



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
October 4, 2012

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

Members Absent: Michael Farley – Vice-Chair

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 October 4, 2012 at 9:01 a.m. with Mr. Ghelfi presiding.

Roll Call

Mr. Farley was absent. All other board members were present.

B. Agenda: review, consideration and action

1. Beer and Wine Store Liquor License No. 10076256 - Original Application

Rogelio Sotelo, Agent
Mission Market
1042 N. 26th Street
Phoenix, AZ 85008

Subsequent to this matter being scheduled for hearing, the applicant, Rogelio Sotelo, filed a withdrawal of the application with the Department of Liquor Licenses and Control. This matter was continued from the September 6, 2012 hearing and was set for hearing because the City of Phoenix recommended disapproval of this application and due to Department protest. Assistant Attorney General Sarah Selzer appeared on behalf of the Department of Liquor Licenses and Control. No other parties were present. There being no application before the Board, the hearing was cancelled and the Board proceeded to item #2.

2. 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

Subsequent to this matter being scheduled for hearing, the applicant filed a request to continue. This matter was continued from the August 2, 2012 hearings and was set for hearing due to Department protest. There is an interim permit in place at this location. The applicant, Michael Vachon, was present and represented by counsel, H.J. Lewkowicz. Mr. Lewkowicz explained that the City of Chandler is in the process of considering the series 6 liquor license and when that license is issued, he will file a withdrawal of this application. Assistant Attorney General Sarah Selzer appeared on behalf of the Department of Liquor Licenses and Control. Assistant Attorney General Chris Munns, from the Solicitor General's Office, was present and available to provide independent legal advice to the Board.

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

3. Beer and Wine Store Liquor License No. 10076264 - Original Application

Mi H. Yi, Agent
New Star Market
MIJOO, LLC
2101 W. Adams Street
Phoenix, AZ 85009

This matter was continued from the September 20, 2012 telephonic hearing attended by Mr. Ghelfi, Mr. DuPont, Ms. Cantrell and Mr. Linden. This matter was set for hearing due to public protest. There is an interim permit in place at this location. The applicant, Mi H. Yi, was present at the hearing and was represented by counsel, Harvey Yee. Mee Sook Kendall was present to interpret for the applicant and was sworn. Joo H. Yi appeared as a witness and was sworn and testified on behalf of the Applicant. Mr. Yee qualified the interpreter for the Board.

Mr. Ghelfi asked the applicant to address how she plans to handle vagrants on the property since this was an issue that had been raised. Ms. Yi described an incident that occurred. There were Board questions to the applicant and Mr. Yi about cooperation with local police. Mr. Yee submitted the basic and management liquor law training certificates for Mr. Yi. Ms. Yi and Mr. Yi testified that one of them is always at the store when it is open.

Mr. Ghelfi asked if anyone in the audience as it relates to this matter was present due to public protest. Brigitte Schneider, Deborah Mateen, Marja Rovala came forward.

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

The Board convened in executive session at 9:25 a.m. and reconvened in open session at 9:30 a.m.

Mr. Ghelfi asked if any of the protestors are related to Mr. Les Huff, the public protestor of this matter. No one was related. Mr. Ghelfi explained the law as it pertains to public protestors in these hearings and stated that they are not valid protestors and cannot participate in the hearing. Mr. Yee did not object. Mr. Yee responded to the issues raised by Mr. Huff.

There was Board discussion. Mr. Linden made a motion in regards to Liquor License No. 10076264: I move that we find the applicant is capable, qualified and reliable as required by A.R.S. § 4-203 based on the facts of years of experience in the business, cooperation with the local police department, that the applicant and management and employees have had training, that the City of Phoenix recommended approval, and the fact that the location is not an issue, I move that we grant this application.

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

4. Beer and Wine Store Liquor License No. 10103661 - Original Application

Jerry Andrew Lazur, Agent
 Z Market LLC
 Z Market
 2795 N. First Avenue
 Tucson, AZ 85719

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The applicant, Jerry Andrew Lazur, was present. Assistant City Attorney Stacy Stauffer appeared on behalf of the City of Tucson. There were no public protestors present at the hearing. Peter Schelstraete, the attorney of record in this case, withdrew as counsel.

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

The Board convened in executive session at 9:40 a.m. and reconvened in open session at 9:42 a.m.

Mr. Ghelfi described the applicant's two options of proceeding without an attorney or continuing the hearing until he can obtain legal counsel. Mr. Lazur decided to represent himself and was sworn. He stated he has 528 signatures in favor of the application. Mr. Ghelfi asked Mr. Lazur to describe his liquor law training, experience dealing with alcoholic beverages, and efforts to work with the neighbors. Mr. Lazur discussed the liquor license held by Circle K at this location before it moved. Ms. Stauffer asked about Mr. Lazur's prior experience.

Ms. Stauffer submitted on the record. She stated the City's concerns are the number of liquor licenses in the area and the protestors do not want another license in their neighborhood. There was Board debate and questions about the number of liquor licenses within the one mile radius of the location, the Circle K agreement with the City of Tucson, and the capability, qualification and reliability of the applicant.

Mr. Linden made a motion in regards to Liquor License No. 10103661: I move that we find the applicant is capable, qualified and reliable as required by A.R.S. § 4-203 based on the facts that he has had training; he is in compliance with Planning and Development and Finance; that he has had minimal, but some experience in dealing with alcoholic beverages; and the public convenience does require and that the best interest of the community will be substantially served by granting this application. Mr. Ghelfi asked if Mr. Linden would amend his motion to include 528 signatures that were submitted in support of the application. Mr. Linden agreed to the amendment.

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

5. Beer and Wine Store Liquor License No. 10103658 - Original Application

Raj Agarwal, Agent
R&D Union Inc.
R&D Union
4701 E. 29th Street
Tucson, AZ 85711

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The applicant, Raj Agarwal, was present and was not represented by counsel. Assistant City Attorney Stacy Stauffer appeared on behalf of the City of Tucson.

The Board recessed from 10:32 a.m. to 10:52 a.m.

Mr. Ghelfi explained the concerns of proceeding without legal counsel. Mr. Agarwal decided to represent himself. Mike Ramer appeared as a witness and was sworn and testified on behalf of the Applicant. Shelby Driscoll appeared as a witness and was sworn and testified on behalf of Our Family Services, Inc.

Mr. Agarwal described his experience with holding a liquor license. He has owned and operated a gas station for over nine years. During his ownership there has been one liquor violation. Mr. Agarwal and his wife manage the gas station and store. Both of them have completed Basic and Management liquor law training. Mr. Agarwal stated having a liquor license at his store would be a convenience for community members who currently walk one mile roundtrip to purchase beer or wine. He described his efforts to work with the neighborhood association. Board questions concerned the underage sale violations; one that occurred in 2004 at Mr. Agarwal's gas station and two that occurred at two 7-11 Stores he operated in the 1990's. The Board asked about security systems, preventing underage sales, ID verification, and hours of operation.

Mike Ramer has lived in the neighborhood for 50 years. He is involved with the Meyers Neighborhood Association and publishes a newsletter for the neighborhood. He described the contributions the Applicant makes in the neighborhood and discussed his concerns about small stores having to compete with large corporations holding liquor licenses. The Board asked about the number of liquor licenses in the area.

Stacy Stauffer cross-examined the Applicant regarding violations, ID verification, beer sales and donations to the neighborhood association. Ms. Stauffer waived an opening statement and called Shelby Driscoll as a witness. Ms. Driscoll works as a prevention specialist for Our Family Services, Inc. She works with Making a Change Youth Coalition to prevent youth substance abuse. Her office is 0.2 miles from the proposed license location. She cited 2010 Arizona youth alcohol statistics and why the Coalition wants to decrease visibility and availability of alcohol in an area that is saturated with liquor licenses. The Board asked about the surrounding neighborhood associations and the number of liquor licenses within one mile of the proposed location.

Ms. Stauffer presented her closing argument. There was Board discussion about local companies donating to the community, the number of liquor licenses in the area, previous violations, community education, and building relationships between businesses and neighborhoods.

Ms. Scarafiotti made a motion regarding Liquor License No. 10103658: I move that we find that the Applicant is capable, qualified and reliable as required by A.R.S. § 4-203 based on past history of having a liquor license and having the necessary qualification and training; and his history with enforcing the liquor rules; and I move that we find the public convenience requires and the best interest of the community is met and will be substantially served by granting a liquor license to this location also required by A.R.S. § 4-203 based on the information provided before us regarding the history of running a business in the community; secondly, the additional technology and instruments for oversight of the liquor sales for underage participants or consumers, and on those qualifications, I move that the Board grant this application.

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

C. Training - Motion Practice

Assistant Attorney General Christopher Munns provided training regarding motion practice during administrative proceedings and answered questions from the Board.

D. Training - Title 4 Changes

Assistant Attorney General Sarah Selzer provided training regarding HB2606 and changes to Title IV and answered questions from the Board.

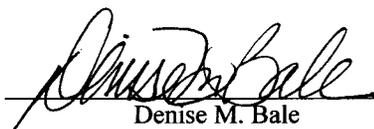
E. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

None.

F. Call to the Public

None.

The Board adjourned at 1:10 p.m.


Denise M. Bale
Administrator of the
Arizona State Liquor Board


Date