

The City Can Control Where Casinos Are Built, by Paul Boni

There are many legal questions still in dispute concerning the casinos. Is the State Gaming Law constitutional? Did the State engage in a fair and honest process in evaluating the various applications? These questions have yet to be answered definitively.

But there is a settled question that has not received enough attention: The plain reality is that the City of Philadelphia has complete authority and control to affect the siting of the two casinos. Instead of the two sites identified by the State, the City can zone for gambling *other* properties within the City limits.

We know this because the Pennsylvania Supreme Court has said so. In June of 2005 the Pennsylvania Supreme Court struck down as unconstitutional the State's attempt to preempt the City's local land use and zoning powers as they relate to casinos. The Court explained that the State did not provide the Gaming Control Board with sufficient standards about how to select the site. The power over land use regulation and zoning was therefore restored to the City of Philadelphia. In other words, the state cannot dictate where the casinos should be located. If you want to read the Court's decision go to: <http://www.courts.state.pa.us/opposting/supreme/out/j-19-2005mo.pdf> and start reading at page 43. After the Court rendered its decision the state legislature amended the Gaming Law and expressly acknowledged the City's ability to determine the "location" of the casinos. There is no legitimate dispute about this.

Sure we heap contempt on the politicians in Harrisburg; and we won't forget it. But the City has the power to affect the siting of these facilities. We therefore look to Council for help.

In 2005 the City amended the Zoning Code by enacting a template called the Commercial Entertainment District. But the CED is only a zoning template and the City has yet to lay it down somewhere on the map of the City. Some say the template must be laid down at the two sites identified by the State Gaming Control Board. That's not true. The City can lay down the template wherever it chooses. But where?

Arguably, and solely for political sake, the City might want to respect the part of the Gaming Act that prohibits stand-alone casinos from within 10-miles of the two racetrack casinos, one in Chester and the other in Bensalem. But even respecting those exclusionary zones, there are still other areas where the City can lay down the CED. One example of an available location is the Navy Yard, where the City has visions of grandeur for a huge marina; that property is so big it can accommodate at least one and maybe even both of the stand-alone casinos. As the Philadelphia Gaming Advisory Task Force stated in its Final Report in October 2005: "[The Navy Yard Site], due to its quasi-public ownership, could provide the City with leverage over design issues and an additional revenue stream in the form of lease payments. It is also sufficiently large that the possibility of clustering two casinos adjacent to each other is a real possibility if the resulting traffic problems could be alleviated."

After meeting with community groups from all along the river and hearing the outrage over the locations identified by the state, Councilman Frank DiCicco understands that City Hall has power to influence the siting of these casinos. He has shown great leadership and others in Council and City Hall should follow Councilman DiCicco's lead.

We are all watching closely to see how the City exercises its zoning and land use authority. At stake are the health and safety of our riverfront communities. Please help us.

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The marina complex contemplated for the Navy Yard (rendering courtesy of PIDC website)