

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
Docket No. AP-25-04

First Tracks Investments LLC)
Petitioner)
)
v.)
)
)
)
Milton Champion,)
In his Official Capacity as)
Director of the Maine Gambling)
Control Unit et al.)
Respondents.)

Temporary Restraining Order

This matter was heard on February 6, 2025, on the First Tracks Investment's (FTI) request for a temporary restraining order. All parties appeared through counsel. The court has had an opportunity to carefully review the written memoranda and oral arguments made at hearing.

The essence of this dispute revolves around the decision of the Director, Milton Champion, on January 17th, 2025. Beginning in January 2024 through July of 2024, FTI communicated with the Director and his agents regarding a forthcoming application for a facility sports wagering license and indicated that FTI's intent was to seek a license for a location in Portland.

In August of 2024 agents working for the director visited FTI's proposed Portland location for its facility sports wagering license (FSWL). A subsequent application was done for a facility sports wagering license for that location.

On August 31, 2024, the Director issued a temporary Sports Wagering Facility license for FTI to conduct in person sports wagering at this Portland location.

In September of 2024 the Director visited the Portland location and met with representatives of FTI. FTI then began sports wagering in person at the Portland location.

To obtain a sports wagering license, it was necessary for the Director to conclude that, FTI was a qualified entity to obtain a track license and FTI does own a qualifying track facility.

FTI reasonably operated on the assumption that a FSWL would be issued allowing for the Portland location as it met all the qualifications and was issued a temporary facility sports wagering license.

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The January 17, 2025, decision of the Director denied a FSWL to FTI for its Portland business location named OddFellahs.

On January 21, 2025, FTI sent an emergency petition to the Commissioner requesting a stay of the decision pending administrative appellate review, which was denied.

The first issue is whether this court has the authority to grant injunctive relief, given that final agency action has not yet occurred. The court concludes that it does have that authority regarding stays based on the language under 5 M.R.S §11004, as well as its general equitable powers, given there is a claim for equitable stoppage.

The issue next becomes whether the court should exercise that authority.

To evaluate whether a temporary restraining order should issue, the court is required to consider a series of factors:

The first issue is whether irreparable harm will occur without issuing the relief. In this case the irreparable harm will be loss of income. Ordinarily that can be addressed with an action at law. That remedy is likely not available here given the doctrine of sovereign immunity. Given that any loss of income is likely not recoverable from the State of Maine, the court concludes FTI has established irreparable harm.

The next issue the court is required to consider is whether an order is in the public interest. The State has previously issued a temporary sports wagering license to FTI and has conducted on site views of the actual facility involved. Further, members of the public who may have acted in reliance upon the existing sports wagering license may be harmed. The court does conclude that a temporary restraining order does not violate the public interest.

The court must now consider whether any harm to FTI is exceeded by harm to the State. The State had previously authorized a temporary wagering license and a full hearing on the merits of this matter will be held in March. The State retains enforcement authority if this order is issued in error.

The court concludes FTI has met their burden on this issue.

The final issue before the court in deciding whether to issue a temporary restraining order is the likelihood of success at final hearing.

The court concludes FTI has a likelihood of prevailing on the merits in this matter.

Under 8 M.R.S. §1206(2) it does not appear to require Oddfellahs, as opposed to the applying licensee, to be one of the listed facility types.

Rather, the language of that statute is that a facility sports wagering license grants a licensee lawful authority to connect sports wagering in which wages are placed within a physical location controlled by the licensee in the State.

FTI appears to be an appropriate licensee as it owns a commercial track which is not located in Bangor.

The court concludes that the language in the statute is not focused on the facility itself, but rather whether the applicant is eligible as a licensee, which FTI is.

55 Market St. in Portland is a physical location controlled by the eligible licensee, FTI.

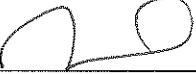
The court concludes that FTI has a substantial likelihood of prevailing ultimately on the merits on this issue.

Accordingly, both under the doctrines of equitable estoppel as well as the authority to issue a temporary restraining order regarding stays Under 5 M.R.S §11004:

The court grants the petitioner's request for a temporary restraining order.

It is therefore hereby ordered that the decision of the Director dated January 17, 2025, is stayed pending final agency action.

Dated: February 7, 2025



JUSTICE, MAINE SUPERIOR COURT.



Entered on the Docket 