



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
February 11, 2021

Members Present: Troy L. Campbell – Chair, Lynn Shulman – Vice Chair and Michael N. Widener
Members Absent: None
Counsel Present: Michael Raine, Assistant Attorney General
Roberto Pulver, Assistant Attorney General
Staff Present: Denise Bale, Board Administrator
Arlene Moreno, Interim Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on February 11, 2021, at 10:00 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.

B. Election of Officers – Chair and Vice Chair

Motion to elect Troy Campbell as Chair -	Shulman
Second -	Widener
Aye -	Shulman, Widener
Nay -	None
Abstain -	Campbell
Disposition -	Troy Campbell elected Chair
Motion to elect Lynn Shulman as Vice Chair -	Widener
Second -	Campbell
Aye -	Shulman, Widener, Campbell
Nay -	None
Abstain -	None
Disposition -	Lynn Shulman elected Vice Chair

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

1. Beer and Wine Store Liquor License, Application No. 112978 - Original Application

Lauren Kay Merrett, Agent
DJ International LLC
Quick Stop
2344 W. Thomas Road
Phoenix, AZ 85015

This matter was continued from the January 7, 2021 hearings. This matter is set for hearing because the City of Phoenix unanimously recommended disapproval. The Applicant, DJ International LLC, and its Agent, Lauren Kay Merrett, appeared at the hearing and was represented by counsel, Peter H. Schelstraete. Assistant City Prosecutor Lori Van Haren appeared on behalf of the City of Phoenix. Atul Grover, Akash Sethi and Lauren Merrett testified in support of the Applicant.

In her opening statement, Ms. Van Haren explained that the Phoenix City Council recommended disapproval at a formal meeting on October 21, 2020. The basis for the recommendation was a petition with 21 signatures, 20 of which were verified addresses within a one-mile radius of the proposed location for the applicant. All of the petitioners were opposed to granting the license. The concerns were this location would not meet the criteria of the public convenience, and the best interest of the community would not be served by granting this application. The petition was not based on the applicant's ability to be capable, qualified or reliable. Specific concerns enumerated in these public comments were that during the time Circle K operated the store there was an increase in crime. The comments in the petition were that there was an increase in certain crimes associated with Circle K, particularly drug use, prostitution, transients, etc. There is a concern that there is an elementary school within 0.2 miles; a general concern that alcohol sales in a neighborhood attracts crime; and that advertising alcohol in convenience stores instills a positive attitude of alcohol toward youth. Ms. Van Haren noted that the City made efforts to contact the persons who signed the petition and none of those persons responded to the City's efforts. Ms. Van Haren clarified for the sake of transparency that there was actually no increase in the number of calls for service. One person said that the location was a hot spot and it was *not* a hot spot for crime in the City of the Phoenix.

Mr. Schelstraete called his first witness, Atul Grover. Mr. Grover holds a Bachelor of Arts degree from Delhi University in New Delhi, India. He has completed Basic and Management Title 4 training. Mr. Grover worked in the limousine business in Detroit, Michigan from 2000 to 2020. When the limousine business closed due to the pandemic, Mr. Grover moved to the Phoenix area to open the Quick Stop store. The hours of operation will be 7:00 a.m. to 11:00 p.m. Mr. Grover described the security improvements to the property including new shutters to safeguard the windows; a state-of-the-art security camera system of nine cameras surrounding the building in the front and back, and on the interior of the building; a motion sensor that rings whenever someone goes through a door; a bolt on the back door; and an account with ADT. Mr. Grover explained that on tobacco and alcohol sales, if the customer looks 30 years or younger they are asked for ID. The ID is run through a scanner and the customer's age in years and days appears on the screen. Mr. Grover described other improvements including new shelving throughout the store, a walk-in cooler, positioning the register where every corner of the store is visible, and a service contract for maintenance of the building and grounds at least twice a week. DJ International LLC has been operating on an interim permit since August 20, 2020 and there have been no liquor violations. Mr. Grover responded to questions by Ms. Van Haren, Ms. Shulman, Mr. Campbell and Mr. Widener.

Mr. Schelstraete called his second witness, Akash Sethi. Mr. Sethi has a diploma in Computer Sciences. When he moved to the United States, he worked for a chain of five convenience stores as General Manager. The stores, located in Phoenix and Mesa, sell beer, wine, tobacco and groceries. During the time he was manager, there were no liquor violations. Mr. Sethi has completed Basic and Management Title 4 training.

Mr. Schelstraete called his third witness, Lauren Merrett, who is the Agent on this license. Ms. Merrett is the agent on 200 liquor licenses. She discussed the data she researched on the City of Phoenix website. She compared the number of Calls for Service at the location under the former owner and under Mr. Grover and Mr. Sethi. The decline in the number of calls was significant.

Mr. Schelstraete presented his closing statement. Ms. Van Haren presented her closing statement and noted that the City of Phoenix based its recommendation on public protest. There was Board discussion. Mr. Widener offered comments and a motion.

This is a soft opposition. The neighbors were branding this applicant with the sins of Circle K based on the past experience they had there. . . . Thomas Road is a major arterial street. It bears a lot of traffic so this is the sort of commercial operation you would expect on this street. With respect to the neighborhood, I think it's very interesting that because of the electrical and telephone lines that are to the rear of the store and that run up 24th Avenue, the back of the store has been heavily fenced off and there is limited access to that. Therefore it is not the kind of place where [vagrants] would be likely to congregate and prepare to cause mischief in the neighborhood. I think ultimately that the basis for denying a license here was a reaction to prior operations, not the expectations of the current operations. I am ready to make a motion, Mr. Chairman.

In the matter of Beer and Wine Store Liquor License Application #112978, I move that the Board approve this liquor license, notwithstanding the recommendation for denial by the City Council. For reasons I have already stated, the basis for the denial is weak at best. I think that the location is suitable because of its proximity to a major arterial street. I think that its juxtaposition to the neighborhood is not consequential because it has adequate security in the back and plenty of visibility in the front. The front of the store is virtually right on the street. It would seem that there is very little opportunity, especially since the Applicant's representatives have assigned the authority to arrest to curb trespassing, little opportunity for this to turn into a crime hot spot. Sure, there will be people loitering in the parking lot. There will be people loitering in that parking lot even if there was no liquor being sold there – once in a while. I don't think that there is any issue that is relevant to saturation because the Applicant's representative was correct. The Chevron station across the street has a McDonalds that takes up most of the square footage of the building that also houses the Food Mart. So, their inventory is not as extensive as what would be offered here. The next closest location, a Quik Trip, as the Applicant's representative pointed out, is well down the street on the other side of the freeway. Not convenient to the neighborhood that might otherwise shop here. Therefore, I find that the location is suitable and appropriate based on the factors in the Arizona regulation R19-1-702. I also find the Applicants are capable, qualified, and reliable based on their testimony of their prior experience in management, and their prior education. I think this is probably an upgrade in the immediate vicinity of this neighborhood, so I move approval.

Motion to grant license -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Shulman
Nay -	None
Abstained -	None
Disposition -	License granted

2. Beer and Wine Store Liquor License, Application No. 122574 - Original Application

Joey Jerome Danielson, Agent
GPM Southeast, LLC
Fast Market #4614
2160 W. Drexel Road
Tucson, AZ 85746

This matter is set for hearing because the City of Tucson recommended disapproval. The Applicant, GPM Southeast, LLC, and its Agent, Joey Jerome Danielson, appeared at the hearing and was represented by counsel, Camila Alarcon. Assistant City Attorney Jennifer Stash appeared on behalf of the City of Tucson. Associate General Counsel Michele Murray and Joey Danielson testified in support of the Applicant. Ms. Alarcon presented an opening statement. GPM Southeast, LLC (GPM) currently has 24 liquor licenses in the state of Arizona. Its parent company and subsidiaries operate over 1,000 liquor licenses in 23 states. GPM operates over 600 of these locations. GPM has been in Arizona since October 2020 and it has not received a single liquor license citation or violation at any of its 24 locations including this one. Ms. Alarcon argued that as a previously licensed location, the City of Tucson bears the burden of rebutting the presumption that public convenience requires and the best interest of the community will be served by granting this license. The City of Tucson did not provide a memorandum or a written reason for recommending disapproval. There were no public protests at the City Council meeting and no public protests for this hearing.

Ms. Stash stated that on November 17, 2020, a Tucson City Council person who represents the ward where the license is located addressed the Council regarding the location. Constituent stakeholders had brought concerns to her without submitting protests or written statements to the Council. Ms. Stash clarified that the recommendation of the City Council was based on this Council person's objection.

Ms. Alarcon called her first witness, Michele Murray. Ms. Murray is Associate General Counsel for GPM Investments LLC. She oversees several employees and is over the compliance and the anti-money laundering program. She is also over restricted sales compliance and investigations over beer and wine sales. GPM applied for 24 liquor licenses in Arizona, all of which were approved except this one. Ms. Murray described the compliance practices of GPM. Associates are required to complete a computer-based module before they are allowed to work on a register. Current employees are required to complete refresher courses every 90 days. The company has a zero tolerance policy for associates who violate liquor laws. There have been no liquor violations in any of the Arizona locations under GPM ownership.

Ms. Alarcon called her next witness, Joey Danielson. Mr. Danielson began working for GPM Investments LLC on October 7, 2020. He began working for and advising convenience stores in July 2006. He was a store manager and then promoted to District Manager in November 2013. He has held his current position for over seven years. His responsibilities include checking the stores for cleanliness, operating equipment, current licenses, and current employee training on age-restricted sales. Mr. Danielson completed Title 4 Basic and Management training. All store managers have completed the management training. Mr. Danielson described the location. It is located in Old Tucson. There is a Circle K across the street, but there is not a grocery store or liquor store nearby. Local neighbors make up 99% of the store customers. Cashiers and customers know each other by name.

There was Board discussion about the reason for recommending denial of this liquor license application. Mr. Widener discussed the local governing body's action, beginning on page 2 of the Council minutes.

The Councilwoman Santa Cruz first tried to remove the item from the agenda all together until she was corrected and told they [the City Council] actually had to make a recommendation. But this barely crosses the threshold of what's required by A.R.S. section

4-201 and it is upsetting to me because I think this is not the correct exercise of the responsibility. But here's the answer. The constituents and stakeholders in groups like SNAPP have stated that they don't want a series 12 liquor license on the south side of Tucson, Arizona. That's the reason. The rest of it is make way, due to saturation, lack of oversight on the state level, and an already stressed police force. Well I'm not going to attack Mrs. Santa Cruz in a public hearing other than to say the simple statement of "saturation," as I've said before in these hearings, is nothing but a dog whistle. "Lack of oversight on the state level." I don't know what that means. "Already stressed police force?" I have no question that that is a true statement. But an already stressed police force is pervasive in so many municipalities, and Tucson is no different. Those are no justifications whatsoever. The justification is they just don't want any liquor licenses on the south side of the city. And what's alarming about that is, there's not even a definition of what the south side of the city is. Is it south of Ajo Way? Is it south of Broadway? We're not even given any background into what the purpose of redlining this part of the city is. And that is inadequate justification for recommending denial of this license. So, Mr. Chairman, I am prepared to make a motion that this license be approved.

In the matter of liquor license application number 122574, I recommend the approval of it on the basis that I find the location is reasonably suitable for the purpose intended. A little note for the record that Mission Boulevard is a street that is very heavily used, and that it is close to Interstate 19, and that while it is a mixed-use area, it is certainly not inappropriate as a location for the store. On that basis and on the basis that the city actually gave us nothing with which to understand the purposes for their redlining of the south side of Tucson, I recommend approval of the license. Thank you.

Motion to grant license -	Widener
Seconded -	Shulman
Yay -	Widener, Shulman, Campbell
Nay -	None
Abstained -	None
Disposition -	License granted

3. Restaurant Liquor License, Application No. 114957 - Original Application

Antonio Franko Harris, Agent
 Rick's Pub & Grub
 4910 W. Ray Road, #3
 Chandler, AZ 85226

This matter is set for hearing because the Department is protesting the application. The Applicant, Rick's Pub & Grub, and its Agent, Antonio Franko Harris, appeared at the hearing and was not represented by counsel. Assistant Attorney General Michael Raine appeared on behalf of the Department. Assistant Attorney General Roberto Pulver provided independent legal advice to the Board. Detective Steven Schrimpf testified in support of the Department.

Mr. Harris presented an opening statement about acquiring the business from his late father and his plans for the future. He emphasized compliance with COVID-19 regulations. Mr. Raine questioned Mr. Harris about taking over the business that his father was involved in with Jessica Walker. Mr. Harris became involved in the business in March 2020. Mr. Harris filed his initial liquor license application in July 2020. The application was rejected. In September 2020, the Department suspended the liquor license for not complying with state and local COVID-19 regulations. When the license was suspended, Mr. Harris was out of town and Jolienne Castaldi was in charge. Mr. Harris testified that Ms. Castaldi is the General Manager of Rick's Pub & Grub. She began working as a bartender in July and then became General Manager. When asked if he has filed anything with the Department indicating that Ms. Castaldi is in a

managerial role, Mr. Harris said that he has not filed anything with the Department. After the liquor license was suspended, Mr. Harris corrected his application and provided the missing information including fingerprints and a restaurant plan. Mr. Harris resubmitted his application on September 15, 2020. Ms. Walker surrendered the license to the Department on September 17, 2020.

Mr. Harris held a private party on the premises in October 2020 when he was operating without a liquor license or an interim permit. Mr. Harris testified that he sold tickets for the private party in order to make a profit. Food was served and a DJ provided entertainment. Mr. Harris testified that he was not serving or selling alcohol at the private party. Mr. Harris admitted that there was still alcohol on the premises and that it was roped off. Mr. Harris explained why he did not grant immediate access to Det. Schrimpf when he arrived at the front entrance.

Mr. Harris indicated that he does not have a designated dance floor, but customers dance. There are two pool tables, darts, a punch game, and a Golden Tee game. Karaoke Night is Thursday night. There is live entertainment on Friday and Saturday nights. Saturday night is Club night. There were Board questions about the private party, ownership of Rick's, the floor plan, the restaurant operation plan, employees, and bouncers who work on Friday and Saturday nights.

Mr. Raine called his witness, Det. Steven Schrimpf. Det. Schrimpf discussed his interactions with Ms. Walker when she was running the restaurant, and his encounter with Mr. Harris at the private party. Detective Schrimpf was not granted access to the private party because according to Mr. Harris, he was not on the list. Chandler police arrived and were present while Det. Schrimpf and Det. Chris Allard collected evidence. People were drinking from red Solo cups. Leftover liquid in discarded cups tested presumptive for alcohol. Det. Schrimpf described the factors opposed to a restaurant meeting the criteria for a restaurant liquor license. He said that this location has a history of failing restaurant audits under the last three establishments including Rick's. Each restaurant could not make 40% of total sales in food.

There were Board questions for Det. Schrimpf, followed by Board deliberation.

Motion to go into executive session	
for the purpose of receiving legal advice -	Shulman
Second -	Campbell
Aye -	Shulman, Campbell, Widener
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 1:05 p.m. and reconvened in open session at 1:18 p.m.

Ms. Shulman made a motion for denial of the Applicant's request for a liquor license.

I motion that we deny liquor license 114957 for Rick's Pub and Grub based upon [A.R.S. section] 4-203, not finding the applicant capable, qualified and reliable based upon history, [and] also that the establishment is more set up like a bar than it is a restaurant which is the guidelines that are given to issue a series 12 for a restaurant. So, I motion that we deny it based on that. Also, I would like to voice a concern. And I am basing my decision for denial of the liquor license based upon [the evidence] what is before me right now. But I also would like to have the Department of Liquor investigate further into the October 17, 2020 party.

[Clarification in response to Mr. Widener's question:] My motion [Ms. Shulman's motion] and the decision for the motion is based upon the evidence that is before me right now.

Motion to deny license -	Shulman
Seconded -	Campbell
Yay -	Shulman, Campbell, Widener
Nay -	None
Abstained -	None
Disposition -	License denied

C. Minutes: Review, Consideration and Action

Motion to approve minutes of January 7, 2021 -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Shulman
Nay -	None
Abstained -	None
Disposition -	Minutes approved


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

The next Board meeting is scheduled for March 4, 2021. Three matters are set for hearing.

F. Call to the Public

None.

Motion to adjourn meeting -	Shulman
Seconded -	Widener
Yay -	Shulman, Widener, Campbell
Nay -	None
Abstained -	None
Disposition -	Meeting adjourned at 1:28 p.m.



 Denise M. Bale
 Administrator of the
 Arizona State Liquor Board



 Date