

Stand Up For California!
“Citizens making a difference”

www.standupca.org

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May 23, 2014

Walter Munchheimer
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RE: \$100,000.00 – Delinquent Payment to the City of Marysville

Dear Mr. Munchheimer,

It was a pleasure to speak with you on Tuesday May 20, 2014. This letter is to follow-up on our phone conversation regarding the “Memorandum of Agreement (MOU) between the Estom Yumeka Maidu Tribe of the Enterprise Rancheria (Tribe) and the City of Marysville” (City).

Stand Up For California! is a non-profit benefit corporation that acts as a state wide community watchdog focusing on gambling issues affecting the State of California. We have been involved in the ongoing debate of issues raised by tribal gaming and its impacts approaching two decades. Since 1996 we have assisted individuals, community groups, elected officials and members of law enforcement, local public entities and the State of California in addressing gaming impacts. We are recognized and act as a resource of information to local, state and federal policy makers.

I called to inquire if the City had received payment of \$100,000.00 as designated in Section 2 (b) of the MOU, which reads as follows:

(b) Approval of Trust Application

Within forty-five days (45) of receiving final approval to conduct Class III gaming operations on the Property *pursuant to Section 20 of the IGRA* or federal legislation allowing for the Property to be designated *as eligible for gaming pursuant to IGRA*, the Tribe shall contribute to the City One Hundred Thousand Dollars (\$100,000), which amount shall be in addition to the amount set forth in Section 1 above. (*Emphasis added*)

Section 20 of the Indian Gaming Regulatory Act provides for exemptions from IGRA's requirement that no gaming may occur on Indian land acquired after 1988 (when IGRA was enacted). The most restrictive exemption applies to tribes that have federal trust lands already eligible for gaming, which is the case with the Enterprise Rancheria, which has 40 acres of federal trust land within the area where Konkow Indians (i.e. Enterprise Rancheria members) historically resided in Butte County.

Under this particular Section 20 exemption, the approval of new additional trust land that would also be considered eligible for gaming requires four actions; (1) approval by the Secretary of the Interior for the conversion of non-Indian land to Indian trust land eligible for gaming, contingent on concurrence by the governor of the state. This secretarial approval occurred September 1, 2011; (2) that Governor Brown grant concurrence of the land title approval for gaming at the proposed site, which he did on August 31, 2012; (3) the final approval of the trust application and publication in the Federal Register by the Assistant Secretary of Indian Affairs, which occurred on Dec. 3, 2012; and, (4) the formal transfer of the land title into federal trust status, making it eligible for gaming, which occurred on May 16, 2013.

These official actions met the legal threshold Section 2 (b) of the Marysville MOU as to the Enterprise Rancheria property "receiving final approval to conduct Class III gaming operations on the Property pursuant to Section 20 of the IGRA."

As of May 16, 2013, the Enterprise Rancheria federal trust property has been approved for and is eligible for Class III gaming pursuant to IGRA. Calculating 45 work days from the date of the title transfer, it would appear that the \$100,000 promised to the City in Section 2(b) was due approximately July 18, 2013. Moreover, the payment is now delinquent approximately 10 months.

In conversation you informed me that Marysville had been monitoring the ratification process for the Enterprise Rancheria Class III compact in the Legislature. Legislative approval of a compact for Class III (full casino gaming) is irrelevant as to whether the land is eligible for Class III gaming under Section 20 of the IGRA, which it has been since last year. The only issue in Section 2(b) of the MOU is whether or not final approval to conduct Class III gaming operations on the Property *pursuant to Section 20 of the IGRA* has been granted. Indeed it has been granted. Whether or not the tribe has received permission from the State of California to pursue Class III gaming under the terms of a tribal-state gaming compact is irrelevant to the requirements of Section 2(b) of the MOU. The tribe and its Chicago gaming investor, Gerald Forsythe, owe Marysville \$100,000. This is money owed to the people of Marysville, as promised.

May 23, 2014 Walter Munchheimer, City Manager, City of Marysville

You also advised me that the City had requested the funds approximately 30 days ago. I am disappointed that the Tribe has not responded within that time frame and hope that there is a response soon. If *Stand Up For California!* can be of assistance to you in the future, please do not hesitate to contact me.

Sincerely,



Cheryl A. Schmit – Director

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