



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
 September 6, 2012

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

Members Absent: None

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 September 6, 2012 at 9:04 a.m. with Mr. Ghelfi presiding.

Roll Call

All board members were present.

B. Agenda: review, consideration and action

1. Restaurant Liquor License No. 12079074 - Original Application

Wendi Lynn Kurth, Agent
 AOS, LLC
 Shogun
 12615 N. Tatum Boulevard
 Phoenix, AZ 85032

This matter was set for hearing because the City of Phoenix recommended disapproval of this application and because the Department of Liquor Licenses and Control ("Department") is protesting the application. There is an interim permit in place at this location. Subsequent to this matter being scheduled for hearing, the Applicant filed a request to withdraw the application. The Applicant was not present and was not represented by counsel. Assistant City Prosecutor Robert Smith appeared on behalf of the City of Phoenix. Assistant Attorney General Sarah Selzer appeared on behalf of the Department. There was no objection to a withdrawal of the application.

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

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

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

This matter was set for hearing due to public protest; however, it is not on the agenda. Mr. Ghelfi apologized for the error and explained that he would invoke A.R.S. § 4-111(D), designating a panel of three members to hear the case telephonically on September 20, 2012. Mr. Ghelfi stated the Applicant and the public protestor will receive an amended notice.

Motion to continue the hearing to September 20, 2012 -	Farley
Seconded -	Cantrell
Yay -	Farley, Cantrell, DuPont, Carruthers, Ghelfi, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Hearing continued to September 20, 2012

The Board proceeded to item #2.

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

Francie Ann Meadors, Agent
Chopper John's
2547 E. Indian School Road
Phoenix, AZ 85016

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

This matter was continued from the June 7, 2012 and 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, John Leighton McCormick, was present at the hearing and was represented by counsel, Peter Schelstraete. Assistant Attorney General Sarah Selzer appeared on behalf of the Department. The Board heard extensive testimony at its last hearing and continued the matter in order for the parties to reach a resolution. The resolution is an imposition of a \$5,000 fine and a plea to a violation of A.R.S. § 4-203(F). The Applicant agrees with the resolution and it is acceptable to the Department.

Mr. Linden made a motion regarding Person Transfer Application for Bar Liquor License No. 06070684. We find that the Applicant is capable, qualified and reliable based on the fact that he has been managing the establishment with no violations, that he has had training, that he has worked with the Department to resolve any issues that were present at the last Board hearing, and that location was not an issue. We find the Applicant is capable, qualified and reliable as required by A.R.S. § 4-203 and that the Board grant the application.

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

The Board proceeded to item #4.

4. Beer and Wine Store Liquor License No. 10076281 - Original Application

Lauren Kay Merrett, Agent
3 A Petroleum, LLC
3 A Food Store
2045 S. 7th Avenue
Phoenix, AZ 85007

This matter was set for hearing because the City of Phoenix recommended disapproval of this application. The Agent, Lauren Kay Merrett, was not present at the hearing. The Applicant, Saleema Barkat Somani, was present and was represented by counsel, Harvey Yee. Assistant City Prosecutor Robert Smith and Detective Michael Ballentine appeared on behalf of the City of Phoenix. Mr. Smith explained the basis for the City's recommendation and how the City has resolved the issues with the Applicant. Mr. Yee concurred with Mr. Smith's explanation.

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

The Board convened in executive session at 9:22 a.m. and reconvened in open session at 9:26 a.m.

Mr. Ghelfi discussed A.R.S. § 4-201(E). Mr. Smith and Mr. Yee commented on the Board's interpretation of the statute. There were questions and discussion from the Board.

Ms. Somani and Det. Ballentine were sworn. Ms. Somani testified that her father-in-law gifted the money to her to open the business. Akbar Rajwani was sworn and testified on behalf of the Applicant. He testified that his father gifted the money to his wife and that he has no money invested in 3 A Food Store. Mr. Rajwani has owned a similar store since October 2004 and has no violations. The Board called Det. Ballentine as witness. Det. Ballentine testified that he would have issued a no recommendation to the City Council, which is the equivalent of no contest, if he had received the requested documentation from the Agent prior to the City Council hearing.

Mr. DuPont made a motion regarding Liquor License No. 10076281: I move that we find the Applicant has training, has experience in similar type operations since 2004, that she has met the questions and concerns of the City Council showing that the father-in-law gifted the money for the opening operations of the business; I move that we find the Applicant is capable, qualified and reliable as required by A.R.S. § 4-203, the location is not contested and that the Board grant the application.

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

The Board proceeded to item #3.

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

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

This matter was set for hearing because the City of Phoenix recommended disapproval of this application and due to Department protest. There is an interim permit in place at this location. The Agent, Rogelio Sotelo, was present and

not represented by counsel. Assistant City Prosecutor Esteban J. Gomez appeared on behalf of the City of Phoenix. Assistant Attorney General Sarah Selzer and Investigator Mary Jaramillo appeared on behalf of the Department. Inv. Jaramillo informally interpreted for Mr. Sotelo. Mr. Sotelo stated that he wanted to withdraw his application. Mr. Ghelfi requested that the Board grant a continuance in order for the Applicant to obtain an interpreter and file a withdrawal form with the Department.

Motion to continue hearing to the October meeting -	Carruthers
Seconded -	Farley
Yay -	Carruthers, Farley, Linden, DuPont, Ghelfi, Cantrell, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Hearing continued to October meeting

The Board proceeded to item #5.

6. Restaurant Liquor License No. 12079123 - Original Application

James Chaebung Chung, Agent
Eastwind
13637 N. Tatum Boulevard, Suite #30-A
Phoenix, AZ 85032

This matter was set for hearing because the City of Phoenix has forwarded this application with no recommendation. The Applicant, James Chaebung Chung, was present and was represented by counsel, Jerry Lewkowitz. Mr. Chung was sworn and testified. Mr. Chung purchased the restaurant in May 2012. He has five years experience in operating a Japanese restaurant. He has completed training and will have his employees trained. He is selling beer and wine on a Series 7 interim permit and averages 3% of total sales in beer and wine. He applied for the Series 12 and plans to keep the Series 7. The Board questioned Mr. Chung about managing his convenience store in Casa Grande and this restaurant.

There was Board discussion. Mr. DuPont made a motion regarding Liquor License No. 12079123: I move based on the Applicant's training, based on the Applicant's experience at three locations, that the Applicant has undergone the training in both liquor and has received current tobacco training also to address the concerns of the Mayor and Council, 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 the application. As to the location, it currently or has been licensed at this location.

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

The Board recessed from 10:24 a.m. to 1:00 p.m.

C. 1:00 P.M. Scheduled Agenda: review, consideration and action

The Board proceeded to item #6.

7. Bar Liquor License No. 06100094 - Person Transfer Application

Carlton Edwin Van Gorder, Agent
Whiskey Pete's, LLC
Mint
3540 E. Grant Road
Tucson, AZ 85716

Kevin Arnold Kramber Agent
Wild Boys #1, LLC
Mint
3540 E. Grant Road
Tucson, AZ 85716

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. There is an interim permit in place at this location. The agent, Kevin Arnold Kramber, and the Applicants, Ricardo Garcia and Chris Mathewson Smith, were present at the hearing and were represented by counsel, Thomas R. Aguilera. William Jones, Roxanna Curtis and Judy Hibbert appeared as witnesses and were sworn and testified on behalf of the Applicant. Assistant City Attorney Stacy Stauffer appeared on behalf of the City of Tucson. Public protestors Ronni Kotwica, Bonnie Medler, Beverly VanDenBorre, and Anne Woods were also present at the hearing and were sworn. Ms. Kotwica and Ms. Medler testified.

Mr. Aguilera asked the Board to admit two exhibits that were filed after the two weeks prior to the hearing deadline. There was no objection from the City and the exhibits were admitted. Mr. Aguilera delivered his opening statement. Ricardo Garcia was called as the first witness. Mr. Garcia discussed his background, education, community work, and business experience. Mr. Aguilera questioned Mr. Garcia about his previous dance hall violations, his business deals, community work, and improvements to the property. Ms. Stauffer questioned Mr. Garcia about his relationship with Club Envy, A-10 Investments and Pocket Billiards LLC. There was questioning about dance performances and publicity.

The Board recessed from 2:31 p.m. to 2:42 p.m.

There were questions from the Board. Mr. Garcia drew a floor plan, explaining the placement of tables, dance floor and bar. He explained how his experience demonstrates capability, qualification and reliability. The Board asked about prior dance hall citations, business relationships, and developing relationships with the community.

Chris Smith was called as the second witness. He described his educational and business background. There has been an interim permit at The Mint since March 23, 2012. Mr. Smith has been the manager during this time. He has completed Basic and Management liquor training, and passed the first liquor inspection. Mr. Smith was questioned about prior encounters with law enforcement and a prior arrest. He also described efforts to work with the community. There were no questions from the City or the Board.

Kevin Kramber is the Agent and was questioned about his involvement as liquor consultant to Mr. Garcia and Mr. Smith. He was questioned about working with the Applicants and with the Tucson Police Department, as well as the City Council's recommendation for disapproval of the application. There were no questions from the Board.

Mr. Aguilera called three more witnesses. William Jones has been employed by Pima County Planning and Zoning for 23 years. The Mint has had two building violations, one of which has been resolved. Roxanna Curtis works as a part time bartender at the Mint. She described the management practices of the Applicants. Judy Hibbert was a previous owner of the Mint for 40 years. After selling the business, she continued to work as a manager for the Mint. There were no questions from the Board for the witnesses.

Ms. Stauffer presented her opening statement for the City. She argued that reliability was in question. She called her first witness, Ronni Kotwica, who is representing the Palo Verde Neighborhood Association. She discussed the changes to the original business plan, property improvements that were promised and not completed, the male dancers' costumes, citations issued to Mr. Garcia and Mr. Smith, comments made by Mr. Garcia, and the reason for the neighborhood protest.

The Board recessed from 4:32 p.m. to 4:40 p.m.

Ms. Stauffer called her second witness, Bonnie Medler. Ms. Medler works for Tucson City Councilmember Steve Kozachik and is responsible for constituent work. Ms. Stauffer asked if taxpayer money was used to fund a ladies night. Ms. Medler stated it was not. There were no questions from the Board for the witness.

Mr. Aguilera presented his closing statement. Ms. Stauffer waived closing statement. There was Board discussion about the Applicants' capability, qualification and reliability. Mr. Farley made a motion regarding Liquor License No. 06100094: I move that the Board find that the Applicant is capable, qualified and reliable as required under A.R.S. § 4-203(A) and that the Board grant the Application based upon the facts that the Tucson Police Department has given clearance of both of the Applicants; that both Applicants have a long and successful business careers that demonstrates their capabilities in running a business and managing a business.

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

The Board recessed from 5:19 p.m. to 5:35 p.m.

The Board proceeded to item #7.

8. Liquor Store Liquor License No. 06070305 - Person and Location Transfer Application

Martha Anne Robarge, Agent
Wayne's West Inc.
Dave's on Northern
2344 W. Northern Avenue
Phoenix, AZ 85021

Blair Cordon Driggs, Agent
Stetson Desert Project, LLC
Le Girls Cabaret
5151 E. Washington
Phoenix, AZ 85034

This matter was set for hearing because the City of Phoenix recommended disapproval of this application and due to public protest. The Agent, Blair Cordon Driggs, and the Applicant, Cory James Anderson, were present at the hearing and were represented by counsel, Peter Schelstraete. Bill Weigele, James Hays, Mary Moore and Rosalyn White appeared as witnesses and were sworn and testified on behalf of the Applicant. Assistant City Prosecutor Esteban J. Gomez appeared on behalf of the City of Phoenix. Public protestors Michael O'Connor, Mitchell Rosen, Alisa Lyons, Elizabeth Wulff, and Jay Spalding were also present at the hearing and were sworn and testified.

Ms. Cantrell disclosed that she is the Vice President of Arizona Licensed Beverage Association (ALBA). Bill Weigele, a witness for the Applicant, is President of ALBA. Ms. Cantrell confirmed that she can be impartial in this matter. There were no objections.

Mr. Schelstraete reserved his opening statement and called his first witness, Cory James Anderson. Mr. Anderson has held two liquor licenses in Arizona; one in Tempe and one in Phoenix. Both licenses were Series 6. Mr. Anderson has not had any liquor or adult entertainment violations. Mr. Anderson purchased the land in 1993. He described the meetings he had with the Phoenix Police Department prior to submitting the application for this license. He discussed the outreach letters that were sent to the neighboring businesses and his efforts to work with their concerns. Specifically with the Salt River Project (SRP) protest, Mr. Anderson discussed changes to signage and landscaping improvements. Mr. Anderson completed Basic and Management liquor law training. Mr. Gomez questioned Mr. Anderson about neighboring businesses and neighborhood associations. Questions from the Board concerned how a liquor license will improve the Applicant's business, the locations of neighboring businesses, why previous liquor applications were denied, and how the Applicant intends to deal with intoxication and people drinking in the parking lot.

Mr. Schelstraete called his second witness, Blair Driggs. Mr. Driggs is a former Assistant Attorney General and currently an Administrative Law Judge. The Department has engaged his service as a trustee for some licenses. Mr. Driggs described his role as statutory agent in assisting Mr. Anderson with the liquor license application process. Mr. Gomez questioned Mr. Driggs about SRP protesting the license. The Board asked about Discovery Triangle and Mr. Anderson's questionnaire. The third witness, Rosalyn White testified about outreach efforts to approximately 50 neighborhood businesses. She did not visit SRP.

The Board recessed from 7:11 p.m. to 7:21 p.m.

Mr. Schelstraete called his fourth witness, James Harden Hays. Mr. Ghelfi disclosed that he and Mr. Hays will be serving on a panel together at a national conference to be held in November. Mr. Ghelfi confirmed that he could be impartial in the hearing before the Board. There were no objections. Mr. Hays is a former Assistant City Attorney for the City of Phoenix, from March 1987 to October 2011, where he specialized in adult business regulation. Mr. Hays testified on negative secondary effects of adult business and a 1994 study commissioned by the Phoenix City Council. There were no questions from Mr. Gomez or the Board.

Mr. Schelstraete's fifth witness was Mary Irene Moore, the Vice President of Linden Park Neighborhood Association. She testified that she was involved in the liquor license hearing for this location in 2003, and from a neighborhood perspective, the regulations with having a liquor license are an improvement over an all nude establishment. Mr. Gomez asked if Linden Park Neighborhood Association reached out to SRP or Papago Park. There were no questions from the Board.

Mr. Schelstraete's last witness was Bill Weigele. Mr. Weigele is the current President of ALBA. He held a Series 6 license for 35 years. Mr. Weigele described the business development in the area and his personal knowledge of the Applicant. There were no questions from Mr. Gomez or the Board.

Mr. Gomez called his first witness, Michael O'Connor. Mr. O'Connor is the Associate General Manager, Chief Legal Executive at SRP. Mr. O'Connor described slides illustrating SRP's historical development in the area over the last 100 years. He discussed SRP's vision for building and development and how a topless bar with a liquor license does not fit into that vision. Mr. O'Connor commented on the best interest of the community. Mr. Schelstraete questioned Mr. O'Connor about SRP protesting other liquor licenses in the area. The Board questioned the witness about land ownership, existing studies to support SRP's position in protesting this application, location of nearby schools, location of other liquor licenses, changes in clientele with having a liquor license and proposed businesses in the area.

Mr. Gomez called his next witness, Mitchell Rosen. Mr. Rosen is the Development Manager for Papago Park Center. Mr. Rosen represents Papago Park Center, Inc., not the tenant companies or the 10,000 employees who work there. Mr. Rosen addressed master plan communities and how the surrounding land was purchased in line with a master plan. The land on other side of the freeway where LeGirls is located is not owned by SRP or Papago Park Center. Mr. Gomez called Alisa Lyons as his third witness. Ms. Lyons is one of six consultants who work with Discovery Triangle. Ms. Lyons described the public and private partnerships involved in developing Discovery Triangle.

Mr. Gomez called his fourth witness, Elizabeth Wulff. Ms. Wulff is employed by Chamberlain Enterprises and is representing the investment groups who own the buildings in Papago Park Center. She discussed the tenants who supported the liquor license application. The final witness, Jay Spalding, was called to testify. Mr. Spalding is the security manager for SRP. He served over 30 years in local law enforcement. He testified about crime associated with liquor and sexually oriented business.

Mr. Schelstraete and Mr. Gomez delivered closing arguments. Board debate followed.

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

The Board convened in executive session at 10:04 p.m. and reconvened in open session at 10:12 p.m.

Mr. DuPont made a motion regarding Liquor License No. 06070305: Based on the Applicant's training, based on the Applicant's running a business from 2004-2006 with no violations and again from 2007-2009 with no violations, basing that the City stipulated not to discuss capability, qualification and reliability of the Applicant, I move that we find the Applicant is capable, qualified and reliable as required by A.R.S. § 4-203(A); based on the location, it is within the land use code, that it is separated from the protestors' properties by freeway barriers, that it is in business and has been in business since 1993, that the Applicant has at this location put in the necessary video cameras, etc. and has security on premises, we find that the public convenience does requires that the best interest of the community will be served as required by A.R.S. § 4-203 by granting a liquor license to this location, and that the Board grant the license.

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

D. Training - HB2606 and Changes to Title IV

Motion to continue to
October meeting - Cantrell
Seconded - Farley
Yay - Cantrell, Farley, Ghelfi, Linden, DuPont, Carruthers, Scarafiotti
Nay - None
Abstained - None
Disposition - Continued to October meeting

E. Call to the Public

None.

The Board adjourned at 10:16 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date