



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

MICHAEL J. TROYAN
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
August 2, 2018

Members Present: Michael J. Troyan – Chair, Troy L. Campbell – Vice Chair, Michael N. Widener, Jeffrey K. Oravits, and Walter W. Jahn

Members Absent: None

Counsel Present: Michael Raine, Assistant Attorney General
John R. Tellier, Licensing & Enforcement Section Chief Counsel, Independent Advisor to the Board

Staff Present: Denise Bale, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on August 2, 2018, at 10:00 a.m. with Mr. Troyan presiding.

Roll Call

Mr. Troyan, Mr. Widener, Mr. Oravits and Mr. Jahn were present. Mr. Campbell will be arriving late.

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

1. Bar Liquor License No. 06070280 – Person and Location Transfer Application

From:
James William Boyd, Jr.
AZIZ Holdings, LLC
Welch's Garage
7345 E. Evans Road #116
Scottsdale, AZ 85260

To:
Patrick Henry Zanzucchi
Peoria Ave LLC
Centerfolds Cabaret
2031 W. Peoria Avenue
Phoenix, AZ 85029

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 June 7, 2018, Board meeting. The Applicant through its counsel, David W. Dow, timely filed a Notice of Substitution of Counsel, Notice of Error in Caption, and Request for Review or Rehearing. The Department of Liquor Licenses and Control (Department) through its counsel, Michael Raine, filed a Response to Applicant's Request for Review. The City of Phoenix (City) through its counsel, Jessica J. Breedlove, filed a Response to Applicant's

Request for Review or Rehearing. The Applicant filed a Motion to Continue the hearing scheduled for August 2, 2018 for a minimum of thirty days and/or the first available date in September 2018. The Department and the City filed a Joint Notice of No Objection to Applicant's Request for Continuance. Mr. Raine appeared on behalf of the Department. Jeffrey Alan Oursland appeared in support of Peoria Ave, LLC. Licensing & Enforcement Section Chief Counsel John R. Tellier was present and provided independent legal advice to the Board. Mr. Oursland requested a continuance to the October 4, 2018 meeting. Mr. Raine stated that there is no objection by the Department or the City to continuing the hearing to October.

Motion to continue hearing to	
October 4, 2018 -	Oravits
Seconded -	Jahn
Yay -	Oravits, Jahn, Troyan, Widener
Nay -	None
Abstained -	None
Disposition -	Hearing continued to October 4, 2018

2. Bar Liquor License No. 06070159 – Appeal of Director’s Decision and Order

Frank Mario Zanzucchi, Jr., Agent
 4716, Inc., dba Hi-Liter Gentleman’s Club
 4716 N. 12th Street
 Phoenix, AZ 85014

Laurence Dellheim, Lienholder
 4716, Inc., dba Hi-Liter Gentleman’s Club
 4716 N. 12th Street
 Phoenix, AZ 85014

This matter is set for hearing because the Respondent and the Lienholder request that the Board reverse the Decision and Order of the Department Director. The Respondent 4716, Inc. through its counsel, Jocquese L. Blackwell, timely filed Respondent’s Appeal of Director’s Decision and Order and Clarification Re: Respondent’s Appeal of Director’s Decision and Order. Lienholder Laurence Dellheim through his counsel, Harvey M. Yee, timely filed Lienholder’s Appeal of Director’s Decision and Order and Supplemental Memorandum to Lienholder’s Appeal of Director’s Decision and Order. A hearing to consider Appeal of Director’s Decision and Order was scheduled for August 9, 2018. The Department through its counsel, Michael Raine, filed Unopposed Motion to Continue Consideration of Appeal of Director’s Decision. The Respondent filed Motion to Associate Counsel Pro Hac Vice. Mr. Raine appeared on behalf of the Department. Mr. Yee appeared on behalf of the Lienholder Laurence Dellheim. Mr. Tellier was present and provided independent legal advice to the Board. Mr. Widener asked Mr. Yee to confirm that a Statement of Legal or Equitable Interest had been filed with the Department by the Lienholder. Mr. Yee confirmed that a Statement had been filed in 1999.

Motion to continue hearing to	
September agenda -	Widener
Seconded -	Oravits
Yay -	Widener, Oravits, Troyan, Jahn
Nay -	None
Abstained -	None
Disposition -	Hearing continued to September agenda

Motion to offer consent to the motion to associate counsel pro hac vice -	Widener
Seconded -	Jahn
Yay -	Widener, Jahn, Troyan, Oravits
Nay -	None
Abstained -	None
Disposition -	Motion to associate counsel pro hac vice granted

3. Bar Liquor License No. 06100106 – Person Transfer Application

From:	To:
Benjamin Lugo	Jason Gutierrez Sandoval
Mr. Baja Fish LLC	Jason’s Mexican Restaurant & Nightclub LLC
Mr. Baja Fish	Jason’s Mexican Restaurant
2545 S. Craycroft Road	2545 S. Craycroft Road
Tucson, AZ 85711	Tucson, AZ 85711

This matter is set for hearing because of a Department protest. The Applicant, Jason’s Mexican Restaurant & Nightclub LLC, and its Agent, Jason Gutierrez Sandoval, appeared at the hearing and were not represented by counsel. Mr. Raine appeared on behalf of the Department. Detective Bruce Fletcher appeared in support of the Department. Mr. Tellier was present and provided independent legal advice to the Board. Mr. Gutierrez Sandoval was sworn and presented a prepared statement regarding his criminal arrests and liquor violations. Mr. Raine cross-examined Mr. Gutierrez Sandoval regarding the application he submitted to the Department in November 2017, and why the Applicant did not disclose his arrests on the application. There were questions from the Board regarding percentage of liquor sales and ownership. There were additional questions from Mr. Raine regarding the promissory note.

Mr. Oravits made a motion that the Board find the Applicant is not capable, qualified and reliable as required by A.R.S. § 4-203, citing the previous liquor violations and the truthfulness of the application process. There was Board discussion.

Motion to deny the license -	Oravits
Seconded -	Widener
Yay -	Oravits, Widener, Jahn
Nay -	Troyan
Abstained -	None
Disposition -	License denied

4. Bar Liquor License No. 06110018 – Location Transfer Application

From:	To:
Roy C. Chavez	Roy C. Chavez
My Friend’s Tavern	My Friend’s Tavern
295 W. Main Street	1111 W. Highway 60
Superior, AZ 85173	Superior, AZ 85173

This matter is set for hearing because of a Department protest and a recommendation for disapproval by the Town of Superior. The Applicant, My Friends Tavern, and its Agent, Roy C. Chavez, appeared at the hearing and were not represented by counsel. Mr. Raine appeared on behalf of the Department. Detective Risa Williams appeared in support of the Department. Mr. Tellier was present and provided independent legal advice to the Board. Mr. Chavez described the events leading up to this location transfer application and the subsequent recommendation for disapproval by the Town Council.

Mr. Raine cross-examined Mr. Chavez regarding the application that he submitted to the Department and the business agreement he had with the owner of the series 12 liquor license at the 1111 W. Highway 60 location. There were questions from the Board. Mr. Chavez testified that he does not have a written agreement to operate a bar at the proposed location. Mr. Widener made a motion to deny the transfer application because there is no material to work with. Mr. Widener explained his motion. Mr. Oravits explained his second.

Motion to deny the transfer application -	Widener
Seconded -	Oravits
Yay -	Widener, Oravits, Troyan, Jahn
Nay -	None
Abstained -	Campbell
Disposition -	License denied

The Board recessed at 11:05 a.m. to 11:15 a.m.

5. Restaurant Liquor License No. 12113300 – Original Application

Khiet Thanh Ha
Pho Ever Vietnamese Cuisine
300 S. Phelps Dr.
Apache Junction, AZ 85120

This matter was continued from the July 12, 2018, meeting. This matter is set for hearing because of a recommendation for disapproval by the City of Apache Junction. The Applicant, Khiet Thanh Ha doing business as Pho Ever Vietnamese Cuisine, appeared at the hearing and was not represented by counsel. City Attorney Joel Stern appeared on behalf of the City of Apache Junction. Mr. Ha declared that he wants to withdraw his application. Mr. Stern stated that the City of Apache Junction does not object to the request to withdraw the application. Mr. Campbell made a motion to accept the withdrawal form upon receipt from the Department. Mr. Widener moved to amend the motion by reversing the order of the hearings on the agenda to give the Applicant a chance to complete the form, sign it, and have it notarized. Mr. Raine advised that a motion is not required to change the order of hearings.

The Board proceeded to agenda item 6.

6. In State Farm Winery Liquor License, Application No. 11890 – Original Application

Robert Kenneth Mitchell Jr., Agent
Below The Rim Meadery LLC
Below The Rim Meadery
626 North Forest Service Road 199
Payson, AZ 85541

This matter was continued from the July 12, 2018, meeting. This matter is set for hearing because of a recommendation for disapproval by the Gila County Board of Supervisors. This matter is also set for hearing because of a public protest. The Applicant, Below the Rim Meadery, LLC, and its Agent, Robert Kenneth Mitchell, Jr., appeared at the hearing and was represented by counsel, Michael J. Harper. Angela J. Mitchell and Robert Turner appeared in support of the Applicant. Deputy County Attorney Jefferson R. Dalton appeared on behalf of Gila County. Leonard Bullock, Sheila Bullock, Don Ascoli, Kathy Peterson, Mario Ascoli, Bev Graham, David Graham, Dono Bart Dewey, Robert Hull, William Puffer, Harry Farrell, Megan Shapiro, Paul Sorensen, Jane Kendall and Henry Kendall appeared in support of Gila County. Protestor Sherri Farrell appeared and was not represented by counsel.

The Applicant through its counsel, Michael J. Harper, filed Applicant's Motion to Preclude Objection Submitted by Sherri Farrell, Applicant's Motion to Preclude County's Recommendation of Disapproval and Further Involvement in Administrative Proceeding, Applicant's Motion to Preclude Objections Submitted by Gila County, Additional Information – Roger Turner, Additional Information – Angela Mitchell, Additional Information – Robert Mitchell, Community Support, and Proof of Mailing. Gila County through its counsel, Jefferson R. Dalton, filed supplemental documents to be considered by the Board and Notice of Mailing. Sherri Farrell filed supplemental documents to be considered by the Board. The Applicant filed Applicant's Objection to Submission of Petitions and Proof of Mailing. Gila County filed Gila County's Rebuttal to: Applicant's Motion to Preclude County's Recommendation of Disapproval and Further Involvement in Administrative Proceedings, Gila County's Rebuttal to: Applicant's Motion to Preclude Objections Submitted by Gila County, and Gila County's Rebuttal to: Applicant's Motion to Preclude Objection Submitted by Sherri Farrell. Sherri Farrell filed a rebuttal document.

Motion to convene in executive session for the purpose of receiving legal advice -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan, Oravits, Jahn
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 11:24 a.m. and reconvened in open session at 11:43 a.m. The Board returned to agenda item 5.

5. Restaurant Liquor License No. 12113300 – Original Application

Khiet Thanh Ha
 Pho Ever Vietnamese Cuisine
 300 S. Phelps Dr.
 Apache Junction, AZ 85120

Mr. Widener made a motion, as the applicant has completed a form, which has been signed and notarized today seeking withdrawal of his application, that we grant the Applicant's motion to withdraw.

Motion to accept application withdrawal -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Troyan, Oravits, Jahn
Nay -	None
Abstained -	None
Disposition -	Application withdrawal accepted

The Board returned to agenda item 6.

6. In State Farm Winery Liquor License, Application No. 11890 – Original Application

Robert Kenneth Mitchell Jr., Agent
Below The Rim Meadery LLC
Below The Rim Meadery
626 North Forest Service Road 199
Payson, AZ 85541

Mr. Harper, Ms. Farrell, Mr. Mitchell and Mr. Dalton each made an introductory statement. Mr. Harper argued the points of Applicant's Motion to Preclude Objection Submitted by Sherri Farrell, Applicant's Motion to Preclude County's Recommendation of Disapproval and Further Involvement in Administrative Proceeding, and Applicant's Motion to Preclude Objections Submitted by Gila County. Mr. Harper asked the Board to consider not allowing the County to make new arguments that Applicant is not aware of and that were not properly included in the County's recommendation. Mr. Raine noted that the County filed a Response on July 26, 2018. Mr. Dalton confirmed that the County filed a Rebuttal to Applicant's arguments. Mr. Raine noted that it appears to have been a failure of notice and receipt of the Response. The Board received the Response filed by the County. Mr. Harper avowed to the Board that he did not receive the County's Response and Mr. Dalton avowed to the Board that his staff mailed the County's Response to Mr. Harper. Mr. Raine offered suggestions and asked Mr. Harper how he would like to proceed. Mr. Dalton was asked to cover all the points of the County's Response in his oral argument. Mr. Harper requested a printed copy of the County's Response to read. Ms. Farrell, Mr. Mitchell and Ms. Mitchell argued the facts of the public notice posting on the Applicant's property. There were Board questions.

Motion to convene in executive session for
the purpose of receiving legal advice - Campbell
Seconded - Troyan
Yay - Campbell, Troyan, Widener, Oravits, Jahn
Nay - None
Abstained - None
Disposition - Convene in executive session

The Board convened in executive session at 12:27 p.m. and reconvened in open session at 12:50 p.m.

Motion to deny the motion to preclude
the public protestor's participation in
this hearing - Widener
Seconded - Oravits
Yay - Widener, Oravits, Campbell, Troyan, Jahn
Nay - None
Abstained - None
Disposition - Motion to preclude the public protestor's participation denied

The Board did not rule on Applicant's motion to preclude the participation of the County in this hearing. Mr. Harper addressed the Board. He reviewed the County's Response filing and noted that there is a new argument indicating the Board does not have any jurisdiction possibly, based upon the notice issue. It is extremely difficult to know how to proceed having seen this jurisdictional issue for the first time today. Mr. Harper requested a continuance of today's hearing to allow time to examine this issue and other issues raised by the County. There was discussion and questions between the Board and the parties.

Motion to grant Applicant's request to continue the hearing to the September agenda - Oravits
Seconded - Campbell
Yay - Oravits, Campbell, Widener, Troyan, Jahn
Nay - None
Abstained - None
Disposition - Hearing continued to September agenda

C. Minutes: Review, Consideration and Action

Motion to approve the minutes of June 7, 2018 - Oravits
Seconded - Jahn
Yay - Oravits, Jahn, Troyan, Campbell, Widener
Nay - None
Abstained - None
Disposition - June 7, 2018, general and executive session minutes approved

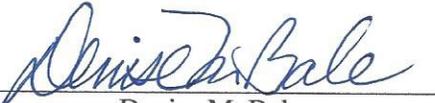
D. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

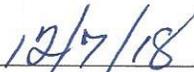
The next meeting is September 6, 2018. Mr. Raine will provide training on new legislation.

E. Call to the Public

None.

The Board adjourned at 1:09 p.m.


Denise M. Bale
Administrator of the
Arizona State Liquor Board


Date