



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  
 June 6, 2013

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

Members Absent: None

Counsel Present: Sarah Selzer, Assistant Attorney General

Staff Present: Denise Bale, Board Administrator

**A. Call to Order**

The hearing of the Arizona State Liquor Board was called to order on June 6, 2013 at 9:00 a.m. with Mr. Ghelfi presiding.

**Roll Call**

All board members were present.

**B. Agenda: Review, Consideration and Action**

**1. Restaurant Liquor License No. 12079318 - Original Application**

Robert Farrell Reinke, Agent  
 Cingroup 500, LLC  
 Gus's New York Pizza Bar and Grill  
 6135 N. 35<sup>th</sup> Avenue #123B  
 Phoenix, AZ 85138

This matter was continued from the May 2, 2013 hearings. This matter is set for hearing because the City of Phoenix recommended disapproval of this application and due to Department and public protest. There is an interim permit in place at this location. The Agent, Robert Farrell Reinke, filed a withdrawal of this application on May 30, 2013. Assistant City Prosecutor Elizabeth Sugges appeared on behalf of the City of Phoenix and did not object to the withdrawal of application. Mr. DuPont moved to accept Application Withdrawal for Liquor License #12079318.

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

Mr. DuPont moved to revoke the Interim Permit for Liquor License #12079318.

Motion to revoke interim permit -	DuPont
Seconded -	Linden
Yay -	DuPont, Linden, Ghelfi, Cantrell, Carruthers
Nay -	None
Abstained -	None
Disposition -	Interim permit revoked

## **2. Restaurant Liquor License No. 12079390 - Original Application**

Timothy R. Seay, Agent  
Seay's LLC  
Seay's  
3110 N. Central, Suite 140  
Phoenix, AZ 85012

This matter is set for hearing due to public protest. The applicant, Timothy Seay, appeared at the hearing and was represented by counsel, Gerardo Ivan Hannel. Sharon Frierson and Gerald Dye appeared on behalf of the applicant, were sworn and testified. Public protestor Wilford B. Rhine was present and was not represented by counsel. Mr. Rhine was sworn and testified. Assistant Attorney General Sarah Selzer was present to provide legal advice to the Board.

Mr. Hannel submitted Applicant's Exhibit A, City of Phoenix and Maricopa County documentation. Mr. Rhine submitted Protestor's Exhibit 1, Dissolution of Marriage documents. The Board provided Mr. Rhine and Mr. Hannel an opportunity to examine the exhibits. There was discussion about the audio recording submitted with Applicant's brief. Witnesses were sworn. Ms. Scarafiotti arrived. Mr. Hannel discussed the Applicant's employment background and how he became the owner of Seay's.

Timothy Seay was called as witness and testified. Mr. Seay described the non-profit activities he scheduled at Club Central. Mr. Seay stated that Mr. Rhine offered to sell the property to him in January 2013. Mr. Seay decided to purchase the property from Mr. Rhine for charity events. Mr. Seay discussed complications in their business transaction and his decision to open a restaurant and pursue a Series 12 restaurant liquor license. He described the construction and improvements he made to the property. The restaurant opened in April 2013. Mr. Seay described his business plan including happy hour, breakfast, and lunch take out. He also stated the restaurant staff had completed the required liquor law training.

Mr. Linden asked about the take-out business and how Seay's is different from Club Central. Mr. DuPont asked about the purchase agreement. Ms. Cantrell asked about the percentage of take-out business, the number of seating in the restaurant area and the bar area, and whether music is offered at Seay's. She also asked about Mr. Seay's vision for the restaurant and why he did not purchase a Series 06 license. Mr. Carruthers asked about the purchase contract between the Applicant and the Protestor.

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

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

The Board convened in executive session at 9:42 a.m. and reconvened in open session at 9:47 a.m.

Mr. Seay explained that thirty percent of his total revenues from lunch and dinner were through online ordering; seventy percent was from customers sitting in the restaurant. Mr. Seay further explained the restaurant seating is

located downstairs and the upstairs floor of the restaurant is not being used for dining. Mr. Seay discussed the tables and chairs he replaced and the kitchen upgrades that were made to pass health inspection. Mr. Seay stated that his intention was to open an eatery, not a nightclub.

Sharon Fierson was called as witness and testified. Ms. Fierson is the manager of Seay's. She stated the staff had completed the required training. Ms. Fierson described the online ordering process and the renovations related to seating. Ms. Cantrell asked about the job title and duties of Ms. Fierson and whether she was listed on the liquor license application as the manager of this establishment. Ms. Fierson explained that she does not manage the bartenders and she understands she would need to complete manager training if the liquor license is granted.

Gerald Dye was called as witness and testified. Mr. Dye was employed by Mr. Rhine as a part-time DJ with Club Central from 2009 to 2011. Mr. Dye met Mr. Seay through the nonprofit events Mr. Seay held at Club Central.

Mr. Rhine discussed his twenty-six-year business background in the community and his no violations record with the Department. Mr. Rhine described how he met Mr. Seay and how they agreed on the terms of their contract. Mr. Rhine referred to his Exhibit 1. He stated that Club Central went into foreclosure and discussed the financial situation of the business when it was sold to Mr. Seay. Mr. Rhine addressed the issues raised by Mr. Hannel and his witnesses. Mr. Ghelfi asked if the issue for Mr. Rhine is financial.

The Board recessed at 10:36 a.m. and reconvened at 10:43 a.m.

There was Board discussion about the applicant's naivety in purchasing the nightclub business and turning it into a restaurant. Members expressed concern that the applicant is not ready to hold a liquor license and needs more time to understand the process and gain restaurant experience. There was discussion about the conflict between Mr. Seay and Mr. Rhine being a civil court issue. Members discussed whether the applicant is capable, qualified and reliable based on overcoming the difficulties in making renovations to the property and operating as a restaurant without a liquor license.

Mr. Linden made a motion as to Liquor License #12079390. The Board finds that the propriety of the location is not contested that the record before the Board establishes that the public convenience requires and that the best interest of the community will be substantially served by the issuance of the license. The Board finds that the applicant is capable, qualified and reliable as required by A.R.S. Section 4-203(A) and that the Board grant the application based upon the following facts: the applicant has completed the appropriate liquor law training; the staff have completed appropriate liquor law training; the applicant has been operating the business as a restaurant and intends to continue to do so. In testimony regarding issues and concerns, the Board finds the applicant is capable, qualified and reliable to hold a liquor license.

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

### **C. Minutes Review, consideration and action**

Motion to approve	
April 4, 2013 minutes -	Linden
Seconded -	Carruthers
Yay -	Linden, DuPont, Scarafiotti, Ghelfi, Cantrell, Carruthers
Nay -	None
Abstained -	None
Disposition -	April 4, 2013 minutes approved

Motion to approve April 4, 2013

Executive Session minutes -

Seconded -

Yay -

Nay -

Abstained -

Disposition -

Cantrell

Scarafiotti

Linden, DuPont, Scarafiotti, Ghelfi, Cantrell, Carruthers

None

None

April 4, 2013 Executive Session minutes approved

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

Mr. Ghelfi announced the July Board meeting will be held in Tucson at City Hall in the Mayor and Council Chambers. There was discussion about having a quorum due to Mr. DuPont recusing himself from the Wal-Mart matter, the number of protestors expected to attend, and the number of protestors who will testify.

Mr. DuPont reported on a request from Senator Al Melvin, Chairman of the Commerce, Energy and Military Committee to the State Liquor Board. At Mr. DuPont's confirmation hearing, Senator Melvin suggested the Board compare Arizona's liquor licensing laws with other states to glean best practices and innovation.

**E. Board training from Assistant Attorney General Sarah Selzer regarding new rules for Title IV**

The Board received copies of the new rules for Title IV which specifically relate to the Board. The rules will take effect the first week in July 2013. Ms. Selzer summarized the changes to existing rules and the new rules. There was Board discussion about timeframes for submitting information, admitting additional information, and notifying the public about the rules.

**F. Board discussion of options for increasing the efficiency of its hearings**

There was Board discussion about equity of time, duplicative testimony, time limits and allowing flexibility, due process, and encouraging all parties to articulate in writing. Mr. Ghelfi and Ms. Selzer will draft a working outline for the Board's consideration at the August meeting.

**G. Call to the Public**

None.

The Board adjourned at 11:43 a.m.

  
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Denise M. Bale  
Administrator of the  
Arizona State Liquor Board

  
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Date