Arizona State Liquor Board Hearing Minutes
November 5, 2020

Members Present: Troy L. Campbell – Chair, Walter W. Jahn – Vice Chair, Michael N. Widener, and Lynn Shulman

Members Absent: None

Counsel Present: Michael Raine, Assistant Attorney General
Mary D. Williams, Assistant Attorney General

Staff Present: Denise Bale, Board Administrator
Arlene Moreno, Interim Board Administrator
Nathaniel Snyder, Compliance Enforcement Coordinator

A. Call to Order
The hearing of the Arizona State Liquor Board was called to order on November 5, 2020, at 10:03 a.m. with Mr. Campbell presiding. Google Meet was utilized for facilitating the meeting. Board members, staff, and all parties participated telephonically.

Roll Call
All members were present.

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

Mr. Campbell called Agenda item 6 first.

6. Restaurant Liquor License, Application No. 84257 - Original Application

Tawny Lyn Costa, Agent
DSK II LLC
Parma Italian Roots
3623 E. Indian School Road
Phoenix, AZ 85018

This matter is set for hearing because the Department is protesting the application. Assistant Attorney General Michael Raine appeared on behalf of the Department. Assistant Attorney General Mary D. Williams provided independent legal advice to the Board. The parties entered a stipulation to continue the hearing to the December meeting.
Motion to continue hearing to December 3 -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Widener
Jahn
Widener, Jahn, Shulman, Campbell
None
None
Hearing continued to December 3, 2020

1. **Bar Liquor License, Application No. 112441 and 112459 - Original Application**

Jeffrey Craig Miller, Agent
Rock the Block LLC
The Mayor
101 S. San Francisco Street
Flagstaff, AZ 86001

This matter was continued from the October meeting. This matter is set for hearing because of public protest. The Applicant filed Motion to Disqualify Bouchard Protest as Untimely and Vacate the Hearing. Ms. Shulman made a motion to deny Applicant's motion and then withdrew her motion. Mr. Schelstraete explained the motion before the Board is in two parts. The first, to disqualify Bouchard protest as untimely, and if the Board agrees, then to vacate the hearing.

Motion to go into executive session for the purpose of receiving legal advice -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Campbell
Widener
Campbell, Widener, Jahn, Shulman
None
None
Convene in executive session

The Board convened in executive session at 10:16 a.m. and reconvened in open session at 10:56 a.m.

Mr. Schelstraete argued that the protest was untimely based on A.R.S. § 4-201(E), 60 days after the filing of the application. The Department accepted the application on June 11, 2020, and 60 days later is August 10, 2020. Mr. Bouchard's protest was filed August 18, 2020. Mr. Schelstraete also argued that the protest is not about the location, but solely on whether the Applicant is a legitimate applicant.

Mr. Bouchard relied upon the information that was available to him from the Department. The date the application was actually accepted by the Department was June 22, 2020. Mr. Bouchard acknowledged that the guidelines of the 2019 liquor license lottery application and the current policies of applying for a lottery liquor license are somewhat different.

There were Board questions. Mr. Schelstraete confirmed that the application was filed on June 11, 2020, and the application was then amended. Mr. Widener made a motion to deny the prong of the motion to vacate the hearing based on the timeliness of the protest because the application was not complete when the Department accepted the application on June 11, 2020.
Motion to deny the motion to vacate
hearing on the basis of untimely protest -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Widener
Shulman
Widener, Shulman, Campbell, Jahn
None
None
Motion to vacate on the basis of untimely protest denied

The Board proceeded to the second part of the motion to vacate hearing, the validity of the protest. There were questions from the Board for Mr. Bouchard and Mr. Schelstraete. Mr. Bouchard explained that his protest is based on the person who won the lottery is not the person applying for the liquor license. Mr. Schelstraete discussed “control” (A.R.S. § 4-101 (10) and (11)) as it relates to his clients.

Mr. Widener made a motion to deny the prong of the motion to vacate to disqualify Mr. Bouchard’s protest on the basis that Mr. Bouchard made the point that there was an issue about whether the human being Jared Field, was indeed the same party because of what appears to be lack of control, as the license applicant, Rock the Block LLC.

Motion to deny the motion to vacate
hearing on the basis of invalid protest -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Widener
Shulman
Widener, Shulman, Campbell, Jahn
None
None
Motion to vacate on the basis of validity of protest denied

The Board proceeded with the hearing on the application. Mr. Schelstraete made an opening statement. Mr. Bouchard made an opening statement. Nathaniel Snyder, Jared Field, Ryan Field, and Jeffrey Craig Miller were sworn as witnesses. Nathaniel Snyder is the Compliance Enforcement Coordinator and Liquor License Lottery Coordinator for the Department. Mr. Snyder described his role with every aspect of the liquor license lottery. Mr. Snyder confirmed that in the past, if an individual entered the lottery, that individual must apply for the license as an individual. Last year, the Director changed the lottery instructions to allow a controlling person to file for the license as an LLC or corporation.

Jared Field began working in restaurants when he was 15. He and his brother, Ryan Field, founded and started their company, Plated Projects, in 2009. They currently hold 12 active liquor licenses, some of which are series 12 and some are series 6. Four of their licenses are located in Flagstaff, Coconino County. In the past 5 years, their businesses have had no liquor violations. There were Board questions. The location is operating as a series 12 on an interim permit. Jared Field is a 25% owner of Plated Projects and a 25% owner of Rock the Block LLC.

Ryan Field described Plated Projects as a multi-unit, multi-concept niche restaurant group based in Arizona. Mr. Field began his hospitality career when he was 15, working as a cook, busser and server. Mr. Field studied business management at Arizona State University, and then moved on to corporate hospitality, learning behind-the-scenes management of bars and restaurants throughout the Phoenix metro area. When he was 24, he moved to Tucson and opened his first full service restaurant. Both Ryan Field and Jared Field have completed basic and management liquor training. Mr. Field described the extensive renovations that were made to the location in Flagstaff. There were Board questions. There have been no lawsuits of any kind filed against Plated Projects’ locations in the last 5 years. There have been no liquor violations on any license owned by Plated Projects.

Jeffrey Craig Miller is the agent for Rock the Block LLC. Mr. Miller met the Field brothers when he was an investigator for the Department. Mr. Miller confirmed that Rock the Block LLC is the applicant for 2 series 6 liquor licenses. Mr. Miller explained that Rock the Block LLC is the parent company holding
the liquor licenses, and that Ryan Field and Jared Field are controlling members of the LLC as defined in Title 4. Mr. Miller stated that he met with the Director and industry representatives, and he relied on the information given to him that Rock the Block LLC was the appropriate applicant for the series 6 license applications.

Mr. Schelstraete made a closing statement. Mr. Bouchard made a closing statement.

Mr. Widener made a motion to grant the applications on the bases of the testimony given by Mr. Schelstraete’s witnesses. Mr. Field and Mr. Field are capable, qualified and reliable. They have had the required training. They have had a ton of experience in restaurants and they apparently have had some success in their operation. Secondly, I find that the public convenience requires and the best interest of the community will be served by granting the liquor license as required by section 4-203(A) based on the following. First, the location is presumptively suited for this type of operation. San Francisco Street is a major thoroughfare in the City of Flagstaff. The location is close to the railroad tracks and it seems like a perfectly reasonable location for a bar, which I suppose is supported by the fact that Mr. Bouchard has a liquor permit for an operation in the near vicinity. I see no substantive reason to deny the granting of these licenses.

Motion to grant licenses - Widener
Seconded - Shulman
Yay - Widener, Shulman, Campbell, Jahn
Nay - None
Abstained - None
Disposition - Licenses granted

2. **Bar Liquor License No. 06070320, Application No. 978914 – Request for Rehearing or Review**

From:
Michael E. Carr, Agent
Michael’s Designs Inc.
Michael’s at Park Central
3110 N. Central Avenue #140
Phoenix, AZ 85012

To:
Robert Eugene Wallace, Agent
Kandies Int’l, LLC
Kandies Cabaret
3790 Grand Avenue
Phoenix, AZ 85019

This matter was continued from the October meeting. This matter is set to consider the Applicant’s request for rehearing or review filed with the Board. This Person and Location Transfer Application was denied at the July 9, 2020, board meeting. Mr. Campbell called the matter. The Applicant, Robert Eugene Wallace, did not appear. Mr. Raine suggested continuing the hearing to the end of the agenda to allow an opportunity for Mr. Wallace to join the meeting.

3. **Beer and Wine Store Liquor License, Application No. 112008 – Original Application**

Suresh Kumar Thathi, Agent
Thathi Gas LLC
Speedy Mart 1
1204 N. Alvernon Way
Tucson, AZ 85712

This matter is set for hearing because the City of Tucson recommended disapproval. Jake D. Curtis appeared on behalf of the Applicant. Assistant City Attorney Jennifer Stash appeared on behalf of the City of Tucson. Mr. Raine asked the Chair and parties, for the interest of time and efficiency, to consolidate the testimony for Application No. 112008 and Application No. 112031. Both matters involve the same applicant, both are represented by Mr. Curtis, and both are protested by the City of Tucson. There were no objections.
Motion to combine the testimony of Application No. 112008 and Application No. 112031, and then decide each matter separately -

Seconded - Shulman
    Jahn
    Shulman, Jahn, Campbell, Widener
    None
    None
    Testimony on matters combined


Suresh Kumar Thathi, Agent
Thathi Gas LLC
Speedy Mart 4
4477 E. 5th Street
Tucson, AZ 85711

This matter is set for hearing because the City of Tucson recommended disapproval. Mr. Curtis identified Suresh Thathi as a witness. Ms. Stash objected on the basis that Mr. Thathi did not attend the City Council’s hearing and he has not responded to phone calls and emails from her.

Motion to go into executive session for the purpose of receiving legal advice -
Seconded - Campbell
    Widener
    Campbell, Widener, Jahn, Shulman
    None
    None
    Convene in executive session

The Board convened in executive session at 12:22 p.m. and reconvened in open session at 12:29 p.m.

Mr. Curtis made an opening statement. The principal of Thathi Gas, Suresh Thathi, and his son, Sumit Thathi, are on the line and available to answer questions. Thathi Gas purchased four Speedy Marts in Tucson six months ago. Two applications have been approved. Speedy Mart 1 and 4 were on the same City Council agenda as Speedy Mart 3, and Speedy Mart 3 was approved. Mr. Curtis is not aware of any issues with respect to the Applicant’s qualifications. Suresh Thathi has operated two gas stations in Tucson where alcohol was sold for at least 20 years. No liquor violations have been identified by anyone. The fact that Speedy Mart 3 was not protested by the Tucson City Council indicates that Mr. Thathi’s qualifications are not at issue. Mr. Curtis is only aware of location issues at the Speedy Mart 1 on Alvernon Way. There is a presumption that the location is appropriate for Speedy Mart 1 and Speedy Mart 4 because there have been liquor licenses at both locations for over 20 years. They have been operating on an interim permit at both locations. With respect to the Speedy Mart 1, this was a bad neighborhood apparently before Mr. Thathi bought it. The previous convenience store was open 24 hours a day. Speedy Mart 1 is closed from midnight to 6:00 a.m. Mr. Curtis stated that Mr. Suresh has not been able to remedy all the store problems in the time that he has been operating it.

Suresh Kumar Thathi and Sumit Thathi were sworn in. There were questions from the Board about Suresh Thathi’s questionnaire responses. Mr. Thathi responded that there have been no liquor violations against his liquor licenses in the last five years.

Ms. Stash made an opening statement. The reasons that the mayor and council brought forward for declining these two applications was specifically the Alvernon location. It has a long history of crime
and graffiti and in general does not improve the welfare of the community. In time that this new owner has been operating the location, it is not improving the neighborhood. The concern is that having a liquor license there will not improve the neighborhood and it does not meet the criteria of the public convenience requires and the best interest of the community will be served. Ms. Stash referenced exhibits indicating the number and type of liquor licenses in the area and the crime statistics.

Kristine Yarter is the Vice President of the Garden District Neighborhood Association. Her comments were related only to Speedy Mart 1. She has owned her home for 47 years and has been active in the neighborhood and greater community. She described the types of new people that have come into the neighborhood. Ms. Yarter began receiving calls from Neighborhood Watch volunteers in June about the new owners and the smoking paraphernalia that were being sold in the store. Ms. Yarter feels that alcohol sales makes a difference in the neighborhood.

Councilmember Steve Kozachik has represented Ward 6 since 2009. He was present at the City Council meeting when these licenses were considered. The issues are maintaining the property appropriately and Code violations with graffiti and drug use. The Speedy Marts are not in the best interest of the community. Councilmember Kozachik discussed saturation in the area and his impression that the Applicant has not been involved or shown any indication that he wants to be involved in the community. He also stated that he has not seen any particular improvement, that the Applicant fails to maintain his properties appropriately, and that the Applicant has not addressed the issues on the sites.

Mr. Curtis cross-examined Councilmember Kozachik. The problems in the area were not caused by the Thathis and were not improved by Thathis. The basis for the Council’s decision was the site has not been improved under Mr. Thathi.

Mr. Widener questioned Councilmember Kozachik about saturation. He informed the Councilmember about the Centers for Disease Control (CDC) Guide for Measuring Alcohol Outlet Density and other sources of metrics for saturation.

Mr. Widener discussed the properties separately beginning with Application No. 112031, Speedy Mart 4.

There was no neighborhood testimony or anything in the record adverse to this application. I know that the City Council heard them together, but the transcript of the hearing is not clear which comments related to which site. Although the Councilman did say that they applied to both, I disagree with that. They may have been batched inopportunely. The aerial photograph that I have in my possession shows that the entire front of the premises is hardscape, concrete, pavement. There isn’t any place for the weeds to grow. On the side street on Belevedere Avenue, there are indeed some weeds. They appear to be on outside the boundary wall fronting Belevedere which is in the City right-of-way. Now the City may have an agreement with the owners of the property that they are obligated to maintain City property but I am not aware of that and it should not be sat at the feet of Mr. Thathi for that reason. The circumstances are not the same on the Alvernion site. With respect to saturation, I place no weight on the comment that these neighborhoods are saturated with liquor stores. There is no metric. This is being done strictly on the basis of anecdotal evidence. The City needs to come up with some analytical metric to decide how to demonstrate when a neighborhood is saturated with liquor stores. It is not surprising that there are a lot of liquor stores on these two streets because Alvernion is a one of the major boulevards in the City of Tucson. And Fifth Street is a very busy street. You would expect there to be a number of different kinds of liquor permits to be issued for premises along these streets. On the basis of what I heard, I see no reason under the factors that are articulated in the regulations why the application shouldn’t be granted with respect to the location on Fifth Street. Therefore, I make a motion on Application No. 112031 that we grant the license on the basis that we find the Applicant is capable, qualified and reliable
as required by A.R.S. § 4-203(A). The Agent has completed the training, has substantial experience operating convenience stores with liquor sections and experience in the convenience store business generally. I further find that the public convenience requires and the best interest of the community will be served by granting a liquor license as required by A.R.S. § 4-203 based on the fact that since this location has historically been a place where alcohol is sold, it doesn’t contribute to the saturation of the area to simply reinstate the alcohol permit that was granted here previously. For those reasons, I do not believe that the presumption has been overcome, that the location is appropriate and therefore move that the Board grant the application.

Motion to grant license for
Application No. 112031 -
  Seconded -
  Yay -
  Nay -
  Abstained -
  Disposition -

  Widener
  Campbell
  Widener, Campbell, Shulman, Jahn
  None
  None
  License granted

Ms. Shulman made a motion on Application No. 112008 to grant the license. The Applicant is capable, qualified and reliable as required by Section 4-203 based on his ability, and also his management licenses. I find that the public convenience is in the best interest of the community based on 4-203, and that the establishment has been licensed for 47 years. Therefore, I move that we approve Application 112008.

Motion to grant license for
Application No. 112008 -
  Seconded -
  Yay -
  Nay -
  Abstained -
  Disposition -

  Shulman
  Jahn
  Shulman, Jahn, Widener
  Campbell
  None
  License granted

Mr. Campbell proposed a 20 minute recess, reconvening at 2:15 p.m. There were no objections.

The Board recessed at 1:50 p.m. and reconvened at 2:15 p.m.

5. **Restaurant Liquor License, Application No. 112634 – Original Application**

  Carolina Fuentes, Agent
  Santo Mar Grill LLC
  Santo Mar Grill
  2445 E. Thomas Road
  Phoenix, AZ 85016

  This matter is set for hearing because of public protest. Mr. Campbell called the matter. The Applicant, Santo Mar Grill LLC, and its Agent, Carolina Fuentes, did not appear. Public protestor Karen P. Crowe appeared at the hearing. Mr. Raine suggested continuing the hearing to the end of the agenda to allow an opportunity for Ms. Fuentes to join the meeting. There were no objections.

  Mr. Campbell called Agenda Item No. 2.
2. **Bar Liquor License No. 06070320, Application No. 978914 – Request for Rehearing or Review**

From:
Michael E. Carr, Agent
Michael's Designs Inc.
Michael's at Park Central
3110 N. Central Avenue #140
Phoenix, AZ 85012

To:
Robert Eugene Wallace, Agent
Kandies Int'l, LLC
Kandies Cabaret
3790 Grand Avenue
Phoenix, AZ 85019

This matter was continued from the October meeting. This matter is set to consider the Applicant's request for rehearing or review filed with the Board. This Person and Location Transfer Application was denied at the July 9, 2020, board meeting. The Applicant, Robert Eugene Wallace, did not appear. Mr. Campbell asked for a motion.

Ms. Shulman made a motion for Application No. 978914 matter set for rehearing at Applicant’s request. Based upon R19-1-703 and the definitions that are laid out for possibly doing a rehearing, I move that we do not accept the request for rehearing on the grounds of R19-1-703.

Motion to deny request for rehearing of Application No. 978914 -
Shulman
Seconded -
Campbell
Yay -
Shulman, Campbell, Jahn, Widener
Nay -
None
Abstained -
None
Disposition -
Rehearing denied

Mr. Campbell called Agenda Item No. 5.

5. **Restaurant Liquor License, Application No. 112634 – Original Application**

Carolina Fuentes, Agent
Santo Mar Grill LLC
Santo Mar Grill
2445 E. Thomas Road
Phoenix, AZ 85016

This matter is set for hearing because of public protest. The Applicant, Santo Mar Grill LLC, and its Agent, Carolina Fuentes, did not appear. Public protestor Karen P. Crowe appeared and testified. Ms. Crowe lives less than 1/10th mile from the location. The problem with the location is that it is too small for having live music indoors. Former owners have opened the large patio doors and blasted music in the surrounding area. The loud music negatively impacts the quality of life in her neighborhood. Ms. Crowe is protesting the application because of the owner’s intent to offer live music such as salsa dancing lessons and mariachi.

Mr. Widener made a motion. Notwithstanding the Protestor’s patience and good nature, we move the application forward to being granted. The Protestor did not articulate any circumstances of adverse impact on the neighborhood that related directly to the service of alcohol. East Thomas Boulevard is a major thoroughfare in the City of Phoenix. The subject location is close to the intersection of Thomas and 44th Street, which is a major intersection. The subject location is separated from the Protestor’s house by several hundred feet, four intervening properties, and a public street.
C. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

Mr. Oravits is no longer serving on the Board. The Board thanks him for his service and wishes him the best in his future endeavors.

The next Board meeting is December 3, 2020. The Google Meet call-in number and PIN will be distributed prior to the meeting.

D. Call to the Public

None.

Motion to adjourn - Shulman
Seconded - Campbell
Yay - Shulman, Campbell, Jahn, Widener
Nay - None
Abstained - None
Disposition - Meeting adjourned at 2:48 p.m.

Denise M. Bale
Administrator of the
Arizona State Liquor Board

Dec. 3, 2020
Date