

2d federal agency backs Vineyard tribe's casino rights

By [Mark Arsenault](#) | GLOBE STAFF NOVEMBER 16, 2013

Another federal agency has concluded in a legal analysis that the Wampanoag Tribe of Aquinnah has the right to pursue a casino on its land on Martha's Vineyard, appearing to bolster the tribe's assertion that it can host gambling on the renowned resort island.

An 18-page legal analysis from the US Department of the Interior office of the solicitor, dated Aug. 23, concluded that the tribe's land qualifies under the Indian Gaming Regulatory Act, the federal law that permits tribes to host gambling on their sovereign land.

It is the second legal opinion from a federal agency backing the Aquinnah to come to light this week.

In a surprise announcement Tuesday, the tribe said it was moving forward with a plan to convert an unfinished tribal community center into a temporary gambling hall within the next few months. The tribe was going ahead, it said, based on a legal opinion from the acting general counsel of the National Indian Gaming Commission, which suggested the tribe had the right to host gambling despite the longtime opinion of state officials that it did not. The tribe released a copy of the opinion Tuesday.

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The commission's opinion cited the analysis from the US Department of the Interior, but the original document was not immediately available. The Globe obtained a copy Friday.

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Tribal gambling is approved and regulated under federal law, the 1988 Indian Gaming Regulatory Act . Federally recognized tribes generally can host gambling as a means of economic development, without a state license.

Massachusetts officials have long held that the Aquinnah gave up their federal gambling rights in a land settlement in the 1980s, when the tribe agreed to abide by state law on its sovereign territory.

The Department of the Interior analysis suggests otherwise, concluding that because the Indian Gaming Regulatory Act came after the land settlement, “IGRA impliedly repeals those portions of the settlement act pertaining to the state’s jurisdiction over gaming. Therefore, the settlement act does not prohibit the tribe from gaming on settlement lands.”

Governor Deval Patrick has signaled he will oppose a tribal casino on the Vineyard. A Patrick representative could not be reached Friday night.

The tribe has insisted it has all necessary approvals to immediately open what federal tribal gambling law calls a Class 2 facility, which could offer games such as high-stakes bingo, poker, and some slots.

The Aquinnah have formally asked to open negotiations with the Patrick administration on a deal that would allow a greater variety of casino games and could bring the state a share of gambling revenue.

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