



BOSTON  
TRANSPORTATION  
DEPARTMENT

ONE CITY HALL SQUARE • ROOM 721  
BOSTON, MASSACHUSETTS 02201  
617-635-4680 • FAX 617-635-4295

June 15, 2015

Mr. Robert DeSalvio  
Senior Vice President  
Wynn Resorts, LLC  
3131 Las Vegas Boulevard  
South Las Vegas, NV 89109

Re: Engineering Report for Sullivan Square Mitigation Boston, MA

Dear Mr. DeSalvio:

As Commissioner of the Boston Transportation Department, I am the City's designated coordinator of the transportation-related review of the casino project proposed by Wynn MA, LLC ("Wynn"). As you are aware, the conditional license granted to Wynn by the Massachusetts Gaming Commission ("MGC"), effective as of November 7, 2014, included the condition that "[w]ithin ninety (90) days following the Effective Date, Wynn will submit to the Public Improvement Commission the application relating to Wynn's Sullivan Square mitigation."

At recent hearings before the MGC, Wynn representatives have testified that, on January 30, 2015, Wynn submitted the application to Boston's Public Improvement Commission ("PIC") as required by the conditional license. For instance, on March 19, 2015, Jacqui Krum informed the MGC: "We have also submitted our PIC application, the public improvement commission application related to our Sullivan Square mitigation." Wynn's project manager, Chris Gordon, then represented that the "application" was submitted in January, before the 90-day deadline. Wynn's PowerPoint presentation to the MGC for that hearing likewise indicated that Wynn already had submitted its "PIC application relating to Wynn's Sullivan Square mitigation."

On May 20, 2015, the City of Boston filed an amended complaint ("Amended Complaint") in *City of Boston v. Massachusetts Gaming Commission, et al.*, Case No. 2015SUCV00012-BLS2. The Amended Complaint included a claim seeking invalidation of the license on the ground that Wynn has failed to comply with the license condition because it did not timely file a permit application with the PIC. In light of Boston's claim against the MGC, at a public hearing on

MARTIN J. WALSH, Mayor



May 28, 2015, the MGC specifically requested that Wynn explain how it had complied with the license condition. In response, you read from a prepared statement, admitting that Wynn had not submitted a “formal application” to the PIC. Rather, you described Wynn’s application as an “Engineering Report” with related coordination plans in certain sizes. You then stated that Wynn’s submission “follows the process prescribed by the Public Improvement Commission.” You added that Wynn’s engineering consultant, Howard Stein-Hudson, prepares such applications on a regular basis and made Wynn’s submission after consultation with the PIC.

This letter confirms that Wynn has *never* submitted an application to the PIC. The documents submitted by Wynn on January 30, 2015 are the only documents that the PIC has ever received from Wynn. The engineering report and coordination plans omit virtually all the required components of a valid permit application. Despite Wynn’s characterization, the documents it submitted do not constitute an application. Wynn’s submission is, at best, merely an update on its continually evolving proposals for the area.

As the Wynn team and Howard Stein-Hudson are well aware, the PIC’s application requirements have been established for years and are familiar to all engineering professionals who have done work in the City of Boston. These requirements are publicly available online. Contrary to your representation to the MGC, Wynn’s submission did not follow the process prescribed by the PIC.

As a threshold matter, Wynn’s submission did not even include a petition. The PIC’s application procedures also clearly state that an applicant must submit plans and background information relating to the project to specified public agencies, including the Boston Transportation Department, Inspectional Services Department, Water and Sewer Commission, and the Mayor’s Office of Neighborhood Services. In addition, a written response indicating approval is required from these public agencies. Wynn’s submission did not include a written response indicating approval from any agency.

The submission also fails to meet several other PIC application requirements. For example, the “Coordination Plans” are not stamped, the existing road layouts are not shown in the manner required, and the submission contains no legal description of the proposed revised layout areas. The materials include no evidence of consultation with the City’s legal counsel, and, while styled as an “Engineering Report,” the submission does not include a single one of the PIC’s required engineering elements. Indeed, as Wynn’s own schedule makes clear, engineering plans of the

Mr. Robert DeSalvio  
June 15, 2015  
Page 3

sort that all PIC applications feature are many months away. In fact, Wynn's submission bears no resemblance to any of the permit applications that Howard Stein-Hudson has previously filed with the PIC.

While you informed the MGC that Wynn's submission followed a consultation with the PIC, the PIC regularly meets with applicants contemplating the submission of permit applications. However, it remains the applicant's sole responsibility to comply with the PIC's application requirements. That did not occur here.

Finally, you also informed the MGC that Wynn had "not received an indication from the Public Improvement Commission or any agency that our application is deficient in any way." However, Wynn's submission was *not* an application and did not petition the PIC to take any action. Accordingly, the submission merited no response. The PIC had no duty or obligation to respond to Wynn's engineering report. It will take no action on it. I also respectfully ask Wynn to discontinue referring to its January 30, 2015 submission as an "application," as that characterization is inaccurate and misleading.

Sincerely,



Gina N. Fiandaca, Commissioner  
Boston Transportation Department

cc: Stephen Crosby, Chair Massachusetts Gaming Commission  
John Ziemia, Ombudsman Massachusetts Gaming Commission  
Catherine Blue, General Counsel Massachusetts Gaming Commission