



State of Louisiana
Gaming Control Board

KATHLEEN BABINEAUX BLANCO
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

**DECISION OF THE
LOUISIANA GAMING CONTROL BOARD**

**IN RE: GREEN PARK INDUSTRIES, INC.
D/B/A LAKEVIEW LOUNGE
VP0800612464**

RULING ON APPLICATION FOR REHEARING

The matter before the Louisiana Gaming Control Board ("Board") is a request for rehearing of the revocation of the Type 6 video gaming license of Green Park Industries, Inc. d/b/a Lakeview Lounge (Lakeview).

On November 7, 2003, Lakeview received a "Notice of Recommendation of Revocation" of its device owner license as evidenced by the signed return receipt of certified mail. The licensee was notified that an administrative hearing must be requested within 10 days of receipt of the notice and informed that failure to request a hearing would result in revocation of its license without further proceedings. A separate "Notice of Recommendation of Revocation" of the Type 1 establishment license (No.0800111494) was issued on October 30, 2003 and received on November 7, 2003. The recommendation in both cases was based on the same factual allegations. An administrative hearing was timely requested regarding the Type 1 license. Apparently counsel for the Division was at least initially under the assumption that a hearing had

also been requested for the device owner license, as evidenced by the motion to continue the administrative hearing which was filed with the Hearing Office by counsel for the Division which references the Type 6 (device owner) license. Counsel for the licensee was apparently under the same impression.

Pursuant to a memorandum from the Hearing Office stating that Lakeview (#0800612464) had not requested a hearing regarding its device owner license, the Board issued a "Notice of Revocation" of that license. The Notice of Revocation was signed on December 18, 2003, and entered on December 19, 2003. As evidenced by the return receipts of certified mail, the Notice of Revocation was received by the Division on December 28, 2003 and received by the licensee on January 3, 2004. The rehearing request was filed on January 5, 2004.

A rehearing request must be filed within 10 days of entry of the decision. La. R.S. 49:959(A). The date of entry is the date on which the decision or order was placed in the mail. The Division received the decision 9 days from its date of entry. The licensee received the decision 15 days from date of entry, more than 5 days after the time delays for rehearing had expired. Under the circumstances of this case, it would be unfair to hold the licensee to a time limit of 10 days, which would have run 5 days before the licensee even received notification of the decision. Thus, under the circumstances of this case, we find that the licensee was not apprised of the decision or order until January 3, 2004, and that its rehearing request was timely. See *In re Maison DeVille Nursing Home*, 2000-0868 (La. App. 1 Cir. 6/22/01); 797 So.2d 728.

LEGAL ANALYSIS

Louisiana Revised Statute 49:959 gives the grounds for an agency rehearing, reopening, or reconsidering its decision and provides, in pertinent part:

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

- (1) The decision or order is clearly contrary to the law and the evidence;
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- (3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

“Adjudication” is defined as the agency process for the formulation of a decision or order. La. R.S. 49:951(1).

Lakeview has presented grounds for reconsideration. Therefore, this matter will be forwarded to the Louisiana Gaming Control Board Hearing Office for the scheduling of an administrative hearing before the Hearing Officer where evidence may be introduced and a determination made as to the appropriate action to be taken and the penalty, if any to be imposed.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of January 20, 2004:

IT IS ORDERED THAT the request for rehearing is **GRANTED** and the matter is **FORWARDED** to the Louisiana Gaming Control Board Hearing Office for action in accordance with this decision.

THUS DONE AND SIGNED on this the 21st day of January 2004.

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 January 2005
APPEAL DOCKET CLERK
