

# FENNEMORE.

Dan R. Reaser

Director

dreaser@fennemorelaw.com

7800 Rancharra Parkway,

Reno, Nevada 89511

PH (775) 788-2226 | FX (775) 788-2227

fennemorelaw.com

March 15, 2024

## ELECTRONIC & U.S. MAIL

Vincent V. Queano, Director  
CLARK COUNTY BUSINESS LICENSING DEPARTMENT  
500 South Grand Central Parkway, 3rd Floor  
Las Vegas, Nevada 89155  
[laura.perez@clarkcountynv.gov](mailto:laura.perez@clarkcountynv.gov)  
[blliquorandgaming@clarkcountynv.gov](mailto:blliquorandgaming@clarkcountynv.gov)

Re: **BALLY'S CORPORATION:**  
TROPICANA LAS VEGAS, INC.;  
*Application for Temporary Closure*

Dear Director Queano:

We represent Tropicana Las Vegas, Inc. ("**TLVI**"), which owns and operates the Tropicana Las Vegas (the "**Tropicana**"), located at 3801 Las Vegas Boulevard South, Las Vegas, Nevada 89109-4325 (the "**Property**"). TLVI is an indirect subsidiary of Bally's Corporation ("**Bally's**" or the "**Company**"). As you are aware, on January 29, 2024, Bally's announced closure of the Tropicana effective on April 2, 2024. Further to that announcement, the purpose of this letter is to make application to the Department for approval of a temporary closure of the Tropicana pursuant to Section 8.04.140(G) of the Clark County Code (the "**Code**").

## SUMMARY OF RELEVANT FACTS

As the Department is aware, the Tropicana's closure is the first of many steps necessary to facilitate a master plan for the Property to construct the Major League Baseball stadium for relocation of the Oakland Athletics team to Las Vegas. Closure of the Tropicana will be followed by demolition of the existing buildings and site preparation which Bally's is obligated to complete by April 1, 2025, at which time the three-year construction scheduled for the stadium is to begin. Consequently, at some time in the next year, the physical structure of the Tropicana will be razed at which time the resort hotel will cease to satisfy the requirement for its nonrestricted gaming license.

The Oakland Athletics intend to open the stadium by April 1, 2028. While the stadium is under construction, Bally's is also responsible for building of the Northwest corner plaza public spaces needed for utilization of the stadium and parking, including a parking garage if needed by the Athletics prior to commencement of the planned resort hotel development. Bally's, its

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landlord Gaming and Leisure Properties, Inc. ("**GLPI**") and the Oakland Athletics are still developing the master plan for the site, and therefore Bally's does not currently have an estimate when a new resort hotel may reopen.

#### **STANDARD OF REVIEW**

Section 8.04.140(G) of the Code governs this situation. That ordinance states in relevant part:

If, at any time, a gaming licensee licensed pursuant to Section 8.04.310 does not meet the conditions and requirements of its license for a period of over thirty consecutive days, the county gaming license shall automatically suspend or be nonrenewable and all gaming shall cease until such conditions and requirements are complied with. A gaming licensee . . . who at any time, has or will have less than the required number of rooms and/or resort hotel requirements open and available for immediate occupancy and use may apply to the board, and upon good cause shown (i.e., remodeling, labor disputes, reasons beyond its control) for such unavailability of rooms and/or resort hotel requirements, the board may allow gaming to continue or be renewable upon such restrictions or conditions as it deems proper; the waiver of requirements and conditions may be granted by the board for a period up to twenty-four months and may be extended upon an additional showing of good cause and due diligence for two additional six-month periods, however, the total periods of waiver shall not exceed three calendar years as to any waiver of requirements . . .<sup>1</sup>

#### **ANALYSIS AND REQUEST FOR RELIEF**

Paragraph (G) of Section 8.04.140 explicitly addresses the situation of the Tropicana's closure. The closure is for redevelopment of the Property and will result in the complete physical destruction of the Tropicana. Bally's is making a significant long-term commitment to achieve the vision of a resort hotel that revitalizes the intersection of Tropicana Avenue and the Las Vegas Strip and provides a unique integrated sports-entertainment-gaming experience with the baseball stadium. TLVI's rent obligation does not abate during redevelopment and will in fact increase to offset development expenditures by GLPI.

Bally's has every reason to promptly reopen a new resort hotel when construction is completed. That said, the design, land use permitting and construction plan for the baseball

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<sup>1</sup> CLARK COUNTY, NEV. CODE § 8.04.140(G).

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stadium, as well as a year-long demolition project, must be accomplished before the Company can pursue in earnest development of the new resort hotel. Thus, the anticipated duration of the closure is currently unknown.

The language of the ordinance specifically anticipates that remodeling of the establishment is good cause for allowing a temporary exception of the licensee's compliance with license conditions and requirements. Consequently, the TLVI and the Company requests that the Department and the Clark County Board of Commissioners (the "**Board**"), allow renewal of the business license and a temporary closure of gaming operations exceeding thirty days.

TLVI's noncompliance with the resort hotel requirements will not happen immediately given there is an extended decommissioning process for the Property that precedes the time that the Tropicana actually will be razed. Accordingly, TLVI suggests that it be permitted to renew its licenses and that the temporary closure approval commence at the time that demolition of the existing structures commences. That will allow optimization of the maximum three year waiver period allowed by the ordinance. In this regard, TLVI and Bally's submit that on the record here involved, that there is sufficient due diligence and additional good cause shown for the Board to find that the full three year period can be granted now. If the Department is not comfortable with that interpretation of the ordinance and evidence, TLVI and the Company request an initial two-year waiver with the understanding that extensions will be sought because necessary for the anticipated redevelopment of the Property is to include the baseball stadium.

Based on the circumstances at hand, the express provisions of Section 8.04.140(G) and the factors here articulated, the Company and TLVI respectfully request that the Department recommend and the Board approve waiver of the license conditions and a temporary closure for Tropicana for the period commencing on the date demolition commences for a period of at least two calendar years and up to three calendar years, during which time TLVI may continue to renew its business and privilege licenses. We welcome further discussion of this application at the Department's convenience.

Sincerely,



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Dan R. Reaser

cc: Martin Boyette  
Lou Dorn, Esq.  
Don Wescott