



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
 November 1, 2012

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

Members Absent: Vikki Scarafiotti

Counsel Present: Sarah Selzer, 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 November 1, 2012 at 9:07 a.m. with Mr. Ghelfi presiding.

Roll Call

Ms. Scarafiotti was absent. All other board members were present.

B. Agenda: review, consideration and action

1. Restaurant Liquor License No. 12078956 - Original Application

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

This matter was continued from the August 2, 2012, and October 4, 2012 hearings and was set for hearing due to Department protest. The Applicant was not present and was represented by counsel, H.J. Lewkowitz. Mr. Lewkowitz explained that the City of Chandler recommended approval of the series 6 liquor license and when that license is issued, he will file a withdrawal of this application. Ms. Selzer stated the Department's protest was based on the series 12 application.

Motion to continue to December - Farley
 Seconded - Linden
 Yay - Farley, Linden, Carruthers, Ghelfi, DuPont, Cantrell
 Nay - None
 Abstained - None
 Disposition - Continued to the December 2012 hearings

2. Restaurant Liquor License No. 12083472 - Original Application

Timothy Allen Curry, Agent
The Tack Shed Saloon & Eatery
The Tack Shed Saloon & Eatery Inc.
2829 Beverly Avenue
Kingman, AZ 86409

This matter was set for hearing due to Department protest. The Agent, Timothy Allen Curry, was present and was not represented by counsel. Mr. Curry stated he wished to withdraw the application. Ms. Selzer stated the Department did not object to the withdrawal. The hearing was continued to the end of the agenda to allow Mr. Curry time to file an application withdrawal with the Department.

3. Beer and Wine Store Liquor License No. 10073969 - Agent Change/Acquisition of Control

Charles Patrick Halder, Agent
Ozark Market
Bodega, Inc.
3202 W. Buckeye Road
Phoenix, AZ 85009

This matter is set for hearing because the City of Phoenix recommended disapproval of this application. The Applicant, Charles Patrick Halder, was present and was represented by counsel, Harvey Yee. Mr. Halder was sworn and testified. Assistant City Prosecutor Nathan Watts appeared on behalf of the City of Phoenix.

Mr. Yee discussed the process in which the City Council accepted the protest letter outside the posting period. Mr. Yee called his witness, Charles Patrick Halder. Mr. Halder described the inspections conducted by the Department of Liquor Licenses and Control, Maricopa County Environmental Services, and Tobacco Compliance. Mr. Halder has attended liquor training and has submitted his certificate to the Department. In the four months that he has owned the company he has had no violations.

Mr. Watts asked the Applicant if he is the only person who operates the store. Questions from the Board concerned the terms of the agreement with the former owner and how he financed the purchase. Mr. Halder worked for 7-11 in California and received his training from 7-11.

Mr. Dupont made a motion concerning Liquor License #10073969: I move that we find the Applicant is capable, qualified and reliable as required by A.R.S. § 4-203(A) and that the Board grant this Application for Transfer based upon the following facts: he does have his training, he has gone through a CUB screening and was successful, he has been tested by the County for the tobacco laws and was successful, the Health Department passed, the staff of Phoenix recommended passage of this license, and the person has five years of experience and has had the training. Therefore, I ask that we do issue the license.

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

The Board proceeded to item #2.

2. Restaurant Liquor License No. 12083472 - Original Application

Timothy Allen Curry, Agent
The Tack Shed Saloon & Eatery
The Tack Shed Saloon & Eatery Inc.
2829 Beverly Avenue
Kingman, AZ 86409

Mr. Curry had completed his application to withdraw and there being no Department protest, Mr. Ghelfi asked for a motion to accept the Applicant's withdrawal of application.

Motion to accept withdrawal -	DuPont
Seconded -	Farley
Yay -	DuPont, Farley, Linden, Cantrell, Ghelfi, Carruthers
Nay -	None
Abstained -	None
Disposition -	Withdrawal granted

The Board proceeded to item #4.

4. Beer and Wine Store Liquor License No. 10076137 - Agent Change/Acquisition of Control

Silvana Moussa, Agent
Henry Co Market
Henry & Company Market LLC
1346 W. Roosevelt Street
Phoenix, AZ 85007

This matter was set for hearing because the City of Phoenix recommended disapproval of this application. The Applicant, Silvana Moussa, appeared at the hearing and was represented by counsel, Harvey Yee. Bassam Abdull-Fattah, the current owner, and Robbie Abdull-Fattah were sworn and testified on behalf of the Applicant. Assistant City Prosecutor Robert Smith appeared on behalf of the City of Phoenix. Beatrice Moore and Louisa Stark were sworn and testified on behalf of the City of Phoenix.

Mr. Yee called the Applicant to testify. Silvana Moussa is a 30 year old preschool teacher. She is not working at the store at this time because she is taking maternity leave. Mr. Smith asked why she purchased the business, what prior experience she has in operating a store of this nature and when she completed her liquor law training. Ms. Moussa stated her father-in-law, Bassam Abdull-Fattah, is ill and cannot operate the store. She wants to keep the business. Mr. Smith also addressed the concerns of the protestors. Mr. Yee asked the Applicant about the protestors' complaints and to describe her prior liquor experience, which occurred in Lebanon during her college years. Ms. Moussa has never been arrested or fined.

Mr. Yee called his next witness, Robbie Abdull-Fattah, who is Ms. Moussa's husband and the store's manager. Mr. Yee asked him to explain the issues raised by the protestors. Mr. Abdull-Fattah started working for his father in the store when he was twelve years old. He has never been arrested. Mr. Smith questioned about the concerns of the protestors. Questions from the Board concerned intoxicated people hanging around the store, calls to the police department and whether there is a letter of trespass on record with the police department. When asked why his wife applied for the license instead of him, he answered that he was going through foreclosure and wanted to protect her.

Mr. Yee called Bassam Abdull-Fattah. Mr. Abdull-Fattah purchased a series 9 license as a partnership in 1986 and later bought out his partner in 1994. In 2011, he switched the license to a series 10 and there have been no violations. Mr. Smith asked about the decline in business and why Mr. Abdull-Fattah is selling. There was a potential buyer in 2009, but the sale did not go through. Mr. Abdull-Fattah suffered a heart attack in 2010 and decided to give the store to his son. The Board's questions concerned ownership, what Mr. Abdull-Fattah would do if his daughter-in-law is not granted the license, and the reasons for the large number of police calls to that location.

Mr. Smith called his first witness, Beatrice Moore. Ms. Moore represents Grand Avenue Merchants Association (GAMA). She was asked to discuss the management of the store as it relates to the capability, qualification and reliability of Ms. Moussa and her management. Ms. Moore testified that there have been 1,030 calls for police service at this location in the last ten years. Mr. Yee asked Ms. Moore if she checked the disposition of the calls for police service. The Board asked about the sale of spice, neighborhood decline, and homeless individuals hanging out near some of the businesses.

The Board recessed from 10:43 a.m. to 11:01 a.m.

There was Board and counsel discussion regarding the witness testimony and Board questions turning a location issue into a capability, qualification and reliability issue. Mr. Smith called his second witness, Louisa Stark. Ms. Stark is a 30 year resident of the F.Q. Story Neighborhood. Ms. Stark discussed the capability, qualifications and reliability of Ms. Moussa and the concerns of the neighborhood. The Board asked Robbie Abdull-Fattah about the sale of spice.

Mr. Yee and Mr. Smith delivered closing arguments. There was Board discussion. Mr. Farley made a motion concerning Beer and Wine Store Liquor License No. 10076137: I move that we find the Applicant capable, qualified and reliable as required by Section 4-203 for License No. 10076137 based on the fact that she has taken the courses required, the establishment has been in existence for a long time, it has not had violations filed against it, that I believe she will be able to work with the neighborhood and improve the concerns of the folks that live in that neighborhood.

Motion to approve the application - Farley
Seconded - Carruthers
Yay - Farley, Carruthers, Ghelfi
Nay - DuPont, Cantrell, Linden
Abstained - None
Disposition - Motion fails

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

The Board convened in executive session at 11:50 a.m., recessed and reconvened in open session at 12:10 p.m.

Mr. Ghelfi stated the motion failed and the Board will continue debate. He described three possible outcomes from today's hearing. The Applicant may withdraw the application; the Board may approve the application; or the Board may deny the application. All of those actions require a 4-2 vote. There was Board discussion regarding the Applicant's lack of store experience; the Applicant has met the minimum requirements; problems with the neighborhood reflect on store management; and store management will not change whether the application is approved or denied. Members maintained their positions.

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

The Board convened in executive session at 12:30 p.m. and reconvened in open session at 12:38 p.m.

Mr. Farley posed a question to the members who voted nay and no one changed their position. Mr. Ghelfi described a fourth outcome from today's hearing since the other three outcomes were not possible. The Board will continue this hearing one month. Ms. Scarafiotti will review the transcript in its entirety and the full Board of seven will vote on the application next month. Mr. Ghelfi clarified that there would be no new testimony and no new protests, just the vote.

Motion to continue to December - Farley
Seconded - Carruthers
Yay - Farley, Carruthers, Linden, DuPont, Cantrell
Nay - Ghelfi
Abstained - None
Disposition - Continued to the December 2012 hearings

C. 2013 Hearing Schedule

Motion to approve 2013
Hearing Schedule - DuPont
Seconded - Cantrell
Yay - DuPont, Cantrell, Linden, Ghelfi, Carruthers, Farley
Nay - None
Abstained - None
Disposition - Hearing Schedule approved

D. Delegation of Authority to Board Administrator

Mr. Ghelfi noted that this is a formal delegation of authority to Ms. Murphy. Mr. Farley made a motion to approve and Mr. Carruthers seconded. Mr. DuPont moved to amend the motion and add #3 maintain transcripts. Mr. Farley and Mr. Carruthers agreed to the amendment.

Motion to approve Delegation of
Authority to Board Administrator - Farley
Seconded - Carruthers
Yay - Farley, Carruthers, DuPont, Cantrell, Linden, Ghelfi
Nay - None
Abstained - None
Disposition - Delegation of Authority approved

E. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

None.

F. Call to the Public

None.

The Board adjourned at 12:50 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date