



Upstate Citizens for Equality
Niagara Frontier Chapter
836 Indian Church Road
West Seneca, NY 14224-1235
<http://www.upstate-citizens.org>

May 2, 2004

Hon. Charles E. Schumer
313 Hart Senate Building
Washington, DC 20510

Dear Senator Schumer:

I am writing on behalf of our approximately 8,000 members in Central and Western New York regarding the Seneca Nation of Indians' plans to locate a Casino in Cheektowaga. We seek your assistance and support to halt or delay the opening of this facility and to end illegal Class III gaming currently being conducted in New York.

As you are by now aware, the Seneca Nation of Indians has announced its plans to build a Casino in Cheektowaga. This Casino is purportedly authorized by Chapter 383 of the Laws of 2003. There is currently a challenge to this law on state constitutional grounds in the matter of Dalton v. Pataki. This case is currently pending before the New York Supreme Court, Appellate Division, Third Department and a decision is anticipated any day now. It is this very court that stated "Under the circumstances, we conclude that the commercialized Las Vegas style gambling authorized by the compact is the antithesis of the highly restricted and "rigidly regulated" (NY Const, art 1, § 9 [2]) forms of gambling permitted by the NY Constitution and statutory law and New York's established public policy disfavoring gambling (see, Ramesar v State of New York, 224 AD2d 757, 759, lv denied 88 NY2d 811; accord, Matter of New York Racing Assn. v Hoblock, 270 AD2d 31, 33-34)" in Saratoga County Chamber of Commerce Inc. v. Pataki, 293 A.D.2d 20, 740 N.Y.S.2d 733 (05/02/2002). Furthermore, in your press release dated June 23, 2003 you stated "Before any consideration is given, we need to make sure that the community is on board, and that there's a real sense of how a casino would work and why it would be good for the area. When it comes to drastic redevelopment decisions like this, the federal government should be taking its cues from the real experts and that's the local residents and leaders." You also stated "This is not a decision that should be rushed into" As you can see we are rushing into this decision by not waiting until it is determined one way or another if New York State has any authority to enter into a valid tribal-state compact absent a state constitutional amendment. Also the community in Buffalo and Erie County is not on-board with this decision. In a recent poll conducted by WBFO on its website (<http://www.wbfo.org/>) as of this writing there were 563 votes of which 74% were against a casino anywhere in Erie County which includes Cheektowaga and Buffalo. A poll on SpeakUpWNY (<http://www.speakupwny.com>) a total of 185 out of 302 or 61.26% people voted for "No casino in Erie County." Furthermore a citizens group, Citizens Against Casino Gambling in Erie County, (CACGEC website: <http://www.nocasinoerie.org/>) has an online petition that 684 people have electronically signed opposing any casino in Erie County. Rushing into this at this stage will only create havoc both economically and politically if the courts ultimately decide that Chapter 383 of the Laws of 2003 is unconstitutional. These Casinos will be in the same position as Turning Stone and the Akwesasne Mohawk Casino are in, conducting illegal Class III gambling in violation of state and federal law.

As mentioned above in the wake of the decision by the New York Court of Appeals in Saratoga County Chamber of Commerce v. Pataki and the U.S. Supreme Court's refusal to review that decision the gaming compact that the Akwesasne Mohawk Casino (AMC) was operating under has been declared illegal and void. Therefore the Class III gaming being conducted at that location is illegal under state and federal laws. The compact that the Turning Stone Casino is currently operating under was ratified only by the governor in the same manner as the AMC compact and is therefore illegal and void. A court decision to this effect is anticipated at the next hearing in the Matter of Peterman v. Pataki currently pending in the



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New York Supreme Court, Oneida County before Justice McCarthy. Recently, Mr. Suddaby, the United States Attorney for the Northern District of New York, was quoted as saying "We have been monitoring the situation," and "It is not our intention to take any action, provided things are moving forward and there is some resolution." As part of the Executive Branch he is charged with the enforcement of all laws. I am not familiar with any law or doctrine that declares an otherwise illegal act, legal, pending the vote of a bill in the respective legislative body. Particularly, when it is very questionable whether or not that legislative body has the constitutional authority to enact such a bill. I have written numerous letters to Mr. Suddaby and the Commissioner of the National Indian Gaming Commission to no avail. This illegal gambling is still occurring in blatant contravention of state and federal law.

For the above reasons we ask that you support, assist and initiate action in the federal government to halt or delay the opening of the Seneca Casino in Erie County and to compel the enforcement of federal laws and end the Class III gaming being conducted at the Turning Stone Casino and the Akwesasne Mohawk Casino.

Sincerely,

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