

Merrill to Schaghticokes: Our goof doesn't get you a casino

Written by Administrator
Wednesday, 10 February 2016 18:33 -

Secretary of the State Denise Merrill formally notified the Schaghticoke Tribal Nation on Wednesday that her office's mistaken acceptance of a business filing last month does not confer any right to develop a casino in Connecticut.

With or without her letter, the legal bars to the tribe getting in the casino business already were clear, despite a series of celebratory statements issued by Chief Richard Velky that the tribe would seek requests for proposals from communities interested in hosting a casino.

The obstacles are twofold:

- The Schaghticokes, who are not federally recognized as a tribe, have no authority to open a casino under the federal Indian Gaming Regulatory Act, the law that allowed the Mohegans and Mashantucket Pequots to open casinos in eastern Connecticut.
- And the special act passed in 2015 by the General Assembly, which only established a process for exploring community interest in hosting the first casino off tribal lands, explicitly applied only to the Mohegans and Mashantucket Pequots.

The business filing at issue is the articles of organization for a limited liability corporation, Confluence of Rivers Tribal Business Entity, that the Schaghticokes created for the sole purpose of developing a casino under the special act.

Merrill told Velky last week that her office accepted the filing in error.

Under other circumstances, the stated purpose of an LLC is irrelevant to the secretary of the state's office. But no one other than the other two tribes were legally entitled to create a "tribal business entity" under the special act, 15-7.

Her letter Wednesday seemed prompted by Velky's statement Tuesday that he still believed the tribe had the authority to proceed under the special act.

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"7 days ago we were told 'yes' by the State. 6 days ago we were told 'no' by the State through their press statement," he said in an emailed statement. "Yet here we are, a week later, and approval for our application hasn't been rescinded. I can only assume that means the Secretary of the State's office understands that it is wandering into dangerous legal territory if in fact it tries to rescind a perfectly valid, legal application that it initially approved."

Merrill advised Velky on Wednesday that the tribe's LLC will remain on the record, but it cannot develop a casino under the special act.

She told him in her letter, "The Secretary's error in filing the document neither confers legality on the applicant's stated purpose nor properly authorizes the exercise of asserted rights under Special Act 15-7."

Meanwhile, even the Mohegans and Mashantucket Pequots face significant hurdles in jointly developing a casino in the I-91 corridor north of Hartford to compete with the MGM casino resort under construction over the state line in Springfield.

The special act essentially gives them the state's blessing to see if a community is interested in a casino. The tribes recently announced they still are assessing proposals by potential community partners.

Once a proposal is selected, they still have to seek approval of legislation authorizing a casino, something the General Assembly declined to do last year in light of questions raised by Attorney General George Jepsen.

Jepsen warned that legislation giving the tribes exclusive rights to a new casino would itself be a gamble, potentially endangering the current profit-sharing deal with the tribes and exposing the state to claims of illegal favoritism.

Those issues have yet to be resolved.

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