



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

TROY L. CAMPBELL
Board Chair

TRACY UFFELMAN
Director

Arizona State Liquor Board Hearing Minutes
March 3, 2022

Members Present: Troy L. Campbell – Chair, Lynn Shulman – Vice Chair, Jill Pernice and Matthew Roemer

Members Absent: None

Counsel Present: Michael Raine, Assistant Attorney General
Monique Coady, 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 3, 2022, at 9:00 a.m. with Mr. Campbell presiding via Google Meet. Chair Troy Campbell designated a four-person panel consisting of himself, Vice Chair Lynn Shulman, Member Jill Pernice and Member Matthew Roemer to preside over the meeting. Board members, staff, and all parties participated either by Google Meet or telephonically.

Roll Call

All members were present.

B. 9:00 a.m. Agenda: Review, consideration and action

1. Bar Liquor License No. 06107001, Application No. 159189 - Owner Transfer Application

Jesus Mario Ramirez, Agent
Tabu Bar LLC
Tabu Bar
128 E. Congress Street
Tucson, AZ 85701

The Applicant, Tabu Bar LLC, and its Agent, Jesus Mario Ramirez, appeared at the hearing and were not represented by counsel. Principal Assistant City Attorney Shilpa Hunter-Patel appeared on behalf of the City of Tucson. Zoning Administrator Russlyn Wells appeared in support of the City of Tucson.

Prior to the hearing, the Applicant filed a request to withdraw its application. The City of Tucson did not oppose the withdrawal of the application. Ms. Hunter-Patel noted for the record that the issue with this application was a change in policy where there is no ability for the City to get a 60-day extension of

time to allow the Applicant to work out zoning issues with the City prior to having the matter go before the Mayor and Council of the City of Tucson. The City appreciates that the Applicant was willing to withdraw the application, and then reapply and go through the process again.

Motion to accept the application withdrawal -	Shulman
Seconded -	Roemer
Yay -	Shulman, Roemer, Pernice, Campbell
Nay -	None
Abstained -	None
Disposition -	Application withdrawal accepted

2. In State Farm Winery Liquor License No. 013040002979 - Modification of Board Order

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 January hearings. This matter is set for hearing because Below the Rim Meadery LLC (Licensee), through its counsel, Michael J. Harper, submitted a request to the Board that it consider lifting and/or modifying the stipulations listed in Board Order No. B-033-18. The Board scheduled a hearing to consider Licensee's request, and all parties of the original application matter received timely notice of the hearing. Gila County (County), through its counsel, Deputy County Attorney Jefferson R. Dalton, filed a Motion to Dismiss. The Licensee, through its counsel, Michael J. Harper, filed a Hearing Memorandum and a Response to Motion to Dismiss. The County, through its counsel, Jefferson R. Dalton, filed a Rebuttal and Gila County's Hearing Brief. The Licensee and its agent, Robert Kenneth Mitchell Jr., appeared at the hearing and were represented by Michael J. Harper. Angela J. Mitchell appeared in support of the Licensee. Deputy County Attorney Jefferson R. Dalton appeared on behalf of Gila County. Protestor Sherri Farrell appeared and was not represented by counsel. Mr. Campbell and Mr. Raine articulated how the request would be heard.

The Meadery became fully operational last year. Mr. Harper described the surrounding area of the Tonto National Forest in Gila County. The Mitchells live on the property, which is 300 feet off the Forest Service road. Their home and meadery are not visible from surrounding homes. Mr. Harper explained the reasons for the Licensee's request beginning with the stipulation (1) "that the permanent hours of operation for the tasting room shall be from noon to dusk." The Licensee requests that this be modified to 9:00 a.m. to 10:00 p.m. (2) "Tastings by appointment" was part of the original plan. Visitors drive long distances, and the requirement to "not accept walk-ins for tastings" is bad for the meadery and bad for business. The Licensee requests that this stipulation be lifted. (3) "Dustproofing of their parking area and of the access from their front gate to that parking area" will continue to be done. (4) "Not permit tasting room visitors to access the riverside picnic area" refers to an area that does not exist and is not part of the designated premises. Any riverside development would require an application to the Department for an extension of the premises. (5) With respect to "will not develop a parking lot on its riverside lot," the Licensee has no plans to develop a parking lot by the river and it seeks no change to that requirement. (6) The stipulation "will not seek any additional tasting room space under Section 4-205(12)" is unclear as to what benefit that would have to the local community. There were Board questions.

Motion to go into Executive Session for the purpose of receiving legal advice -	Campbell
Seconded -	Shulman
Yay –	Campbell, Shulman, Pernice, Roemer
Nay -	None
Abstained –	None
Disposition -	Executive Session

The Board convened in executive session at 9:31 a.m. and reconvened in open session at 9:49 a.m.

Mr. Dalton presented the County’s position. He argued that it is too late for rehearing or review of the Meadery’s application. He concluded that if the stipulations were lifted, the license would be denied. There were Board questions. When asked, Mr. Dalton did not know of any violations against the Meadery liquor license. Ms. Farrell interrupted the questioning with accusations regarding the property next to the river, changing the road, dustproofing, and personal litigation against the Meadery.

There was Board discussion regarding authority to modify, change or enforce orders that are on a license. Ms. Pernice made a motion:

In the matter of In State Farm Winery Liquor License No. 013040002979 was a request that the Board lift or modify the stipulations contained in Board Order number B-033-18, a motion that the Board take no action in this matter as it is of the opinion of our Board members that we do not have the jurisdiction to enforce a private agreement in the form of an affidavit between two private parties.

Motion to take no action -	Pernice
Seconded -	Shulman
Yay –	Campbell, Shulman, Pernice, Roemer
Nay -	None
Abstained –	None
Disposition -	Board will take no action in this matter

3. Beer and Wine Store Liquor License Application No. 157746 - Original Application

Michael Darren Thomas, Agent
 THA NI9E LLC
 THA NI9E
 4000 E. 29th Street
 Tucson, AZ 85711

This matter is set for hearing because the City of Tucson recommended disapproval. This matter is also set for hearing because of Department protest. The Applicant, THA NI9E LLC, and its Agent, Michael Darren Thomas, did not appear at the hearing and were not represented by counsel. Principal Assistant City Attorney Shilpa Hunter-Patel appeared on behalf of the City of Tucson. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Assistant Attorney General Monique Coady was available to provide independent legal advice to the Board.

Ms. Hunter-Patel stated the City of Tucson recommended disapproval of this application after the Tucson City Police Department conducted an investigation and background check into the applicants for this Application, and found that two of the applicants had felony convictions within the last five years. Title 4 Section 4-202(D) prevents the Department from issuing a liquor license to these two individuals. Detective Steve Wilson is available if the Board wants to hear testimony on the investigation and what his investigation revealed. The two applicants, Mr. Cameron Webster and Mr. Kallin Murray, were the

individuals that were convicted of felony crimes related to drug possession and narcotics transportation and sale. For these reasons, the City of Tucson urges the Board to deny the Application.

Mr. Raine stated that Ms. Hunter-Patel has articulated the very same basis that the Department had for its protest - the felony convictions. There was additionally some issues of proper disclosure of those convictions, the truthfulness in the original disclosures in terms of the Applicant's materials. The Department would just ask that the Board consider a motion to deny the Application because of the City of Tucson's protest and because of the Department's protest; to take notice of the materials that have been submitted by both the City and the Department; and because the Applicant has not attended the meeting has failed to carry its burden to establish that the personal qualifications or the location criteria have been met; and for all those reasons, to deny the license. Mr. Raine has spoken with one of the controlling persons from the Applicant who had indicated their desire to withdraw and they ultimately did not submit the form.

Mr. Campbell made a motion:

In regards to Beer and Wine Store Liquor License Application No. 157746, THA NI9E LLC dba THA NI9E, I move that we deny the application for the following reasons: the Applicant is not capable, qualified and reliable, the lack of attendance at today's Board meeting, and then also the lack of timeliness when reporting such criminal history on their application.

Ms. Coady suggested a revision to the motion. Mr. Campbell amended his motion to indicate that based on 4-202(D), two of the controlling members have felony convictions within the last five years. Additionally, the location is not contested so the Board finds that the public convenience requires that the best interest of the public would be substantially served in this case.

Motion to deny application -	Campbell
Seconded -	Roemer
Yay -	Campbell, Roemer, Pernice, Shulman
Nay -	None
Abstained -	None
Disposition -	Application denied

C. Minutes: Review, Consideration and Action

Motion to approve minutes of December 9, 2021 -	Campbell
Seconded -	Shulman
Yay -	Campbell, Shulman, Pernice, Roemer
Nay -	None
Abstained -	None
Disposition -	Minutes of December 9, 2021 approved

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


The next Board meeting is scheduled for April 7, 2022. There are no matters set for hearing. The Board can cancel the April meeting or use the time for training and approval of minutes. The Board members agreed to meet in April.

E. Call to the Public

None.

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

Shulman
Pernice
Shulman, Pernice, Roemer, Campbell
None
None
Meeting adjourned at 10:30 a.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date