

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

Case No:

In re: Petition for Declaratory Statement

WEST FLAGLER ASSOCIATES, LTD.,

Petitioner.

PETITION FOR DECLARATORY STATEMENT

COMES NOW, West Flagler Associates, Ltd. (“West Flagler”), and hereby moves pursuant to Section 120.565, Florida Statutes (2012),¹ and Rule 28-105, Florida Administrative Code (2010), and requests the issuance of a declaratory statement by the Division of Pari-Mutuel Wagering (the “Division”) regarding the application of Chapter 551, Florida Statutes, and the administrative rules adopted thereunder, to West Flagler’s particular set of circumstances. In support of the Petition, West Flagler states the following:

1. The affected agency is the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, located at Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399. The Division is the state agency authorized to administer Chapter 551, Florida Statutes, including the conduct of pari-mutuel and slot machine gaming operations. *See* 551.103, Fla. Stat. (2012).
2. The Division has jurisdiction over this proceeding pursuant to Section 120.565, Florida Statutes.

¹ All references herein to “Chapter” or “Section” are to the applicable chapter or section of the official 2012 version of the Florida Statutes.

3. West Flagler's corporate office is located at 450 NW 37th Avenue, Miami, Florida 33126. For purposes of this Petition, West Flagler's address is that of the undersigned counsel.

4. West Flagler owns and operates the Magic City Casino in Miami, Florida, and is licensed by the Division to conduct pari-mutuel, cardroom and slot machine operations. West Flagler holds two pari-mutuel wagering permits at this location, one for greyhound operations and one for jai alai operations.

5. West Flagler conducted live racing during the 2002 and 2003 calendar years at the Magic City Casino and such facility is eligible to conduct slot machine gaming pursuant to Article X, Section 23 of the Florida Constitution (1968).

6. Florida law defines "eligible facility" for slot machine licensing as follows:

"Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county; any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

§ 551.102(4), Fla. Stat. (2012).

7. West Flagler currently conducts a minimum number of live greyhound performances in order to renew its annual slot machine license. *See* § 551.104(4)(c), Fla. Stat. (2012). Section 551.114(4), Florida Statutes, also provides that "[d]esignated slot machine

gaming areas may be located within the current live gaming facility or in an existing building that must be contiguous and connected to the live gaming facility.”

8. West Flagler is in doubt as to whether Sections 551.102(4), 551.104(4)(c) and 551.114, Florida Statutes, or any other provision of Florida law, require a slot machine operator to conduct live pari-mutuel performances at the same location in which slot machine gaming is conducted. Specifically, West Flagler questions whether a permitholder can lease another permitholder’s premises, conduct a full schedule of live performances, and still retain eligibility to conduct slot machine operations.

9. West Flagler seeks a declaratory statement from the Division concerning how the operative provisions of Chapter 551, or any other provision of Florida law, including any applicable administrative rules, would impact the question presented below regarding West Flagler’s conduct of slot machine operations at the Magic City Casino.

Questions Presented

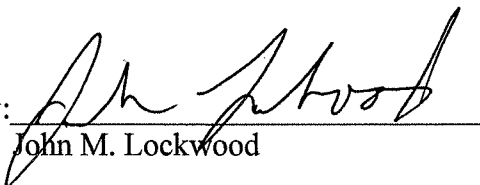
Question 1: Whether any provision of Chapter 551, Florida Statutes, or any other provision of Florida law, requires a permitholder to conduct a full schedule of live pari-mutuel performances at the same location in which slot machine gaming will be conducted in order to receive an initial slot machine license.

Question 2: Whether any provision of Chapter 551, Florida Statutes, or any other provision of Florida law, requires a permitholder to conduct a full schedule of live pari-mutuel performances at the same location in which slot machine gaming is conducted in order to renew its annual slot machine license.

WHEREFORE, West Flagler requests that the Division issue a Declaratory Statement responding to the above-stated questions.


Respectfully submitted this 25th day of February, 2013.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing document was filed via hand delivery with the Agency Clerk of the Department of Business and Professional Regulation at 1940 North Monroe Street, Tallahassee, Florida 32399-1035 on this 25th day of February 2013.


John M. Lockwood