



July 24, 2014

New York State Gaming Commission
Attn: Gail P. Thorpe, Supervisor of Contract Administration
Contracts Office
One Broadway Center
Schenectady, NY 12301-7500

Re: Live! Hotel & Casino New York (OCCR Enterprises, LLC) Revised Assertion of RFA Confidentiality

As requested in your e-mail of July 23, 2014 enclosed is a USB Drive that contains the full redacted version of the RFA response from Live! Hotel & Casino New York (OCCR Enterprises, LLC).

We have also attached hereto a summary of which items we have deemed confidential and why we believe they are protected.

If you have any questions or would like to discuss further, feel free to contact Al Luciani at 609-335-3359 (Cordish) or Jim Baldacci at 610-401-2946 (Penn).

Sincerely,



Joe Weinberg
Management Committee Member
OCCR Enterprises, LLC

cc: Jim Baldacci (Penn)
Al Luciani

OCCR Enterprises, LLC

OCCR ENTERPRISES, LLC

601 East Pratt Street
Baltimore, MD 21202
410 753 5444

Assertion of Confidentiality

Application: OCCR Enterprises, LLC Application to Develop and Operate a Gaming Facility in New York State (RFA). (Rev 7-24-14)

There are several items in the RFA submitted by OCCR Enterprises, LLC that we believe should be kept confidential pursuant to the confidentiality exceptions allowed under the New York FOIL and other laws. All such documents have been marked confidential. In addition we have included with our submission redacted copies of the application with such confidential information removed.

In the event that any information in this Application is the subject of a FOIL request or other request for disclosure, please be advised that the undersigned request notification pursuant to Public Officers Law §§ 89(5)(b) and 94.

The enclosed Application contains information exempt from public disclosure under one or more of the following categories:

1. **Exempt from Disclosure by Federal Law** – Pursuant to Public Officers Law (“POL”) § 87(2)(a), any records or portions thereof that are “specifically exempted from disclosure by state or federal statute” are exempt from public disclosure. Penn National Gaming (PENN), the 50% ultimate owner of applicant, is a publicly traded company subject to the Securities Act of 1933 and the Securities Exchange Act of 1934, and regulated by the Securities and Exchange Commission (“SEC”).
2. **Exempt from Disclosure by State Law** - Pursuant to Public Officers Law (“POL”) § 87(2)(a), any records or portions thereof that are “specifically exempted from disclosure by state or federal statute” are exempt from public disclosure. Penn National Gaming (PENN) the 50% ultimate owner of applicant, is a publicly traded company, and as such the principles of the New York Martin Act (General Business Law §§ 352-353) mitigate against public disclosure.
3. **Trade Secret / Commercial Information** – Pursuant to Public Officers Law (“POL”) § 87(2)(d), any records or portions thereof that consist of “trade secrets or are submitted to an agency by a commercial enterprise . . . and which if disclosed would cause substantial injury to the competitive position of the subject enterprise” are exempt from public disclosure.
4. **Competitively Sensitive / Proprietary** – Pursuant to Racing, Pari-Mutuel Wagering, and Breeding Law (“PML”) § 1313(2), “trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under [Article 13], the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure.” Such information is also exempt from disclosure under FOIL pursuant to POL § 87(2)(a).
5. **Personal Privacy** – Pursuant to POL §§ 87(2)(b) and 96, any records or portions thereof that, if disclosed, would constitute an “unwarranted invasion of personal privacy” under POL § 89(2), are exempt from disclosure under FOIL and the PPPL.
6. **Tax Information** – Pursuant to federal and state tax laws and regulations, including but not limited to New York Tax Law § 211(8), any record or portions thereof that consist of confidential information

OCCR Enterprises, LLC

related to tax returns. Such information is also exempt from disclosure under FOIL pursuant to POL § 87(2)(a).

7. **Law Enforcement** – Pursuant to POL § 87(2)(e), any records or portions thereof that are compiled for, or is the duplicative equivalent of material and information compiled for law enforcement purposes, which if disclosed, would interfere with law enforcement investigations [State Police background investigation], are exempt from public disclosure.

Below please find a redaction log identifying the section of the RFA in which information has been redacted, a brief description of the redacted material, and the statutory basis for exemption from public disclosure.

RFA Section	Description of Redacted Material	Basis for Exemption
VI.P.4	LLC and Operating Agreements	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.A.2	Minimum Capital Investment	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.A.4	Pro-Forma Financial Information	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.A.5	Business Plan	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.A.6	Capital and Financing Structure	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary; Law Enforcement
VIII.A.7	Financial Statements and Audit Report	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.A.8.a	Documentation of Financial Suitability and Responsibility – Bank References	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary; Law Enforcement
VIII.A.8.b	Documentation of Financial Suitability and Responsibility – Financial References	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary; Law Enforcement
VIII.A.10	Legal Actions	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary; Law Enforcement
VIII.A.16	Additional Financing Commitments	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary; Law Enforcement
VIII.A.14.b	Disciplinary Action	Commercial Information; Competitively Sensitive / Proprietary; Law Enforcement
VIII.A.15.a Attachment VIII-A-15-a-2	Just Penn National gaming and non-gaming revenue figures by property	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary

VIII.B.1	Market Analysis – everything but Independent Marketing study itself is confidential	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.B.2	Player Database and Loyalty Program	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.B.7	Employees	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.B.9	Marketing Plans	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.4.c	Detailed Construction Timeline	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.5.a	Live Hotel & Casino New York Detailed Building Program	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.7.a	Live Hotel & Casino New York Detailed Building Program	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.8.a	Live Hotel & Casino New York Detailed Building Program	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.13	Live Hotel & Casino New York Detailed Building Program	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.19	Construction Budget	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.C.20	Construction Timeline	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
VIII.D.1	Internal Controls and Security Systems	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary
IX.B.5	Cross Marketing	Exempt by Federal and/or State Law; Trade Secret / Commercial Information; Competitively Sensitive / Proprietary