



Municipal Client Advisory
May 2014

**Landmark Surrounding Community Agreement from
Expanded Gaming Act Arbitration Upheld by
Massachusetts Gaming Commission**

Attorneys Michael C. Lehane and Brandon H. Moss recently prevailed in an arbitration involving a surrounding community agreement on behalf of the Town of Longmeadow, Massachusetts (“Longmeadow”). This was the first surrounding community agreement upheld by the Massachusetts Gaming Commission, and involved the selection of Longmeadow’s best and final offer over that of MGM, which proposes an \$800 million destination resort casino in Western Massachusetts. Under its surrounding community agreement, Longmeadow will receive in excess of \$5 million, which is more than triple the amount that MGM proposed in its best and final offer.

In particular, Longmeadow’s surrounding community agreement includes \$850,000 upfront for traffic mitigation, annual payments of \$275,000 with 2.5% interest for traffic and public safety impacts upon the opening of MGM Springfield, and reimbursement for reasonable consultant and attorney fees. Longmeadow may receive additional traffic mitigation depending on the monitoring of its local roads after MGM Springfield opens, and Longmeadow preserved its regulatory reopener rights for future significant and material adverse impacts. Longmeadow is not required to offset mitigation payments with positive impacts from MGM Springfield, which MGM unsuccessfully argued to the arbitration panel and to the Massachusetts Gaming Commission.

In February 2014, the Massachusetts Gaming Commission, over the objections of MGM, designated Longmeadow as a surrounding community, thereby requiring MGM to execute a surrounding community agreement with Longmeadow. Longmeadow was the only one of the three communities that petitioned the Massachusetts Gaming Commission to be designated as a surrounding community to MGM Springfield.

The Expanded Gaming Act is a first-in-the-nation law requiring a gaming license applicant to not only execute an agreement with the host community for a casino, but also with each surrounding community. A “surrounding community” is located in proximity to the host community and will experience or is deemed likely to experience negative impacts from a proposed casino.

Once a municipality is designated as a surrounding community, either voluntarily or by successfully petitioning the Massachusetts Gaming Commission, that municipality



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and the gaming license applicant must negotiate a surrounding community agreement. A surrounding community agreement includes conditions for the casino, payment of a community impact fee, and stipulations of responsibilities between the parties.

If the parties are unable to come to an agreement, the parties must participate in binding arbitration through the Massachusetts Gaming Commission's regulations. The arbitrator(s) must select the best and final offer of one of the parties, in the form of a surrounding community agreement. Each party can also file an objection with the Massachusetts Gaming Commission that the other party's best and final offer is "fundamentally inconsistent" with the purpose or requirements of the Expanded Gaming Act.

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For questions about the Expanded Gaming Act, including surrounding community issues, please contact Attorneys Michael C. Lehane or Brandon H. Moss at (617) 479-5000, or your attorney. Murphy, Hesse, Toomey & Lehane, LLP has represented clients with issues arising under the Expanded Gaming Act. In addition, the firm has represented Massachusetts municipalities with addressing and mitigating impacts from large-scale development projects. The firm maintains a full-service practice, with offices in Quincy, Boston, and Springfield, Massachusetts.

For a discussion of these and other issues, please visit the update on our website at www.mhtl.com. To receive legal updates via email, contact information@mhtl.com.

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