



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
 February 2, 2012

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

Members Absent: Jim Carruthers (items D4, D5, E, F, & G)

Counsel Present: Keely Verstegen, Assistant Attorney General
 Christopher Munns, 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 February 2, 2012 at 9:08 a.m. with Mr. Ghelfi presiding.

Roll Call

All board members were present.

B. Election of Chairman and Vice Chairman pursuant to A.R.S. § 4-111(C)

Motion to elect JD Ghelfi as Chairman -Cantrell

Seconded - Farley
 Yay - DuPont, Cantrell, Carruthers, Linden, Farley, Scarafiotti
 Nay - None
 Abstained - Ghelfi
 Disposition - JD Ghelfi elected as Chairman

Motion to elect Mike Farley as Vice-Chairman -Cantrell

Seconded - Scarafiotti
 Yay - Ghelfi, DuPont, Cantrell, Carruthers, Linden, Scarafiotti
 Nay - None
 Abstained - Farley
 Disposition - Mike Farley elected as Vice-Chairman

C. 9:00 a.m. Agenda: review, consideration and action

The Board heard item #2 first.

1. Restaurant Liquor License No. 12078823-Original Application

Araik Khachatryan, Agent
 Arik Company LLC
 Aros Grill
 1606 E. Bell Road, Ste 101-104
 Phoenix, AZ 85022

This matter was continued from the December 1, 2011 hearings and was set for hearing due to Department protest and because the City of Phoenix recommended disapproval of the application. The applicant, Araik Khachatrian, appeared at the hearing and was represented by counsel, Peter Schelstraete. Assistant City Prosecutor Robert Smith appeared on behalf of the City of Phoenix. Assistant Attorney General Keely Verstegen appeared on behalf of the Department of Liquor Licenses and Control. Assistant Attorney General Christopher Munns was present to provide legal advice to the Board. Due to the length of the first hearing and unavailability of the interpreter and witnesses, counsel for the applicant requested a continuance to the next board hearings. There was no objection. Chairman Ghelfi noted that this matter would be the first item heard on the March 5, 2012 hearings.

Motion to Continue -	Carruthers
Seconded -	Farley
Yay -	Ghelfi, DuPont, Cantrell, Carruthers, Linden, Farley, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Continued to the March 5, 2012 hearings

The Board recessed at 1:00 p.m. and reconvened at 1:30 p.m.

The Board proceeded to item #3.

2. Beer and Wine Store Liquor License No. 10103642– Original Application

Khaled Duqmaq, Agent
¡Fiesta! Party Supply & Beverage Outlet
1525 S. 12th Avenue
Tucson, AZ 85706

This matter was set for hearing because the City of Tucson recommended disapproval of the application and due to public protest. The applicant, Khaled Muhammad Duqmaq, appeared at the hearing and was represented by counsel, Thomas Aguilera. Mr. Duqmaq, Lucia Larsen and Kevin Kramber were present at the hearing and were sworn and testified. Assistant City Attorney C. Hay-Mie Cho was present on behalf of the City of Tucson. Rebecca Quintero and Yolanda Herrera were also present at the hearing on behalf of the Sunnyside Neighborhood Association and were sworn and testified. Joe Flores was present on behalf of the Rose Neighborhood Association and did not testify. Assistant Attorney General Keely Verstegen was present to provide legal advice to the Board.

Mr. Aguilera addressed the letter of protest filed by the Rose Neighborhood Association and asked that the letter be precluded as it was filed untimely. There was no objection. Mr. Aguilera next addressed the letter of protest filed by the Southside Neighborhood Association Presidential Partnership (SNAPP) and made a motion to exclude the letter from evidence as the letter of authorization designating a spokesperson which was filed subsequently did not accompany the letter of protest. Chairman Ghelfi allowed the letter and the motion was denied. Mr. Aguilera noted a subpoena issued to the Sunnyside Neighborhood Association and records were not provided to the Board. He noted that Ms. Quintero lives outside the required one mile radius but is authorized to represent the Sunnyside Neighborhood Association.

Ms. Cho acknowledged that she filed the City's response two days after the filing deadline. Mr. Aguilera objected to the timeliness of the response. Chairman Ghelfi allowed the late filing and the objection was noted. Ms. Cho made a motion to have the survey of support stricken from the record and the motion was denied as a witness would provide testimony. Ms. Cho noted that was unclear if Ms. Larsen lived within the required one mile radius. Mr. Aguilera shared pictures with the Board to illustrate improvements made to the establishment and the City did not object. He noted the number of active liquor licenses in the area and addressed concerns regarding saturation and traffic.

Mr. Duqmaq was called as witness and testified. He discussed the purchase of the building, liquor license experience at a convenience store, products and services including paper products, jumping castles, chair rentals and catering services and the business operation plan including services for reunions, weddings, and business functions. He explained his plans for the parking lot, signage, outside displays, partnerships with local business and other improvements to the building. He described this business as a one-stop shop for all party and event needs. Mr.

Duqmaq noted he met with Councilmember Fimbres prior to the City of Tucson hearing and that he and his family met with residents of the houses behind the business. He also explained the name change of the business from Beverage Time to ¡Fiesta! Party Supply and Beverage Outlet. Mr. Duqmaq answered questions regarding residency, business experience, liquor training, alcohol inventory and the floor plans.

The Board recessed at 10:27 a.m. and reconvened at 10:45 a.m.

Ms. Larsen was called as witness and testified. She answered questions regarding the survey of the neighborhood residents and noted there was no objection received. Mr. Kramber was called as witness and testified. He noted that a series 10 license was appropriate for the proposed business.

The City called Ms. Herrera as witness to testify. She stated she is the second Vice-President of Sunnyside Neighborhood Association and discussed her involvement with the association, neighborhood and other boards and committees including Southside Neighborhood Association Presidential Partnership (SNAPP) and the review of liquor license applications in the area. She noted concerns regarding safety, parking, ingress/egress and that the sale of alcohol is inappropriate for this business.

The Board recessed at 11:40 a.m. and reconvened at 11:46 a.m.

Ms. Quintero was called as witness and testified. She discussed her involvement in the community, the Sunnyside Neighborhood Association and other committees. She noted that the Star Academy art school is located within 7 minutes of the proposed liquor license establishment. She discussed the Sunnyside Neighborhood Association review of the proposed liquor license application.

There was Board discussion. Mr. DuPont referenced the Red Tag ordinance and noted the applicant's proactive measures to reach out to other local business to stimulate growth. Mr. Linden noted his appreciation of the neighborhoods work and did not believe saturation was an issue. Mr. Farley stated the location is appropriate. Mr. DuPont made a motion to grant the liquor license based upon the applicant completing the appropriate liquor law training, the applicant currently holds a liquor license with no liquor violations and the location and parking lot have been remodeled and are in compliance with City code for retail establishments.

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

The Board proceeded to item #1.

3. Restaurant Liquor License No. 12078837- Original Application

Judith Ann Guarino, Agent
Elbows
12006 N. 111th Avenue
Youngtown, AZ 85363

This matter was set for hearing due to Department protest. The applicant, Judith Ann Guarino, was present at the hearing and was not represented by counsel. Assistant Attorney General Keely Verstegen and Officer Mario Trevizo were present on behalf of the Department of Liquor Licenses and Control. Assistant Attorney General Christopher Munns was present to provide legal advice to the Board. Town of Youngtown Mayor Michael LeVault, Kenneth Ryan and Ron Chapman were also present at the hearing and were sworn and testified.

Ms. Guarino discussed the history of the purchase of the location and described the proposed business including the layout, seating, hours of operation and work with Officer Trevizo. She explained that a series 12 liquor license was necessary for the success of the business and that a series 6 would not fit the demographics at this location. It was stated that the kitchen equipment was not in place and a dance floor and stage were in existence. Ms. Guarino also noted potential plans to hold live music, karaoke, and off-track betting. She also described the menu and food

preparation using the allowable equipment in accordance with the Health Department. The new menu was distributed to the Board for review. There was discussion regarding preparing certain foods at her other facility and transporting it to the proposed location. There was also discussion regarding the floor plan not meeting the required restaurant criteria and site inspections.

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

The Board convened in executive session to receive legal advice at 2:04 p.m. and reconvened in open session at 2:14 p.m.

Mr. Chapman was called as witness and testified. Mr. Chapman is owner of the location and stated that they would apply for a series 6 if required. He asked if a conditional approval by the Board was an option to allow the applicant to move forward and meet the restaurant requirements.

Mayor LeVault was called as witness and testified. He noted support of the application and a series 12 liquor license at this location by the Town Council. He asked if the Board could grant the license at this time subject to completion of a site inspection. Mayor LeVault also noted that the applicant does not intend to install a fire suppression system to have fryers and open flame equipment and instead plans to only have electrical equipment in the kitchen. He again noted his support of the business in the area.

Mr. Ryan was called as witness and testified. He noted the quality of food and service that would be provided and his support of the liquor license at this location. Mayor LeVault noted that the applicant would likely be in support of a withdrawal versus a denial of the application. Chairman Ghelfi recommended Ms. Verstegen and the applicant discuss the options of a withdrawal and a denial.

The Board recessed at 2:25 p.m. and reconvened at 2:33 p.m.

Ms. Guarino made a motion to withdraw the application. There was no objection.

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

Mr. Carruthers left the hearings.

D. 1:30 p.m. Agenda: review, consideration and action

4. Restaurant Liquor License No. 12078791– Original Application

Paul Daniel Wicher, Agent
Shark Bite, LLC
Dirty Pelican Grill
6718 E. Deer Valley Road #101-104
Glendale, AZ 85310

This application was denied at the December 1, 2011 board hearings and is set for rehearing (de novo). The matter was originally set for hearing due to Department protest and because the City of Glendale recommended disapproval of the application. The applicant, Shark Bike, LLC appeared at the hearing through its counsel, Harvey Yee. The

agent, Paul Daniel Wicher, did not appear at the hearing. Assistant City Prosecutor Paul Li and Detective Mitchell Ervin appeared on behalf of the City of Glendale. Assistant Attorney General Keely Verstegen appeared on behalf of the Department of Liquor Licenses and Control. Assistant Attorney General Christopher Munns was present to provide legal advice to the Board.

Mr. Yee presented his case and noted location is not an issue due to rebuttable presumption. He stated that the applicant does not have the burden of proving public need and convenience at the location. It was noted that the record shows two instances in which location was not an issue being that both the city recommendation and the Department protest didn't raise issue of location and instead listed restaurant criteria and applicant qualification. Mr. Yee stated he would not be presenting anything to the Board regarding applicant qualification or restaurant criteria. Mr. Yee entered into the record that he represents Shark Bite, LLC and the agent, Paul Wicher, is still listed on record as nothing has been filed with the Department with respect to removal of Mr. Wicher. Mr. Farley had questions regarding the current managers of Shark Bite, LLC.

Mr. Li asked if there was any objection regarding restaurant criteria. Mr. Yee stated he would not be presenting any evidence to contest the city's recommendation or the Department's protest. Mr. Li noted that the City raised the issue of hidden ownership had questions regarding applying the denial to Damian Hartz.

Motion to convene in executive

session for legal advice-

Scarafiotti

Seconded -

Linden

Yay -

Ghelfi, DuPont, Cantrell, Linden, Farley, Scarafiotti

Nay -

None

Abstained -

None

Disposition -

Convene in executive session

The Board convened in executive session to receive legal advice at 2:48 p.m. and reconvened in open session at 3:05 p.m.

Mr. Li noted that the city is prepared to present evidence to show that Damian Hartz is a hidden owner and asked permission to submit documentation to the Board and counsel. Mr. Yee did not object. Mr. Li referenced a termination agreement dated November 2011.

Detective Mitchell Ervin was called as witness. Detective Ervin noted his work on the application including conducting a background check and site inspection and attending a State interview with the applicant. Detective Ervin believed Mr. Hartz is a hidden owner and controlling person of the Dirty Pelican Grill as he has access to the business account and was observed conducting business on the premise during a site inspection. During cross examination Mr. Yee referenced articles of amendment filed with the Corporation Commission removing Mr. Hartz. Mr. Li objected to questions regarding the filing process at the Corporation Commission. Mr. Yee objected to Detective Ervin testimony regarding Mr. Hartz presence during the site inspection. There was discussion regarding a sublease. There were no further questions.

In closing statements, Mr. Yee stated there was no evidence of hidden ownership presented. He referenced A.R.S. § 4-202(B) and 4-101 regarding the Director's authority to require Mr. Hartz as a controlling person to submit information. Mr. Li noted the complicate ownership issue at hand and referenced an email submitted by Mr. Yee regarding demonstration of control by Mr. Hartz. He also noted that no evidence was presented today by the applicant. Mr. Li asked that the Board find Mr. Hartz is the owner or a hidden owner and that he is not capable, qualified or reliable to hold a liquor license and deny the license application. Ms. Verstegen noted that the States position is to request the Board deny the liquor license based on restaurant criteria as no evidence was presented. There was Board discussion.

Motion to Deny-Person & Restaurant Criteria -DuPont

Seconded -

Cantrell

Yay -

Ghelfi, DuPont, Cantrell, Linden, Farley, Scarafiotti

Nay -

None

Abstained -

None

Disposition -

License denied based on Person and Restaurant Criteria

5. Restaurant Liquor License No. 12113204- Original Application

Mehmood Mohiuddin, Agent
Hitching Post Gold Canyon LLC
Hitching Post Gold Canyon
6030 S. Kings Ranch Road
Gold Canyon, AZ 85118

This matter was continued from the January 12, 2012 hearings and was set for hearing due to public protest. The applicant, Mehmood Mohiuddin, appeared at the hearing and was represented by counsel, Peter Schelstraete. Muhammad Ziaullah, Thomas Tulloh, Bethany Tulloh, Elaine Jones, Douglas Springer, and Donna Springer were present and sworn. The public protestor, Lori Hlavin, was present at the hearing and was represented by counsel, Kimberly Mooney. Pinal County Supervisor Bryan Martyn, and Douglas Springer were sworn. Assistant Attorney General Keely Versteegen was present to provide legal advice to the Board.

Mr. Mohiuddin was called as witness and testified. He discussed his personal and professional background, liquor law training, previous liquor license experience and a violation at a convenience store. There was discussion regarding a citation for a statute of a chicken, parking issues, floor layout, zoning, daily operation, ownership, entertainment, liquor advertising and the existing liquor license.

The Board recessed at 4:57 p.m. and reconvened at 5:07 p.m.

Supervisor Martyn was called as witness and testified. He noted his professional relationship with the applicant and stated he has never received campaign funds from the applicant. He further discussed the issues with the installation of the chicken statute. Mr. Linden thanked Supervisor Martyn for his services in the US Army. Mr. Springer was called as witness and described the property near the business.

Ms. Hlavin was called as witness and testified. She stated she is a twelve year resident of the area and noted her professional background as part owner of the Firehouse Bar & Grill with Mike Farber. She stated her objections which included the integrity of the applicant and safety issues due to a two lane road with no divider and parking issues onto the sidewalk. She also noted an instance in which the applicant visited her work and made threatening actions to drop the protest and also an attempt to be ran off the road while driving. She stated there are consistencies in the application and documents in court. Lastly, she stated she was concerned with personal safety and not competition. Ms. Cantrell asked why Ms. Hlavin did not protest the existing series 7 license at the establishment. Mr. Farley asked if a police report was filed for the instance described earlier. Chairman Ghelfi asked if Ms. Hlavin called in an anonymous tip.

In closing argument Mr. Schelstraete noted that there was only one protestor in this matter. Ms. Mooney noted concerns regarding safety, the applicant's character and reliability, hidden ownership due to a land transfer, and a threat with civil action. Mr. DuPont made a motion to grant the liquor license application based upon the applicant holding multiple liquor licenses with no liquor violations, completing the appropriate liquor law training, meeting the requirements of the Pinal County Sheriff's Department, location was not an issue and parking issues have been addressed.

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

E. Minutes

Motion to approve the November 17, 2011 executive session minutes -	DuPont
Seconded -	Farley

Yay -
Nay -
Abstained -
Disposition -

Ghelfi, DuPont, Linden, Farley, Scarafiotti
None
Cantrell
November 17, 2011 executive session minutes approved

F. Review and possible action regarding guidelines for letters of authority designating spokesperson pursuant to A.R.S. § 4-201(E)

Mr. DuPont recommended the guidelines be shared with the community for educational purposes and asked that the Board Administrator forward the guidelines to cities and towns to share with neighborhood representatives, council members and attorneys. Chairman Ghelfi proposed eliminating requirement #2 from the guidelines. There was discussion regarding neighborhood associations as interested parties in liquor application hearings. Mr. Farley made a motion to send the guidelines as is, with no changes, to the local governing bodies for comment and include an item on the March agenda.

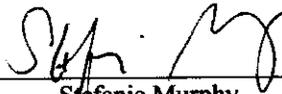
Motion to send guidelines
to local governing bodies-
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Farley
DuPont
Ghelfi, DuPont, Cantrell, Linden, Farley, Scarafiotti
None
None
Guidelines to be sent to local governing bodies and an agenda item will be on the March 5, 2012 hearing agenda.

G. Call to the Public

None.

The Board adjourned at 6:09 p.m.



Stefanie Murphy
Administrator of the
Arizona State Liquor Board

5/7/12
Date