

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Tribal-State Gaming Compact - Litigation)

RES. NO. 354-89

1 WHEREAS, on October 17, 1988, the Indian Gaming Regulatory Act
2 (S.555) was enacted into law providing for (1) a
3 statutory basis for operations of gaming by Indian
4 tribes, (2) a statutory basis for the regulation of
5 gaming by an Indian tribe, and (3) the establishment of
6 independent federal regulatory authority and standards
7 for gaming on Indian lands; and

8 WHEREAS, the Tohono O'Odham Nation has for many years owned and
9 operated a bingo hall on the San Xavier Reservation
10 wherein the game of bingo is played both electronically
11 and manually including other games similar to bingo; and

12 WHEREAS, the Indian Gaming Regulatory Act divides the gaming on
13 Indian lands into three classes, namely, Class I gaming,
14 meaning social games which are unregulated by the Act;
15 Class II gaming such as bingo and games similar to
16 bingo, excluding electronic or electromechanical bingo
17 machines, which are tribally and federally regulated;
18 and Class III gaming, meaning all forms of gaming that
19 are not Class I or Class II gaming; and

20 WHEREAS, the Act further provides that Class III gaming
21 activities are lawful on Indian lands if such activities
22 are (1) authorized by a tribal ordinance or resolution,
23 (2) located in a state that permits such gaming
24 activities, and (3) conducted in conformance with a
25 tribal-state compact entered into by the Indian tribe
26 and the State; and

27 WHEREAS, the Act further provides that for a period of one year
28 from the date of enactment of the Act, Class II gaming
29 includes electronic or electromechanical facsimiles of
30 any game of chance (bingo) that was legally operated on
31 Indian lands on or before May 1, 1988, if the Indian
32 tribe having jurisdiction over the lands on which such

1 gaming was operated requests the State, by no later than
2 the date that is 30 days after the date of enactment of
3 the Act, to negotiate a tribal-state compact under the
4 provisions of the Act; and

5 **WHEREAS**, within thirty days after the date of enactment of the
6 Indian Gaming Regulatory Act, the Tohono O'Odham Nation
7 did send a request to the State of Arizona to negotiate
8 a Tribal-State Compact under the provisions of the Act;
9 and

10 **WHEREAS**, the Tohono O'Odham Nation has worked on and developed a
11 draft of a Tribal-State Compact between the State of
12 Arizona and the Nation and has submitted said draft to
13 the State of Arizona for its consideration with a
14 request to the State to set a time, place and date for
15 completing the negotiations for a Tribal-State Compact;
16 and

17 **WHEREAS**, although, officials of the Tohono O'Odham Nation have
18 continuously called the Governor's Office of the State
19 of Arizona for the purposes of setting a time, place and
20 date to complete these negotiations, the State of
21 Arizona has failed to respond to the Nation's request;
22 and

23 **WHEREAS**, the deadline set forth in the Indian Gaming Regulatory
24 Act for negotiating a Tribal-State Compact is October
25 17, 1989, and the Act further provides that the use of
26 video machines after said date without a Tribal-State
27 Compact will be illegal and therefore said video
28 machines will be subject to seizure by the United States
29 Attorney's Office; and

30 **WHEREAS**, the Indian Gaming Regulatory Act provides that an Indian
31 tribe may initiate a cause of action in the United
32 States District Court if a State did not respond to the
request of an Indian tribe to negotiate a Tribal-State

1 Compact or did not respond to such request in good
2 faith; and if the Court finds that the State has failed
3 to negotiate in good faith with an Indian tribe to
4 conclude a Tribal-State Compact, the Court shall order
5 the State and the Indian tribe to conclude such Compact
6 within sixty days and if not concluded within sixty
7 days, the Court, under the provisions of the Act, has
8 the power to evoke other remedies; and

9 WHEREAS, the critical question that will probably be necessary
10 for Court determination is whether or not the use of
11 video gaming devices on Indian reservation by the State
12 of Arizona are permissible under the provisions of the
13 Indian Gaming Regulatory Act; and

14 WHEREAS, it might become necessary to file an action in the
15 United States District Court either in conjunction with
16 other Indian tribes located in Arizona, or on behalf of
17 the Tohono O'Odham Nation individually on very short
18 notice to protect the gaming activities now being
19 utilized in the Nation's gaming business; and

20 WHEREAS, if said legal action should become necessary, there will
21 not be sufficient time to go through the Nation's
22 procedures to authorize said action.

23 NOW, THEREFORE, BE IT RESOLVED that this Legislative Council does
24 hereby delegate to the Nation's Tribal-State Compact
25 Negotiating Committee the power to authorize the
26 initiation of a cause of action in the United States
27 District Court for the purposes of establishing that the
28 State of Arizona has not negotiated in good faith with
29 the Nation the terms and conditions of a Tribal-State
30 Compact for gaming activities on its reservation and for
31 any other purpose that might be beneficial to the Nation
32 for the protection of the gaming activities now being
utilized in its gaming operation.

1 BE IT FURTHER RESOLVED that the Chairman of the Negotiating
2 Committee will inform the Chairman of the Nation and the
3 Chairman of the Legislative Council as soon as possible
4 of any Committee's decisions regarding the above matter
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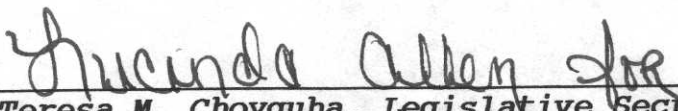
6 The foregoing Resolution was passed by the Tohono O'odham Council
7 on the 23rd day of October, 1989 at a meeting at which a
8 quorum was present with a vote of 1,724.0 for; -0- against;
9 -0- not voting; and 02 absent, pursuant to the powers vested in
10 the Council by Section 1 (a) of Article VI of the Constitution
11 of the Tohono O'odham Nation, adopted by the Tohono O'odham
12 Nation on January 18, 1986, and approved by the Acting Deputy
13 Assistant Secretary -Indian Affairs (Operations) on March 6,
14 1986, pursuant to Section 16 of the Act of June 18, 1934 (48
15 Stat. 984).

16 TOHONO O'ODHAM LEGISLATIVE COUNCIL

17 
18 Edward D. Manuel, Legislative Chairman

19 23 day of October, 1989.


20 ATTEST:

21 
22 Teresa M. Choyguha, Legislative Secretary

23 23rd day of October, 1989.


24 Said Resolution was submitted for approval to the office of the
25 Chairman of the Tohono O'odham Nation on the 23 day of
26 October, 1989, at 4:30 o'clock, P..M.,
27 pursuant to the provisions of Section 5 of Article VII of the
28 Constitution and will become effective upon his approval or upon
29 his failure to either approve or disapprove it within 48 hours of
30 submittal.

31 TOHONO O'ODHAM LEGISLATIVE COUNCIL

32 
Edward D. Manuel, Legislative Chairman

APPROVED) on the 24 day of October, 1989,

DISAPPROVED) at 10:20 o'clock, A..M.


ANGELO J. JOAQUIN, SR., Chairman
TOHONO O'ODHAM NATION

1 Returned to the Legislative Secretary on the 24th day of
2 October, 1989, at 1:18 o'clock, P, M.

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4 Guacinda Allen for
5 Teresa M. Choyguha
6 Legislative Secretary

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MOVED: Willard Juan, Sr.

SUBJECT: Tribal-State Gaming Compact -

SECOND: Joseph Juan

Litigation

DATE: October 23, 1989

RESOLUTION NO. 354-89

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 163.0	1. Rosita Ruiz (Rosemary Lopez)	81.5	X			
	2. Kenneth G. Williams (Harriet Toro)	81.5	X			
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Henry Ramon ()	62.5	X			X
GU VO 114.0	1. Cross Antone (Juan Joe Cipriano)	57.0	X			X
	2. Virgil Lewis (Michael Flores)	57.0	X			
SAN LUCY 106.0	1. John Reno ()	53.0	X			
	2. Albert Manuel, Jr. (Max P. Jose)	53.0	X			
PISINEMO 119.0	1. Edward Manuel (Alex Antone)	59.5	X			
	2. Johnson Jose ()	59.5	X			
GU ACHI 166.0	1. Alex J. Ramon (Fernando Joaquin)	83.0	X			
	2. Percy Lopez ()	83.0	X			
BABOQUIVARI 229.0	1. Joann Garcia (Frances Miguel)	114.5	X			
	2. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			
SAN XAVIER 127.0	1. Joanne C. Preston (Carmelita Mattias)	63.5	X			
	2. Eugene Enis, Sr. (Michael Rios)	63.5	X			
SCHUK TOAK 107.0	1. Joseph Juan (Frances Francisco)	53.5	X			
	2. JoAnn Francisco (David Valenzuela Sr.)	53.5	X			
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Daniel Lopez)	155.0	X			
SIF OIDAK 158.0	1. Willard Juan, Sr. (Melissa Gregorio)	79.0	X			
	2. Mary Ann Antone (Nina Jose)	79.0	X			
TOTAL		1,724.0	1,724.0	-0-	-0-	02