

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

CITIZENS AGAINST CASINO GAMBLING, <i>et al.</i>,)	NOTICE OF MOTION FOR <u>SUMMARY JUDGMENT</u>
)	
Plaintiffs, and)	
)	Civil Action No. 06 CV 0001
JOEL A. GIAMBRA, <i>et al.</i>,)	
)	
Intervenor Plaintiff,)	
)	
v.)	Hon. William M. Skretny, U.S.D.J.
)	
NORTON, <i>et al.</i>,)	
)	
Defendants.)	

MOTION BY: Stenger & Finnerty and Richard Lippes & Associates, co-counsel for Plaintiffs, and Laurence K. Rubin, County Attorney, counsel for Intervenor-Plaintiffs

TIME, DATE & PLACE OF HEARING: Movants request a Status Conference of the Court and counsel to determine scheduling in the context of both (a) the timetable presently applicable to pending motion practice and (b) ongoing developments on and regarding the “Buffalo Parcels” (defined below).

RELIEF REQUESTED: An Order declaring:

1. Lands acquired by the Seneca Nation of Indians (“SNI”) purportedly pursuant to the Seneca Nation Settlement Act of 1990 (“SNSA”) in the City of Buffalo (the “Buffalo Parcels”) are not “Indian Lands” within the meaning of IGRA;
2. The Buffalo Parcels, acquired by the SNI purportedly pursuant to the SNSA, are not “Indian Country;”
3. The Buffalo Parcels, purportedly acquired by the SNI pursuant to the SNSA, are exempt only from State and local property taxes;

4. The SNI Tribal-State Gaming Compact (“Compact”) violates sections 11(d) and 20 of IGRA to the extent it, among other things, permits gambling on the Buffalo Parcels;
5. The determination of the Secretary of the Department of the Interior (“Secretary” and “DOI,” respectively) to permit approval of the Compact is contrary to IGRA, and is arbitrary, capricious, an abuse of discretion, contrary to law, and violates procedures required by law;
6. The Secretary’s failure to disapprove the Compact is contrary to IGRA, and is arbitrary, capricious, an abuse of discretion, contrary to law and violates procedures required by law; and
7. The National Indian Gaming Commission (“NIGC”) Chairman’s (the “Chairman”) approval of the SNI Class III Gaming Ordinance (“Ordinance”) is contrary to IGRA, and is arbitrary, capricious, an abuse of discretion, contrary to law, and violates procedures required by law.
8. The Secretary and NIGC’s decision to allow casino gambling on the Buffalo Parcels was done without compliance with the National Environmental Policy Act (“NEPA”) and National Historic Preservation Act (“NHPA”), and therefore was arbitrary, capricious, an abuse of discretion, contrary to law and violates procedures required by law.

SUPPORTING PAPERS: This Notice, the accompanying Memorandum of Law and Statement of Undisputed Facts, each dated July 25, 2006, and Supporting Affidavit of Joseph M. Finnerty, sworn to July 25, 2006, with annexed Exhibits A through F.

RESPONDING PAPERS: All parties served with this motion should submit and serve responding papers, if any, after conferring with counsel in accordance with such directive the Court may issue. In the event of opposition to any of the requested relief, Plaintiffs and Intervenor Plaintiffs reserve their right of reply.

DATED: Buffalo, New York
July 25, 2006

Respectfully submitted,

STENGER & FINNERTY

s/ Joseph M. Finnerty

Joseph M. Finnerty, Esq.

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