



Lottery and Gaming Control Commission

1800 Washington Boulevard, Suite 330, Baltimore, MD 21230

**In Re the Application of
Old Bay Gaming and Racing LLC
d/b/a Casino at Ocean Downs**

For a Sports Wagering Facility

**License Applicant Number 2021-SW-05
QUALIFICATION HEARING
October 21, 2021**

**EXECUTIVE SUMMARY
OF BACKGROUND INVESTIGATION
Commission Presentation**

Introduction

Casino at Ocean Downs, (“the Applicant”) is the holder of a Video Lottery Operation License in Maryland. The Casino at Ocean Downs has applied for a Sports Wagering Facility License.

The Casino at Ocean Downs is an entertainment facility and a harness racing track. The facility currently has 70,000 square feet of gaming space with 862 slot machines and 18 table games.

Maryland’s Sports Wagering Law is found in State Government Article (“SG”), Title 9, Subtitle 1E, Annotated Code of Maryland and the Commission’s sports wagering regulations in Code of Maryland Regulations (“COMAR”) 36.10 (collectively, “the Sports Wagering Law”). The Sports Wagering Law also includes and incorporates applicable licensing requirements in SG, Title 9, Subtitle 1A, and COMAR 36.03 (collectively, the “the Gaming Law”), which establishes requirements for all casino-related licenses. An applicant for a license related to sports wagering must meet all applicable qualification requirements set forth in both the Sports Wagering Law and the Gaming Law.

The Maryland Lottery and Gaming Control Commission (“Commission”) must determine whether an applicant meets qualification requirements. Staff of the Maryland Lottery and Gaming Control Agency (“Agency”) is required to conduct a background investigation on all applicants for sports wagering licenses to ensure that they meet applicable qualification requirements.

Application of Alternative Licensing Standards

The Sports Wagering Law authorizes the Commission to establish an abbreviated process for qualifying and licensing an applicant that holds a valid license in another state, if the Commission determines that the licensing standards of the issuing agency in the other state are comprehensive and thorough, and provide similar safeguards to those in the Sports Wagering Law. Staff has identified several states with acceptable sports wagering license standards: Arkansas, Colorado, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and Wisconsin.

Because Maryland's qualification standards for a casino-related license are identical to and specifically incorporated in the Sports Wagering Law, they are therefore, clearly sufficient for qualifying an applicant for a sports wagering license on that basis.

Process

An applicant for a sports wagering-related license may submit a written request for the Commission to find it qualified for a Maryland license under the alternative licensing process described in COMAR 36.10.02.12. If the request is granted, the applicant may be qualified for a license before the Agency conducts a full background investigation.

The Commission may only apply the alternative licensing process:

1. If an applicant holds a current, valid Maryland issued casino-related license issued by this Commission, that alone is a sufficient basis upon which Staff may grant a request to apply alternative licensing standards to satisfy qualification requirements. Maryland's qualification standards for casino-related licenses are identical to, and specifically incorporated in, the Sports Wagering Law, so they are clearly sufficient for qualifying an applicant for a sports wagering license on that basis.
2. If an applicant does not hold a current, valid Maryland casino-related license, then the applicant must have a current, valid license in at least 3 of the 16 Commission-approved states that have licensing standards which are comprehensive and thorough, and provide similar and adequate safeguards to those in the Sports Wagering Law.

An applicant that submits a request for the application of alternative licensing standards specifically acknowledges that a full background investigation will be conducted, and that if Staff ever determines that the Applicant or licensee, if licensed, does not meet a Commission standard, the Commission may take enforcement action, up to and including revocation of the license. These acknowledgements are memorialized in the Affidavit in Support of Applicant's Request to Apply Alternative Licensing Standards in Support of an Application for a Sports Wagering License ("Affidavit") the Applicant has submitted.

The Commission's decision to abbreviate an applicant's licensing process on this basis is discretionary. The Commission may exercise its discretion to deny the request, place conditions on the license, or take any other necessary action to protect the State's interests.

Regulatory History of Applicant

The Casino at Ocean Downs is currently licensed by MLGCA for a Video Lottery Operation License. Staff is not aware of any unresolved issues that negatively impact the Applicant's qualifications and MLGCA has otherwise found no derogatory information regarding the Casino at Ocean Down's qualifications to be licensed as a Sports Wagering Facility.

Ownership of Applicant

The Casino at Ocean Downs is 100% owned by Churchill Downs, Inc.

Principal Qualifiers

Currently, there are no new Principals listed for the Casino at Ocean Downs in relation to its sports wagering application. All of its current Principals and related Principal Entities are currently licensed by MLGCA and in good standing. Any future Principals involved in its pending sports wagering operation will be required to submit the appropriate applications to the MLGCA for review and approval.

Licensing Inquiry

The Casino at Oceans Downs submitted a Request for Application of Alternative Licensing Standards in support of its request for a Sports Wagering Facility License. The Casino at Ocean Downs' direct parent company, Churchill Downs, Inc., is a qualified Principal Entity in Maryland and stated that it holds a current license in these Commission-approved states:

- Pennsylvania Gaming Control Board
 - Type of License: Affiliate (Issued: 3/27/2018)
 - Expiration Date: 01/08/2024
 - Status: License is in good standing with the Commission

- Colorado Department of Revenue
 - Type of License(s): Application Pending
 - Expiration Date: Unknown
 - Status: Pending

- Mississippi
 - Type of License: Gaming Manufacturer License
 - Issue Date: 05/20/2021
 - Status: Active and In Good Standing

Conclusion and Recommendations

Along with the Request for Application of Alternative Licensing Standards and Affidavit, the Applicant has submitted: a completed Sports Wagering Facility application, an affidavit attesting to the minority and women-owned interests of the applicant, all required fees, and proof of adequate bond.

MLGCA's inquiry with the states identified above confirms that the licenses issued by those states are current and valid. The applicant's Maryland Video Lottery and Operation License is also current and valid, and Staff is not aware of information that would indicate the Casino at Ocean Downs fails to meet the Commission's qualification requirements.

Staff recommends that the Commission find the Casino at Ocean Downs qualified for a Sports Wagering Facility License based on the alternative licensing standards provisions in the Sports Wagering Law by clear and convincing evidence.

Staff is requesting the following motions:

1. Find that the Casino at Ocean Downs has established by application of alternative licensing standards that it is qualified for a Sports Wagering Facility License by clear and convincing evidence;
2. Delegate to Staff the authority to draft a decision statement of the Commission's decision on the qualification of the Casino at Ocean Downs; and
3. Direct the Secretary of the Commission to transmit the decision statement to the Sports Wagering Application Review Commission.