



Legislation Details (With Text)

File #: RES 21-1813 **Version:** 1

Type: Resolution **Status:** Passed
In control: City Council
Final action: 12/22/2021

Title: Remanding the matter of the cigarette/tobacco license held by Zakariya Abukhudeer, d/b/a The One Stop Market LLC, for the premises located at 1541 Maryland Avenue back to the Administrative Law Judge so that an evidentiary hearing may be held on the allegations on which the Administrative Law Judge denied summary disposition.

Sponsors: Nelsie Yang

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
12/28/2021	1	Mayor's Office	Signed	
12/22/2021	1	City Council	Adopted	Pass

Remanding the matter of the cigarette/tobacco license held by Zakariya Abukhudeer, d/b/a The One Stop Market LLC, for the premises located at 1541 Maryland Avenue back to the Administrative Law Judge so that an evidentiary hearing may be held on the allegations on which the Administrative Law Judge denied summary disposition.

WHEREAS, Zakariya Abukhudeer, d/b/a The One Stop Market, LLC ("Licensee"), holds a cigarette/tobacco license under License ID #20190001624 ("License") for the premises located at 1541 Maryland Avenue East in Saint Paul ("Licensed Premises"); and

WHEREAS, on September 10, 2020, the Department of Safety and Inspections ("Department"), sent a notice of violation ("Notice") to the Licensee, in which the Department alleged that the License committed the following violations:

1. Selling single cigarettes and flavored tobacco products;
2. Allowing patrons to smoke cigarettes inside of the Licensed Premises;
3. Failing to properly maintain his surveillance equipment and failing to provide a copy of the surveillance video footage as requested by the Department; and
4. Permitting dangerous behavior and loitering on or near the Licensed Premises.

WHEREAS, the Notice stated that the Department was taking adverse action against the License based on the aforementioned allegations and indicated that it would seek a double upward departure from the presumptive penalty of a \$500.00 fine to a \$2,000.00 fine and a 10-day suspension of the License; and

WHEREAS, on March 21, 2021, an amended Notice was sent to the Licensee stating that the Department intended to seek a greater-than-double upward departure from the presumptive penalty to revocation of the License based on evidence of additional incidents of sales of single cigarettes and flavored tobacco products

identified in the videos that had already been provided to the Department; and

WHEREAS, the Licensee responded to the amended Notice with a request for an evidentiary hearing before an Administrative Law Judge; and

WHEREAS, on April 26, 2021, the Department filed a motion for summary disposition ("Motion"), seeking summary disposition on all the violations alleged in the amended Notice; and

WHEREAS, a hearing was held on the Motion before Administrative Law Judge James E. LaFave ("Judge LaFave") on May 28, 2021; and

WHEREAS, on September 7, 2021, Judge LaFave issued an order granting summary disposition on the single cigarette, flavored tobacco products, and indoor smoking allegations, denying summary disposition on the remaining allegations, and recommending that a \$1,000.00 fine be imposed against the License; and

WHEREAS, at a public hearing on November 17, 2021, the Department recommended that the City Council adopt Judge LaFave's order and recommendation, impose a \$1,000.00 fine against the License, and dismiss the remaining allegations; and

WHEREAS, at the same hearing, after considering all the evidence contained in the record and the oral arguments presented before it, the City Council rejected the Department's recommendation and requested that the Department try the remaining allegations at an evidentiary hearing to be scheduled by Judge LaFave; and

WHEREAS, a prehearing conference was held by telephone on December 7, 2021 to review the status of the case and Judge LaFave requested that the City Council issue a formal order remanding the case back to him; now, therefore, be it

RESOLVED, that the City Council requests that Judge LaFave schedule an evidentiary hearing on the allegations on which he denied summary disposition and give the parties adequate opportunity to develop the record with respect to those allegations.

A copy of this resolution, as adopted, shall be sent by first class mail to Judge LaFave and the Licensee.