



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
800 WEST WASHINGTON, 5TH FLOOR
PHOENIX, AZ 85007
PHONE: 602-542-9789 FAX: 602-542-5707
Website: www.azliquor.gov

DOUGLAS A. DUCEY
Governor

TROY L. CAMPBELL
Board Chair

TRACY UFFELMAN
Director

Arizona State Liquor Board Hearing Minutes
September 8, 2022

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

Members Absent: None

Counsel Present: Mark Brachtel, 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 September 8, 2022 at 9:01 a.m. with Mr. Campbell presiding. Google Meet was utilized for facilitating the meeting. Board members, staff, and all parties participated either online or telephonically.

Board members were asked if they have, or a relative who has, a substantial interest or a remote interest with any of the matters on the agenda. Each member declared that he/she did not have a conflict of interest with any matters on the agenda.

Roll Call

All members were present.

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

6. Beer and Wine Store Liquor License, Application No. 190800 - Original Application

Lauren Kay Merrett, Agent
GS International LLC
Aa's Corner Mart
4601 N. 12th Street
Phoenix, AZ 85014

This matter is set for hearing because the Phoenix City Council recommended disapproval. This matter is also set for hearing because of public protest. Peter H. Schelstraete appeared on behalf of the Applicant, GS International LLC, and its Agent, Lauren Kay Merrett. Assistant City Prosecutor Maxwell

Mahoney appeared with Assistant City Prosecutor Azadeh Hamilton and Assistant City Prosecutor Alexandra E. Lange on behalf of the City of Phoenix. Public protestors Rachel Bess, Beau MacDonnell, Cale Hernandez and Apryl Thatch appeared at the hearing. The Applicant and the City of Phoenix requested a continuance to the October meeting. Mr. Campbell indicated that he would not be attending the October 6, 2022 meeting due to a scheduling conflict. Ms. Shulman also indicated that she had a scheduling conflict on October 6, 2022. Mr. Schelstraete suggested moving the meeting back one week. There were no objections to scheduling the hearing on October 13, 2022.

Motion to continue the hearing to	
October 13, 2022 -	Shulman
Seconded -	Roemer
Yay -	Shulman, Roemer, Yarbrough, Campbell, Pernice, David
Nay -	None
Abstained -	None
Disposition -	Hearing continued to October 13, 2022

1. Bar Liquor License No. 06100174, Application No. 119787 - Owner Transfer Application

H.J. Lewkowitz, Agent
Lucky's LLC
Love Cabaret
5822 E. Speedway
Tucson, AZ 85712

This matter was continued from the August 4, 2022 hearings to allow sufficient time for the parties to meet and explore the possibility of a settlement. Subsequent to this matter being set for hearing, the City of Tucson filed Stipulated Motion to Continue Hearing to November 3, 2022 Board Meeting. J. Michael Murray and Thomas R. Aguilera appeared on behalf of the Applicant, Lucky's LLC. Principal Assistant City Attorney Shilpa Hunter-Patel appeared on behalf of the City of Tucson.

Motion to continue the hearing to	
November 3, 2022 -	David
Seconded -	Shulman
Yay -	David, Shulman, Yarbrough, Campbell, Pernice, Roemer
Nay -	None
Abstained -	None
Disposition -	Hearing continued to November 3, 2022

2. Beer and Wine Bar Liquor License 07070720, Application No. 180396 - Person and Location Transfer Application

Christian Nava-Cruz, Agent
C.N.C.G. LLC
Chicas Cabaret
2802 N. 35th Avenue
Phoenix, AZ 85009

This matter was continued from the June 2, 2022 hearings to allow sufficient time for both parties to submit briefs stating why the Board should rule in their favor. Thomas R. Aguilera appeared on behalf of the Applicant, C.N.C.G. LLC, and its Agent, Christian Nava-Cruz. Public protestors Darrell Wallace representing Newco Land Management, Robert Wallace representing Dalton Corporation, and Regina Scott representing Jordan Scott Properties were present.

Mr. Aguilera argued that all three protestors should be disqualified based on A.R.S. § 4-201(E). First, Newco Land Management, LLC (“Newco”), did not submit organizing documents. Darrell Wallace holds no position in Newco, and the Newco board of managers never voted to appoint Darrell Wallace as the person to speak on behalf of the organization. Second, Dalton Corporation (“Dalton”) did not file its organizing documents and there is no qualified spokesperson. Christian Nava-Cruz as President and majority shareholder of Dalton was never notified of a meeting to file a protest. He never voted to protest, and never voted to appoint Robert Wallace to act as spokesperson. Third, Jordan Scott Properties, LLC (“JSP”), did not file organizing documents. Regina Scott did not indicate her position held in the organization and the letter designating a spokesperson is addressed to the City of Phoenix. JSP’s protest rests upon location issues and it fails to provide any evidence to rebut the presumption set forth in A.R.S. § 4-203(A). When a local governing body approves of an application or makes no recommendation on an application, no hearing is required. When a hearing is not required, protestors are limited to arguing that public convenience and the best interest of the community will not be served, subject to the presumption in A.R.S. § 4-203(A).

Robert Wallace, Darrell Wallace and Regina Scott each gave a brief statement about their standing as protestors and the issues addressed in their protests. Mr. Aguilera moved to admit all the exhibits attached to his briefs into evidence. Mr. Brachtl suggested that both sides stipulate to admitting all the exhibits presented to the Board into evidence. There was no objection. Board discussion followed.

Mr. Campbell made a motion that Darrell Wallace does not qualify as a public protestor for Newco Land Management as Newco did not submit the proper documents as required by A.R.S. § 4-201(E).

Motion to disqualify Newco as a protestor -	Campbell
Seconded -	Roemer
Yay -	Campbell, Roemer, Pernice, Yarbrough, Shulman, David
Nay -	None
Abstained -	None
Disposition -	Newco Land Management disqualified as a protestor

Ms. Shulman made a motion that Robert Wallace on behalf of Dalton Corporation should be disqualified as a protestor based on A.R.S. § 4-201(E) and that the proper documents were not submitted.

Motion to disqualify Dalton as a protestor -	Shulman
Seconded -	Yarbrough
Yay -	Shulman, Yarbrough, Campbell, Roemer, Pernice, David
Nay -	None
Abstained -	None
Disposition -	Dalton Corporation disqualified as a protestor

Mr. David made a motion to disqualify Regina Scott of Jordan Scott Properties as a qualified protestor in this matter according to A.R.S. § 4-201(E).

Motion to disqualify JSP as a protestor -	David
Seconded -	Shulman
Yay -	David, Shulman, Yarbrough, Campbell, Roemer, Pernice
Nay -	None
Abstained -	None
Disposition -	Jordan Scott Properties disqualified as a protestor

Mr. Campbell made a motion to move the application to the Director for approval given there is no Department protest, no local governing body protest, and no qualified public protestors.

Motion to move the application to the Director for final approval -	Campbell
Seconded -	Shulman
Yay -	Campbell, Shulman, Yarbrough, Roemer, David, Pernice
Nay -	None
Abstained -	None
Disposition -	Application remanded to the Department

The Board recessed at 10:17 a.m. and reconvened at 10:22 a.m.

3. Beer and Wine Store Liquor License, Application No. 162415 - Original Application

Travis Quint Kingsley, Agent
 Family Dollar #29386
 379726 Arizona 75
 Duncan, AZ 85534

This matter was continued from the August 4, 2022 hearings. This matter is set for hearing because the Greenlee County Board of Supervisors recommended disapproval based on public testimony and the Board's discussion of detrimental impacts to small businesses and small business owners if this business is granted a liquor license. Chad R. Kaffer appeared on behalf of the Applicant, Family Dollar #29386, and its Agent, Travis Quint Kingsley. County Administrator Derek Rapier appeared on behalf of Greenlee County.

Mr. Brachtl suggested that the Board go into executive session for the purpose of receiving legal advice on the three Family Dollar applications.

Motion to convene in executive session for the purpose of receiving legal advice -	Campbell
Seconded -	Shulman
Yay -	Campbell, Shulman, Pernice, Yarbrough, David, Roemer
Nay -	None
Abstained -	None
Disposition -	Board convened in executive session

The Board convened in executive session at 10:26 a.m. The Board adjourned executive session and reconvened in open session at 10:42 a.m.

Mr. Kaffer requested to move the Applicant's letters dated 7/20/22 and 8/23/22, and the exhibits attached thereto, into the record of the application to the Board. Mr. Kaffer continued: Family Dollar's primary business is within the scope of household goods and light grocery items. Market research has shown that consumers do not go to Family Dollar specifically to purchase beer and wine products. Primarily, it is an adjunct to other sales. For example, a consumer shops at Family Dollar for household items or groceries and picks up a bottle of wine as a matter of convenience. Mr. Kaffer addressed the objection raised by the Greenlee Board of Supervisors that Family Dollar would create unfair competition in the community. The data show that Family Dollar's beer and wine sales amount to one half of one percent (0.5%) of the total beer and wine sales outside of the metropolitan areas (Phoenix, Tucson, Flagstaff) in Arizona.

Mr. Rapier discussed community concerns of supporting local businesses because local business supports the community in terms of donating to schools, clubs and charitable organizations. He described the concept of community fabric supporting relationships between community members. With respect to the potential economic impact of adding Family Dollar to the community, Mr. Rapier noted that a local convenience store closed when a Family Dollar store opened in the area.

Mr. David made a motion:

I move that we find that the Applicant is capable, qualified and reliable as required by A.R.S. section 4-203. And I move that we find that the public convenience does require and the best interest of the community will be substantially served by granting the liquor license to this location as required by A.R.S. section 4-203.

Motion to grant the license -	David
Seconded -	Shulman
Yay -	David, Shulman, Yarbrough, Campbell, Roemer, Pernice
Nay -	None
Abstained -	None
Disposition -	License granted

4. Beer and Wine Store Liquor License, Application No. 195336 - Original Application

Brenda E. Sallard, Agent
Family Dollar #25082
2250 US Highway 60 #1
Miami, AZ 85539

This matter is set for hearing because the Globe City Council recommended disapproval. Chad R. Kaffer appeared on behalf of the Applicant, Family Dollar #25082. Globe City Attorney Bill Sims appeared on behalf of the City of Globe. Mr. Kaffer stated that the application should have been withdrawn prior to the hearing. Mr. Kaffer made a motion to withdraw Family Dollar's Application No. 195336. Mr. Sims confirmed that the City of Globe had no objection to the application withdrawal motion.

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

5. Beer and Wine Store Liquor License, Application No. 197757 - Original Application

Brenda E. Sallard, Agent
Family Dollar #25088
194 W. Valencia Road
Tucson, AZ 85706

This matter is set for hearing because the Tucson City Council recommended disapproval. Chad R. Kaffer appeared on behalf of the Applicant, requested approval to continue the hearing. Ms. Shilpa Hunter-Patel stated that the City of Tucson objects to a continuance of this matter on the basis that Rule R19-1-704(B) requires parties to submit documents, information or motions fifteen days prior to the hearing. In addition, witnesses for the City of Tucson were prepared to give testimony. Ms. Hunter-Patel stated that the City of Tucson does not object to Family Dollar withdrawing this application. Mr. Kaffer withdrew his request and agreed to continue with the hearing. Mr. Brachtl requested a five-minute recess before proceeding with the next matter on the agenda.

The Board recessed at 11:38 a.m. and reconvened at 11:43 a.m.

The City of Tucson called three witnesses: Vice Mayor Lane Santa Cruz, Jamal Givens and Yolanda Herrera. Ms. Moreno swore in the witnesses.

Mr. Kaffer delivered an opening statement. Family Dollar is in the business of household goods. Family Dollar has found from internal and external data that customers do not come to Family Dollar primarily to purchase alcohol. Alcohol sales are adjunct to other purchases such as household goods sales. Part of the dispute with this application is the potential for minors to have access to alcohol. Mr Kaffer discussed the extensive training and the types of failsafe that Family Dollar provides to ensure minors do not have access to alcohol. First, mandatory scanners scan a driver license and verify that the license was officially issued, as opposed to just checking the card for a series of dates. Second, ID training ensures that the person who is reflected on the license is the same person as the one standing in front of the checker. Third, specific training with regard to the right to refuse people service includes the broad latitude that is given to the store for that. Fourth, explaining under dram shop laws, the personal liability to a person who would potentially sell to a minor. Last, the partnerships that Family Dollar has with law enforcement provide extra training in terms of the use of law enforcement to enforce sales laws. Based on the public convenience and tax revenue to the community, the extensive training Family Dollar offers, and the partnership with local law enforcement, Family Dollar believes the application should be approved.

Ms. Hunter-Patel delivered an opening statement. The City urges the Board to deny this application as there is no substantial need, necessity or convenience for this location. The City will demonstrate multiple factors under Rule R19-1-702, numbers 2, 6, 8, 9,¹ and others, why this application should not be approved. This location is urban and is located within an area that is saturated with liquor licenses within a one-mile radius. If there is an increase in liquor sales, particularly low cost beer and wine sales, there is a significant detrimental impact to the community. The store is located in Ward 1, which is a tough part of South Tucson. The area is lower income and primarily minority. Ms. Hunter-Patel described the store, which she could see across the street from her office. The store is a boarded up building. More than half the windows of the storefront are completely broken. The doors are broken and there is plywood across both doors. It is impossible to tell if the store is open on a regular basis. Ms. Hunter-Patel moved to enter the City's disclosure and exhibits into evidence. After each member confirmed that they had a copy in their possession, the Chair accepted the disclosure and exhibits into evidence.

Vice Mayor Lane Santa Cruz was called as the first witness. Vice Mayor Santa Cruz described her duties as the Ward 1 Council Member and Vice Mayor. The Vice Mayor testified that there are 11 liquor licenses within a one mile radius of the Family Dollar store. She described the appearance of the store as boarded up in front with large posters covering all the windows. She testified that it is impossible to see into the store or to see out from inside the store. There are also problems with a homeless encampment and drug use in close proximity of the store. The Vice Mayor testified that over the last 20 years, increased alcohol sales in South Tucson have exacerbated the undesirable economic, social and public health conditions of Ward 1.

Jamal Givens was the second witness for the City of Tucson. Mr. Givens has lived, worked, and

¹ R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

...

2. Number and types of licenses within one mile of the proposed premises;

...

6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

...

8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;

....

played in the area over the last 23 years. Mr. Givens has been active in community outreach and service organizations and is authorized to speak on behalf of Liberty Partnership Community Council to the Board. Mr. Givens founded a nonprofit organization working with individuals who have mental health and/or substance abuse issues. He is the President and CEO of LPKNC. The mission of this nonprofit organization is prevention of substance use/misuse and suicide, and promoting mental health and wellness for youth, families and communities. Mr. Givens acknowledged that Family Dollar serves a community need with food and household goods. However, he believes that adding alcohol in this location will fuel the unlawful and criminal behavior that is already straining the community and its resources. Mr. Givens testified that there are not enough community resources to help alleviate the problems associated with alcohol misuse. From January 1, 2022 to July 2022, there were 108 calls for service to the Tucson Police Department within a one-mile radius of this Family Dollar store. He agrees that this location does not need to sell beer and wine. There are plenty of options for purchasing beer and wine in the Southside community.

Chair Campbell turned the meeting over to Vice Chair Shulman at 12:41 p.m.

Mr. Kaffer questioned Mr. Givens.

Yolanda Herrera was the third witness for the City of Tucson. She testified about her involvement in the community. Ms. Herrera is currently President of Sunnyside Neighborhood Association and President of the Southside Neighborhood Associations Presidential Partnership. Ms. Herrera is authorized to speak on behalf of the Sunnyside Neighborhood Association. Ms. Herrera has lived in the area for 70 years and has a broad understanding of community growth and development. She said that she does not feel safe when she goes into the Family Dollar store at this location. The windows have been broken and boarded up for at least six weeks. Ms. Herrera described the declining conditions of the area surrounding this location. She asked the Board to deny the application because alcohol sales is not needed in this location at this time.

Ms. Hunter-Patel and Mr. Kaffer presented closing statements. There was Board deliberation.

Mr. Roemer made a motion:

I move and motion that we deny the request for Liquor License Application No. 197757, Family Dollar #25088 on 194 West Valencia Road, Tucson, Arizona 85706, on the grounds of R19-1-702, No. 1 and No. 2².

Motion to deny application -	Roemer
Seconded -	Yarbrough
Yay -	Roemer, Yarbrough, Shulman, David
Nay -	Pernice
Abstained -	None
Disposition -	License denied

² R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
2. Number and types of licenses within one mile of the proposed premises;

.....

C. Minutes: Review, Consideration and Action

Motion to approve minutes of August 4, 2022 - David
Seconded - Pernice
Yay - David, Pernice, Yarbrough, Shulman, Roemer
Nay - None
Abstained - None
Disposition - Minutes approved


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

The next Board meeting is scheduled for October 13, 2022. Four matters are set for hearing. New state laws go into effect on September 24, 2022. Updated Title 4 Books will be distributed to Board Members via USPS First Class mail.

E. Call to the Public

None.

Motion to adjourn meeting - Yarbrough
Seconded - Roemer
Yay - Yarbrough, Roemer, Shulman, David, Pernice
Nay - None
Abstained - None
Disposition - Meeting adjourned at 1:38 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date