



March 5, 2008

Via Facsimile: (505) 982-0307
and U.S. Mail

Richard W. Hughes, Esq.
Rothstein Donatelli et al.
1215 Paseo De Peralta
P.O. Box 8180
Santa Fe, NM 87504-8180

Re: Santa Clara Pueblo Gaming Commission – authorization to take fingerprints

Dear Mr. Hughes:

Chairman Hogen forwarded your letter of February 6 to me for response. I understand that Tribal Council resolution 09-04 recognizes the Santa Clara Pueblo Gaming Commission as a law enforcement agency for the purpose of taking fingerprints for submission to the FBI as part of the required background investigations of key employees and primary management officials. I understand as well that the Tribe seeks assurance that NIGC will also recognize the gaming commission as such. Please be so assured.

The term *law enforcement agency*, as used in 25 C.F.R. §§ 522.2(h) and 556.4(a)(14), includes a tribal gaming commission when so designated by the tribal government. The NIGC forwards to the FBI fingerprints submitted by many tribal gaming commissions, just as it forwards fingerprints taken by police departments.

If you have any further questions or concerns about this, please feel free to contact Staff Attorney Esther Dittler here in the Washington, DC, office. If you have any questions about the process of submitting fingerprints, please contact Region Director Ken Billingsley in the Phoenix office. The telephone number there is (602) 640-2951.

Very truly yours,

A handwritten signature in black ink that reads "Michael Gross". The signature is written in a cursive style.

Michael Gross
Associate General Counsel – General Law

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7326
(505) 753-7330



INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532

OFFICE OF GOVERNOR

RESOLUTION NO. 09-04

**DETERMINING THAT SANTA CLARA PUEBLO GAMING COMMISSION IS
AUTHORIZED TO TAKE FINGERPRINTS FOR LIMITED PURPOSES UNDER
THE PROVISIONS OF THE SANTA CLARA GAMING CODE**

WHEREAS, the Santa Clara Gaming Code was originally enacted by the Tribal Council on January 28, 1998, and was approved by the Chairman of the National Indian Gaming Commission on May 29, 1998; and

WHEREAS, under the provisions of the Code, as presently codified, especially at 109.7(B)(2), an applicant for a gaming license must submit a set of fingerprints, which "shall have been made and certified by a qualified employee of a law enforcement agency, " for use in the background investigation to be undertaken by the Gaming Commission prior to the determination of licensing eligibility; and

WHEREAS, the requirement that fingerprints be taken by an employee of a law enforcement agency is likewise a requirement of the regulations of the National Indian Gaming Commission, at 25 C.F.R. 522.2(h) and 556.4(a)(14); and

WHEREAS, the National Indian Gaming Commission has informed the Pueblo, by letter from Esther Dittler, dated October 31, 2008, that for the limited purpose of taking fingerprints of gaming license applicants for purposes of required background investigations, the National Indian Gaming Commission is willing to consider a tribal gaming agency to be a qualified "law enforcement agency, "if the gaming agency is authorized to take such fingerprints as a matter of tribal law or pursuant to a determination of the governing body of the tribe; and

WHEREAS, the Tribal Council understands that requiring that fingerprints only be taken by officer of the Santa Clara Police Department or another law enforcement agency can in some instances delay the background investigation process, and otherwise create inconvenience for license applicants and the Commission; and

WHEREAS, the Santa Clara Pueblo Gaming Commission has taken steps to obtain proper equipment for the efficient and accurate taking of fingerprints from licensed applicants, and has trained its employees in the use of such equipment; and

WHEREAS, the Tribal Council believes that in light of the position of the National Indian Gaming Commission it would be appropriate to authorized the Santa Clara Pueblo Commission to be deemed a law enforcement agency for the limited purpose of taking fingerprints in connection with license applications and background investigations, provided such activities are carried on by properly trained employees;

NOW THEREFORE BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Clara, as follows:

1. For the sole and limited purpose of taking fingerprint impressions required for gaming license applications under the provisions of 109.7(B)(2) of the Santa Clara Tribal Code (2006 Comp.), the Tribal Council hereby determines that the Santa Clara Pueblo Gaming Commission is a "law enforcement agency" within the meaning of that paragraph, such that a properly trained employee of the Commission shall at all times assure that any employee who takes such fingerprints is in fact fully trained to utilize the equipment properly, that the fingerprints shall be Commission under the provisions of the Gaming Code, and that such fingerprints shall have no other validity or use whatsoever, nor shall the Commission be considered a law enforcement agency for any other propose whatsoever.
2. The Governor and the general counsel of the Pueblo are authorized and directed to transmit a copy of this resolution to the Chairman of the Santa Clara Pueblo Gaming Commission, and to the National Indian Gaming Commission, and are further directed to obtain assurance from the National Indian Gaming Commission that the Commission concurs in the terms of this resolution and will honor fingerprints taken in accordance with the procedure set forth herein.
3. Notwithstanding the Tribal Council's willingness to deem the Santa Clara Pueblo Gaming Commission as a law enforcement agency for the narrow and limited purpose of taking fingerprint impressions of gaming license applicants, in the event that at any time the Commission's equipment for taking such fingerprints is not functioning properly, or there is no one trained to use such equipment to take such fingerprint impressions, such fingerprint impressions must be taken by an employee of the Santa Clara Pueblo Police Department.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Sana Clara, hereby certify that the Santa Clara Tribal Council, at a duly called meeting that was convened with proper notice and was held on the 4th day of February, 2009, at the Santa Clara Pueblo, New Mexico, a quorum being present, approved the foregoing Resolution with 12 members voting in favor, 0 opposed, 0 abstaining and 0 being absent.


Governor

ATTEST:


Secretary