STATE OF INDIANA	)	IN THE MARION COUNTY SUPERIOR COURT
	) SS:	CIVIL DIVISION NUMBER FIVE
COUNTY OF MARION	)	CAUSE NO. 49D05-2104-PL-013434

END GAME HOLDINGS, LLC, LAELAPS, LLC, MD TWENTY-TWENTY, LLC, DANIEL J. HASLER, STEPHEN C. HILBERT, MATTHEW D. WHETSTONE,

Plaintiffs,

v.

INDIANA GAMING COMMISSION, MICHAEL McMAINS, in his official Capacity as Chairman of the Indiana Gaming Commission, SARA GONSO TAIT, in her official capacity as Executive Director of the Indiana Gaming Commission,

Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

I. PROCEDURAL HISTORY

Effective March 24, 2021, the Defendant, Indiana Gaming Commission ("IGC") adopted an emergency rule (LSA Document No. 21-127(E), Ex. A-2). The rule, among other things, requires the following persons to hold a Level 1 occupational license: (a) any holder of an equity interest with voting rights (regardless of equity percentage) in a casino owner licensee or applicant or its substantial owner that is not publicly traded, and (b) if the executive director determines the public's interest would be served, any holder of an equity interest in a casino owner licensee or applicant or its substantial owner that is not publicly traded. The rule also requires casino owners' licensees and applicants that are not publicly traded to adopt charter provisions allowing for the removal from ownership any persons determined to be unsuitable. *Id.*

On April 21, 2021, Plaintiffs End Game Holdings, LLC, LAELAPS, LLC, MD Twenty-Twenty LLC, Daniel J. Hasler, Stephen C. Hilbert, and Matthew D. Whetstone filed a "Verified Petition for Judicial Review, Declaratory Judgment, and Other Relief," seeking to suspend the rule's application or declare it invalid. Plaintiff Windy City H&C Investors, LLC intervened shortly thereafter. Plaintiff Stephen C. Hilbert has notified the Commission that he accepted redemption offers for his interests in the casinos, so that his claim for injunctive relief has become moot.

On April 29, 2021, Plaintiffs filed their Verified Petition for Stay Pending Judicial Review and Temporary Restraining Order. After an attorneys' conference and with the agreement of counsel, the matter was set for a preliminary injunction hearing. The evidence presented to the Court consisted of the Plaintiffs' verified petitions, the Declaration of Dave Shepherd submitted by Windy City, and the following exhibits submitted by defendants: Exhibit A, the Affidavit of Sara Gonso Tait, together with Exhibits A-1 and A-2; Exhibit B, the Affidavit of Danielle Leek, with Exhibits B-3 through B-6; and Exhibit C, the Affidavit of Garth Brown, with Exhibit C-7. The Court heard argument from counsel on May 14, 2021.

The Plaintiffs seeks preliminary injunctive relief against the implementation of portions of a rule that requires detailed disclosures of information by, and licensure of, persons who directly or indirectly own or control casinos in Indiana. This rule was adopted under IGC's emergency authority following a suitability and compliance investigation and federal indictments about substantial, improper, undisclosed conduct by owners of Indiana casinos. The IGC's investigation of these allegations began in January 2020 and did not reveal any allegations of wrongdoing on the part of any of the Plaintiffs in this action.

IGC argues that each provision of the rule addresses a substantial and immediate need designed to ensure the public's confidence is maintained through the IGC's strict regulation. The rule has not yet been applied to any of the Plaintiffs before the Court, there has been no "agency action" as defined in the Administrative Orders and Procedures Act ("AOPA"), Ind. Code § 4-21.5-5-1, no agency ruling has issued, no administrative record has been developed, and no imminent threat of legally cognizable harm exists. To comply with the rule at this point, Plaintiffs need only complete a written application for a license.

The Plaintiffs argue that the IGC failed to follow the rulemaking requirements of AOPA when it issued Emergency Rule 321-127(E). *See*, Ind. Code § 4-22-2-37.1. Instead, Rule #21-127(E) was passed on an emergency basis under Ind. Code § 4-33-4-3(a)(8) and Ind. Code § 4-22-2-37.1. The Plaintiffs argue that IGC violated its rulemaking procedures when it failed to begin the rulemaking process with 30 days of the adoption of the emergency code required by Ind. Code § 4-33-4-3(b) and failed to have a commissioner on the Board at the time the emergency rule was passed who resided in a county contiguous to Lake Michigan pursuant to Ind. Code § 4-33-3-2(f). The IGC further failed to articulate the emergent nature of the rule nor its impact on public safety merely citing that the rule was "necessary to update and enhance the oversight of privately owned casino licensees" and for "[a]ccountability and transparency." The Plaintiffs collectively argue that the rule is void *ab initio* and therefore should be enjoined in its entirety, or in the alternative, that enforcement of Sections 3 and 6 be enjoined.[1] The Plaintiffs request that the Court also enjoin the Parties from destroying evidence related to this action.

[1] The Court has received and review the IGC's Notice of Intent not to Enforce Section 6 of Emergency Rule #21-127(E) or To Include Section 6 in the Final Rule filed on June 14, 2021. With the IGC's representation, the Court will not address the Section 6 in its Findings of Fact, Conclusions of Law and Order and will consider the arguments on Section 6 moot.

At the conclusion of the May 14 hearing, the Court and counsel set an agreed schedule for presenting proposed rulings by May 24 and for the Court to issue a ruling by June 4. The IGC through its counsel also agreed to extend to June 21 the due date for plaintiffs to submit their Level 1 applications. The Court obtained the consent of the Parties to take additional time within which to issue its Order.

The Court, having now considered the parties' briefs, evidentiary submissions and arguments and now having been duly advised in the premises, enters the following Findings of Fact, Conclusions of Law, and Order on Plaintiffs' Petition for Injunctive Relief or Stay pursuant to Ind. Trial Rule 52 and Ind. Trial Rule 65(D).

II. FINDINGS OF FACT

The Indiana Gaming Commission was established in 1993 by Ind. Code § 4-33-3-1. Its seven members are appointed by the Governor. Each member must be a resident of Indiana and have a reasonable knowledge of the practice, procedures, and principles of gambling operations. Ind. Code § 4-33-3-2(b). Of the 7 members on the Commission, one member must be a resident of a county that is contiguous to Lake Michigan. Ind. Code § 4-33-3-2(f). Any "vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment," that is, through appointment by the Governor. Ind. Code § 4-33-3-5. "Four (4) members of the commission constitute a quorum," and "[f]our (4) affirmative votes are required for the commission to take official action." Ind. Code § 4-33-3-20(e). The legislature granted to the Commission "[a]ll powers and duties specified" in Ind. Code 4-33 and "[a]ll powers and duties necessary and proper to fully and effectively execute" Article 33 of the Indiana Code. *See*, Ind. Code § 4-33-4-1.

The Plaintiffs are minority investors in Spectacle Entertainment Group, LLC ("SEG"). As minority investors, none of the Plaintiffs have direct or indirect control over the operations of SEG or any casino. SEG has a majority interest through "Spectacle Gary," a joint venture between SEG and Hard Rock in the Hard Rock Casino Northern Indiana. No investors in the Plaintiff companies are employed in any position related to gaming or the operation of casinos.

The IGC grants licenses to a statutorily limited number of qualified owners (Ind. Code § 4-33-6), as well as an unlimited number of operating agents (Ind. Code § 4-33-6.5), suppliers (Ind. Code § 4-33-7), and other persons that the Commission determines should hold occupational licenses (Ind. Code § 4-33-8). While the act provides no definition of "occupation," the IGC established a rule defining type of personnel and occupations that require an occupational license. *See*, 68 IAC 2-3-1(c) and (i).

An application for an occupational license shall not be processed by the IGC unless the applicant has an agreement or a statement of intent with a riverboat licensee or a riverboat license applicant that the applicant will be employed upon receiving the appropriate occupational license. *See*, 68 IAC 2-3-1(h). IGC's website states that to apply for an Indiana occupational license, an individual must first have an offer of employment from an Indiana casino. *See*, https://www.in.gov/igc/2344.htm (last visited June 10, 2021). To receive a Level 1 occupational license, the IGC requires that individuals complete a "PD-1" disclosure form. The PD-1 form requires extensive information from each applicant, including the individual's credit card statements, tax returns, bank statements, identification of family members and former roommates and more.

Since 1994, the IGC rules have required that a casino license applicant must submit a PD-1 for a substantial owner, key person, or other person that the IGC deems necessary to allow the IGC to ensure that the applicant meets the statutory criterial for licensure. 68 IAC 2-1-4(b)(4). A "key person" is defined as any officer, director, executive, employee, trustee, substantial owner, independent contractor, or agent of a business entity, having the power to exercise, either alone or in conjunction with others, management or operating authority over a business entity or an affiliate thereof." 68 IAC 1-1-57. IGC uses the application and investigatory process to determine whether an applicant or licensee meets the suitability requirements of the Act.

In 2020, the IGC learned that certain individuals associated with Centaur Gaming were the subject of federal indictments. These individuals also were involved in Spectacle Entertainment Group, the owner and operator of the Gary casino, and Lucy Luck gaming, the applicant for the Terre Haute casino. The IGC investigated these activities revealing undisclosed financial transactions, hidden ownership transfers, improper use of funds, improper accounting practices, *ex parte* communication with certain former Commissioners, and other matters. The investigation resulted in removal of certain individuals from gaming and it continues today. From these events, IGC believed there were gaps in its existing rules regarding attempts to separate persons deemed unsuitable from the casino owner's licensee. IGC drafted the emergency rule to close this gap.

The IGC obtained input from gaming industry participants on its proposed emergency rule and some revisions were made based upon that input. The IGC held a public meeting on March 23, 2021 at which it discussed the proposed emergency rule. A quorum of five member

of the IGC passed the resolution adopting the emergency rule based on certain key findings, including:

> In order to ensure the integrity of gaming in Indiana, the public's confidence in its strict regulation must be maintained. Accountability and transparency are critical factors in promoting public confidence. In order to uphold the high standards placed upon the gaming industry, the Commission must continually identify and address risks in the regulatory environment that would serve to erode the reputation of the industry.
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> * * *
>
> The Commission finds that the need for an updated rule regarding casino licensees is immediate and substantial such that rulemaking procedures under IC 4-22-2-24 through IC 4-22-2-36 are inadequate to address the need and that an emergency rule is necessary to address the need.

See, Tait Aff., Ex. A-1, ¶¶ 3 and 7. The rule became effective when it was filed with the publisher on March 24, 2021.

Section 3 of Emergency Rule #21-127(E) requires that:

> (a) Any holder of an equity interest in a casino owner's licensee or applicant that is not publicly traded, or any holder of an equity interest in its substantial owner, with voting rights, regardless of equity percentage, is required to hold an occupational license, Level 1. If the equity interest is held by an entity, the individual persons of that entity are subject to licensure as determined by the commission.
>
> (b) If the public interest would be served, the executive director has the discretion to require Level 1 licensure of any person who holds an equity interest in a casino owner's licensee or applicant that is not publicly traded or that of its substantial owners.

None of the Plaintiffs have failed to submit a required application by the extended deadline and no Plaintiff has had an application for an Occupational License, Level 1 denied or have been found unsuitable. There was no evidence presented that the IGC intends to reject the applications of the Plaintiffs if they choose to apply. Plaintiffs only obligations at this juncture are to submit a Level 1 occupational license along with the PD-1, which is the same form that the

IGC has required from any key person as defined in 68 IAC 1-1-57. The IGC has had the authority to impose this requirement on certain persons and now seeks by way of Emergency Rule #21-127(E), to extend this requirement to those who own an equity interest in a casino owner's licensee that is not publicly traded.

III. CONCLUSIONS OF LAW

1. Standard for Preliminary Injunction

A "preliminary injunction is an extraordinary remedy that should be used sparingly." *Crossmann Cmtys., Inc. v. Dean,* 767 N.E.2d 1035, 1040 (Ind. Ct. App. 2002). Courts should not grant such relief "except in rare instances in which the law and facts are clearly within the moving party's favor." *Reilly v. Daley,* 666 N.E.2d 439, 443 (Ind. Ct. App. 1996), *trans. denied*. To obtain a preliminary injunction, the moving party must demonstrate (a) a reasonable likelihood of success on the merits at trial; (b) the plaintiff's remedies at law are inadequate, such that it faces immediate and irreparable harm; (c) the threatened injury to the plaintiff outweighs the potential harm to the nonmovant from the grant of an injunction; and (d) the public interest would not be disserved by granting the requested injunction. *Cent. Ind. Podiatry, P.C. v. Krueger,* 882 N.E.2d 723, 727 (Ind. 2008). "The burden lies with the movant to prove each element by a preponderance of the evidence." *Crossmann Cmtys.,* 767 N.E.2d at 1040.

In the context of gaming, the "public's confidence and trust will be maintained only through ... strict regulation of facilities, persons, associations, and gambling operations" through the actions of the IGC. Ind. Code § 4-33-1-2. "[E]verything's different in a regulated industry, and it's even more different in a super-regulated, explosively charged business like legal gambling." *Mays v. Trump Ind., Inc.,* 255 F.3d 351, 353 (7th Cir. 2001). In this context, where an injunction "will adversely affect a public interest for whose impairment, even temporarily, an

injunction bond cannot compensate, the court may in the public interest withhold relief until a final determination of the rights of the parties, though the postponement may be burdensome to the plaintiff." *Wells v. Auberry,* 429 N.E.2d 679, 684 (Ind. Ct. App. 1982) (quoting *Yakas v. United States,* 321 U.S. 414, 440-41 (1944)).

2. Likelihood of Success on the Merits

Demonstrating the first element requires a plaintiff to show "that success on the merits is probable." *Bowling v. Nicholson,* 51 N.E.3d 439, 444–45 (Ind. Ct. App. 2016), *trans. denied*. Plaintiffs could not do so here, for several reasons. Plaintiffs bring this action as a petition for judicial review, which is controlled by AOPA. But they have not been aggrieved by any "agency action" as defined in AOPA. Ind. Code § 4-21.5-5-1. Rulemaking is not included in the definition of agency action (*see* Ind. Code § 4-21.5-1-4) and "is not subject to judicial review under the provisions" of AOPA. *Ind. State Bd. of Public Welfare v. Tioga Pines Living Ctr., Inc.,* 622 N.E.2d 935, 939 (Ind. 1993).

Plaintiffs seek to invoke a limited exception for judicial review of nonfinal actions. But that exception does not apply because it still requires "agency action," Ind. Code § 4-21.5-5-2(c), and rulemaking is not agency action. Ind. Code § 4-21.5-1-4. The IGC has made no determination concerning the suitability of any of the Plaintiffs, no one has been denied a license, and no one is facing any action by the IGC that would separate a Plaintiff from their ownership interest in a casino. Even if the exception to AOPA's applicability were broader, Plaintiffs could not seek judicial review at this stage because they have not exhausted their available administrative remedies. The "general jurisprudential rule of administrative law" is that "a claimant with an available administrative remedy must pursue that remedy before being allowed access to the judicial power." *Advantage Home Health Care, Inc. v. Ind. State Dep't of*

Health, 829 N.E.2d 499, 503 (Ind. 2005); *see also* I.C. 4-21.5-5-4 ("A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the agency whose action is being challenged and within any other agency authorized to exercise administrative review.").

The Indiana Supreme Court has explained the policy behind the rule requiring exhaustion of administrative remedies before seeking judicial relief: "Premature litigation may be avoided, an adequate record for judicial review may be compiled, and agencies retain the opportunity and autonomy to correct their own errors." *Advantage Home Health Care,* 829 N.E.2d at 503. All those reasons apply in this case. Plaintiffs say exhaustion should not be required because their petition included counts for declaratory judgment that the IGC acted outside its authority. But the Supreme Court has made clear that declaratory judgment actions cannot be used to avoid the exhaustion requirement. *Carter v. Nugent Sand Co.,* 925 N.E.2d 356, 360 (Ind. 2010) ("Where such an administrative remedy is readily available, filing a declaratory judgment action is not a suitable alternative."). Our Court of Appeals has reversed such judgments even when the plaintiff claimed unconstitutional action. *See Barnette v. U.S. Architects, LLP,* 15 N.E.3d 1, 9–10 (Ind. Ct. App. 2014) (reversing and remanding with direction to dismiss declaratory judgment complaint for failure to exhaust; noting that "administrative procedures may not be bypassed simply because a party raises a constitutional issue").

It does not help that the Plaintiffs have received no review from the Office of Administrative Law Proceedings ("OALP"), which Windy City says it sought. That is not surprising, given that the IGC has yet to act under the rule with respect to any of these Plaintiffs. There has been no agency action for the OALP to review. If a plaintiff applies for a Level 1 license and, after review, the applicant is deemed unsuitable and the IGC denies the application,

then the plaintiff would have a series of procedural review rights before any adverse action could be taken. This would include the following: the OALP would docket the matter and assign an Administrative Law Judge; after an evidentiary hearing, the ALJ would make a case disposition decision; the IGC, as final authority, would accept or reject the decision of the ALJ; and *if* the ALJ's decision is adverse to the plaintiff and *if* the Commission accepts it, any aggrieved party could then pursue judicial review. Ind. Code § 4-33-4-17. Even if judicial review were appropriate at this stage, Plaintiffs have not demonstrated that the IGC has acted in a manner that is clearly beyond its statutory authority. Accordingly, exhaustion is still required.

Plaintiffs also claim that the IGC should have seven members and that acting with five is void or invalid. They cite no Indiana authority for this proposition and the Court has found none. Nor does the Act provide any support for this argument. The legislature specifically provided that "[f]our (4) members of the commission constitute a quorum," and "[f]our (4) affirmative votes are required for the commission to take official action," Ind. Code § 4-33-3-20(e), as occurred with the adoption of the challenged rule. Having two additional members available (but not required) to attend could not have changed the result. And the legislature contemplated vacancies from time to time, providing that any "vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment." Ind. Code § 4-33-3-5. There is no evidence of legislative intent that the business of the IGC should grind to a halt during any period of a vacancy.

Plaintiffs argue that the IGC acted outside the scope of its authority in requiring indirect owners to file Level 1 applications. However, as noted the IGC is charged with a duty to "maintain public confidence and trust" through the "strict regulation of facilities, persons, associations, and gambling operations." Ind. Code § 4-33-1-2. The legislature granted to the IGC

"[a]ll powers and duties necessary and proper to fully and effectively execute" Article 33 of the Indiana Code. The IGC specifically is charged with the duty to "adopt standards for the licensing" of all "[p]ersons regulated" by the Act, Ind. Code § 4-33-4-5(1), and it "shall consider" the "character, reputation, experience and financial integrity of" any person who "directly or indirectly controls" the casino operator licensee. Ind. Code § 4-33-6-4(a)(1).

Plaintiffs argue they should not be required to apply for occupational licenses because they do not hold jobs in or related to the casino. Ind. Code § 4-33-8-2 provides that the "*commission shall determine* the occupations related to riverboat gambling that require a license" under the Act (*emphasis added*). The Act includes no definition of "occupation" and no other limitation on the IGC's exercise of its duty to make this determination of what activities require regulation. Nor is the ordinary definition of the term limited to a person's employment, paid job, or principal vocation. Merriam-Webster's primary definition of "occupation" is:

> 1 a : an activity in which one engages.
> // Pursuing pleasure has been his major *occupation*.

https://www.merriam-webster.com/dictionary/occupation

Since 1994, IGC rules have required that a casino licensee applicant "must submit a Personal Disclosure Form 1 for a substantial owner, key person, or other person that the commission deems necessary to allow the IGC to ensure that the applicant meets the statutory criteria for licensure." 68 I.A.C. 2-1-4(b)(4). "Key person" has been broadly defined for a similar time to include any "substantial owner" and any "agent of a business entity, having the power to exercise, either alone or in conjunction with others, management or operating authority over a business entity or an affiliate thereof." 68 I.A.C. 1-1-57. Counsel for Windy City argues that it would be "impossible" for its owners to qualify for an occupational license under the IGC's rules because they are not casino employees, and the rules provide that the IGC will not process an

application unless the applicant shows proof of employment. However, that particular rule, by its terms, is applicable only "to full-time and part-time employees or potential employees of a riverboat licensee." 68 I.A.C. 2-3-1(b). So, it is no barrier to licensure of these Plaintiffs, whose applications the IGC must process under its new rule. Certainly, the IGC has a compelling interest in regulating the activity of all manner of persons who can influence the integrity of a casino operation, through ownership or otherwise. Its important regulatory work cannot be defeated by the lack of a job title.

The practical purpose of the rule also is evident. Recent experience has shown that the IGC had no efficient means to force the removal of an unsuitable holder of an interest in a private casino owner's licensee. The options were to punish the casino owner for the actions or character of an interest holder like Rod Ratcliff or to engage in cumbersome litigation of the kind required to remove that individual. The emergency rule provides a much more surgical mechanism to maintain the integrity of the casino owner licensee, specifically, and the industry at large.

Plaintiffs have not shown any procedural irregularity, let alone departure from authority, in the adoption of the emergency rule. Plaintiffs allege they have a basis for review under the Administrative Rules and Procedures Act, Ind. Code § 4-22-2-45 ("ARPA"). ARPA provides for judicial review of claims asserting "that a rule is invalid on procedural grounds ... based on rule-making procedures that were followed or should have been followed." Ind. Code § 4-22-2-45. The petition cites ARPA several times, but Plaintiffs have not alleged or identified any specific failure by the IGC to follow required procedures in implementing its emergency rule. The IGC properly exercised its authority to determine that an emergency rule was "necessary to update and enhance the oversight of privately owned casino licensees" and that ordinary rulemaking

would not be adequate for that task. Plaintiffs may disagree with the IGC's judgment, but such a disagreement does not give them an actionable claim. Even in a proper action for judicial review the "court may not try the cause *de novo* or substitute its judgment for that of the agency" on such a question. Ind. Code § 4-21.5-5-11. And even in the limited circumstances in which courts may review rulemaking, they must apply a "highly deferential" standard of review. *IHSAA v. Carlberg,* 694 N.E.2d 222, 234 (Ind. 1997).

3. Irreparable Harm / Adequate Remedy at Law

Plaintiffs face no irreparable harm in this case because the IGC's license application process is open to them. Plaintiffs have cited no Indiana authority for the proposition that filling out a form and submitting an application constitutes legally cognizable harm, let alone irreparable harm. The Seventh Circuit has squarely held that it does not. *See Second City Music, Inc. v. City of Chicago,* 333 F.3d 846, 850 (7th Cir. 2003) ("If the license can be had, then the lack of an injunction does not lead to irreparable harm. Injury caused by failure to secure a readily available license is self-inflicted, and self-inflicted wounds are not irreparable injury."). As noted, to date the IGC has taken no action against any Plaintiff for this Court to address. No application has been denied. No license has been revoked. No property has been taken. No proceeding has been initiated to do any of these things.

Plaintiffs complain that the application includes a release that would cause them to lose rights, perhaps including the right to seek judicial review. Plaintiffs read the application language too broadly. The release applies to claims that could arise from "the processing or investigation" of the person's application, or other actions "relating to the Application." This language echoes the terms of 68 I.A.C. 2-1-4, which provides that an "applicant is seeking a privilege and assumes and accepts any and all risk of adverse publicity, notoriety,

embarrassment, criticism, or other action or financial loss that may occur in connection with the application process." In addition, it is consistent with the Indiana Tort Claims Act, which immunizes State agencies and their employees from liability for the "issuance, denial, suspension, or revocation of ... any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law." Ind. Code § 34-13-3-3(11). The release does not give up the right to judicial review and does not present a threat of irreparable harm. Nor has the IGC threatened to take any Plaintiff's property. If the IGC eventually did seek to force the redemption of an unsuitable owner, due process would be available before such an action could be completed. And with the sale of stock or units, the harm would be economic in nature and "insufficient to establish irreparable harm." *Ind. Family & Soc. Svcs. v. Legacy Healthcare, Inc.,* 756 N.E.2d 567, 571 (Ind. Ct. App. 2001). Interests in closely held entities are capable of valuation by experts. *See Hartman v. BigInch Fabricators & Constr. Holding Co., Inc.*, 161 N.E.3d 1218 (Ind. 2021).

4. Balance of Harms

In contrast, the harm of an injunction to the regulatory mission of the IGC would be substantial. An injunction would prevent the IGC from discharging its duties, would undermine its credibility and the public's confidence in its work, and would bypass and disrupt the ordinary functions of due process. *See*, Tait Aff. at ¶14. The Court is mindful of the Court of Appeals' direction that in "cases where the public interest may be adversely affected courts are and, as pointed out in *Yakas,* should be much more reluctant to grant preliminary mandatory relief than if only private interests are involved." *Wells,* 429 N.E.2d at 684.

5. Public Interest

The legislature made clear in the Riverboat Gambling Act that it considers transparency and integrity to be paramount, and it charged the IGC to enforce the strictest form

of regulation over this unique industry. For this reason, any uncertainty in regulatory authority should be resolved in favor of the IGC's broad grant of power and in favor of an interpretation that "would provide: (1) the greater assurance of integrity in either the operation or regulation of casino gambling; or (2) heightened public confidence in the regulation or regulatory processes relating to casino gambling." 68 I.A.C. 1-2-1. The public interest would be disserved by a ruling that it is no burden to require an application from a hard-working employee who takes direction from others, but too much to ask of an investor with voting rights who has made millions of dollars from the privilege of owning an interest in an Indiana casino. The public interest would be particularly disserved by allowing indirect holders to conceal from the IGC's investigators the information needed to assure the public that the regulatory purposes of the Act are being fulfilled.

IV. ORDER

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Plaintiffs' Petition for Preliminary Injunctive Relief, or for a Stay or Other Interim Relief, is hereby **DENIED**.

Out of a sense of equity and fairness, the IGC should extend the deadline for the Plaintiffs to submit the application for the Occupational License, Level 1 and the PD-1 by an equivalent amount of time it took the Court to issue its Order beyond the original June 4, 2021 deadline.

SO ORDERED this 16th day of June 2021.

John M. T. Chavis, II

John M. T. Chavis, II, Judge
Marion Superior Court
Civil Division Number Five

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