



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
CHARLESTON 25305

April 13, 1987

CHARLIE BROWN  
ATTORNEY GENERAL

Mr. Harry L. Buch, Chairman  
West Virginia Racing Commission  
240 Capitol Street, Suite 310  
Charleston, West Virginia 25301

Dear Mr. Buch:

This office is in receipt of your letter wherein you ask our opinion in regard to an application filed by the City of Huntington under W. Va. Code § 19-23-12a, Pari-Mutuel Wagering on Interstate and Intrastate Horse and Dog Racing, for a permit for a "tele-track facility." This tele-track facility is reportedly a theater-type facility suitable for broadcasting thoroughbred and harness racing events.

A review of Code 19-23-1 et seq. reveals the following provisions pertinent to our discussion:

"No association shall hold or conduct any horse or dog race meeting at which horse or dog racing is permitted for any purse unless such association possesses a license therefor from the West Virginia racing commission and complies with the provisions of this article and all reasonable rules and regulations of such racing commission." Code 19-23-1(a).

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"'Racing association' or 'person' means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description \* \* \*." Code 19-23-3(7)

\* \* \*

"Notwithstanding any other provisions of this Code, a racing association licensed in this State to conduct race meetings may, with the consent of the racing commission and the written approval of

the authorized representative of a majority of the owners and trainers who hold the permit required by section two [§ 19-23-2] of this article at the horse race track, contract with any legal wagering entity in this or any other state to accept wagers on any race or races conducted by such legal wagering entity. Such wagering shall be conducted within the confines of such licensee's racetrack unless the wager becomes part of the host racing association's pari-mutuel pool." Code 19-23-12a(1).

These provisions reveal the following:

1. A duly licensed racing association may, with consent from the Racing Commission and permission from a majority of the permit-holding owners and trainers at said racetrack, contract to accept wagers on races conducted elsewhere;

2. The acceptance of such wagers may take place only at the duly licensed racing association's racetrack;

3. Wagers may not be accepted outside of the confines of a duly licensed racetrack; and

4. Inasmuch as a "racetrack" is not defined by statute, its commonly accepted definition must be accepted here. Webster's New Collegiate Dictionary (1977) defines racetrack as an "oval course on which races are run."

Consequently, in order for the City of Huntington to accept wagers on races conducted elsewhere in the state or in other states, it must first become licensed as a racing association. Subsequently, it must construct a racetrack, for such wagering may only be conducted within the confines of a racetrack. Moreover, permission must be obtained from a majority of owners and trainers who hold valid permits at said track before wagers on outside races may be accepted.

We have recited these lengthy requirements to stress that the Legislature no doubt intended that parimutuel wagering on horse and dog racing take place only within the confines of a duly licensed racetrack.

In summary, it is our opinion that Code 19-23-1 et seq. does not authorize the West Virginia Racing Commission to issue a permit to the City of Huntington to build an off-track facility

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for parimutuel wagering. Such a facility, when constructed, would not be a racetrack and, therefore, could not be so licensed.

Very truly yours,

CHARLES G. BROWN  
Attorney General

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PAUL RICHARD HULL

PRH/jm