

RESOLUTION

I offer the following resolution:

WHEREAS, Emerald Casino, Inc., (Emerald) formerly known as HP Inc., was initially granted an owner's license to conduct riverboat gaming in Illinois on July 9, 1992. The Illinois Gaming Board (Gaming Board) renewed the owner's license held by Emerald in July 1995 and again in July 1996.

WHEREAS, on June 24, 1997, the Gaming Board voted to deny the renewal of the owner's license held by Emerald and issued a Notice Of Denial on June 27, 1997. On July 2, 1997 Emerald requested an administrative hearing regarding the denial of its renewal application and an Administrative Law Judge was appointed.

WHEREAS, on July 29, 1997, Emerald ceased all gaming operations.

WHEREAS, on May 5, 1999, the Administrative Law Judge concurred with the Gaming Board and recommended that the Gaming Board take final action to deny the renewal of the owner's license held by Emerald.

WHEREAS, before the Gaming Board took final action on the denial of Emerald's 1997 renewal application, the Illinois General Assembly amended the Illinois Riverboat Gambling Act (the Act) by adding Section 11.2. The Act, as amended, became effective June 25, 1999.

WHEREAS, on September 7, 1999, the Gaming Board allowed Emerald to file a new Application For Renewal Of Owner's License.

WHEREAS, Emerald filed with the Illinois Gaming Board an Application For Renewal Of Owner's License as of September 24, 1999.

WHEREAS, on January 30, 2001, the Gaming Board voted to deny Emerald's Application For Renewal Of Owner's License.

WHEREAS, on January 30, 2001, the Gaming Board also voted to revoke the owner's license held by Emerald.

WHEREAS, on March 6, 2001, the Gaming Board issued a Notice Of Denial Of Emerald's Application For Renewal Of Owner's License (No. 01-01) and also issued a five-count Complaint For Disciplinary Action (No. DC-01-05) seeking revocation of the owner's license held by Emerald (the revocation proceeding).

WHEREAS, on March 13, 2001, Emerald filed a verified Request For Hearing on the Notice Of Denial of its Application For Renewal Of Owner's License. On March 26, 2001, Emerald filed a Verified Answer to the Complaint For Disciplinary Action. On June 4, 2001, Emerald elected to proceed on the Complaint For Disciplinary Action before proceeding on the Notice Of Denial Of Emerald's Application For Renewal Of Owner's License.

WHEREAS, on May 21, 2001, Emerald filed a Complaint in the Circuit Court of Cook County in which it sought declaratory relief and a writ of mandamus ordering the

Gaming Board to approve Emerald's September 24, 1999 application for license renewal. On July 1, 2002 the Circuit Court granted the Gaming Board's motion for summary judgment and issued a written decision finding that the word "shall" in Section 11.2 of the Act cannot be interpreted as mandatory based, in part, on the express purposes of the Act. On December 30, 2003, the Appellate Court reversed the Circuit Court's decision and found that the use of the word "shall" in Section 11.2 of the Act required the Gaming Board to grant Emerald's Application For Renewal Of Owner's License.

WHEREAS, on June 9, 2005, pursuant to the mandate of the Appellate Court, the Circuit Court directed the Gaming Board to grant Emerald's September 24, 1999 Application For Renewal Of Owner's License.

WHEREAS, the constitutionality of Section 11.2 of the Act is an issue that is currently pending before the Illinois Supreme Court in a case entitled *Crusius v. The Illinois Gaming Board, et al.*, No. 98351.

WHEREAS, the revocation proceeding is currently pending before the Honorable Abner J. Mikva.

WHEREAS, according to the December 30, 2003 decision of the Illinois Appellate Court in *Emerald Casino, Inc. v. Illinois Gaming Board*, Section 11.2 of the Act overrides the Gaming Board's authority under the Act and the Rules not to renew Emerald's Application For Renewal Of Owner's License, but does not affect the Board's ability to revoke the owner's license held by Emerald for any reason permitted by the Act or the Rules.

WHEREAS, the Circuit Court's June 9, 2005 order directs the Gaming Board to grant Emerald's Application For Renewal Of Owner's License, but does not direct the Board to discontinue or take any other action concerning the pending revocation proceeding.

WHEREAS, Section 7(g) of the Act authorizes the Gaming Board to renew an owner's license "for a period of 4 years, unless the Board sets a shorter period."

WHEREAS, the granting of Emerald's Application For Renewal Of Owner's License pursuant to Section 11.2 of the Act would eviscerate and directly contravene certain sections of the Act and the Rules pertaining to license renewal, including Section 2 of the Act which expressly directs the Gaming Board to "strictly regulate the facilities, persons, associations and practices related to gambling operations" and Section 7(g) of the Act which requires that "all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board's rules."

NOW, THEREFORE,

BE IT RESOLVED that in accordance with the June 9, 2005 order entered by the Circuit Court, the Gaming Board hereby grants Emerald's September 24, 1999 Application For Renewal Of Owner's License, as of September 24, 1999, for a period of four (4) years, subject to Section 11.2 of the Act being determined constitutional in *Crusius*.

BE IT FURTHER RESOLVED, that neither the adoption of this Resolution nor the granting of Emerald's September 24, 1999 Application For Renewal Of Owner's License constitutes a determination of 1) the adequacy of the September 24, 1999 Application For Renewal Of Owner's License, 2) the suitability of Emerald, its Key Persons and the location of the docksite, and 3) the Complaint For Disciplinary Action.

BE IT FURTHER RESOLVED, that the renewal of the owner's license pursuant to Emerald's September 24, 1999 Application For Renewal Of Owner's License during the revocation proceeding, as mandated by the Illinois Appellate Court, does not render the revocation proceeding moot and the Administrative Law Judge and counsel are directed to continue with the revocation proceeding.

I move that the Gaming Board adopt this resolution.