

THOMAS P. DiNAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 15, 2015

Robert J. McLaughlin
Hodgson Russ LLP
677 Broadway, Suite 301
Albany, NY 12207

Dear Mr. McLaughlin:

Re: Greenetrack, Inc.

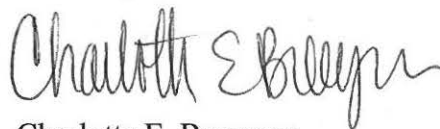
We are writing in response to your letter dated January 2, 2015, in which you request that the State Comptroller annul the license application and selection process conducted by the New York State Gaming Facility Location Board (Board) pursuant to Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law, and direct the Board to issue a new Request for Applications (RFA).

As you know, State Finance Law (SFL) §112 generally requires State agencies to seek State Comptroller review and approval of contracts exceeding certain dollar amounts. With respect to contracts subject to the Comptroller's review and approval, this Office provides interested parties with an opportunity to raise concerns about the legal or factual basis of a State agency's contract award prior to such approval.

However, not all State agency agreements are subject to the Comptroller's approval pursuant to SFL §112. Agreements that are not subject to our approval would include gaming facility licenses issued by the New York State Gaming Commission (Commission). In these instances, the Commission is acting in a regulatory capacity, as expressly authorized by law, rather than the purchaser of goods or services. Similarly, the Board's selection of applicants eligible to apply to the Commission for a gaming facility license – the initial regulatory step to operating a casino – is not a determination that is subject to review and approval pursuant to SFL §112.

Accordingly, since the Board's selection of eligible applicants to apply for a gaming facility license is not subject to SFL §112 review and approval, this Office is unable to grant the relief requested in your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlotte E. Breeyear". The signature is fluid and cursive, with the first name "Charlotte" being more prominent.

Charlotte E. Breeyear
Director of Contracts

vmk

cc: Mark D. Gearan, NYSGC
Kevin Law, NYGFLB