

19 May 2000

No. 2--99--1434

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

LAKE COUNTY RIVERBOAT L.P.,) Appeal from the Circuit Court
by FRGP, L.P., by its General) of Lake County.
Partner,)
)
Plaintiff-Appellant,)
)
v.) No. 99--MR--793
)
ILLINOIS GAMING BOARD,)
)
Defendant-Appellee)
)
(Emerald Casino, Inc., f/k/a)
HP, Inc.; The Village of)
Rosemont; and West)Honorable
Central Municipal)John R. Goshgarian and
Conference, Intervening)Stephen R. Walter,
Defendants-Appellees).)Judges, Presiding.

JUSTICE RAPP delivered the opinion of the court:

This case comes to us after the supreme court issued a supervisory order directing this court to grant plaintiff's, Lake County Riverboat L.P.'s (LCR), petition for leave to appeal pursuant to Supreme Court Rule 306(a)(4) (166 Ill. 2d R. 306(a)(4)). On appeal, plaintiff challenges the trial court's order granting defendant, the Illinois Gaming Board (Board), and intervening defendants, Emerald Casino, Inc., f/k/a HP, Inc. (Emerald or HP), the Village of Rosemont (Rosemont), and the West Central Municipal Conference (WCMC) (collectively, intervenors), a transfer of venue from Lake County to Cook County. After all of

the briefs were filed, the intervenors moved to strike portions of plaintiff's reply brief, arguing that portions of the brief violated Supreme Court Rule 341(g) (177 Ill. 2d R. 341(g)) and that certain statements made in the brief are unsupported by the record. We ordered the motion taken with the case. After careful consideration, we deny the motion.

I. FACTS

The facts relevant to this case are as follows. LCR sought to obtain a license for a riverboat gambling operation that it wished to locate on the Fox River in Lake County. According to LCR, the license it sought to obtain became available when the Board, late in June 1997, denied HP's renewal application for its East Dubuque riverboat gambling operation. See 86 Ill. Adm. Code §3000.236 (1998). Shortly after the denial, HP ceased all operations. Under the terms of HP's license, it was required to maintain operations in order to retain its license. Thus, according to LCR, HP's license expired by its own terms and was available to be awarded to another operator.

However, HP protested the Board's decision and exercised its right to a de novo administrative proceeding regarding the denial. See 86 Ill. Adm. Code §§3000.236(d)(1), 3000.400, 3000.405 (1998). This action kept HP's license in full force and effect.

Late in December 1997, LCR submitted an application to obtain HP's license. In February 1998, the Board denied LCR's

