

**STATE OF ILLINOIS
ILLINOIS RACING BOARD**

**IN THE MATTER OF THE ISSUANCE OF ORGANIZATION LICENSES
AND THE ALLOTMENT OF THOROUGHBRED AND STANDARDBRED RACING
DATES FOR CALENDAR YEAR 2022**

ORDER

This matter came to be heard on the applications of Fairmount Park, Inc. (“Fairmount”), and Hawthorne Race Course, Inc. (“Hawthorne”) for organization licenses and 2022 thoroughbred racing dates and the application of Suburban Downs, Inc. (“SDI”) for an organization license and 2022 standardbred racing dates.

Each applicant submitted a written waiver of the contested case provisions of the Illinois Administrative Procedure Act (5 ILCS 100/1, *et seq.*) and elected to present evidence to the Illinois Racing Board (“Board”) at an open meeting conducted on September 23, 2021 (“2022 Dates Hearing”) at the James R. Thompson Center and via WebEx. The Board heard testimony from witnesses for each of the applicants and considered the applications and exhibits submitted by each of them. In addition, the Board heard testimony from representatives of the Illinois Thoroughbred Horsemen’s Association (“ITHA”) the Illinois Harness Horsemen Association (“IHHA”), and the Illinois Horsemen’s Benevolent and Protective Association (“IHBPA”). At the 2022 Dates Hearing, the Board voted on the applications for organization licenses and race dates for 2022.

It is the public policy of this State to: (a) support and enhance Illinois’ horse racing industry, which is a significant component within the agribusiness industry; (b) ensure Illinois’ horse racing industry remains competitive with neighboring states; (c) stimulate growth within Illinois’ horse racing industry, thereby encouraging new investment and development to produce additional tax revenues and to create additional jobs; (d) promote the further growth of tourism; (e) encourage the breeding of thoroughbred and standardbred horses in Illinois, and (f) ensure that public

confidence and trust in the credibility and integrity of Illinois horse racing operations and the regulatory process is maintained. (230 ILCS 5/1.2).

In granting organization licenses and allocating dates for horse race meetings¹, Section 20(e-5) of the Illinois Horse Racing Act of 1975 (“Act”) vests the Board with the discretion to determine an overall racing schedule which is conducive to the best interest of the sport of Illinois horse racing and Illinois public. (230 ILCS 5/20(e-5)). In making this determination, the Board must consider the following factors enumerated in Section 20(e-5):

- The character, reputation, experience, and financial integrity of the applicant and of any other person that controls such applicant, directly or indirectly;
- The facilities or proposed facilities for the conduct of horse racing;
- The total revenue to be derived by the State and horsemen from the applicant conducting a race meeting (without regard to Section 32.1);
- The good faith affirmative action plan of each applicant to recruit, train and upgrade minorities in all employment classifications;
- The applicant’s financial ability to purchase and maintain adequate liability and casualty insurance;
- The applicant’s proposed promotional and marketing budget and prior year’s promotional and marketing activities and expenditures for those activities;
- Any agreement among applicants for the issuance of racing dates; and,
- The extent to which applicants meet or exceed other standards adopted by the Board. *Id.*

The Board has carefully reviewed each of the applications, exhibits, and supplemental information submitted by the applicants; all the testimony and evidence; and the Board has officially noticed other materials in its possession including, but not limited to, the Board’s Annual Reports, past Dates Orders, and the 2022 Race Dates Staff Report. With respect to each application,

¹ “Horse race meeting” or “race meeting” or “meeting” shall mean the whole period of time, whether consecutive dates or those instances where nonconsecutive dates are granted, for which an organization license to race has been granted to any one organization licensee by the Board. (230 ILCS 5/3.07).

the Board has considered all the statutory criteria listed in Section 20(e-5) of the Act. Being fully advised in the premises, the Board makes the following findings of fact and conclusions of law:

- 1) Each applicant demonstrated the financial ability to purchase the necessary casualty and liability insurance. (2022 Apps., Ex. 10).
- 2) The following applicants own or have a lease for the possession of the following racetracks:
 - a. Fairmount Park, Inc. Fairmount Park
 - b. Hawthorne Race Course, Inc. Hawthorne Race Course
 - c. Suburban Downs, Inc. Hawthorne Race Course
- 3) None of the applicants are in default in the payment of any obligation or debt due the State.
- 4) Fairmount Park is located more than 225 miles from the racetracks at which all other applicants seek to conduct race meetings.
- 5) Each applicant submitted a summary of its workforce and affirmative action plan to recruit, train and promote female and minority employees. (2022 Apps., Ex. 14); (Staff Report, Tab 8).
- 6) The racing dates awarded by the Board for 2021 were as follows²:

Arlington Park - 68 live thoroughbred programs and 220 host programs.

- January 3 through March 5 (dark host time) - No live racing.
- April 26 through May 31 - Racing 2 days per week on Fridays and Saturdays. Dark April 26 through April 29 and May 7. Racing on May 9.
- June 1 through July 30 - Racing 3 days per week on Thursdays, Fridays and Saturdays, Racing on June 20.
- July 1 through August 14 - Racing 4 days per week on Thursdays, Fridays, Saturdays and Sundays, dark July 1, August 4 and 11, racing on August 1 and 8.
- August 15 through August 31, Racing 4 days per week on Wednesdays, Thursdays, Fridays, and Saturdays.
- September 1 through September 30 - Racing 3 days per week on Thursdays,

² Actual live programs were amended by subsequent Board Orders due to COVID-19 Gubernatorial Disaster Proclamations and related Executive Orders.

Fridays, Saturdays. Dark September 2, 3 and 26 through 30. Racing on September 5.

Hawthorne Race Course - 50 live thoroughbred programs and 145 host programs.

- January 1 through January 2 – (dark host time) – No live racing.
- March 6 through April 25 (dark host time) – racing 2 days per week on Saturdays and Sundays.
- October 1 through November 30 - Racing 3 days per week Fridays, Saturdays, and Sundays.
- December 1 through December 31, racing 2 days per week on Saturday and Sundays, Dark December 25.

Fairmount Park - 53 live thoroughbred programs.

- April 27 through May 31 - Racing 2 days per week on Tuesdays and Saturdays.
- June 1 through September 6 -Racing 3 days per week on Tuesdays, Fridays, and Saturdays and on Monday September 6.

Suburban Downs - 63 live harness programs and 365 host programs.

- May 7 through September 26 - Racing 3 nights per week on Fridays, Saturdays, and Sundays.

(2021 Dates Order, Par. 23-26).

7) The average daily handle (live and simulcast), State revenue generated, commingled handle (e.g., out-of-state handle on Illinois races) and on-track attendance at each 2021 race meeting through August 31, 2021 are set forth below:

THOROUGHBRED	Average Daily Handle	Average Daily State Gov. Revenue*	Average Commingled Handle**
Arlington Park	\$1,182,171	\$17,733	\$1,582,253
Fairmount Park	\$80,319	\$1204	\$528,769
Hawthorne Race Course	\$962,125	\$14,432	\$1,253,658
STANDARD BRED			
Suburban Downs	\$336,349	\$5,045	\$649,314

*This reflects only the 1.5 percent pari-mutuel tax and not local government revenue.

**The State of Illinois does not generate revenue on commingled handle.

(Staff Report, Tab 3).

- 8) The Board considered the total revenue to be derived by the State and horsemen from the conduct of race meetings, without regard to Section 32.1 of the Act (pari-mutuel tax credit due to paid real estate taxes). Purses earned are a statutory percentage of, and proportionate to, handle generated. (230 ILCS 5/26, 26.2, 29).
- 9) **Consideration of Financial Integrity.** The Board carefully considered the financial integrity of each applicant. In doing so, the Board took into consideration the economic climate in which the applicants, equine and agricultural participants, and the Board all must operate. The decline in handle and revenues from wagering since 1997 has caused concern over the financial health of each applicant. (2000-20 Annual Reports).

In assessing the financial integrity of the applicants, the Board has reviewed each applicant's independently audited financial statements (2022 Apps., Ex. 2); (Staff Report, Tab 5). The Board also considered a Financial Analysis of each applicant by IRB's Chief Fiscal Officer, Vitto Ezeji-Okoye, as well as the General Financial Statement Review Checklist ("Checklist"), which is a summary of the information contained in each applicant's financial statements (Staff Report, Tab 5). The Checklist includes a Z-score calculation for each applicant, of which the Board took official notice. A Z-score is a tool used to determine the potential risk of a business filing bankruptcy. *Id.* The Z-score factors in components of debt, equity, assets, and liabilities to determine a final Z-score. *Id.* The Z-score is then compared to historical information to evaluate the potential of bankruptcy. *Id.* A safe Z-score is greater than 2.60 with the potential for bankruptcy reflected by a score less than 1.10. *Id.* The Z-score does not account for collateral or pledged assets that are not reflected on an entity's balance sheet. *Id.* Hawthorne's current year (2020) Z-score is -9.623 compared to its prior year (2019) Z-score of -11.928; Fairmount, 10.626 compared to 7.676; and SDI, 6.700 compared to

4.726. *Id.*

With respect to Hawthorne's negative 9.623 (-9.623) Z-score for calendar year 2020, the Board notes Hawthorne and SDI each received a "clean opinion" from their respective independent auditors.

- 10) Members of the Board have visited each Illinois racetrack and are familiar with the facilities and accommodations of each applicant. The Board notes the following about Illinois' two remaining racetracks:

Fairmount Park

- a) Fairmount Park has a one-mile dirt course and utilizes the Fontana Safety rail, which is preferred by thoroughbred jockeys.
- b) Fairmount's public facilities and accommodations are adequate.
- c) Fairmount's backside facilities are adequate.
- d) Fairmount has sufficient stall space to accommodate all race dates requested.

Hawthorne Race Course

- a) Hawthorne's accommodations for the public are adequate for all weather conditions.
- b) Hawthorne Race Course has a one-mile dirt course, equipped with lights, and a 7/8-mile turf course, which is ideal for thoroughbred racing.
- c) Hawthorne uses a removable, modified Fontana safety rail system, for thoroughbred racing and the "hubless hubrail" for standardbred racing. Thoroughbred jockeys prefer the Fontana safety rail and standardbred drivers prefer the hubless hubrail.
- d) Hawthorne's backside facilities and accommodations are adequate for all weather conditions. Hawthorne provides and maintains off-site housing for backstretch workers.
- e) Hawthorne has sufficient stall space to accommodate all race days requested.

STANDARD BRED

- 11) **Suburban Downs, Inc. at Hawthorne Race Course** in Stickney, Illinois has been in

- the standardbred horse racing business on and off since 1956. Hawthorne Race Course has a one-mile limestone course, which is excellent for standardbred racing.
- 12) Tim Carey, President and General Manager of Hawthorne Race Course testified on behalf of both Hawthorne Race Course and Suburban Downs, Inc. at Hawthorne and stated, regarding race dates at Hawthorne and SDI for 2022. (9/23/20 Tr., 18-51). Mr. Carey testified that “[f]or 2022 our priorities were to: 1: maximize racing opportunities for both breeds. 2: Bolster the Illinois breeding program and Illinois-bred stakes program for harness horses, and 3: Maximize turf racing opportunities for Thoroughbred horses.” (9/23/21 Tr., 29). Mr. Carey further testified that “this is not the most profitable schedule for Hawthorne, but it is the best schedule for the industry in a transitional year.” *Id.* at 30. Hawthorne presented a schedule of 75 harness racing dates, which is more than were requested and granted for 2021. *Id.*
- 13) Tony Somone, Executive Director of the IHHA and Martin Engel, President of the IHHA provided testimony on behalf of the IHHA. (9/23/20 Tr., 57-63). Mr. Engel testified that Hawthorne has done more than their share of helping harness horsemen find a home to race. *Id.* at 59. Mr. Engel also testified that while the IHHA and SDI do not have a written contract they have agreed in principle on many things and that he doesn’t “foresee any problem in having an agreement by January 1st, whatsoever.” *Id.* Mr. Engel stated that the IHHA is very supportive of the date agreement that was negotiated with the thoroughbreds and Hawthorne. *Id.*
- 14) In its 2022 application, SDI proposed a marketing and promotions budget of \$585,000. (SDI App., Ex. 13); (Staff Report, Tab 7). In 2020, actual marketing expenditures were \$626,329. *Id.* As of June 30, 2021 actual marketing expenditures were \$301,019.
- 15) For 2022, SDI requested 75 nights of standardbred racing to be conducted at Hawthorne

Race Course from January 7 through January 30, racing 3 days per week on Fridays, Saturdays and Sundays. February 3 through March 20, racing 4 days per week on Thursdays, Fridays, Saturdays and Sundays. July 1 through August 21, racing 3 days per week on Fridays, Saturdays and Sundays. No live racing on July 3. Live racing on June 30, August 27 through August 29, September 1 through September 4, and September 8 through September 11. Post times of 7:10pm (Staff Report, Tab 1); (Hawthorne Supp. Calendar); (9/23/21 Tr., 30).

THOROUGHBRED

- 16) **Fairmount Park**, located in Collinsville, Illinois provides racing opportunities for downstate Illinois horsemen and racing fans. Fairmount has experienced financial difficulty in recent years that has caused it to voluntarily reduce race days.
- 17) Melissa Helton, President of Fairmount Park and Jim Watkins, President of Illinois HBPA provided testimony in support of Fairmont's dates proposal. (9/23/21 Tr., 8, 12). Ms. Helton testified about their application and their agreement for 61 live race days for 2022. (9/23/21 Tr., 8).
- 18) Under Section 26(g)(7.1) of the Act, Fairmount must apply for at least as many live racing days as it conducted in calendar year 2000 to qualify for thoroughbred purses from simulcast and inter-track wagering. (230 ILCS 5/26(g)(7.1)). Fairmount has met this requirement by requesting 150 race dates for 2022. (Fairmount App. Pg. 1). The statute does not, however, require the Board to award any specific number of live racing days to Fairmount. (230 ILCS 5/26(g)(7.1)).
- 19) Section 20(e-3) of the Act states that the Board shall award a racetrack in Madison County, for calendar year 2020 and thereafter, racing dates and the organization licensee, Fairmount Park, shall run at least 700 thoroughbred races. However, pursuant

to Section 20 (e-4.5) of the Act, the Board may decrease the number of racing days without affecting an organization licensee's ability to conduct gaming if there is an agreement between an organization licensee and the breed association that is applicable to the involved live racing guarantee, or the horse population or purse levels are insufficient to provide the number of racing opportunities required in the Act. (230 ILCS 5/20). As they have done for the last fourteen years, Fairmount and the HBPA submitted a joint request for 2022 thoroughbred race dates. (Fairmount 8/20/21 Ltr.). The joint Fairmount Park and Illinois HPBA letter dated August 20, 2021 expressed an agreement between the parties for 61 days of live racing with a minimum of 7 races per day. The HBPA and Fairmount agreement to conduct fewer than 100 live days of racing at Fairmount in 2022 allows Fairmount to qualify for an inter-track wagering license and inter-track wagering location licenses pursuant to Section 26(h)(1)(iii)(B) of the Act. (9/16/20 Tr., 8, 12); (Fairmount 8/25/21 Ltr); (Staff Report, Tab 1). Ms. Helton and Mr. Watkins represented that the factors that contribute to Fairmount running fewer than 100 days of racing include: the loss of revenue due to the COVID-19 pandemic and its impact on the track and horsemen. (Fairmount 8/25/21 Ltr). Fairmount and the HBPA agreed that racing 100 days at Fairmount is not possible for 2022 and therefore, the parties agreed that a schedule of 61 days of racing is one that they can reasonably expect to run in 2022. *Id.*

- 20) The HBPA agreed with Fairmount to conduct fewer than 100 live days of racing at Fairmount in 2022, thus, allowing Fairmount to qualify for an inter-track wagering license and inter-track wagering location licenses pursuant to Section 26(h)(1)(iii)(B) of the Act. (9/23/21 Tr., 12); (Fairmount 8/20/21 Ltr.); (Staff Report, Tab 1).
- 21) In its 2022 application, Fairmount proposed a marketing and promotions budget of

\$379,310. (Fairmount App., Ex. 13); (Staff Report, Tab 7). Fairmount cited uncertainty as to when they will be permitted to proceed with their racino plans and the ongoing difficulties surrounding COVID-19 for proposing the same advertising budget as they did for 2020 and 2021. *Id.* In 2020, actual marketing expenditures were \$183,199. *Id.*

- 22) After reviewing this agreement and hearing testimony the Board finds: (1) As of August 20, 2021, Fairmount reported that the purse account was overpaid \$1,750,039.91; and (2) Per their August 20, 2021 agreement, Fairmount Park and the Illinois HBPA agree that 100 days of racing with seven races per day “is simply not feasible for 2022.” (Fairmount 8/20/21 Ltr.) The Board determines that the agreement between HBPA and Fairmount does not compromise the integrity of the sport of horse racing and satisfies the statutory requirements of the Act.
- 23) Pursuant to Section 26(h)(1)(iii)(C) of the Act, the Board finds that because of the insufficient level of purses available, that extraordinary circumstances exist, and that it is in the best interests of the sport of Illinois horse racing and Illinois public to conduct fewer than 100 live days of racing at Fairmount. (9/23/22 Tr., 68-69); (Fairmount 8/25/21 Ltr); (Staff Report, Tab 1).
- 24) **Hawthorne Race Course** in Stickney, Illinois has been in the thoroughbred horse racing business for 111 years. Hawthorne Race Course has a one-mile dirt course and a 7/8-mile turf course, which are both excellent for thoroughbred racing.
- 25) Tim Carey, President and General Manager of Hawthorne Race Course made a joint presentation on behalf of both Hawthorne Race Course and Suburban Downs, Inc. at Hawthorne. (9/23/21 Tr., 18-51) Mr. Carey testified that the proposed schedule would require Hawthorne to flip the track between thoroughbred and harness multiple times in 2022 an while it is not the most profitable schedule for Hawthorne, it is the best schedule

for the industry in a transitional year. (9/23/20 Tr., 30). Hawthorne's proposal includes 76 thoroughbred racing dates in 2022, which is less than were awarded in total in 2021, but Mr. Carey testified that overnight purses at Hawthorne will increase by about 50 percent. *Id.*

- 26) David McCaffrey and Mike Campbell provided testimony on behalf of the ITHA. (9/23/21 Tr., 51-57). Mr. McCaffrey testified that the ITHA and Hawthorne have a contract for 2022 and 2023. *Id.* at 57.
- 27) For 2022, Hawthorne has requested 76 thoroughbred race dates, April 2 through April 30, racing 2 days per week on Saturdays and Sundays. May 1 through June 25 racing 3 days per week on Fridays, Saturdays, and Sundays, and racing Thursday June 23. September 23 through December 31 racing 3 days per week on Fridays, Saturdays, and Sundays. No live racing on December 24 and 25. Post times of 3:10 pm. (Hawthorne App.); (Hawthorne Supp. Calendar); (9/23/21 Tr., 30).

HOST TRACK

- 28) "Host track" is defined in Section 3.075(a) of the Act. (230 ILCS 5/3.075(a)). Section 3.075(a) states that an Organization Licensee³ can be eligible for simulcast host track status if racing fewer than five (5) days per week and fewer than nine (9) races per day in 2022 if it is the results of

- (1) weather, unsafe track conditions, or other acts of God; (2) an agreement between the organization licensee and the associations representing the largest number of owners, trainers, and standardbred drivers who race at that organization licensee's race meeting, with the Board's consent; or (3) a decision by the Board after public hearing (in which the associations representing the owners, trainers, jockeys, or standardbred drivers who race horses at that organization licensee's race meeting shall participate) either at the time racing dates are awarded or after those dates are awarded or after those dates are awarded due to changed financial circumstances,

³"Organization Licensee" means any person receiving an organization license from the Board to conduct a race meeting or meetings. (230 ILCS 5/3.09).

upon a written petition from the organization licensee, accompanied by supporting financial data as requested by the Board, stating that the organization licensee has and will continue to incur significant financial losses. *Id.*

Hawthorne and SDI have requested host track status for the entire year in 2022. Hawthorne and ITHA do not yet have contracts with the respective horsemen's organizations that expressly allow for racing fewer than five days a week and nine races per day. (9/23/21 Tr., 42). When asked if Hawthorne and SDI would incur significant financial losses if they were required to race at least 5 days per week and nine races a day, Mr. Carey stated "yes." *Id.* at 43.

- 29) After reviewing the applications for organization licensees and after hearing testimony today from the organization licensee applicants and the respective horsemen's organizations, as it relates to host track status pursuant to Section 3.075 of the Illinois Horse Racing Act, the Board finds the conditions are present to allow a lesser schedule of live racing than five days per week and nine races per day. (9/23/21 Tr., 70).

RACE DATES

- 30) The Board has considered each of the applications consistent with the factors enumerated in Section 20(e-5) of the Act. (230 ILCS 5/20(e-5)). Considering all the evidence, the Board finds that adopting the proposed schedule is necessary to sustain and promote Illinois' horse racing industry; ensure Illinois' horse racing industry remains competitive with neighboring and other states; to ensure the integrity of Illinois' horse racing; and, to serve the best interests of the Illinois public. 230 ILCS 5/21(b)). Consistent with its obligation to act in the best interest of the sport of Illinois horse racing and Illinois public; the Board determines the overall schedule which enhances and supports Illinois' horse racing industry, ensures that Illinois' horse racing industry remains competitive with neighboring and other states, promotes tourism, stimulates

growth within Illinois' horse racing industry, encourages the breeding of horses in Illinois, and ensures that public confidence and trust in the credibility and integrity of Illinois' horse racing operations; and, the regulatory process is maintained, based on the applications, exhibits, and testimony.

31) The Board commends Fairmount, Hawthorne and SDI in presenting schedules for 2022 race dates with the goal of ensuring that horseman in both breeds have an opportunity to race in 2022 and ensuring the best interests of Illinois horse racing.

32) Section 21(b) of the Act provides in pertinent part:

[t]he Board may exercise discretion in granting racing dates to qualified applicants different from those requested by the applicants in their applications. However, if all eligible applicants for organization licenses whose tracks are located within 100 miles of each other execute and submit to the Board a written agreement among such applicants as to the award of racing dates, including where applicable racing programs, . . . the Board may grant such dates and programs to such applicants as so agreed by them if the Board determines that the grant of these racing dates is in the best interests of racing. The Board shall treat any such agreement as the agreement signatories' joint and several applications for racing dates during the term of the agreement. (230 ILCS 5/21(b)).

The Board finds the granting of racing dates requested pursuant to the applicants proposed schedules is in the best interests of Illinois horse racing.

33) No Organization Licensee receiving racing dates pursuant to this order shall be deemed to have a vested interest, property right or future expectation to receive an organization license in any subsequent year as a result of the granting of an organization license for the calendar year 2022. (230 ILCS 5/20(f)).

IT IS HEREBY ORDERED FOR CALENDAR YEAR 2022:

34) Sixty-one (61) days of thoroughbred racing are allotted to Fairmount Park Inc. to be conducted at Fairmount Park from April 19 through June 11, racing two days per week

on Tuesdays and Saturdays; June 12 through September 24, racing three days per week on Tuesdays, Fridays and Saturdays; Post times on Tuesdays at 1pm, on Fridays and Saturdays at 7:30 pm with the exception of Saturday May 7 at 1 pm. (9/23/21 Tr., 67-68); (Fairmount 8/20/21 Ltr.); (Staff Report, Tab 1). Fairmount shall card no less than seven races per race program. (Fairmount 8/20/21 Ltr.); (Staff Report, Tab 1).

- 35) Seventy-six (76) days of thoroughbred racing are allotted to Hawthorne Race Course Inc., to be conducted at Hawthorne Race Course and 365 total host programs from January 1 through December 31. (9/23/21 Tr. 69); (Hawthorne App., Pg. 1); (Staff Report, Tab 1); (Hawthorne Supp. Calendar). Hawthorne is awarded live racing dates April 2 through April 30, racing 2 days per week on Saturdays and Sundays; May 1 through June 25 racing 3 days per week on Fridays, Saturdays, and Sundays and racing Thursday June 23; September 23 through December 31 racing 3 days per week on Fridays, Saturdays, and Sundays; Dark December 24 and 25; Post times of 3:10 pm. *Id.*
- 36) Seventy-five (75) nights of standardbred racing are allotted to Suburban Downs Inc. to be conducted at Hawthorne Race Course and 365 total host programs. (9/23/21 Tr. 70); (SDI App., Pg. 1); (Staff Report, Tab 1); (Hawthorne Supp. Calendar). SDI is awarded live racing dates January 7 through January 30, racing 3 days per week on Fridays, Saturdays and Sundays; February 3 through March 20, racing 4 days per week on Thursdays, Fridays, Saturdays and Sundays; July 1 through August 21, racing 3 days per week on Fridays, Saturdays and Sundays; No live racing July 3; Live racing on June 30, August 27 through August 29, September 1 through September 4, and September 8 through September 11; Post times of 7:10pm. *Id.*
- 37) After reviewing the applications for organization licensees and after hearing testimony

today from the organization licensee applicants and their respective horsemen's organizations as it relates to host track status pursuant to Section 3.075 of the Illinois Horse Racing Act, the Board finds that the conditions are present to allow a lesser schedule of live racing than 5 days per week and 9 races per day. (9/23/21 Tr. 70).

- 38) Each Organization Licensee shall adhere to their published post times for each race, except when minor adjustments are necessary; provided, however, reasonable advance written notice of such change is sent to the Board, executive director, pari-mutuel director, and the stewards. (9/23/21 Tr. 71).
- 39) Each Organization Licensee shall maintain an open backstretch for the entirety of their race meet and sufficient temporary living units for backstretch workers and stall space to accommodate horses for all race dates awarded. *Id.* Temporary living units shall be consistent with the applicable state and local occupancy statutes and ordinances. *Id.* In the event that an organization licensee is unable to complete its race meeting, any organization licensee with a subsequent race meeting shall maintain an open backstretch at least three weeks prior to the commencement of its respective race meeting. (9/23/21 Tr. 71); (2021 Dates Order).
- 40) Each Organization Licensee shall have a written contract with their respective horsemen's association no later than ninety (90) days before the commencement of their respective race meeting. If no agreement is reached by the 90-day deadline, the Organization Licensee shall immediately notify the Board's Executive Director who shall notify the Board's Chairman, who will either serve as a mediator or designate a mediator for the resolution of the dispute. *Id.*
- 41) Board staff may provide separately a list of general maintenance items that must be completed; property, plant or equipment obtained and/or installed; or services provided,

which in the sole discretion of Board staff, is required to conduct, regulate, or promote horse racing at its facilities.⁴ *Id.* at 57. Each Organization Licensee must have the work completed, items obtained and/or installed, or services implemented by the deadline set by Board staff and to its sole satisfaction, including any written extensions. *Id.*

- 42) Each Organization Licensee shall establish and maintain security staffing at a level that is satisfactory to the Board and ensure compliance with the Act and the Board's Rules, including, but not limited to, section 15(a) of the Act and sections 502.30, 1408.60 and 1424.270 of the Board's Rules. *Id.* (230 ILCS 5/15(a)); (11 Ill. Admin. Code 502.30, 1408.60, and 1424.270).
- 43) Each Organization Licensee shall furnish to the Board annually the following inspection reports:
 - a. A report from the Health Department of the municipality in which the track is located, or the Health Department of the County or State if the municipality lacks jurisdiction. This inspection report shall include, but not be limited to, an inspection of kitchen and concession equipment, water supply, sewage, drainage, housing and sanitation facilities of both the backside and the public areas. This report shall state that the facilities inspected at the particular track are in satisfactory compliance with the applicable health code provisions.
 - b. A report from the Building Department of the municipality in which the track is located, or the Health Department of the County or State if the municipality lacks jurisdiction, stating that all the buildings located on the physical plant of the particular track are in satisfactory compliance with the applicable building code provisions.
 - c. A satisfactory report from the State Fire Marshal's Office. This report shall detail any corrective action required in the areas of fire prevention, detection, suppression, construction, or health and safety addressed by the State Fire Marshal, the Board's Fire Safety rules (11 Ill. Adm. Code 403), or any state statutes which may be applicable. If the track appeals the findings of the Office of the State Fire Marshal, a copy of said appeal shall be filed with the Board in lieu of the Statement of Satisfactory Compliance. All tracks shall keep Board staff apprised of the status of any appeals.

⁴ "Facilities" means the offices, racetracks and all related grounds and structures, and other building improvements or fixtures associated with the activities of a licensee under this Act. (230 ILCS 5/3.21).

- d. Copies of all interim inspection reports, citing code and fire rule violations, if any, shall be submitted to the Board by the Organization Licensee within three (3) working days of receipt by the Organization Licensee. In the event of successive race meetings of the same breed at the same track, only the first Organization Licensee need submit the inspection reports required in this paragraph, unless any applicable rules require additional inspections.

Id.

- 44) Prior to the issuance of an organization license, each Organization Licensee (including inter-track wagering licensees, when applicable) shall file an admission tax bond in the amount of \$25,000, and a pari-mutuel tax bond in the amount of \$200,000. However, if an organization licensee conducts gaming pursuant to an organization gaming license issued under the Illinois Gambling Act, the amount of the bond required under section 230 ILCS 5/21(e) shall be \$500,000. Said bonds shall be filed with the Board not less than 20 calendar days prior to each applicant's race meeting. (230 ILCS 5/20(h)); (9/23/21 Tr. 71-72).
- 45) Each Organization Licensee, within 10 (ten) days of receipt of this final executed Dates Order, shall file with the Board an acceptance of the award, and pay to the Board one hundred ten dollars (\$110) for each racing date awarded. (9/23/21 Tr. 71); (2021 Dates Order).
- 46) Each thoroughbred Organization Licensee shall submit its proposed stakes schedule to the Board, including proposed purses, at least sixty (60) days prior to the first (1st) live race day of its race meeting. *Id.*
- 47) Each Licensee⁵ shall make pari-mutuel settlements for a fifteen (15) day cycle, mutually agreed upon by the 2022 Organization Licensees. *Id.* at 57-58. Pari-mutuel settlements include, but are not limited to, track commissions, purse commissions, breakage,

⁵ "Licensee" means an individual organization licensee, an inter-track wagering licensee, an inter-track wagering location licensee, or an advance deposit wagering licensee, as the context of this Act requires. (230 ILCS 5/3.20).

surcharges, and interstate host fees. *Id.* Custodial outs shall be settled on a monthly cycle unless an alternative schedule is mutually agreed upon by the licensees. *Id.*

- 48) The Board's executive director shall have the authority to approve the vacating of awarded live racing dates at the request of the organizational licensee when exigent circumstances are present. The executive director also has the authority to reassign such vacated dates within the organizational licensee's meet but only on a day before the next scheduled Board meeting. Any request to reassign a vacated date after the next scheduled Board meeting must be approved by the Board. *Id.*
- 49) On January 1, 2022 and thereafter, all organization licensees and inter-track licensees shall begin to pay the statutorily required admission taxes on all paid and unpaid admissions, unless specifically exempted pursuant to Section 25(a) of the Illinois Horse Racing Act. (9/23/21 Tr. 72).
- 50) A completed audit of the financial transactions and condition of the Licensee's total operations, including presentation of a two (2) year comparative analysis, shall be received by the Board within one hundred twenty (120) days after the end of its fiscal year (e.g. April 30, 2021). *Id.*; (230 ILCS 5/9(g)).
- 51) Each Organization Licensee shall submit its emergency medical services plan required pursuant to Board's Rules section 1305.140 or 1424.170 to the Board, for its approval, thirty (30) calendar days prior to the start of its race meeting. (9/23/21 Tr. 71); (2021 Dates Order). Each plan shall also be certified by the Illinois Department of Public Health, Division of Emergency Medical Services. (11 Ill. Admin. 1305.140, 1424.170). (9/23/21 Tr. 71); (2021 Dates Order).
- 52) Fairmount shall present the Board with unaudited and attested financial statements for the six months ended June 30, 2021 to the satisfaction of the Board's Chief Financial

- 58) This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one document. Signatures may be transmitted by e-mail, facsimile, or hard copy.
- 59) Per 5 ILCS 100/10-50(b) and Board Rule 205.60, the Board and below parties of record to the 2022 Dates Hearing may be served with pleadings, notices, or service of process for any review or further proceedings, as follows:

Domenic DiCera, Executive Director
Illinois Racing Board
100 West Randolph Street, Suite 5-700
Chicago, Illinois 60601

Melissa Helton, President
Fairmount Park, Inc.
9301 Collinsville Road
Collinsville, Illinois 62234

Tim Carey, President
Hawthorne Race Course, Inc.
Suburban Downs, Inc.
3501 South Laramie Avenue
Cicero, Illinois 60804

[Signature Pages to Follow]

**BOARD ORDER SIGNATURES
RACING DATES FOR 2022**

DocuSigned by:
Daniel Beiser
110705533A60487
Daniel Beiser, Chairman

DocuSigned by:
Leslie Breuer
0248D49A3E67470...
Leslie Breuer

DocuSigned by:
Marcus Davis
06E93002BDA117F...
Marcus Davis

DocuSigned by:
Beth Doria
746CB80806E04FE...
Beth Doria

DocuSigned by:
Lydia Gray
FE180270E4E7436...
Lydia Gray

DocuSigned by:
Alan Henry
D0A5E676CE004A1...
Alan Henry

DocuSigned by:
Charles MacKelvie
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Charles MacKelvie

DocuSigned by:
Benjamin Reyes
22874A378F734DD...
Benjamin Reyes

DocuSigned by:
Leslye Sandberg
323D80C4F430460...
Leslye Sandberg

DocuSigned by:
John Stephan
CD4BB702AC044E1...
John Stephan

Action taken by the Board at its
October 14, 2021 meeting

Domenic DiCera
Domenic DiCera, Executive Director

OCTOBER 14, 2021
Date Executed