



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 2, 2012

Members Present: J.D. Ghelfi -Chair, Mike Farley -Vice-Chair, Robin Cantrell, Jim Carruthers, Tim Linden
Members Absent: Bill DuPont, Vikki Scarafiotti
Counsel Present: Sarah Selzer, 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 August 2, 2012 at 9:02 a.m. with Mr. Ghelfi presiding.

Roll Call

Mr. DuPont and Ms. Scarafiotti were absent. All other board members were present.

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

1. Restaurant Liquor License No. 12078956- Original Application

Michael D. Vachon, Agent
Mama's House
Sun Valley Bistros, LLC
2394 N. Alma School Road
Chandler, AZ 85224

This matter was set for hearing due to Department protest. The applicant, Michael D. Vachon, appeared at the hearing and was represented by counsel, H.J. Lewkowitz. Assistant Attorney General Sarah Selzer appeared on behalf of the Department of Liquor Licenses and Control. Assistant Attorney General Christopher Munns was present to provide legal advise to the Board. It was noted that a request to continue the matter for two months to the October 4, 2012 meeting was filed. The Department had no objection.

Motion to continue -	Linden
Seconded -	Cantrell
Yay -	Ghelfi, Farley, Carruthers, Cantrell, Linden
Nay -	None
Abstained -	None
Disposition -	Continued to the October 4, 2012 meeting

2. Beer and Wine Store Liquor License No. 10133230S– Sampling Privilege Application

Robert Walter Donahue, Agent
Don’s Smoke Shop
BNR Corporation
903A N. Main Street
Cottonwood, AZ 86326

This matter was set for hearing because the City of Cottonwood recommended disapproval of this application and due to Department protest. The applicant, Robert Walter Donahue, did not appear at the hearing and was not represented by counsel. There was no representation from the City of Cottonwood. Assistant Attorney General Sarah Selzer and Special Investigator Keith Turner appeared on behalf of the Department of Liquor Licenses and Control. Notice of hearing was sent to the applicant and the city via certified mail to the address of record.

Mr. Ghelfi noted that the matter would not be continued and the hearing would move forward. Ms. Selzer made opening statements and noted that they are under the 5,000 square foot requirement and the position of the State is to deny the license based on size requirement.

Mr. Linden made a motion to deny Liquor License No. 10133230S based on the applicant not being present at the hearing and the location does not meet the 5,000 square foot requirement.

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

3. Bar Liquor License No. 06070684- Person Transfer Application

John Leighton McCormick, Agent
Leighton Steele LLC
Chopper John’s
2547 E. Indian School Road
Phoenix, AZ 85016

This matter was continue from the June 7, 2012 hearings and was set for hearing due to Department protest. The applicant, John Leighton McCormick, was present at the hearing and was represented by counsel, Peter Schelstraete. Francie Meadors was also present and was sworn and testified on behalf of the Applicant. Assistant Attorney General Sarah Selzer and Officer Mary Jaramillo appeared on behalf of the Department of Liquor Licenses and Control.

Mr. Schelstraete made opening statements. Ms. Meadors was called as witness and testified. She discussed her personal and professional background, relationship with the Applicant and ownership of the business. She stated that the Applicant helped her get the business started and discussed finances, operating plan, applicant’s criminal history, and the liquor application process. There was discussion regarding a newspaper article that listed the Applicant as the owner of the establishment. During cross examination, Ms. Selzer asked additional questions regarding the finances to start the business, profits and management. Mr. Ghelfi stated that this appeared to be a partnership. He asked additional questions regarding the Applicant’s DUI charge and an agreement to sell to business. Mr. Carruthers asked if the agreement was in writing and Mr. Farley asked they had retained an attorney to form the LLC.

Mr. McCormick was called as witness and testified. He discussed his personal background, relationship with Ms. Meadors, business purchase processed, criminal history and a meeting with Officer Jaramillo. There was discussion regarding documents provided and false information. Ms. Selzer asked if the Applicant discussed the DUI with the broker or the Department at the time of application and asked if he acted as manager at the business.

Officer Jaramillo was called as witness and testified. She discussed the investigation, criminal history and stated that the Applicant was a convicted felon at the time of applications. She further stated that the Applicant did not comply with a subpoena for records and there were missing tax documents and limited bank statements provided.

The Board recessed at 10:45 a.m. and reconvened at 10:57 a.m.

There was discussion regarding the questionnaire and fingerprinted filed. Mr. Schelstraete asked Officer Jaramillo was asked if there were any discrepancies in the Applicant's testimony and if he was cooperative and Ms. Selzer noted an objection. There were questions regarding the bill and sale, ownership, finances, repayment, criminal history and hidden ownership.

Mr. Schelstraete and Ms. Selzer made closing statements and there was Board discussion. Mr. Farley made a motion to convene in executive session to receive legal advice.

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

The Board convened in executive session at 12:07 p.m. and reconvened in open session at 12:23 p.m.

Mr. Ghelfi stated that the Board had discretion to continue the matter for thirty days to allow the parties to work out a consent agreement. Mr. Munns clarified that a consent agreement was an available option and had not been voted on or decided in executive session. Mr. Farley and Mr. Linden agreed with the option. Mr. Farley made a motion to continue the matter to the September 6, 2012 meeting.

Motion to continue -	Farley
Seconded -	Carruthers
Yay -	Ghelfi, Farley, Carruthers, Cantrell, Linden
Nay -	None
Abstained -	None
Disposition -	Continued to the September 6, 2012 meeting

Ms. Selzer asked if a report was required. Mr. Ghelfi stated that no testimony would be heard in September.

4. Restaurant Liquor License No. 12078932- Original Application

Naveen Fahmi Ali, Agent
Navoona Corp
Gus's New York Pizza & Bar
13824 W. McDowell Road #A100
Goodyear, AZ 85395

This matter was continue from the May 7, 2012 and June 7, 2012 hearings and was set for hearing due to Department protest and because the City of Goodyear forward the application with no recommendation. The applicant, Naveen Fahmi Ali, was present and was represented by counsel, H. J. Lewkowitz. Mohammed Ali, Leighton Small, Shireen Ali and Berenice Montero appeared as witnesses and were sworn and testified. Assistant Attorney General Sarah Selzer and Special Investigator Antonio Ribera appeared on behalf of the Department of Liquor Licenses and Control. Detective Greg Garner of the City of Goodyear was also present. Investigator Ribera and Detective Garner were sworn and testified.

The Board recessed at 1:47 p.m. and reconvened at 2:11 p.m.

Mr. Carruthers made a motion to grant Liquor License No. 12078932 based on the a lack of evidence regarding the allegations of hidden ownership, the applicant had completed the appropriate liquor law training, the applicant had management experience with no violations and location was not an issue.

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

5. Restaurant Liquor License No. 12104168- Original Application

Oscar Rembao, Agent
Chickenuuevo
OSSO, LLC
4820 S. 6th Avenue
Tucson, AZ 85714

This matter was continued from the July 12, 2012 hearings and was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The applicant, Oscar Rembao, appeared at the hearing and was not represented by counsel. Dewey Zufelt was present at the hearing and was sworn and testified on behalf of the applicant. Assistant City Prosecutor Stacy Stauffer appeared on behalf of the City of Tucson. Protestor Yolanda Herrera was present on behalf of the Sunnyside Neighborhood Association. There was no interpreter present.

Ms. Ghelfi made a motion to convene in executive session to receive legal advice.

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

The Board convened in executive session at 3:55 p.m. and reconvened in open session at 4:02 p.m.

Mr. Ghelfi made a motion to continue the matter for two weeks to August 20, 2012 and designate a three member panel at the hearing pursuant to A.R.S. § 4-111(D).

Motion to continue -	Ghelfi
Seconded -	Cantrell
Yay -	Ghelfi, Farley, Carruthers, Cantrell, Linden
Nay -	None
Abstained -	None
Disposition -	Continued to August 20, 2012

C. 1:00 p.m. Agenda: review, consideration and action

6. Liquor Store Liquor License No. 09078000- Person and Location Transfer Application

From:

Raymond Haw Klemp, Agent
AZ Wine Co.
AZ Wine Company Paradise Valley Wine Outlet LLC
2515 N. Scottsdale Road #15
Scottsdale, AZ 85257

To:

Nicholas Carl Guttilla, Agent
WinCo Foods #115
WinCo Foods, LLC
5023 W. Peoria
Glendale, AZ 85302

This matter was set for hearing due to public protest. The agent, Nicholas Carl Guttilla, was present and represented himself at the hearing. Josh Harris, Gordon Keig, Mark Lavin, Rudy Morfin, Robert Rhodes and Amanda Garrett appeared as witnesses and were sworn and testified. Public protestors Mary Savchick, Elizabeth Savchick, Kathy Wheeler, Gene Oyler, Kathleen Duffy, Robert Rosen and Marlene Rosen were also present at the hearing and were sworn and testified. Mr. Guttilla's motion in limine was denied.

Mr. Farley made a motion to grant Liquor License No. 09078000 based on rules in place to prevent the sale of alcohol to minors, the City of Glendale reviewed the application and recommended approval, a security system will be in place at the location, the applicant has no violations and the applicant met public requests.

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

D. Board training from Assistant Attorney General Sarah Selzer regarding HB2606 and changes to Title IV.

Mr. Farley made a motion to continue the training to the September 6, 2012 meeting.

Motion to continue -	Farley
Seconded -	Linden
Yay -	Ghelfi, Farley, Carruthers, Cantrell, Linden
Nay -	None
Abstained -	None
Disposition -	Continued to the September 6, 2012 meeting

E. Call to the Public

None.

The Board adjourned at 6:05 p.m.

DENISE BALE FOR

Stefanie Murphy
Administrator of the
Arizona State Liquor Board

6/13/13
Date