



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
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JANICE K. BREWER
Governor

J. D. GHELFI
Board Chair

ALAN EVERETT
Director

Arizona State Liquor Board Hearing Minutes
July 14, 2011

Members Present: J.D. Ghelfi -Chair, Bill DuPont -Vice-Chair, Robin Cantrell, Michael Farley, Tim Linden, Vikki Scarafiotti

Members Absent: Jim Carruthers

Counsel Present: Camila Alarcon, Assistant Attorney General

Staff Present: Stefanie Murphy, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on July 14, 2011 at 9:01 a.m. with Mr. Ghelfi presiding.

Roll Call

Mr. Carruthers was absent from the hearing, all other board members were present.

B. Agenda: review, consideration and action

1. Bar Liquor License No. 06070457 – Person Transfer Application

From:
Michael Dove, Agent
Whip Lounge
420 S. Mill Avenue
Tempe, AZ 85281

To:
Nicholas Lujan, Agent
Wasted Velvet
420 S. Mill Avenue
Tempe, AZ 85281

The applicant, Nicholas Lujan, did not appear at the hearing. The applicant was represented by counsel, Harvey Yee. Police Legal Advisor Bill Amato appeared on behalf of the City of Tempe. Assistant Attorney General Camila Alarcon appeared on behalf of the Department of Liquor Licenses and Control. At the hearing, Mr. Yee requested that the application be continued due to improper notice and because the applicant retained counsel after the filing deadline for written documents, briefs or motions to be considered by the Board. Mr. Yee explained that the address listed in the notice for the establishment was incorrect. He further explained that the notice was incorrectly titled as a compliant and the application type was incorrectly listed as an original application. Mr. Yee requested that a corrected notice of hearing be reissued and a continuance be granted. Chairman Ghelfi acknowledged the error in the notice. Mr. Amato had no objection to the continuance and Ms. Alarcon requested the matter be continued to the September 2011 hearings.

Motion to Continue - DuPont
Seconded - Linden
Yay - Ghelfi, DuPont, Cantrell, Farley, Linden, Scarafiotti
Nay - None

Abstained - None
Disposition - Continued to the September 1, 2011 hearings.

2. Liquor Store Liquor License No. 09100220 – Location Transfer Application

From: Kim K. Kwiatkowski, Agent
Circle K Stores, Inc.
Circle K Store #3374
1103 S. 99th Avenue
Tolleson, AZ 85353

To: Kim K. Kwiatkowski, Agent
Circle K Stores, Inc.
Circle K Store #3404
2410 W. Indian School Road
Phoenix, AZ 85015

The applicant, Kim K. Kwiatkowski, and Scott Stevenson, Director of Real Estate for Circle K Stores, appeared at the hearing and were represented by counsel, David Cisewski, Esq. Jeffrey Blilie of Beus Gilbert PLLC appeared on behalf of Westwood Community Association who filed protest against the application. The City of Phoenix did not appear at the hearing. Assistant Attorney General Camila Alarcon was present to provide legal advice to the Board. Prior to the hearing, counsel for the protestor, Westwood Community Association, submitted a request to continue the application and counsel for the applicant did not protest the continuance. Chairman Ghelfi called to the audience to see if any other protestors were present. None coming forward, Chairman Ghelfi asked the applicant and counsel if they would like to make statements. No statements were made.

Motion to Continue - DuPont
Seconded - Linden
Yay - Ghelfi, DuPont, Cantrell, Farley, Linden, Scarafiotti
Nay - None
Abstained - None
Disposition - Continued to the August 4, 2011 hearings.

3. Beer & Wine Store Liquor License No. 10113208 - Original Application

Brandon D. Tat, Agent
T & L Convenience, LLC
T & L Convenience
411 N. Arizona Boulevard
Coolidge, AZ 85128

The applicant, Brandon Tat, was present at the hearing and was represented by counsel, David Rubin. The City of Coolidge did not appear at the hearing. Assistant Attorney General Camila Alarcon was present to provide legal advice to the Board. Mr. DuPont asked if the city received notice of the hearing and if there was contact with staff. Ms. Murphy confirmed notice was received via certified mail. Chairman Ghelfi explained the format of the hearing including the process to call for witnesses.

Mr. Rubin addressed the Board and pointed out that there was a minor typographical error in the address listed in the notice of hearing. He then directed the Board to copies of a report created June 30, 2011 and submitted on July 1, 2011 and asked that it be part of official record. Chairman Ghelfi had no objection to adding the report to the record. Before going into a detailed presentation of the report and exhibits Mr. Rubin called upon the applicant as a witness. Mr. Tat was sworn and testified that he received a copy of the report, read the report and understood the information.

Mr. Rubin went over Mr. Tat's background and experience and noted his extensive training and good standing. He explained that the location was purchased by Mr. Tat in 2010 and at the time it was a video and gas station called Star 7 Gas and Food. It was noted there were no violations at the location and that the previous owner decided to close the business for personal reasons. Mr. Rubin showed the Board a map from the report illustrating that the business is located within the boundaries of the City's entertainment district and the business serves the needs and purpose of the area. Mr. Rubin then went over the store floor plan and new security equipment put into place by the applicant. It was noted that Mr. Tat's previous employer received a letter from the Department of Liquor Licenses and Control for successfully passing an undercover test to further illustrate the applicant's capability to operate the proposed business. Mr. Rubin concluded by reading his closing remarks from the report.

Chairman Ghelfi asked the Board for questions. Ms. Cantrell asked for clarification regarding the error in the business address listed in the notice and confirmed the correct address. Mr. Linden asked if there were any city ordinances regarding signage in which the applicant replied that he did not know of any. Mr. Rubin asked for a copy of the letter from the City noting the reason for denial. A copy was provided and Mr. Rubin read it aloud. Chairman Ghelfi asked about the applicant's plans for signage for the business and the applicant stated he would only advertise what is sold in the store. Mr. Farley asked how close the school was to the location and if there were any children in the administrative building. Mr. Rubin directed the Board to a map that illustrated the administrative building and the closest school. It was noted that there are no children in the administrative building and both the administrative building and school measure outside the 300 foot requirement. Mr. DuPont questioned exhibits F and G in the report and asked what the applicant intends to display in the empty glass counters. Applicant responded he plans to display toy model cars. Mr. DuPont ensured no drug paraphernalia would be on display and the applicant attested that he planned to keep the objects on display appropriate as there may be children in close proximity. Again, Mr. Rubin directed the Board to the map in the report and had the applicant point to the closest church and school in the area. Chairman Ghelfi asked the applicant about his plan to deal with trespassing and unwanted people on the property and if he intends to work with the local police. The applicant answered that he would contact the police if there was a trespassing problem on the property. Mr. Farley noted that the city stated in writing that the applicant meet requirements and noted that they did not attend the hearing to support their disapproval. With no other discussion Chairman Ghelfi concluded testimony. Mr. DuPont made a motion to grant the license based on the facts and findings presented.

Motion to Grant -	DuPont
Seconded -	Farley
Yay -	Ghelfi, DuPont, Cantrell, Farley, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	License Granted

The Board recessed at 9:55 a.m. and reconvened at 10:00 a.m.

C. Execution Session

Pursuant to A.R.S. § 38-431.03(A)(4), the Arizona State Liquor Board will go into Executive Session regarding the following case for the purpose of discussion or consultation with a representative from the Attorney General's Office in order to consider its position and instruct its attorney, or to conduct settlement discussions. The Board may take action, if necessary, in open session.

James F. Herold, Owner and Agent for Bar Liquor License 06080034 dba B.J.'s Tavern v. Arizona Department of Liquor Licenses and Control and its Board, Case No. LC2010-000869 before the Maricopa County Superior Court.

Motion to convene in executive session -	Farley
Seconded -	Cantrell
Yay -	Ghelfi, DuPont, Cantrell, Farley, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

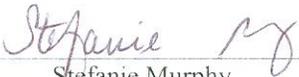
The Board reconvened at 10:05 into open session.

Motion to approve consent agreement -	Farley
Seconded -	Cantrell
Yay -	Ghelfi, DuPont, Cantrell, Farley, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Approve consent agreement

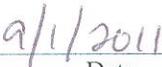
D. Call to the Public

None.

The Board adjourned at 10:07 a.m.



Stefanie Murphy
Administrator of the
Arizona State Liquor Board



Date