



State of Louisiana

Gaming Control Board

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

HILLARY J. CRAIN
CHAIRMAN

DECISION OF THE LOUISIANA GAMING CONTROL BOARD

IN RE: TRIPLE DIAMOND, L.L.C. D/B/A CAJUN CASINO VP5000511762

This is an appeal by Louisiana State Police, Video Gaming Division from a decision of the Hearing Officer ordering the issuance of a Type V video gaming license to applicant, Triple Diamond, L.L.C. d/b/a Cajun Casino (Triple Diamond).

By letter dated September 1, 2000, Triple Diamond was notified of the recommended denial of its application for the issuance of a license for the placement of a maximum of 50 video gaming devices in a qualified truck stop facility. The basis for the recommendation was the result of an investigation which revealed evidence that part of the five and one-half contiguous acres comprising the premises of the truck stop facility is located in Lafayette Parish and the remaining portion is located in St. Martin Parish.

APPLICABLE LAW

La. R.S. 18:1300.21 provides in pertinent part:

A.(1) All forms of gaming activity as defined in Paragraph (3) of this Subsection shall be discontinued unless a majority of electors voting in the election provided for in this Section permit the continuance of such gaming activity.

(2) At the time of the 1996 congressional general election, a proposition shall appear on the ballot in every parish to determine

whether the conducting of gaming activity shall be permitted in the parish.

(3) As used in this Section, "gaming activity" means with respect to what is authorized by law prior to May 9, 1996 in each parish, the operation of video draw poker devices, the conduct of gaming on a riverboat upon a designated river or waterway, or the conducting of land-based casino gaming operations at the official gaming establishment.

....

C. A majority of votes cast on each proposition shall separately determine that issue for each parish.

D. If a majority of the electors voting in the election vote in favor of permitting the continuation of any gaming activity, then such gaming activity may be conducted in such parish as provided by law. If a majority of the electors voting in the election vote not to continue any gaming activity in the parish, then no license or permit shall be issued to conduct such gaming activity and no such gaming activity may be permitted in that parish. If any such gaming activity was, prior to May 9, 1996, authorized, licensed, or permitted, and conducted in any parish in which the voters vote against continuance of such gaming activity, the licensees or permittees for such gaming activity shall discontinue gaming activity in that parish upon expiration of their current gaming license or upon revocation, suspension, or return thereof if such revocation, suspension, or return occurs prior to expiration of the license. Video draw poker licenses may be renewed twice following the election provided the licensee is in compliance with the law and the rules adopted thereunder. The regulatory and licensing agency for the regulation of video draw poker operations, as authorized by R.S. 27:301 et seq.....shall obtain the results of the election and shall not issue any licenses in parishes where a majority of the voters voting in the election have voted against continuance of gaming activities.

La. R.S. 27:306(A)(4) provides in pertinent part:

(a) A person owning a qualified truck stop facility may be granted a license for the placement of not more than fifty video draw poker devices in his facility based on the fuel sales as provided in Subparagraph (b) of this Paragraph, in an area separated for adult patronage only, if all other requirements of this Chapter are met. There shall be only one license granted for the operation of video draw poker devices at each qualified truck stop facility.

....

(c) 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....

It is uncontradicted that the boundary line between St. Martin Parish and Lafayette Parish has not been ascertained and fixed by conjoint survey as provided in La. R.S. 50:221. A majority of the voters of St. Martin Parish voted to continue video gaming in the parish while the voters of Lafayette Parish voted not to continue video gaming activity in the parish. If a portion of the truck stop facility is located in Lafayette Parish, the issuance of a video gaming license to Triple Diamond would be in conflict with La. R.S. 18:1300.21 by ignoring the clear result of the election in Lafayette Parish and Triple Diamond would not meet the requirements of a "qualified truck stop facility" as enumerated in La. R.S. 27:306.

The findings of fact in the written opinion of the Hearing Officer accurately detail the evidence admitted at the hearing. In reasons for judgment the Hearing Officer concluded that an examination of the documents introduced at the hearing contain insufficient information to locate the boundary between Lafayette Parish and St. Martin Parish. Based on the "Tobin Aerial Survey Map" used by the assessors of Lafayette and St. Martin Parishes which locates the tracts in St. Martin Parish, a cash sale of February 19, 1894 and a November 23, 1904 partition which identifies the tracts as being in St. Martin Parish, the Hearing Officer determined the tracts to be located entirely in St. Martin Parish. Citing *State v. Texas Co.*, 211 La. 326, 30 So.2d 107 (1947), the Hearing Officer concluded that because the tracts have been treated by parochial authorities and the owners as lying wholly within St. Martin Parish, it will be regarded as such for video gaming licensing purposes.

A review of the record reveals the tracts may actually be partially located in Lafayette Parish.

We realize that according to the jurisprudence, where a boundary between two parishes has not been established by conjoint survey and a certain section has been treated by parochial authorities and the owners as lying wholly within one of the parishes, a court will regard such area as having been wholly within such parish prior to the establishment of the boundary. See *State v. Texas Co.*, 211 La. 326, 30 So.2d 107. The jurisprudence refers to a **court**, not an agency or board, determining within which parish a tract of land will be regarded (in this instance for licensing purposes). The making of such determinations is within the court's jurisdiction, not this Board. Accordingly, the decision of the Hearing Officer should be reversed and the video gaming license application should be denied.

ORDER

This matter having been considered by the Louisiana Gaming Board at its meeting of February 20, 2001:

IT IS ORDERED THAT the decision of the Hearing Officer is **REVERSED** and the video gaming license application is **DENIED**.

THUS DONE AND SIGNED on this the 21st day of February, 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 20th DA
OF February, 2001

APPEAL DOCKET CLERK
