



January 9, 2015

Kent E. Richey
Faegre Baker Daniels
2200 Wells Fargo Center
90 South Seventh St.
Minneapolis, MN 55402-3901

Re: Declination Letter Request for Mohegan Tribal Finance Authority

Dear Mr. Richey:

This letter responds to your December 15, 2014 request on behalf of the Mohegan Tribal Finance Authority, an instrumentality of the Mohegan Tribe of Indians of Connecticut, for the National Indian Gaming Commission's Office of General Counsel to review a ground lease between the Tribe and MTFA and a sublease between the MTFA and the Mohegan Tribal Gaming Authority. These leases relate to the construction and operation of a hotel. No gaming will occur in the hotel, and the hotel is not connected to the Tribe's existing gaming operation. You have asked for my opinion whether the documents are management contracts requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et. seq.

The NIGC's jurisdiction under the IGRA is confined to the regulation of gaming. *See* 25 U.S.C. §2702(3). As part of that regulation, the NIGC Chair reviews and approves management contracts for the operation of tribal gaming. *See* 25 U.S.C. § 2711. Because management contracts not approved by the Chair are void, and could result in enforcement action, the NIGC encourages tribes to submit any gaming-related agreements (consulting agreements and game leases, for example) for a determination whether they are management contracts under the IGRA and thus subject to review and approval. *See* NIGC Bulletin 93-3, http://www.nigc.gov/Reading_Room/Bulletins/Bulletin_No._1993-3.aspx.

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The agreements you submitted, however, do not relate to the Tribe's gaming operation or any of the gaming activity that will occur there. It appears that you have submitted these non-gaming agreements in an over-abundance of caution. We have been informed that some lenders are requiring the submission of any and all agreements for financing in Indian country to the NIGC for a declination letter prior to the approval of funding regardless of whether the agreements at issue relate to gaming. While the receipt of such a letter may give lenders comfort, the NIGC has no jurisdiction over such agreements and therefore does not have the authority to review them. Thus, while the NIGC continues to encourage the submission of gaming-related agreements, it will not review or opine on non-gaming related agreements.

I anticipate that this letter will be posted to the NIGC's website. Please advise within the next 10 business days whether you believe any information contained herein is subject to withholding pursuant to the exemptions to Freedom of Information Act, 5 U.S.C. § 552(b).

Please contact Senior Attorney Maria Getoff if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "ES", followed by a horizontal dashed line.

Eric Shepard
General Counsel (Acting)