



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
September 3, 2015

Members Present: J.D. Ghelfi - Chairman, Cyndy Valdez - Vice Chairman, Bill Du Pont, Vikki Scarafiotti, and Jim Carruthers

Members Absent: Robin Cantrell

Counsel Present: Michael Raine, Assistant Attorney General
Christopher Munns, 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 September 3, 2015 at 10:00 a.m. with Mr. Ghelfi presiding.

Roll Call

Ms. Cantrell was absent. All other members were present.

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

The Applicant, Gilbert Enriquez, appeared at the hearing and was not represented by counsel. Dr. William Sayegh testified in support of the Applicant. The City of Phoenix was represented by Assistant City Prosecutor Elizabeth Sugges. Detective Eric Breindl, Protestor Jeff Spellman, and Protestor Pam Fitzgerald testified in support of the City of Phoenix. James Endrizzi and Robert Gawry appeared in support of the City of Phoenix. The Department of Liquor Licenses and Control ("Department") was represented by Assistant Attorney General Michael Raine. Investigator Herb Carruthers appeared in support of the Department. Assistant Attorney General Christopher Munns, from the Solicitor General's Office, was present and provided independent legal advice to the Board. Public protestors Barbra Heller, Mary Ida Bush, Kerri Beaufaux, Linda Colino, and Virginia Murfin appeared at the hearing.

Mr. Enriquez described his management and sales experience as it relates to capability, qualification and reliability. He discussed his interactions with members of the neighborhood and his efforts to improve the neighborhood. Ms. Sugges questioned about leasing the buildings at the location, selling the USA Mini Mart business, and subsequently filing an application withdrawal with the Department.

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

The Board convened in executive session at 10:31 a.m. and reconvened in open session at 10:38 a.m.

Ms. Sugges continued questioning about the Applicant's business interests and his relationship with Dr. Sayegh. Mr. Enriquez testified that two days prior to the July 9, 2015 Board hearing, he called Ms. Bale and stated that he wanted to withdraw his application withdrawal. He also testified that on the following day, July 8, 2015, he left a voice message on Ms. Bale's answering system stating he would not be able to attend the hearing due to an out-of-state family emergency.

The Board recessed from 11:16 to 11:28 a.m.

Mr. Raine questioned Mr. Enriquez about Dr. Sayegh's role in the Applicant's businesses. There were Board questions about the hours of operation and employees. Dr. Sayegh addressed the Board regarding his friendship and business relationship with Mr. Enriquez. Ms. Sugges and Mr. Raine questioned Dr. Sayegh. There were no questions from the Board.

Ms. Sugges called the City's first witness, Detective Eric Breindl. Det. Breindl discussed silent ownership, the City of Phoenix Violence Impact Project, statistics on the rising rate of violent and property crimes in the area, and the number of liquor licenses within one mile of USA Mini Mart. There were Board questions.

Ms. Sugges called the City's second witness, Jeff Spellman. Mr. Spellman is Captain of Lane Avenue Block Watch and has lived in the area for over thirty years. Mr. Spellman described crime and blight conditions in the neighborhood and the public investment in re-stabilizing the area.

Ms. Sugges called the City's third witness, Pam Fitzgerald. Ms. Fitzgerald has lived in the area for forty-three years and she is President of Washington Park Neighborhood Association. Ms. Fitzgerald stated that the issuance of this liquor license would be a detriment to the community and would not improve the conditions in the neighborhood. She indicated there is considerable community opposition to granting this liquor license.

Mr. Raine submitted on the record for the Department's case..

Mr. Enriquez made a closing statement. Ms. Sugges made a closing statement. Mr. Raine made a closing statement. There was Board discussion.

Ms. Valdez made a motion regarding Beer and Wine Store Liquor License No. 10076623: Based upon the following lack of personal qualification, that is the Applicant has not demonstrated appropriate experience in running a liquor establishment. As examples, there is a lack of documentation regarding the businesses and leases, hours of work, and the management of his business. There is also lacking a business plan. The Applicant and his employee were cited earlier this year for selling tobacco to a minor which is reflective of his business practices and the lack of the capability and reliability in running a regulated business. He lacks the use permits to sell alcohol, which also speaks to his business practices. The City of Phoenix and the Department are protesting the application on grounds of hidden ownership, and the Applicant and Dr. Sayegh's answers to questions regarding the same were not credible. The only employee, that is Sabrina, the only employee at that location, has not completed the required Title 4 liquor law training and there is no manager or other trained employee on the site until the business closes. Therefore I move we find the Applicant is not capable, qualified and reliable as required A.R.S. Section 203A. And based upon the following factors, that is the City of Phoenix has made a recommendation of disapproval, the Phoenix Police Department had disapproved the application because of hidden ownership issues, and that the liquor license in this location would be a detriment to the neighborhood. The area borders the violence impact project area; there is considerable public protest; there was testimony regarding concerns about the high violent crime rate in the area; specifically two to three times the City's average; there is a problem with the transient population; and saturation of liquor licenses in the area. We heard testimony that there are thirteen within a one mile radius and six within a half

mile radius, including an increase in the liquor violations in that area from 2012 to 2014. Therefore I move that 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 203A, and that the liquor license application be denied.

Motion to deny license -	Valdez
Seconded -	Du Pont
Yay -	Valdez, Du Pont, Ghelfi, Carruthers, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	License denied

The Board recessed from 1:03 to 1:19 p.m.

2. Beer and Wine Store Liquor License No. 10076650 - Original Application

Troy Charles DeVos
QuikTrip Corporation
QuikTrip #423
13067 W. Thomas Road
Avondale, AZ 85392

This matter is set for hearing because the City of Avondale recommended disapproval. The Applicant, QuikTrip Corporation, appeared at the hearing and was represented by counsel, Charles Huellmantel and Lauren Proper. Larry Robinson appeared in support of the Applicant. The City of Avondale was represented by counsel, Landon Loveland.

Mr. Ghelfi disclosed on behalf of the Board that Mr. Huellmantel is a former Board Chairman and that each Member has worked with him. Mr. Ghelfi believes that this will not affect the Board's decision or its ability to conduct a fair hearing. Ms. Valdez agreed; Mr. Du Pont agreed; Ms. Scarafiotti agreed; and Mr. Carruthers agreed. Ms. Valdez specifically disclosed that her employer, Golden Eagle Distributors, Inc., has significant work with QuikTrip. She does not have a financial interest in Golden Eagle Distributors. She is not an owner and her wages are not dependent upon the profits of the company. Ms. Valdez feels that she can still participate in the hearing and be impartial. She is not inclined to recuse herself unless there are objections from the parties. There was no objection to the disclosures made by Mr. Ghelfi and Ms. Valdez.

Mr. Huellmantel referred to the brief he submitted in support of the application and offered to submit on the record. There were no objections. Mr. Du Pont made a motion regarding Liquor License No. 10076650: on personal qualification, we find that the City of Avondale has found that the Applicant is qualified, capable and reliable as required by A.R.S. §4-203 based upon its votes in a prior hearing the same night to approve another QuikTrip liquor license application. The Applicant has business knowledge and experience in running liquor establishments, and the Department of Liquor Licenses and Control is not protesting the application. Based on this location is a new location, that it has been zoned for and approved by Mayor and Council for improvements, that it is a new development area across from CVS, and that we did hear from the Mayor and Council that this is a new location where they want to increase business, we find that the public convenience does require and the best interest of the community will be served as required by A.R.S. § 4-203(A) by granting the liquor license and that the Board grant the application.

Ms. Scarafiotti made a statement regarding the waste of time and resource in bringing this matter before the Board. The City Council should have provided clarification of their recommendation.

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

3. Restaurant Liquor License No. 1207A203 - Original Application

Joseph Noyes Martini
Wild Wild West BBQ Company LLC
Rango's Smoke House Grill
6032 E. Cave Creek Road
Cave Creek, AZ 85331

This matter is set for hearing because of Department protest and because the Town of Cave Creek recommended disapproval. The Applicant, Joseph Martini, did not appear at the hearing and was not represented by counsel. The Town of Cave Creek was represented by Carefree-Cave Creek Prosecutor Thomas J. Parascandola. Town Marshal Adam Stein appeared on behalf of the Town of Cave Creek. Assistant Attorney General Michael Raine appeared on behalf of the Department. Assistant Attorney General Christopher Munns, from the Solicitor General's Office, was available to provide independent legal advice to the Board.

Mr. Ghelfi discussed Applicant's request to continue the hearing that was sent via email the day before the hearing. The Applicant has been working out-of-state for an extended period of time and has not responded to telephonic and email communication until September 2, 2015. Due to an out-of-state family emergency, the Applicant could not appear before the Board. Mr. Raine spoke with the Applicant and he did not object to continuing the hearing. The Town of Cave Creek had no position on continuing the hearing. Mr. Ghelfi made a statement regarding the Board's frequency of granting continuances.

Motion to continue to the
November 5 Board meeting - Valdez
Seconded - Carruthers
Yay - Valdez, Carruthers, Du Pont
Nay - Ghelfi, Scarafiotti
Abstained - None
Disposition - Continued to the November 5, 2015 Board meeting

4. Liquor Store Liquor License No. 09040005 - Request for Rehearing

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

This matter is set to consider the Applicant's Request for Reconsideration filed with the Board. This Location Transfer Application was denied at the July 9, 2015 Board meeting. The Applicant timely filed a Request for Rehearing. The Applicant, Elliott J. Glasser, appeared at the hearing and was represented by counsel, Dean M. LaPerna. The Town of Payson was represented by Town Attorney Hector M. Figueroa. Assistant Attorney General Michael D. Raine appeared on behalf of the Department. Assistant Attorney General Christopher Munns, from the Solicitor General's Office, was available to provide independent legal advice to the Board.

Mr. LaPerna made an opening statement. Mr. Figueroa recounted the Town's position in recommending denial of the application. Mr. Raine argued that the Board made the correct determination in denying the application and that there were no irregularities in the hearing on July 9, 2015.

There was Board discussion.

Motion to deny request
for rehearing - Valdez
Seconded - Du Pont
Yay - Valdez, Du Pont, Ghelfi, Carruthers, Scarafiotti
Nay - None
Abstained - None
Disposition - Request for rehearing denied

C. Minutes

Motion to approve the
June 4, 2015 minutes - Valdez
Seconded - Carruthers
Yay - Valdez, Carruthers, Ghelfi, Du Pont
Nay - None
Abstained - Scarafiotti
Disposition - June 4, 2015 minutes approved

Motion to approve the
June 4, 2015
Executive Session minutes - Valdez
Seconded - Carruthers
Yay - Valdez, Carruthers, Ghelfi, Du Pont
Nay - None
Abstained - Scarafiotti
Disposition - June 4, 2015 Executive Session minutes approved

Motion to approve the
July 9, 2015 minutes - Valdez
Seconded - Ghelfi
Yay - Valdez, Ghelfi
Nay - None
Abstained - Du Pont, Carruthers, Scarafiotti
Disposition - July 9, 2015 minutes approved

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

The October 1, 2015 meeting is cancelled. The next scheduled meeting is November 5, 2015. The start time will be 10:00 a.m.

E. Interpretation of A.R.S. § 4-201: Documentation Required of Neighborhood Associations

Assistant Attorney General Michael Raine reported on legal research. There was Board discussion.

F. Discussion and Action to Authorize Chairperson to Rule on Uncontested or Stipulated Requests for Withdrawal of Application or for Continuance

Motion to delegate authority to
Chairperson to rule on uncontested
or stipulated requests for
continuation - Valdez
Seconded - Scarafiotti
Yay - Valdez, Scarafiotti, Ghelfi, Carruthers, Du Pont
Nay - None
Abstained - None
Disposition - Delegation of authority to Chairperson to rule on uncontested or stipulated
requests for continuation

G. Title 4 training for laws that go into effect July 3, 2015

Assistant Attorney General Michael Raine provided Members a copy of his slide presentation on this subject.

H. Advisory in the Notice of Hearing: Interpreters and legal representation of corporations and LLC's

There was Board discussion.

I. Procedural issues with local governing body decisions

There was Board discussion.

J. Call to the Public

Nicholas Guttilla, Guttilla Murphy Anderson, P.C., addressed the Board.

The Board adjourned at 2:46 p.m.

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Denise M. Bale
Administrator of the
Arizona State Liquor Board


Date