



**Upstate Citizens for Equality
Niagara Frontier Chapter**

836 Indian Church Road
West Seneca, NY 14224-1235
<http://www.upstate-citizens.org>

May 21, 2004

State Liquor Authority
333 E. Washington St., Room 205
Syracuse, NY 13202

VIA FAX: (315) 428-4201

Dear Sir/Madam:

It has been reported that the Oneida Indian Nation of New York has given the Town of Verona notice of its intent of seeking a liquor license for the premises where the Turning Stone Casino operates. I am writing to you on behalf of our members to state our position against the issuance of any liquor license to them or those in privity to them including caterers seeking licenses for the premises in which the Turning Stone Casino is located at this time.

Recently the New York Court of Appeals declared that the Governor's Office is without authority and acted in excess of its constitutional powers in signing the compact with the St. Regis Mohawks that permitted Class III gaming. The compact between the State of New York and the Oneida Indian Nation was executed in the same manner and without legislative authorization. The State of New York has recently withdrawn its appeal in our action (Peterman v. Pataki) that challenges the compact between the State of New York and the Oneida Indian Nation of New York and according to the attached letter from Assistant Attorney General Robert A. Seigfried has conceded that Governor Cuomo was without authority to enter into the 1993 Oneida Compact and it is therefore void and unenforceable under State Law. There are currently cases pending that challenges even the Legislature's powers to authorize these compacts absent a Constitutional amendment (Dalton v. Pataki, etc.) Therefore, there is no valid compact permitting this establishment to conduct Class III gaming under the Indian Gaming Regulatory Act (IGRA).

New York Alcoholic Beverage Control Law § 106 (6) provides "No person licensed to sell alcoholic beverages shall suffer or permit any gambling on the licensed premises, or suffer or permit such premises to become disorderly. The use of the licensed premises, or any part thereof, for the sale of lottery tickets, playing of bingo or games of chance, or as a simulcast facility or simulcast theater pursuant to the racing, pari-mutuel wagering and breeding law, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision." In the absence of a valid compact under the IGRA the Class III gaming currently being conducted at the Turning Stone Casino is in violation of Penal Law Article 225 and 18 U.S.C. §§ 1166, 1955 and is therefore not duly authorized and lawfully conducted thereon.

Based on the foregoing we urge you not to issue any liquor license to the Oneida Indian Nation of New York for the premises known as the Turning Stone Casino, until such facility ceases the illegal Class III gaming or until it becomes duly authorized and lawful for it to conduct Class III gaming.

Sincerely,

Daniel T. Warren
Chair
Niagara Frontier Chapter of Upstate Citizens for Equality