



State of Louisiana

Gaming Control Board

M. J. "MIKE" FOSTER, JR.
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

RULING ON PETITION FOR DECLARATORY ORDER OF NITRO GAMING, INC. D/B/A GRAND COTEAU TRUCK STOP

Petitioner, Nitro Gaming, Inc. d/b/a Grand Coteau Truck Stop, seeks a declaratory ruling regarding the applicable statutory provision and the appropriate method to be used in measuring the distance between a proposed truck stop facility and a building on the National Historic Registry, particularly, whether "one must measure the distance to the site on the national historic registry site from the entrance of the truck stop facility that is contiguous to the frontage road of U.S. Interstate 49 or whether the measurement may permissibly be calculated as a person walks across property owned by a third party to reach a roadway down which to proceed." Petitioner also seeks to have the Board determine that the licensing of a truck stop would not be statutorily prohibited at the proposed location. We assume for purposes of this opinion that both properties are within a municipality.

We are not in a position to officially verify that the locations and distances alleged as fact in the petition and in the attachment to the petition (Exhibit A) are in fact as represented. We were presented with no detailed survey performed by a registered surveyor of the area in which the proposed truck stop is to be located including the property lines of the proposed truck stop and the immovable property adjacent thereto, the width of the roadways and the property lines of the site on

which the historic building is located.

APPLICABLE LAW

Louisiana Revised Statute 27:306(C)(2) is the relevant statute and states:

(a) Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

(b) In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic Registry, public playground, church, synagogue, public library, or school to the nearest point of the premises to be licensed.

(c) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest point of the truck stop facility to the nearest point of the church, synagogue, or school.

We have stated previously that if both properties are within a municipality, La. R.S. 27:306(C)(2)(b) applies. We also determined that the entire 5 or more acres designated as the proposed truck stop facility constitute the "premises" to be licensed as that term is used in La. R.S. 27:306(C). See *In Re Redman of Louisiana, Inc. d/b/a Riverbend Truck Stop and Casino*, LGCB Ruling, August 19, 1999 (attached to this decision) and *In Re Mike Rider*, LGCB Ruling, November 19, 1999 (attached to this decision).

In *In Re NitroGaming, Inc. d/b/a Tallulah Truck Stop*, LGCB Ruling, December 21, 1999 (attached to this decision) and *In Re St. Martinville Truck Stop*, LGCB Ruling, May 16, 2000 (attached to this decision.) we stated that under the facts and circumstances presented in the

respective petitions, pursuant to La. R.S. 27:306(C)(2)(b), distance is measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic Registry, public playground, or building used exclusively as a church, synagogue, public library or school to the nearest point of the premises to be licensed. Relying on the jurisprudence, we concluded that La. R.S. 27:306(C)(2)(b) does not require one to cross the street only at marked intersections or crosswalks when measuring distances. A person can take the most direct path available under the circumstances. See *City of Bastrop v. Johnny's Pizza House, Inc.*, 30,341 (La. App. 2d Cir. 4/8/98), 712 So.2d 156; *Cities Service Co. v. Louisiana Dept. of Public Safety*, 381 So.2d 931 (La. App. 3d Cir. 1980); *Food Town Inc. v. Town of Plaquemine*, 174 So.2d 833 (La. App. 1st Cir. 1965), *writ refused*, 248 La. 356, 178 So.2d 653 (1965). We have not stated that La. R.S. 27:306(C)(2)(b) requires one to trespass across the property of another when measuring distances for licensing purposes.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of June 19, 2001:

IT THE RULING OF THE LOUISIANA GAMING CONTROL BOARD that the distance between the school property and the proposed truck stop facility is to be measured using La. R.S. 27:306(C)(2)(b) under the guidelines set forth in this ruling.


THUS DONE AND SIGNED on this the 22nd day of June, 2001.

LOUISIANA GAMING CONTROL BOARD

BY:


HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 22nd DAY
OF June, 2001

APPEAL DOCKET CLERK




State of Louisiana

M. J. "MIKE" FOSTER, JR.
GOVERNOR

Gaming Control Board

HILLARY J. CRAIN
CHAIRMAN

RULING ON PETITION FOR DECLARATORY ORDER OF REDMAN OF LOUISIANA, INC. D/B/A RIVERBEND TRUCK STOP CASINO

This petition for declaratory ruling was filed by Redman of Louisiana, Inc. d/b/a Riverbend Truckstop Casino (Riverbend) seeking a determination of whether a vocational-technical or trade school is a "school" under the provisions of La. R.S. 27:306(C)(2)(a). If a vocational-technical school is determined to be a school under this statutory provision, the following issue is presented for our determination: Under what circumstances is a convenience store considered to be a part of the truck stop facility when measuring the distance between the truck stop facility to the school pursuant to La. R.S. 27:306(C)(2)(c).

FACTS

As can be gleaned from a reading of the petition, Riverbend is in the process of constructing a truck stop on property located along La. Highway 61 in Reserve, Louisiana, with the intention of meeting the qualifications required of a qualified truck stop facility in order to be eligible for the issuance of a license for the operation of video gaming devices at a qualified truck stop facility pursuant to La. R.S. 27:306(A)(4), a Type 5 license. The truck stop will be located across La. Highway 61 from a vocational-technical school, Louisiana Technical Institute. If Louisiana Technical Institute is not a "school" within the meaning of La. R.S. 27:306(C)(2)(a) no further analysis is needed. However, if it is deemed a school, Riverbend has a a potential problem in

complying with the statutorily prescribed five hundred foot minimum distance between a truck stop facility and a school.

Apparently, a building has either already been constructed or is planned to be constructed at the truck stop facility. It will house a convenience store as well as other truck stop amenities. The portion of the building which houses or will house the convenience store is located within five hundred feet of the school. If the convenience store as set forth on the plat, is considered to be a part of the truck stop facility, then the truck stop facility is located within 500 feet of the school. Under such circumstances, the granting of a video gaming license to Riverbend would be precluded by La. R.S. 27:306(C)(2)(a).

APPLICABLE LAW

a) School

La. R.S. 27:306(C)(2)(a) provides in pertinent part:

Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

Sections 81(C) and 281(C) of Title 26 of the Louisiana Revised Statutes (the Alcoholic Beverage Control Law) authorize the adoption of parish and municipal ordinances to prohibit the granting of an ABC permit for any premises situated within three hundred feet of a public playground or of a building used exclusively as a church or synagogue, public library, or school. The language and intent of these statutory provisions are similar to that of La. R.S. 27:306(C)(2)(a). The jurisprudence has held that Xavier University is a "school" within the meaning of the Alcoholic Beverage Control Law thus prohibiting the location of a bar within 300 feet of a university campus

dormitory. *Xavier University v. Thigpen*, 151 So.2d 550 (La. App. 4th Cir. 1963). The jurisprudence has also determined that public schools for the education of children between the ages of six and eighteen, kindergartens, institutions of higher learning and Montessori schools are "schools" within the meaning of La. R.S. 26:81(C). See *Cole v. City of Ruston*, 573 So.2d 641 (La. App. 2d Cir. 1991).

State post-secondary vocational-technical schools are educational institutions. See *State v. Ferek*, 94-0383 (La. App. 1st Cir. 3/3/95), 652 So.2d 597. They are administered and supervised by the Board of Supervisors of Community and Technical Colleges and their purpose is to:

"provide a coordinated, comprehensive program of career education to encourage and to promote the acquisition of skills for earning a living together with basic academic skills and to develop the potentials of students into abilities that will enable them to be as self sufficient as their talents permit, to function effectively in society and to live meaningful, enjoyable lives."

La. R.S. 17:1992. Their purpose is the education of students of all ages, including students under the age of eighteen. Vocational-technical schools as well as high schools and universities meet the definition of a "school" under La. R.S. 27:306(C)(2)(a). Accordingly, a truck stop facility is statutorily prohibited from being located within five hundred feet of a vocational-technical school.

b) Truck Stop Facility

A person owning or leasing a qualified truck stop facility as defined in La. R.S. 27:306(A)(4)(c)¹ of the video gaming law may be granted a license for the placement of

¹La. R.S. 27:306(A)(4)(c) provides as follows:

As used in this Section a qualified truck stop facility shall mean a facility covering at least five developed contiguous acres which sells fuel, lubricating oil, and other vehicular merchandise, such as batteries, tires, or vehicle parts for eighteen-wheel tractor-trailers, and which also meets all of the following criteria:

(i) It must be located adjacent to a major state or interstate highway, as defined by the division through rules and regulations adopted by the division for this purpose, subject to legislative oversight.

(ii) It must have an on-site restaurant with all of the following features:

(aa) Provides seating for at least fifty patrons.

(bb) Provides full table service for sit-down meals.

(cc) Is open twenty-four hours a day.

(dd) Offers a varied menu.

(iii) It must have parking areas with each of the following:

(aa) A stable parking area for at least fifty eighteen-wheel tractor-trailer motor vehicles, either paved or concrete, to support eighteen-wheel tractor-trailer motor vehicles and their loads, constructed according to industry specifications, subject to approval by the division. All other parking areas not paved or concrete must be certified by an authorized company and proof provided that compaction tests were conducted, subject to approval by the division.

(bb) Parking of sufficient size is allowed for safe ingress and egress.

(cc) Parking areas for other vehicles around business entrance ways and exits shall not constitute parking areas for eighteen-wheel tractor-trailer motor vehicles.

(iv) It must have diesel and gasoline fuel facilities. The fuel facility shall offer, in the regular course of business and consistent with the requirements of Subpart E of Part VIII Chapter 1 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:421 through 427, and the requirements of Chapter 13 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:1401 through 1419, fuel sales for individual vehicle consumption. Bulk sales or transfers shall not be used to calculate monthly averages. All fuel sales must correspond to state-accepted daily sales reports which correspond to monthly state sales tax reports and shall be verified by fuel tickets from the truck stop facility.

(v) It must have on-site repair service facilities for eighteen-wheel tractor-trailer motor vehicles. The on-site repair service may be in the form of contracted services from a business which regularly offers this type of service. A copy of any contractual agreement shall be submitted for approval to the division for review and processing.

(vi) It must have at least four of the following amenities:

(aa) A separate truckers' television lounge.

(bb) A full-service laundry facility located in a convenient area for truckers' use.

(cc) Private showers for men and women and not located in an area open to general public restroom facilities.

a maximum of 50 video gaming devices in the facility. La. R.S. 27:306(A)(4)(a) and (5)(a).

A "facility" is defined as "the premises of a business which is licensed to house or offer for play video gaming devices within this state." L.A.C.42:XI.2403(A).

"Premises" is defined as "land together with all buildings, improvements, equipment, and personal property located thereon which is controlled by an applicant or a licensee, and associated with video gaming activities authorized by the act." L.A.C. 42:XI.2403.

Under the provisions of La. R.S. 27:306(C)(2)(c), the distance between the truck stop facility and the school is measured by "straight line from the nearest point of the truck stop facility to the nearest point of the ... school." Riverbend seeks a determination of whether a convenience store is a part of the truck stop facility from which distance from the school is measured or whether it can be excluded by any means from being a part of the facility for measurement purposes.

In addition to meeting the statutory requirements, a truck stop must also have four of seven of the amenities enumerated in La. R.S. 27:306(A)(4)(c)(vi), a separate truckers' television lounge, full-service laundry facility, private showers for men and women separate from general public restroom facilities, travel store with truckers' supplies, truck scales, separate truckers' telephones, and permanent storage facilities for fuel.

The requirements and amenities enumerated in La. R.S. 27:306(A)(4)(c) comprise a part

(dd) A travel store with items commonly referred to as truckers' supplies (items commonly used only by commercial motor vehicles).

(ee) Truck scales.

(ff) Separate truckers' telephones.

(gg) Permanent storage facilities for fuel.

(vii) It must have an area separated for adult patronage only.

of the truck stop facility. Any amenity which is not statutorily enumerated is not a part of the truck stop facility for purposes of La. R.S. 27:306(C)(2)(c) if the truck stop facility meets the requirements of La. R.S. 27:306(A)(4) and the amenity is located outside the perimeter of the facility. However, if the non-enumerated amenity is located adjacent to and in the same building or structure as a part of the truck stop facility, it too becomes a part of the facility.

A convenience store is not a statutorily enumerated amenity and standing alone as an independent structure outside the perimeter of the otherwise qualified truck stop facility, it need not comprise a part of the truck stop facility for measurement purposes pursuant to La. R.S. 27:306(C)(2). If, however, it is contiguous to or within the same structure or building or under the same roof as a statutorily enumerated amenity, it comprises a part of the facility for measurement purposes pursuant to that provision.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of August 17, 1999:

IT IS THE RULING OF THE LOUISIANA GAMING CONTROL BOARD that a state vocational-technical school is a school within the meaning of La. R.S. 27:306(C) and the Riverbend Truck Stop facility is within five hundred feet of the school.

THUS DONE AND SIGNED on this the 17 day of August, 1999.

LOUISIANA GAMING CONTROL BOARD

BY:


HILARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 20th DAY
OF August, 19 99

APPEAL DOCKET CLERK





State of Louisiana

M. J. "MIKE" FOSTER, JR.
GOVERNOR

Gaming Control Board

HILLARY J. CRAIN
CHAIRMAN

DECISION ON PETITION FOR DECLARATORY RULING OF MIKE RIDER

This is a petition seeking a declaratory ruling on the proper statutory provision to apply in measuring the distance between a proposed truck stop facility and a school. Petitioner requests the Louisiana Gaming Control Board ("Board") to find that 1) La. R.S. 27:306(C)(2)(b) would be used in measuring the distance between a proposed truck stop and a school; 2) measurements pursuant to La. R.S. 27:306(C)(2)(b) would be made parallel to roadways in instances where no sidewalks exist; and 3) alternatively, if La. R.S. 27:306(C)(2)(c) is the appropriate statutory provision to apply in this instance, that the measurement be made from the nearest point of the proposed truck stop facility to the nearest point of the school building.

The Board reviewed the petition, the memorandum of the Louisiana State Police, Video Gaming Division ("Division"), diagrams of the site provided by petitioner and a video of the site prepared by the Division.

STATUTES AND REGULATIONS

The statutory and regulatory provisions pertaining to the issue are as follows:

Louisiana Revised Statute 27:306(C)(2) which reads:

(a) Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

(b) In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic registry, public playground, church, synagogue, public library, or school to the nearest point of the premises to be licensed.

(c) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest point of the truck stop facility to the nearest point of the church, synagogue, or school.

Louisiana Revised Statute 27:301(B)(8) defines licensed establishment to mean "... a qualified truck stop facility as defined in R.S. 27:306..."

Louisiana Revised Statute 27:306(A)(4)(c) states, in pertinent part:

As used in this Section a qualified truck stop facility shall mean a facility covering at least five developed contiguous acres which sells fuel, lubricating oil, and other vehicular merchandise, such as batteries, tires, or vehicle parts for eighteen-wheel tractor-trailers, and which also meets all of the following criteria:

...

Facility and premises are defined in the rules as follows:

L.A.C. 42:XI.2403(A) *Facility*—the premises of a business which is licensed to house or offer for play video gaming devices within this state.

L.A.C. 42:XI.2403(A) *Premises*—land together with all buildings, improvements, equipment, and personal property located thereon which is controlled by an applicant or a licensee, and associated with video gaming activities authorized by the act.

ANALYSIS

A truck stop cannot be located within 500 feet of a school. The measurement can be made in two ways depending on whether the area to be measured is within city limits or developed by subdivisions with streets, blocks, and sidewalks or is outside city limits and undeveloped. In the first instance, the distance is measured "as a person walks using the sidewalk from the nearest point of

the property line of the ... school to the nearest point of the premises to be licensed." La. R.S. 27:306(C)(2)(b). If the area is outside the city limits and undeveloped, the measurement "is a straight line from the nearest point of the truck stop facility to the nearest point of the ... school."

In the past, we have found that the five or more acres designated as the truck stop facility be considered in measuring the distance necessitated by La. R.S. 27:306(C).

After reviewing La. R. S. 27:306(C) and case law, we conclude that the measurement between a school and a truck stop facility should be from the school property, i.e., that property used by the school, to the property line of the designated truck stop facility. See *Randolph v. Village of Turkey Creek*, 240 La. 996, 126 So.2d 341 (1961); *City of Bastrop v. Johnny's Pizza House, Inc.*, 30,341 (La. App. 2 Cir. 4/8/98), 712 So.2d 156; *Buy-U-Sak, Inc. v. City of Ruston*, 602 So.2d 1057 (La. App. 2d Cir. 1992).

The information supplied to the Board supports our finding that the proposed truck stop facility is outside of the city limits of Eunice and in an area which is not divided into subdivisions with streets, blocks, and sidewalks.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of November 16, 1999:

IT IS THE RULING OF THE LOUISIANA GAMING CONTROL BOARD that the distance between the school property and the proposed truck stop facility is to be measured using La. R.S. 27:306(C)(2)(c). The starting point of measurement is the school property.

THUS DONE AND SIGNED on this the 19th day of November, 1999.

LOUISIANA GAMING CONTROL BOARD

BY:




HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD

I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 22ND DAY
OF November, 19 99

APPEAL DOCKET CLERK





State of Louisiana

Gaming Control Board

J. "MIKE" FOSTER, JR.
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

DECISION ON PETITION FOR DECLARATORY RULING IN THE MATTER OF NITRO GAMING, INC. D/B/A TALLULAH TRUCK STOP

This is a petition seeking a declaratory ruling on the proper statutory provision to apply in measuring the distance between a proposed truck stop facility and a vocational school property. Petitioner requests the Louisiana Gaming Control Board ("Board") to find that 1) La. R.S. 37:306(C)(2)(b) is the proper provision to be used in measuring the distance; 2) measurements pursuant to La. R.S. 27:306(C)(2)(b) be made parallel to roadways in instances where no sidewalks exist; and 3) the licensing of the truck stop on the designated property would not be prohibited because of its proximity to the school. It is uncontested that both properties are within the city limits of Tallulah.

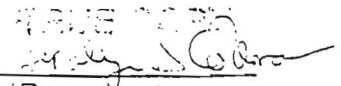
APPLICABLE LAW

The statutory and regulatory provisions pertaining to the issue are as follows:

Louisiana Revised Statute 27:306(C)(2) which reads:

(a) Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

(b) In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic Registry, public playground, church, synagogue, public library, or school to the nearest point of the premises to be licensed.



Representative

Louisiana Gaming Control Board

(c) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest point of the truck stop facility to the nearest point of the church, synagogue, or school.

Louisiana Revised Statute 27:301(B)(8) defines licensed establishment to mean "... a qualified truck stop facility as defined in R.S. 27:306..."

Louisiana Revised Statute 27:306(A)(4)(c) states, in pertinent part:

As used in this Section a qualified truck stop facility shall mean a facility covering at least five developed contiguous acres which sells fuel, lubricating oil, and other vehicular merchandise, such as batteries., tires, or vehicle parts for eighteen-wheel tractor-trailers, and which also meets all of the following criteria:

...

Facility and premises are defined in the rules as follows:

L.A.C. 42:XI.2403(A) *Facility*—the premises of a business which is licensed to house or offer for play video gaming devices within this state.

L.A.C. 42:XI.2403(A) *Premises*—land together with all buildings, improvements, equipment, and personal property located thereon which is controlled by an applicant or a licensee, and associated with video gaming activities authorized by the act.

LEGAL ANALYSIS

As both properties are within city limits, we agree that La. R.S. 306(C)(2)(b) applies. Petitioner and the State, through their filings with the Board, cite *City of Bastrop v. Johnny's Pizza House, Inc.*, 30,341 (La. App. 2 Cir. 4/8/98), 712 So.2d 156, in support of petitioner's proposition that where there are no sidewalks, "measurements are to be made along walkways on the edge of the streets or parallel to the sides of the streets." *City of Bastrop*, 712 So. 2d at 158. We agree.¹

The court in *City of Bastrop* applied a city ordinance regarding the required distance

¹ See also *Food Town, Inc. v. Town of Plaquemine*, 129 So.2d 877 (La. App.1 Cir. 1961); *Morvant v. St. Charles Parish* 95-62 (La. App. 5 Cir. 6/28/95), 658 So.2d 21;

between a liquor establishment and a playground that is essentially the same as the applicable statute in this matter. The liquor establishment had placed a fence along the west and north sides of property on which the establishment was located. The fence ran parallel to two streets. The fence contained two gates directly across the street from the playground along the northern side of the property. The establishment argued that the position of the fence enabled "the property to satisfy the city ordinance because a person must walk a distance greater than" the minimum distance required by the city ordinance to travel from the establishment to the school. The argument was that one must leave the building walking west on the property to a sidewalk next to the street to the west of the establishment, walk north along the fence to the intersection and cross the street to reach the sidewalk adjacent to the playground. In the alternative, the establishment argued that one could walk north from the establishment, through the open gate which was directly across the street from the playground, then walk west to the intersection to cross the street to reach the playground. Each route was greater than the minimum distance required by the ordinance.

The court rejected both routes. The court found that the proper measurement was along a route that ran north from the establishment walking on the property belonging to the establishment, proceeding through the open gate to the sidewalk on the south side of the street, then crossing the street at that point to reach the northern sidewalk adjacent to the playground.

The court did not interpret the ordinance to require that one cross a street only at an intersection or that one not take the most direct path available in the circumstances. We find support for the position taken by the court in *City of Bastrop* in the First Circuit case, *Food Town, Inc. v. Town of Plaquemine*, 129 So.2d 877 (La. App. 1 Cir. 1961).

The court in *Food Town, Inc.*, when interpreting the legal requirement that the distance shall be measured "from the nearest point of the property line of the church or synagogue, library,

playground, or school to the nearest point of the premises to be licensed' stated:

According to this wording, and the clear intention of the statutes and the ordinance under consideration, we feel that, under the facts set forth in this suit, the distance shall be measured as a person walks using the middle of the sidewalk from the **nearest point of the property line of the school to the nearest point of the premises wherein liquor is sold.** Emphasis added.

This is the logic used in *City of Bastrop* with which we agree and direct the Louisiana State Police, Video Gaming Division ("Division"), to employ when measuring distances under La. R.S. 27:306(C)(2)(b).

Furthermore, we do not give pre-certifications. When and if an application for a truck stop is filed, the Division will measure the distance using the statutory provision and interpretation and the guidelines given in this ruling.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of December 21, 1999:

IT THE RULING OF THE LOUISIANA GAMING CONTROL BOARD that the distance between the school property and the proposed truck stop facility is to be measured using La. R.S. 27:306(C)(2)(b) under the guidelines set forth in this opinion.

THUS DONE AND SIGNED on this the 21st day of December, 1999.

LOUISIANA GAMING CONTROL BOARD

BY:



HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED
ALL PARTIES THIS 23rd
OF December, 19 99

APPEAL DOCKET CLERK

Geraldine St. Coleman



State of Louisiana

Gaming Control Board

"MIKE" FOSTER, JR.
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

RULING ON PETITION FOR DECLARATORY ORDER IN THE MATTER OF ST. MARTINVILLE TRUCK STOP

This is a petition seeking a declaratory ruling on the proper statutory provision to apply in measuring the distance between a proposed truck stop facility and a playground when both properties are located within municipal limits.

Louisiana Revised Statute 27:306(C)(2) is the relevant statute and states:

(2)(a) Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

(b) In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic Registry, public playground, church, synagogue, public library, or school to the nearest point of the premises to be licensed.

(c) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest point of the truck stop facility to the nearest point of the church, synagogue, or school.

Counsel for petitioner affirms that St. Martinville Truck Stop is the same truck stop that was the subject of a previous declaratory ruling by this board. The petition did not indicate this fact. The diagrams submitted with the petition did not show the location of the park or name the park. In the

previous request for declaratory ruling, an issue was whether that area of the park located directly across from the proposed truck stop would be considered a playground. It was admitted that if so, the playground was located within 500 feet of the proposed truck stop. The question asked in the first petition for declaratory ruling was, "[U]nder the interpretation of the Louisiana Gaming Control Board of LSA-R.S. 306(C)(2)(a), would the proposed truck stop property be precluded from being issued a Type V license permitting the operation of video draw poker devices based upon the facts contained in the foregoing?"

It was the unanimous ruling of the board that that portion of the park in question was a playground for purposes of La. R.S. 27:306(C)(2) and that since the playground was located directly across the street from the proposed truck stop and within 500 feet therefrom, the truck stop was precluded from having a video gaming casino. That ruling was made on December 15, 1998.

Although framed differently, the petition before us is factually the same as that previously before us. The board has ruled. A rehearing was not requested nor was this taken to the district court. The board decision is final.

To reiterate our position concerning this matter:

1. When both properties are located within municipal limits, the applicable statute is La. R.S. 27:306(C)(2)(b).
2. The entire five (5) or more acres designated as the truck stop facility by the applicant are the premises as that term is used in the Video Draw Poker Devices Control Law, La. R.S. 27:301 et seq. See, *In the Matter of Mike Rider, LGCB Ruling, November 19, 1999*.
3. The measurement made pursuant to La. R.S. 27:306(C)(2)(b) is made from that portion of the premises to be licensed nearest the playground.
4. If the premises are across the street from the playground, there is no necessity for use of sidewalks as one would just walk across the street to the playground. The measurement for purposes of La. R.S. 27:306(C)(2)(b) would be as such. *City of Bastrop v. Johnny's Pizza House, Inc.*, 30,341 (La. App.2 Cir. 4/8/98), 712 So.2d 156.

5. The proper method of measurement when La. R.S. 306(C)(2)(b) is applicable has been discussed by this board in *In the Matter of Nitro Gaming, Inc. d/b/a Tallulah Truck Stop, LGCB Decision, December 21, 1999.*

THUS DONE AND SIGNED this 16th day of May, 2000.

LOUISIANA GAMING CONTROL BOARD

BY:



HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 17th DAY
OF May, 2000

APPEAL DOCKET CLERK

