Good morning. I am George Bedwick, Legislative Counsel to the House Majority Whip and with me is Audrey Powell, Policy Director to the House Majority Leader. We both were actively involved in the development and drafting of the Pennsylvania Race Horse Development and Gaming Act on behalf of the House Democratic Caucus. Numerous issues have arisen related to the requirements for Category 3 licenses under Section 1305 since the passage of the Act. When drafting legislation one cannot anticipate every circumstance that may arise and legislation, oftentimes, sets broad policy goals for those charged with administering the law and permits them latitude in filling in details through regulation within the parameters of those goals. Section 1305 represents this type of situation. We cannot speak for the other caucuses of the General Assembly nor can we speak for the entire House Democratic Caucus but we can discuss the intent of those members of our caucus who were actively involved in the passage of Act 71.

Rather than walk through all the specific requirements of Section 1305 we felt it might be beneficial to discuss the intent for the establishment of Category 3 licenses and then key into some specific issues we know the Board is dealing with. At some point during the development of Act 71 the idea arose that among the benefits that could be derived from the authorization of slot machine gaming in Pennsylvania was the opportunity to enhance the competitiveness of some of the many resort facilities that exist in the Commonwealth vis a vis facilities out of state. As a result, a decision was made to include a very limited license category in the legislation for resort facilities. The category was necessarily very limited to avoid market saturation. It is important to note that although property tax relief and enhancement of the horse racing/agricultural industry in Pennsylvania were the key reasons for the passage of Act 71, job creation, economic development and enhancement of our tourism industry were also viewed as integral benefits that could result from enactment.

Turning to some specific issues that have arisen since the passage of the Act, the first we will address is whether time-share units should qualify as guest rooms in determining whether the resort has the requisite 275 guest rooms available to the general public. We believe the inclusion of certain time-share units would fit within the intent of Section 1305. As the Board is aware, one of the requirements of Section 1305 is that the guest rooms must be under common ownership. Some time-shares are structured in a way that includes a deeding of title to those units for certain periods of time. Other time-shares are structured in a way that does not involve any deeding of title to the units. They function more like a guaranteed, advance registration system for the units. We believe that type of time-share unit fits clearly within the intent of guest rooms available to the general public under Section 1305. They present a situation no different, in our opinion, than a group reserving, a year in advance, a block of rooms for a conference or a convention. We believe that counting all such units toward the 275 guest room requirement of Section 1305 would in no way violate the intent of that section. It would, in fact, be completely compatible with the intent of Section 1305. In the alternative, the Board, at a minimum, can use some type of mathematical approach to determine the number of rooms available to the general public “on an average basis” during the course of a year since these units are available for rental by the general public when they are not being utilized by time-share guests. We would emphasize though that this mathematical approach is merely an alternative if the Board does not agree with our belief that all of these units should be counted toward the minimum guest room requirement. Deeded time-share units present a more difficult issue because of the statutory requirement that the rooms be under common ownership. While we cannot provide guidance to

the Board on this type of time-share unit, we would note for the Board that most are subject to the hotel occupancy tax. The Board may wish to discuss with the Pennsylvania Department of Revenue, if it has not already done so, the rationale that Department uses for taxing these units as hotel units and whether that rationale can help the Board as it deliberates on how to treat these units.

Several issues have arisen that are related to the definition of "patron of the amenities". This definition must be interpreted in close conjunction with the definition of "amenities" in the statute. They are carefully interwoven. The intent of these definitions was that anyone, including the transient public, utilizing an amenity at the resort for fair compensation would be permitted into the gaming area. This would include those who have memberships, such as golf or tennis memberships, etc, at the resort facility. It is important to note that nowhere in the definition of "patron of the amenities" or elsewhere in Section 1305 is there a time limit imposed on when a patron of an amenity would be permitted to enter the gaming area. However, having said that, we do believe that some time limits should be imposed by the Board in order to comply with the intent of Section 1305. That intent was to preclude members of the general public from coming to the facility simply to play slot machines. We believe that the time limits imposed should be varied depending on the amenity utilized by the patron. Those with seasonal memberships for which they have paid fair consideration, such as golf, tennis, swimming or social club memberships, should be permitted unlimited access to the gaming area for the full calendar year. Those who utilize only dining facilities, for example, should be permitted into the gaming facility during a shorter period time but a period of time that need not be only the day they were dining at the facility. Perhaps dinner guest can be given a voucher for one visit to the gaming area each time they dine at the facility that is good for a one month period. We also believe that "amenities" can include arrangements with surrounding entities but would qualify it to require that the resort itself receive in compensation whatever general, non-de minimus monetary requirement is established by the Board for all Category 3 licensees.

We do believe that the non-de minimus monetary requirement established by the Board may be too high and too restrictive within context of the intent of Section 1305. For a couple, it would require the expenditure of $50 on an amenity before being permitted entry to the gaming area. However, should the Board choose to retain the current monetary level it has established, we do not believe it would be an abuse of the Board's discretion under the statute. However, we further believe that it was not the intent of the General Assembly to apply the non-de minimus monetary requirement to persons attending conferences, banquets, weddings, and similar functions at the facility.

The final question we will address is what was intended by the term "well-established resort hotel". This term should be interpreted as a distinct requirement in the Section and not in conjunction with the other requirements contained in Section 1305. To be considered "well-established" under the statute the resort should have a history in Pennsylvania and been in operation on the date the statute became law. However, the resort would not have had to have met the other requirements of the Section on that date. And, at the time of licensing, the resort would have to offer a wide range of amenities to its patrons on a year round basis together with complying with the other requirements of the Section.

We thank the Board for the opportunity to appear today and will be happy to answer any questions you may have.