



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 application of La. R.S. 27:306(C)(2)(b) in measuring the distance between a proposed truck stop location and the boundary line of a historic district which apparently cuts across property owned by a third party which is contiguous to the proposed truck stop location "although the historic district property is not itself contiguous to the proposed truck stop property." Petitioner states that a previous ruling of this Board

would appear to support the position that the construction of a qualified truck stop facility and operation of video draw poker devices would be permissible. However, in light of the high cost of the improvements and construction of the facility, petitioner would formally request the position of the Louisiana Gaming Control Board as to the appropriate method of measurement and the permissibility of the construction of a licensable qualified truck stop facility upon the property in light of this new discovery.

Petitioner requests that the Board make the following determinations "based on the statements of fact and documents attached to this petition:" (1) that La. R.S. 27:306(C)(2)(b) is the applicable statutory provision; (2) that pursuant to section 306(C)(2)(b), where there are no sidewalks, the distance is calculated by walking parallel to the existing roadways where the sidewalks would normally be constructed; (3) that "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” and (4) that the “licensing of a qualified truck stop facility would not be prohibited upon the parcel of property designated in the attached Exhibit ‘A.’”

In *In Re: Grand Coteau Truck Stop*, LGCB Ruling, June 21, 2001, we stated as follows:

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.

The facts from which we are to base a decision are no more clear and certain in this petition than when considering the previous petition filed in this matter. Thus we are unable to determine whether a qualified truck stop facility would or would not be prohibited by La. R.S. 27:306(C)(2)(b) on the designated parcel of property. The facts and information submitted should be verified and should include at the least a registered survey of the proposed truck stop facility and surrounding historical sites and playgrounds, the ownership of all property contiguous to the proposed facility, available rights of way or rights of use, etc. Petitioner should also submit verified proof of the following: the existence of a Historic District, its inclusion on the National Historic Registry, the existence of an established “historic district line” and the location of the “historic district line.” Petitioner should be prepared to furnish all information and authenticated facts required in making such a determination.

APPLICABLE LAW

Louisiana Revised Statute 27:306(C)(2) is the relevant statute which provides as follows:

(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.

To reiterate our position as stated in our previous ruling in this matter:

- (1) If both properties are within a municipality, La. R.S. 27:306(C)(2)(b) applies.
- (2) 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; *In Re Mike Rider*, LGCB Ruling, November 19, 1999.
- (3) Pursuant to La. R.S. 27:306(C)(2)(b) distance is measured from the nearest point of the premises as a person could walk to a sidewalk or land set aside for pedestrian or vehicular access to 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. *City of Bastrop v. Johnny's Pizza House, Inc.*, 30,341 (La. App. 2 Cir. 4/8/98), 712 So.2d 156. *In Re Nitro Gaming, Inc. d/b/a Tallulah Truck Stop*, LGCB Ruling, December 21, 1999 and *In Re St. Martinville Truck Stop*, LGCB Ruling, May 16, 2000.

(4) 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). *In Re Nitro Gaming, Inc. d/b/a Tallulah Truck Stop*, LGCB Ruling, December 21, 1999;

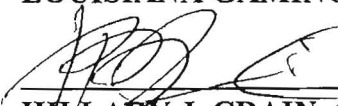
(5) We have not stated that La. R.S. 27:306(C)(2)(b) requires one to *trespass* across the property of another when measuring distances for licensing purposes.

Assuming La. R.S. 27:306(C)(2)(b) is applicable, the point of measurement from a site which is on the National Historic Registry, public playground, church, synagogue, public library, or school is from the nearest point of the outer boundary or property line. 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).

This matter was considered by the Louisiana Gaming Control Board in open meeting of February 18, 2003.

THUS DONE AND SIGNED this 19th day of February __, 2003.

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 20th DAY
OF February, 2003

APPEAL DOCKET CLERK
