



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
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DOUGLAS A. DUCEY
Governor

J. D. GHELFI
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
July 9 2015

Members Present: J.D. Ghelfi - Chairman, Cyndy Valdez - Vice Chairman, Robin Cantrell
Members Absent: Bill Du Pont, Vikki Scarafiotti, and Jim Carruthers
Counsel Present: Michael Raine, 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 9, 2015 at 10:03 a.m. with Mr. Ghelfi presiding.

Roll Call

Mr. Dupont, Mr. Carruthers, and Ms. Scarafiotti were absent. All other members were present (Ms. Cantrell, telephonically). A.R.S. § 4-111(D) was invoked, designating a panel of Mr. Ghelfi, Ms. Valdez, and Ms. Cantrell.

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

1. Beer and Wine Store Liquor License No. 10076623 - Original Application

Gilbert Enriquez
USA Mini Mart
7002 N. 23rd Lane
Phoenix, AZ 85021

Subsequent to this matter being scheduled for hearing, an application withdrawal was filed with the Board. This matter is set for hearing because of Department protest and because the City of Phoenix recommended disapproval. This matter is also set due to public protest. The Applicant, Gilbert Enriquez, did not appear at the hearing and was not represented by counsel. The City of Phoenix was represented by Assistant City Prosecutor Elizabeth Sugges. Detective Eric Breindl appeared on behalf of the City of Phoenix. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control ("Department"). Investigator Herb Carruthers appeared on behalf of the Department. Assistant Attorney General Christopher Munns, from the Solicitor General's Office, was available telephonically to provide independent legal advice to the Board. Public protestors Barbra Heller, Mary Ida Bush, Mary Obrochta, Linda Colino, Merilou Effinger, Pam Fitzgerald, and Virginia Murfin appeared at the hearing.

Prior to the hearing, the Applicant verbally requested to withdraw the withdrawal application and proceed with the hearing at a later date. Due to an out-of-state family emergency, the Applicant could not appear before the Board and present a written request to continue the hearing. Mr. Ghelfi stated the Board would make a motion to continue the hearing to the September 3, 2015 meeting.

Motion to continue to the	
September 3 Board meeting -	Valdez
Seconded -	Cantrell
Yay -	Valdez, Cantrell, Ghelfi
Nay -	None
Abstained -	None
Disposition -	Continued to the September 3, 2015 Board meeting

2. Liquor Store Liquor License No. 09040005 - Location Transfer Application

From:	To:
Elliott J. Glasser	Elliott J. Glasser
1st Stop	1st Stop
100 E. Highway 260	104 E. Highway 260
Payson, AZ 85541	Payson, AZ 85541

This matter is set for hearing because of Department protest and because the Town of Payson recommended disapproval. The Applicant, Elliott Glasser, appeared at the hearing and was not represented by counsel. Mr. Glasser was sworn and testified. The Town of Payson was represented by Town Attorney Hector Figueroa. Police Chief Donald Engler appeared on behalf of the Town of Payson and was sworn and testified. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control ("Department"). Investigator Alan Parris appeared on behalf of the Department and was sworn and testified. Assistant Attorney General Christopher Munns, from the Solicitor General's Office, was available telephonically to provide independent legal advice to the Board.

Mr. Glasser described the property at 100 E. Highway 260, where he intended to operate a liquor store. It was later discovered that there were contamination and structural issues with the building. Carl's Jr. leased the property and tore down the old building, replacing it with a new store. Mr. Glasser discussed his agreement with the Arizona Credit Union for the property at 104 E. Highway 260. Mr. Figueroa cross-examined the Applicant. Mr. Glasser testified that he did not recall what year he was granted a liquor license or whether he had renewed the license every year. Mr. Glasser stated that he had not paid TPT (Transaction Privilege Tax) or sales tax revenues because the liquor store was not open for business. He testified that he had not sold one item of liquor on this liquor license.

Mr. Raine provided a book of exhibits to the Applicant. The exhibits are part of the Department's records. Regarding Exhibit 1, Mr. Glasser confirmed that the establishment at 100 E. Highway 260 never opened for business. Mr. Raine moved to admit Exhibit 1, Town of Payson Minutes of April 16, 2015 Meeting. Exhibit 1 was admitted. Regarding Exhibit 2, Inactive/Active Status Form, Mr. Raine asked about 5. Date license was last used. Mr. Glasser stated that he signed the form and someone else completed it. Mr. Raine moved to admit Exhibit 2. Exhibit 2 was admitted.

Regarding Exhibit 3, Application for Liquor License and Questionnaire, Mr. Glasser confirmed that his permanent residence is in Paradise Valley, and that he intended to be physically present at the licensed premises for five to ten hours per month. Mr. Raine moved to admit Exhibit 3. Exhibit 3 was admitted. Mr. Glasser' stated that his son will be the on-site manager. Exhibit 4 is the Application and Questionnaire that were submitted to the Department in 2008. Mr. Raine moved to admit Exhibit 4. Exhibit 4 was admitted.

Exhibit 5 is Annual Renewal of Spirituous Liquor License, dated June 21, 2010. Mr. Glasser confirmed that he signed the form. The form indicates that the license is not inactive. Mr. Glasser stated that someone might have helped him complete the form. Mr. Raine moved to admit Exhibit 5. Exhibit 5 was admitted. Exhibit 6 is Annual Renewal of Spirituous Liquor License, dated July 26, 2011. Mr. Glasser confirmed that he signed the form. The form indicates that the license is not inactive. Mr. Raine questioned Mr. Glasser about active versus inactive status. Mr. Raine moved to admit Exhibit 6. Exhibit 6 was admitted.

Exhibits 7 and 8 are Annual Renewal forms for 2012 and 2013. Mr. Glasser confirmed that he signed both forms and that he assumed the liquor license was active at the time. Mr. Raine moved to admit Exhibits 7 and 8. Exhibits 7 and 8 were admitted. Exhibit 9 is the Annual Renewal for 2015, dated January 6, 2015. Mr. Glasser confirmed that he signed the form and he does not know why "Yes" is checked after "License Inactive?" Mr. Raine moved to

admit Exhibit 9. Exhibit 9 was admitted. Mr. Raine moved to admit Exhibit 10, Inactive License Credential. Exhibit 10 was admitted. Exhibit 11 is an email and attachment from the Town Clerk of Payson to Investigator Parris, regarding the business license application for 1st Stop at 100 E. Highway 260.

Exhibit 12 is Notice of Inactive Status, dated January 24, 1994, for Liquor License No. 06070325. Mr. Glasser confirmed that he signed the form. Mr. Raine noted that in Exhibit 3, Questionnaire, Mr. Glasser listed No. 06070325 as one of the liquor licenses he previously owned and sold. Mr. Raine moved to admit Exhibit 12. Exhibit 12 was admitted. Exhibit 13 is Inactive/Active Status Form, dated July 20, 2005, for Liquor License No. 06070205. Mr. Raine noted that No. 06070205 is also listed as one of the liquor licenses Mr. Glasser previously owned and sold. Mr. Raine moved to admit Exhibit 13. Exhibit 13 was admitted. Exhibit 14 is Compliance Case No. 0557-98C, dated September 22, 1998, for violation of A.A.C. R19-1-225 Inactivity without notice. Mr. Raine moved to admit Exhibit 14. Exhibit 14 was admitted.

Mr. Figueroa called his witness, Police Chief Donald Engler. Chief Engler has served 31 years as a police officer with the Town of Payson. He discussed Department's Exhibit 11, identifying the Town Clerk and staff over business license operations. Chief Engler recalled the Town Council hearing in 2008 where an unfavorable recommendation was given for the liquor license application at 100 E. Highway 260. He testified that there has never been a business license issued anywhere in the Town of Payson to Mr. Glasser. He also testified that Mr. Glasser has never operated a liquor establishment within the Town of Payson. Chief Engler described his testimony to the Mayor and Town Council on April 16, 2015.

Mr. Raine moved to admit Exhibit 11. Exhibit 11 was admitted. Mr. Raine called his witness, Investigator Alan Parris. Investigator Parris prepared the investigation report for the Department protest. Investigator Parris testified that in January 2015, the Department became aware that the license had not been active for the past five years. There were Board questions about posting the notice on the building and why the license did not revert to the State for nonuse.

Mr. Figueroa made a closing statement. Mr. Raine made a closing statement. There was Board debate.

Ms. Valdez made a motion regarding Bar Liquor License No. 09040005. I move we find the public convenience does not require, and that the best interest of the community will not be served as required by A.R.S. Section 203(A), by granting a liquor license to this location; and that the application for location transfer be denied based upon the following factors: the Town Council of Payson unanimously recommended disapproval; the Department of Liquor Licenses and Control is protesting this application on a number of grounds; the Applicant has provided false or otherwise misleading information on his application, his questionnaire, the inactive and active status forms, and the annual renewal forms on location, on active and inactive status of the license; there is an issue of saturation with several liquor licenses in or near the location; and the Applicant's answers to questions from the State and City's attorneys regarding the same were not credible.

Mr. Ghelfi reiterated his disappointment with the system as it relates to not having had this information in May when the Board granted the Person and Location Transfer Application for Bar Liquor License No. 06070122. The Department should have taken action, and it was inappropriate for this matter to be referred to the Board.

Motion to deny license -	Valdez
Seconded -	Cantrell
Yay -	Valdez, Cantrell, Ghelfi
Nay -	None
Abstained -	None
Disposition -	License denied

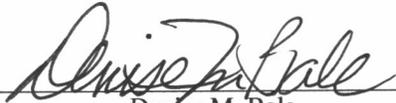
C. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

The August 6, 2015 meeting is cancelled. The next Board meeting is September 3, 2015. The start time will be 10:00 a.m. Mr. Ghelfi requested future agenda items: (E) Title 4 training for laws that go into effect July 3, 2015; (F) Advisory in the Notice of Hearing regarding interpreters and legal representation of corporations and LLC's; and (G) Procedural issues with local governing body decisions.

D. Call to the Public

None.

The Board adjourned at 11:53 a.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date