

PENNSYLVANIA GAMING CONTROL BOARD

CATEGORY 3 ELIGIBILITY CRITERIA HEARING
CE-PALACE, LP

OCTOBER 17, 2007, 9:05 A.M.

KEYSTONE BUILDING
PUC HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

BEFORE:

MARY DiGIACOMO COLINS, CHAIRMAN
RAYMOND ANGELI
JEFFREY COY
JAMES GINTY
KENNETH McCABE
SANFORD RIVERS
GARY SOJKA

APPEARANCES:

LEVINE, STALLER, SKLAR, CHAN, BROWN & DONNELLY, P.A.
BY: JOHN DONNELLY, ESQUIRE

FOR - CE-PALACE, LP

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

I N D E X

1		
2	WITNESS	PAGE
3	John Donnelly	8
4	Craig Cozza	20
5	Sandy Rice	34
6	Cory Morowitz	42
7	Jeffrey DePaolis	49
8	Jamie Milanovich	55
9	Ricky Moyer	72
10	Marie Jones	76
11	Norman Kennard	80
12	Charles Dickinson	83
13	David Godowsky	89
14	James Eisenhower	96
15	Kevin Hannigan	101
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 CHAIRMAN DiGIACOMO COLINS: Good morning,
2 everyone. My apologies for the short delay, but
3 we're prepared to begin now.

4 I will call to order this meeting of the
5 Pennsylvania Gaming Control Board in the matter of
6 the Category 3, eligibility hearings.

7 All members of the Board are present for
8 these hearings. Today, we are continuing the
9 eligibility hearing for the Category 3 slot machine
10 applicants.

11 These hearings began yesterday with the
12 presentations by Valley Forge Convention Center and
13 Vacation Charters in their effort to demonstrate to
14 the Board's satisfaction their eligibility to proceed
15 through the licensing process under the Gaming Act.

16 The same instructions which I presented
17 yesterday for the process are applicable today to
18 these hearings for CE-Palace and Bushkill Group.

19 I'm going to ask our Chief Counsel, Frank
20 Donaghue to address the requirements for the Category
21 3 eligibility under the Act.

22 MR. DONAGHUE: Thank you, Chairman Colins
23 and members of the Board. The Pennsylvania Racehorse
24 and Development and Gaming Act provides the
25 authorization for two slot machine gaming licenses

1 referred to as Category 3 licenses to be granted to
2 well-established resort hotel facilities under the
3 provisions of Section 1305 and 1307 of the Act.

4 Applications have been received from Valley
5 Forge Convention Center Partners, LP; CE-Palace, LP;
6 Vacation Charters; and the Bushkill Group.

7 The Gaming Act sets forth very specific
8 eligibility criteria for Category 3 applicants to
9 gain a slot machine license.

10 Those criteria are set forth in Section
11 1305 of the Act and require that each applicant must
12 demonstrate to the Board's satisfaction that it meets
13 the criteria.

14 Specifically, each applicant should
15 establish that the applicant, its affiliates,
16 intermediaries, subsidiaries, or holding company has
17 not applied for or has been approved or issued a
18 Category 1 or 2 license.

19 The applicant is seeking to locate a
20 Category 3 licensed facility in a well-established
21 resort hotel having no fewer than 275 guest rooms
22 under common ownership and having substantial
23 year-round recreational amenities.

24 Third, the applicant is the owner or the
25 wholly owned subsidiary of the owner of the

1 established resort hotel.

2 The applicant will only permit an
3 individual to enter a gaming area if that person is a
4 registered, overnight guest of the established resort
5 or if the individual is a patron of one or more of
6 the amenities provided at the established resort
7 hotel.

8 Next, any applicant would not have been a
9 public official or an executive level public employee
10 for one year prior to the issuance of a license.

11 Next, compliance with Section 1305(a)(3),
12 if applicable; and finally, the Category 3 license
13 facility would not be located within 15 linear miles
14 of another licensed facility.

15 If, after consideration of all of the
16 evidence, the Board is satisfied that an applicant
17 meets the basic eligibility criteria for licensure,
18 the Board staff will then undertake an extensive
19 background investigation process of the applicant.

20 The Board will also be scheduling public
21 input hearings in the municipalities where the
22 facilities would be located, and will be scheduling
23 final suitability hearings to permit the Board to
24 obtain full investigative reports by staff, as well
25 as presentations by the applicants to demonstrate

1 their suitability for one of the two limited Category
2 3 licenses.

3 If, after consideration of all of the
4 evidence, the Board is satisfied that an applicant
5 meets the basic eligibility criteria for licensure,
6 the Board staff will then undertake an extensive
7 background investigation process.

8 To be clear, the purpose of these hearings
9 is for the Board to determine as a threshold matter
10 whether the applicants facially satisfy the statutory
11 eligibility criteria such that they should proceed to
12 the investigatory stage of the process.

13 The Board has an ongoing obligation to
14 assure that each applicant is eligible for licensure
15 at all stages of the licensing proceeding.

16 If, during the course of an investigatory
17 process, the Board obtains subsequent information
18 that bears on a determination of that eligibility,
19 the Board may revisit the eligibility issue based
20 upon the information as appropriate.

21 The Board will also be scheduling public
22 input hearings in the municipalities where the
23 facilities would be located and will schedule the
24 final suitability hearings to permit the Board to
25 obtain the full investigative reports by staff, as

1 well as presentations by the applicants.

2 CHAIRMAN DiGIACOMO COLINS: Thank you very
3 much.

4 Now, as occurred yesterday, each of the
5 Category 3 licensees will be making a presentation to
6 the Board today on the issues of eligibility.

7 In addition, the Board has retained the
8 services of an engineer to measure distances between
9 applicants and other licensed facilities to ensure
10 compliance with the Act. A representative of that
11 engineering firm will also present the results of his
12 findings.

13 Following those presentations, the Board
14 may hear from other Category 3 applicants or Category
15 1 and 2 licensees who have evidence to present to the
16 Board concerning the applicant's eligibility.

17 The Board will also have the opportunity to
18 ask questions of any entity presenting evidence
19 during these proceedings.

20 Please be aware that the evidence to be
21 received is limited in these proceedings to the
22 eligibility issues and not suitability factors,
23 including which applicants are best situated to
24 receive a license or what effect any applicant
25 receiving a license would have on another licensee.

1 That type of comparative or competitive
2 evidence will be received in the final suitability
3 hearings.

4 Now, today the Board will be hearing from
5 CE-Palace and then that will be followed at
6 11:00 a.m. by the Bushkill Group.

7 After the hearings which will occur today,
8 the Board will permit any applicant or licensee who
9 contests the eligibility of another applicant a
10 period of 15 days in which to submit any supplemental
11 evidentiary materials or memoranda to the Board to
12 contest the eligibility of an applicant.

13 Any applicant subject to such post-hearing
14 submissions may file a final response within seven
15 days. No further filings will be accepted.

16 Thereafter, the record will be closed; and
17 the Board will undertake an examination of the record
18 and subsequently issue an order concerning the
19 licensing status of each applicant and determine
20 whether the applicant will proceed to the
21 investigative stage of the licensing to process.

22 Now, I'll ask counsel and witnesses for
23 CE-Palace, if you would identify yourselves and then
24 I'll ask the witnesses to rise and take an oath.

25 MR. DONNELLY: Thank you. Good morning,

1 morning everybody. John Donnelly appearing on behalf
2 of CE-Palace and Craig Cozza.

3 I would like Craig Cozza to stand, Sandy
4 Rice, Cory Morowitz, Jeffrey DePaolis, and Jamie
5 Milanovich will be the witnesses.

6 CHAIRMAN DiGIACOMO COLINS: Thank you very
7 much, Mr. Donnelly.

8 Okay. Would you administer -- where is
9 she? I'm so sorry. Good morning. Would you
10 administer an oath, please, to the witnesses.

11 (Witnesses sworn en masse.)

12 CHAIRMAN DiGIACOMO COLINS: Very good.
13 Thank you.

14 Mr. Donnelly, you may proceed, sir.

15 MR. DONNELLY: Thank you. Again, good
16 morning. We will try to be brief and we will
17 certainly got the message that this is eligibility.

18 I represent CE-Palace, LP, and Craig Cozza,
19 which is an applicant for Category 3 license.
20 CE-Palace is a well-established resort hotel that is
21 located 15.9 linear miles from the next closest
22 facility that has been approved by this Board, but
23 not yet licensed, which would be the Majestic Star
24 facility in Pittsburgh referred to as the Majestic
25 Star or the Barden facility.

1 At issue today, because we have objectors
2 in the crowd and we have read the objections, I think
3 there is little or no dispute about the facility
4 itself, the spatial part of the facility, where its
5 cited and so on; nor is there -- do I think there
6 will be any dispute as to what Mr. Cozza intends to
7 do or intended to do even before the opportunity for
8 gaming presented itself -- himself and intends to do
9 at the project.

10 The battleground will be issues that are
11 going to be raised by the objectors. They
12 essentially, I think, after listening tomorrow will
13 raise -- because it was a slight problem yesterday --
14 with regard to the hotel, what kind of hotel is it,
15 with regard to the 275 room requirement, and with
16 regard to the requirement in the statute that there
17 be -- the facilities being 15 linear miles from each
18 other.

19 I believe that putting the fat in the fire
20 -- we're going to be putting the fat in the fire on
21 all of the issues and address it. I think that after
22 you hear the evidence --

23 CHAIRMAN DiGIACOMO COLINS: Excuse me. I
24 couldn't hear you.

25 MR. DONNELLY: Fine. You will be convinced

1 that this facility is more than eligible and
2 precisely the kind of facility that the legislature
3 had in mind when they said let's have a very limited
4 gaming experience in a very limited number of well
5 established resorts, both to continue the tradition
6 of bringing tourist guests and visitors into the area
7 and also to add to the amenity that would help those
8 facilities.

9 So, let me take a minute. Mr. Cozza will
10 address you, as will Sandy Rice, who is from the
11 Monroeville Convention and Visitors Bureau about what
12 this facility was in the past and is right today and
13 will be in the future.

14 This facility, the Palace, was a conception
15 of a man by the name of Al Monzo, an entrepreneur, a
16 person in the area, a promoter, who developed
17 essentially a Las Vegas style resort hotel in
18 Pittsburgh.

19 He named it the Palace, like Caesar's
20 Palace. He had a showroom in there called the Vegas
21 Room. They had boxing matches on a regular basis.
22 They had headlines there. He had comedy acts there.
23 He had food and banquet and entertainment facilities.

24 For 32 years, Al Monzo ran this facility as
25 the hub resort hotel facility in Allegheny County

1 outside of what may have been in Pittsburgh.

2 So successful was it that they created an
3 independent convention and visitor bureau for
4 Monroeville -- for Allegheny County, for Monroeville,
5 which Miss Rice will talk about.

6 I think she's going to say it's the only
7 one in the state where there is two CV -- Convention
8 Visitor Bureaus in one county.

9 This facility drew people from the
10 tri-state area; Ohio, West Virginia, and
11 Pennsylvania, and drew people in for all of the
12 amenities that were there. It was built to even look
13 like a casino.

14 When we move to the slides, you'll see it
15 will be very reminiscent of a 1970s casino in Las
16 Vegas. It had an indoor running track. It had an
17 indoor spa facility. It had a gift shop. It had two
18 restaurants.

19 He had a mammoth ballroom. They conducted
20 ballroom dancing there. As I said, they had
21 comedians. They had headliners in the place. They
22 did all of the things that people do in Las Vegas and
23 now Atlantic City resort hotel casino; everything but
24 the casino.

25 People came, they drank and had drinks at

1 the lounges and listened to groups at the lounges.
2 They danced in the ballroom. They ate dinners there.
3 They watched the fight or the headliner show or the
4 comedian in the evening.

5 They stayed overnight in the hotel room,
6 which was varied in size, but which was advertised by
7 the Convention Visitors Bureau as having -- what is
8 the number -- 289.

9 What happened is Mr. Monzo, as all of us
10 have a tendency to do, died. When he died, he had a
11 family that was either not interested or did not have
12 the skills to continue to run the property.

13 In approximately June of 2004, the property
14 closed. Mr. Cozza came along a couple of years
15 later, August of 2007, and bought the facility, lock,
16 stock, and barrel.

17 He looked at it; and at the time, he did
18 not make an application for a gaming license. He
19 looked at it and said, well, what I'm going to do is
20 bring this back as a resort hotel facility as it has
21 been for the past 32 years.

22 He undertook a gut renovation of it to the
23 tune of about \$45 million, which is underway as we
24 speak, and which should be completed in the late
25 spring, early summer of next year.

1 As that was undergoing, and as it became
2 apparent later on, he didn't apply for a Cat 3 in the
3 first go around.

4 As it became apparent later on that a Cat 3
5 license may be available later on, he made that
6 application and appears to you today.

7 Now, our objectors are going to say that
8 because this facility was closed for two years, it is
9 no longer eligible as a well-established resort
10 hotel.

11 I tried to think of some analogies as we
12 always do. Hurricane Katrina shut down New Orleans
13 for a substantial period of time and is still
14 partially shut down. I don't think anyone would
15 argue that New Orleans is not a well-established
16 resort area.

17 I have seen some of the comments from the
18 legislators, or legislative aides, who worked on this
19 bill and said that they patterned it on West
20 Virginia, on a facility down there. I think
21 Berkshire -- Greenbrier facility.

22 Well, if that facility were to burn down
23 and be shut while it was being renovated, no one
24 would suggest that that wasn't a well-established
25 resort hotel, nor for that matter if you look at the

1 Atlantic City precedent when casino gambling first
2 started, a number of people bought -- most people
3 bought existing hotels that had been well-established
4 resort hotels.

5 They didn't have gaming, had the same kind
6 of things they had at the Palace; lounges,
7 restaurants, Hula Night, parties, the kind of things
8 that go on in an urban hotel setting.

9 No one would argue those places, even
10 though some of them closed, were not well-established
11 resort hotels.

12 So, I would like you to keep that in mind
13 when we hear the objectors and we have the rebuttal
14 time, which we reserved to respond to anything they
15 say.

16 That deals with the well-established resort
17 hotel, the 275 rooms. Let's look to the linear
18 miles. That's the one that seems to perk up
19 everybody's ears because when you first read it, you
20 say, well, gee, linear miles. I hear the term, I
21 think of the term linear board feet. That's the only
22 time I really hear it. On linear equations, I have
23 no clue what a linear equation is. Linear board
24 feet, I've seen. You buy boards that go around the
25 house.

1 So, I started looking at it. This is the
2 analysis we used: You have a statute. The statute
3 says we're going to have Cat 1 and Cat 2 casinos --
4 Cat 2 huge facilities.

5 We're also going to have a limited number
6 of other facilities, these Cat 3s, which -- then
7 building several market protections. There's only
8 going to be 500 slots, small.

9 People can use it only if they use other
10 amenities or they are guests, limitation on who can
11 be in there, limitation on the period of time that
12 you can use the amenities and get in.

13 The fourth, a very di minimus protection,
14 but the fourth presumably market protection was 15
15 linear miles.

16 So, one has to stop and think why would the
17 legislature use a word linear miles, which is not a
18 common word that people in cocktail chatter talk
19 about?

20 So, we started looking at what linear miles
21 might mean and what the legislature was doing. One
22 of the first things we looked to is the Cat 3
23 application that this Board put forth.

24 Interestingly, the Cat 3 application itself
25 draws a distinction between linear miles and radius

1 miles.

2 Now, we all had high school geometry. Some
3 of us didn't have linear equations. Some of us did.
4 I didn't. I had high school geometry and I
5 understand radius because I had my compass. Stick it
6 in a point, you draw the circle, that's the radius.

7 In a Cat 3 application for -- let me see
8 what appendix, Appendix 29 it requires the applicant
9 to essentially certify that its facilities -- post
10 facility will be more than 15 linear miles from
11 another licensed facility.

12 The next sentence says, in addition,
13 provide the number of miles between the property
14 facility and a licensed facility within a 20-mile
15 radius of a proposed project. Now, that makes sense
16 to me. There's a big difference between in my mind
17 radius and linear miles.

18 Then in Appendix 30, there's yet another
19 measurement used, which is within 1500 feet, which
20 talks about charitable institution, parks, zoos, and
21 items.

22 So, then we started looking at the uses by
23 other administrative agencies of this Commonwealth of
24 the word linear.

25 We found that it is a very common word by

1 PennDOT. PennDOT uses linear miles throughout its
2 nomenclature and its regulations and its
3 publications.

4 The reason they do that -- it's common
5 sense -- is that people, which is the market --
6 people -- those people who want to gamble, those
7 people who want to go to a resort hotel, they don't
8 get from Point A to Point B by being catapulted in a
9 straight line or being shot out of a cannon in a
10 straight line.

11 They get from Point A to Point B down a
12 path, and that path is a road. If you're talking
13 about a distance in market, I believe you have to
14 think in terms of roadway travel. That's what this
15 Gaming Board has done.

16 In your own task force analyses, which I
17 don't have to remind you of, what is used and what
18 commonly used in the industry is drive count because
19 that's how human beings get from one point to another
20 point, they drive their cars.

21 When the analyses are being done as to
22 market penetration and gravity analysis, as you have
23 seen, and they have drive time analyses, that's what
24 they call them.

25 Today, we are bringing three experts. We

1 are bringing Cory Morowitz, who is a veteran casino
2 analyst from Atlantic City, who has worked
3 interestingly for some of my competition, Pocono
4 Manor, and for others in Pennsylvania, and has worked
5 for Las Vegas casinos and others in market analysis
6 and so on.

7 Cory is going to explain what doesn't
8 really need explaining to you because you have seen
9 it; how these drive time analyses are done and why
10 they are done and why roadways are used.

11 Secondly, we're going to have two
12 engineers, licensed professional engineers, from the
13 State of Pennsylvania who have worked with DOT
14 frequently.

15 They will discuss why, again, what the term
16 linear miles means to the ears of an engineer when
17 they hear that term; and they will tell you what that
18 means to them and translates to them road travel.

19 Finally, it's just common sense that if
20 you're trying to protect the market, that you would
21 protect that market along the way that people get
22 from Point A to Point B.

23 The market, the protection you're trying to
24 put in place is for a market, and the market has to
25 be drive time or how people get down that path.

1 So, although this was the hot button issue,
2 I know when we looked at linear miles, I think common
3 sense, practice of this Board in its application,
4 practice of this Board in analyzing markets, and
5 other administrative agencies in the state, and the
6 basic notion of what are we trying to achieve by this
7 very minimal location, 15 miles isn't a whole lot,
8 would all compel people to try when they're trying to
9 figure out why in the world did the legislature use
10 this odd word, linear, and not use a common word,
11 radius or just straight line distance; and I think
12 you have to reach the conclusion, you got to give
13 every word in the statute some effect, I think you
14 have to come to the conclusion that they meant
15 something completely different from the common word
16 radius and completely different from the word
17 straight line and how people get from Point A to
18 Point B.

19 With that I will call my first witness,
20 Craig Cozza. Thank you.

21 MR. COZZA: Good morning, Board; and thank
22 you for hearing us today.

23 MR. DONNELLY: Craig, I want to ask you
24 some preliminary questions just to take care of the
25 statutory requirements. We'll be submitting an

1 affidavit, as well with these questions; but what is
2 your position with CE-Palace?

3 MR. COZZA: 100 percent owner.

4 CHAIRMAN DiGIACOMO COLINS: Mr. Donnelly,
5 you can sit down if you would like and it will get
6 you to the microphone more easily.

7 MR. DONNELLY: Thank you. How many guest
8 rooms does the CE-Palace have?

9 MR. COZZA: 278.

10 MR. DONNELLY: Does the CE-Palace or any
11 affiliate, intermediary, subsidiary, or holding
12 company of it, or have any of those applied for or
13 been approved or issued a Category 1 or Category 2
14 slot license in the Commonwealth of Pennsylvania?

15 MR. COZZA: No.

16 MR. DONNELLY: Is there any public official
17 or public officer, as defined in Section 1512 of the
18 Gaming Act or otherwise, a principal or key employee
19 of CE-Palace?

20 MR. COZZA: No.

21 MR. DONNELLY: Is the Palace Inn Hotel, is
22 that located in a Keystone Opportunity Zone pursuant
23 to Section 1305(a)(3) of the Gaming Act?

24 MR. COZZA: No.

25 MR. DONNELLY: Is the location of the

1 Palace Inn Hotel more than 15 linear miles from any
2 other proposed licensed facility?

3 MR. COZZA: Yes.

4 MR. DONNELLY: Are there any other natural
5 persons associated in ownership of the CE-Palace or
6 real estate?

7 MR. COZZA: No. It's 100 percent myself.

8 MR. DONNELLY: All right. With that, I
9 would like you, if you could, to tell us a little bit
10 about the -- begin with the site where the CE-Palace
11 is located, if you would.

12 MR. COZZA: Okay.

13 MR. DONNELLY: I'm sorry. I'm out of sync
14 with my slides. Could you tell us about the business
15 structure and the ownership structure of CE-Palace?

16 MR. COZZA: The business structure is
17 relatively simple. We originally purchased the
18 property in CE Monroeville, single asset entity. I
19 own 99 percent of that. My general partnership,
20 which is Cozza Enterprises, which I actually own 100
21 percent of as well, is the 1 percent general partner.

22 It's a typical accounting/lawyer structure.
23 We set up CE-Palace to -- we purchased the property
24 and we realized that the gaming would really work and
25 be a phenomenal amenity for this facility and

1 CE-Palace was set up as the applicant and has an
2 unconditional option agreement, exercisable at my
3 discretion, which I am 100 percent of both, to
4 transfer the real estate into CE-Palace.

5 It's was just an accounting/lawyer
6 structure. Everything you see there, I own 100
7 percent of.

8 MR. DONNELLY: Do you have any other
9 limited partners?

10 MR. COZZA: No.

11 MR. DONNELLY: Do you have any other
12 general partners?

13 MR. COZZA: No.

14 MR. DONNELLY: Any other LLCs?

15 MR. COZZA: No.

16 MR. DONNELLY: Any other human beings
17 associated with this entity in any form of ownership?

18 MR. COZZA: No. Like it shows, it's 100
19 percent all flowing back to me.

20 MR. DONNELLY: Take us to the site.

21 MR. COZZA: One other thing, the reason we
22 set up CE-Palace is we're -- oftentimes when we do a
23 project, if we're not the absolute expert in
24 something, we may bring a partner in.

25 CE-Palace, until we know or until we would

1 be fortunate enough to be issued a license, it really
2 wouldn't be apt to bring in a casino expert in now as
3 part of this whole project that is ongoing, this \$45
4 million project.

5 Eventually, if we are fortunate enough,
6 there could be an additional casino, expert partner
7 in this structure. That's why it is set aside like
8 this.

9 MR. DONNELLY: Now, Mr. Cozza, did you
10 apply for a license on the first go around on Cat 3?

11 MR. COZZA: No.

12 MR. DONNELLY: Can you tell us when you
13 first purchased the property?

14 MR. COZZA: August 2006.

15 MR. DONNELLY: All right. Can you should
16 us -- explain where the site is?

17 MR. COZZA: We're 15.9 miles east of
18 downtown Pittsburgh, actually the Barden facility.
19 It's a phenomenally strategic and quite a landmark
20 location. It's the heart of Monroeville, second
21 busiest intersection in the state.

22 You come out 376 due east and you would
23 jump right off and right into this intersection and
24 right to our site, highlighted in red.

25 We are within a couple hundred yards from

1 both Turnpike on and off ramps and also the parkway
2 on and off ramps. It's a true landmark.

3 MR. DONNELLY: Are there residential
4 nearby?

5 MR. COZZA: No one coming to this facility
6 would drive through a residential neighborhood. You
7 jump off. You jump into the site and then you jump
8 back on and leave.

9 Initially, this was a very -- one of the
10 articles, it was a fledging suburb community when Al
11 built this property. He built it here and he built a
12 Las Vegas style resort. Very little in Monroeville
13 actually existed.

14 He had quite a vision, and he made it
15 happen, and he made this place successful. It wasn't
16 because of location. It was because of what it was.

17 The Turnpike and everything actually really
18 added to that, but that's what it made it a fantastic
19 location.

20 MR. DONNELLY: All right. Can you kind of
21 just point out what we're looking at on the site and
22 what the building structures are?

23 MR. COZZA: Yeah. We have a little over 12
24 acres here, 660 car parking. The purple shows the
25 access areas and the future access at the top there.

1 There's a light there already.

2 We've actually had many discussions with
3 Monroeville, PennDOT, and the county about creating
4 an additional access point there.

5 There's -- the existing facility is 178,000
6 square feet and about 138,000 of that is a ten-story
7 hotel, two towers. There are about 40,000 square
8 feet of that are the amenities.

9 Existing amenities are the -- this is a
10 photo of the Palace when it's operating. The
11 amenities -- go back to that kind of real quick.
12 I'll walk you through.

13 The existing facility is a ten-story hotel,
14 278 rooms. There's actually a couple of places
15 different -- we have researched the heck of this
16 thing to understand this thing and create the vision
17 from where we're headed with it. I'll get into that
18 a little bit later.

19 The existing facility, which advertises 261
20 rooms, plus 6 executive suites. The Convention
21 Bureau always advertised it as 289.

22 We have kind of wrestled with what the
23 difference was. What the difference was there was
24 some long-term occupancies in the facility. So they
25 didn't lease out of the rooms. Family members stayed

1 here. The actual physical count is 278 rooms.

2 COMMISSIONER McCABE: What is the date of
3 this advertisement?

4 MR. COZZA: This was a brochure. There's
5 no date on it. We don't know. This is old. We
6 don't have the date on it.

7 So what you see here now is the hotel to
8 the right. There's two valet parking facilities
9 here. There's Daisy's restaurant, which was Al's
10 wife, on the left, about an 8,000 square foot
11 restaurant. All the back kitchen for the banquets,
12 the Casa Di Monzo, which was a lounge, a rather large
13 lounge.

14 You have the ballroom, which is the second
15 largest in the state -- second largest in western PA.
16 They had ballroom dancing. They were big for
17 ballroom dancing. Ballroom dancing was actually on
18 Good Morning America show at one point, hosted from
19 here.

20 There's an indoor pool. There's an outdoor
21 pool. There is a full fitness center with a running
22 track and spa. There's a salon, travel agency, gift
23 shop and then Club Vegas. Club Vegas is in the rear
24 of the property with its port cochere, and its own
25 valet service in the back.

1 They ran all kind of headliner shows, all
2 of the Golden Glove boxing events. The
3 Miss Pennsylvania USA Pageants were there for -- as
4 far as we can show -- nine-plus years. We know they
5 were there nine years.

6 Just like in a Vegas style resort, it was
7 -- Miss Pennsylvania USA pageants were there, the
8 Mrs. Pennsylvania America pageants were there, the
9 Miss Teen pageants were there.

10 The Tri-State Boxing Challenges, Al was a
11 big promoter of this. This was a Vegas style resort
12 and a lot of boxing events. The Golden Glove boxing
13 events. Every guy I talk to is oh, yeah, that is
14 where they used to have the Golden Glove boxing
15 events. It was quite a place.

16 The American Legion conventions were all
17 there, the American Amateur Boxing Championships for
18 PA were there, the AMVETS were always there, the
19 AMVETS auxiliary conventions, the Monroeville Jazz
20 Festival, the Streets of Gold Convention, a lot of
21 gospel, a lot of ballroom dancing, and just a lot of
22 headliners, who just really promoted it just as they
23 did in Vegas resorts.

24 The only thing it is really missing was a
25 casino. It was built and designed like a casino. He

1 called it the Palace and had Club Vegas in the back.

2 These are some of the brochures that were
3 just -- and we have a lot of these. This is just
4 some of the events that went on there. It was truly
5 a well-established place.

6 When he put it up, there was really not a
7 lot around. He really needed to become a true resort
8 and attracting people from the tri-state area. He
9 attracted them in with all of the events he put on
10 and shows. It was quite a show place.

11 Year-round amenities. This is -- I talked
12 a little bit about what he had. We've studied this.
13 It's been really interesting, and we do a lot of
14 mixed used development and the lifestyle center type
15 of things; and you know, he had quite a vision.

16 Al was a lot of things. He was quite a
17 pioneer but he created this facility; and as we
18 looked at it and studied it, there really wasn't a
19 lot of things we would do differently with it. We
20 would just create the modern day version of what it
21 is.

22 We have put together plans and we are
23 undergoing right now a \$45 million renovation to the
24 facility. We are going to have four restaurants,
25 upscale. The whole facility is going to be upscale.

1 It's going to be created new again.

2 The place has been completely gutted. We
3 had asbestos issues and plumbing issues. Everything
4 has been gutted. It's all being put back together.

5 So we have four restaurants. We have a
6 lounge. We have the nightclub, which is more of our
7 events center. We're not going to run a nightclub,
8 per se, out of here.

9 It will be an event center with a lot of
10 concerts. We're talking with them. I don't know if
11 you're familiar with DiCesare-Engler, it used to be
12 a big promoter in Pittsburgh.

13 They're working with us on, a lot of
14 promotions, a lot of shows, a lot of headliner shows,
15 comedian, variety acts. We have a health spa. We
16 have the indoor and outdoor swimming pools.

17 We have the convention, meeting, and
18 banquet facilities that he has always had. The event
19 center is going to have, or actually has had in the
20 past and will continue to have, theater seating up to
21 2500 persons.

22 The grand ballroom has 1400 dining seats.
23 The capacity of the entire facility is 4,000. They
24 would have three weddings on a Saturday night and
25 still have a nightclub going on, and the pools and

1 everything else. It was quite a facility and is.

2 Like I said, there's an indoor running
3 track. We're redoing the entire fitness center now.
4 There's a travel agency in the lobby, just like any
5 resort would have, a gift shop, salon, and actually a
6 helipad. They had two helicopters they utilized out
7 of there. Thanks. Okay.

8 MR. DONNELLY: Let me ask you what is the
9 status of the facility right at this moment?

10 MR. COZZA: Today, we have -- actually, the
11 whole place was built in '72, opened in '73. It was
12 typical the Las Vegas style resort. The Rat Pack
13 era, have you.

14 It was still that way when we bought it.
15 So, they still had the shag carpet. You still had
16 the beds bolted to the walls. You had all of these
17 things, but you had everything.

18 When they closed, they were still running
19 55 percent occupancy. The family went -- when Al
20 died in 2000, it was Al Monzo Palace Inn the that's
21 the way it was advertised. It truly was.

22 MR. DONNELLY: 2004, I think.

23 MR. COZZA: He died in 2000. It closed in
24 2004, the family closed it. The occupancy was still
25 running 55 percent. It was old and tired, beyond its

1 years. The family got tired and couldn't run it.
2 They weren't Al.

3 MR. DONNELLY: I have another question. I
4 wanted to make it crystal clear, how many rooms are
5 in that facility when you bought it?

6 MR. COZZA: 278.

7 MR. DONNELLY: And let me ask you a second
8 question. Do you have a plan in place to limit the
9 access to the casino, if you were granted a Category
10 3 license?

11 MR. COZZA: Yes. There's a lot of
12 different ideas that have been floated and looked at.
13 They had some good ideas yesterday. We're certainly
14 open to working with the Gaming Board for whatever is
15 the best solution.

16 One of the ones that we really like are the
17 radio frequency identification bracelets. They're
18 used for the EZ Pass on the Turnpike. Warehouses use
19 them to track inventory. Cardiac floors in hospitals
20 actually use them to track heart patients.

21 You can actually, to the extent you want
22 to, there's software that you can actually track
23 where a person is. So, if you have a person that
24 shouldn't be in there, you can GPS them and find out
25 exactly where they are on the floor. So, we actually

1 liked that technology.

2 MR. DONNELLY: And do you have -- if you're
3 granted a license, will you be submitting internal
4 controls to control the access to the casino pursuant
5 to the statute?

6 MR. COZZA: Oh, yes, definitely. With all
7 of the amenities that we have with the restaurants,
8 and the spa, and the hotel, we really don't see the
9 \$10 minimum as an issue.

10 MR. DONNELLY: You heard Mr. McCoy talk
11 about common sense ways you control the turnstiles
12 and badging and permits and so on. Do you intend to
13 do a similar process?

14 MR. COZZA: Sure. We have a lot of ideas,
15 and those were some of the ideas we had as well.

16 MR. DONNELLY: When do you think that
17 you'll be completed with your renovations?

18 MR. COZZA: The event center will all be
19 back up and running for this spring. We are trying
20 to finish that for early spring. The hotel rooms
21 will start coming on-line in the spring.

22 We expected to be finished -- the
23 restaurants will be coming on-line in the spring and
24 summer. It's a spring/summer project. 100 percent
25 completion is probably in the summer.

1 MR. DONNELLY: What is your background and
2 how did you get involved in this particular project?

3 MR. COZZA: We're a Pittsburgh developer.
4 We do -- I had 25 years in real estate experience, 25
5 of that was corporate real estate; and the last
6 almost 10 years, we've been a development company.

7 We've worked with a lot of retailers. We
8 do mixed use. We do residential. We do a little bit
9 of everything. This is a nice mixed used project for
10 us.

11 MR. DONNELLY: All right. That's all I
12 have for Mr. Cozza. I would like to call -- I would
13 like to call Sandy Rice to the stand.

14 MS. RICE: Good morning, Madam Chairwoman
15 and members of the Board. My name is Sandy Rice.
16 I'm the Executive Director of the Convention Visitors
17 Bureau in Monroeville.

18 I have been with the Bureau for 20 years.
19 So, I'm pretty well informed about what has gone in
20 the past with the Palace. I wanted to come today to
21 give you a little bit of information on how well
22 established a resort property that it is.

23 MR. DONNELLY: Let me ask you this, Sandy,
24 as the -- I'll use CVB for Convention Visitors
25 Bureau. As a CVB was part of your task to give rooms

1 for guests who were coming to the Monroeville area?

2 MS. RICE: Yes. That is the main job that
3 we do because we are funded through the a portion of
4 the hotel/motel tax. So we always called it heads
5 and beds. The more heads and beds that we had, the
6 larger our revenue.

7 MR. DONNELLY: All right. During that
8 period of time, how many rooms were available for you
9 to lease out to people who came to you or for
10 Mr. Monzo to lease at the Palace?

11 MS. RICE: We originally started when we
12 started the Bureau, and Mr. Monzo was instrumental in
13 doing that, we had 289 rooms that we advertised
14 available for the Palace.

15 MR. DONNELLY: Could he actually produce
16 289 rooms, when needed?

17 MR. RICE: He could.

18 CHAIRMAN DiGIACOMO COLINS: I'm sorry.
19 What date was this?

20 MR. RICE: It was back in '87.

21 CHAIRMAN DiGIACOMO COLINS: Thank you.

22 MR. DONNELLY: And then, at some period of
23 time, did some of those rooms become occupied by
24 employees or guests, longer term guests?

25 MR. RICE: Yes. He did have some people

1 who worked there, who were long-term guests and also
2 always had rooms available for family, when family
3 came in.

4 MR. DONNELLY: All right. When you needed
5 extra rooms as CVBs often do, would he produce the
6 289 again?

7 MS. RICE: Yes, he would. He would always
8 make sure there were rooms available. He even had
9 some single rooms when someone would come in and
10 really desperately needed a room. He was always well
11 accommodating for people coming in like that.

12 MR. DONNELLY: What kind of things went on
13 at that facility?

14 MS. RICE: Well, it started out when the
15 hotel was newly opened, it was called The Ritz. They
16 had a nightclub disc-o-tech. That was back in the
17 70s. Then it went from that.

18 He always kind of made it with the Las
19 Vegas, Atlantic city type themes. Everything that he
20 did, I believe that that was -- when he had spoken to
21 me, he really kind of built it with that in mind,
22 that he eventually would want to see gambling in
23 there.

24 They would have -- it changed probably in
25 the '80s. He went to Club Vegas. They did dancing

1 in there. They had groups bands. They had
2 headliners. They did boxing matches.

3 The pageants were always big and that when
4 -- when he started the pageants, it was kind of
5 similar to Atlantic City where they have the Miss USA
6 pageant. He always kind of focused on that kind of a
7 theme.

8 MR. DONNELLY: What impact did the
9 CE-Palace, when it was operated, have on the greater
10 Monroeville travel and tourism industry?

11 MS. RICE: It was kind of a Mecca in the
12 center of Monroeville for travelers; whether it was
13 someone that was traveling along the Turnpike and
14 needed a room to stay, or people who planned a trip
15 there to take advantage of the amenities that were at
16 the hotel.

17 He had the dining room. Casa Di Monzo was
18 known as the No. 1 restaurant in the area with
19 excellent Italian food.

20 They had the travel agency in the lobby of
21 the hotel. They also had a spa. They had a health
22 club that was downstairs, a fitness health club with
23 an indoor running track.

24 People would come from all over the
25 tri-state area because of the events that were also

1 hosted there.

2 MR. DONNELLY: And where -- I was going to
3 say, do you track -- does the CVB track where the
4 visitors came from to visit that facility?

5 MS. RICE: We do to a certain extent. We
6 know that when we put out some of our ads, we have
7 what is called a call to action. That would be for
8 people requesting information and we would know where
9 they are coming from in that respect.

10 MR. DONNELLY: And when you say tri-state
11 area, you mean Ohio --

12 MS. RICE: West Virginia, Pennsylvania.

13 MR. DONNELLY: Would and did the guests of
14 the Palace also utilize the other amenities in the
15 area, such as the other sites to see and recreation?

16 MS. RICE: Oh, absolutely. We have golfing
17 in the area. We have -- with the mall, there used to
18 be an indoor skating rink in the mall. It was very
19 unique and unusual. People would take advantage of
20 anything.

21 The mall was the big draw because the mall
22 was one of the largest in Pennsylvania for a lot of
23 years.

24 Then they do golfing. We maybe do trips.
25 We always kind of consider ourself the hub because

1 there isn't a lot of maybe things right in the
2 central part of Monroeville, but we could go to
3 Laurel Highlands. There are wineries there.

4 We could go north to Butler and then those
5 areas where there's hunting and fishing and those
6 types of things.

7 MR. DONNELLY: Now, would Mr. Monzo, or the
8 people that would go into the hotel, would they book
9 those trips through the travel agency he had in the
10 hotel?

11 MS. RICE: Some would, yes.

12 MR. DONNELLY: When I talked about the CVB,
13 how is it that you have a CVB in greater Monroeville
14 and what, if anything, did the Palace have to do with
15 that?

16 MS. RICE: Mr. Monzo was a very passionate
17 businessman. He wanted to see Monroeville succeed.
18 In fact, there was a point -- at one point council
19 people in Monroeville looked at Monzo as an
20 individual because he really had a passion for seeing
21 the businesses grow, and not only his businesses, but
22 the other businesses in Monroeville.

23 He wanted a healthy business for himself
24 and he wanted to see things happen in Monroeville.
25 So, he decided it was probably back in early -- the

1 early 70s that the Pittsburgh Convention Visitors
2 Bureau, which was receiving the hotel/motel tax
3 revenues, he decided that they were -- they were
4 advertising the downtown locations and not
5 advertising out the separate locations.

6 So, he took his tax revenues that he should
7 have been collecting quarterly and he put them into
8 escrow account and he turned around and sued the
9 county for taxation without representation.

10 Thereby, it went through a lot of court
11 proceedings, and the Courts eventually decided that
12 Monroeville would receive 1 percent of the 3 percent
13 of the hotel/motel tax. So, that was the money, the
14 start-up money that was used to start up the visitors
15 Bureau.

16 MR. DONNELLY: Is it true that, to your
17 knowledge, this is the only county in the state or
18 the Commonwealth that has two CVBs?

19 MS. RICE: That is correct.

20 MR. DONNELLY: Do you market this resort
21 area differently from the Pittsburgh area?

22 MS. RICE: We do. The reason being,
23 Pittsburgh is the designated tourist promotion
24 agency, which there is only one permitted per county.
25 We appeal to a different type of clientele, people

1 who maybe do not want to stay in a downtown location,
2 want to be in the suburbs, want to be in a place that
3 has all of the amenities in one place and can just go
4 from there.

5 MR. DONNELLY: Now, you saw the slide of
6 all of the amenities that Mr. Cozza talked about
7 being there. Did you actually see those yourself?

8 MS. RICE: Yes, absolutely.

9 MR. DONNELLY: And was there also a beauty
10 salon there.

11 MS. RICE: There was, yes.

12 MR. DONNELLY: Okay. Do you know if people
13 would during the days when Mr. Monzo was operating
14 it, that the people would check in the hotel and stay
15 for extended periods of time over more than a couple
16 of days?

17 MS. RICE: Yes, there were.

18 MR. DONNELLY: What generally -- could you
19 tell the Board generally what people would do during
20 those periods of time while they were in the hotel?

21 MS. RICE: Well, they would take advantage
22 of the facilities that were there. They had the two
23 pools. In the wintertime, there was naturally the
24 indoor pool and then in the summer, the outdoor pool
25 and patio, which they had always had a lot of events

1 going on out on the patio.

2 They would have, like, summer flings and
3 things like that that would attract a lot of the
4 business people, even in Monroeville, that would come
5 to the events there.

6 The Rotary would meet there every week.
7 There were other local businesses and community
8 things that would hold meetings there.

9 MR. DONNELLY: And I assume you're familiar
10 or know you're familiar with CVBs kind of look at
11 different markets. There's a convention market
12 sometimes, an events market, a tourism and travel
13 market, and so on. Did this building attract all of
14 those segments?

15 MS. RICE: Yes, it did.

16 MR. DONNELLY: That's all I have for this
17 witness. Thank you.

18 I'll call on Cory Morowitz.

19 Cory, could you tell us a little bit about
20 your background?

21 MR. MOROWITZ: I'm the managing partner of
22 both a CPA firm and a gaming consulting firm in
23 Atlantic City. We do work pretty much all over the
24 country and in Canada. We work for developers
25 throughout the country, travel casinos doing

1 strategic analysis, feasibility studies, accounting
2 outsourcing, anything to do with the gaming industry.

3 MR. DONNELLY: Can you tell me some of your
4 other clients?

5 Mr. Morowitz: We work for Mohegan Sun,
6 Shuffle Master, the Ontario Lottery and Gaming Corp.
7 We worked for Pocono Manor in a couple of capacities
8 in their application to the Board.

9 We worked for Sugarhouse. We worked for
10 the three Delaware racinos in helping them analyze
11 the impacts of sports wagering on their casinos and
12 also for a couple of them in helping them put through
13 new strategic investments, like hotel assets, and
14 things of that nature.

15 MR. DONNELLY: Are you, or your company,
16 familiar with marketing studies and plans?

17 MR. MOROWITZ: Yes.

18 MR. DONNELLY: Do you do those frequently?

19 MR. MOROWITZ: Quite frequently in lots of
20 different markets.

21 MR. DONNELLY: For casinos?

22 MR. MOROWITZ: For casinos.

23 MR. DONNELLY: What about your academic
24 background?

25 MR. MOROWITZ: I have an MBA from the

1 Wharton School, University of Pennsylvania. I also
2 head up their program, it's called the Wharton
3 Program for Gaming Industry Executives.

4 Last August, with a group of Wharton
5 professors, we developed a program and delivered it
6 to a number of gaming executives from around the
7 country on soup to nuts, from strategy to market
8 assessment to operations.

9 MR. DONNELLY: And did you serve as the
10 chief financial officer of a casino at one time?

11 MR. MOROWITZ: At one time, I was appointed
12 an acting CFO of a gaming firm that was making its
13 way through bankruptcy.

14 MR. DONNELLY: Have you been qualified as
15 an expert in casino marketing in the past?

16 MR. MOROWITZ: I believe so. I was in
17 front of the Board for Pocono Manor a while ago.

18 MR. DONNELLY: Okay. I move Mr. Morowitz
19 as an expert on casino marketing and generally on
20 casino --

21 CHAIRMAN DiGIACOMO COLINS: Yes, he's
22 accepted.

23 MR. DONNELLY: Thank you.

24 Mr. Morowitz, what task were you asked to
25 by the CE-Palace to perform?

1 MR. MOROWITZ: I was asked to determine
2 essentially how far CE-Palace was or is from its
3 closest competitor and really to provide, you know,
4 my methodology on how we determine that.

5 MR. DONNELLY: All right. How did you go
6 about doing that and can you tell us how you went
7 about doing that and why you took the steps you took?

8 MR. MOROWITZ: Can you go to the next
9 slide. Next one, I'm sorry. I'm sorry. There was
10 an earlier slide with the entire market --

11 CHAIRMAN DiGIACOMO COLINS: Mr. Donnelly,
12 he's offered as an expert as to gaming and casino
13 enterprises, correct?

14 MR. DONNELLY: Yes, and particularly market
15 studies.

16 CHAIRMAN DiGIACOMO COLINS: Okay. Thank
17 you.

18 MR. MOROWITZ: Well, the slide is missing;
19 but essentially, the first thing he did was look at
20 the entire market catchment area for the CE-Palace,
21 and its closest competitor, and really looking at how
22 far out that market would go.

23 I thought we had a slide that showed it.
24 We looked at it in terms of driving distance, drive
25 time actually. We looked at it in terms of 30, 60,

1 90, 120 mile drive.

2 It was an earlier slide. I think you lost
3 it. In any case, that's the first thing we did is
4 look at the entire market catchment area and where
5 these casinos are in the market catchment area.

6 I think it's important to point out that
7 this casino will serve a distinctly different market
8 and its closest competitor, really travelers based on
9 -- first of all, based on the constraints that they
10 are faced with, of having to only market to resort
11 guests or people who are buying certain amenities in
12 the resort. So, it's really two different markets.

13 I think it's also important to point out
14 that the critical mass of a couple of casinos in a
15 market is actually a good thing. It grows the
16 market. We see evidence of that from places like
17 MaCall, Atlantic City, Connecticut, etc.

18 So the next thing we did was just -- move
19 on to the -- essentially, the issue is how we look at
20 market. We look at it in terms of drive time not on
21 straight line distances.

22 When we look at how consumers and casinos
23 interact with each other in terms of where revenues
24 come from, population, centers, etc., it's very
25 important to look at drive time or driving distance

1 versus radius distance, because that's, you know,
2 essentially not -- markets interact based on driving
3 distances because typically there are geographic
4 barriers that cause distances to be, you know --
5 radius distances to be a skewed.

6 So, I have a few examples of this. This is
7 driving between Michigan City where there's a casino
8 and Elgin, Illinois, which on a straight-line
9 distance, because on a geographic barrier is only 72
10 miles but driving would be 106 miles.

11 If you could move to the next slide. Here
12 is an example in the St. Louis market of relatively
13 close driving distance between Argosy and Ameristar,
14 St. Charles, which is 18.6 miles and has 28.3 mile
15 driving distance.

16 Then another St. Louis casino, the casino
17 of Queen Argosy, which has a 18-mile straight line
18 distance, driving distance of 30 miles.

19 When you look at casino markets, it's
20 really misleading to look at them in terms of a
21 straight line distance between two points. It's
22 really -- really should look at these in terms of how
23 long it takes for the actual driving distance between
24 casinos.

25 The other thing we did is just looked at

1 the application, which provided, you know, two
2 different types of mileage. It talked about linear
3 mileage and it talked radius distance.

4 So, again, that somewhat comports with how
5 we look at markets. We look at them not on radius
6 distances but on driving distances.

7 MR. DONNELLY: In your opinion, in your
8 professional opinion, would the appropriate
9 understanding of the word linear miles be drive time
10 or along the roadways?

11 MR. MOROWITZ: I would look at it in terms
12 of miles on the roadway. I think that's also the way
13 that PennDOT looks at it. We looked at the PennDOT
14 explanation as part of this engagement.

15 We use software. We have a mapping
16 software called MapPoint, where we both can measure
17 straight line distance and also measure driving
18 distance.

19 Our straight line distance was less than 15
20 miles; but driving distance between the Palace Inn
21 and the Majestic Star, proposed Majestic Star would
22 be -- according to our software 16.3 miles. I think
23 the Board's expert pegged it at about 15.9.

24 MR. DONNELLY: Do you -- were you also
25 familiar with the task force reports that the Gaming

1 Board had supplied to us?

2 MR. MOROWITZ: The Price Waterhouse report?

3 MR. DONNELLY: Yeah.

4 MR. MOROWITZ: Yeah. That's another thing
5 that we looked at. They talked about the major
6 market catchment area being within 20 minutes of a
7 casino.

8 So, we used our mapping software to look at
9 the 20 minute drive times from both the Palace Inn
10 and the Majestic Star. There's a minor overlap
11 between the two markets.

12 MR. DONNELLY: And the straggly lines there
13 are because of the drive time from one point to
14 another?

15 MR. MOROWITZ: Yeah. They're not typical,
16 you know, compass lines or radius lines, because
17 20-minute drive time is different than 20 mile or 15
18 mile radius based on where the roads are and where
19 the geographical barriers are.

20 MR. DONNELLY: That's all I have,
21 Mr. Morowitz. Thank you.

22 MR. MOROWITZ: Thank you.

23 MR. DONNELLY: I would like to call Jeffrey
24 DePaolis.

25 MR. DePAOLIS: Good morning.

1 MR. DONNELLY: Mr. DePaolis, can you give
2 us your academic background and licenses?

3 MR. DePAOLIS: Yes. My name is Jeffrey
4 DePaolis. I'm engineering manager with Trans
5 Associates Engineering Consultants in Pittsburgh.

6 We are traffic and transportation
7 engineering consultants, purely transportation
8 traffic. I'm a manager with them. I'm also a
9 registered, professional engineer in the State of
10 Pennsylvania.

11 I'm a certified professional traffic
12 operations engineer. I'm a 1992 graduate from Penn
13 State University in civil engineering.

14 MR. DONNELLY: Were you asked by Mr. Cozza
15 and myself to perform a task?

16 MR. DePAOLIS: Yes.

17 MR. DONNELLY: What was the task?

18 MR. DePAOLIS: The task was to determine
19 the distance between the proposed location of the
20 Palace Casino and the approved Majestic Star casino.

21 MR. DONNELLY: Was that distance in linear
22 miles?

23 MR. DePAOLIS: We were given the
24 application form. We know and were told that the
25 application form said linear miles and we did verify

1 when we were with you that the form that did, in
2 fact, say linear miles.

3 MR. DONNELLY: What did you conclude the
4 distance between the two facilities was?

5 MR. DePAOLIS: It's approximately 15.9
6 linear miles.

7 MR. DONNELLY: And when you -- when you --
8 how did you calculate that?

9 MR. DePAOLIS: Well, as transportation
10 professionals, when we hear the word linear used, it
11 immediately sparks a reaction in us.

12 Most of the measurements that the traffic
13 and especially transportation designs are done based
14 upon are referenced as linear miles.

15 We have several PennDOT publications;
16 Publication 600, which was the title reference
17 manual, references distances along all of the state
18 highways that are referenced in linear miles.

19 We also have when we are referencing things
20 more specifically, we have the PennDOT straight line
21 diagrams for per county and the straight line
22 diagrams are measurements in linear miles along state
23 highways.

24 So, what we did at that point, again, as I
25 said, the straight line diagrams are measurements

1 along state highways.

2 We began on Route 48 out in front of the
3 Palace Inn, which is a state highway. We found the
4 most direct route, which is also the shortest and
5 quickest route from the Palace Casino downtown and
6 into the Majestic Star Casino.

7 That would be taking Route 48 northbound,
8 getting on Interstate 376, which is known as the
9 Parkway East, going through -- past town, across the
10 Veterans Bridge and down to the north shore of
11 Pittsburgh, which is where the Majestic Star would be
12 located.

13 We used the straight line references then
14 from PennDOT along all of those highways that, which
15 would take us along 48, the ramps to get on to 376,
16 all the way down 376 across the Veterans Bridge and
17 then up to Reedsdale Street. Unfortunately,
18 Reedsdale Street is a city street. So there are no
19 PennDOT straight line references to distances along
20 Reedsdale Street.

21 So when we got to that point, we did
22 reference Google Earth and did some measurements
23 along the roadway surface as delineated on Google
24 Earth.

25 MR. DONNELLY: PennDOT -- are you familiar

1 with methodology title of linear referencing system?

2 MR. DePAOLIS: The linear referencing
3 system, PennDOT used to use something called a linear
4 referencing system. They have changed it since the
5 location referencing system.

6 However, it is a national reference called
7 a linear referencing system, and then the state
8 governments make their own interpretations and what
9 have you to actually document per state. A lot of
10 states do just continue with the federal word of
11 linear. PennDOT chose to call it a location. The
12 terms are basically interchangeable.

13 MR. DONNELLY: How does -- how is that
14 linear referencing system utilized when you're going
15 along a line or a pathway or a road?

16 MR. DePAOLIS: It centers the actual travel
17 distance along the center line of the roadway or
18 path.

19 MR. DONNELLY: Are you familiar with the
20 glossary term that PennDOT uses for linear miles?

21 MR. DePAOLIS: I believe you're referring
22 to the PennDOT Publication 600, which is the Highway
23 Statistics Manual and the glossary of that
24 publication does define linear miles as the distance
25 along the center line of a roadway.

1 MR. DONNELLY: By the way, I forgot to move
2 -- I would like to move to Mr. DePaolis as an expert
3 engineer with a specialty in transportation travel.

4 CHAIRMAN DiGIACOMO COLINS: Okay. He's
5 accepted.

6 MR. DONNELLY: Thank you.

7 Do you have an opinion as to whether when
8 you see the words, as we can see in the statute,
9 linear miles as to whether those miles should be as a
10 crow flies -- should be interpreted as the crow flies
11 or along roads?

12 MR. DePAOLIS: Well, as a transportation
13 professional, as I stated earlier, we see the word
14 linear and it automatically comes to our mind to use
15 the roadway surface.

16 If we are referencing something with
17 regards to radial miles, I know it was testified
18 earlier that you put a compass on a map but remember
19 compass distance -- the original compasses were
20 actually pieces of string.

21 Somebody put a point in one place and a
22 pencil in the other end and drew a circle, that a
23 straight line distance or a radial distance.

24 The application refers to not only a
25 15-mile linear distance but a 20-mile radius. I

1 would believe that the 20-mile radius would be a
2 straight line or as the crow flies, as you said,
3 whereas the linear distance would be the distance
4 along the roadway surface.

5 MR. DONNELLY: In your opinion, if the
6 legislature or someone writing this was looking for
7 as the crow flies, would you use the term straight
8 line?

9 MR. DePAOLIS: I would assume because they
10 used the word radius multiple times, that the radius
11 would refer to the straight line when they would be
12 writing it, not the word linear.

13 MR. DONNELLY: That's all I have. Thank
14 you.

15 I would like to call Jamie Milanovich.
16 While Jamie is coming up, Jamie has to appear in
17 another court proceeding. So if there are questions,
18 we would ask everyone to ask Jamie first because I
19 have to get her to another court.

20 Jamie, can you give us your background and
21 professional credentials, please?

22 MS. MILANOVICH: Sure. My name is Jamie
23 Milanovich. I'm a senior associate with Wells and
24 Associates. We're a traffic and transportation
25 engineering firm located in Wexford, Pennsylvania.

1 I'm a registered professional engineer in
2 the State of Pennsylvania. I have Masters Degree in
3 engineering specializing in transportation
4 engineering from Penn State University. I have over
5 12 years of experience in transportation and traffic
6 engineering.

7 MR. DONNELLY: I would like to -- have you
8 done any work for, Mr. Cozza at all?

9 MS. MILANOVICH: No, we have not.

10 MR. DONNELLY: All right. And were you
11 retained by us, by this group, to give your
12 independent opinion as to the meaning of linear miles
13 in the statute?

14 MS. MILANOVICH: That is correct, I was.

15 MR. DONNELLY: And did you look at those
16 words and did you reach a conclusion from an
17 engineering point of view as to what those words
18 mean?

19 Before I ask that, I would like to move
20 Miss Milanovich as an expert before this body, Madam
21 Chairperson.

22 CHAIRMAN DiGIACOMO COLINS: Yes. Very
23 good.

24 MR. DONNELLY: Thank you. Did you reach an
25 opinion as to what the word linear miles, how it

1 should be appropriately interpreted with regard -- as
2 it's used in the statute?

3 MS. MILANOVICH: Yes. The term linear
4 distance from a transportation engineering
5 perspective would be the distance measured over a
6 path. That path is made up of multiple line segments
7 and curves.

8 So, when you're talking about the distance
9 between two geographic points, that distance would be
10 measured along the travel path or the roadway.

11 MR. DONNELLY: Do you think it would be
12 appropriate in this circumstance to utilize a string
13 or straight line analysis when you see the word
14 linear line?

15 MS. MILANOVICH: No. When I see the word
16 linear, I think of -- interpret it as being the
17 distance along a roadway. A straight line distance
18 would be referred to as either airplane miles or as a
19 radial distance.

20 MR. DONNELLY: Would -- do you think -- do
21 you see the word linear miles as a modifier of the
22 word miles?

23 MS. MILANOVICH: I do. If I see just the
24 term distance without any qualifier, to me, it would
25 mean the same thing, the distance along the roadway.

1 So, I think the addition of the word linear
2 simply clarifies that that distance is to be measured
3 along a roadway.

4 The term linear is also different than a
5 phrase that would be used such as a 15 mile radius.
6 That would imply a straight line distance between two
7 points.

8 MR. DONNELLY: You heard the testimony of
9 Mr. DePaolis, is there anything that he said that you
10 disagree with?

11 MS. MILANOVICH: No, there is not.

12 MR. DONNELLY: Thank you very much.

13 CHAIRMAN DiGIACOMO COLINS: Well, could you
14 wait one second? Are you asking for us to allow this
15 witness to leave now?

16 MR. DONNELLY: I would ask you, if you
17 could, to ask questions of this witness early because
18 she does have to leave at 11:00.

19 CHAIRMAN DiGIACOMO COLINS: Okay. Just a
20 moment please. All right. We will ask you some
21 questions. I have some but let's start this time
22 right to left.

23 Commissioner Ginty?

24 COMMISSIONER GINTY: Nothing.

25 CHAIRMAN DiGIACOMO COLINS: Commissioner

1 Sojka, any questions?

2 COMMISSIONER SOJKA: No. I'll reserve
3 mine.

4 CHAIRMAN DiGIACOMO COLINS: All right.
5 Commissioner Rivers, any questions?

6 COMMISSIONER RIVERS: No.

7 CHAIRMAN DiGIACOMO COLINS: Commissioner
8 McCabe?

9 COMMISSIONER McCABE: You have a Masters
10 Degree in civil engineering you said?

11 MS. MILANOVICH: It's a Masters of
12 Engineering Degree, with a specialization in
13 transportation.

14 COMMISSIONER McCABE: When you were in
15 school, what were you taught the definition of linear
16 mile is? How do you measure it when you were taught
17 that in school?

18 MS. MILANOVICH: I don't remember in school
19 having been taught the actual term linear miles. You
20 know, we were measuring -- you know, in
21 transportation classes, we were measuring distance
22 along roadways.

23 In my 12 years of experience practicing in
24 the profession, I can tell you the term linear miles
25 is used by PennDOT, and something that we encounter

1 frequently, and that is defined by PennDOT and used
2 by transportation engineers as distance along the
3 roadway.

4 COMMISSIONER McCABE: You weren't taught
5 that linear distance, linear miles from Point A to
6 Point B, straight line?

7 MS. MILANOVICH: Well, there's different
8 classes in school. In the transportation classes,
9 the term distance was used. I don't -- I don't
10 recall whether it was actually referred to as linear
11 distance or lineal distance, but in the
12 transportation-related courses, the distance that we
13 were measuring was distances along roadways.

14 COMMISSIONER McCABE: Thank you.

15 CHAIRMAN DiGIACOMO COLINS: Commissioner
16 Coy?

17 COMMISSIONER COY: No questions.

18 CHAIRMAN DiGIACOMO COLINS: Commissioner
19 Angeli.

20 COMMISSIONER ANGELI: If I were to ask you
21 to measure the distance between you and me right now,
22 would you give me a direction directly between you or
23 me or would you --

24 MS. MILANOVICH: Well, I think in this
25 close proximity, it would be the distance between us

1 from here to there, probably in a straight line; but
2 if you're talking about two geographic locations, I
3 think it's common and typical and reasonable to
4 assume that the distance between two geographic
5 locations would be as you measure travel to get
6 between those two locations.

7 COMMISSIONER ANGELI: Thank you.

8 CHAIRMAN DiGIACOMO COLINS: I have a couple
9 of questions. It's your testimony that when asked to
10 measure the linear distance between Point A and Point
11 B, in terms of traffic engineering, to you, that
12 means measure along the roadway; is that correct?

13 MS. MILANOVICH: That is correct.

14 CHAIRMAN DiGIACOMO COLINS: Now, assume
15 there are a number of roadways that lead from Point A
16 to Point B, assume there's not just one route but
17 there are two or three routes. If you're going to
18 measure the linear distance between Point A and Point
19 B, does that -- does that mean you're going to
20 measure the -- which roadway are you going to
21 measure?

22 MS. MILANOVICH: Well, there could be a
23 number of different routes. I think in this case,
24 the reasonable thing to do would be to measure the
25 shortest route between the two points.

1 CHAIRMAN DiGIACOMO COLINS: But, if I take
2 your definition that the standard is to measure the
3 roadway from Point A to Point B, where there are two
4 or more roadways, there would be different linear
5 distances, correct?

6 MS. MILANOVICH: That is correct.

7 CHAIRMAN DiGIACOMO COLINS: And so linear
8 distance is really not a fixed term in your mind?

9 MS. MILANOVICH: Well, there could be as
10 you suggest --

11 CHAIRMAN DiGIACOMO COLINS: Spatially, it's
12 not a fixed term.

13 MS. MILANOVICH: I'm sorry?

14 CHAIRMAN DiGIACOMO COLINS: Spatially, it's
15 not a fixed term. It relies on what the roadways
16 are.

17 MS. MILANOVICH: It relies on the travel
18 paths, yes.

19 CHAIRMAN DiGIACOMO COLINS: Now, did I
20 understand that there was testimony that the
21 Department of Transportation used to use linear, that
22 concept of linear distance and has changed it? Did I
23 hear that?

24 MS. MILANOVICH: That was actually
25 Mr. DePaolis' testimony.

1 CHAIRMAN DiGIACOMO COLINS: Did you hear
2 that?

3 MS. MILANOVICH: Yeah. I think I can
4 answer that. The term that PennDOT uses is location
5 referencing system; but it is, in fact, the same as
6 the Federal standard, which is known as linear
7 referencing system.

8 The method of employing that location
9 referencing system is the same and it is measured
10 along the roadway.

11 CHAIRMAN DiGIACOMO COLINS: And is the end
12 result a measurement in what, miles, feet? Where do
13 these measurements go? Are they recorded on maps?

14 MS. MILANOVICH: There's a publication for
15 each county in Pennsylvania. It's called a straight
16 line diagram, which shows the state roadways
17 subdivided in segments, which are approximately a
18 half mile in length. Those segments are further
19 subdivided into offsets, which are typically measured
20 in feet.

21 CHAIRMAN DiGIACOMO COLINS: So, when you
22 requested -- is it your testimony that when someone
23 requests linear distance for you, you think of it in
24 terms of that type of question?

25 MS. MILANOVICH: That is correct. In fact,

1 we use the straight line diagrams, the location
2 referencing system to provide distances for various
3 reasons, the distances between two intersections,
4 that type of thing.

5 CHAIRMAN DiGIACOMO COLINS: If someone
6 asked you to measure the linear distance in terms of
7 a straight line, the shortest straight line from
8 Point A to Point B, would that change the way you
9 measure linear distance? If this specific request
10 was, I want the shortest straight line from Point A
11 to Point B.

12 MS. MILANOVICH: If somebody wanted that
13 distance, the shortest distance, it would need to be
14 qualified as the straight line distance between Point
15 A and Point B or the radial distance between Point A
16 and Point B. To me, that would mean a single,
17 straight line distance.

18 CHAIRMAN DiGIACOMO COLINS: Okay. So then
19 your interpretation of linear is based on your
20 experience in the area of traffic engineering,
21 correct?

22 MS. MILANOVICH: Yes.

23 CHAIRMAN DiGIACOMO COLINS: Okay. Thank
24 you very much.

25 COMMISSIONER SOJKA: Could I ask one quick

1 question. Again, we are dealing with two traffic
2 engineers and we're dealing with traffic engineering
3 definitions.

4 Would you suspect that if we were asking
5 these questions of a 12th grade geometry teacher, we
6 would get a different definition?

7 MS. MILANOVICH: It's hard for me to say,
8 not being a geometry teacher. From a -- if you were
9 to ask just a common person, you know, how far did
10 you live from Point B, I think the answer would be
11 how far they would live, as they would travel.

12 COMMISSIONER SOJKA: Okay. But that would
13 be different than a geometric measurement?

14 MS. MILANOVICH: Again, I'm not sure.

15 COMMISSIONER SOJKA: Okay.

16 COMMISSIONER RIVERS: Madam Chairman?

17 CHAIRMAN DiGIACOMO COLINS: Yes. Go on.

18 COMMISSIONER RIVERS: Excuse me. Taking
19 Commissioner Sojka's question, again, trying to take
20 it a little further. If you were dealing with
21 someone and the question was, I want a straight line
22 or linear distance between two points and if you
23 realize as Commissioner Colins talked about, there
24 were several ways of getting here, which way would
25 you take if you were asked the linear distance?

1 multiple line segments and from a transportation
2 engineer perspective, linear means measured along the
3 roadway. A radial distance would be, you know, a
4 straight line distance.

5 CHAIRMAN DiGIACOMO COLINS: If you're
6 measuring a traffic roadway, a circle, and are going
7 to measure that, is that the linear distance, the
8 measurement of that circular roadway.

9 MS. MILANOVICH: The distance around the
10 traffic circle?

11 CHAIRMAN DiGIACOMO COLINS: Um-hum.

12 MS. MILANOVICH: Yeah. That would be --

13 CHAIRMAN DiGIACOMO COLINS: Merely because
14 you are on the road in the traffic engineering world,
15 that's a linear distance?

16 MS. MILANOVICH: Yes.

17 CHAIRMAN DiGIACOMO COLINS: Okay.

18 COMMISSIONER McCABE: Madam Chair, I have a
19 follow-up.

20 CHAIRMAN DiGIACOMO COLINS: Yes.

21 COMMISSIONER McCABE: My question is we're
22 starting to get into different definitions. Do
23 surveyors have a different definition of linear mile
24 or linear distance than a traffic management
25 engineer?

1 Are there two different definitions? Are
2 we dealing with you from a traffic management and
3 then surveyors who are dealing with direct distance?
4 Are there two different definitions?

5 MS. MILANOVICH: Yeah, I believe there are.

6 CHAIRMAN DiGIACOMO COLINS: By the way, did
7 you measure the shortest distance, linear distance in
8 terms of traffic roadway between the applicant and
9 the -- for purposes of measuring the miles?

10 MS. MILANOVICH: I did not, but I believe
11 Mr. DePaolis did.

12 CHAIRMAN DiGIACOMO COLINS: You believe
13 that was the shortest distance. Did you review it to
14 see if it was?

15 MS. MILANOVICH: I have not.

16 CHAIRMAN DiGIACOMO COLINS: Thank you.
17 Anything else? Thank you very much.

18 MR. DONNELLY: I would like to just recall
19 Mr. Morowitz and DePaolis to ask that very question.

20 CHAIRMAN DiGIACOMO COLINS: Okay. Thanks.

21 MR. DONNELLY: You can just both stand
22 there. Did the two of you use the shortest distance?

23 COMMISSIONER McCABE: Mr. Donnelly, I can't
24 hear you. I'm sorry.

25 MR. DONNELLY: I'll ask both of you

1 collectively the same question that was just asked if
2 you use the shortest distance when you used your
3 analysis as to the traveling roadway persons can get
4 from the Palace facility to the proposed Barden
5 facility?

6 MR. MOROWITZ: We used the shortest drive
7 time.

8 MR. DONNELLY: And the shortest drive time
9 would be along the roadway?

10 MR. MOROWITZ: Yes.

11 MR. DONNELLY: And how about you,
12 Mr. DePaolis?

13 MR. DePAOLIS: We used -- I don't want to
14 use the word drive time. We used the shortest,
15 actual, physical distance on the roadway surface. We
16 measured several different potential ways to get
17 there.

18 It just so happens that the shortest
19 directional distance is also the shortest travel time
20 and distance, as well; but we verified that the route
21 that we assumed was also the shortest drive on the
22 roadway surface.

23 CHAIRMAN DiGIACOMO COLINS: Sir, is it your
24 testimony that there's more than one linear distance
25 between the nearest other licensee and this

1 applicant?

2 MR. DePAOLIS: Yes, there is more than one;
3 but the shortest would satisfy the 15-mile
4 requirement.

5 CHAIRMAN DiGIACOMO COLINS: Thank you.

6 COMMISSIONER SOJKA: Before you leave,
7 could I ask on that? Again, I keep thinking about my
8 automobile that I have to program the GPS thing. It
9 talks about short distance and quickest distance and
10 all of that sort of business.

11 I saw your map and it looks to me like
12 whatever we want to use that word straight line, it
13 looked pretty straight; but it has got wiggles in it.
14 That's along major roadways. If you chose other
15 roadways, could you shorten that?

16 MR. DePAOLIS: Again --

17 COMMISSIONER SOJKA: There is no physical
18 way even if you went through stop signs and things to
19 make it shorter?

20 MR. DePAOLIS: No. If you look, there is
21 also Business Route 22, as Mr. Cozza testified to
22 earlier. He's right at the intersection of 48 and
23 Business 22. If you turn down Business 22, you'll
24 see that Business 22 does dip.

25 You could end up coming off of Business 22

1 but then you need to weave and get back to some
2 interchanges. We made sure that the line or the
3 linear path that we chose along the roadway was, in
4 fact, the shortest distance.

5 I think if you program that into your
6 GPS -- I also have a program, the Delorme Street
7 Atlas, that I use when I'm doing mapping for
8 proposals and stuff. It has the ability to chose the
9 quickest route, the scenic route, and the shortest
10 route.

11 Although, this wouldn't be considered the
12 scenic route, which is a much longer distance, this
13 does come up as both the shortest route and the
14 quickest route.

15 COMMISSIONER COY: Let's not introduce one
16 more definition.

17 CHAIRMAN DiGIACOMO COLINS: All right.
18 Thank you. We have gotten off of our process, which
19 is that we're going to hear the entire matter before
20 we question. Mr. Donnelly, we did you a favor by
21 letting you send your witness out.

22 MR. DONNELLY: I appreciate it.

23 CHAIRMAN DiGIACOMO COLINS: So, now let's
24 get back on track. Do you have any other witnesses.

25 MR. DONNELLY: I do not. I rest at this

1 time. Is it appropriate to do a closing now or this
2 afternoon.

3 CHAIRMAN DiGIACOMO COLINS: Not now. Not
4 yet. I'll ask you in a little bit.

5 MR. DONNELLY: Thank you. Those are my
6 witnesses, Madam Chairwoman.

7 CHAIRMAN DiGIACOMO COLINS: All right.
8 Now, I'll ask Mr. Moyer, who is chief of surveys from
9 McTish, Kunkle and Associates to come forward and
10 report his findings.

11 MR. MOYER: Thank you, Chairman Colins.
12 Good morning, Board. My name is Ricky Moyer. I'm
13 the chief of surveys for McTish, Kunkle and
14 Associates (MK).

15 With over 14 years of surveying experience,
16 we provide consulting, engineering surveying,
17 environmental, and construction management services
18 for various governmental and private clients.

19 I'm a professional engineer and a
20 professional land surveyor in the State of
21 Pennsylvania.

22 Some of my responsibilities as the chief of
23 surveys is to process and review the survey data,
24 calculate property boundaries, and to oversee and
25 coordinate the surveys.

1 The issue being, Statute 4 Pa.C.S. 1305
2 reads: Facilities located in Pennsylvania that could
3 qualify for a Category 3 gaming operator's license
4 cannot be located within 15 linear miles of any
5 licensed slot machine casino.

6 MK was hired by the Pennsylvania Gaming
7 Control Board to measure the straight line distance
8 between facilities for these five scenarios:

9 One, two closest points on property
10 boundaries.

11 Two, front entrance to front entrance.

12 Three, two closest points on the gaming
13 floors.

14 Four, two closest points on buildings
15 housing the gaming floor.

16 Five, primary roadway entrance to primary
17 roadway entrance.

18 MK was also asked to look at the optimum
19 driving distance between facilities. The methodology
20 used was all measurements were taken on Pennsylvania
21 State Plane Coordinate System, topographic mapping of
22 the aerial mapping, which were obtained from the
23 Pennsylvania Spatial Data Access Website were also
24 overlaid to the State Plane Coordinate System.

25 Land development or site plans were

1 solicited from the currently or pending licensed
2 facility along with the applicant.

3 From the plans provided, a series of points
4 in the closest direction to the opposing facility
5 were identified for field identification.

6 MK surveyors, under my direction, utilized
7 a Trimble 5800 GPS unit and a Trimble 5600 robotic
8 instrument with an accuracy of less than 1 inch in
9 either direction and located, where possible, the
10 property corners, corners of buildings, and front
11 door locations.

12 Points at which could not be physically
13 located due to the building not yet constructed were
14 interpellated from the plans provided.

15 To measure the driving distance between
16 facilities, MK fastened a Trimble GPS unit to our
17 survey vehicle and drove the route from approximately
18 building corner to building corner.

19 On a progression transition from lower
20 classification roadways to the most logical higher
21 classification and roadway and back again, the GPS
22 unit recorded a position every second while driving
23 on the route. Using this methodology, the shortest
24 driving distance was 15.9 miles.

25 Our calculations were by having the -- all

1 of the data on the same coordinate system, the
2 northern and eastern coordinates for each point could
3 be obtained in a horizontal distance calculated by
4 inverse and between points.

5 From these calculations, the results are as
6 follows: CE-Palace to Majestic Star:

7 One, two closest points on property
8 boundaries, 13.6 miles.

9 Front entrance to front entrance, 13.8
10 miles.

11 Three, two closest points on the gaming
12 floors, 13.8 miles.

13 Four, two closest points on buildings
14 housing the gaming floor, 13.8 miles.

15 Primary roadway entrance to primary roadway
16 entrance, 13.8 miles.

17 The optimum driving distance as we
18 measured, 15.9 miles.

19 Conclusion, CE-Palace using the straight
20 line measurements on the Pennsylvania State Plane
21 Coordinate System, CE-Palace is less than 15 miles
22 away from the Majestic Star Casino in Pittsburgh
23 using all measured criteria. However, if using
24 driving distance as the criteria, they are more than
25 15 miles apart.

1 CHAIRMAN DiGIACOMO COLINS: Thank you, sir.

2 All right. At this point, there are other
3 entities, four others who have filed notice of intent
4 to present evidence concerning the eligibility of
5 CE-Palace.

6 They are Bushkill Group, Vacation Charters,
7 Washington Trotting Association, and PITG Gaming. I
8 will ask them to present in that order.

9 Since we have the four entities presenting,
10 I ask them to avoid duplication of arguments. All of
11 the evidence presented by any applicant will be
12 incorporated in the order of this proceeding.

13 So, now I will ask that the representatives
14 of Bushkill Group come forward.

15 MS. JONES: Good morning, Chairman Colins.
16 If the Board will permit, I would like to consolidate
17 my comments with the Washington Trotting Association
18 and the Bushkill Group so that we can move the
19 matters along.

20 CHAIRMAN DiGIACOMO COLINS: Excuse me?
21 Repeat that.

22 MS. JONES: I would like to consolidate my
23 comments for both Washington Trotting Association and
24 Bushkill into one presentation.

25 CHAIRMAN DiGIACOMO COLINS: Yes.

1 MS. JONES: Thank you.

2 CHAIRMAN DiGIACOMO COLINS: Thank you very
3 much.

4 MS. JONES: Good morning, Chairman Colins
5 --

6 CHAIRMAN DiGIACOMO COLINS: Proceed,
7 counsel.

8 MS. JONES: Good morning, Chairman Colins
9 and Board members. I am Marie Jones from Fox
10 Rothschild here on behalf of Washington Trotting
11 Association and the Meadow Casino and the Bushkill
12 Group.

13 We are contesting the application of
14 CE-Palace in that it does not meet the requirements
15 under Section 1305 of the Act; that it is a
16 well-established resort hotel having no fewer than
17 275 guest rooms under common ownership and having
18 substantial year-round recreational guest amenities.

19 CE-Palace is not a well-established resort
20 hotel. It has not been open for business for over
21 three years. This was clearly indicated in their
22 presentation.

23 Mr. Cozza testified it was a
24 well-established resort hotel, not that it is. I
25 heard a number of past tense references that had, not

1 that it has. It is not open.

2 Their application indicates in Appendix 32,
3 and on page 11 of their local impact statement, that
4 the rooms have been unoccupied for three years and
5 the furnishings have not been updated since the
6 1970s.

7 They cannot establish the requirement that
8 they are a well established resort hotel when they
9 have not been open for business.

10 CE-Palace, for the same reasons, cannot
11 establish that they have substantial year-round
12 amenities. If they're not open, nobody can use their
13 spa or their restaurants. Therefore, they cannot
14 meet the requirements of 1305.

15 Further, the intent of the Category 3
16 license was to enhance an already operating resort
17 facility, not to create a new license.

18 If that was the case, they would have just
19 made a 500 slot machine license similar to the
20 Category 1 and 2 licenses and not had the additional
21 languages and requirements under Section 1305.

22 CE-Palace also does not meet the
23 requirement that the applicant is the owner or wholly
24 owned subsidiary of the owner of the established
25 hotel resort.

1 As indicated in Appendix 1 of their
2 application, there is an option to purchase the
3 resort from CE-Monroeville, LP, the current owner.
4 The option to be triggered only upon the issuance of
5 the license. So as submitted in their application,
6 they are not the current owner.

7 Last, we have a number of conversations
8 about the definition of 15 linear miles. They do not
9 meet this requirement. As your expert for the Board
10 just testified, they are under 15 miles from the
11 Majestic Star and are actually 13.8 linear miles.

12 Linear is defined as a straight line. In
13 fact, if you take their definition of driving
14 distances or different routes to take, can you do
15 just that. You could drive a different way and
16 perhaps you would be under 15 miles.

17 There was testimony given that there is no
18 different way. Well, PennDOT could build a new road;
19 and all of the sudden, there could be a different way
20 under 15 miles between the Majestic Star and
21 CE-Palace.

22 Clearly though, just applying the original
23 definition of linear miles, which is a straight line,
24 they do not meet that requirement.

25 Last, two other items, we would like to

1 object to the testimony of Mr. Morowitz on the
2 PennDOT interpretation. He was not offered as an
3 expert with respect to engineering or PennDOT.

4 I would also like move into evidence
5 certain exhibits, which are actually from the
6 applicant's public record from their application.
7 That would be Exhibit 1, which is Appendix 1, page 1
8 from the CE-Palace application.

9 Exhibit 2, Appendix 29, a redacted version
10 of the geographical requirement section of their
11 application.

12 Exhibit 3, Appendix 32, page 1.

13 Exhibit 4, part of the local impact report,
14 page 11, which says they have not been opened for
15 three years.

16 I have provided that to counsel for the
17 applicant, as well as Chief Counsel. Thank you.

18 CHAIRMAN DiGIACOMO COLINS: All right.

19 Any objections to the exhibits offered?

20 MR. DONAGHUE: No.

21 CHAIRMAN DiGIACOMO COLINS: Very good.

22 Thank you. They are accepted.

23 MS. JONES: Thank you.

24 CHAIRMAN DiGIACOMO COLINS: Thank you. All
25 right. Now, Vacation Charter Homes.

1 MR. KENNARD: Good morning, Chairman, Board
2 members. It's nice to see you again, Day 2. We have
3 all talked with -- we have had the definitions. I'm
4 sure you have this memorized on this side as we do on
5 this side.

6 There are several irrefutable facts that
7 relate to the Palace Inn that make it neither
8 well-established nor a resort hotel when it was
9 opened.

10 The Palace Inn was opened in 1973 as a
11 Howard Johnsons franchise. On or about June 2, 2004,
12 it was closed down and shuttered.

13 When it was open and operating, it was not
14 a resort hotel. Most accurately, it was a motor
15 lodge with a large banquet facility, nor are there
16 fewer than 200 -- nor are there greater than 275
17 rooms at the facility.

18 When it was in operation, the Palace Inn
19 had 261 rooms advertised by the Palace Inn as
20 available to the public.

21 The figure 278 rooms seems to be the number
22 of rooms planned by the current owner if the facility
23 is, in fact, licensed, refurbished, and updated.

24 It may be an account even of the rooms that
25 could be used for hotel. At the time that it was in

1 operation, it was being advertised as having 261
2 rooms.

3 Nor are there substantial year-round guest
4 room amenities. The amenities at the site when it
5 was in operation are few; indoor/outdoor pool,
6 nightclub lounge, dining room, exercise, and a large
7 convention meeting room. These are not sufficient to
8 comply with the Act.

9 We will also present testimony that the
10 facility is located within less than 15 linear miles
11 of the Majestic Star facility on the north side of
12 Pittsburgh. In fact, it's less than 14 miles. We
13 will present expert evidence regarding the proper
14 interpretation of the term lineal and we will also
15 discuss that expert witness, a witness you had
16 qualified yesterday as an expert, that the PennDOT
17 straight line diagram has nothing to do with what we
18 are discussing here today or the appropriate
19 interpretation of the Gaming Act.

20 With that, we would ask that -- we have our
21 witnesses. They were sworn yesterday. I don't know
22 how you would like to proceed with the swearing if
23 these are separate hearings such that they should be
24 resworn.

25 CHAIRMAN DiGIACOMO COLINS: No, it's not

1 necessary. I would just remind them that they are
2 under oath. So you can proceed with whatever
3 witnesses that you have.

4 MR. DICKINSON: Good morning, again,
5 Chairman Colins and members of the Pennsylvania
6 Gaming Control Board. I thank you, again, for the
7 opportunity to make this very brief presentation.

8 For the record, again, my name is Charles
9 Dickinson. I'm the Director of Special Projects for
10 Vacation Charters Limited.

11 We're the owner/operator of Split Rock
12 Resort and Mountain Laurel Resort in the Poconos. I
13 have worked for the company in the last 13 years and
14 my background does include having worked in Atlantic
15 City for the Tropicana Hotel and Casino.

16 I've been in the business for about 31
17 years, holding positions as general manager and other
18 executive capacities.

19 The purpose of my testimony is to address
20 the issues raised in Vacation Charters notice of
21 intent, to contest and explain the factual basis of
22 why we believe the Palace Inn in Monroeville does not
23 meet the criteria for Category 3 license.

24 Issue 1, Is the Palace Inn a
25 well-established resort hotel? Based on the research

1 that I have undertaken, the Palace Inn is neither
2 well-established nor was it a resort hotel when rooms
3 were available or open to the public.

4 As shown in Exhibit 1, which is included in
5 the packet that you received from our counsel, the
6 Palace Inn was open around 1973 as a Howard Johnsons
7 franchise by Mr. Alphonse Monzo.

8 The hotel later discontinued its
9 relationship with Howard Johnsons and renamed the
10 facility Al Monzo's Palace Inn in and around 1989.
11 Mr. Monzo died in about 2000, I believe, and title
12 passed to his wife and daughters.

13 In 2002, it was announced that the Monzo
14 family was marketing the property for non-hotel uses
15 --

16 CHAIRMAN DiGIACOMO COLINS: Could you speak
17 up and more slowly?

18 MR. DICKINSON: I'm sorry?

19 CHAIRMAN DiGIACOMO COLINS: Could you speak
20 up?

21 MR. DICKINSON: Certainly. I'm sorry. In
22 2002, it was announced the Monzo family was marketing
23 the property for non-hotel uses through a group named
24 Cedarwood Developments.

25 The property was once marketed as a

1 potential site where the hotel would be razed and a
2 big-box store installed on this site.

3 They apparently were not successful and on
4 or about June 2, 2004, the Palace Inn was closed.
5 The business manager for the family announced that
6 there are no current plans for the hotel as quoted in
7 our Exhibit 2.

8 On or about September 1, 2006, the property
9 was purchased from the Monzo family heirs by
10 CE-Monroeville, LP as shown in the documentation at
11 our Exhibit 3.

12 At the time of purchase, the new owner
13 publicly expressed that he was not sure what he would
14 do with the property and had not ruled out
15 redeveloping the location for a big-box store. The
16 article is in Exhibit 4.

17 Subsequently, plans were announced for an
18 upscale hotel with 278 rooms and a probable
19 application for a Category 3 gaming license, as
20 explained in our Exhibit 5.

21 These facts indicate to me that the Palace
22 Inn is not a well-established facility. While I
23 agree that it was a Monroeville landmark at one time,
24 the future use of the property has been uncertain for
25 at least the last three to five years.

1 At present, it is closed and has not
2 accommodated guests for about three years. It is my
3 understanding that activity at this site currently
4 involves the removal of asbestos material, although
5 we found no building permit in affect that would
6 allow renovation of this site in our research.
7 Although the future of the facility could have
8 remained in doubt, I do admire Mr. Cozza's initiative
9 to bring this closed hotel back to life and continue
10 Mr. Monzo's vision as a first class hotel in
11 Monroeville.

12 When it was open and operating, it was not
13 a resort hotel. A resort is typically leisurely and
14 recreational as some of their amenities indeed were
15 inclined to show.

16 A resort hotel is typically located in a
17 resort area and a resort area is more typically
18 recreationally granted or geared to leisure
19 travelers.

20 Where a hotel frequently would include
21 on-site restaurant, a night club, and a pool, a
22 resort hotel will typically offer more amenities,
23 including on-site recreational facilities, golf,
24 movies, bowling, and other types of amenities listed
25 by the Board in its regulations.

1 Many resorts feature an indoor water park
2 or winter ski-in/ski-out capability, where a hotel
3 would not generally do so.

4 A resort typically offers everything needed
5 for the guest's entire stay and an inclusive
6 experience so that a guest does not have to leave for
7 anything.

8 Additionally, many resorts have distinct
9 seasons where they will be absolutely full or empty.
10 Most resorts strive to improve their year-round
11 capabilities. So, for example, the Gaming Act
12 requires substantial, year-round facilities.

13 Monroeville is not known as a resort area
14 and the Palace Inn was not a resort hotel. Most
15 accurately, it was a motor lodge with a very large
16 banquet facility.

17 Issue 2, Does the Palace Inn have no fewer
18 than 275 guest rooms?

19 Again, upon my research when it was in
20 operation, the Palace Inn had 261 rooms available to
21 the public. A broad selection of internet travel
22 resources that still list the Palace Inn, indicate --
23 albeit, you cannot book rooms on those sites, because
24 the page references have not been removed, but the
25 Palace Inn is not listed in the more up-to-date

1 Orbitz and Travelocity sites.

2 However, at the travel sites,
3 travel.aol.com, pittsburgh.hotelguide.net,
4 traveltracer.com, pittsburgh.morehotel.net, and
5 several other listed in our Exhibit 6, still list the
6 Palace Inn and consistently report that the hotel has
7 261 rooms available.

8 The site at pittsburgh.hotel.net
9 specifically reports that the hotel was offering 252
10 rooms and 9 suites.

11 The figure of 278 rooms appears to be the
12 number of rooms that are planned by the current owner
13 if the Palace Inn is, in fact, refurbished and
14 updated but does not appear to be the size of the
15 hotel when it was last in operation. The Palace Inn
16 had 261 rooms from the record that we have located at
17 the time it closed.

18 Issue 3, did the Palace Inn offer
19 substantial year-round recreational guest amenities?

20 Consistent with the requirement that the
21 licensed entity be a resort hotel, the Gaming Act
22 requires that, quote, substantial year-round
23 recreational guest amenities, end quote, be offered.
24 The Board's regulations further specify that the
25 amenities must be on premises.

1 The Palace Inn has had none of these
2 things. The amenities at the site were few;
3 indoor/outdoor pool, a nice night club/lounge, a
4 dining room, an exercise room, and a considerably
5 large convention/meeting or banquet space. These are
6 not sufficient to comply with the Act.

7 My conclusion, in summary, I do not believe
8 that the Palace Inn either as it was or as it
9 proposes to be meet the Category 3 gaming license
10 requirements.

11 Thank you again for your time. I would be
12 happy to answer any questions.

13 CHAIRMAN DiGIACOMO COLINS: Thank you.

14 MR. KENNARD: Our next witness would be
15 David Godowsky.

16 MR. GODOWSKY: Good morning. Thank you for
17 allowing me this opportunity to speak on behalf of
18 Split Rock Resort.

19 I'm David Godowsky, head of the survey
20 section of Quad Three Group in Wilkes Barre. I have
21 been employed by Quad Three Group for almost 20
22 years.

23 During my course of my employment, my
24 responsibilities have grown from a rodman position to
25 my current status of managing field crews, project

1 management, budgeting, and scheduling.

2 The purpose of my testimony is to address
3 the issue of whether the proposed facility of the
4 Palace Inn is within 15 linear miles of the another
5 licensed facility.

6 MR. KENNARD: Madam Chairman, at this
7 point, as we did yesterday, we seek to qualify this
8 gentleman as an expert in the subject matter of
9 surveying, such that his opinions expressed are those
10 of an expert.

11 We have presented his qualifications as
12 part of our notice to contest. He is prepared to go
13 over them in his testimony.

14 In the interest of time, it might be
15 appropriate just, if no one objects, to simply agree
16 that he is an expert in the subject matter of his
17 testimony for this purpose.

18 CHAIRMAN DiGIACOMO COLINS: Absent any
19 objection, I'll accept him as an expert.

20 Any objection?

21 MR. DONNELLY: As I understand, he is being
22 offered as an expert in surveying, I have no
23 objection.

24 CHAIRMAN DiGIACOMO COLINS: All right.
25 Very good. Thank you.

1 MR. GODOWSKY: Is the Palace Inn within 15
2 linear miles of another facility?

3 CHAIRMAN DiGIACOMO COLINS: Could you speak
4 into the microphone, sir?

5 MR. GODOWSKY: Is the Palace Inn within 15
6 linear miles of another facility?

7 Lineal distance: My professional
8 interpretation of lineal distance is the shortest
9 distance between two points measured along a
10 horizontal straight line.

11 Formal definitions of the term lineal
12 distance are consistent. According to Black's Law
13 Dictionary Sixth Edition, lineal is defined in part
14 as that which comes in a line, especially a direct
15 line.

16 Black's also defines distance as a straight
17 line along the horizontal plane from point to point
18 and is measured from the nearest point of one place
19 to the nearest point of another.

20 The survey and handbook Second Edition at
21 Chapter 4 entitled lineal measurements states, to a
22 surveyor, the word distance usually refers to the
23 horizontal length between two points projected on to
24 a horizontal plane.

25 Elementary Surveying Tenth Edition by Paul

1 R. Wolfe and Charles D. Ghilani at Chapter 6 entitled
2 Distance Measurement state: In plane surveying, the
3 distance between two points means the horizontal
4 distance.

5 If the points are at different elevations,
6 the distance is the horizontal length between two
7 vertical lines at its points.

8 Procedure/methodology: I followed the
9 following procedure in measuring the distances
10 between the proposed location of the casino at the
11 Palace Inn and the facility licensed by the Board as
12 the Majestic Star in Pittsburgh.

13 The most recent seven and a half minute
14 series USGS topographic mapping was reviewed to
15 determine the latitude and longitude for both sites.

16 Terrain Navigator Pro software was used to
17 view and identify the latitude and longitude. Our
18 client, Mr. Dickinson, provided the latitude and
19 longitude of the Palace Inn. It was confirmed that a
20 building exists at that location based upon the seven
21 and a half minute series USGS topographic mapping.

22 I was unable to locate the actual gaming
23 location based on the Majestic Star casinos traffic
24 and parking assessment.

25 However, I was able to limit the area to

1 between Belmont Street to the west and North Shore
2 Drive to the east. The approximate middle of that
3 area is used as the basis of the measurement.

4 The US Army Corps of Engineer software,
5 Corpscon, was used to convert the latitude and
6 longitude of each point into State Plane Coordinates,
7 Pennsylvania South Zone.

8 These coordinate values were imported into
9 AutoCAD. Distances between the points were measured
10 and labeled using AutoCAD.

11 For visual reference, our Exhibit No. 7,
12 the most recent 1:100000 scale USGS mapping was
13 exported from Terrain Navigator Pro software and
14 imported into AutoCAD. This process automatically
15 geo-references the location of the mapping.

16 Terrain Navigator software was used to
17 check the results directly without using Corpscon or
18 AutoCAD software. Distances match with reasonable
19 accuracy.

20 In my professional expert opinion and to a
21 high degree of certainty using the standards of my
22 profession and the methodology described, the
23 distance between the Palace Inn Monroeville and the
24 Majestic Star Casino in Pittsburgh is 13.9 miles more
25 or less.

1 There's a potential variance of about 700
2 feet on the Majestic Star end and about 100 feet on
3 the Palace Inn end or a potential variance of 0.15
4 miles. Thank you.

5 MR. KENNARD: Mr. Godowsky, did you prepare
6 a report?

7 MR. GODOWSKY: Yes, I did.

8 MR. KENNARD: And that is included as
9 Exhibit 7?

10 MR. GODOWSKY: Correct.

11 MR. KENNARD: Now, did you hear the
12 discussion earlier today regarding PennDOT's
13 terminology straight line diagram?

14 MR. GODOWSKY: Yes, I did.

15 MR. KENNARD: Are you familiar with that
16 concept?

17 MR. GODOWSKY: Yes, I am.

18 MR. KENNARD: Would you explain to the
19 Board what that is?

20 MR. GODOWSKY: PennDOT straight line
21 diagram is primarily used for their assessment. It
22 does measure distances in feet between intersections,
23 major substantial structures such as railroads,
24 bridges.

25 Their basis is generally measured along the

1 roadway. If the road bends, their distances are
2 measured along that bend.

3 MR. KENNARD: So if, we were to take a
4 string and have it follow the road and then take the
5 string and straighten it out, we would have that
6 straight line diagram distance?

7 MR. GODOWSKY: Correct.

8 MR. KENNARD: Is straight line diagram
9 distance the same as linear distance, in your
10 opinion?

11 MR. GODOWSKY: Not in my opinion.

12 MR. KENNARD: You heard the discussion
13 earlier this morning regarding the Palace Inn's
14 theory that the legislature should have used the
15 phrase 15 mile radius. Were you here during that
16 discussion?

17 MR. GODOWSKY: Yes, I was.

18 MR. KENNARD: Is the measurement of
19 distance of linear the same as the measure of
20 distance for radius?

21 MR. GODOWSKY: Yes, it was. The distance
22 -- the term radius in my opinion is the distance
23 straight line between the center of a -- center of a
24 point and the circumference.

25 MR. KENNARD: Thank you.

1 CHAIRMAN DiGIACOMO COLINS: Thank you. Do
2 you have any further testimony?

3 MR. KENNARD: That's all we have, Chairman,
4 thank you.

5 MR. DONNELLY: May I ask one question,
6 Madam Chairman? I wanted to ask this witness because
7 I heard something whether he was using the word
8 linear or lineal.

9 CHAIRMAN DiGIACOMO COLINS: Sir, I'll ask
10 the question for you. All right. We're not going to
11 have counsel examining witnesses. You'll have an
12 opportunity to rebut through documents; but when the
13 Board asks questions, we will get to that with him.
14 Thank you.

15 Before we go to the next presentation, I
16 want to take a ten-minute recess. Then we'll come
17 back and continue with PITG. Thank you.

18 (Break.)

19 CHAIRMAN DiGIACOMO COLINS: If we could all
20 come in and get ready, I'll reconvene.

21 Excuse me. I see PITG is ready. Okay.
22 We'll continue now with the presentation from PITG
23 Gaming.

24 MR. EISENHOWER: Good morning, Madam Chair,
25 members of the Board. My name is Jim Eisenhower.

1 I'm with the law firm of Schnader, Harrison, Segal
2 and Lewis, LLP. We represent PITG Gaming, LLC, which
3 was the recipient for the Category 2 slot machine
4 license for the City of Pittsburgh.

5 You have heard a lot of argument and
6 testimony here this morning. I'll try to be brief
7 and not repeat what you have already heard.

8 As you know PITG Gaming was invited to
9 participate in this hearing to present evidence
10 related to CE-Palace's eligibility for a Category 3
11 slot machine license.

12 Under Section 1305 of the Gaming Act, an
13 applicant for a Category 3 license must be the owner
14 or wholly owned subsidiary of the owner of, quote, a
15 well-established resort hotel, end quote.

16 From the legislative intent explained by
17 the General Assembly at the beginning of the Act, we
18 can see this was done for at least two reasons.

19 First, to ensure that those entities would
20 be established corporate citizens who could be
21 expected to be compliant with the close regulation
22 and policing duties entrusted to the Board.

23 Second, to enhance the development of the
24 Commonwealth's tourism market by reserving licensing
25 rights to tourism enterprises with established

1 records of success.

2 Simply put, CE-Palace does not meet this
3 requirement. As this Board is already aware from the
4 applicant's own submissions, the, quote, resort
5 hotel, end quote, in question is not even in business
6 and has not been for several years.

7 This is not the type of entity that the
8 legislature intended to be the recipient of a slot
9 machine license.

10 This is perhaps most visible from the
11 following on-line news video, which we submitted in
12 our notice to intent to contest eligibility, which we
13 filed on September 28th. I'll play a short relevant
14 session for the Board now.

15 (Video played.)

16 MR. EISENHOWER: That completes the
17 relevant section of that story. I think, as the
18 Board can see, this hotel is inactive and in
19 disrepair, certainly, not a, quote, well-established
20 resort and hotel.

21 It does not have, quote, substantial
22 year-round recreational guest amenities as required
23 in the Board's regulations. In fact, it does not
24 have any guests at all.

25 When it comes to parsing out what the

1 legislature intended here, I think we have heard a
2 lot of tortured analysis this morning. I think, we
3 can look at it in a common sense way.

4 If you look at Section 1305, I believe it's
5 reasonable and rationale to think that the Board
6 required -- the legislature required a
7 well-established resort hotel be interpreted to be in
8 the present tense, not the past tense or the future
9 tense.

10 Words like it has to have no fewer than 275
11 rooms and have substantial year-round recreational
12 amendments. It does not say had or will have. It is
13 in the present tense.

14 In addition, to the Board's proposed
15 regulations used terms like the well-established
16 hotel and rooms that are, quote, available for
17 rental, not will be, used to be, might be. It's
18 present. I think that's a rationale, reasonable way
19 to read the statute.

20 Section 1305 of the Act also states that no
21 Category 3 license shall be located by the Board
22 within 15 linear miles of another licensed facility.
23 The reason behind this requirement is clear.

24 The Gaming Act taxes entities at a rate of
25 55 percent of revenue. That is in order to maximize

1 revenue and ensure that different Category 2 and 3
2 licensees do not tread upon or divert patrons away
3 from one another.

4 The General Assembly provided certain
5 exclusivity rights for each licensee. In the General
6 Assembly's judgment, 15 linear miles was the
7 appropriate boundary. So, anything within that
8 radius from PITG's facility necessarily harms PITG's
9 interest and conflicts with the goals of the Act.
10 This is the main reason why we are participating in
11 today's hearing.

12 Finally, the Act doesn't define the term
13 linear miles but that is not an ambiguous word.
14 Again, we have had a lot of tortured analysis of
15 that. I would just go to common sense, what the
16 legislature must have intended.

17 According to the Websters Dictionary,
18 linear is relating to, resembling, or having a graph
19 that is a line, and especially a straight line.

20 According to the Oxford English Dictionary,
21 linear is arranged in or extending along a straight
22 line. Those are the two common sense, every day
23 usages. I think it's absolutely clear that that is
24 what the legislature intended.

25 In fact, as the Chair pointed out and as we

1 all know, again, common sense, if the legislature
2 wanted to say drive time, it could have said that;
3 but in fact, I think it's reasonable to think that
4 they used the term linear because it's the one
5 distance that is fixed. It's not different. It is
6 not subjective. We know what it is.

7 Everyone can agree that this is 13.9 miles
8 from our facility. If you take back roads or you
9 swam or you flew or took the highway or sped, maybe
10 it's closer, maybe it's further.

11 If that's the definition, we would never
12 have a clear objective test; and the legislature
13 couldn't have intended that.

14 I have asked our license surveyor, Kevin
15 Hannigan to be here today. I don't want to belabor
16 the points that have already been raised. I do think
17 it's important for him to put before the Board his
18 concurrence with the Board's expert analysis of the
19 distance and also give you his opinion as a licensed
20 and experienced surveyor what the term linear means
21 to a surveyor and not a traffic consultant. So I
22 would ask Mr. Hannigan to come forward to be sworn.

23 CHAIRMAN DiGIACOMO COLINS: Mr. Hannigan,
24 come up and we'll ask you take an oath, please.

25 (Witness sworn.)

1 MR. HANNIGAN: Good morning. My name is
2 Kevin Hannigan. I'm employed by the Gateway
3 Engineers for some 30 years, and a licensed surveyor
4 for the past 14 years.

5 We were asked to look at the two sites here
6 and get a distance between the two. We come up with
7 13.9, which is sort of conservative because we took
8 the extreme ends of the property.

9 In all of my course work and all of my
10 years of schooling, we have measured distances. We
11 measure distances everyday from Point A to Point B
12 and that is always a straight line distance.

13 In no case do we ever measure curvy lines
14 between two points. That's pretty much what I have
15 to say about the straight line distance part.

16 We have also, from time to time, get
17 numerous calls about franchises such as car
18 dealerships trying to measure distances between two
19 sites so that they don't run into the same thing
20 you're running into here.

21 They are always talking about linear
22 distance and we're always giving them a straight line
23 distance between linear objects. So, I would take
24 that for what it is worth. That's about all I have
25 to say.

1 CHAIRMAN DiGIACOMO COLINS: Thank you.

2 MR. EISENHOWER: Madam Chair, I would ask
3 that Mr. Hannigan be qualified as an expert for
4 purposes of providing his opinion as to definition of
5 the term linear.

6 CHAIRMAN DiGIACOMO COLINS: In terms of
7 what study, what type of science or education? As a
8 surveyor?

9 MR. EISENHOWER: Yes. He can go into more
10 detail about his educational background and also that
11 he's licensed by the Commonwealth of Pennsylvania as
12 a surveyor.

13 CHAIRMAN DiGIACOMO COLINS: It's up to you,
14 if you want to do that.

15 MR. EISENHOWER: Why don't you just briefly
16 go over your educational background and your
17 licensing.

18 MR. HANNIGAN: I'm a licensed surveyor by
19 the Commonwealth of Pennsylvania. I was licensed in
20 1993. I have done course work. I've taught classes
21 in surveying.

22 I have a degree from Penn State in
23 management information systems, 30 years of working
24 in engineering surveying business. As I said, the
25 last 14, I've been a registered surveyor. I head up

1 the survey group at Gateway Engineers.

2 CHAIRMAN DiGIACOMO COLINS: All right.
3 Thank you. He's accepted as an expert in area of
4 surveys and measurements.

5 MR. EISENHOWER: Thank you, Madam Chair.

6 Just for the record, Mr. Hannigan, you
7 conducted a measurement of the linear distance
8 between the CE-Palace facility and the PITG proposed
9 facility; is that correct?

10 MR. HANNIGAN: That is correct.

11 MR. EISENHOWER: And isn't it true that
12 your determination was that that was 13.9 miles?

13 MR. HANNIGAN: That is correct.

14 MR. EISENHOWER: Thank you.

15 CHAIRMAN DiGIACOMO COLINS: Thank you very
16 much.

17 MR. EISENHOWER: In conclusion, I would
18 like to thank the Board for your time and attention
19 this morning and conclude simply by saying that
20 CE-Palace is not eligible in our view for a Category
21 3 license. Thank you.

22 CHAIRMAN DiGIACOMO COLINS: Thank you.

23 Mr. Donnelly, response, if any, sir; or
24 your response and then closing, however you want to

25 --

1 MR. DONNELLY: If the Board is going to ask
2 questions, I would rather do it at the end of that.

3 CHAIRMAN DiGIACOMO COLINS: Okay. Very
4 good.

5 MR. DONNELLY: Thank you.

6 CHAIRMAN DiGIACOMO COLINS: All right.
7 Commissioner Ginty, do you have any questions?

8 COMMISSIONER GINTY: I do.

9 CHAIRMAN DiGIACOMO COLINS: Thank you.

10 COMMISSIONER GINTY: Mr. Hannigan or
11 Mr. Godowsky, is it possible that a linear mile can
12 mean one thing to a surveyor and another thing to a
13 transportation engineer?

14 MR. HANNIGAN: I would say that that would
15 be possible between a person that deals with roads
16 daily and works with roads. They're talking about
17 something different.

18 MR. GODOWSKY: I would concur.

19 COMMISSIONER GINTY: That's fine. I'm done
20 with that.

21 Just to the parties here, when you provide
22 your follow-up briefs here, I wish you would address
23 both the definition of resort hotel and linear mile
24 in terms of legislative intent, particularly the
25 first section there that legislators indicate what

1 their intent was.

2 I ask for the -- I'll ask for the same data
3 for all of the parties here in terms of locale, if
4 you can -- if you have a hotel occupancy, average
5 stay, whether the occupancy differs by season,
6 whatever type of data would be helpful in us
7 comparing the applicant's sites here.

8 That's all I have, Madam Chairman.

9 CHAIRMAN DiGIACOMO COLINS: Commissioner
10 Sojka?

11 COMMISSIONER SOJKA: Thank you, Madam
12 Chairman.

13 I had just a few questions for Miss Rice.
14 Thank you. Yes. I understand you told us something
15 about the origin of the organization for which you
16 work?

17 MS. RICE: Yes.

18 COMMISSIONER SOJKA: It is now presently
19 supported by tax dollars.

20 MS. RICE: It is supported by a portion of
21 the hotel/motel tax.

22 COMMISSIONER SOJKA: But it came into being
23 through an action of the former owner of the Palace
24 Hotel?

25 MS. RICE: He was the one that fought to

1 bring it back to Monroeville, but it was the
2 Pennsylvania State Legislature that passed the Act.

3 COMMISSIONER SOJKA: Okay. You now
4 essentially do bookings of hotels and whatnot for the
5 region.

6 When the Palace was operating, how much
7 booking did you do for other hotels, motels,
8 touristic things in the Monroeville area that you
9 served?

10 MS. RICE: We do not. As a small
11 Convention Visitors Bureau, we have two full-time
12 employees. We do not actually do bookings for the
13 hotels.

14 What we do is we promote to meeting
15 planners and tourism groups and motor coach
16 marketplaces, we promote the area.

17 Then when we come back from different shows
18 that we go to, we send out leads to the hotels. Then
19 it's up to their sales staff to follow up with those
20 leads.

21 COMMISSIONER SOJKA: So you're dealing with
22 a number of other hotels and motels in the area?

23 MS. RICE: Absolutely. Yes.

24 COMMISSIONER SOJKA: Okay. Good.
25 Yesterday, when we were looking at data, we were

1 seeing some presentations of information having to do
2 with at least estimates of what percentage of guests
3 that have given facility might be leisure or
4 touristic folks as opposed to business travelers or
5 pass-through people.

6 You mentioned in your comments that both
7 kinds would have been in the Palace. Could you even
8 hazard a guess as to what percentage of the guests
9 would be, leisure versus simply people traveling on
10 the highway or business people in the area?

11 MS. RICE: I would say that the large
12 portion of it was business corporate group, corporate
13 groups and things like that, a lot of association
14 groups. So I would say that a majority of it was the
15 -- that market --

16 COMMISSIONER SOJKA: So a convention market
17 as opposed to a resort market?

18 MS. RICE: Yes. I would say that it was
19 larger. Yes.

20 COMMISSIONER SOJKA: Okay. Fine. Thank
21 you.

22 CHAIRMAN DiGIACOMO COLINS: Commissioner
23 Rivers.

24 COMMISSIONER RIVERS: Yes. Miss Rice, I
25 have some questions of you also.

1 MS. RICE: Sure.

2 COMMISSIONER RIVERS: You talked very
3 specifically about what the Palace Inn was in the
4 past. I didn't hear a lot of comments about what
5 your thoughts were in terms of what the future was
6 for the Palace Inn.

7 The reason I'm concerned about that. In
8 the past, there were very few other hotels in that
9 area. Now, there are a number of hotels in that
10 area. Could you talk about some of that -- some of
11 what your expectations are right now?

12 MS. RICE: In speaking with Mr. Cozza and
13 his plans to renovate and bring additional taxes into
14 the area, I think that it would be good for the area.

15 I think it would be a positive thing to
16 increase the number of visitors in tourism and groups
17 coming in.

18 COMMISSIONER RIVERS: Okay. 1995, how many
19 hotels were in the Monroeville area, near in or near
20 the Palace Inn?

21 MS. RICE: In 1995?

22 COMMISSIONER RIVERS: Yes.

23 MS. RICE: I believe there were four.

24 COMMISSIONER RIVERS: And how many are
25 there today?

1 MS. RICE: There are six.

2 COMMISSIONER RIVERS: And the names of
3 those six?

4 MS. RICE: We have the Hampton Inn, the
5 Holiday Inn, the Red Roof, the Days Inn, the Spring
6 Hill Suites, and the Courtyard by Marriott.

7 COMMISSIONER RIVERS: So, if I were a
8 visitor to the Monroeville area, would I be more
9 likely to participate or register at one of the
10 national hotels or one of the regional hotels or
11 regional hotel?

12 MS. RICE: I believe that that is a matter
13 of preference with the person who is booking the room
14 that a lot of people -- I know myself, I do a lot of
15 traveling and I am a consistent stayer at certain
16 properties. So, I would imagine that it would be
17 whatever preference the person booking the room.

18 COMMISSIONER RIVERS: Because of the perks?

19 MS. RICE: Because of the perks, because of
20 the cost, the amenities that are offered.

21 COMMISSIONER RIVERS: Okay. Thank you. My
22 next question is for Mr. Cozza. You indicated that
23 you started -- I think you started renovating?

24 MR. COZZA: Yes.

25 COMMISSIONER RIVERS: By any chance, have

1 you created an architectural rendering as to what the
2 facility is going to look like?

3 MR. COZZA: Yes, it was the one we had.

4 COMMISSIONER RIVERS: The very first one?

5 MR. COZZA: Would you like to see that
6 again?

7 COMMISSIONER RIVERS: Yes.

8 MR. COZZA: We need --

9 COMMISSIONER RIVERS: That is okay.
10 Nevermind. That's okay. You have all of the
11 necessary permits that are needed for casino
12 preparation, construction, and involvement with --

13 MR. COZZA: Yes.

14 COMMISSIONER RIVERS: Go ahead.

15 MR. COZZA: We're working very closely with
16 Monroeville. Monroeville, when we met with them and
17 the municipal manager and the different building
18 departments and such, this is a renovation.

19 We do a lot of ground up work where you
20 need all the full permits, grading, foundation, and
21 all of that. This is a full-blown renovation.

22 Full-blown renovation, majority what we are
23 doing in here, we do not need permits for and that's
24 all the work we're doing now, which included the
25 demolition, the asbestos abatement, the new plumbing,

1 all of those type of things, life safety -- a lot of
2 the facilities are grandfathered in as well.

3 Light safety is not up to today's
4 standards. We are designing that right now and we
5 are putting that in and upgrading that. It wasn't a
6 requirement because it is an older existing facility.

7 COMMISSIONER RIVERS: In the area that you
8 outlined that you plan to purchase or have you
9 purchased it already?

10 MR. COZZA: We already own the entire
11 facility, the entire 12 acres.

12 COMMISSIONER RIVERS: Okay. But there was
13 something in red that was outlined?

14 MR. COZZA: That's the entire facility, the
15 12 acres.

16 COMMISSIONER RIVERS: Okay. Good. Thank
17 you.

18 CHAIRMAN DiGIACOMO COLINS: Commissioner
19 McCabe?

20 COMMISSIONER McCABE: I'm sorry to do this
21 to you, Miss Rice, but I have one question for you.
22 Who are you here testifying on behalf of today? Are
23 you here on the behalf of the Greater Monroeville
24 Visitors Center, or are you here on behalf of
25 CE-Palace?

1 MS. RICE: I am here on behalf of the
2 Convention Visitors Bureau because we would have a
3 vested interest in Mr. Cozza being approved for a
4 casino license in our area.

5 It would be a -- we feel that it would be a
6 plus for the area and that we would -- it would
7 generate revenues and increase our standing in the
8 area.

9 COMMISSIONER McCABE: Thank you.

10 Mr. Cozza, I have a couple of questions for
11 you. Could you give us an idea of the status of the
12 renovation project, where it stands today?

13 I think in one of the people contesting
14 your application eligibility, I thought I heard them
15 say that all you have done so far is remove asbestos.
16 Is it past that point? Are you still removing
17 asbestos? Are you now in renovation? Is there
18 construction going on inside the facility?

19 MR. COZZA: There is construction every day
20 inside the facility. What we are doing now -- it's
21 almost steps. We had to take everything out, tear
22 everything out. That has been done. Now, we're
23 putting it back together.

24 What we are focusing on is the systems
25 MEPS, which are mechanical, electrical, and plumbing,

1 the major facilities, the boiler units are being
2 replaced. All of the mechanical things are being
3 done right now.

4 This fall, the new skin will be going on,
5 all of the new glass on the exterior, new roofs and
6 new HVAC. You'll start seeing that. Right now, it's
7 all internal mechanicals.

8 COMMISSIONER McCABE: I drove by there the
9 other day coming here --

10 MR. COZZA: Sure.

11 COMMISSIONER McCABE: I didn't see much
12 activity. That's what sparked this question but also
13 hearing what they were alleging.

14 One of the things I noticed in the
15 advertisements that you showed was that it's always
16 been referred to as an inn, Palace Inn, a place for
17 professional travelers, a hotel. It's never been
18 advertised as a resort.

19 Why should we consider this a resort now
20 versus a hotel, which it what it has been -- or an
21 inn, which is what it has been advertised since 1973
22 until 2004?

23 MR. COZZA: Right. Well, that's part of
24 why we got into the original vision of Al Monzo.
25 When he went to Vegas and he studied and saw and

1 designed a facility that was like the Vegas resorts,
2 that's what this was. He was a promoter.

3 This thing I believe is known and Sandy
4 could probably answer better than I because she lived
5 it. It was known for -- every guy I have talked to
6 says, are you bringing back the Golden Glove boxing
7 matches? He was a promoter. All the pageants, the
8 Miss and Mrs. PA pageants. He did all of those type
9 of things.

10 I think that's a lot of what makes it a
11 resort. It had all of the amenities a resort would
12 have, a spa. I can go back through them but it has
13 all of those amenities as well.

14 Palace Inn -- I don't like the word inn
15 either. There are a lot of resorts that are resorts
16 that don't use that in the title either.

17 One thing we had talked about was, and I
18 know we talked about, there was this issue of are you
19 open yet with the rooms and that kind of thing and
20 that was a whole legal issue on intent.

21 The one advantage we're going to have in,
22 providing we proceed through, is that this facility
23 is going to be largely done by summertime, completely
24 renovated. It will be all new again.

25 All four of the facilities vying for these

1 license right now are old. They are all old. This
2 is going to be completely new again, more up to the
3 Gaming Board standards of what a casino should look
4 like.

5 CHAIRMAN DiGIACOMO COLINS: I think we're
6 straying afield from the eligibility issue right now.

7 MR. COZZA: Sorry.

8 COMMISSIONER McCABE: I think -- I don't
9 know who this question is for but I throw it out
10 there, I don't know who I expect to get up and answer
11 it.

12 Why should we consider your definition of
13 linear mileage when the -- when we have other experts
14 testify that the standard accepted definition of
15 linear mileage is from Point A to Point B.

16 Do we make -- judge you by different
17 criteria for linear mileage than others. Do we use
18 yours on everybody? That's who I expected to get up
19 to answer.

20 MR. DONNELLY: Well, here is why. First of
21 all, I respectfully disagree that there is a standard
22 definition on that.

23 As Mr. DePaolis testified, and also Miss
24 Milanovich, and I think the surveyors here would
25 agree, straight line, yes, from point to point but

1 let's take the surveyor's point of view.

2 If a surveyor is looking through a glass,
3 and through the air, and basically drawing a visual
4 string from one point to another, if the property
5 line turns, if, for example, the property description
6 says 40 degrees west and 15 degrees east and then 10
7 degrees north, which we often do, that surveyor will
8 take a series of lines and move from surveyor to
9 surveyor. That may well be linear because they are
10 still point to point, but it's not a straight line
11 from Point A to Point B on the property line. It
12 follows the property line. I don't think anyone will
13 disagree with that.

14 I think what we have to do, when you are
15 trying to parse out what does this word linear mean,
16 you have to think why would the legislature use that.
17 Miss Milanovich said it best, I think.

18 She said, essentially, that even if it had
19 said feet or miles, she would still say it meant
20 linear miles because she coupled with Cory, too,
21 would say that when we were thinking about the common
22 parlance of this is, for example, if I asked you, you
23 said you drove by the site, I'm sure, Commissioner,
24 if I asked you how many miles was it from the site to
25 here, you would not site to me this dancing along a

1 string.

2 You would look at your odometer, the
3 Commissioner's odometer or navigation site and say, I
4 traveled 62 miles. That's how people look.

5 When I'm asked how far my home -- how far
6 is it into work? I tell them 12 miles. Now, if the
7 surveyor stood on my roof and shot a line to my
8 office, I don't doubt that it is 9 miles.

9 But I think if I'm sitting at a cocktail
10 party, an outstanding cocktail party, which I do
11 frequent, I would say 12 miles. I think everybody up
12 here on this podium would say the same thing.

13 What Miss Milanovich said, and it took
14 three or four times before I picked it up, she said,
15 I think when they put linear in, they were nailing
16 down that concept. That's why they put that modifier
17 in to make it crystal clear that they were talking
18 about roads, not something different.

19 If it were something different, these
20 people are smart enough, they know how to use the
21 word radius and so on. That's why I think that's the
22 case.

23 COMMISSIONER McCABE: Thank you.

24 CHAIRMAN DiGIACOMO COLINS: Commissioner
25 Coy?

1 area bear and support an additional
2 retail/resort/whatever center there?

3 MR. COZZA: Well, it's an existing facility
4 as far as all standards, PennDOT, and everyone has
5 considered. It's an existing facility that did all
6 of this before. There's no reason it can't do it now
7 with traffic infrastructure and everything. We
8 should bear that out in our traffic study. It's
9 ready to be put back together and go.

10 COMMISSIONER COY: And when you consider
11 the success, or lack thereof, of a gaming license in
12 this facility, do you -- have you looked at the
13 potential for the competition, which exists from PITG
14 and from Washington and from yet another harness
15 track in the area, which will likely be approved by
16 the harness commission in the near future?

17 In other words, have you considered all of
18 those locations in making your decision that this an
19 a viable opportunity?

20 MR. COZZA: Yes, because it is an amenity.
21 It's not a full-blown casino. It is just one amenity
22 that this resort can offer.

23 COMMISSIONER COY: So, you believe people
24 will come there not because it's a casino because of
25 the amenities it will have to offer, is that what

1 you're saying?

2 MR. COZZA: Yes. Somebody is going to come
3 on Thursday night for a Golden Gloves match for the
4 weekend. All day, they're at the spa and enjoying
5 things and at the spa. Friday, they go to a concert.
6 Saturday night, they have a wedding. It's all
7 ongoing as a resort getaway.

8 COMMISSIONER COY: To be clear for the
9 record, can the Board satisfy itself by knowing in
10 making a decision about whether or not this would be
11 a successful gaming facility, that you have looked at
12 the entire effects of competition from the other
13 existing licenses in the area that the Board has
14 granted and future licenses, which the Board may
15 grant?

16 MR. COZZA: Yes, we have.

17 COMMISSIONER COY: And having looked at
18 that, you believe that it can be successful?

19 MR. COZZA: Yes.

20 COMMISSIONER COY: Thank you.

21 CHAIRMAN DiGIACOMO COLINS: Commissioner
22 Angeli?

23 COMMISSIONER ANGELI: Mine is just a
24 follow-up to what Commissioner Coy said. You talk
25 about being completed in the summertime of '08?

1 MR. COZZA: Yeah, '08, yes.

2 COMMISSIONER ANGELI: I'm just curious,
3 when did you decide to go to the casino route and the
4 second part of that is, when did you do your funding
5 for this entire project, did your development plans,
6 were they made exclusive of a casino when you started
7 this process?

8 MR. COZZA: No, they weren't. Funding
9 plans are not contingent on a casino. When we
10 started, it was as we brainstormed what amenities --
11 partly Member Coy's position was the viability, we
12 looked at the viability of the market here as well.
13 There's a lot of hotels that have come on.

14 This thing always had -- this resort always
15 had something that drove it. It was the boxing, the
16 pageants. This market is hurting out here. I don't
17 want to get into suitability.

18 We were looking for what economic
19 generators, how we differentiate ourselves from
20 everyone out here and gaming was one of those
21 amenities.

22 COMMISSIONER ANGELI: Okay. I just want to
23 clarify something on the ownership. You are the
24 current owner now?

25 MR. COZZA: 100 percent.

1 COMMISSIONER ANGELI: All right. Thank
2 you. I just have another question. I'm not sure who
3 said it. Somewhere during the testimony, there was a
4 reference to a 20-mile radius rather than -- I don't
5 recall ever seeing that.

6 MR. DONNELLY: Yes, if you look at your Cat
7 3, the PGCB Cat 3 application form, at page 21, it
8 provides for a request for certain appendices.

9 Appendix 29 asks the applicant to make a
10 statement. It reads the statement must also
11 demonstrate compliance with the geographical
12 requirements of Section 1305(b) of the Gaming Act,
13 paren, relating to Category 3 slot machine license,
14 paren, which provided no Category 3 licensee shall be
15 located within the, magic words, 15 linear miles of
16 another licensed facility.

17 Then the next sentence is, in addition,
18 provide the number of miles between the proposed
19 facility and a licensed facility within a 20-mile
20 radius of the proposed project.

21 Then the next appendix -- there it is.
22 It's up there. Then the next appendix, which is
23 Appendix 30 provides, if you look at the bottom of
24 it, the very next box, it provides for statement -- a
25 list of hospitals, places of worship, etc. that are

1 within 1500 feet of the proposed facility.

2 We took some comfort in the fact that the
3 persons who provide this form saw a difference
4 between radius and linear miles, as we did.

5 COMMISSIONER ANGELI: Thank you very much.

6 No further questions.

7 CHAIRMAN DiGIACOMO COLINS: I have a few
8 questions for Mr. Cozza, please.

9 Mr. Cozza, as the developer of this
10 property, when you purchased in -- was it in August
11 of 2004 or June --

12 MR. COZZA: I believe September 1 or
13 somewhere right in there.

14 CHAIRMAN DiGIACOMO COLINS: You purchased
15 it from the widow of Mr. Monzo, was it, or the
16 estate?

17 MR. COZZA: Widow and the three daughters,
18 the estate, yes.

19 CHAIRMAN DiGIACOMO COLINS: From the
20 estate.

21 MR. COZZA: That was 9 of '06.

22 CHAIRMAN DiGIACOMO COLINS: When you
23 purchased this, as the possible developer of it, you
24 had to evaluate and you were deciding how to evaluate
25 what price to pay for it?

1 MR. COZZA: Yes.

2 CHAIRMAN DiGIACOMO COLINS: In that
3 evaluation, did the concept of it being a
4 well-established resort have any value in terms of
5 what the purchase price would be for this property?

6 MR. COZZA: We value the existing facility.
7 We knew that you couldn't replicate this today and
8 make it economically viable. There's 178,000 square
9 foot existing facility there that is built
10 phenomenally.

11 Yes, a lot of the mechanicals and guts need
12 replaced; but the structure was a fantastic
13 structure. We did put economic value on the existing
14 structure --

15 CHAIRMAN DiGIACOMO COLINS: So you --

16 MR. COZZA: -- in our analysis.

17 CHAIRMAN DiGIACOMO COLINS: Right. Your
18 analysis placed an economic value on the existing
19 structure and the location, correct?

20 MR. COZZA: Yes.

21 CHAIRMAN DiGIACOMO COLINS: Did you place
22 an economic value on the fact that there were ongoing
23 entertainment there and that there was a spa there
24 and that, in fact, it was what you say it is, a
25 well-established resort, did that have an economic

1 impact on how you valued the price of this at that
2 time?

3 MR. COZZA: Yes, it did because with that
4 structure, you would only really replace something
5 very similar to what was there and that was certainly
6 -- we never had their financials but we knew this was
7 a very viable economic facility. Down to the day it
8 closed, it was 55 percent occupied, which wasn't bad,
9 given the condition that it was in.

10 CHAIRMAN DiGIACOMO COLINS: So, you -- did
11 you pay more for it because it's a well-established
12 resort than you would have paid were it not a
13 well-established resort?

14 MR. COZZA: Can you ask me that one more
15 time? I'm not sure I followed.

16 CHAIRMAN DiGIACOMO COLINS: Did you pay
17 more for it in 2004 because it was a well-established
18 resort?

19 MR. COZZA: Yes. There was -- it was more
20 valuable because of the facility on it than it was
21 without it.

22 CHAIRMAN DiGIACOMO COLINS: Did you pay
23 more for it because of the ongoing business and
24 goodwill that it brought as a well-established resort
25 than you would have paid for just the building?

1 MR. COZZA: There was no goodwill allocated
2 in the accounting part of it. We knew about it. We
3 knew it as a financial model. We did run proformas.
4 Yes, we could recreate the modern day version of
5 this; and that is valuable for us.

6 CHAIRMAN DiGIACOMO COLINS: I have a lot of
7 questions that I'm not going to ask you. I'm going
8 to ask you when you submit your briefs, as
9 Commissioner Ginty has done, to include information
10 for us about when the last events occurred there,
11 when was the last boxing match, when was the last
12 concert, when was the last live band, things of that
13 nature, when was the last food and beverage license,
14 valid food and beverage license issued, the last
15 hotel tax paid, the last occupancy tax, things of
16 that nature so that we can get some idea about the
17 concept of a well-established resort, if you have
18 copies of advertisements with dates?

19 MR. DONNELLY: We -- most of them are
20 undated. What we have is we have the PowerPoint,
21 which we're going move in. We have some other loose
22 ones. We'll give you what we have.

23 CHAIRMAN DiGIACOMO COLINS: I guess what
24 I'm interested in seeing is up until the time that
25 Mr. Monzo died in 2000 to the time it was sold, what

1 happened to the business during that? Did it stay
2 flat? Did it decline? What happened to the
3 bookings? Did it continue to be operating at the
4 same level? Things of that nature. Okay. That's it
5 for me.

6 Now, I'll turn it over to Mr. Donnelly
7 for a brief summation.

8 MR. DONNELLY: I'll be very brief. We've
9 hit almost every point. First of all, I would like
10 to say that I misspoke at the very opening, I think I
11 said it was purchased in 9/07. I meant 9/06. Just
12 to put that in.

13 Linear, I think what I would like everybody
14 at this Board to do, and everybody in this room to
15 really do, again, sit back and think what you would
16 say on linear.

17 Would you tell people if somebody asked you
18 how far is it was to work, I think you would say how
19 you traveled to work. I think that's pretty common
20 sense. I think as Miss Milanovich said, linear was
21 to nail that down, that concept.

22 The 275 rooms, I mean, the Board is going
23 to have to wrestle with it some way or another
24 because the rooms are going to have to be renovated
25 in all of these hotels and so on.

1 They had kind of a similar thing in
2 Atlantic City. You had to have 500 rooms. Then
3 people said, well, we got to take the rooms out, the
4 floor out to renovate it and how do you get all that?

5 The Commission adopted a reg, and a statute
6 got changed after that to say basically, yeah, we
7 recognize that renovating rooms is a necessary life
8 -- you know, life cycle of a hotel.

9 So, I think when we think about this 275
10 rooms, what do they really want? Well, it's pretty
11 evident in the legislative history.

12 What they were getting at is, we don't want
13 special purpose new hotels being bought. This is to
14 help existing, well-established resort hotels of a
15 certain size.

16 The fact that certain rooms would be out
17 for renovations or up for renovations or so on, I
18 don't think is what the legislature was getting at.

19 They did wrestle with the time share issue
20 but that was, I believe, to make sure that these
21 rooms were under the control of somebody, some human
22 being, who could actually rent them out. They
23 weren't under control of other people who were time
24 sharing.

25 If you stand on Mars and look at the

1 legislature, it's probably thinking it's got to be a
2 big facility, well-established, something that has
3 been in existence, not for a special purpose built
4 for this.

5 That dovetails into what the testimony was.
6 This place, this is a Pittsburgh resort. It is not
7 an Atlantic City resort. It's not a Las Vegas
8 resort. It's not a Caribbean resort.

9 In that region, and in this Commonwealth,
10 it was a big league resort area that was extremely
11 successful as a landmark and that's precisely, again,
12 what I think the legislature wants.

13 What they want is tourism, travel,
14 convention events, people coming in from out of state
15 and from around the area for spending leisure dollars
16 and spending time in the state. That's what this
17 facility did, and that's what this facility would do.
18 I think that's precisely what the legislature was
19 getting at.

20 With that, I would like to move some
21 documents, if it's appropriate? Thank you. I would
22 move the following into evidence and I don't have the
23 dates but we have an application, prehearing
24 memorandum, supplements thereto, the report of Trans
25 Associates, a memo of law that we submitted, I think

1 we submitted a PowerPoint presentation that we have
2 given you, which is in there, the affidavit of
3 Mr. Cozza, and I believe that is -- oh, and our Cat 3
4 application, and any supplements thereto.

5 CHAIRMAN DiGIACOMO COLINS: Thank you.
6 They are accepted.

7 MR. DONAGHUE: I have no objection, and I
8 have one technical matter that I want to raise.

9 CHAIRMAN DiGIACOMO COLINS: Go ahead.

10 MR. DONAGHUE: Actually, if we could also
11 move in reports of Mr. Ricky Moyer.

12 CHAIRMAN DiGIACOMO COLINS: Thank you very
13 much. That is accepted also. Thank you.

14 MR. DONNELLY: Thank you very much.

15 MR. KENNARD: Can we move the statements of
16 the Vacation Charters witnesses as well as Exhibits 1
17 through 7?

18 CHAIRMAN DiGIACOMO COLINS: Very good.
19 Thank you, sir, they are accepted.

20 MR. DONNELLY: Could I just note one
21 objection on the record. There's a statement in
22 there about a market, some market overlap as
23 Paragraph 5, page 3 and I would object to that
24 portion.

25 CHAIRMAN DiGIACOMO COLINS: All right.

1 Objection is noted and it is accepted nonetheless.
2 Thank you. Let's move on to Bushkill. Thank you
3 very much, Mr. Donnelly, Mr. Cozza.

4 MR. DONNELLY: Thank you very much.

5 MR. COZZA: Thank you.

6 (The hearing concluded at 11:37 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the
3 notes taken by me on the within proceedings and that
4 this is a correct transcript of the same.

5

6

7

Hillary M. Hazlett, Reporter
Notary Public

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25