

**LEGAL ANALYSIS OUTLINE**  
**TOHONO O'ODHAM NATION'S TRUST APPLICATION FOR GAMING PURPOSES**

*Analysis Point*

*City's Position*

*Does Application Land comply with Gila Bend Act, which requires the replacement land not be within the corporate limits of a city or town and be contiguous to San Lucy Village?*



Application Land is within exterior boundaries of the City of Glendale, not eligible as replacement land  
Waiver of area limitation and San Lucy Village was illegal; therefore, Application Land not eligible as replacement land

***Therefore, Trust Application must be denied***

*Does Trust Application invoke a discretionary or mandatory taking into trust?*



Application relies on issuance of discretionary waiver; consequently, approval of Trust Application is discretionary yet fails to provide necessary information for Secretary to exercise his discretion.

***Therefore, Trust Application must be denied***

*Can the after-acquired Application Land be used for gaming?*



Act was not a "settlement of a land claim" and Tribe cannot comply with requirements of IGRA § 20 exception because Governors consent is statutorily prohibited.

***Therefore, Trust Application must be denied***

*Does the federal government have the constitutional authority to take land into trust for purpose of creating an Indian reservation?*



No constitutional authority to remove land from state jurisdiction without state's consent and no state consent has been granted for Trust Application

***Therefore, Trust Application must be denied***