



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
April 1, 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
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 April 1, 2021, at 10:16 a.m. with Mr. Campbell presiding via Google Meet. Other Board members, staff, and all parties participated either by Google Meet or telephonically.

Roll Call

All members were present.

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

1. 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 March 4, 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 were represented by counsel, Jake D. Curtis. Paul Bear, Jaye H. Wells and Ivan Drechsler testified in support of the Applicant. Public protestors Gary N. Elkind, Rosemarie A. MacDowell, Richard H. Roth, Roberta Stabel, Kathleen Vandervoet, Laura Mayer and Homero Lopez appeared and testified at the hearing.

Mr. Curtis presented an opening statement. Mr. Elkind presented an opening statement. There was discussion regarding whether Mr. Elkind, who is a licensed attorney, could cross-examine Applicant's witnesses.

Mr. Curtis called his first witness, Paul Bear. Mr. Bear is 93% owner of De La Osa Bar Company LLC. He has worked in the hospitality industry more than 50 years, owning restaurants, bars, theaters, and hotels. He has produced over 50 special events that required a special event liquor license. He owns 2 series 6 licenses in Pima County and he is the agent for a series 11 license in Pima County. He completed basic and management liquor training and has never had a liquor violation. Mr. Bear discussed the operation of Kenyon Ranch. The parent organization is Ranch Preservation Fund, an investment group that renovates and operates historic guest ranches. Ranch Preservation Fund owns and is the sole member of Rancho De La Osa Holding Company. Rancho De La Osa Holding Company has entered into a management agreement with De La Osa Bar Company to manage the liquor concessions at Ranch Preservation Fund's ranches. De La Osa Bar Company is the applicant for the Kenyon Ranch operation. The liquor concession at Kenyon Ranch is available for guests. Liquor is served with meals in the hotel and at poolside. The bar in the hotel is less than 500 square feet and is used primarily for service. The hotel can accommodate up to 30 guests, but usually 25 guests stay at the ranch at one time. Kenyon Ranch operates primarily as a hotel with equestrian activities including horse riding, trail riding, horse ridership and horse training. Alcohol is not served with the equestrian events that are held at the ranch. It is ranch policy not to allow alcohol consumption with horse riding activities. Mr. Bear testified that having a liquor license is immaterial to the guest count at the ranch. People come to stay at the ranch as a vacation. People do not travel to the ranch to consume liquor. All of the staff who work with liquor have completed Title 4 training. Mr. Bear oversees the overall operation of the ranch. A manager, who has completed Title 4 training, will oversee the bar when the license is granted.

Mr. Elkind cross-examined Mr. Bear regarding the county zoning, the liquor license application, and the proposed operation and oversight of the ranch. There were questions from Board members. Mr. Bear testified that there are no incentives for consuming alcohol such as happy hours or discounts. On redirect, Mr. Bear clarified the amendments to the application.

Mr. Curtis called his next witness, Jaye Wells. Mr. Wells described the business and operation of dude ranches. Mr. Elkind questioned Mr. Wells. There were questions from Board members. Mr. Curtis called his last witness, Ivan Drechsler. Mr. Drechsler answered questions about the positive potential economic impact of the liquor license. Mr. Elkind questioned Mr. Drechsler. There were no questions from the Board.

Protestor Rosemarie MacDowell testified. She lives 1/4 mile from Kenyon Ranch. She is concerned about traffic, congestion, and drunk drivers on a bad road. She discussed the noise disturbance she has experienced when special events were held at the ranch. Mr. Curtis and Board members questioned Ms. MacDowell.

Protestor Richard Roth testified. He is concerned about increased traffic and noise from large trucks traveling on the narrow dirt road to and from the ranch. He sponsored a yoga event for 18 people in the large dining room of Kenyon Ranch. Mr. Curtis and Board members questioned Mr. Roth.

Protestor Roberta Stabel testified. She is concerned about noise and increased traffic that is created by special events. She lives almost a mile from the ranch and could hear the noise from one of the events. Mr. Curtis and Board members questioned Ms. Stabel.

Protestor Kathleen Vandervoet testified. She lives about 3/4-mile from the ranch. She is concerned about noise from special events and county zoning as it relates to Kenyon Ranch. She believes that the current owners and operators are not following county ordinances. Mr. Curtis and Mr. Campbell questioned Ms. Vandervoet.

Protestor Laura Mayer testified. She is concerned about increased traffic and opening the ranch to the public when there is alcohol available. Mr. Curtis questioned Ms. Mayer.

Protestor Homero Lopez testified that there are 186 residences within 1 mile of Kenyon Ranch. He noted that the ranch is undergoing a transition. He is concerned about alcohol sales coupled with the activities that are being advertised at the ranch. Mr. Curtis questioned Mr. Lopez.

Mr. Elkind presented a closing statement. Mr. Curtis presented a closing statement. There was Board discussion. Mr. Widener made a motion.

My motion is going to be that we invite the applicant and the protestors, as recently happened on another agenda, to continue the meeting to a future time with the understanding that the purpose for the continuance is only to discuss the documentation, the making of an arrangement in other words, to disallow the sale of alcohol to the general public. Here's the reason why. If you take a look at the restaurant operation plan that was attached as one of the exhibits; and you read pages 1 and 2 of that exhibit very carefully, something comes through very clearly, very fast. The seating capacity of this restaurant combined with the bar is 214 seats. Mr. Curtis and the witnesses have said that they usually have between 25 and 35 people as guests at the ranch at one time. Why would you need a dining and bar facility that was over 5 times the maximum capacity of the dude ranch? Well, it may have been built that way historically, and I am not painting horns on the applicant's head. I am simply saying that the capacity for dining and drinking alcohol at this facility is way, way disproportionate to the number of guests that they are going to have there, which at least creates a temptation for people to be invited from the general public to come over there to eat and drink. . . .

The applicant filled out this restaurant operation plan, and if you read it, you'll see that the kitchen is a heck of a kitchen for 25 to 35 guests at one time. Irrespective of the observation that they made, they have 186 restaurant seats and 28 bar seats. Just looking at the equipment indicates that this is a commercial kitchen that is suitable to operate as a restaurant independently of the guests' quarters. The applicant has only been operating here since August. I don't think anybody knows what's going to happen in the future here. The track record didn't play very well with the neighbors of what's gone on so far, and so they're suspicious. And I get that. Mr. Chairman, I agree with you. I don't have a single problem with the applicant's qualification to operate liquor service at this location. But I can't support, on the basis of location, this application as it presently stands because I have reasonable, I believe, concerns that once this application is granted, that inasmuch as the zoning ordinance doesn't prohibit people in this district from eating there if they are not staying there. So, I don't think we know what the future holds here, but I don't like the way I'm reading the tea leaves. Those are my comments, thank you.

Without a second, Mr. Widener's motion failed. Board discussion resumed. Mr. Raine requested that a member make a motion to go into executive session for obtaining legal advice.

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 1:40 p.m. The Board adjourned executive session at 1:48 p.m. and reconvened in open session at 1:58 p.m.

Mr. Widener renewed his motion:

I move that this matter be postponed until the next board meeting, on the regularly scheduled date, for the purpose of allowing the parties an opportunity to see if they can come to any mutually satisfactory agreement. I'll have a second motion in terms of closing of the testimony and what we would hear later if there is a second to my motion now on the table.

Motion to continue the hearing to the next Board meeting -	Widener
Second -	Shulman
Aye -	Widener, Shulman
Nay -	Campbell
Abstained -	None
Disposition -	Continue to May 6, 2021 meeting

Mr. Widener made a motion:

Mr. Chairman, I think a little additive motion might be a good idea here. I move in this matter, which is Application Number 121111, that at the time the hearing is reopened, there will be no further testimony other than brief statements from the parties' representatives, that is the protestors and the applicant, whether they reached any agreement that would allow or that accomplished the withdrawal of all of the protests.

Motion to prevent additional testimony when the hearing is reopened at the next Board meeting -	Widener
Second -	Shulman
Aye -	Widener, Shulman
Nay -	Campbell
Abstained -	None
Disposition -	Continue to May 6, 2021 meeting, with no additional testimony except a brief statement from both parties explaining what has transpired over the past month

Mr. Campbell proposed a 5-minute break. The Board recessed at 2:03 p.m. and reconvened in open session at 2:08 p.m.

2. Beer and Wine Store Liquor License, Application No. 115153 – Original Application

Christopher Esho Robin, Agent
E & A Smoke Shop LLC
Joey Smoke Shop
1111 N. Gilbert Road
Gilbert, AZ 85234

This matter is set for hearing because of Department protest. This matter is also set for hearing because the Gilbert Town Council recommended disapproval. The Applicant, E & A Smoke Shop LLC, and its Agent, Christopher Esho Robin, 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). Assistant Attorney General Mary D. Williams was available to provide independent legal advice to the Board. Prior to the hearing, the Applicant filed a motion to withdraw its application stating that circumstances have arisen impacting the ability to secure funding for buying beer and wine inventory, and the pending nature of the Scottsdale Police Department criminal charges has not changed. Mr. Raine stated the Department does not oppose the withdrawal.

Mr. Widener made a motion, "In the matter of application number 115153, I move that the Board accept the withdrawal and thereby terminating any further proceedings on it."

Motion to accept application withdrawal -	Widener
Second -	Shulman
Aye -	Widener, Shulman, Campbell
Nay -	None
Abstained -	None
Disposition -	Application withdrawal accepted

3. In the matter of AZDLLC Director John Cocca Decision Regarding Covert Undercover Buyer Programs Conducted By Private Companies – Appeal of Director’s Final Decision

A.L.I.C Enterprises, an Arizona Limited Liability Company dba Arizona Liquor Industry Consultants

This matter is set for hearing because Appellant/Aggrieved Party requests that the Board reverse the Final Decision of the Director. Peter H. Schelstraete appeared on behalf of the Respondent, A.L.I.C. Enterprises LLC. Assistant Attorney General Michael Raine appeared on behalf of the Department. Assistant Attorney General Mary D. Williams was available to provide independent legal advice to the Board.

The Board reviewed and considered Respondent’s Notice of Stipulated Withdrawal of Appeal to Liquor Board. Mr. Raine stated that the Respondent and Department reached an agreement to resolve the pending Appeal. The Department is going to vacate its decision that was appealed. The Respondent (ALIC) is not engaging in the activity that gave rise to the case. It is a matter that is ongoing and the discussions will continue. Mr. Schelstraete advised that he was present and that he concurred with the statements of Mr. Raine.

Motion to vacate hearing and remand the matter to the Department -	Shulman
Second -	Widener
Aye -	Shulman, Widener, Campbell
Nay -	None
Abstained -	None
Disposition -	Hearing vacated and matter remanded to the Department

C. Minutes: Review, Consideration and Action

Motion to approve minutes of February 11, 2021 -	Campbell
Seconded -	Shulman
Yay -	Campbell, Shulman, Widener
Nay -	None
Abstained -	None
Disposition -	Minutes of February 11, 2021 approved

Motion to approve minutes of
March 4, 2021 as written -
Seconded -
Yay -
Nay -
Abstained -
Disposition -

Widener
Shulman
Campbell, Shulman, Widener
None
None
Minutes of March 4, 2021 approved

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


The next Board meeting is scheduled for May 6, 2021. Two matters are set for hearing.

E. Call to the Public

None.

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

Widener
Shulman
Widener, Shulman, Campbell
None
None
Meeting adjourned at 2:17 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date