



Hearing scheduled over Foxwoods dealers' union vote

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HARTFORD, Conn. - The struggle against the imposition of federal law on sovereign tribal lands will continue at a National Labor Relations Board hearing into the Mashantucket Pequot Tribal Nation's complaints over a union vote at Foxwoods Resort Casino.

The hearing will take place Jan. 15 at the board's office in Hartford.

Foxwoods' dealers voted 1,289 to 852 Nov. 24 in favor of forming a United Auto Workers union. The election was conducted under NLRB oversight after the board rejected the tribe's appeal that federal labor laws do not apply on tribal land.

The tribe re-asserted its sovereignty claim in a complaint filed Dec. 3 with the NLRB. The complaint also listed 11 other objections to the vote, including procedural irregularities and allegations that the UAW interfered with the outcome of the election by threats, harassment and other pressure.

In a response Dec. 21, the NLRB again dismissed the tribe's claim of jurisdictional authority on its lands as being "without merit."

The tribe had urged the UAW and tribal employees to petition for a union under tribal law rather than federal law, but to no avail.

In a statement explaining the tribe's reasons for challenging the election, Mashantucket Chairman Michael Thomas said that the union has "an absolute right" to organize at Foxwoods, but only under tribal law.

"The UAW and other unions were asked to organize under the tribe's laws, available online at www.mptnlaw.com, but so far they have refused to do so. Thus, the tribal nation is put in the unfortunate position of either disregarding its own laws or continuing to take whatever steps are necessary to preserve its right of self-government and have union issues addressed under the tribal laws which should be the case," Thomas said.

Robert Madore, UAW director for Region 9A, said the UAW would not petition for a union vote under

the tribal system "because that's like saying I'm putting the fox in the henhouse. The employees would not get the true representation and protection."

The Foxwoods dealers' vote was the first successful contested union vote in a tribal casino under federal law, and as such it is being closely monitored throughout Indian country.

The NLRB hearing is one step in a process that is likely to lead to a long legal battle in federal courts. The board's claim of authority on tribal lands is based on a circuit court ruling last February that a casino owned by the San Manuel Band of Mission Indians was subject to federal labor laws.

But experts in Indian law believe the San Manuel case involved a narrowly applied definition of the casino as a commercial operation and did not address wider issues of tribal sovereignty. The ruling is likely to be challenged in different courts under different contexts and claims, and the MPTN is likely to be the tribe pushing forward those claims.

Thomas has promised that the tribe will "do all that we can within the law to try to preserve these [sovereignty] rights."

Connecticut Attorney General Richard Blumenthal, who has fought tribes all over the country on issues of sovereignty, issued a prepared statement on the upcoming NLRB hearing.

"The NLRB has reaffirmed its basic principle of jurisdiction over the Foxwoods casino - protecting the basic rights of tribal casino workers to unionize. The surviving objections merely relate to the conduct of the union elections - claims that we believe are completely unsupported in fact or law," he said.

"Sovereignty does not mean complete immunity from labor laws. We look forward to dismissal of the remaining claims as promptly as possible."

Bruce MacDonald, a spokesman for the tribal nation, responding to a request for comment from Indian Country Today, said: "We feel the Connecticut attorney general has gotten it wrong. Again. We look forward to presenting our side at the NLRB hearing."