

## ARIZONA STATE LIQUOR BOARD

In the Matter of, )  
FROM: )  
NANCY JO MCCONAHA, AGENT, )  
A & M BEVERAGES, INC., )  
MECCA LOUNGE )  
) Bar License No.  
TO: ) 06070002  
JOSEPH SCOTT, AGENT, )  
TOP HAT RESTAURANT CORP., )  
PRANKSTERS TOO )  
)  
)

## REPORTER'S TRANSCRIPT OF PUBLIC HEARING

RE: PERSON AND LOCATION TRANSFER.

Phoenix, Arizona

May 1, 2008

1:47 p.m.

(Copy)

Angela Furniss Miller  
Certified Reporter, RPR, (AZ50127)

1 PERSON AND LOCATION TRANSFER, PUBLIC SESSION,  
2 BEFORE THE ARIZONA STATE BOARD OF LIQUOR, in the matter  
3 of Bar License No. 06070002, held at 1:47 p.m. on May 1,  
4 2008, at the Arizona Department of Liquor Licenses and  
5 Control, 800 W. Washington, 5th Floor, Phoenix, Arizona,  
6 in the presence of the following Board Members:

7 Ms. Cyndi Valdez, Chairman

8 Mr. Alan Everett, Vice Chairman

9 Mr. Don Jongewaard

10 Mr. Bill Dupont

11 Mr. Charles Huellmantel

12 Mr. Jim Carruthers

13  
14 ON BEHALF OF THE STATE:

15 Mr. Blair Driggs, Assistant Attorney General

16  
17 FOR THE APPLICANT:

18  
19 Mr. Joseph Scott, Agent

20 Mr. Perry Bolster, Owner

P R O C E E D I N G S

CHAIRPERSON VALDEZ: Turning to Item No. 18,  
this is Bar Liquor License 06070002. This is a person  
and location transfer. The Mecca Lounge to Franksters  
Too -- Top Hat Restaurant Corporation, Franksters Too.

Gentleman, will you state your appearance for  
the record, please.

MR. SCOTT: Joseph Scott.

CHAIRPERSON VALDEZ: Joseph Scott?

THE WITNESS: Yes.

MR. BOLSTER: Perry Bolster.

CHAIRPERSON VALDEZ: Perry?

MR. BOLSTER: Bolster, B-O-L-S-T-E-R.

CHAIRPERSON VALDEZ: Mr. Bolster, are you one  
of the owners?

MR. BOLSTER: Correct.

CHAIRPERSON VALDEZ: Mr. Scott, you're the  
agent?

MR. SCOTT: Yes.

CHAIRPERSON VALDEZ: Natasha, will you review  
the record, please?

THE CLERK: The matter presented to the Board  
is a person and location transfer application for a  
Series 6 Bar Liquor License.

1           The City of Scottsdale did not forward a  
2           recommendation to the Department in regard to this  
3           application.

4           There are no letters or petitions for or  
5           against this application on file with the Department.

6           CHAIRPERSON VALDEZ: Board Members, the  
7           Applicants have submitted a letter from the City of  
8           Scottsdale dated April 25th, 2008, that I'm going to go  
9           ahead and allow.

10          And I'll send the -- my copy to you to be  
11          marked as an exhibit.

12          THE CLERK: I have it.

13          CHAIRPERSON VALDEZ: You have a copy of it?

14          THE CLERK: Yeah. And it is going to be  
15          Exhibit 8.

16          CHAIRPERSON VALDEZ: Okay. This letter  
17          indicates that the Applicant has been working with the  
18          City of Scottsdale to resolve some issues regarding the  
19          use permit; is that correct?

20          MR. BOLSTER: Correct.

21          CHAIRPERSON VALDEZ: Do you have anything to  
22          add?

23          Where -- where are you with obtaining the  
24          proper permit or rezoning?

25          MR. BOLSTER: We are -- we just received this

1 back which is the first page of you see there on the  
2 legal. We got to get those four items in. And I'm  
3 going to probably do that by Tuesday or Wednesday and  
4 then submit on 5/9 and looks like we're going to have a  
5 hearing date on 6/25.

6 CHAIRPERSON VALDEZ: Let me go ahead and have  
7 you sworn in. Why don't you stand up?

8 MR. BOLSTER: Okay.

9 CHAIRPERSON VALDEZ: You are Perry Bolster?

10 MR. BOLSTER: Correct.

11 CHAIRPERSON VALDEZ: Can you swear him in?

12 THE COURT REPORTER: Please raise your right  
13 hand.

14  
15 JERRY BOLSTER,  
16 called as a witness herein, having been first duly  
17 sworn, was examined and testified as follows:

18  
19 CHAIRPERSON VALDEZ: Go ahead and start over.  
20 now. Where are you with the City of Scottsdale?

21 MR. BOLSTER: Well, we are -- we have submitted  
22 the application about a month ago and now they've given  
23 us some things back that we need to tie loose ends up.  
24 And that should be able to submit on Monday or Tuesday  
25 of next week. And at that time it looks like on the

1 second page, they have a little tracking here --

2 CHAIRPERSON VALDEZ: Proposed schedule.

3 MR. BOLSTER: Yeah. And we have to have that  
4 in by 5/9 so we can have the hearing 6/25.

5 MR. SCOTT: Or sooner.

6 MR. BOLSTER: Or sooner. I did talk to  
7 somebody at the City and we're trying to get on 6, I  
8 think, 11 or 6/14.

9 CHAIRPERSON VALDEZ: And this is a hearing for  
10 what, to obtain the last of the --

11 MR. BOLSTER: To -- yeah, it's -- we got -- we  
12 have a bar use permit, we have a zoning change, we have  
13 a live entertainment license, and extension of premises.

14 CHAIRPERSON VALDEZ: Okay. Bar use permit,  
15 zoning change --

16 MR. BOLSTER: Yeah, C1 to C2.

17 CHAIRPERSON VALDEZ: -- and extension of  
18 premises.

19 MR. BOLSTER: And ~~live~~ entertainment.

20 CHAIRPERSON VALDEZ: Those are the only issues  
21 you have outstanding with the City of Scottsdale,  
22 correct?

23 MR. BOLSTER: Correct.

24 CHAIRPERSON VALDEZ: What I have from the City  
25 Planning and Development is a request for a continuance,

1       which I don't believe that the Applicants are after; am  
2       I correct?

3               MR. BOLSTER:   Well --

4               MR. SCOTT:   What does it mean by a continuance?

5               CHAIRPERSON VALDEZ:   You want to -- I gather  
6       from the documentation that the City submitted is that  
7       they wanted to continue this hearing to allow all this  
8       other paperwork to take place.

9               MR. BOLSTER:   Right.   We had Mr. Jerry  
10      Oliver --

11              CHAIRPERSON VALDEZ:   Right.

12              MR. BOLSTER:   -- we had an extension for six  
13      months because five months in the process the City  
14      didn't catch it on pre-app, our company that we hired to  
15      consult did not catch it, and so we're going --  
16      proceeding with the extension of premises, the live  
17      entertainment, and the bar use permit.   And we thought  
18      we were about done with that and all of a sudden,  
19      whoops, this is not zoned properly.   So that's why we  
20      went back to the beginning and now we're putting it all  
21      together.   And mainly the zoning is what we're trying  
22      to --

23              MR. SCOTT:   And the -- and City recommended it,  
24      you know, to do the zoning?

25              CHAIRPERSON VALDEZ:   I haven't had you sworn

1 in. I'll let you speak for right now.

2 MR. SCOTT: That's good for me.

3 CHAIRPERSON VALDEZ: Blair, we can go ahead and  
4 proceed; am I correct --

5 MR. DRIGGS: That's correct.

6 CHAIRPERSON VALDEZ: -- on the material before  
7 us and then if we have any questions?

8 I have a couple questions I want to ask you.  
9 Have you obtained the appropriate liquor training?

10 MR. BOLSTER: Yes.

11 CHAIRPERSON VALDEZ: Both of you?

12 MR. BOLSTER: Uh-huh.

13 CHAIRPERSON VALDEZ: How -- when was that  
14 completed?

15 MR. BOLSTER: Are you talking like a past --

16 CHAIRPERSON VALDEZ: Server training, the  
17 liquor laws, etcetera.

18 MR. BOLSTER: Yeah, yeah/ it's been about a  
19 year, I think.

20 CHAIRPERSON VALDEZ: You're operating under an  
21 interim permit right now, correct?

22 MR. BOLSTER: Correct.

23 CHAIRPERSON VALDEZ: Have you had any  
24 violations under the permit?

25 MR. BOLSTER: No.

1 CHAIRPERSON VALDEZ: No citations? No problems  
2 at all?

3 MR. BOLSTER: (No oral response.)

4 CHAIRPERSON VALDEZ: Board Members, any  
5 questions --

6 MR. HUELLMANTEL: I have one.

7 CHAIRPERSON VALDEZ: -- of Mr. Bolster?

8 I have -- I don't have Mr. Scott sworn in. If  
9 you want him sworn in, let me know.

10 MR. HUELLMANTEL: I will do that but I don't.

11 CHAIRPERSON VALDEZ: Mr. Huellmantel.

12 MR. HUELLMANTEL: Are you opposed to a  
13 continuance?

14 MR. BOLSTER: No.

15 MR. HUELLMANTEL: Is there a problem with  
16 timing if they're continued?

17 MR. DRIGGS: Yes. Actually, the application  
18 was filed in April of 2007, we're May of 2008, and  
19 shouldn't extend it for more than a year under your  
20 statutes.

21 CHAIRPERSON VALDEZ: Any other questions?

22 MR. DUPONT: Are we missing two permits or just  
23 the use permit?

24 CHAIRPERSON VALDEZ: What they're after right  
25 now is a bar use permit, zoning change, and that's all

1 recommended by the City of Scottsdale. From the  
2 documents we have, extension of premises and a permit  
3 for live entertainment.

4 MR. DUPONT: So, officially, are you zoned to  
5 have the restaurant?

6 MR. BOLSTER: We're not zoned. What  
7 happened -- yes, we had a 12 license and we were not  
8 meeting the requirement, so we decided to buy a six to  
9 put that in there so we would not have to worry about  
10 the 60/40 percentage. And that's -- when we did put  
11 that in the City, five months into it, that's when they  
12 said: This is not properly zoned.

13 MR. DUPONT: Zoning permit not so much use  
14 permit?

15 MR. SCOTT: Right now it is.

16 MR. BOLSTER: Right.

17 CHAIRPERSON VALDEZ: If the zoning -- if the  
18 zoning is not granted, the City has the ability to close  
19 down the operation because they can't operate?

20 MR. BOLSTER: Correct.

21 MR. DRIGGS: That's correct.

22 CHAIRPERSON VALDEZ: So the Board doesn't need  
23 be in a position of enforcing that?

24 MR. DRIGGS: Not to enforce the zoning. If the  
25 Department saw that he was doing that in violation, then

1 that might reflect on the No. 12 on the capability and  
2 qualification on his own.

3 MR. HUELLMANTEL: Actually, I think -- I think  
4 a conditional use permit is still required. Do you have  
5 your conditional use permit now?

6 MR. BOLSTER: That's we're -- that's also --

7 CHAIRPERSON VALDEZ: It's not just -- it's also  
8 the use permit.

9 MR. DUPONT: That's what the key issue is to  
10 me.

11 MR. SCOTT: They recommended it because it was  
12 a mistake. That was the whole thing.

13 MR. BOLSTER: Which we were going to try the  
14 grill bill, but they didn't want to mess with that  
15 because it's something relatively new.

16 CHAIRPERSON VALDEZ: I'm still gathering from  
17 the documentation we received from the City of  
18 Scottsdale that they are doing what they can to assist  
19 the Applicants in pushing this forward. It doesn't  
20 appear to me that the City is opposed to what they're  
21 going after --

22 MR. BOLSTER: Correct.

23 CHAIRPERSON VALDEZ: -- or any roadblocks since  
24 the City has corresponded with us directly.

25 MR. HUELLMANTEL: I'm sort of surprised by

1       that. And the documentation is less than clear, but it  
2       doesn't appear they are opposed.

3               CHAIRPERSON VALDEZ: Board members, somebody  
4       ready to make a motion or --

5               MS. PADIAN: Madam Chairman, City of Scottsdale  
6       is here if you have any questions for us.

7               CHAIRPERSON VALDEZ: Oh, the City of Scottsdale  
8       is here? Oh, please come forward.

9               MR. DRIGGS: Well, you can ask them questions.  
10       They really don't have an official position because they  
11       sent no recommendation.

12              CHAIRPERSON VALDEZ: Oh, I'm sorry.

13              MR. DRIGGS: That's what I meant, they sent no  
14       recommendation.

15              CHAIRPERSON VALDEZ: Well, it's nice to see you  
16       anyway.

17              If you have any questions --

18              MR. DRIGGS: You can ask her questions.

19              CHAIRPERSON VALDEZ: Do you have questions, Mr.  
20       Huellmantel?

21              MR. HUELLMANTEL: Of course I do.

22              CHAIRPERSON VALDEZ: Of course you do.

23              Why don't you come on forward and state your  
24       name. State your name for the record.

25              MS. PADIAN: Connie Padian.

1 CHAIRPERSON VALDEZ: You're going to have to  
2 spell your last name Connie.

3 MS. PADIAN: Sure. It's P-A-D-I-A-N.

4 CHAIRPERSON VALDEZ: And your position with the  
5 City of Scottsdale?

6 MS. PADIAN: The Chief Planning Officer.

7 CHAIRPERSON VALDEZ: Let me have you sworn in.

8 THE COURT REPORTER: If you would raise your  
9 right hand.

10  
11 CONNIE PADIAN,  
12 called as a witness herein, having been first duly  
13 sworn, was examined and testified as follows:

14  
15 CHAIRPERSON VALDEZ: Mr. Huellmantel.

16 MR. HUELLMANTEL: I'm glad you spoke up and I'm  
17 glad you are here.

18 MS. PADIAN: Uh-huh.

19 MR. HUELLMANTEL: Hard us figure out who people  
20 are when you aren't here.

21 Can you help me determine what the City's  
22 position, in fact, is?

23 MS. PADIAN: Sure. The Applicant did make a  
24 submittal and we were going through the initial reviews,  
25 and the location has changed on the site over the years,

1 and so we were proceeding with it just being a change in  
2 location. However, as we went through it, we realized  
3 that the use actually required a use permit. How it  
4 occurred however many years ago, I have no idea, I  
5 wasn't involved at the time.

6 As they proceeded they did request a grill  
7 license and the City of Scottsdale for what they wanted  
8 to do that would require a bar use permit now. They  
9 can't have a bar in that zoning district, it's a C1  
10 zoning district. So it requires a rezoning.

11 So the application they're putting forward is  
12 one to rezone the property but then they also have to  
13 get a bar use permit. We've already started the  
14 process. Staff at this point is in favor of both the  
15 rezoning and the bar use permit. I'm not aware that  
16 we've received any public protest. From our standpoint  
17 it's a very logical land use for the intersection.

18 So, we were in support of the continuance  
19 recognizing even though that it's going to take some  
20 additional time. Our zoning process does involve the  
21 public. So recognizing it will be a few more months as  
22 well, we're -- we're again trying to work with them to  
23 try to get it to the City Council by July I think at the  
24 very latest.

25 CHAIRPERSON VALDEZ: Blair, under these

1       circumstances because it's been over a year, if the  
2       Board proceeded now and they weren't able to get the  
3       zoning change or there was public protest to it, what  
4       position is the Department then in to do something with  
5       the license the Board made?

6               MR. DRIGGS: Well, first off, any public  
7       protest would be a protest as to the zoning.

8               CHAIRPERSON VALDEZ: Right.

9               MR. DRIGGS: Because the timing for protesting  
10      the liquor was done --

11              CHAIRPERSON VALDEZ: Is done.

12              MR. DRIGGS: -- after the first part of this  
13      when the City made its initial blush on this.

14              Again, we come back to the same thing, you're  
15      giving permission for him to have this license there.  
16      They have to do it lawfully. If it's not zoned  
17      properly, he cannot use it there or he can be subject  
18      himself to sanctions by the City. And if he has any  
19      license with liquor, then that would reflect upon his  
20      capability, qualification, reliability for his other  
21      license that he does have.

22              CHAIRPERSON VALDEZ: Mr. Bolster, you  
23      understand that, right?

24              MR. BOLSTER: Kind of. If we don't get this --

25              MR. SCOTT: We're done.

1 MR. BOLSTER: -- we're done with that. That's  
2 what I take it. Or is it more like --

3 CHAIRPERSON VALDEZ: If you get it --

4 MR. BOLSTER: Then we can proceed?

5 MR. DRIGGS: But you can't use the six until  
6 you can lawfully use the six in this location.

7 MR. BOLSTER: Right. But with Mr. Oliver's  
8 extension that is under the 12 I think, isn't it?

9 MR. DRIGGS: I think you have a 12 already  
10 there.

11 MR. BOLSTER: Right.

12 CHAIRPERSON VALDEZ: Right. And the Director's  
13 already extended their use of the 12 so they can  
14 continue to sell liquor.

15 MR. BOLSTER: Right. Right. So if don't from  
16 that point, we won't use it if they say, no, it's not  
17 rezoned properly.

18 CHAIRPERSON VALDEZ: Or if the 12 expires, you  
19 can't then substitute the six unless the issues with the  
20 City of the Scottsdale are taken care of.

21 MR. BOLSTER: Right.

22 CHAIRPERSON VALDEZ: So, you do understand  
23 that?

24 MR. SCOTT: Right. So, we're under a time  
25 constraint. We do understand that.

1 CHAIRPERSON VALDEZ: And I keep looking at him  
2 because he's the one sworn in.

3 MR. SCOTT: Right. Right. I keep wanting to  
4 throw stuff in, but --

5 MR. HUELLMANTEL: Is the City allowing them to  
6 continue to operate until the zoning issues are resolved  
7 one way or the other?

8 MS. PADIAN: Yes, we are.

9 MR. HUELLMANTEL: So, what I didn't hear is if  
10 you are opposed to continuing with a decision on this  
11 today. Frankly, you are the only one here to ask.

12 MS. PADIAN: On behalf of City Council, our  
13 preference is a continuance. We always like to have the  
14 liquor license recommendation come forward the same time  
15 as the use permit. So on behalf of the City Council,  
16 we'd prefer a continuance.

17 MR. HUELLMANTEL: Yes. But are you opposed to  
18 us acting today knowing there's a time limit?

19 MS. PADIAN: Am I opposed?

20 CHAIRPERSON VALDEZ: Can you speak for the City  
21 Council?

22 MS. PADIAN: I cannot speak in terms to  
23 actually say they are opposed. I could not say that.

24 MR. HUELLMANTEL: I understand. Appreciate  
25 that. Thank you for being here today.

1 MS. PADIAN: No problem.

2 CHAIRPERSON VALDEZ: Anymore questions?

3 MR. HUELLMANTEL: Not at this time.

4 THE COURT: Is anyone prepared to make a  
5 motion?

6 MR. EVERETT: Regarding License No. 06070002,  
7 based upon the fact that the application was sent to the  
8 Board with no recommendation from the City of  
9 Scottsdale, there is no public protest, and the  
10 Department has no protest, this location has been in  
11 operation for a number of years with a Series 12  
12 license, I move that we find the public convenience  
13 requires and the best interest of the community will be  
14 substantially served as required by ARS 4-203, by  
15 granting a liquor license to this location.

16 Based upon the Applicant's training and  
17 experience with over 13 years of restaurant/bar  
18 operation with no violations, that we find the Applicant  
19 is capable, qualified, and reliable as also required by  
20 ARS 4-203, and that the Board grant this application for  
21 both location and person.

22 CHAIRPERSON VALDEZ: Seconded.

23 It's been properly moved by Mr. Everett and  
24 second by the Chair.

25 All in favor signify by saying, "aye."

1 (Chorus of ayes.)

2 CHAIRPERSON VALDEZ: Any opposed?

3 There being none opposed, the application is  
4 granted.

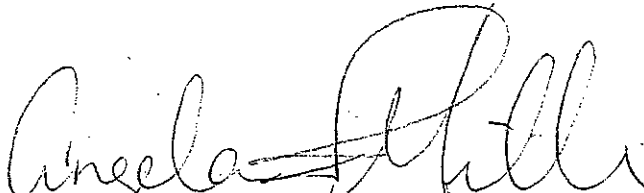
5 MR. BOLSTER: Thank you.

6  
7 \* \* \* \* \*

C E R T I F I C A T E

I, Angela Furniss Miller, Certified Reporter,  
do hereby certify that the foregoing pages numbered 1  
through 19, inclusive, constitute a full and accurate  
printed record of my stenographic notes taken at said  
time and place, all done to the best of my skill and  
ability.

DATED, at Phoenix, this 6th day of June, 2008.



Angela Furniss Miller, RPR  
Certified Reporter (AZ50127)