



Trial Court of the Osage Nation
FILED

October 2, 2024

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BY 

**OPINIONS OF THE ATTORNEY GENERAL
OF THE OSAGE NATION
ONAG-2024-02¹
FINAL FORMAL OPINION**

QUESTIONS SUBMITTED BY: The Honorable Geoffrey M. Standing Bear, Principal Chief of the Osage Nation.

This Office has received your request for an Official Attorney General Opinion regarding the jurisdiction of the Osage Nation Gaming Commission over Osage Nation-owned real property in Missouri. To wit, you ask.

I. QUESTION AND SHORT ANSWER

Does the Osage Nation Gaming Commission have any jurisdiction over real or personal property of the Osage Nation located within the State of Missouri when that land is held in fee-simple title and not in federal restricted or trust land, *i.e.* not Indian country as defined in 18 U.S.C. Section 1151?

No. The Osage Nation Gaming Commission does not have any jurisdiction over the real or personal property of the Osage Nation located within the State of Missouri when that land is held in fee simple title and not in federal restricted or trust land, as it is not considered the Osage Nation’s Indian lands.

II. DISCUSSION

By way of a Warranty Deed dated April 27, 2022, the Osage Nation (the “Nation”) acquired fee simple title to a tract of real property in Miller County, Missouri (the “Missouri property”). Subsequently, the Nation applied to the United States to accept the land into trust for the Nation

¹ NOTICE: This opinion is a Final Formal Opinion for publication and replaces a Slip Opinion filed August 18, 2024 with an erroneous filing number of ONAG 2024-01. This Final Opinion is correctly titled as ONAG 2024-02. A Final Opinion may modify the preceding Slip Opinion by correcting errors in content, grammar, and/or spelling.

for gaming and gaming-related purposes. The application is currently under review by the United States Department of the Interior. Until the United States approves the Nation's fee-to-trust application, the Missouri property remains in the Nation's name in fee simple status. You ask whether the Osage Nation Gaming Commission (the "ONGC") has any jurisdiction over the Missouri property when the land is held in fee simple title and not in federal restricted or trust land, *i.e.* not Indian country as defined in 18 U.S.C. § 1151.

The Osage Nation Gaming Statute establishes the ONGC "to provide for the orderly development, administration, and regulation of gaming activities within the jurisdiction of the Osage Nation." 14 ONC § 2-101. The Gaming Statute gives ONGC broad power to administer and enforce its provisions, including any "duties that are deemed by the Commissioner as necessary to carry out the provisions of this [Gaming] statute, the Commission's regulations, or rules of the National Indian Gaming Commission." 14 ONC § 2-105(N). And, "the Commission Director shall have supervisory and administrative authority over the processing of all gaming licenses, monitoring the compliance with the Indian Gaming Regulatory Act of each gaming facility, and general enforcement of this gaming law and all regulations issued in relation hereto." 14 ONC § 2-106(D).

All ONGC powers and authority directly relate to the administration and enforcement of the Gaming Statute. In summary, the Gaming Statute provides for licensing and internal auditing of all forms of gaming and gaming-related activities on the Nation's Indian lands. 14 ONC § 1-102. The answer to your question depends on whether the Missouri property is considered the Nation's Indian lands.

The Gaming Statute provides that “Indian lands’ has the same meaning as set forth in the Indian Gaming Regulatory Act.” 14 ONC § 4(R). The Indian Gaming Regulatory Act defines Indian lands as “(A) all lands within the limits of any Indian reservation; and (B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.” 25 U.S.C. § 2703(4).

While the Missouri property is within the Nation’s ancestral homelands, it is not within the limits of the Nation’s reservation boundaries. Also, the Nation’s application to the United States to take the Missouri property into trust for the benefit of the Nation has not been approved as of the writing of this opinion. And, the Nation owns the real property in fee simple status without any restrictions against alienation. Therefore, the Missouri property is not considered the Nation’s Indian lands within the meaning of the Gaming Statute. As the ONGC derives its authority from the Gaming Statute, the ONGC has no jurisdiction over the Missouri property.

III. CONCLUSION

It is, therefore, the official opinion of the Attorney General:

That the Osage Nation-owned property in Missouri does not fit the definition of the Osage Nation’s Indian lands under the Osage Nation Gaming Statute. Until it is considered the Nation’s Indian lands, the Osage Nation Gaming Commission does not have any jurisdiction over the real or personal property of the Osage Nation located within the State of Missouri.

Respectfully submitted,



Clint Patterson, Attorney General