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Tribe Ordered To Halt Work On Martha's Vineyard Casino

By **Andrew Westney**

Law360, New York (July 29, 2015, 3:14 PM ET) -- A Massachusetts federal judge on Tuesday ordered the Wampanoag Tribe of Gay Head to cease work on a casino on Martha's Vineyard as the tribe continues to face stiff opposition to its gaming plans from the state and a local town.

The tribe **urged the court Monday** to deny the town of Aquinnah's bid to prevent it from building a gaming facility on tribal lands on the island, claiming that a delay would result in permanent revenue loss for its government.

Following a Tuesday hearing on the town's motion, U.S. District Judge F. Dennis Saylor IV granted a preliminary injunction against the tribe and its gaming arm from proceeding with its plans for a Class II gaming facility for electronic bingo, located on 400 acres of trust land, without the town's approval.

"The Wampanoag Tribe of Gay Head and the Aquinnah Wampanoag Gaming Corporation are enjoined and restrained from commencing or continuing the construction of a gaming facility at or on the Wampanoag Community Center building site without first complying with the permit requirements of the Town of Aquinnah, pending further order of the Court," according to the order.

On Monday, the tribe said in a memorandum that its members will be irreparably harmed by the town's roadblocks because revenue from the proposed casino is meant to provide essential tribal government services that are "desperately underfunded."

Wampanoag Chairman Tobias Vanderhoop said that the tribe planned to continue repurposing the unfinished community center into a Class II gaming facility despite the town's opposition and an ongoing federal lawsuit over the issue, saying it had the right to proceed without town approval under the federal Indian Gaming Regulatory Act.

But in its own memorandum, the town said the tribe's reliance on the IGRA to argue that it does not need to comply with town laws by obtaining a building permit and getting inspections would alter the status quo, which should be maintained until the court makes a decision about the project on the merits.

In May, the tribe had **urged the court to shut down the commonwealth's suit** over its project, arguing the IGRA granted it control over the land, exclusive of state interference. But the commonwealth contends that the tribe must obtain a gaming license from the state government before opening its gambling facility **under a 1983 agreement** at issue in the instant suit.

On July 14, the town **moved** for a temporary restraining order and preliminary injunction on the proposed gaming facility on the western edge of the island after issuing a July 7 cease-and-desist letter citing building code requirements and licensed inspections to which the tribe must adhere. The tribe lashed out at the town, accusing it of using safety regulations as an excuse to further delay the project, since the motion was not filed until more than a year since the case went to court in December 2013.

In a footnote to Tuesday's order, Judge Saylor declined to issue a temporary restraining order, saying the issues had been fully briefed, and all of the parties had had a chance to be heard by the court.

Representatives for the parties could not immediately be reached for comment Wednesday.

The Wampanoag Tribe is represented by Scott Crowell of Tribal Advocacy Group LLP, Bruce Singal and Elizabeth McEvoy of Donoghue Barrett & Singal PC and Lael R. Echo-Hawk of Garvey Shubert Barer.

Massachusetts is represented by Attorney General Maura Healey and Assistant Attorneys General Juliana deHaan Rice, Carrie Benedon and Bryan Bertram.

Intervenor Aquinnah/Gay Head Community Association is represented by Felicia H. Ellsworth, Oramel H. Skinner and James L. Quarles III of WilmerHale.

The case is Commonwealth of Massachusetts v. The Wampanoag Tribe of Gay Head (Aquinnah) et al., case number 1:13-cv-13286, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Vidya Kauri, Maya Rajamani and Jessica Corso. Editing by Christine Chun.

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