best position our properties to compete in the  
8 marketplace and drive the most amount of revenue for  
9 our shareholders and for the Commonwealth. And at my  
10 previous property, The Meadows, we did a similar  
11 exercise as what we're doing here at Penn National  
12 Race Course, which is a modification and what I call  
13 a modernization of the gaming floor. And we started  
14 this journey almost two years ago as we were working  
15 through the property and improving sight lines across  
16 the facility and the game experience itself as it  
17 relates to your time on device at a slot machine or a  
18 table game.

19           And on our floor plan, you'll note  
20 that we've improved our entryways by moving smoking  
21 to the rear of the building. So if you're a non-  
22 smoking customer, you can enter any of our entryways  
23 through the facility and not have to walk through a  
24 smoking section. And so you can easily get to those  
25 sections, and that's a much smaller footprint than

1 what the regulatory requirement is or that allows us  
2 to get to.

3                   We've also been focused on making sure  
4 that customers know about our gaming offerings and  
5 what we do. We're very active on social media in our  
6 company, we are the top property on social media with  
7 100,000 followers. You can see there one of our  
8 highlights of pushing out jackpots, our concert  
9 series has helped with those things and we continue  
10 to do everything we can to promote our business and  
11 drive customers to the property as it is one of our  
12 flagship properties inside the portfolio.

13                   We've also done a lot of reinvestment  
14 in the property since 2018 as the Gaming Act changed  
15 and allowed for sports wagering, we opened up our  
16 Sportsbook, which is also a restaurant, and we put  
17 over \$12 million back into the property, including  
18 carpeting and innovative technology, like cashless  
19 wagering at our tables and slot machines. We were  
20 the first in market and first in our company to bring  
21 that forward and we continue to look for ways where  
22 we can bring new amenities to our customers to drive  
23 and enhance the gaming experience of the property.

24                   That is why we're in front of you  
25 today, is to continue down that path in reimagining

1 our gaming floor. And our proposed plan is to do  
2 that through improving the sight lines and continuing  
3 to make the experience more comfortable at the gaming  
4 devices themselves. What we find is successful is  
5 when customers are comfortable at a game and the game  
6 is getting the right amount of occupancy in play,  
7 it's a better experience for our customers and it  
8 relates to better revenues and return for the  
9 Commonwealth, as well as our company. And that's  
10 what our proposal is looking to do.

11 We're looking to reduce 169 games off  
12 our floor to bring our countdown to 1,532, which will  
13 - all those games that we've identified are average  
14 age of about 15 years. So they're not our newer  
15 cabinets, they're older games. The average occupancy  
16 on those games is around eight percent. So that's  
17 the lowest game on our floor. So the play is really,  
18 really low on those games and they're essentially  
19 reaching end of life as well.

20 We continue to have tables. We're  
21 keeping our count at 60. And on August 31st, I'm  
22 excited to inform you that we had our grand reopening  
23 of our poker room, which was absent for just over  
24 four years. So I believe that brings us back to what  
25 we want to be, which is a gaming asset that has all

1 amenities available to customers in Greater  
2 Harrisburg area.

3 ATTORNEY KING: You meant July 31st.

4 MR. FRABBIELE: July 31st, excuse me.

5 Yes, thank you for correcting me, Adrian.

6 When you look at smoking specifically,  
7 we have currently 528 of those games located in the  
8 smoking section, which is approximately 25 percent of  
9 our gaming floor. After the reduction, that count  
10 will be at 510 games. So the line share of our games  
11 still remain in the non-smoking areas of our  
12 property. And our table games and poker are also  
13 non-smoking.

14 To get into occupancy data to share  
15 with you the trends, what you can see on the average  
16 Fridays and Saturdays, the average Saturday, we're  
17 just under 20 percent meaning about eight out of  
18 every ten games is pretty much available for a  
19 customer in play. When we hit our peaks, we get up  
20 to about 38 percent, which still means that about six  
21 out of every ten are available for customers to play.  
22 So we have more than enough capacity, even at the  
23 1532 level, to meet the demands of where our business  
24 is at today.

25 When we go to our really high volume

1 days on the next slide, and we talk about the week  
2 between Christmas and New Year's Eve, we're reaching  
3 51 and 57 percent occupancy, but we're never getting  
4 above an actual 60 percent occupancy on our gaming  
5 floor at the current count. So we believe by making  
6 this reduction, it will still continue to be more  
7 than enough to make sure that we have the demand to  
8 meet our customer's needs across the gaming floor.  
9 And then the final slide I have here is just showing  
10 you another view of our occupancy data that shares  
11 with you the highest ten hours of play. And it shows  
12 you that we never really hit above 60 percent on  
13 occupancy in our gaming floor, and that also  
14 correlates over to the point as well. And with that,  
15 I will turn it over to Alex.

16 ATTORNEY KING: Alex, if I can just  
17 make one point, Madam Chair? The staff has been  
18 provided with much more detailed information on  
19 occupancy and usage, and we ask that those Slides,  
20 those information, be confidential. It's  
21 competitively-sensitive information. But what we  
22 presented here is more of a high-level overview, but  
23 I do want to let you know that the staff does have  
24 more detailed Slides.

25 ATTORNEY CROHE: And that information

1 was provided to OEC and we had no objection to the  
2 request for confidentiality.

3 CHAIR: Thank you, Mr. Crohe.

4 ATTORNEY KING: Okay.

5 Now at this point, Alex is going to do  
6 a short presentation on skill games and how they're  
7 impacting and affecting us around the city process.

8 MR. HVIKZDA: Good morning, Madam  
9 Chair, Members of the Board, Alex Hvizda, A-L-E-X, -.

10 ATTORNEY KING: Do you also want to  
11 address. We did not - we didn't talk about the -?

12 MR. FRABBIELE: That's okay. Yes.

13 MR. HVIKZDA: A-L-E-X, last name  
14 Hvizda, H-V-I-Z-D-A. So up on the screen right now  
15 is a Letter of Support from the Horseman's Benevolent  
16 and Protective Association. They are our partners  
17 with horse racing. We work very closely and  
18 successfully with them and they do not have any  
19 objection to this, but they did want to call out that  
20 they join us in expressing their concern about  
21 unregulated and untaxed so-called skill games that  
22 are proliferated all around the Commonwealth,  
23 because, of course, the health of the purses is based  
24 on the slot revenues.

25 So turning to the next page, as

1 different properties have come for the Board over the  
2 last couple of years and done these reduction  
3 presentations, we've all universally indicated that  
4 the skill games are having an impact on our  
5 operations. And instead of just getting that  
6 anecdotal evidence, we wanted to get some actual hard  
7 data.

8                   So what we did was, we put boots on  
9 the ground and in late June and early July did a  
10 survey. We took a ten-mile radius around PNR, which  
11 we're considering our immediate backyard. Now, our  
12 territory from which we draw customers is much larger  
13 than that, but we said we just want to look at that  
14 immediate backyard.

15                   So if you look at the map there, you  
16 can see the first five miles around PNR, and if  
17 you've ever been to PNR, it's mostly farmlands and  
18 some homes. So this ten-mile radius took us to about  
19 I-83 on the west side and to the outskirts of  
20 Jonestown, Anvil, Cleona on the east side and Palmyra  
21 and Hershey on the south side. So it does not  
22 include the City of Harrisburg. It does not include  
23 the City of Lebanon, but within that ten-mile radius,  
24 went to over 200 different locations and we found  
25 over 325 skill games at over 77 locations just within

1 our own backyard, that ten-mile radius.

2 I've highlighted - so the blue  
3 location markers on the map are all the locations  
4 that we found them. And then I highlighted and  
5 called out the ones that had more than ten - excuse  
6 me, ten or more skill games in each of them. So  
7 there's one that's an exit down from us on 81 called  
8 Keystone Club, that is literally right in the middle  
9 of the miniature golf course and there's a sign on  
10 the door in that middle picture there showing people  
11 where to go with the miniature golf course.

12 There was another one, DB Smoke and  
13 Vape in Jonestown, that had ten skill games in it.  
14 It was about a hundred yards from an elected  
15 official's district office. And then First Choice  
16 Convenience Store, which also had ten skill games,  
17 which was two exits down from us right off of 81.  
18 And again, it's a convenience store open to all ages.  
19 We also found two locations right in Grantville that  
20 had, between the two of them, seven skill games.

21 So turning to the next slide, while we  
22 did our research within the ten-mile radius, we  
23 looked outside of the ten-mile radius at places we  
24 were aware of that had these larger locations. So on  
25 the west shore, we found a place called Skill Games



1 Kingdom that had 32 skill games in there. Offers  
2 complimentary food and beverage, and advertises that  
3 they're open 24/7 on the weekends.

4                   There was a new one that I've been  
5 alerted to by a friend that opened in the  
6 Mechanicsburg area across from a popular brewery and  
7 that center picture there shows that outside the  
8 brewery, there's a lawn with seating areas and lawn  
9 games that families can hang out at.

10                   And if you see the picture in the  
11 middle there on the left, there was a kid playing  
12 right in front of - a toddler, playing right in front  
13 of this location. And when I walked in there, they  
14 offered me the top - in the middle there on the  
15 right, they offered me a coupon for \$10 credits on  
16 \$20 a play, which is, again, something we do in the  
17 casino business by doing these offers. And then the  
18 last one is Copies on the Square, which is up in  
19 Elizabethville in the far northern end of Dauphin  
20 County, which had ten of them crammed into the back  
21 of the general store, convenience store out there.

22                   So it's not just the number of  
23 location of the games, but it's also the observed  
24 responsible gaming issues. On the next slide. So we  
25 found 73 of these skill games in grocery or general

1 stores that were selling items geared towards minors,  
2 and we found 75 of them in gas or convenience stores  
3 that also have items that are geared towards minors.

4           So some of the pictures I pulled out  
5 there, that top left one, the one location I walked  
6 in, the shopkeeper was there playing the machine  
7 while on duty. The one on the top right there is a  
8 location near my house next to a daycare center. And  
9 the person who was attending the shop was a boy who  
10 maybe, 12, maybe 14, but certainly not 21 or 20, I  
11 walked around the store several times thinking,  
12 there's got to be an adult in here somewhere and  
13 there wasn't. And there was at least seven games at  
14 that location.

15           The bottom-left picture, you can see  
16 there is some skill games next to kids backpacks for  
17 sales at a location in Palmyra. And then the other  
18 two just show the signage that these are being  
19 advertised with and the ticket redemption units that  
20 these are installed.

21           That last one there on the left is  
22 interesting because that is a sign on a pole at the  
23 Turkey Hill around the corner from my house, and when  
24 we did this research back at the end of June and  
25 beginning of July, the Turkey Hills' in our area

1 didn't have that in there. I then was alerted that  
2 this one near us had it and they went and checked it  
3 out. And since we did this in early July, four of  
4 the five Turkey Hill's in our area; so Route 322 in  
5 Hershey; the one that's right next to Hershey Park;  
6 the one on North Mountain Road, and the one on 22  
7 East in West Hanover Township, all got skill games.  
8 And when I Googled Turkey Hill, they're owned by the  
9 American subsidiary of a UK conglomerate called EG  
10 Group, which is clearly not mom and pop operation, as  
11 we've been told these places go.

12                               So these are just some of the  
13 Responsible Gaming issues we found, but it goes to  
14 show that -. We're asking for 169 reduction. You  
15 can see right in our backyard, there's at least 325  
16 and there's now 77 other locations that someone can  
17 go and play a physical machine that, to many people  
18 appears, to me, having gone and looked at all these  
19 places, appears to be no different than our machines.

20                               And so you can see, we believe, and we  
21 submit to the Board, that this is directly affecting  
22 our business and why we're here with this reduction  
23 today. With that, I think we will take any  
24 questions.

25                               ATTORNEY KING: Yes, for your

1 questions.

2                    CHAIR: Actually, we're going to hear  
3 from OEC before the Board asks questions.

4                    ATTORNEY KING: Of course.

5                    ATTORNEY CROHE: Yes, we do have a few  
6 follow-up questions. I know you referenced the  
7 reduction in slots, improving your sight lines, but  
8 do you have any specific plans for the space that  
9 would be created should the relief be granted?

10                   MR. FRABBIELE: Really, it's more  
11 around the comfort of the game and spreading the  
12 games out. I think if you walk our floor today, it's  
13 very condensed and it was condensed for a reason,  
14 because we needed to get as many units as possible on  
15 the floor during peak volume periods of that  
16 property's life cycle.

17                    And so today, what we're focused on is  
18 more comfort. So I think it's just going to create  
19 an area and a space similar to what we did at The  
20 Meadows, Hollywood Casino at the Meadows, where it's  
21 a better flow for the customer to where they can make  
22 their journey through the property, find their  
23 machine as fast as possible, get into action, and get  
24 to the places they want to go to as quickly as  
25 possible.

1                   ATTORNEY CROHE: Thank you. And will  
2 this reduction impact any of the remaining slot  
3 machines, table games, or wagering kiosks that are on  
4 the gaming floor?

5                   MR. FRABBIELE: It will not.

6                   ATTORNEY CROHE: And will it result in  
7 any reduction to the square footage of the gaming  
8 floor itself?

9                   MR. FRABBIELE: It will not.

10                  ATTORNEY CROHE: Will this reduction,  
11 if granted, in any way, affect the current employees  
12 at the facility?

13                  MR. FRABBIELE: No impact on our  
14 employment.

15                  ATTORNEY CROHE: Okay.

16                                 And what is your anticipated timeframe  
17 for completion should this relief be granted?

18                  MR. FRABBIELE: The projects like this  
19 that have this left type of move are typically a 16  
20 to 90 day project, so I would say somewhere within  
21 that range.

22                  ATTORNEY CROHE: Thank you. No  
23 further questions at this point.

24                  CHAIR: Any questions or comments from  
25 the Board?

1                   MS. MANZANO-DIAZ: Yes.

2                   CHAIR: Commissioner Manzano-Diaz?

3                   MS. MANZANO-DIAZ: Yes. Thank you.

4 When your employees went to the various places, did  
5 they actually see any children playing on those  
6 machines?

7                   MR. HVIZDA: No. So I went to  
8 approximately 175 of them, and I did not see any  
9 children playing machines. It was just a child  
10 overseeing the store, and there were children in the  
11 stores, but I did not see any actually planning.

12                   MS. MANZANO-DIAZ: Okay.

13 Thank you.

14                   CHAIR: Anything else, Commissioner  
15 Manzano-Diaz?

16                   MS. MANZANO-DIAZ: No. Thank you,  
17 Madam Chair.

18                   CHAIR: I actually applaud you for all  
19 of the boots on the groundwork that you did in  
20 establishing a number of skill games in the vicinity.

21                   MR. HVIZDA: It was far more than any  
22 of us expected. The fact that these corporations are  
23 now getting into it, it's continuing to spread.

24                   CHAIR: Thank you. Enforcement  
25 Counsel, do you have a presentation?

1                    ATTORNEY CROHE: The OEC does not have  
2 a formal presentation. However, we do respectfully  
3 request that should the Board grant the Petition,  
4 that the approval be made subject to the conditions  
5 as set forth in OEC's Answer as filed on July 19,  
6 2024.

7                    CHAIR: Any questions or comments for  
8 Enforcement Counsel?

9                    Is there anything you would like to  
10 add, Hollywood?

11                   ATTORNEY KING: Nothing else other  
12 than just procedurally, we like to move our  
13 Presentation into the record and respectfully request  
14 that the Petition be granted.

15                   CHAIR: Any objection?

16                   ATTORNEY CROHE: No objection.

17                   CHAIR: I do have one other comment.  
18 1,532 is dangerously close to the statutory limit of  
19 minimum of 1,500. So I understand that as you're  
20 doing this transition, that may be sometimes where  
21 you might have machines that are less than 1,500 on  
22 the floor. How do you close to minimize that amount  
23 of time where it's less than 1,500.

24                   MR. FRABBIELE: Yes. So we  
25 specifically left our count of 1532 to address that

1 so that we could stay above the cap - or the floor of  
2 1,500. So we anticipate that if there's any time, it  
3 would be extremely minimal and it would be an  
4 unforeseen circumstance, like a massive power outage  
5 or something along those lines that, you know, happen  
6 from time to time, but they're very - they're  
7 extremely rare.

8                   So, you know, our anticipation of this  
9 project and working through it is that we do not go  
10 below the 1,500 game count.

11                   ATTORNEY KING: And if I can just add  
12 from a regulatory perspective, we've had very  
13 detailed discussions about that issue. We understand  
14 the requirements of the Act with respect to 1,500  
15 machines. And I can assure you that if we see any  
16 problems, if we may temporarily seek permission to go  
17 under 1,500, say, for a maintenance issue or  
18 something of that nature, we will be very, very  
19 careful in terms of communicating with all of the  
20 areas of the Gaming Control Board staff to ensure  
21 that everyone knows exactly what we're doing, what  
22 the expectations are in terms of timing, getting  
23 things back online.

24                   You know, and again, you're looking at  
25 either something very anticipated from an emergency



1 standpoint or something from a maintenance  
2 standpoint. But if any of that ever happens, I can  
3 assure you that the lines of communication will be  
4 open; they will be continuous, and everything will be  
5 well documented and carefully managed. Nobody would  
6 be surprised by anything.

7 CHAIR: Thank you. OEC, do you have  
8 anything to add?

9 ATTORNEY CROHE: Nothing to add  
10 further. Thank you.

11 CHAIR: Okay.

12 Thank you. That concludes this  
13 proceeding. This matter will be put before the Board  
14 for a vote later this morning during the Office of  
15 Chief Counsel's portion of the Agenda. Thank you  
16 very much.

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18 HEARING CONCLUDED AT 10:29 A.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings, before the Pennsylvania Gaming Control Board, was reported by me on August 21, 2024 and that I, Derek Richmond, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

Date the 11th day of September, 2024



Derek Richmond,  
Court Reporter