



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

TROY L. CAMPBELL
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
August 15, 2019

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

Members Absent: None

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 August 15, 2019, at 10:16 a.m. with Mr. Campbell presiding.

Roll Call

All members were present (Mr. Oravits telephonically).

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

Mr. Campbell announced that the order of hearings would be changed as follows in order to accommodate a quorum: Varsity Tavern, In & Out Convenience Store and approval of minutes. Mr. Campbell designated a panel of himself, Mr. Jahn and Mr. Oravits for the final matter, Smokes R. Us.

2. Bar Liquor License 06070112 – Appeal of Deputy Director’s Order

Jeffrey Craig Miller, Agent
Ipsum Creative, LLC
Dbas Varsity Tavern
501 S. Mill Avenue, Suite 101
Tempe, AZ 85281

Subsequent to this matter being set for hearing, the Respondent filed a Stipulated Motion to Withdraw Appeal. This matter is set for hearing because the Respondent requests that the Board vacate the Order of the Deputy Director. Counsel for the Licensee, Peter H. Schelstraete, appeared at the hearing. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Licensing & Enforcement Section Chief Counsel John R. Tellier was present and provided independent legal advice to the Board.

The Department filed a Motion to Dismiss Appeal. The Licensee and the Department reached an agreement to resolve the pending investigation and the Deputy Director of the Department subsequently vacated the summary suspension, making Respondent's appeal moot. Mr. Schelstraete summarized the sequence of events. Mr. Raine clarified that the Deputy Director was acting on behalf of the Director by issuing the Order Summarily Suspending Liquor License. Mr. Raine commented on the Stipulation that was submitted. It said that a final determination had been made. The nature of the appeal was whether a summary suspension order is a final decision. Mr. Raine noted that the parties did not resolve their differences on that issue.

Mr. Widener made a motion for the Board to approve the stipulation and the motion to withdraw the appeal.

Motion to approve -	Widener
Seconded -	Jahn
Yay -	Widener, Jahn, Campbell, Oravits
Nay -	None
Abstained -	None
Disposition -	Appeal withdrawal accepted

3. Beer and Wine Store Liquor License, No. 55917 – Original Application

Hardeep Singh Cheema, Agent
Panch Parwan LLC
In & Out Convenience Store
1851 W. Northern Avenue
Phoenix, AZ 85021

This matter is set for hearing because the City of Phoenix recommended disapproval. This matter is also set for hearing because of public protest. The Applicant, Panch Parwan LLC, and its Agent, Hardeep Singh Cheema, appeared at the hearing and were represented by H.J. Lewkowitz. Hundal Navneet Singh appeared in support of the Applicant. Assistant City Prosecutor Noel Rascon appeared on behalf of the City of Phoenix. Andrew Wunder, chief of staff for Phoenix Councilwoman Betty Guardado, appeared and testified. Jeff Spellman, spokesperson for Violence Impact Project Coalition, appeared and testified.

Mr. Lewkowitz presented an opening statement. The proposed location was previously occupied by Circle K and was licensed for a series 10 beer and wine store since 1995. The Applicant was issued an interim permit upon filing this application. The Phoenix City Council received petitions and letters from 70 public protestors, which were the basis for issuing its order recommending disapproval. Subsequent to the City Council hearing, the Applicant met with representatives of Augusta Avenue Block Watch, Washington Park Neighborhood Association, State Avenue Block Watch, Royal Palm Neighborhood, Violence Impact Project Coalition, and individuals who had protested the application. Several protestors withdrew their protests after a Good Neighbor Agreement was signed with the Applicant. Mr. Cheema has owned and operated a 7-Eleven franchise store with a series 10 liquor license in Phoenix since 2011. He has never been cited for a liquor violation. The Applicant has made several improvements to the property since March including sufficient outdoor lighting, adding indoor and outdoor security cameras, painting the building, and repairing the fence around the property. Both of Applicant's owners have completed Title 4 basic and management liquor training and both oversee all aspects of the business.

Mr. Rascon presented an opening statement describing conditions and changes in the surrounding neighborhoods that lead to the public protests. Although the Applicant has demonstrated willingness to work with the neighbors, Mr. Rascon noted, the City Council's recommendation for denial still stands.

Mr. Lewkowitz called his first witness Mr. Wunder, who is the office chief of staff for Councilwoman Betty Guardado. Councilwoman Guardado and Mr. Wunder met with the neighborhood

alliance that executed a Good Neighbor agreement with the Applicant. Mr. Wunder stated that Councilwoman Guardado is supportive of what the neighborhood has put forth in making this agreement with the Applicant. Mr. Lewkowitz called his second witness Hardeep Singh Cheema, who is the agent for the license. Mr. Cheema testified about the agreement with the neighborhood alliance, the improvements to the property, and his qualifications. Mr. Rascon questioned Mr. Cheema about maintaining a good relationship with the neighbors.

Mr. Rascon called his first witness, Jeff Spellman. Mr. Spellman is affiliated with Violence Impact Project Coalition, an umbrella neighborhood group representing neighborhoods from Dunlap Avenue to Indian School and 19th Avenue to 35th Avenue. Mr. Spellman described the cooperation between the Applicant and the neighborhoods. Mr. Spellman described the Applicant as a "good operator." There were Board questions. Mr. Rascon called his second witness, Andrew Wunder. There were Board questions. In lieu of closing arguments, Mr. Lewkowitz and Mr. Rascon commented on the remarkable cooperation of the Applicant and the neighborhood associations in resolving their issues.

Widener made a motion to approve the application. On the personal qualifications side, the Applicant has demonstrated that he has the capability, qualifications and reliability in part due to having operated a store for 10 years, however, more consequentially, the testimony of the witnesses indicating that he is not only a good operator, he appears to be a good man. That is the reliability element that we all hope to hear every time we have one of these hearings. On the location factors, I did not hear anything that caused me to think that the presumption of its appropriateness had been overcome. Although there are other places where one can buy packaged liquor at that very corner, the fact that the public seems to be enthused with the idea of a convenience store being able to provide alcoholic beverages in addition to foods and the usual inventory, says to me that the public convenience does require this license.

Motion to approve -	Widener
Seconded -	Jahn
Yay -	Widener, Jahn, Campbell, Oravits
Nay -	None
Abstained -	None
Disposition -	License granted

C. Minutes: Review, consideration and action

Motion to accept minutes of May 2, 2019 General Session and Executive Session -	Jahn
Seconded -	Oravits
Yay -	Jahn, Oravits, Campbell
Nay -	None
Abstained -	Widener
Disposition -	Minutes approved

Motion to accept minutes of June 13, 2019 General Session and Executive Session -	Widener
Seconded -	Jahn
Yay -	Widener, Jahn, Oravits, Campbell
Nay -	None
Abstained -	None
Disposition -	Minutes approved

Motion to accept minutes of July 11, 2019	
General Session and Executive Session -	Jahn
Seconded -	Campbell
Yay -	Jahn, Campbell, Widener, Oravits
Nay -	None
Abstained -	None
Disposition -	Minutes approved

1. Beer and Wine Store Liquor License, Application No. 49787 – Original Application

Simon Boutros Khoury, Agent
 Khoury Entreprise LLC
 Smokes R Us
 3400 E. Thomas Road
 Phoenix, AZ 85018

This matter was continued from the June 13, 2019 meeting. Chair Campbell designated a three-person panel consisting of himself, Mr. Jahn and Mr. Oravits to hear this matter. This matter is set for hearing because the City of Phoenix recommended disapproval. This matter is also set for hearing because of public protest. The Applicant, Khoury Entreprise LLC, and its Agent, Simon Boutros Khoury, appeared at the hearing and were not represented by counsel. Assistant City Prosecutor Noel Rascon appeared on behalf of the City of Phoenix. H.J. Lewkowitz appeared on behalf of the public protestors. Protestor Thomas G. Sell appeared telephonically and testified.

Mr. Rascon addressed the Board. The City’s recommendation for disapproval is based on the significant amount of protestors who opposed the application. There are issues with the location and a number of issues related to use permits that the Applicant had not obtained at the time of the City Council vote and more recently, at the time of the hearing. The Applicant’s previous history is in a state where liquor was not sold in convenience stores, so his previous history is not necessarily as robust as it may seem. There is significant protest related to neighborhood groups. The Applicant was made aware of all the different neighborhood groups in the area and never engaged with any of the groups to see what the concerns were and whether or not they could be alleviated. There are concerns with the property itself and whether there are a sufficient amount of security, a sufficient amount of lighting, and a sufficient amount of staff training.

Mr. Lewkowitz stated that there were well over 500 signatures in protest that were presented to the City Council. Not one person has been supportive. There are numerous problems with the permitting in addition to the liquor license.

Mr. Khoury addressed the Board. He stated that he is well aware that a liquor license is a privilege. He described his interaction with City staff and his rationale for waiting to obtain a required permit. Mr. Khoury stated that he has 16 security cameras indoors and outdoors, and in the year that he has been operating there has not been one incident. Mr. Khoury explained that the liquor license is to help his business and support his family.

Mr. Rascon questioned the Applicant. Mr. Khoury’s previous experience in operating a convenience store in Massachusetts did not include alcohol sales. Mr. Khoury did not receive training in handling and selling alcohol in Massachusetts and he has not completed the Title 4 liquor training required by the State of Arizona.

Mr. Lewkowitz questioned the Applicant about zoning, permits and community contacts. Mr. Rascon clarified for the Board that in the City’s review of an application, each department can give its input as to approval or denial. The Police Department reported that there was no basis for a denial. The Zoning Department recommended denial based on the use permit.

Mr. Lewkowitz questioned Mr. Sell who owns property adjacent to the location. Mr. Sell testified about the businesses in the vicinity that are opposed to having another liquor license in the neighborhood. There is currently a liquor store in close proximity to the proposed location. Mr. Rascon questioned Mr. Sell about the neighborhood and the influence of alcohol. Mr. Rascon made a closing statement and Mr. Lewkowitz made a closing statement.

There was Board discussion. Mr. Jahn made a motion regarding Beer and Wine Store Liquor License Application number 49787. I move that we find the Applicant is not capable, qualified and reliable as required by A.R.S. section 4-203(A) based upon the following facts: has not completed training in compliance, there has been a significant amount of public protest, and the location is not an appropriate location for another liquor license.

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

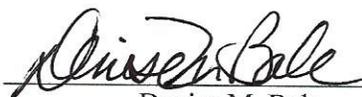
D. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

The next meeting is scheduled for September 5, 2019. Mr. Widener is unavailable that date and Mr. Campbell will designate a panel for the meeting. There is one matter set for hearing. Mr. Raine will present Board training on Title 4 updates and conflict of interest disclosure. Mr. Campbell reported on his meeting with the Governor's Office of Boards and Commissions regarding appointment of additional and diverse Liquor Board members.

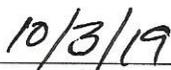
E. Call to the Public

H.J. Lewkowitz commented on the number of Board members.

Motion to adjourn -	Jahn
Seconded -	Oravits
Yay -	Jahn, Oravits, Campbell
Nay -	None
Abstained -	None
Disposition -	Board adjourned at 11:49 a.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date