



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
March 4, 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
Mary D. Williams, 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 March 4, 2021, at 10:00 a.m. with Mr. Campbell presiding via Google Meet. Other Board members, staff, and all parties participated telephonically.

Roll Call

All members were present.

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

Mr. Campbell called agenda item number 3 first.

3. Hotel/Motel Liquor License, Application No. 121111 - Original Application

Paul Bear, Agent
De La Osa Bar Company LLC
Kenyon Ranch
80 Kenyon Ranch Road
Tubac, AZ 85633

This matter was continued from the February 11, 2021 hearings. This matter is set for hearing because of public protest. The Applicant, De La Osa Bar Company LLC, and its Agent, Paul Bear, appeared at the hearing and was represented by counsel, Jake D. Curtis. Protestor Gary N. Elkind and Protestor Homero Lopez appeared at the hearing. The public protestors requested that the Board continue the hearing to allow additional time for preparation. There was no objection by the Applicant.

Motion to continue hearing to April 1st -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Shulman
Nay -	None
Abstained -	None
Disposition -	Hearing continued

1. Beer and Wine Store Liquor License, Application No. 103092 - Original Application

Joenisha Renee Vinson, Agent
 Chimney Daze Smoke & Vape Shop
 4744 W. Glendale Avenue
 Glendale, AZ 85301

This matter was continued from the February 11, 2021 hearings. This matter is set for hearing because of Department of Liquor Licenses and Control (Department) protest. This matter is also set for hearing because the City of Glendale recommended disapproval. The Applicant, Chimney Daze Smoke & Vape Shop, and its Agent, Joenisha Renee Vinson, did not appear at the hearing and was not represented by counsel. Chief Deputy City Attorney James A. Gruber appeared on behalf of the City of Glendale (City). Detective Mitchell Ervin testified in support of the City. Assistant Attorney General Michael Raine appeared on behalf of the Department. Detective Mario Trevizo testified in support of the Department. Assistant Attorney General Mary D. Williams provided independent legal advice to the Board.

Mr. Raine introduced the matter. This case involves primarily three issues. One being the applicant was operating what the Department of Gaming determined were illegal gaming devices. She was given a notice of the Department of Gaming's findings and she suggested that she was going to unplug them and not use them anymore. In subsequent visits by the Department and Glendale PD, it was determined that she had not ceased using the equipment and had added a machine. First, there was one and then there were two. The second issue arises where there is a possibility of a hidden owner by the name of Salas, who was referenced in various visits by the Department of Gaming and Glendale PD. Mr. Salas was referenced by employees as the owner of the establishment, but he was not disclosed to the Department. Thirdly, at the end of these investigations, Glendale PD also served a search warrant upon this establishment, searching for drug paraphernalia and evidence of drug sales. They found in the attic of the establishment a substantial amount of marijuana, scales, and other paraphernalia that Mr. Salas, the hidden owner, admitted was his. He claimed it was for medical marijuana use, but the facts for those reports do not support that conclusion. There were also statements given to police from witnesses that Ms. Vinson (Applicant) at her other smoke shop in town would send customers over to the current location before the Board to purchase marijuana. The gambling investigation by the Department of Gaming and the marijuana investigation by Glendale PD raise a very high level of concern about the Applicant's capability, qualification and reliability. The evidence of hidden ownership in the investigation reports coupled with Ms. Vinson's absence today, having received notice; the Department would ask the Board to deny the license based upon the Department's report. Det. Trevizo answered questions from the Board.

Mr. Gruber requested the the Board deny the application based on lack of capability, qualification and reliability both on the part of the Applicant and the LLC. As indicated in the report, the Applicant knowingly operated illegal gambling devices at her business and was dishonest in responding to a police officer regarding the matter. The Glendale City Council, following testimony and discussion, voted to recommend denial of this application. Following the Council's recommendation, Glendale and state agents also learned that there was an unlawful amount of marijuana at the business and illegal marijuana sales were occurring on the premises. Mr. Gruber called his first witness, Det. Mitchell Ervin of Glendale PD. Det. Ervin described the items that were discovered in the search warrant executed by Glendale PD. Det. Ervin participated in the search warrant. The total weight of marijuana that was found on the site in various items equaled one pound, which is more than a person can legally possess. Glendale PD concluded

that marijuana sales were taking place on the premises. Charges were submitted on Mr. Salas. Det. Ervin answered questions from the Board.

There were closing statements and Board discussion. Mr. Widener offered comments for the City of Glendale. Mr. Widener made a motion based on A.R.S. section 4-203(A) where the applicant has failed to demonstrate capability, qualifications and reliability.

In the matter of Application number 103092, the premises in Glendale, I move that the liquor license be denied, however, procedurally Mr. Campbell, I am a little nervous because we have a lot of technological problems from time to time here and I would ask that you request if the Applicant or the Applicant's attorney is on the phone, that they unmute and attempt to patch in before we vote.

Now the basis for my recommendation for denial is that, as I said before, there are three highly regulated industries here all of which require high reliability of the applicants in order to have a comfort as a society that these things are being done in an above board manner. I do not believe that the premises was a licensed marijuana dispensary and yet, the amount of product that was in possession of the owners of the property suggests that they were selling marijuana from the location, which is without licensure, a felony. Second, that they were arguably in violation of state gaming regulations, another highly regulated industry, and did not comply with the City's request nor request relief from the court to be able to continue to operate their machines. And finally, there is the specter of hidden ownership and nondisclosure as an owner or operator of a business. I don't know that we have the final word on that, but again, it reflects upon a poor level of reliability of the applicant. And for those reasons, I deem the Applicant to be not reliable and fails that prong of the liquor license grant, so I recommend denial.

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

2. Beer and Wine Store Liquor License, Application No. 117176 - Original Application

Jesus Ariel Beltran Medina, Agent
SunnySlope Smoke Shop LLC
SunnySlope Smoke Shop LLC
10430 N. 19th Avenue, #2
Phoenix, AZ 85021

This matter was continued from the February 11, 2021 hearings. This matter is set for hearing because of Department protest. This matter is also set for hearing because the City of Phoenix recommended disapproval. The Applicant, SunnySlope Smoke Shop LLC, and its Agent, Jesus Ariel Beltran Medina, did not appear at the hearing and were not represented by counsel. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Detective John Barchak testified in support of the Department. Assistant City Prosecutor Minai Samartinean appeared on behalf of the City of Phoenix. Assistant Attorney General Mary D. Williams provided independent legal advice to the Board.

Mr. Raine described the matter. The Applicant disclosed on its controlling person's questionnaire that it had been charged with a crime and that was a 2017 DUI in Nevada. However, the fingerprint

clearance cards came back to the Department and referenced an assault charge in 2019 that the Applicant did not disclose. Det. Barchak had a conversation with the Applicant about the failure to disclose; and had further conversation about the need, given the status of the application, to withdraw the application and resubmit it with that disclosure. The Applicant never took those corrective measures which forced the Department to make its protest in this case.

Det. Barchak testified about his conversations with the Applicant. As a matter of routine procedure, the Department performs background investigations of applicants. The background investigation revealed that the Applicant had two arrests within the past five years prior to making application. The first was a DUI arrest in 2017. The second was in 2019. It was an assault arrest in the City of Phoenix. The DUI arrest was disclosed on the application. The second arrest was not disclosed. The Applicant told Det. Barchak that the charge was dismissed and therefore, he did not have to disclose the second arrest. Det. Barchak explained to the Applicant that by failing to disclose the second arrest, he provided false and misleading information on his application.

Mr. Samartinean explained the basis for the City Council's recommendation for disapproval. The Applicant failed to pay the application fee and to submit the City required forms and information. Although City staff made multiple attempts to contact the Applicant, the Applicant did not respond or provide the required information.

Mr. Raine reiterated that the Applicant bears the burden to establish his capability, qualification and reliability, and the Applicant has failed to meet that burden. There was Board discussion. Ms. Shulman made a motion.

I motion that we deny Application Number 117176 for the following reasons:

ARS 4-203 (A) capability, qualification, reliability. I do not find the Applicant meets the qualification. The Applicant did not provide and pay application fees. [The Applicant failed] to submit required forms. [The Applicant] did not receive zoning clearance and certificates of occupancy for the business.

Also, I find that it is not in the best interest of the community [given] the location and the number of liquor licenses that are already in that area. I feel that it would not serve the community.

Also, 4-210[(A)(3)] false and misleading information on the application [for failure to disclose the arrest].

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

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


The next Board meeting is scheduled for April 1, 2021. Three matters are set for hearing. Mr. Campbell requested meeting participants to appear via Google meet video for transparency purposes.

D. Call to the Public

None.

Motion to adjourn meeting -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Shulman
Widener
Shulman, Widener, Campbell
None
None
Meeting adjourned at 11:22 a.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date