

SUBMISSIONS ON BEHALF OF GLOBAL GAMING VENTURES (RP) LIMITED

AND

GLOBAL GAMING VENTURES (SOUTHAMPTON) LIMITED

IN RELATION TO A HEARING ON THE 16th DECEMBER 2014

SOUTHAMPTON CITY COUNCIL

LARGE CASINO LICENCE APPLICATION PROCESS

1. Introduction

Southampton City Council (**SCC**) has decided to convene a special meeting of its Licensing Committee to consider the future conduct of the Gambling Act 2005 Large Casino Competition (**the Competition**).

SCC has asked that all parties detail their position in respect of the issue in hand in advance of the hearing, namely the proposal to defer commencement of Stage 2 of the Competition and the conduct of the Competition more generally.

These submissions are made on behalf of Global Gaming Ventures (Southampton) Limited (**GGV(S)Ltd**) and Global Gaming Ventures (RP) Limited (**GGV(RP)Ltd**) which are affiliated companies of Global Gaming Ventures Limited (**'GGV'**).

We refer to GGV(S)Ltd and GGV(RP)Ltd together as the **'GGV Applicants'**.

The background to the circumstances giving rise to this meeting is set out in Annex 1 to this submission.

2. Summary of the GGV Applicants' Concerns

The GGV Applicants believe that [the DCMS Code of Practice and the principles of natural justice applying to the conduct of the Competition] are in danger of being breached insofar as:

- a. SCC is considering delaying Stage 2 of the Competition for the sole or primary purpose of allowing Lucent Group Holdings Limited and its affiliates (**'Lucent'**) (the developers of the Royal Pier project) additional time to improve the state of preparedness of their project and thereby advantaging Lucent and/or certain applicants.
- b. The proposal for such delay originated in a private meeting between Lucent and officials of SCC which took place after the Competition had commenced and which was also attended by representatives of one single applicant (an applicant which is also owned by or associated with Lucent). This meeting was also attended by the

specialist gaming solicitor who represented Kymeira Casino Limited (the applicant concerned) at Stage 1 of the Competition. Such meetings during the Competition are highly undesirable insofar as, an absolute minimum, they give rise to a suspicion that one applicant or group of applicants is being improperly preferred over the remaining applicants.

- c. Whilst, prior to the launch of the Competition, SCC was free to express a preference for the Royal Pier scheme, such preference must not be permitted to affect the conduct of the Competition. It is unacceptable for officers of the Council to collude with a selected applicant so as to order or re-organise the conduct of the Competition to advantage that applicant or applicants. This is especially true if the economic benefit of such procedural change is clearly understood to be likely to accrue to the private developer or one of the applicants rather than the Council.
- d. Officers of SCC involved in the Competition are or may, be engaged in lobbying for SCC to take other decisions for the sole purpose of advancing the Competition prospects of certain applicants and are undertaking such activities whilst the Competition is underway.

In particular, officers have pressed for a SCC decision that the Watermark development scheme in Southampton is unsuitable for a casino with the sole purpose of advantaging the Royal Pier scheme either (a) regardless of the compelling evidence that the Watermark site is perfectly suitable for a casino or (b) without undertaking any proper assessment of the merits of the case.

3. The Legal Framework

On the 26th February 2008, the DCMS produced a "Code of Practice – Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos" (**the Code of Practice**). A copy of the Code of Practice can be found at **Annex 2**.

By virtue of paragraph 6 (2) of Schedule 9 of the Gambling Act 2005, a licensing authority **MUST** comply with this Code of Practice (*para. 1.3 of the Code of Practice*).

The Code of Practice states, inter alia, the following:

- 3.1 A Licensing Authority must ensure that the procedure they follow in making any determinations required by paragraphs 4 and 5 of the Schedule is fair, having regard to the provisions of the Act.
- 3.2 It must also ensure that each application is determined by the licensing authority according to criteria which are...
 - 3.2.3 – not pre-selected to favour a particular applicant or application
 - 3.3 – A licensing authority must ensure that any pre-existing contract, arrangement or other relationship they have with any person does not affect the procedure so as to make it unfair (or appear unfair) to any applicant.

In March 2013 SCC produced a "Procedure Note" in relation to the Competition "to ensure that the competition process is both fair and transparent".

A copy of the "Procedure Note" is produced at **Annex 3**.

4. Potential Prejudice to the GGV Applicants

The current situation gives rise to serious concerns, on the following basis.

- a. The GGV Applicants were and are entitled to assume that the Competition will be properly and fairly carried out in accordance with the Code of Practice and all other legal requirements and in accordance with the standards of fairness and propriety that can be expected of a major city council undertaking a quasi-judicial process.
- b. On this basis, GGV and the GGV Applicants have incurred significant legal fees and architectural and design and other consultancy costs , all predicated on the pre-announced timetable, as well as making an extremely significant commitment of time and effort by their directors and senior management.
- c. Furthermore, during Stage 1 of the Competition, the GGV Applicants were required to disclose a considerable amount of commercially confidential information. This included (but was not limited to) the important disclosure that a casino at the Watermark scheme was possible and is commercially attractive.
- d. Any changes which result in a delay to the Competition or which otherwise prevent the Competition from proceeding in accordance with the announced timetable and methodology (or as close to this as is now reasonably possible) will cause substantial prejudice to one or both GGV Applicants insofar as:
 - i. The Royal Pier applicants are advantaged and therefore the GGV(S)Ltd's Watermark scheme has a reduced chance of winning the Competition
 - ii. Lucent, as developer of the Royal Pier, is able to secure improved letting terms (e.g. a higher rent or a lump sum in exchange for its support) from applicants such as GGV(RP) Ltd as a result of the delay.
 - iii. The GGV Applicants are required to spend additional management time and effort and incur additional legal costs as a result of the need to address legitimate concerns regarding the Competition process
- e. GGV(S)Ltd is also in a position where, in the event that SCC's conduct of the Competition is legally challenged with the result that the Competition has to be re-opened or re-run then its commercially confidential plans (as revealed in Stage 1) would be known to other prospective applicants to its potential material detriment.

5. Vital Action which the GGV Applicants are Seeking from SCC

The GGV Applicants believe that the current problem, though serious, is capable of being resolved and that there is a route forward for SCC which will result in the completion of a fair and open competition.

This requires two important but simple urgent steps by the SCC Licensing Committee:

- a. Stage 2 of the Competition should commence (or re-commence) on Monday 5th January 2015 and should proceed from there in a timely fashion consistent with the pace indicated in the earlier announcements
- b. The SCC Licensing Committee should make a clear determination that all SCC officers involved in the running of the Competition process (or managing or supervising such process or managing or supervising individuals involved in the process) are in a quasi-judicial position and accordingly are to refrain from:
 - i. Lobbying for or otherwise supporting, advocating, assisting or advantaging any applicant or site
 - ii. Being involved in any SCC decisions which may have the primary or secondary purpose of advantaging any Competition applicant
 - iii. Meeting or otherwise discussing or corresponding with Lucent or any individual applicant or group of applicants about the conduct and progress of the Competition otherwise than through the formal and transparent Competition process.

GGV wishes to make clear, for the avoidance of doubt, that without limiting the scope of the above, its clear view is that the Legal and Democratic Services Department (which is, inter alia, responsible for licensing matters) should not be involved in any capacity as an advocate for the Royal Pier schemes and should be absolutely forbidden from seeking to change the rules and conduct of the Competition so as to advantage individual schemes or applicants.

6. Other Points

GGV notes that there is now a considerable body of national experience in the conduct of casino competitions. GGV and its directors and key team members have been involved in the winning applications in the competitions in Bath, Leeds, Milton Keynes and Newham.

Whilst in some cases there have been delays or procedural adjustments during the competitions, these have never been for the purpose of advantaging one site or applicant over another. To the best of our knowledge there has never been an instance of a Council changing the rules, or the timetable, during a competition in order to benefit a private developer.

If a particular project is running late or is uncertain, then the Licensing Committee is perfectly able to take this into account as part of the Competition process insofar as it falls within the pre-determined scoring matrix.

GGV remains very eager to develop and operate a casino in Southampton. It is a wonderful city and GGV will be proud to be present here. GGV expects to develop an international standard casino which will be fitting and appropriate addition to a city of the standing (and with the ambition) of Southampton.

It is for precisely this reason that GGV wants to win (as GGV believes it can) in a fair, open and transparent Competition conducted to the highest standards and free of challenge. Such a Competition is surely a reasonable expectation.