



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
 August 4, 2011

Members Present: J.D. Ghelfi -Chair, Bill DuPont -Vice-Chair, Jim Carruthers, Robin Cantrell, Tim Linden,
 Members Absent: Michael Farley, Vikki Scarafiotti
 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 August 4, 2011 at 10:03 a.m. with Mr. Ghelfi presiding.

Roll Call

Mr. Farley and Ms. Scarafiotti were absent from the hearing, all other board members were present.

B. Agenda: review, consideration and action

1. Restaurant Liquor License No. 12104114- Original Application

Christopher Mark Evenson, Agent
 CME Properties I, LLC
 Chuy's Mesquite Broiler
 8987 E. Tanque Verde Road #335
 Tucson, AZ 85741

The applicant did not appear at the hearing and was not represented by counsel. Principal City Attorney Gioia Sanderson appeared on behalf of the City of Tucson and addressed the Board. Assistant Attorney General Camila Alarcon was present to provide legal advice to the Board. Chairman Ghelfi noted that a request to withdrawal the application was filed by the applicant the day prior to the hearing. There was discussion regarding the filing and a proposal to continue the matter until the original form was filed with the Department. Ms. Alarcon verified that the copy provided to the Board was properly signed and in order. The City of Tucson did not object to the request to withdrawal.

Motion to Withdraw -	DuPont
Seconded -	Linden
Yay -	Ghelfi, DuPont, Carruthers, Cantrell, Linden,
Nay -	None
Abstained -	None
Disposition -	Withdrawal of application granted

2. Bar Liquor License No. 06130022– Person & Location Transfer Application

From:

Robert Warren Flinn, Agent
Flinns Sports Bar & Restaurant LLC
Flinns Sports Bar & Restaurant
5155 Wingfield Road
Rimrock, AZ 86335

To:

James Stephen DuFresne, Agent
Jimmy DuFresne LLC
McGuireville Tavern
2110 E. Beaver Creek Road, Suite 3
Rimrock, AZ 86335

The applicant, Jimmy Stephen DuFresne, appeared at the hearing and was represented by counsel, Nicholas C. Guttilla, who addressed the Board. Yavapai County did not appear at the hearing. Assistant Attorney General Camila Alarcon was present to provide legal advice to the Board. Chairman Ghelfi called to the audience for public protestors and none were present.

Mr. DuFresne was sworn and testified. He stated that he has hired a consultant to develop a security and training plan to ensure compliance. He described his business plan and customer base. Mr. Linden noted a parking issue that was discussed in the materials provided to the Board. Mr. DuFresne described the current parking conditions in relation to the neighboring roads and businesses. Chairman Ghelfi noted that the location had not been in operation for approximately four years and asked how the operation of the business would differ from the previous owner. Mr. DuFresne stated he would be on-premise and will hire experienced bartenders. Chairman Ghelfi noted a concern with cooperation with neighboring businesses that filed protest against the license. Mr. DuFresne ensured he would work with the business owners to address concerns including smoking and parking. Ms. Cantrell asked questions regarding the hours of operation and live entertainment plans.

Ray Selna, landlord, appeared on behalf of the applicant and was sworn and testified. Mr. Selna described the land owned in the area and his relationship with tenants. Last, Mr. Selna stated he had no issue with customers using the parking lot located south of the Tavern. No further statements were made.

During board discussion Mr. DuPont expressed his support for the application. No further comments were made. Mr. DuPont made a motion to grant the license based on the location being previously licensed, the applicant completed the appropriate liquor training program, the applicant hired a consultant to monitor training and compliance with liquor laws, the location has no complaints or filings from the police department and the parking issue was addressed.

Motion to Grant -	DuPont
Seconded -	Carruthers
Yay -	Ghelfi, DuPont, Carruthers, Cantrell, Linden
Nay -	None
Abstained -	None
Disposition -	License granted

3. Beer & Wine Store Liquor License No. 10103610- Original Application

Jorge Omar Silva, Agent
Baja by J&M Enterprises, LLC
Baja Market by J&M
4000 E. 29th Street
Tucson, AZ 85711

The applicant, Jorge Omar Silva, was present at the hearing and was represented by counsel, Thomas Aguilera, who addressed the Board. Principal City Attorney Gioia Sanderson appeared on behalf of the City of Tucson and addressed the Board. Assistant Attorney General Camila Alarcon was present to provide legal advice to the Board. Jorge Silva, Martin Miranda and protestors Mark Mayer, Arturo Gastelum, Ricardo Bravo, David Robles and Shelby Driscoll appeared and were sworn and testified.

Mr. Thomas stated there were no changes to his brief since filing. Ms. Sanderson noted that the brief in support was filed past the deadline. There was discussion regarding the filing of the brief.

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

The Board convened in executive session at 10:33 a.m. and reconvened in open session at 10:35 a.m.

The brief was allowed along with filings by the protestors. Mr. Aguilera noted an objection to the city's participation in the hearing for the record.

Mr. Aguilera described the business and surrounding area in his opening. He stated the city's denial was based on location and saturation. Ms. Sanderson's stated in her opening that the city's denial was based on neighborhood concerns, saturation, incompatibility with the community, and questions regarding the applicant's qualifications. Ms. Sanderson described the wash near the location and neighborhoods. Last, she stated the community does not object to the Baja Market as it stands without liquor sales.

Mr. Mayer addressed the Board with an opening statement and described the 29th Street Corridor Community Coalition and the petition signatures collected.

Mr. Aguilera called upon the applicant as a witness. Mr. Silva described his personal and professional background, the market location, the wash, security, customers, new equipment and future business expansion plans. He further described his efforts to work with City Council regarding the filing of the application.

The Board recessed at 11:20 a.m. and reconvened at 11:34 a.m.

Mr. Silva described his familiarity with the neighborhood, 29th Street, grants awarded and the neighborhood coalition. He also explained the security cameras in relation to the wash, litter in the area, the liquor license application completion process, his criminal past, the current and future employee structure and the layout of the store. Mr. DuPont inquired about the purchase of the business and the location. Mr. Silva explained his business plan, liquor law training plans and experience in restaurant operation.

Mr. Miranda was called upon as a witness and described his personal and professional background, business plan, current customer base, relationship with neighboring residents. He also described his ideas for future growth, liquor law training and underage sale prevention if a license is granted.

The Board recessed at 12:47 p.m. and reconvened at 1:10 p.m.

Ms. Cantrell asked about the loan to start up the business, the neighboring bar, the presence of children at the store, hours of operation and experience with Title 4 laws. Mr. DuPont asked about the business plan if a liquor license is not granted.

Ms. Driscoll was called upon as witness and described her professional experience in social services as a prevention specialist in the area of the proposed location and her work with youth to prevent substance abuse. She read crime statistics related to the area and the risk factors that affect the youth. She stated her support of the store without the sale of alcohol.

Mr. Mayer addressed the Board and explained his opposition to the liquor license application filed and referenced the 34 petition signatures collected. He went into detail about the corridor, wash, schools, existing liquor licenses, criminal activity and demographics in the area. There was discussion regarding the filing of letters of protest and authorization with DLLC and the City of Tucson. Mr. Mayer referenced pictures of the wash, litter and graffiti in the area. Mr. Carruthers further discussed the wash and neighboring liquor establishments.

Mr. Bravo addressed the Board and described his neighborhood and experience with prevention of underage drinking in youth. Mr. Gastelum addressed the Board and explained his activity with the neighborhood, formation of the coalition and crime in the area. Mr. Robles addressed the Board and made statement regarding the letter of authorization requirement, contact with the applicant and his position against the license.

Mr. DuPont made a motion to deny the license based on the applicant's lack of proper training and knowledge of Title 4 liquor laws, concerns regarding the application and questionnaire filed with the Department and lack of communication between the applicant and the neighborhood association and coalition.

Motion to Deny -	DuPont
Seconded -	Cantrell
Yay -	Ghelfi, DuPont, Cantrell, Linden,
Nay -	Carruthers
Abstained -	None
Disposition -	License denied-person

The Board recessed at 3:12 p.m. and reconvened at 3:23 p.m. Ms. Cantrell was absent for the remainder of the hearings.

4. Liquor Store Liquor License No. 09075003- Location Transfer Application

From:	To:
Kim K. Kwiatkowski, Agent Circle K Stores, Inc. Circle K Stores #3374 1103 S. 99 th Avenue Tolleson, AZ 85353	Kim K. Kwiatkowski, Agent Circle K Stores, Inc. Circle K Stores #3404 2410 W. Indian School Road Phoenix, AZ 85015

The applicant, Kim K. Kwiatkowski, appeared at the hearing and was represented by counsel, David Cisiewski. The City of Phoenix did not appear at the hearing. Attorney Paul Gilbert represented the Westwood Community Association protestors. Assistant Attorney General Camila Alarcon was present to provide legal advice to the Board.

Chairman Ghelfi called to the audience for public protestors. The following persons wish to note their opposition for the record (Spanish interpreter Ramon Delgafillo was present): Elvia Romano, Anna Cazarez, Diana Garcia, Julia Garcia, Jesus Garcia, Carlos Martinez, Jesus Caro, Rufina Maldonado, Gabriel Rios, Alfredo Padilla, Sofy Escobar, Adelaida Carreto, Meredith Lopez, Ramon Garcia, Anita Garcia, Raquel Garcia, Edith Nunez, Manuel Salcido, Michelle Jones, Karl Todtenbier, Tammy Stewart, Luis Mendez, Amy Mendez, Alberto Mendez, Monica Perez, Jesus Padilla, David Salcido, Elodia Ortega, Maria Alcantar, Maurieio Ramirez, Marleni Elias, Brenda Ortega, Marcus Ortega, Billy Vides, Teresa Lara, Blanca Mendez, Obispo Carreto, Rigoberto Mendez, Balbir Greival, Jacquelyn Fleck, Luis Fleck, and Jerry Neill.

Mr. DuPont noted for the record that his daughter attended school with Mr. Stevenson's daughter. Chairman Ghelfi also disclosed that he attended school with Mr. Gilbert's son. There being no objection the hearing continued.

The following were sworn for testimony: Susan Peel, Joseph Villaseñor, Scott Stevenson, Philip Hubbard, Filipe Zubia, Charles Wilfong, Donna Neill, Alberto Mendez, Mike Tanner and Scott Quayle.

Mr. Cisiewski addressed the Board and discussed the proposed plan and use for the area, closure of an existing property, zoning, repositioning and the investment to the community. Mr. Gilbert addressed the Board and discussed the existing off-sale liquor licensed establishment, high crime rate, petitions filed and the church and alcohol rehabilitation center in the area.

Ms. Peel, Circle K Real Estate Development Manager, was called upon as a witness and described the proposed project in detail. She discussed the repositioning and strategic plan, improved security and lighting, investment into the community, proximity to the freeway, new food services, physical layout of the new store and neighboring street access. She discussed the neighborhood opposition and meetings with representatives from the community to

address the issues at two specific stores. There was discussion regarding the City's use permit hearing and the enforcement of deed restrictions applied.

The Board recessed at 4:30 p.m. and reconvened at 4:42 p.m.

Mr. DuPont noted that Mr. Hubbard is his great-uncle. There being no objection the hearing continued.

Mr. Stevenson, Arizona Regional Director of Real Estate Development, was called upon as a witness and described his position with Circle K and the proposed project. He explained their position in high crime areas, security measures, proposed training and office space, store closure process including deed restrictions and Circle K's operation history. Chairman Ghelfi noted that this hearing is in regards to location only and Mr. Gilbert noted his objection for the record. There was more discussion regarding security, crime, neighborhood opposition, deed restrictions and accessibility to the freeway.

The Board recessed at 5:15 p.m. and reconvened at 5:21 p.m.

Mr. Villaseñor was called upon as a witness and described his experience in government affairs and his involvement with the proposed project. He discussed meetings and involvement with the community and Ms. Neill. He explained the community random sample project, community outreach and education, and the sample results. He discussed his involvement in the City's use permit hearing, Board of Adjustment hearing, and the application recommendation hearing. There was discussion regarding opposition and petition signatures filed.

Mr. Hubbard was called upon as a witness and described his experience in government affairs and his role in the proposed project with Circle K. He described his relationship with Mr. and Mrs. Neill and his role in addressing the community opposition through facilitating dialogue and mediation between the parties. He also explained his opinion of their position on Circle K, alcohol sales and the problems affecting the area.

Ms. Neill was called upon as a witness and described the community and her background work with the Westwood Neighborhood Association. She described a former Circle K location, the problems encountered, her lack of trust and ongoing concerns. She testified she supports the proposed Circle K store without a liquor license. She described past liquor license applications that the association has opposed including CVS and 99 Cent Store. She testified that her opposition towards the proposed Circle K was not dropped. She described her communication with local police and the opposition towards the proposed license due to crime. She discussed her relationship with AM/PM. She noted she is not opposing this license due to anti-competitive reasons and would be in opposition if any other convenience store filed for a liquor license application at the same location. She described the effects of alcohol in the community including domestic violence, guns and drugs.

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

The Board convened in executive session at 6:55 p.m. and reconvened in open session at 7:00 p.m.

The Board recessed at 7:00 p.m. and reconvened at 7:08 p.m.

Mr. Linden asked if Ms. Neill had visited one of the new Circle K store locations and her view of the new floor plan. Mr. Carruthers further asked about the opposition towards Circle K, their reputation and alcohol sale regulations. Chairman Ghelfi further asked about AM/PM, her opposition towards other liquor license applications in the area, her trust towards Circle K, and the consequences of a potential empty lot if the license was not granted. Last, Ms. Neill stated she is only in opposition of another liquor license as there are too many licensed establishment in the community.

Mr. Tanner was called upon as a witness and described his business and work with the Westwood Business Alliance. Mr. Tanner stated he doesn't support the proposed liquor license. He described problems with public intoxication near his store. He also described relations between AM/PM, Circle K and the Westwood Business

Alliance. He testified he would oppose a liquor license application at the current AM/PM if given the opportunity and would still oppose the liquor license at the proposed Circle K even if they joined the alliance.

Mr. Quayle was called upon as a witness and described his position as Program Manager at Arizona Pathways, a residential drug and alcohol treatment center, and its proximity to the proposed Circle K store. He described the negative effects an additional alcohol establishment would have on the community and the program. He noted his objection to both AM/PM and Circle K.

Pastor Charles Wilfong was called upon as a witness and noted his opposition towards the proposed Circle K store.

Pastor Mendez was called upon as a witness. His son was available to translate on his behalf.

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

The Board convened in executive session at 7:55 p.m. and reconvened in open session at 7:58 p.m.

Chairman Ghelfi noted a court approved interpreter is required. Mr. Gilbert noted that a court approved interpreter was available but due to budget reasons he was unavailable at this time. Pastor Mendez was asked to identify the church on the map provided. He noted his objection to the proposed liquor license.

Mr. Zubia was called upon as a witness and described his position as a planner and work with the church. He stated he was here to testify at the request of the pastor. He further described the church and its service area. He noted that many of the protestors that noted their objection for the record were parishioners. He described the demographics of the community, zoning and underage drinking. He presented the Board with census information. There was no objection by Mr. Cisiewski. He noted the proximity of the church and playground to the ARCO and proposed Circle K store.

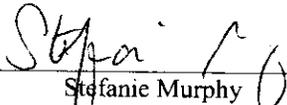
There being no further witnesses, both attorneys made closing arguments. There was Board debate and discussion regarding the testimony and facts presented. After much discussion, Mr. DuPont noted that the applicant's personal qualifications were not contested and the applicant is capable, qualified, and reliable to hold a liquor license and made a motion to deny the license based on the issue of location due to it being a highly stressed area with 27 off-sale locations within a one mile radius which is considered to be four times higher than other neighborhoods in the city of Phoenix, having the highest crime rate in the city of Phoenix and noted the neighborhood association and local businesses work to reduce crime and liquor licenses in the community.

Motion to Deny -	DuPont
Seconded -	Carruthers
Yay -	DuPont, Carruthers, Linden
Nay -	Ghelfi
Abstained -	None
Disposition -	License denied-location

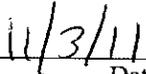
C. Call to the Public

None.

The Board adjourned at 9:16 p.m.



Stefanie Murphy
Administrator of the
Arizona State Liquor Board



Date