Horseshoe Cincinnati’s smoking patio shortly before it opened in October 2014. Here, workers are busy putting some final touches on the new patio, known as The Parlor.(Photo: Alex Coolidge - Enquirer)

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Cincinnati's Horseshoe casino is in hot water with health inspectors over its smoking patio.

The city's health department says the patio, known as The Parlor, doesn't meet its definition of an outdoor patio and should be designated a non-smoking area like the rest of the downtown casino.

Inspectors have cited the casino for violating Ohio's smoke-free workplace law, but health officials say the casino is now fighting to keep its patio open to smokers. The stalemate could end up in court, where a judge would have to settle the dispute.

The patio is a big deal because gambling and smoking often go hand in hand. That's especially true in the Greater Cincinnati market, where the Horseshoe competes with Indiana riverboats that allow smoking.

Horseshoe's owners invested more than $5 million in the patio, which opened late last year, and touted it as a comfortable place for smokers to gamble year-round. The 8,800-square-foot patio is attached to the main casino and includes a 41-foot bar, 17 flat-screen TVs and about 150 slot machines and electronic table games.

The problem, according to the health department, is that it's too enclosed to be considered an outdoor patio under the smoke-free workplace law, which requires smoking areas to be at least 50 percent open.

The patio has a roof and is partially enclosed by brick and wood walls.

Health department records show the city received an anonymous complaint about the patio in October last year, shortly after The Parlor opened. Inspectors visited in November and cited the casino for not posting enough "no smoking" signs and for allowing smoking on the patio.

Casino officials could not immediately be reached for comment. But the health department's Larry Florea, a supervisor in the department's healthy homes office, said the casino quickly added the necessary "no smoking" signs.

The patio, however, is another matter. He said the casino is working with the health department to resolve the issue, but it disagrees with the inspectors' conclusion about the patio.

"They're not blowing us off," Florea said. "They are willing to work with us."

But if the difference of opinion about the patio can't be resolved, the casino could pursue an appeal that ultimately could end up in court. Potential fines range from $100 to $2,500 a day and could be doubled under some circumstances, but the casino is not being assessed a penalty at this time.

The casino received formal notice of the violation last week and will have 30 days to decide whether to appeal. Horseshoe's owners told health inspectors they have made improvements to ventilation that should be taken into account, said Camille Jones, the city's assistant health commissioner.

Since those improvements are not recognized under current Ohio law, however, Jones said

state officials would have to decide whether they are sufficient.

She said disputes like this one are unusual, because Ohio law doesn't allow smoking indoors and relatively few businesses have partially enclosed areas where smoking is permitted.

"It has not come up that often for us," Jones said.

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