

VINEYARD



GAZETTE



Gay Head Light stands sentinel at extreme western edge of Vineyard, where Native American tribe is asserting its rights to open a casino.

*Timothy Johnson*

## Tribe Takes First Step to Serve Alcohol in Gambling Hall Planned for Aquinnah

**John H. Kennedy**     *Saturday, July 25, 2015 - 11:20am*

The Wampanoag Tribe of Gay Head (Aquinnah) has taken initial steps to be able to serve alcohol at its planned gambling facility on tribal land, a move bound to stir more controversy over the project.

But one of the tribe's lawyers said Friday there are no immediate plans to serve alcohol once the gaming hall is opened. He also acknowledged that the tribe would first need to comply with state and local liquor licensing requirements.

The Liquor Control Ordinance adopted by tribal leaders last September was published this week in the Federal Register (<https://www.federalregister.gov/articles/2015/07/21/2015-17903/wampanoag-tribe-of-gay-head-aquinnah-liquor-control-ordinance-14-01>), the government's official journal that announces proposed or new rules and regulations. The ordinance has been approved by the Department of Interior's Bureau of Indian Affairs, which authorized its publication in the register, said one of the tribe's attorneys, Scott Crowell.

If enacted, the ordinance would authorize limited conditions under which liquor can be sold — in the gaming facility, for example, as well as “tribal hotels, concert venues and golf courses.”

The publication in the Federal Register comes as the town, the state and the Aquinnah/Gay Head Community Association are challenging the tribe's assertion that it has the right to operate a class II gambling facility on its land.

They are seeking a court order to stop any work converting a tribal community center into a casino; the motion will be argued in front of U.S. District Judge F. Dennis Saylor 4th on Tuesday.

“I think ultimately once we've established the right to game and make capital improvements, we're going to want to have the amenities [for the gaming hall], and having the ordinance in place gives us choices that we previously did not have,” Mr. Crowell told the Gazette Friday.

“I don't rule out that ultimately there might be liquor served, but there's no immediate plans, it won't be anytime soon and it will be consistent with state law,” he said.

Formal tribal chairman Donald Widdiss, one of a growing group of opponents to the gambling hall, said he had not heard about the ordinance, but called it “very irresponsible,” upending a long-standing policy barring alcohol at events on tribal land.

But Mr. Widdiss predicted the bingo hall would never be opened, and thus the issue of serving alcohol there would be moot.

Aquinnah town counsel Ronald H. Rappaport said he became aware of the tribe's liquor ordinance within the past few days.

“The bottom line is, no casino, no alcohol, and that's what we're in federal court for,” said Mr. Rappaport.

On August 12, Judge Saylor is also scheduled to hear arguments by both sides for summary judgment in the case.

Mr. Crowell called the timing of the ordinance “unfortunate,” because it is a separate issue from the federal litigation over the gaming hall.

Unlike that case, in which the tribe claims that it need not consider state and local regulations to operate a casino, serving alcohol on tribal land is treated differently than a tribe's fundamental self-governance. Under a 1983 decision, the U.S. Supreme Court essentially required that when alcohol "is served on Indian lands, it has to be consistent with laws of the state," the tribe's attorney said.

The ordinance published in the Federal Register this week reads in part: "Liquor may be offered for sale and may be served on tribal lands only at tribal gaming facilities, and at tribal hotels, concert venues, and golf courses. Any other liquor sales are strictly prohibited." The ordinance also establishes criminal and civil penalties for violations.

It also said it "will increase the ability of the tribe to control liquor distribution and possession on tribal lands, and at the same time will provide an important source of revenue for the continued operation of tribal government and the delivery of governmental services, as well as provide an amenity to customers" at the authorized sites.



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