

[J-44-45-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

STATION SQUARE GAMING LP, Petitioner	:	No. 28 MM 2007
	:	
v.	:	Petition for Review from the Order of the
	:	Pennsylvania Gaming Control Board
	:	Dated February 1, 2007 Granting the
PENNSYLVANIA GAMING CONTROL BOARD,	:	Application of PITG Gaming LLC and
Respondent	:	Denying the Application of Station Square
	:	Gaming LP for a Category 2 Slot Machine
	:	License in Pittsburgh, Pennsylvania,
IOC PITTSBURGH, INC.,	:	Docket Nos. 1361 and 1363
Intervenor	:	
	:	
	:	
PITG GAMING, LLC,	:	
Intervenor	:	ARGUED: May 15, 2007
	:	

IOC PITTSBURGH, INC., Petitioner	:	No. 29 MM 2007
	:	
v.	:	Petition for Review from the Order of the
	:	Pennsylvania Gaming Control Board
	:	Dated February 1, 2007 Granting the
PENNSYLVANIA GAMING CONTROL BOARD,	:	Application of PITG Gaming LLC and
Respondent	:	Denying the Application of IOC Pittsburgh,
	:	Inc. for a Category 2 Slot Machine License
	:	in Pittsburgh, Pennsylvania, Docket Nos.
PITG GAMING, LLC,	:	1357 and 1361
Intervenor	:	
	:	
	:	
STATION SQUARE GAMING LP,	:	
Intervenor	:	ARGUED: May 15, 2007
	:	

CONCURRING OPINION

MADAME JUSTICE BALDWIN

DECIDED: July 18, 2007

I join the majority opinion. I write separately to address the prudent man standard of care. Having given careful consideration to Petitioner's arguments, I read the majority opinion to confirm that the "prudent man" standard of care, imposed upon the Board, is subsumed within the standard of review for this Court articulated in 4 Pa.C.S. § 1204 (error of law, or order was arbitrary and there was a capricious disregard of the evidence). That is, this Court is not to apply the standard of care itself, but rather, to review whether the Board acted in an arbitrary manner or with capricious disregard for the evidence, a finding which could be supported by the Board's failure to apply the prudent man standard of care. Because I agree with the majority that the Board did not act in an arbitrary manner or with capricious disregard for the evidence in the instant case, I join that opinion. See, Majority Opinion, slip op. at 10-13.