

STATE OF MAINE  
CUMBERLAND, ss.

SUPERIOR COURT  
CIVIL ACTION  
NO. PORSC-AP-2025-0020 ✓

FIRST TRACKS INVESTMENTS, LLC,

Petitioner,

v.

MILTON CHAMPION, in his official  
capacity as Director of the Gambling  
Control Unit, and  
MICHAEL SAUSCHUCK, in his official  
capacity as Commissioner of Public Safety,

Respondents.

ORDER GRANTING  
PETITIONER'S 80C APPEAL

The following motions are before the court: (1) Petitioner First Tracks LLC's ("FTI") Motion for Stay Pending 80C Appeal, and (2) FTI's Petition for 80C Review of a decision and order by Respondents, Milton Champion, Director of the Gambling Control Unit ("the Director") and Michael Sauschuck, Commissioner of Public Safety ("the Commissioner"), which denied FTI's application for a facility sports wagering ("FSW") license.

**BACKGROUND**

FTI holds a commercial track license for harness racing at Cumberland First Tracks. R. Tab 3 at 1. The pending motions arise from FTI's plan to open a sports-betting restaurant called Oddfellahs at 55 Market Street in Portland, Maine. On August 23, 2024, FTI applied for a FSW license with the Director to conduct sports wagering at Oddfellahs. R. Tab 2. On August 31, 2024, the Director granted FTI a

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one-year temporary FSW license pursuant to 8 M.R.S. § 1206(6). R. Tab 3 at 1; Tab 12 at 38. In response, FTI opened Oddfellahs in September 2024.

On 1/17/2025, the Director revoked FTI's temporary license in a decision denying FTI's FSW application. R. Tab 3 at 1. FTI petitioned the Director's denial to the Commissioner, requesting a hearing and to stay the decision. After the Commissioner denied the stay, FTI motioned this court to stay the Director's decision pending a final agency decision. *See First Tracks Inv., LLC v. Champion*, CUMSC-AP-25-04, 2025 WL 574971 (Me. Super. Ct. Feb. 7, 2025). The court granted FTI a Temporary Restraining Order on 2/7/2025 until a hearing with the Commissioner. On April 29, 2025, the Commissioner affirmed the Director, concluding "in order to be eligible for a facility sports wagering license under 8 M.R.S. Section 1206(2)(A), an applicant must conduct the sports wagering in the same location as it conducts the licensed activity under which it qualifies for a facility sports wagering license under 8 M.R.S. Section 271(1)." Pl.'s Compl. Ex. A at 10. FTI subsequently filed this 80C petition.<sup>1</sup>

FTI returned to superior court on 5/27/2025, filing the following motions: Special Assignment, Consolidation,<sup>2</sup> Rule 80C(i) Specification, and Stay of Final Agency Action Pending 80C Appeal. The parties appeared for a hearing on October 3, 2025. The court granted FTI's motion to Consolidate, motion for Special Assignment,

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<sup>1</sup> FTI's complaint has three counts: (Count 1) 80C Review, (Count II) Equitable Estoppel to enjoin the Director and Commissioner from enforcing their decision and order, and (Count III) Declaratory Judgment. Pet'r's Compl.

<sup>2</sup> FTI's motion for a temporary restraining order was filed under AP-25-04, and its 80C Complaint was filed under AP-25-20. The court consolidated the cases under AP-25-20.

and established a briefing schedule for FTT's 80C appeal. *See* 10/3/25 Hearing. The court incorporates its decisions from the 10/3/25 Hearing into this Order.

## DISCUSSION

FTI contends that Respondents made an error of law by interpreting 8 M.R.S. § 1206 to limit sports betting to FTT's commercial track. FTT also seeks declaratory judgment that section 1206 allows qualifying FSW applicants under subsection 2 to conduct sports betting at any physical location the applicant controls in Maine. Next, FTT requests this court stay enforcement of the Commissioner's order pending FTT's 80C appeal.

### A. Standard of Review

Judicial review of administrative agency decisions is "deferential and limited." *Friends of Lincoln Lakes v. Bd. of Env't Prot.*, 2010 ME 18, ¶ 12, 989 A.2d 1128. The court will not overturn an agency's decision "unless it: violates the Constitution or statutes; exceeds the agency's authority; is procedurally unlawful; is arbitrary or capricious; constitutes an abuse of discretion; is affected by bias or error of law; or is unsupported by the evidence in the record." *Kroeger v. Dep't of Env'tl. Prot.*, 2005 ME 50, ¶ 7, 870 A.2d 566. "[The] party seeking to vacate an agency decision bears the burden of persuasion on appeal." *Anderson v. Me. Pub. Emp. Ret. Sys.*, 2009 ME 134, ¶ 3, 985 A.2d 501.

### B. Motion for Stay

FTI asks the court to stay the Commissioner's order upholding the Director's decision to deny FTT's FSW license application. To prevail, FTT must demonstrate:

(1) it will suffer irreparable injury if the [stay] is not granted; (2) such injury outweighs any harm which granting the [stay] would inflict on the other party; (3) it has a likelihood of success on the merits (at most, a probability; at least, a substantial possibility); and (4) the public interest will not be adversely affected by granting the [stay].

*Nat'l Org. for Marriage v. Comm'n on Gov't Ethics & Elections Prac.*, 2015 ME 103, ¶¶ 14, 121 A.3d 792. (quoting *Bangor Hist. Track, Inc. v. Dept. of Agric.*, 2003 ME 140, ¶ 9, 837 A.2d 129); see 5 M.R.S. § 11004.

The court stands by the reasoning of its February 7, 2025 order on the above factors. See *First Tracks Inv., LLC*, 2025 WL 574971. Furthermore, as the court vacates the Commissioner's order below, it grants FTI's motion for stay.

### **C. 80C Petition**

FTI asks the court to reverse the Commissioner's order denying their FSW license application. The central issues are (1) whether FTI was eligible to apply for a FSW license, and (2) if eligible, whether the FSW license authorized FTI to conduct sports wagering at Oddfellahs. The dispute involves Respondents' interpretation of 8 M.R.S. § 1206 regarding FSW license eligibility and authorized sports wagering locations.

"[W]hen the claimed error involves the interpretation of a statute, the Court will review the [agency's] interpretation de novo." *FCA US LLC v. Dunlap*, BCD-AP-15-03, 2016 WL 3771164 at \* 2 (Me. B.C.D. June 27, 2016) (citing *Ford Motor Co. v. Darling's*, 2014 ME 7, ¶ 15, 86 A.3d 35). "If the meaning of [a] statute is ambiguous, we will uphold the agency's interpretation in its field of expertise,' as long as the interpretation is reasonable and as long as the statute does not compel a contrary

interpretation.” *Corinth Pellets, LLC v. Arch Specialty Ins. Co.*, 2021 ME 10, ¶ 36, 246 A.3d 586 (quoting *Me. Ass’n of Health Plans*, 2007 ME 69, ¶ 32, 923 A.2d 918). “If the statute is plain, [the court] give[s] effect to the unambiguous intent of the legislature.” *Guilford Traps. Indus. v. Pub. Util. Com’n.*, 2000 ME 31, ¶ 11, 746 A.2d 910.

Regulation of FSW licenses is governed by 8 M.R.S. §§ 1201-1219 (2025). Under section 1203, the Director of the Gambling Commission decides an applicant’s eligibility upon finding they satisfy the criteria under §§ 1204-1206. *Id.* §§ 1203(1)(B), 1206(1). Eligible applicants must be:

- A. A commercial track as defined in section 275-A, subsection 1 not located in Bangor;
- B. A casino licensed under section 1011; or
- C. An off-track betting facility licensed under section 275-D or Public Law 2019, chapter 626, section 16.

Each off-track betting facility may receive only one facility sports wagering license under this section. A facility sports wagering license may not be transferred or assigned.

*Id.* § 1206(2). Neither party disputes that FTI is an eligible applicant for a FSW license as a “commercial track . . . not located in Bangor.” *Id.* § 1206(2)(A).

The heart of the matter is whether qualifying FSW applicants must conduct sports wagering at the same location which made them eligible under section 1206(2).

The dispute involves the meaning of section 1206(3), which reads,

“A facility sports wagering license granted by the director pursuant to this section grants a licensee lawful authority to conduct sports wagering in which wagers are placed within a physical location

controlled by the licensee in the State within the terms and conditions of the license and any rules adopted under this chapter.”

*Id.* § 1206(3). Respondents argue the language, “physical location controlled by the licensee” means one of the places under subsection 2 which make an applicant eligible. *Id.* 1206(2), (3). In other words, if FTI is eligible for a FSW license as a commercial track, they may only conduct sports wagering at *that* commercial track. The court is not convinced; Respondents ask the court to read between the lines of a statute that is not ambiguous. *See Ford Motor Co.*, 2014 ME 7, ¶ 43, 86 A.3d 35 (The court “will not read additional language into a statute” (quoting *Blue Yonder, LLC v. State Tax Assessor*, 2011 ME 49, ¶ 10, 17 A.3d 667)). Section 1206 plainly states that FSW licenses authorize sports wagers at “a physical location” in Maine, without any designation to *where*. *Id.* § 1206(3) (emphasis added). While the location must be “controlled by the licensee,” nothing within §§ 1201-1219 specifies that the “location” must be the applicant’s qualifying facility under section 1206(2). *Id.* § 1206(3).

Respondents erred by interpreting “a physical location” under section 1206(3) exclusively refers to one of the eligibility criteria from section 1206(2). Accordingly, both the Director and the Commissioner erred in denying FTI’s application on the basis that FTI planned to conduct sports betting at a physical location outside their commercial track.<sup>3</sup>

#### **D. Declaratory Judgment**

FTI’s claim for declaratory judgment (Count III) is duplicative of the relief sought in Count I for judicial review pursuant to Rule 80C. When an agency’s decision

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<sup>3</sup> As the court grants FTI’s 80C petition, it declines to issue FTI equitable relief under Count II.

is reviewable under Rule 80C, "that process provides the 'exclusive process for judicial review unless it is inadequate.'" *Antler's Inn & Rest., LLC v. Dep't of Pub. Safety*, 2012 ME 143, ¶ 14, 60 A.3d 1248 (quoting *Gorham v. Androscoggin County*, 2011 ME 63, ¶ 22, 21 A.3d 115). Here, Rule 80C and the Maine APA provide meaningful procedures to address FTT's concerns at the agency level. *See* 5 M.R.S. § 11007(4) Consequently, FTT's claim for declaratory judgment is denied.

### CONCLUSION

For the reasons stated above, the court grants Petitioner First Tracks Investments, LLC's Rule 80C Petition. Accordingly, the court vacates Commissioner Michael Sauschuck's order and Director Milton Champion's decision and remands to Director Champion to issue a decision consistent with this order.

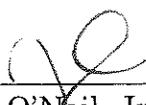
The entry is:

1. Petitioner First Tracks Investments, LLC's Rule 80C Petition is granted under Count I. Petitioner's claims are denied on Counts II and III.
2. Commissioner Michael Sauschuck's order is vacated and remanded. Director Milton Champion's decision is vacated.
3. Petitioner First Tracks Investments LLC's Motion for Stay is granted.

The clerk is directed to incorporate this order into the docket by reference. M.R.

Civ. P. 79(a).

Dated: 3/10/26

  
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John O'Neil, Jr.  
Justice, Maine Superior Court

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