

ORDER 2024-106

AN ORDER OF THE INDIANA GAMING COMMISSION APPROVING VICI'S REQUEST TO PURCHASE THE REAL ESTATE ASSETS ASSOCIATED WITH HARRAH'S HOOSIER PARK AND HORSESHOE INDIANAPOLIS

On March 27, 2024, VICI Properties Inc. ("VICI"), a real estate investment trust, or REIT, and licensed supplier, notified the Indiana Gaming Commission ("Commission") of its intent to exercise a call option, (but not the actual current exercise of) to purchase the real estate assets related to Harrah's Hoosier Park and Horseshoe Indianapolis ("the Properties"). The call option contemplates VICI leasing those Properties back to subsidiaries of Caesars Entertainment, Inc. ("Caesars") through a triple-net lease, with Caesars continuing gaming operations.

The call option concerning the Properties was entered into by VICI and Caesars when Eldorado Resorts, Inc. engaged in a public merger with Caesars in 2020. By Order 2020-87, the Commission approved, among other things, Eldorado Resorts, Inc's acquisition of Caesars. However, the exercise of the call option and consummation of the acquisition of the Properties' real estate assets requires Commission analysis and approval under Ind. Code § 4-33-4-21, Ind. Code § 4-35-5-7 and 68 IAC 5-3-1(c), along with a waiver of the applicable procedural requirements set forth in 68 IAC 5-3, pursuant to Resolution 2017-109.

The Commission reviews proposed transactions under 68 IAC 5-3 to analyze the financial health of casino licensees and to ensure that a casino owner's license is not leased or hypothecated as a result of the transaction. In this instance, if the potential exercise of the call option and corresponding acquisition of the Properties' real estate assets is approved and consummated, then the previously approved lease (the "Regional Lease") between VICI and Caesars will be revised to allow the addition of the Properties into the Regional Lease, and Caesars will assume a long-term financial obligation.

The Commission has considered the following factors related to VICI's call option for the Properties:

1. The parties have explained the details of the proposed acquisition in confidential documents provided to the Commission;
2. The Commission's Financial Investigations Division has completed a comprehensive investigation of the call option and provided its confidential analysis of the proposed acquisition to the Commission for review;
3. The Commission has received and reviewed a confidential analysis of the proposed acquisition from the Commission's outside financial analyst, Dan Roberts, of DR Financial Consulting, LLC;
4. The Commission has analyzed VICI's potential exercise of its call option, the contemplated addition of the Properties into the revised Regional Lease and Caesars' corresponding assumption of a long-term financial obligation and the request for waiver of applicable procedural requirements;
5. VICI is a publicly traded gaming-focused real estate investment trust, and it currently holds a supplier's license issued by the Commission pursuant to 68 IAC 2-2-1(c)(5) and through Order 2017-112, which was most recently renewed under Order 2023-53; and
6. Caesars continues to meet or possesses the standards, criteria, and qualifications necessary to be issued a casino owner's license pursuant to Ind. Code § 4-33-6, Ind. Code § 4-35-5, and 68 IAC 2-1-5(c).

COMMISSION ACTION

The Commission finds that the “two-meeting” rule, as provided in 68 IAC 5-3-2, is impractical and burdensome and that a waiver is in the best interest of the public and the gaming industry. Based on the foregoing and in accordance with its authority under 68 IAC 1-2-13, the Commission hereby **APPROVES** Caesars’ request for waiver of the “two meeting” requirement.

The Commission has considered the potential exercise of the call option proposed by VICI and in accordance with 68 IAC 5-3, has carefully weighed the request, the supporting documentation, and the report of the Commission’s financial analyst. Based on the foregoing, the Commission hereby **APPROVES** VICI’s potential exercise of the call option, acquisition of the real estate assets of the Properties and Caesars’ lease obligations thereunder, subject to the following conditions:

1. The terms articulated in the transaction documentation do not materially differ from the terms that have been presented in writing for approval to date;
2. The terms of the final documentation do not violate Ind. Code § 4-33-4-21 or Ind. Code § 4-35-5-7;
3. Caesars must provide the Commission with a legal opinion demonstrating compliance with Ind. Code § 4-33-4-21 and Ind. Code § 4-35-5-7;
4. The call option must be exercised on or before December 31, 2024, with the closing of the call option to occur thereafter in accordance with transaction documentation; and The Parties shall determine whether the transaction requires approval from the Indiana Horseracing Commission and advise the Commission of any approval granted.

In addition, the Commission hereby requires Caesars and VICI (sometimes collectively referred to as “the parties”) to provide notice to Commission staff regarding the following:

1. Caesars shall annually report capital expenditures at Harrah’s Hoosier Park and Horseshoe Indianapolis as a percentage of net revenue;
2. The parties shall report all Caesars capital expenditure requests submitted to VICI for its consent and VICI’s response;
3. The parties shall report the annual rental amount by January 31st of each year;
4. The parties shall promptly report the details of any lease dispute submitted to an arbitration panel pursuant to Sec. 34.2 of the lease;
5. The parties shall report any uncured master lease event of default immediately;
6. The parties shall report any bankruptcy filing or any uncured event of default on the terms of any financing agreement immediately;
7. The parties shall report any material master lease amendment thirty (30) days before the amendment would become effective, unless such amendment is necessary to comply with any material law, rule or regulation, in which case such amendment may be effective immediately and reported promptly;
8. The parties shall report any master lease renewal thirty (30) days before the renewal date;
9. The parties shall promptly report any change in their respective bond rating from Fitch Ratings, Inc., Standard & Poor’s Ratings Services, Inc., Moody’s Investors Service, Inc., or any other rating agency designated by the Commission;
10. VICI shall report any new financing or refinancing of any of its debt obligations; and
11. VICI shall report any material changes in corporate structure, including but not limited to, any changes in directors and executive officers named in its filings with the Securities and Exchange Commission.

These foregoing notice requirements, as applied to VICI, also extend to all Indiana real properties to which VICI is authorized to be supplier licensee.

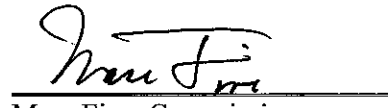
IT IS SO ORDERED THIS 20th DAY OF JUNE, 2024.

THE INDIANA GAMING COMMISSION:



Milton O. Thompson, Chair

ATTEST:



Marc Fine, Commissioner