



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
 July 11, 2013

Members Present: J.D. Ghelfi - Chair, Bill DuPont – Vice-Chair, Robin Cantrell, Tim Linden
 Members Absent: Vikki Scarafiotti, Jim Carruthers
 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 July 11, 2013 at 10:07 a.m. in the City of Tucson, Mayor & Council Chambers, 255 W. Alameda, 1st floor, Tucson, Arizona with Mr. Ghelfi presiding.

Roll Call

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

B. 10:00 a.m. Agenda: review, consideration and action

1. Beer and Wine Store Liquor License No. 10103695 - Original Application

Clare Hollie Abel, Agent
 DG Retail, LLC
 Dollar General Store #13199
 5665 South 12th Avenue
 Tucson, AZ 85706

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The agent, Clare Hollie Abel, appeared at the hearing. Mr. Ghelfi noted a withdrawal of the application was filed with the Department. There was no objection.

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

2. Beer and Wine Store Liquor License No. 10103696 - Original Application

Clare Hollie Abel, Agent
DG Retail, LLC
Dollar General Store #10214
155 W. Valencia Road
Tucson, AZ 85706

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The agent, Clare Hollie Abel, appeared at the hearing. Mr. Ghelfi noted a withdrawal of the application was filed with the Department. There was no objection.

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

3. Beer and Wine Store Liquor License No. 10103697 - Original Application

Clare Hollie Abel, Agent
DG Retail, LLC
Dollar General Store #12582
945 East 22nd Street
Tucson, AZ 85713

This matter was set for hearing because the City of Tucson recommended disapproval of this application. The agent, Clare Hollie Abel, appeared at the hearing. Mr. Ghelfi noted a withdrawal of the application was filed with the Department. There was no objection.

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

4. Restaurant Liquor License No. 12079388 - Original Application

Andrea Dahlman Lewkowitz, Agent
Fillmore House Manager, LLC
Fillmore Vig
606 N. 4th Avenue
Phoenix, AZ 85003

This matter was set for hearing due to public protest. There is an interim permit in place at this location. The agent, Andrea Dahlman Lewkowitz, appeared at the hearing and was represented by counsel, H.J. Lewkowitz. Robert Tucker Woodbury was also present at the hearing. Mr. Woodbury was sworn and testified. Public protestor James Ellis was present and was not represented by counsel. Mr. Ellis was sworn and testified.

Mr. Woodbury testified that he is the managing partner of several restaurants with Series 12 liquor licenses. He has owned and operated several establishments since 1991, and currently has seven liquor licenses. There are no compliance issues with his liquor licenses. The Vig is a group of restaurants or neighborhood taverns, built in historic neighborhoods as part of an adaptive reuse movement in Phoenix. This is the third Vig the Phoenix City Council has approved. Mr. Woodbury and his partners own the building in which Fillmore Vig will be located. To

address neighborhood concerns, the front door was moved so that it does not face Mr. Ellis's residence. In addition, property on 6th Avenue and Fillmore has been leased for 85 parking spaces.

Questions from the Board concerned liquor law training, security, outside music and noise. Mr. Woodbury stated he is compliant with training and all employees of Fillmore Vig will have liquor training. There will be security at the door after 10 p.m. and whenever it is needed. The City issued revocable permits for live music from 3:00 to 6:00 p.m. on Saturdays and Sundays. The stage will face west, away from Mr. Ellis's building. Mr. Woodbury said when there have been complaints about noise at the other Vig locations, the band turns down the volume.

Mr. Ellis addressed the Board. He lives in the senior housing across from Fillmore Vig. He described the area as a quiet, old peaceful neighborhood. Many of the residents are elderly and he feels the noise from the restaurant and patio will be extremely disruptive to the neighbors. Residents will be inconvenienced by parking. Under other restaurant owners, parking was a huge issue. Mr. Ellis noted that the Salvation Army nearby has programs involving children. He feels that liquor and amplified music are not needed in the neighborhood. Mr. Ellis provided photos of the neighborhood for demonstrative purposes.

Questions from the Board concerned the distance between the restaurant and the building in which Mr. Ellis lives, the number of residents in the building, the volume and genre of music that might be played outside the restaurant, and the shared parking lot between Fillmore Vig and Cibo. Mr. DuPont asked if Mr. Ellis brought a letter or minutes from a meeting stating that he is representing the residents in the building. Mr. Ellis did not have a letter and he is representing only himself.

Mr. Lewkowitz made a closing statement emphasizing the capability, qualification and reliability of the applicant. He also discussed the revitalization efforts of the City of Phoenix and how the Fillmore Vig supports those efforts.

There was Board discussion about the other establishments owned and operated by Mr. Woodbury, the efforts to work with the neighborhood by moving the entrance and obtaining more parking, the renovation and use of the building, and limiting the music to Saturday and Sunday from 3:00 to 6:00 p.m.

Mr. DuPont made a motion regarding Liquor License No. 12079388. Based upon the applicant has several licenses with one violation, there will be training for all employees on an annual basis, and the applicant has run a 550 person venue, I move that the applicant is capable, qualified and reliable as required by A.R.S. § 4-203(A). Based upon the location, it is an old home that is being rehabbed, additional parking has been leased, the entrance has been moved to address some of the neighborhood concerns, music placement will be addressed, hours of music will be from 3:00 to 6:00 p.m. on Saturday and Sunday, and that there has been support from surrounding businesses and neighborhoods, we find that the public convenience does require that the best interest of this community be served as required by A.R.S. § 4-203(A), by granting a liquor license to this location and that the Board grant this application.

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

The Board recessed at 11:21 a.m. and reconvened at 11:31 a.m.

5. Restaurant Liquor License No. 12079327 - Original Application

John Joseph Leonard, Agent
Chubby Hubby BBQ, LLC
Chubby Hubby BBQ & Sports Grille
155 S. Power Road
Mesa, AZ 85206

This matter was set for hearing due to Department protest. The applicant, John Joseph Leonard, did not appear at the hearing and was not represented by counsel. Assistant Attorney General Sarah Selzer appeared on behalf of the Department. Investigator Alan Parris was present to answer questions from the Board. Notice of hearing was sent

to the applicant via certified mail to the address of record. Mr. Ghelfi confirmed that the applicant did receive notice. He also noted that the Board may consider the applicant's absence from the hearing as it relates to capability, qualification and reliability.

Ms. Selzer stated the Investigative Report speaks for itself. The interim permit has been revoked. The restaurant is not operational at this time. The Department has not heard from the applicant recently. Although the applicant made several remarks that he was going to withdraw his application, he has not done so. Right after the Investigative Report was submitted, the Department received tax lien deficiency notices for the applicant. Investigator Parris was available to answer questions about the search warrant and the Department's interaction with Homeland Security. The Board did not have any questions.

Mr. DuPont made a motion regarding Liquor License No. 12079327 based on personal qualifications only. The applicant's personal qualifications are questionable; there are concerns that the applicant is involved in racketeering; the applicant has also admitted to lying, in an April 2, 2013 interview; and there have been other violations of concern including 4-210.A.3 and 4-210.A.12. Therefore, I move the Board deny, as required by A.R.S. § 4-203(A), this application to this applicant.

Motion to deny license -	DuPont
Seconded -	Cantrell
Yay -	DuPont, Cantrell, Linden, Ghelfi
Nay -	None
Abstained -	None
Disposition -	License denied as to person

The Board recessed at 11:38 a.m. and reconvened at 1:26 p.m.

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

Mr. Carruthers was absent. All other Board members were present (Ms. Scarafiotti, telephonically). Mr. DuPont recused himself from the hearing. Mr. Linden clarified that he is a distributor in southeast Arizona. He sells alcoholic beverages and nonalcoholic beverages. He serves Graham, Greenlee, Cochise and southern Gila counties. Mr. Linden does not service this location and he has no financial interest in this location. He services Wal-Mart, but he does not have anything to do with Tucson, Arizona. Mr. Linden confirmed that he can be impartial in this matter.

6. Beer and Wine Store Liquor License No. 10103694 - Original Application

Clare Hollie Abel, Agent
Wal-Mart Stores, Inc.
Wal-Mart Supercenter #3884
3435 East Broadway 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. The Agent, Clare Hollie Abel, appeared at the hearing. Angela Bodley Carter, Joshua Phair and Barbara Carroll appeared on behalf of the applicant and were sworn and testified. Assistant City Prosecutor Stacy Stauffer appeared on behalf of the City of Tucson. Public protestors Scott Neeley, Steve Behr, Gricelda Diaz-Eades and Chris Tanz appeared as witnesses and were sworn and testified on behalf of the City of Tucson. Public protestors Paul Bates and Leighton Rockafellow appeared as witnesses and were sworn and testified. Jean Davies appeared as witness and was sworn and testified.

Ms. Abel delivered her opening argument. She described the history of El Con Mall beginning in 1960. When it was time to redevelop the mall in 1999, the developer met with the City of Tucson and neighbors numerous times and invested \$14,000,000 in improvements to make the mall more conducive to the neighborhood. Wal-Mart had been involved with this project since 1999. As a result of Tucson's Big Box Ordinance, a development agreement was entered into between the developer and the City of Tucson. Ms. Abel described the other businesses at the location including Target, which has a Series 10 liquor license. Ms. Abel also discussed the capability, qualification and reliability of Wal-Mart. Ms. Stauffer reserved her opening for the beginning of her case. Ms. Stauffer stated she had an additional issue regarding disclosure. Ms. Abel called her first witness, Angela Bodley Carter.

Ms. Stauffer raised the issue that the applicant's witnesses were not disclosed to her or the protestors. Ms. Abel stated that she disclosed the witnesses to the Board Administrator and presumed that the information would be forwarded to the City of Tucson and the protestors.

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 -	Linden
Yay -	Ghelfi, Linden, Scarafiotti, Cantrell
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 1:45 p.m. and reconvened in open session at 1:53 p.m.

Mr. Ghelfi stated the Board would proceed with witnesses and Ms. Stauffer's objection to disclosure would be noted. Mr. Ghelfi confirmed the new Rules effective July 6, 2013, would not apply to this hearing and should the need arise on motion for rehearing or appeal, the issue of witness disclosure can be taken up at that time.

Ms. Abel continued with questioning. Ms. Bodley Carter is Divisional Compliance Director for Wal-Mart and is responsible for executing compliance programs in the field, supporting the corporate compliance office. She has responsibility for stores and clubs in eight Western states. Ms. Bodley Carter described the processes and procedures of alcohol sales including required education and training of all cashiers; how the transaction is completed; and the consequences of selling to underage customers. Ms. Stauffer asked the witness about her familiarity with Title 4 training requirements for store managers and liquor managers; her awareness of liquor law violations at Wal-Mart; her knowledge of how violations are recorded; and her knowledge of the list of violations attached to the license application. The application attachment states the violations listed are from 2001 to present; however, the violations begin in January 2004 and end in April 2009. Ms. Stauffer asked if violations occurred in Wal-Mart after April 2009, how many violations occurred, and why Wal-Mart did not disclose them. Ms. Abel asked the witness to describe Wal-Mart's divisions and their functions. Questions from the Board focused on Wal-Mart's reported violations. Ms. Bodley Carter joined Wal-Mart in February 2012. Since the beginning of her employment, she has personal knowledge of 13 violations that occurred in eight states (350 stores). Ten of those violations were sales to minors. The witness discussed the role of Compliance in dealing with violations.

Ms. Abel called her next witness, Joshua Phair. Ms. Stauffer raised the same objection with disclosure of witness. Mr. Ghelfi stated the objection was noted. Mr. Phair is Director of Public Affairs and Government Relations for Wal-Mart in their Mountain Division (eight states). He joined the company in March 2007 and inherited Arizona in late 2011. The witness is familiar with this location and the history of neighborhood concerns. He stated that fairly early in process of working with the neighbors, Wal-Mart pledged that it would not sell firearms and ammunition at this store. In addition to security provided by El Con Mall, there will be security cameras in the parking lots, security patrol in the parking lots from noon to 7:00 a.m. and enhanced, but low profile lighting in the parking lots. Ms. Stauffer asked how the security measures at this location compare with other Wal-Marts in Tucson and whether there have been discussions regarding security measures with the neighborhoods. Ms. Stauffer asked the witness about his knowledge of Title 4 training requirements and whether the store manager had completed the training. The Board asked what Wal-Mart has done to work with the community. The witness stated that community input received from the public meetings influenced the store layout, design and site plan. Taking into consideration the close proximity to the adjacent neighborhood, there is a large wall in order to mitigate the impact of the store. Enhanced security and the pledge not to sell firearms and ammunition is a direct response to concerns heard by the community. He also stated the entrance to this store is unique to the typical Wal-Mart design. The Board asked the witness about the incomplete list of liquor violations attached to the application.

Ms. Abel stated she had information from the Tucson Police Department regarding crime statistics that she wanted to present to the Board. She referenced charts and an aerial photograph she wished to present as an exhibit for demonstrative purposes.

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 -	Linden
Yay -	Ghelfi, Linden, Scarafiotti, Cantrell
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 2:27 p.m. and reconvened in open session at 2:45 p.m.

Mr. Ghelfi explained Ms. Abel could be sworn as a witness and present the exhibit, or she could have someone present it and she could act as attorney and have them testify to what the Board is viewing. Ms. Abel called Barbara Carroll as witness. Ms. Carroll was sworn and testified. Ms. Stauffer was given an opportunity to voir dire the witness. She questioned the witness regarding her employment with GeoGRAFX GIS Services, her client for this exhibit, how the data were collected, and what service Ms. Carroll provided in the creation of the exhibit. Ms. Abel questioned the witness about the study her company conducted including the selection of Wal-Mart locations, crime data, analysis, and findings. The study, based on crime data collected and provided by the Tucson Police Department, compared crime in areas of a one mile radius around four Wal-Mart stores in Tucson. Ms. Abel asked the witness to predict, based upon her expertise and analysis of the data, whether crime would increase based upon a new location for a Wal-Mart. Ms. Carroll indicated it would not make a difference. The Board asked the witness about her previous experience with this type of study and with government clients. This concluded the applicant's presentation of witnesses and exhibits.

Ms. Stauffer made a motion to deny the application at this time based upon the evidence presented. Ms. Stauffer argued that the application was not complete, missing data from 2009 to the present, and that there was no testimony about compliance with Title IV law, which speaks to the capability, qualification and reliability of the applicant. In addition, the applicant did not provide testimony or evidence to meet the burden of proof for this location; i.e., the public convenience requires and the best interest of the community will be substantially served. Ms. Stauffer argued there is overwhelming opposition to this license from people who live within one mile of the location as evidenced by the 60+ protest letters that were received by the Board and by the members of the audience attending this hearing. Based on this opposition, the liquor license is not desired and it is not necessary to the public convenience.

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 -	Linden
Yay -	Ghelfi, Linden, Scarafiotti, Cantrell
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 3:33 p.m. and reconvened in open session at 4:04 p.m.

Mr. Ghelfi announced Ms. Stauffer's motion was noted, and the hearing would proceed with the City of Tucson's case. Ms. Stauffer presented her opening statement. She discussed the capability, qualification and reliability of Wal-Mart in making the application and in working with the neighborhoods surrounding the El Con Mall. She mentioned the dozens of protest letters as evidence that the community in proximity did not want a liquor license at this location.

Mr. Ghelfi reminded counsel and witnesses about the proposed school not being part of this application because it does not exist at this time. Mr. Ghelfi discussed the Board's preparation with respect to reading and analyzing the 64 protest letters that were received for this application.

Ms. Stauffer called the City's first witness, Chris Tanz. Dr. Tanz thanked the Board for holding the hearing in Tucson. She and her husband have been residents of El Encanto Neighborhood for thirty years. The witness presented the first exhibit, "Proximity to Walmart Supercenter, El Con Mall," and indicated the location of her neighborhood. The witness reported crime statistics near Wal-Mart stores. Ms. Stauffer voir dire the witness to

clarify the source and collection of the crime data. The witness discussed the community outreach efforts of other stores with liquor licenses in the vicinity of Wal-Mart. Ms. Abel asked the witness to indicate the location of Target on the second exhibit, "Proximity to Target, El Con Mall." Ms. Abel asked the witness about community meetings attended by Wal-Mart. She also asked about concessions made by Wal-Mart, including changing the liquor license application from a Series 9, Liquor Store, to a Series 10, Beer and Wine Store, and not selling firearms and ammunition. Ms. Stauffer questioned the witness about Wal-Mart working with the neighbors. The Board questions concerned the El Con Mall, concessions made by Wal-Mart, and the average economic status of the residents in the surrounding area.

The Board recessed from 4:58 p.m. to 5:12 p.m.

Ms. Stauffer called the City's second witness, Scott Neeley. Mr. Neeley, who is an architect and planner, has lived in the Colonia Solana Neighborhood since June 2010. He described the El Con Wal-Mart Supercenter as bad planning. He presented three exhibits: "Proximity to Walmart Supercenter, LaCholla Boulevard," "Proximity to Walmart Supercenter, Valencia Road," and "Proximity to Walmart Supercenter, Cortaro Road." He compared these other supercenters' sites with the El Con Mall, emphasizing the large parking lots and the distances between the stores and the neighborhoods. The witness provided crime statistics for Wal-Mart parking lots and for alcohol related crimes. He argued that changing Wal-Mart's entrance to face Broadway Boulevard, on the south side, would be easier to monitor. He compared crime at the Valencia Road store parking lot with the proposed parking lot at El Con Mall. He also described the unique setting of the historic neighborhoods and how difficult it is for police and fire to respond in this area because of the winding streets and vegetation. Ms. Stauffer asked the witness to point out the distances of Target and Wal-Mart from the adjoining neighborhoods. She asked about the Tripartite meetings attended by the neighborhoods, El Con Mall, and the City of Tucson, and the negotiations over selling liquor after 11:00 p.m. and the orientation of the building. Ms. Abel asked the witness about Macy's footprint on which Wal-Mart is built. Macy's entrance was on the south side and that is what the neighbors wanted for Wal-Mart. Ms. Abel asked if the surrounding area around the Valencia Road store contributed to the crime and not just the Wal-Mart. Ms. Stauffer asked the witness to discuss the difference in use between a three-story Macy's and a one-story Wal-Mart. The Board questions concerned crime and the crime deterrents implemented by Wal-Mart.

Ms. Stauffer called the City's next witness, Steve Behr. Mr. Behr thanked the Board for their time and coming to Tucson. He has lived in the Colonia Solana Neighborhood for 11 years. The witness presented the exhibit "Crime at Walmart Stores in Tucson" and discussed crime at the Northgate Mall Wal-Mart. He presented statistics supporting the argument that alcohol increases crime. He discussed the Tripartite commission and the effort to work with Wal-Mart on alcohol sales, hours of operation, changing the west entrance, and increasing security. Ms. Abel asked if the witness was involved in the negotiations between Wal-Mart and the neighborhoods which began in 1999. Ms. Abel asked the witness about the neighborhood surrounding Northgate Mall, hours of alcohol sales, and negotiating with parties in litigation. The Board asked about nearby convenience stores with liquor licenses, Wal-Mart's hours of operation, and how Wal-Mart will operate on the Macy's footprint.

The Board recessed from 6:20 p.m. to 6:54 p.m.

Ms. Stauffer called the City's fourth witness, Gricelda Diaz-Eades. Ms. Diaz-Eades has lived in her home for 16 years. She is the Treasurer of the Colonia Solana Homeowners Association and the Neighborhood Watch captain. Her presentation was how the sale of alcohol at the Wal-Mart Supercenter El Con Mall will threaten public safety. She described the areas illustrated by exhibits "Walmart at El Con Mall, Vicinity Map" and "Walmart at El Con Mall, Potential Crime Increase." Ms. Stauffer asked the witness to describe the people who use Reed Park and the hours they use it. Ms. Stauffer asked about trash on the bike path and in neighborhood. Ms. Abel asked the witness about trash in the neighborhood and if she protested Target's liquor license and why not. The witness discussed alcohol related crime statistics and stated her issues with Wal-Mart are the hours of operation and the hours of alcohol sales. This concluded the City of Tucson's scheduled witnesses.

Mr. Ghelfi read the names of audience members who submitted a request to speak card and asked if they wished to add anything to what had already been said or add anything specifically to the letter they had written: Jeff Burgman (not present), Paul Bates, Robert Miller (not present), Sallie Seymour (not present), Leighton Rockafellow, Joana Diamos (not present), and Jean Davies.

Paul Bates was sworn and testified about quality of life to the surrounding neighborhoods. He opposes the 24-hour operation of Wal-Mart and selling alcohol until 2:00 a.m. Ms. Abel asked him about his concern that university students will purchase alcohol until 1:55 a.m.

Leighton Rockafellow was sworn and testified about the number of liquor licenses within a one mile radius of Wal-Mart Supercenter #3884. He presented a map for demonstrative purposes of 39 liquor licenses within the one mile radius. He discussed convenience, necessity and public safety.

Jean Davies was not included on the list of valid protestors for this matter. She stated she sent a letter to the Board. Mr. Ghelfi moved to go into Executive Session. Ms. Stauffer asked if Ms. Abel would consent to one last person. Ms. Abel stated she would consent to one last person. Ms. Davies was sworn and testified about living 250 feet from the front door of Wal-Mart. She discussed concessions made by Target and Wal-Mart. Ms. Abel and Ms. Stauffer questioned about compliance with the Big Box Ordinance as it relates to Target and Wal-Mart.

The City of Tucson had no further witnesses. Mr. Ghelfi called the names of the protestors on record and asked if they had something to add to the discussion or to what they have already written. The protestors are: Rosalie Anderson, Mike Anglin, Betty Iventosch Babb, Frank Babb, Alice Baker, Deborah Baker, Paul Baker, Susan Banner, Jean-Paul Bierny, Dave Bilgray, L.K. Bingham, Jeff Burgman, Pascale Charest, Cathy G. Davis, Sarah Davis, Virg Diebold, Susan Dubow, Shannon Edwards, Randy Emerson, Elissa Schirmer Erly, Noah Friedkin, Rene' Friedkin, Kathleen Garner, Anne Gomez, Joy Greenway, Elinor Hallowell, Gerry Hallowell, Tony Haswell, Terry Sue Holpert, Barbara A. Jamieson, Rochelle Katzeff, Melinda Kinard, Mary Kurtin, Daniel J. Lajack, David J. Lajack, Michael Lajack, Pierre Landau, Tina Lee, Felicia S. May, Robert L. Miller, Judy Nostrant, Nina Ossanna, Katharine Peterson, Katya Peterson, Quinta Peterson, Kathy Phelan, Judy Roads Pickrell, Ila Rupley, John A. Rupley, Anne M. Ryan, Bonnie Sedlmayr-Emerson, Bob Seymour, Sallie Seymour, Ellis Spiegel, Louis Stamler, Antonio Ubach, Richard Vandemark, and Steven Vig. Mr. Ghelfi also called the names of the supporters and gave them the same opportunity to be heard. Robert Offerle, Rich Rodgers, and Susan Rodgers are the supporters.

Ms. Abel delivered her closing argument, emphasizing the capability, qualification and reliability of Wal-Mart to hold a liquor license. The manager will receive Title 4 training when the license is approved. Wal-Mart requires its employees to complete the in-house liquor training. Every cashier must complete this training every year. To prevent underage sales, the electronic system at the point of sale stops a transaction if the customer looks under 40, and requires the cashier to check for ID. Having a Compliance Department demonstrates Wal-Mart's concern for compliance. On the issue of location, Ms. Abel referred to a department store in this same location that sold fine wines several years ago. She discussed negotiating with different parties and how changing the liquor license application from a Series 9 to a 10 was a concession for the neighborhoods. She reiterated the Series 10 is an off-sale liquor license and Wal-Mart would be required to make certain the customer leaves with the packages intact. Finally, Ms. Abel stated that crime is related to alcohol, not the establishment that sells it.

Ms. Stauffer delivered her closing argument, noting the 1995 Big Box Ordinance is not relevant here. Two things the Board must consider are the applicant's capability, qualification and reliability, and the location. With respect to qualification, the application that Wal-Mart submitted was incomplete. The list of violations spans 2004-2009. There is no data from 2009 to the present. Wal-Mart's witness testified that she is aware of more violations which occurred in her region after 2009. The City's witnesses testified that Wal-Mart was nonresponsive to the neighborhood, which reflects on reliability. As stated in the earlier motion, there has been no evidence presented to meet the location requirements under the statute. No one has testified that public convenience requires this or that the best interest of the community will be served. There has been consistent testimony from people living within a one mile radius who do not want this liquor license for a variety of reasons.

The Board discussed the list of violations that has not been updated since 2009, Wal-Mart's efforts to prevent underage sales with its point of sale system, and how Wal-Mart is a capable, qualified and reliable operator of liquor licenses. The impression, however, was the Board heard a corporate presentation. The Wal-Mart witnesses should have been prepared for questions and the manager or the soon-to-be manager should have testified. Board members agreed that location is the biggest issue in this case and the burden of proof was not necessarily met in the original presentation of Wal-Mart's case. There was discussion about the volume of protests and the number of issues related to the protests; all of which stated their case that this liquor license does not adhere to public convenience. There was discussion about negotiations between Wal-Mart and five historic neighborhoods, and possible concessions.

Ms. Scarafiotti made a motion as to Liquor License # 10103694. The Board finds that the capability, qualification and reliability of the Applicant to hold a liquor license are not at issue. The Board finds that the public convenience does not require and the best interest of the community will not be served as required by A.R.S. § 4-203 by granting a liquor license to this location due to the following: the volume of protests given at today's hearing and submitted in writing previously surrounding issues related to time of liquor sales, whether they be for a Series 10 or for protests made regarding the proximity to the neighborhood, the destruction, the increase of crime related to alcohol sales, the perception of saturation in the community and the current provision of those liquor licenses. For those reasons, to deny the liquor license is my motion. Mr. Ghelfi asked if Ms. Scarafiotti would amend her motion to strike the language as to saturation. Ms. Scarafiotti agreed.

Motion to deny license -	Scarafiotti
Seconded -	Cantrell
Yay -	Scarafiotti, Cantrell, Ghelfi, Linden
Nay -	None
Abstained -	None
Disposition -	License denied as to location only

Mr. DuPont rejoined the meeting at 8:40 p.m.

D. Minutes: Review, consideration and action

- August 20, 2012
- May 2, 2013
- May 2, 2013 Executive Session
- June 6, 2013
- June 6, 2013 Executive Session

Motion to continue minutes to the August 1, 2013 agenda -	DuPont
Seconded -	Cantrell
Yay -	DuPont, Cantrell, Ghelfi, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Minutes continued to the August 1, 2013 agenda

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

Mr. DuPont requested a future agenda item in response to a request from Senator Al Melvin, Chairman of the Commerce, Energy and Military Committee. Mr. Ghelfi asked for discussion of a possible review of other states' actions related to liquor license procedure to be an agenda item in August.

F. Call to the Public

Yolanda Herrera, Sunnyside Neighborhood Association Presidential Vice President, and President of the Southside Neighborhood Associations Presidential Partnership, thanked the Board for coming to Tucson. She expressed her appreciation for their time and commitment on behalf of the Tucson community.

The Board adjourned at 8:46 p.m.



 Denise M. Bale
 Administrator of the
 Arizona State Liquor Board



 Date