Court of King's Bench of Alberta

Citation: Century Mile Inc. v Alberta Gaming, Liquor and Cannabis Commission, 2025 ABKB 743

Date: 20251212
Docket: 2203 15763
Registry: Edmonton

Between:

Century Mile Inc. o/a Century Mile Racetrack and Casino and the United Horsemen of Alberta Inc. o/a Century Downs Racetrack and Casino

Applicants

- and -

The Alberta Gaming, Liquor and Cannabis Commission

Respondent

- and -

Enoch Cree Nation, Mechet Charities Limited and River Cree Enterprises Limited Partnership by its General Partner River Cree Corporation

Intervenors

Corrected judgment: A corrigendum was issued on December 12, 2025; the corrections have been made to the text and the corrigendum is appended to this judgment.

Reasons for Decision
of the
Honourable Justice M. Kraus

I. Introduction

[1] This is an Application for judicial review of the Alberta Gaming, Liquor and Cannabis Commission Board's decision to deny the applications of Century Mile Inc. and the United

Horsemen of Alberta Inc. (the "Applicants") to convert their Racing Entertainment Centres licences ("REC Licences") to casino licences.

[2] The Applicants challenge the Board's interpretation of regulatory procedures and the definition of "community," arguing the process was unreasonable and procedurally unfair.

II. Background

[3] On February 23, 2021, the Applicants applied to the Alberta Gaming, Liquor and Cannabis Commission ("AGLC") to convert their REC Licences to casino licences by adding ten table games at each racetrack (the "Proposals"). This request was novel. The AGLC had not previously addressed converting REC Licences to casino licences, nor did it have a specific process for such cases.

[4] In the absence of a specific process for conversion of REC Licences to casino licences, the AGLC used a "best fit" approach under section 15.2 of the Casino Terms & Conditions and Operating Guidelines ("CTCOG"). Section 15.2 of the CTOG addresses casino facility expansion and is comprised of three steps: (1) Initial Assessment, (2) Community Support, and (3) Approval.

[5] The Applicants provided the AGLC with comprehensive written proposals as part of their Initial Assessment for the conversion of REC Licences into casino licences. Section 15.2.5 of the CTCOG outlines the mandatory information that must be incorporated into the proposal including, but not limited to, a detailed description of the proposed expansion, a market assessment, the physical design information, and a three-year business plan: see section 15.2.5 of the CTCOG. This information was provided by the Applicants.

[6] The AGLC's Regulatory Services reviewed the Proposals. Regulatory Services provided their initial assessment in the Request for Decision dated June 11, 2021 (First Request for Decision). Regulatory Services identified concerns relating to the potential financial impact and cannibalization affecting the AGLC, the Government of Alberta, other casino operators, and urban charities that would occur because of the REC licence conversions.

[7] Despite these concerns, Regulatory Services found that the Proposals "had merit", so the approval process moved on to Step 2 – Community Support. In June 2021, the AGLC advised the Applicants that the Proposals moved to Step 2.

[8] The Applicants posted the required notices in newspapers in Rocky View County and Leduc County and received letters of support from both counties.

[9] The AGLC posted details of the Proposals on the AGLC website for a period of 30 days and emailed all existing casino operators in Alberta on June 23, 2021, to advise them that the Applicants would be posting public notices in the community.

[10] The AGLC received twelve objections to the Proposals: two from individuals and ten from casino owners, Host First Nations, and related charities.

[11] On August 27, 2021, the AGLC provided a summary of the objections submitted regarding the Proposals and requested written responses from the Applicants addressing these objections and advising that "objections would form part of a package that will be reviewed by the Board should the application move to Step 3".

[12] On November 18, 2021, Regulatory Services provided the Board a further Request for Decision setting out a summary of the financial impact as stated in the First Request for Decision and outlining the objections received and corresponding responses.

[13] On November 21, 2021, by way of letter, the AGLC Board Chair advised the Applicants the Proposals would not proceed to Step 3. The letter outlined the following reasons for its decision: financial impact of approximately $12 million per year of slot revenues to the AGLC and Government of Alberta; significant cannibalization (39%) of the proposed gaming revenues and resulting impact to existing gaming operators and charities; and a large number of objections from existing casino operators and Host First Nations, citing revenue loss from cannibalization of tables and slots.

[14] The Applicants requested a hearing before a panel of the AGLC Board (the "Board"): see section 94 of the *Alberta Gaming, Liquor and Cannabis Act*, RSA 2000, c G-1. Given the "best fit" approach followed, the hearing process followed was under section 15.3.27 (relocation of a casino facility, rather than expansion of a casino facility which does not allow for a hearing). The applications were heard simultaneously on March 18, 2022.

[15] The Board released its decision dated April 13, 2022, confirming the Decision to deny the applications (the "Decision"). The Applicants seek judicial review of the Decision.

[16] The Court received submissions from intervenors, namely Enoch Cree Nation, Mechet Charities Limited, and River Cree Enterprises Limited Partnership (the "Intervenors"). Enoch Cree Nation is a Treaty 6 First Nation with reserve lands adjacent to Leduc County and the Century Mile REC. River Cree Resort and Casino is wholly owned by Enoch Cree Nation. Mechet Charities Limited holds the casino's charity licence.

III. Statutory Framework

[17] The relevant statutory framework is the *Gaming, Liquor and Cannabis Act* (the "*Act*"), the *Gaming, Liquor and Cannabis Regulation*, Alta Reg 143/1996 (the "*Regulation*") and the CTCOG. Relevant portions are referred to and reproduced as needed in this decision.

[18] The AGLC is the sole regulator of gaming in Alberta. The decisions of the AGLC are necessarily guided by its duty to uphold the integrity of the gaming system and to protect the public interest.

[19] The Intervenors refer to First Nations Gaming Policy and the Host First Nation Charitable Casino Policies Handbook.

IV. Issues

[20] There are two main issues to be addressed in this judicial review:

a. Was the Board's interpretation of "community" reasonable?

b. Was the Board's interpretation and application of section 15.2 of the CTCOG reasonable?

[21] The Intervenors raised two additional issues. Those issues are as follows:

a. Given the First Nations Gaming Policy was the decision to consult First Nation's casino operators at Stage 2 reasonable?

b. In choosing to consult with First Nations casino operators, was it reasonable that the AGLC allowed their concerns to meaningfully impact its assessment of previously considered factors?

V. Position of the Parties

(a) Applicants' Position

[22] The Applicants submit that the Decision was unreasonable and procedurally unfair. The Applicants argue that "community" is defined geographically in the CTCOG and the *Regulation*, and that only the views of the relevant municipalities (Leduc County and Rocky View County) should have been considered at Step 2. Both municipalities provided letters of support. They argue that the broad definition of "community" applied by the Board was unreasonable.

[23] They further argue that the Board failed to follow the sequential approval process as set out in section 15.2 of the CTCOG. The Applicants also raise the issue that they were not provided notice that a "best fit approach" would be used. The Applicants argue that the Board's reasons for denial at Step 2 were the same factors already assessed and approved at Step 1; having determined the applications had merit at Step 1, the Board was not entitled to revisit those same factors at Step 2 with more information available to them and to dismiss the applications.

[24] The Applicants seek an order quashing the Board's Decision and remitting the matter for rehearing with directions regarding the proper interpretation of "community" and the sequential nature of the approval process.

(b) Respondent's Position

[25] The Respondent submits that the Board acted within its statutory and policy discretion, and that the Decision was reasonable and procedurally fair. The Respondent contends that the sequential steps in section 15.2 of the CTCOG do not preclude the Board from reconsidering factors assessed at earlier steps. The Board submits that an initial assessment of "merit" at Step 1 does not guarantee approval, nor does it fetter the Board 's discretion at subsequent steps.

[26] The Respondent further contends that the Board is entitled, under the *Act*, *Regulation*, and CTCOG to adopt a broad and purposive interpretation in order to fulfil the objectives and intent of the legislation. This includes considering the wider public interest, such as the potential impact on the gaming market, existing operators, and charities, as well as evaluating any objections received. The Respondent argues that by reading the *Act*, *Regulation*, and CTCOG together and construing them broadly, it ensures that its decisions reflect the overarching goals of the regulatory framework.

(c) Intervenors' Position

[27] The Intervenors oppose the relief sought by the Applicants and support the Decision. They submit that the process followed by the Board and the Decision were reasonable.

VI. Standard of Review

[28] The matter before the Court concerns an administrative decision maker's interpretation and application of its enabling statute, regulation and policy. The governing standard of review in such instances is presumptively that of reasonableness. This presumption is not displaced by

any factors identified in ***Canada (Minister of Citizenship & Immigration) v Vavilov***, 2019 SCC 65 [***Vavilov***]: see ***Vavilov*** at paras 32-72.

[29] Reasonableness review is an approach meant to ensure that courts intervene in administrative matters only where it is truly necessary to do so in order to safeguard the legality, rationality, and fairness of the administrative process. It finds its starting point in the principle of judicial restraint and demonstrates a respect for the distinct role of administrative decision makers: see ***Vavilov*** at para 13.

[30] Reasonableness review does not give administrative decision makers free rein in interpreting their enabling statutes and therefore does not give them licence to enlarge their powers beyond what the legislature intended. Instead, it confirms that the governing statutory scheme will always operate as a constraint on administrative decision makers and as a limit on their authority: see ***Vavilov*** at para 68.

[31] This Court is guided by the Supreme Court of Canada's articulation of the hallmarks of a reasonable decision: the Court must determine whether the decision as a whole is justified, transparent, and intelligible, and whether it is rational in light of the relevant factual and legal constraints bearing on the decision: see ***Vavilov*** at para 99.

[32] The Applicants also argue that the issue relating to defining "community" and failing to follow a sequential approval procedure engages an element of procedural fairness. This assessment involves examining factors such as the nature of the decision, the procedure adopted in making it, the statutory framework, the legitimate expectations of the party contesting the decision, and the procedural choices exercised by the decision maker.

[33] The non-exhaustive list of factors that inform the content of the duty of procedural fairness in a particular case include: the nature of the decision being made and the process followed in making it; the nature of the statutory scheme; the importance of the decision to the individual or individuals affected; the legitimate expectations of the person challenging the decision; and the choices of procedure made by the administrative decision maker itself: see ***Vavilov*** at para 77. Another factor to consider is whether a party has suffered a prejudicial effect: see ***Stettler (County No 6) v Earl Marshall Trucking Ltd***, 2025 ABCA 96 at para 13.

VII. Analysis

(a) Was the Board's interpretation of "community" reasonable?

[34] The Applicants challenge the Decision on the basis that the Board's interpretation of "community" was unreasonable. To that effect, they argue that the Board did not interpret "community" in accordance with the modern principle of interpretation and the Board's erroneous interpretation of "community" resulted in two procedural errors that were significant and prejudicial to the Applicants. The procedural errors complained of were that the AGLC notified all existing casino operators in Alberta of the applications and that the AGLC considered the objections received from existing casino operators under Step 2.

[35] The Respondent submits that when read together, the *Act*, *Regulation* and CTCOG establish the framework by which the AGLC has broad authority to consider an application and its potential impact on the public. They reject the narrow interpretation of "community" advanced by the Applicants. They further argue that the Decision as it related to its interpretation

of "community" demonstrates a rational chain of analysis and was reasonable in both outcome and analysis.

[36] Section 3 of the *Act* addresses the advertisement and consultation required:

> 3(1) The Commission may require an applicant for a licence or registration
>
> > (a) to advertise the application in the community where the licence or registration would have effect, or
> >
> > (b) to consult with residents of the community in which the licence or registration would have effect for the purpose of obtaining public response to the application,
>
> in accordance with the directions of the Commission.
>
> (2) The Commission may notify a community in which a new licence or registration would have effect of the applicant's application.
>
> (3) In this section, "community" means a geographical area determined in accordance with the policies of the Commission.

[37] Section 3(3) of the *Regulation* defines "community" as "a geographical area determined in accordance with the policies of the Commission".

[38] Establishing policies of the Commission is a responsibility that is assigned to the Board by the *Act*. The CTCOG is a policy created by the Board in which the term "community" is defined. Section 15.1.3 of the CTCOG defines "community" as:

> a) a municipality as defined under the *Municipal Government Act* (Alberta), meaning:
>
> > i) a city, town, village, summer village, municipal district or
> >
> > specialized municipality;
> >
> > ii) a town under the *Parks Towns Act* (Alberta); or
> >
> > iii) a municipality formed by special *Act*.
>
> b) a Metis Settlement established under the *Metis Settlement Act*
>
> (Alberta); or
>
> c) an Indian reserve as determined by Crown-Indigenous
>
> Relations and Northern Affairs Canada (CIRNAC) located within
>
> the provincial boundaries of Alberta.

[39] There is no jurisprudence addressing the interpretation of "community" in this context. The parties agree that the modern principle of statutory interpretation applies which states the words of an *Act* are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the *Act*, the object of the *Act*, and the intention of Parliament: see ***Rizzo & Rizzo Shoes Ltd. (Re)***, [1998] 1 SCR 27 at para 21.

[40] The Court in ***Vavilov*** stated:

> 118. This Court has adopted the "modern principle" as the proper approach to statutory interpretation, because legislative intent can be understood only by reading the language chosen by the legislature in light of the purpose of the provision and the entire relevant context: ***Sullivan***, at pp 7-8. Those who draft and enact statutes expect that questions about their meaning will be resolved by an analysis that has regard to the text, context and purpose, regardless of whether the entity tasked with interpreting the law is a court or an administrative decision maker. An approach to reasonableness review that respects legislative intent must therefore assume that those who interpret the law — whether courts or administrative decision makers — will do so in a manner consistent with this principle of interpretation.

[41] The Applicants argue the Board failed to properly interpret “community” as defined by the *Regulation*, disregarded the CTCOG for determining the geographical area relevant to each licence, and conflated the specific geographical community affected by a licence with the broader gaming community.

[42] They further argue the *Regulation* and CTCOG require the Board to define "community" *strictly* as a geographical area—specifically, a municipality, Métis Settlement, or Indian reserve—when assessing community support. This means the Board is not permitted to broaden this definition to include all of Alberta or groups based on commercial interests, as both the *Regulation* and CTCOG explicitly limit "community" to these geographic entities.

[43] The Respondent argues that the AGLC has exclusive, legislatively granted powers to regulate all aspects of gaming in the province, including the authority to define what constitutes a “community” for licensing and registration purposes. This authority is set out in both the *Act* and *Regulation*, which allow the AGLC to establish the specific geographical area where public notices about new gaming licences or registrations must be provided.

[44] By relying on this legal framework, the Respondent argues that the AGLC’s discretion to choose how and to whom public notice is given—provided it is within the statutorily defined geographical community—is firmly supported by the legislature’s intent. The statutory intent allows the AGLC full control over the regulatory processes, ensuring decisions about notification and public engagement are left to the judgment of the AGLC. In summary, the Respondent asserts that the AGLC acted within its statutory mandate by defining and implementing the public notice procedure for the Proposals, and that the AGLC’s actions reflect the broad and exclusive regulatory powers granted to it by the *Act* and *Regulation*.

[45] Section 15.1.3 of the CTCOG defines “community”. The definition includes municipalities, Métis Settlements, and Indian reserves. The definition of “municipality” under the *Municipal Government Act* includes not just the governing body, but also the actual geographical area enclosed by its boundaries. The same is applicable for Métis Settlements under the *Métis Settlements Act*.

[46] The AGLC was established as the sole regulator of gaming activities in Alberta. The decisions of the AGLC are necessarily guided by its duty to uphold the integrity of the gaming system and to protect the public interest. Upon reviewing both the *Act* and its associated *Regulation*, I am satisfied that the legislature intended for the AGLC to possess broad authority over the *Regulation* of the gaming system, which includes the power to create and enforce its own policies.

[47] Consequently, the Court's review of the AGLC's interpretation of "community" must be undertaken with due consideration for the broad and exclusive regulatory authority that the legislature has conferred upon the AGLC in relation to gaming activities in Alberta.

[48] The wider gaming community does not exist in isolation; it can take part in communities located across various geographical areas where notifications are required. However, having standing is not limited to the community or the municipalities' governing body alone. Communities may comprise of residents or business owners within a municipality's limits, and this group can also include other casino operators.

[49] A modern approach to interpretation suggests that the interpretation of "community" that is overly restrictive would be inconsistent with the purpose of the legislative framework.

[50] If a narrow interpretation of "community" was adopted, such that community can only mean the municipality in which the casino is physically located, this would effectively restrict the AGLC's ability to consider First Nations' concerns or any other parties' concerns that are located outside of the actual municipality even if they are impacted.

[51] Further, section 4 of the *Regulation* allows "any person" to submit objections, supporting the proposition that licensing decisions are matters of general public interest.

[52] The Initial Assessment (Step 1) showed that parties outside the immediate municipality where the Proposals were made faced significant concerns and negative impacts. This indicates that "community" should be interpreted more broadly to account for these issues. Most of the twelve objections originated from individuals or groups beyond the directly affected municipalities but who would still experience adverse effects from the Proposals.

[53] The First Request for Decision highlighted areas of concern. If "community" is interpreted narrowly, the AGLC would not be able to address these concerns or allow adversely impacted parties to express their objections.

[54] The Board concluded that the AGLC has the authority to define "community" for licensing and to determine who may object. The Board found this authority to be supported by sections 3 and 4 of the *Regulation*. The Board provided a clear and logical analysis that reflected the legal and factual context, displaying the hallmarks of reasonableness as set out in ***Vavilov***.

[55] Nothing in the *Act*, *Regulation* or the CTCOG specifically permits or denies the AGLC the ability to notify other casino operators. When the AGLC provides casino operators notice, this does not constitute a breach of procedural fairness. The Decision even specifically referenced that the Applicants had been the recipients of such a notice previously and had provided their objection to the relocation of a casino.

[56] The Board's interpretation of "community" is reasonable, as it is consistent with the legislative framework and the broader regulatory powers granted to the AGLC.

(b) Was the Board's interpretation and application of section 15.2 of the CTCOG reasonable?

[57] The Proposals were novel. The AGLC utilized the three-step process set out in section 15.2 of the CTCOG. Recognizing that section 15.2 was not wholly on-point for a conversion of REC Licences to casino licences, the AGLC implemented a "best fit approach". The Proposals were transitioned from Step 1 - Initial Assessment to Step 2 – Community Support. The Board

found “no strong evidence presented that determined the multi-step process to be a closed-gate, sequential process” and as such revisited some information provided at Step 1 at Step 2.

[58] The Applicants contend that the Board’s process – allowing the AGLC to revisit and reconsider prior positive assessments at any stage - is inconsistent with section 15.2 of the CTCOG. The Applicants note the Board’s sole justification is the Board’s interpretation of Subsection 15.2.8, which states that success at Step 1 “does not assure the level of success or support of the casino expansion”. While applications may be rejected at Steps 2 or 3 for specific reasons set out in the CTCOG, the Applicants argue that the Board offers no reason to allow rejection at these steps for factors already approved at Step 1 unless subsection 15.2.25 applies. The Applicants argue that subsection 15.2.8 only means Step 1 success does not guarantee business success and that any financial risks continue to be borne by the applicant.

[59] The Respondent maintains that the Board is not restricted from revisiting factors considered at Step 1 of section 15.2 of the CTCOG. An initial finding of "merit" does not ensure approval or limit the Board’s discretion in later steps. The Board asserts its authority to weigh the wider public interest, impacts on the gaming market, and any objections received.

[60] The *Act* clearly confers specific powers to the Board. For example, the power to issue licences is solely conferred to the Board: see section 37(1) of the *Act*. The Initial Assessment was conducted by Regulatory Services to ensure that the application was complete and to confirm whether it had merit. Despite Regulatory Services undertaking the Initial Assessment, Regulatory Services has no ability to approve licences at any step.

[61] I am not persuaded by the Applicants’ argument that when Regulatory Services finds the applications to have merit, the same or more information, factors, and considerations cannot be reviewed by the Board. If the Board cannot make its own assessment, it would be bootstrapped into adopting any finding made by Regulatory Services. Accepting such an interpretation and a closed-circuit approach would nullify the powers specifically conferred to the Board by the *Act*. That is, such a process would not allow the Board the power to carry out its functions in determining if licences should be issued.

[62] Step 1 is aptly named “Initial Assessment”. The wording of the section alone suggests that a further assessment will be undertaken. The CTCOG requires applicants to provide specific information, which is reviewed during an initial assessment before being forwarded to the Board for further consideration, should the application be deemed to be meritorious at Step 1. This process serves as a gatekeeping measure to filter out applications. This interpretation is further reinforced by the express wording of the CTCOG where a proposal deemed to have merit shall not be considered or promoted as an endorsement by the AGLC of an expansion of the licenced casino facility: see section 15.2.10 of the CTCOG.

[63] Further, in the Initial Assessment, Regulatory Services identified potential negative impacts, including:

(a) Financial impact of approximately $12 million per year of slot revenue to the AGLC and the Government of Alberta

(b) Significant cannibalization (39%) of the proposed gaming revenues and resulting impact to the existing gaming operators and charities

[64] Adopting a closed-gate interpretation may be unduly limiting and does not align with the intent of the CTCOG . Such an approach would restrict the Board’s ability to evaluate the

information obtained during Step 1, especially considering that the Initial Assessment identified parties that would be adversely affected by the Proposals.

[65] The Applicants argued that section 15.2.25 of the CTCOG are the only factors that can be considered where the AGLC can reconsider factors contemplated in the earlier step. The section 15.2.25 factors did not apply.

[66] The CTCOG does not expressly prohibit the consideration of factors that were previously considered in earlier steps of the assessment process. Had the legislator intended to prohibit consideration of factors that were previously considered in early steps of the assessment process, the legislator could have included that specific language. The legislator did not.

[67] The Applicants also argue that the Board's decision to proceed under section 15.2 of the CTCOG was unreasonable when the Board found that the AGLC "gave the Applicants fair opportunity to proceed with their applications with the understanding that the applications would be considered using a "best fit approach" with section 15.2 of the CTCOG".

[68] The parties dispute whether the Applicants were informed that section 15.2 of the CTCOG would be applied as no specific process was in place. It is clear from the record of proceedings that the First and Second Request for Decision specifically noted that the Proposals were proceeding under section 15.2 of the CTCOG. There is also a letter dated August 27, 2021, addressed to the Applicants referencing the three-step process outlined in the CTCOG and requesting responses to the objections received.

[69] All parties were aware that there was no specific regulatory process for converting REC Licences to casino licences. The Board's use of section 15.2 of the CTCOG, tailored to a "best-fit" approach, was reasonable because it provided a guideline for a structured process for evaluating the Applicants' novel Proposals in the absence of a specific regulatory process. This approach ensured that all relevant factors including market impact, community support, and objections were considered. The "best fit approach" aligned with the AGLC's mandate to regulate gaming.

VIII. Issues Raised by the Intervenors

[70] While the Intervenors made extensive submissions with respect to reconciliation and consultation, in light of my decision, it is not necessary to address each submission in detail.

[71] The core issue is whether the AGLC acted within its authority and reasonably in the context of the potential adverse impacts identified at Step 1. The record demonstrates that the AGLC's approach—providing notice and considering concerns—was permissible under the *Regulation*, did not conflict with the *Act*, was not contrary to the CTCOG, and advanced a fair and inclusive process.

[72] The Board's decision to consider First Nations' concerns was reasonable and consistent with its statutory mandate and policy framework. The AGLC has broad discretion under the *Regulation* to determine the scope of notification and engagement. Exercising that discretion to include First Nations casino operators as a member of the community is reasonable.

[73] There is no statutory prohibition against considering objections from First Nations operators and doing so prevents consultation from becoming a hollow exercise. While the Intervenors acknowledge there is no duty to consult in these circumstances, the Board's

interpretation of the process ensured meaningful participation to parties that would be adversely impacted by the conversion of REC Licences to casino licences. This approach reflects good faith engagement and upholds the integrity of the gaming regime while respecting the unique position of First Nations in this sector.

IX. Conclusion

[74] The Application for Judicial Review is dismissed.

Heard on the 16th day of October, 2025.
Dated at the City of Edmonton, Alberta this 12th day of December, 2025.

M. Kraus
J.C.K.B.A.

Appearances:

Daniel Carroll, K.C., Kimberly Precht and Britt Tetz
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Corrigendum of the Reasons for Decision
of
The Honourable Justice M. Kraus

Amendment was made to para 71 – AGLC has been added to the sentence.