



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 10, 2014

Members Present: J.D. Ghelfi - Chairman, Cyndy Valdez - Vice Chairman, Bill Du Pont, Robin Cantrell, and Pud Colquitt

Members Absent: Vikki Scarafiotti and Jim Carruthers

Counsel Present: Sarah Selzer, Assistant Attorney General
Diana Day, 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 10, 2014 at 10:01 a.m. with Mr. Ghelfi presiding.

Roll Call

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

B. Agenda: review, consideration and action

1. Restaurant Liquor License No. 12079716 - Original Application

Lawrence Edward Elliget, Agent
Al Meshwar, LLC
Midnight Café and Bar
10215 N. 28th Drive #A
Phoenix, AZ 85051

This matter was continued from the April 3 and June 5, 2014 meetings; and is set for hearing because the City of Phoenix recommended disapproval of this application and due to public protests. The applicant, Lawrence Edward Elliget, was present and was represented by counsel, Harvey Yee. Assistant City Prosecutor Jessica Breedlove appeared on behalf of the City of Phoenix. Mr. Yee requested a continuance because the construction of the premises is incomplete, and the restaurant is not open for business as required by A.R.S. § 4-205.02(A), and because Mr. Yee was informed that the Department would be protesting the application. The City objected to the continuance. Ms. Selzer requested a brief recess in order to consult with the investigator assigned to the case.

The Board recessed from 10:07 a.m. to 10:10 a.m.

Ms. Selzer stated that the Department was not protesting the application and that the Department's investigator was available for testimonial purposes in the City's case and not as a Department protest witness. Mr. Ghelfi denied the motion to continue. Mr. Yee requested to withdraw the application. The hearing was continued until later in the meeting to allow Mr. Yee time to file an application withdrawal.

The Board proceeded to agenda item #3.

3. Restaurant Liquor License No. 12079592 - Original Application

Walter Salazar Lopez
Villa Peru Restaurant
1857 N. Scottsdale Road
Tempe, AZ 85281

This matter is set for hearing because the Department is protesting the application. The applicant, Walter Salazar Lopez, appeared at the hearing and was not represented by counsel. Mario Barajas was present to interpret for the applicant. Mr. Salazar Lopez was sworn and testified. Assistant Attorney General Sarah Selzer appeared on behalf of the Department. Investigator Adam Palubeskie appeared on behalf of the Department and was sworn and testified. Assistant Attorney General Diana Day, from the Solicitor General's Office, was present and provided independent legal advice to the Board.

Motion to convene in executive session for legal advice - Du Pont
Seconded - Ghelfi
Yay - Du Pont, Ghelfi, Valdez, Cantrell, Colquitt
Nay - None
Abstained - None
Disposition - Convene in executive session

The Board convened in executive session at 10:18 a.m. and reconvened in open session at 10:27 a.m.

Mr. Ghelfi asked the applicant and the Department to describe their interpretation of A.R.S. § 4-208 as it applies to this case.

Motion to convene in executive session for legal advice - Ghelfi
Seconded - Cantrell
Yay - Ghelfi, Cantrell, Du Pont, Valdez, Colquitt
Nay - None
Abstained - None
Disposition - Convene in executive session

The Board convened in executive session at 10:34 a.m. and reconvened in open session at 10:37 a.m.

Mr. Salazar Lopez described his restaurant and family business. He asked the Board to reconsider its previous decision denying a liquor license to him. Ms. Selzer objected to any attempt to ask for reconsideration of the original license. Ms. Selzer asked Mr. Salazar Lopez why he answered "no" to the question if he had ever been denied a liquor license on his application. The Board asked Mr. Salazar Lopez if he had any assistance with his application.

Motion to convene in executive session for legal advice - Valdez
Seconded - Colquitt
Yay - Valdez, Colquitt, Ghelfi, Cantrell, Du Pont
Nay - None
Abstained - None
Disposition - Convene in executive session

The Board convened in executive session at 10:50 a.m. and reconvened in open session at 10:54 a.m.

The Board briefly continued the hearing and proceeded to item #1.

1. Restaurant Liquor License No. 12079716 - Original Application

Lawrence Edward Elliget, Agent
Al Meshwar, LLC
Midnight Café and Bar
10215 N. 28th Drive #A
Phoenix, AZ 85051

Mr. Ghelfi announced his receipt of Application Withdrawal.

Motion to accept withdrawal -	Valdez
Seconded -	Du Pont
Yay -	Valdez, DuPont, Ghelfi, Cantrell, Colquitt
Nay -	None
Abstained -	None
Disposition -	Withdrawal of application granted

The Board reconvened to item #3.

3. Restaurant Liquor License No. 12079592 - Original Application

Walter Salazar Lopez
Villa Peru Restaurant
1857 N. Scottsdale Road
Tempe, AZ 85281

The Board asked Mr. Salazar Lopez if he received a copy of the materials the Board received and if he and his family members who work in the restaurant have received liquor training. Mr. Salazar Lopez made a final statement. Ms. Selzer made final remarks and stated that location is not at issue. Investigator Palubeskie answered questions from the Board.

There was Board debate. Mr. Du Pont made a motion regarding Liquor License No. 12079915, that we go to personal qualifications only, location is not a factor. I move that based on the selling of alcohol without a license; based on the alcohol that was brought into the restaurant was purchased outside the state and that an eighteen year old was selling that liquor, and this is documented in the findings from the Department, I move that we find the applicant is not capable, qualified and reliable as required by A.R.S. § 4-203 and that we deny the application. I understand the question that was answered incorrectly and it is a concern of mine. Again, I don't know if it was done in error. I don't know if it was a matter of interpretation from English to Spanish. Again, I think the findings that I have listed support the denial of this license.

Motion to deny license	
as to person only -	Du Pont
Seconded -	Cantrell
Yay -	Du Pont, Cantrell, Ghelfi, Colquitt
Nay -	Valdez
Abstained -	None
Disposition -	License denied

The Board proceeded to agenda item #2.

2. Beer and Wine Store Liquor License No. 10076506 - Original Application

Phu Tan Lam
Vien Dong Seafood Market LLC
Vien Dong Seafood Market
4141 North 35th Avenue, Ste. 1,2&3
Phoenix, AZ 85017

This matter is set for hearing because the City of Phoenix recommended disapproval. The Applicant, Phu Tan Lam, was not present and was not represented by counsel. Notice of hearing was sent to the Applicant via certified mail to the address of record. Assistant City Prosecutor Jessica Breedlove appeared on behalf of the City of Phoenix.

Ms. Valdez made a motion regarding Liquor License No. 10076506, based upon the following facts, that is, that the City of Phoenix has voted disapproval based upon the Phoenix Police Department's recommendations for disapproval, those were based on numerous tax liens dating back to 2007 and totaling over \$26,000, I move that we find the Applicant is not capable, qualified and reliable as required by A.R.S. § 4-203(A) and that we deny the application. The motion was amended to include the applicant was not present at the hearing today.

Motion to deny license	
as to person only -	Valdez
Seconded -	Du Pont
Yay -	Valdez, Du Pont, Cantrell, Ghelfi, Colquitt
Nay -	None
Abstained -	None
Disposition -	License denied

The Board recessed at 11:16 a.m. and reconvened at 1:11 p.m.

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

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

4. Bar Liquor License No. 06070799 - Person Transfer Application

Lauren Kay Merrett, Agent	Samir Sadik Yono
Doukas Corp	Pizza Crazy LLC
Bottom's Up Gentlemen Club	Bottom's Up Gentlemen Club
4516 N. 19th Avenue	4516 N. 19th Avenue
Phoenix, AZ 85015	Phoenix, AZ 85015

This matter is set for hearing because the City of Phoenix recommended disapproval and due to public protest. There is an interim permit in place. The Applicant, Samir Sadik Yono, was present and was represented by counsel, Peter Schelstraete. Mr. Yono was sworn and testified. Mark Cristiano and Kevin Richardson appeared as witnesses for the Applicant and were sworn. Mr. Richardson testified. Assistant City Prosecutor Jessica Breedlove appeared on behalf of the City of Phoenix. Public protestor Randy Roberts appeared on behalf of Westwood Community Association and was represented by counsel, Michael Ryan. Mr. Roberts was sworn and testified. Public protestors Elgis Berkman, Michael Edwards and Teresa Young appeared as witnesses and were sworn and testified.

Motion to convene in executive session for legal advice -	Ghelfi
Seconded -	Du Pont
Yay -	Ghelfi, Du Pont, Cantrell, Colquitt, Valdez
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 1:22 p.m. and reconvened in open session at 1:29 p.m.

Mr. Ghelfi explained that under A.R.S. § 4-203(F), this is a person transfer application and that location legally cannot be considered. Opening statements were made by Mr. Schelstraete and Mr. Ryan. Ms. Breedlove waived the City's opening statement.

Mr. Schelstraete questioned the applicant, Samir Yono. Mr. Yono has several businesses, some with liquor licenses. Since 1987, there has been one violation, seventeen years ago, at a 7-11 Store. Mr. Yono purchased the club six months ago and began remodeling. He hired a consultant, installed cameras inside and out, and hired security. Mr. Yono attempted to meet with the neighbors, however, only one person accepted the invitation. Mr. Yono

discussed his meetings with representatives of the City of Phoenix and his efforts to clean up the property. Ms. Breedlove questioned Mr. Yono about his other liquor licenses and the liquor law training that has been provided to his employees. Mr. Ryan questioned Mr. Yono about the shootings that had occurred in April and the efforts Mr. Yono has undertaken to avoid future acts of violence. Questions from the Board concerned parking, communication with the City and the neighborhood, purchase of the property, and details of the violation in 1996.

Mr. Schelstraete called his second witness, Kevin Richardson. Mr. Richardson holds a liquor license in Texas and provides consulting for nightclubs. Mr. Yono hired Mr. Richardson. Mr. Schelstraete questioned Mr. Richardson about training for employees, dress code enforcement, upgrades to the property, parking, neighborhood meeting, interactions with the Phoenix Police Department, and interactions with neighbor Randy Roberts. Ms. Breedlove questioned Mr. Richardson about his due diligence prior to becoming a consultant for Mr. Yono's businesses, and his knowledge of the law with respect to reporting acts of violence. Mr. Ryan questioned Mr. Richardson about details of the shooting on the adjacent property. Questions from the Board concerned the actual name of the club, details of the shooting, and standard operating procedures for employees when a violent act occurs.

Mr. Schelstraete called Mr. Yono to explain the name of the club at the time of purchase and when it was named "The Roxy."

The Board recessed from 3:10 p.m. to 3:27 p.m.

Mr. Ryan called his first witness, Mike Williams who was appearing on behalf of the Phoenix Law Enforcement Association. Mr. Schelstraete asked to voir dire the witness and then objected to Mr. Williams' testimony because the Phoenix Law Enforcement Association had not filed any paperwork with the Board authorizing him to speak on its behalf.

Motion to convene in executive session for legal advice -	Valdez
Seconded -	Ghelfi
Yay -	Valdez, Ghelfi, Du Pont, Cantrell, Colquitt
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 3:30 p.m. and reconvened in open session at 3:33 p.m.

Mr. Ghelfi sustained Mr. Schelstraete's objection. Mr. Ryan rested on the written record. Mr. Ghelfi entered a list of valid public protestors consisting of 351 names and street addresses as Exhibit 1. Mr. Ghelfi called Randy Roberts from the request to speak cards. Mr. Roberts described the noise from the club. There were questions from Mr. Schelstraete and the Board. Elgis Berkman was sworn and testified.

Megan Schmitz appeared as witness for Councilwoman Laura Pastor. Mr. Schelstraete objected to the request to speak because the City Council's recommendation and verbatim transcript are on record with the Board along with the Councilwoman's personal letter to the Board.

Motion to convene in executive session for legal advice -	Ghelfi
Seconded -	Cantrell
Yay -	Ghelfi, Cantrell, Du Pont, Colquitt, Valdez
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 4:03 p.m. and reconvened in open session at 4:07 p.m.

Mr. Ghelfi sustained the objection. Michael Edwards was sworn and testified. Aaron Alderson and Richard Conaway were called to speak and declined. Teresa Young was sworn and testified. Closing arguments were made by Mr. Schelstraete, Ms. Breedlove and Mr. Ryan.

There was Board discussion about the City Council's recommendation, neighborhood outreach, and the applicant's capability, qualification and reliability. Ms. Valdez made a motion regarding Liquor License No. 06070799, based

upon the Applicant's personal qualification as follows: Mr. Samir Yono is an educated and experienced business man with several different types of businesses and running them successfully; he owns multiple businesses with different types of liquor licenses in Arizona and has been since 1987. His record with the Department of Liquor Licenses and Control reflects that since 1987 only one liquor violation has been issued and that was 17 years ago in 1996. Mr. Yono also testified that as a result of the one violation he took corrective action by retaining services of a company that used decoys to help train employees on checking IDs. After purchasing the subject property, Mr. Yono retained a consultant to make changes to the property to attract a different customer clientele than was there previously and to turn away the old clientele. Such changes included remodeling inside and out, upgrading the existing security camera, moving the parking lot, moving parking to only in front of the building; he retained armed security to search patrons and to prevent weapons from coming onto the property and to enforce a strict dress code. He also used the armed security to prevent loitering on the property. Although there were multiple calls for noise complaints, no citations were issued and testimony from one of the neighborhood residents indicated that the noise had decreased based on actions taken by Mr. Yono. Therefore I move we find the Applicant is capable, qualified and reliable as required by A.R.S. 203(A) and that the Board grant this application for a Person Transfer.

Motion to convene in executive session for legal advice -	Du Pont
Seconded -	Valdez
Yay -	Du Pont, Valdez, Ghelfi, Cantrell, Colquitt,
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 4:57 p.m. and reconvened in open session at 5:05 p.m.

Ms. Valdez amended her motion to add one additional factor in support of Mr. Yono's capability, qualifications and reliability: City of Phoenix staff all recommended approval of this Person Transfer and it was only Mayor and Council that voted for disapproval.

Motion to grant license -	Valdez
Seconded -	Du Pont
Yay -	Valdez, Du Pont Cantrell, Colquitt, Ghelfi
Nay -	None
Abstained -	None
Disposition -	License granted

D. Minutes

Motion to approve the May 1, 2014 minutes -	Cantrell
Seconded -	Ghelfi
Yay -	Cantrell, Ghelfi
Nay -	None
Abstained -	Colquitt, Du Pont, Valdez
Disposition -	May 1, 2014 minutes approved

Motion to approve the May 1, 2014 Executive Session minutes -	Cantrell
Seconded -	Ghelfi
Yay -	Cantrell, Ghelfi
Nay -	None
Abstained -	Colquitt, Du Pont, Valdez
Disposition -	May 1, 2014 Executive Session minutes approved

Motion to approve the
September 6, 2012 minutes - Du Pont
Seconded - Cantrell
Yay - Du Pont, Cantrell, Ghelfi
Nay - None
Abstained - Colquitt, Valdez
Disposition - September 6, 2012 minutes approved

Motion to approve the
September 6, 2012
Executive Session minutes - Du Pont
Seconded - Cantrell
Yay - Du Pont, Cantrell, Ghelfi
Nay - None
Abstained - Colquitt, Valdez
Disposition - September 6, 2012 Executive Session minutes approved

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

Mr. Ghelfi suggested an agenda item for the next meeting: Board will consider making Board members available to city councils and local governing bodies at their request to discuss specifically Title 4 and Board procedures.

F. Call to the Public

None.

The Board adjourned at 5:20 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date