



Casino issue belongs in federal court, island tribe says

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Leaders of the Wampanoag Tribe of Gay Head (Aquinnah) say legal questions surrounding the tribe's rights to a casino belong in federal court, not state.

In a joint press release issued Monday afternoon, outgoing Chairwoman Cheryl Andrews-Maltais and Chairman-elect Tobias Vanderhoop said a lawsuit filed by Gov. Deval Patrick earlier this month is clearly a federal question.

In a telephone interview as she cleaned out her office at tribal headquarters, Andrews-Maltais said the tribe filed legal documents Monday to move the case to U.S. District Court in Boston.

"The federal question is what the state is challenging," she said. "The state's position has been inconsistent with federal law."

Federal law allows a case to be removed from state court and filed in federal court if that's the better venue, said Scott Crowell, a tribe attorney. "We felt this was more properly heard in federal court," he said.

The Patrick administration filed its suit to block a proposed Class II casino in the tribe's unfinished community center on Martha's Vineyard. The court action came after tribe leaders announced they had received a legal opinion from the National Indian Gaming Commission that their rights to a casino on reservation land were intact and they intended to act on those rights.

"Gov. Weld, Gov. Cellucci and Gov. Swift have all agreed we had federal rights," Andrews-Maltais said, citing three of Patrick's predecessors.

The Patrick administration has not seen it that way. The state's position is that the Vineyard-based tribe ceded its rights to an Indian casino in a 1983 land settlement with the state that was codified by Congress in 1987.

In the suit filed by Attorney General Martha Coakley on behalf of the Patrick administration, the state contends that under the deal, in which the tribe received more than 400 acres on the Vineyard, it agreed to give up certain rights. The tribe also agreed to follow state and local laws, including zoning bylaws, according to the suit.

"They've taken that position, which is why we took the action we did," Andrews-Maltais said. "Indian law is specific in how you give away a right. Even if we had given up those rights, we were talking as a nonprofit, state-chartered tribe. The federal Indian gaming law hadn't even been passed yet."

The Indian Gaming Regulatory Act, which gives tribes the right to open casinos on reservation land in states where expanded gambling is legal, was passed in 1988.

According to the legal opinion offered by the National Indian Gaming Commission, Indian gaming law supersedes any land settlement.

The Patrick administration did not respond to a request for comment on the tribe's legal action Monday.

Andrews-Maltais, who will stay on board as chairman of the tribe's gaming authority, was defeated in a tribe election in November leaves office this week.

Vanderhoop will be sworn in at a tribe meeting Saturday, she said.

Vanderhoop has said he doesn't personally support an island casino, but would be open to tribal members deciding how the Aquinnah proceed. He also supports protecting the tribe's legal rights, he has said.

On Monday, Vanderhoop reiterated his support in the joint press release. "Federal court is the appropriate venue for this case to be heard and the tribe will vigorously defend our rights," he said.

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