



CORNISH MARGOLIS BOYD
MEDIATION & ARBITRATION

October 15, 2018

British Columbia Lottery Corporation
74 W. Seymour St
Kamloops, BC
V2C 1E 2

Attention: Jennifer M. Keim, General Counsel

Re: Objection of the City of Richmond to the proposed gaming facility in the City of Delta – Report on results of alternate dispute resolution

BACKGROUND

1. At the request of British Columbia Lottery Corporation (“BCLC”) and with the agreement of the City of Richmond (“Richmond”) and City of Delta (“Delta”), I was appointed to undertake the non-binding dispute resolution process prescribed by the Gaming Control Act (“Act”) with respect to the objection filed by Richmond to the proposed gaming facility at 6005 Highway 17A in Delta.
2. At a conference call on August 22, 2018, Richmond advised that its objection would essentially mirror the letter of August 1, 2018 from Mayor Brodie to BCLC. On that basis, the parties agreed to the following schedule:
 - a. Richmond would circulate its submission and materials with respect to the proposed gaming facility by August 24, 2018;
 - b. Delta would respond with its submission and materials with respect to the proposed gaming facility by August 31, 2018;
3. A conference call was scheduled following the deadline for the exchange of submissions to consider whether the parties would meet on September 26, 2018 to discuss the issues raised.
4. On a conference call on September 24, 2018, Richmond proposed meeting while Delta considered a meeting unnecessary. To afford Richmond an opportunity to fully be heard, I determined that the parties would convene on September 26, 2018.

5. At the outset of that meeting, Richmond sought to introduce into the record a letter dated September 26, 2018 amplifying its position and containing new information.
6. Richmond stated that it was not in a position to provide this information with its original submission and that it was the response of Delta that necessitated Richmond's subsequent letter.
7. Delta strenuously opposed the introduction of the letter arguing that Richmond ought to have put forth the material on which it now relies at the time it provided its materials on August 24, 2018. It further asserted that it was not able to deal with the new material at this time.
8. In order to ensure that both parties were treated fairly and had the opportunity to fully address the issues raised in the objection, I accepted the September 26, 2018 Richmond letter, ended the meeting and allowed Delta until October 10, 2018 to submit any materials in response.
9. On October 4, 2018, Delta circulated its response to Richmond's second submission.
10. The following are the relevant provisions of the Act:

- 21 (1) *If the lottery corporation proposes to develop, use or operate a facility as a gaming facility or relocate an existing gaming facility, a potentially affected local government may file, within the prescribed time, an objection with the lottery corporation in the form and manner required by the lottery corporation.*
- (1.1) *An objection under subsection (1) may only address the prescribed subject matters.*
- (2) *If the lottery corporation receives an objection under subsection (1), then, within the prescribed time after the filing of the objection, the lottery corporation must require the host local government to participate in a form of non-binding dispute resolution with the potentially affected local government.*
- (2.1) *The non-binding dispute resolution process referred to in subsection (2) may only*
- (a) address the issues raised in the objection, and*
- (b) determine the appropriate compensation to be made, if any, by the host local government to the potentially affected local government for the significant costs the potentially affected local government demonstrates it will incur as a result of the proposed new or relocated facility.*
- (3) *The results of the alternate dispute resolution proceedings under this section must*

- (a) be reported to the lottery corporation within a prescribed period after the date on which the lottery corporation requires the non-binding dispute resolution under subsection (2), and*
- (b) be considered by the lottery corporation before the lottery corporation decides whether to locate or relocate the gaming facility.*

The relevant provisions of the Regulations to the Act provide:

12.1 (5) Comments provided under subsection (4) must be confined to the following matters:

- (a) infrastructure or policing costs;*
- (b) traffic and highway use.*

14 For the purpose of section 21 (3) (a) of the Act, the prescribed period is 60 days.

11. As is clear from section 21(1.1) of the Act and section 12.1(5) of the Regulations, comments provided in connection with this non-binding dispute resolution process must be confined to (a) infrastructure or policing costs and (b) traffic and highway use.

THE POSITIONS OF THE PARTIES

Policing

12. In its initial submission dated August 22, 2018, Richmond, in addition to addressing its concerns with respect to policing and traffic, also raised three further concerns: (a) the potential economic impact to Richmond, (b) potential erosion of the ALR given the location of the proposed Delta casino, (c) previous comments made by BCLC with respect to a location for any new casino in Delta.
13. Delta objects to any consideration being given to the “out of scope” matters raised by Richmond. I agree with this interpretation and will only deal in this report with Richmond’s comments with respect to policing and traffic.
14. With respect to policing, Richmond asserts that the proposed casino is “likely to draw patrons from all areas of Metro Vancouver, including Richmond.” It notes that the introduction of any type of significant facility can attract issues and problems that can be found throughout any community. Based on a review and discussion, Richmond advises that Richmond RCMP is of the opinion that the movement of currency in and out of the proposed casino “may potentially lead to an increase in the overall crime rate.” It is suggested that crimes of impaired driving and robbery may increase due to a spillover effect on Richmond from the proposed facility which “may generate” a need for additional police resources in Richmond.
15. Richmond notes that money laundering and organized crime may increase but acknowledge that this has limited impact on policing in Richmond as these issues are handled at a regional level.

16. As noted by Delta in its response of August 30, 2018, Richmond did not provide any data or information to support its assertion that the proposed casino may lead to an increase in the overall crime rate and may generate a need for additional police resources. Neither did Richmond provide any evidence of any resulting financial impact on it as a result.
17. In its letter of September 26, 2018, Richmond now states that the RCMP Senior Management Team at the Richmond Detachment anticipate an additional 1.5 FTE police officers would be required to offset the spillover effect of criminal, traffic-related incidents from the proposed casino, robbery and overall crime. Based on a police resource needs impact assessment undertaken by the aforesaid management team, the annual cost to be incurred by Richmond for the additional staffing is \$268,939.50 adjusted annually for incremental increases. No further detail is provided due to "RCMP security protocols."
18. In its response to this information of October 4, 2018, Delta repeats its argument that the absence of any material to support Richmond's claims regarding anticipated policing costs makes it impossible to evaluate the veracity of the claim and does not establish that increased costs for policing will in fact be incurred as a result of the proposed casino.

Traffic

19. In its original submission, Richmond notes that increased traffic congestion may arise in the vicinity of the No. 5 Road- Steveston Highway intersection in Richmond adjacent to the Highway 99 corridor. The increase in vehicular traffic and associated negative traffic impacts on roadways in Richmond will be exacerbated by the lack of convenient transit access to the proposed site. Richmond notes that the lack of transit options will particularly be a problem "during late evenings and weekends when the site activities are at peak".
20. In its response of August 30, 2018, Delta notes that it had earlier provided Richmond with a copy of a Traffic Impact Study prepared by Bunt & Associates dated March 20, 2018 which indicated that the current transportation infrastructure is adequate to serve future traffic (with or without the proposed casino) through 2027.
21. Delta also notes that Richmond did not dispute any of the conclusions in the Bunt report nor did it submit its own technical analysis of the anticipated traffic.
22. Nevertheless, Delta attached a supplemental report of Bunt & Associates of August 23, 2018 ("second Bunt report"). In it, Bunt opines that congestion presently experienced in the George Massey Tunnel during peak hours would likely deter motorists from driving between Richmond and the proposed casino during peak hours. Bunt notes as well that casino traffic generally peaks mid evening when tunnel volumes are significantly lower. This indeed appears to be consistent with

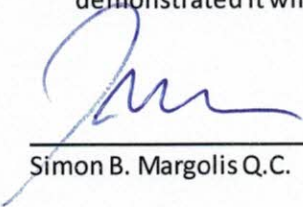
Richmond's understanding where it noted in its original submission that casino activities typically peak late evening and on weekends.

23. To the extent that capacity is available in the tunnel in weekday peak hours, Bunt suggests that up to 80 vehicles could be expected to travel between Richmond and the proposed casino. This volume, according to Bunt, would likely not be noticed by other motorists given that peak weekday hour volume fluctuates by about 250 vehicles per hour.
24. In its September 26, 2018 submission, Richmond now states that the estimate in the second Bunt report is likely low but then relies on that estimate to argue that 80 vehicles would amount to about a 2.5% increase in the existing No. 5 Road- Steveston Highway intersection traffic, equivalent to approximately two to three years of growth in background traffic.
25. Richmond postulates that the potential impacts of the increase in traffic are:
 - a. Delay for the overall intersection from 21.1 seconds to 22.3 seconds;
 - b. Delay for traffic movements affected by casino traffic entering Richmond increased from 23.2 seconds to 26.1 seconds;
 - c. Delay for traffic movements affected by casino traffic exiting Richmond increased from 20.3 to 22.6 seconds.
26. To mitigate the potential traffic impacts, Richmond suggests that a potential measure would be the conversion of the existing eastbound right-turn lane to a shared through and right-turn lane with modification of the two existing channelized islands on the southwest and southeast corners and related traffic signal works. Richmond estimates this cost at \$160,000.
27. In its letter of October 4, 2018, Delta repeats its comment that the traffic concerns and costs raised by Richmond remain unsubstantiated given the absence of technical information and other supporting material and challenges the assumption that all Richmond traffic destined for and returning from the proposed casino will pass through the intersection in question.

RESULTS OF ALTERNATE DISPUTE RESOLUTION PROCEEDINGS

28. The purpose of the non-binding dispute resolution process outlined in the Act is to address the prescribed concerns raised by the potentially affected local government and determine the appropriate compensation to be made, if any, by the host local government to the potentially affected local government for the significant costs the potentially affected local government **demonstrates** it will incur as a result of the proposed new casino.
29. It is clear from the submissions of the parties, that Delta does not agree that Richmond has demonstrated it will incur significant costs as a result of the proposed casino in Delta.

30. Accordingly, it is left to me to consider the material submitted and provide my non-binding recommendations for consideration by BCLC.
31. According to the Oxford online dictionary, to “demonstrate” something is to show the “existence or truth of something by giving proof or evidence.”
32. In its objection to the proposed casino and in its submissions, Richmond raises concerns with respect to the potential impact of the proposed casino on policing and traffic.
33. As noted above, however, Richmond has not provided any supporting documentation with its first submission and while it has provided more detail in its second submission still has not supported any of its claimed impacts and costs with any background documentation or underlying analysis.
34. For example, while a total of \$268,939.50 is claimed with respect to additional RCMP staffing costs, no further detail is provided due to “RCMP security protocols.” It is therefore impossible to understand, analyze or verify the basis for the claim for additional staffing and the amount of the claim.
35. With respect to traffic, Richmond did not produce its own analysis of the anticipated traffic and did not indicate that it would necessarily be required to undertake the steps it suggests will cost approximately \$160,000. At best, Richmond states that a potential measure might be to reconfigure the No. 5 Road-Steveston Highway intersection but did not submit any detailed plans or cost data.
36. Overall, taking into account all of the submissions, I am unable to conclude that Richmond has demonstrated it will incur significant costs as a result of the proposed casino.



Simon B. Margolis Q.C.