



CITY OF SAINT PAUL

Mayor Melvin Carter

Civil Division
400 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102

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September 10, 2020

**NOTICE OF VIOLATION AND
REQUEST FOR UPWARD DEPARTURE TO
THE THIRD BOX ON THE MATRIX PENALTY SCALE OF \$2,000
AND A 10 DAY SUSPENSION**

The One Stop Market LLC
1541 Maryland Avenue
Saint Paul, MN 55106
Attn: Zhariya Abukhudeer

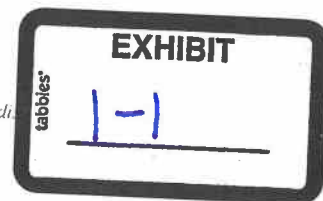
RE: Cigarette/Tobacco license held by Zhariya Abukhudeer d/b/a The One Stop Market LLC for the premises located at 1541 Maryland Avenue in Saint Paul.
License ID #: 20190001624

Dear Zhariya Abukhudeer:

The Department of Safety and Inspections (“Department”) will recommend adverse action against the Cigarette/Tobacco license held by Zhariya Abukhudeer (“Licensee”) for the premises known as The One Stop Market LLC located at 1541 Maryland Avenue in Saint Paul. (“Licensed Premises”) including an upward departure two boxes on the matrix penalty chart to \$2,000 and 10 day suspension.

Saint Paul Legislative Code Section 310.06 sets forth a variety of reasons under which adverse actions can be based.

- Section 310.06(b)(5) supports adverse action when there is a failure to comply with a condition set forth in the license.
- Section 310.06(b)(2) supports adverse action when there is a violation of the provisions of the legislative code relating to the licensed activity.
- Section 310.06 (b)(7) supports adverse action when the “activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner”.



- Section 310.06(b)(8) supports adverse action when “the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.

In your case, the Department bases its request for adverse action on violations of your License Conditions #2 and #3, violations of Saint Paul Legislative Code Section 324.07 (a) and (f) which prohibit the sale of single cigarettes and the sale of flavored products, and the allegations that the way in which the Licensed Premises are run and managed violate Saint Paul Legislative Code Sections 310.06(b)(7) and (8). The Department believes that the facts outlined below, along with attachments and video prove the violations beyond a preponderance of the evidence.

The relevant License Conditions for the Licensed Premises are:

#2 The licensee shall take reasonable steps to discourage loitering in front of or on the property of the licensed business.

#3 The license holder shall maintain video surveillance cameras inside and outside the establishment in accordance with the Saint Paul Police Dept. (SPPD) recommendations. The video recording shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department (SPPD) immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the crime, requests that a copy of the surveillance footage be immediately provided, the license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections (DSI) requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies.

The relevant portions of the Saint Paul Legislative Code relating to the sale of single cigarettes and flavored products are:

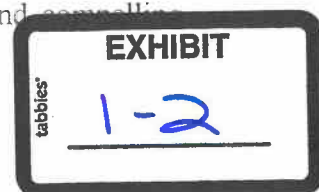
Saint Paul Legislative Code Section 324.07 – Sales Prohibited.

- (a) No person shall sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes shall be sold in packages of fewer than twenty (20) cigarettes.
- (f) No person shall sell, offer for sale, or otherwise distribute any flavored products.

Requested Penalty:

Saint Paul Legislative Code Section 310.05 (m)(1) prescribes a \$500 fine for a first violation within a 12-month period. The prescribed penalty for a second violation is a \$1,000 fine. The prescribed penalty for a third violation is a \$2,000 penalty and a 10-day suspension of all licenses. The prescribed penalty for a fourth violation is revocation of all licenses.

Although matrix penalties are presumed to be appropriate, Saint Paul Legislative Code Section 310.05 allows council to upwardly depart where the council finds that there are substantial and compelling reasons to do so.



The Department believes that there are substantial and compelling reasons to upwardly depart two boxes on the matrix penalty to a \$2,000 and 10-day suspension of all licenses.

The Department believes that these substantial and compelling reasons include:

- the number of times that the conditions of the license have been violated,
- the number of times that the provisions of the code related to the licensed activity have been violated,
- the serious danger that your failure to follow the conditions of your license caused,
- the frequency of the violations,
- the failure to maintain your surveillance equipment in good working order,
- your failure to manage the Licensed Premises to ensure that fights and disputes do not escalate into situations that endanger the safety of the general public,
- the additional serious violations of Saint Paul Legislative Code after your June 18, 2020 meeting with the Department and representatives of the Saint Paul Police Department to discuss the problems at the Licensed Premises and
- your failure to acknowledge the June 18, 2020 and June 24, 2020 emails from Licensing Manager, Eric Hudak.

List of Violations in Chronological Order:

Violation #1



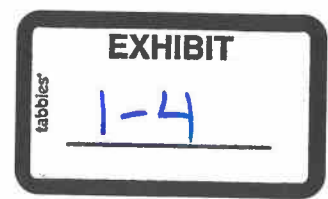
License Condition Violated: Condition #2 The licensee shall take reasonable steps to discourage loitering in front of or on the property of the licensed business.

Saint Paul Legislative Code Sections Violated: 310.06(b)(7) and (8).

Synopsis of Alleged Facts: On March 30, 2020, officers were sent to the Licensed Premises at 1541 E. Maryland on a report of an weapons discharge within the city limits. They reported the results of their investigation under Saint Paul Police Case Number 20062710. They also recovered video from the Licensed Premises.

On April 15, 2020, the SPPD officer assigned to the Department of Safety and Inspections, Sergeant Rob Stanway (“Stanway”), reviewed the video collected by officers for licensing violations. He noted the following behavior :

- 4:46 p.m. – an individual with a blue and white short-sleeve shirt, red pants and some kind of skull mask that covered his entire face is seen hanging out with two other individuals who are seated in front of the Licensed Premises.
- 4:47 p.m. two more males’ approach and the camera show them smoking cigarettes and talking with the individuals sitting outside the front door to the Licensed Premises.
- 4:49 p.m. a male who is later identified as store manager, Abdulhafiz Abukhdeir Mohamad (“Mohamad”) comes out of the store wearing a dark blue sleeveless shirt, black rubber gloves and starts to smoke a cigarette. He makes no effort to discourage the loitering happening in front of the Licensed Premises.



- 4:50 p.m. four males get out of a dark colored SUV that was parked in the lot when the video first started. These males walk into the store, but then immediately walk out and got back into the dark colored SUV.
- 4:51 p.m. Mohamad throws his cigarette into the parking lot and walks into the store. He does not address the dark colored SUV which is still in the parking lot with the males still sitting inside it. He does not address the individuals hanging out in front of the Licensed Premises and there is still at least one individual outside of the Licensed Premises when he goes back in.
- 4:53 p.m. it appears that a dispute is taking place in the parking lot in front of the Licensed Premises. Two vehicles entered the parking lot and stopped driver's window to window. The passenger of one of the vehicles got out and walked toward the dark colored SUV and was seen talking to one of the back-seat passengers who also got out. The driver of one of the vehicles that was door to door then got out. The driver appeared to be a black female wearing a yellow sweatshirt.
- 4:55 p.m. 8 people come out of the store including Mohamad. All of these people we are looking at the dispute including the male/employee. Mohamad does nothing to disperse the crowd that had formed.
- 4:56 p.m. The dark colored vehicle that the black female driver with the yellow sweatshirt, leaves the lot. The other dark colored SUV that was there when the video started was still there. Occupants of that vehicle are seen getting in and out of it. Mohamad is seen standing out in front of the store and talking to people. He again makes no effort to get the dark colored SUV involved in the dispute to leave and allows people continue loitering in front of the Licensed Premises.
- 4:56 p.m. the dark colored vehicle with the black female driver comes back and stops in the lot. She is seen getting out of the driver's seat and it appears that she yells at one of the black male occupants of the dark colored SUV. This male is wearing a red baseball hat and is seen getting out of the vehicle. He appears highly agitated. The black female driver followed this black male out of camera range. People in the lot start to run/follow these two and out of camera range. Mohamad stays at the front door and watches the crowd move. Additional people get out of vehicles that were also in the parking lot and head in that same direction. Some of the people that were still in camera range have their phones out and are recording what was going on. Mohamad is seen talking to the crowd and cars leave.
- 4:58 p.m. Mohamad reaches into his right waistband area and removes a dark colored handgun. He hands the gun to another male who comes out of the store. He then turns and walks toward the area off camera where the crowd had gone to.
- 4:59 p.m. the crowd comes back into camera range and the black female wearing the yellow sweatshirt is seen walking back to her dark colored vehicle and grabbing a crutch. She then holds the crutch over her head and approaches the dark colored SUV. She swings the crutch hitting the back-rear passenger side door of the dark colored SUV. The crutch gets stuck in the half-opened window and the black female with the yellow sweatshirt pulls it free. She is then approached by another occupant of the dark colored SUV and the black female with the yellow sweatshirt swings the crutch at her. The two women then struggle over the crutch and a fist fight starts. The video shows that a crowd had formed in the parking lot around them. One male is seen throwing a water bottle and then pulling out another crutch and swinging it at another black male. While this is occurring, Mohamed is present and eventually walks among the crowd. The video then shows that everyone in the lot ducks down and start to move away as a black male with no shirt runs into camera range with a dark colored handgun in his right hand. He is seen pointing it at the dark colored SUV and appears to have been shooting at the passenger side of the vehicle. The rear right



passenger of the SUV then reaches out the half down window with a dark colored handgun in his hand and fires back a number of times at the black male with no shirt as he runs away.

- At 5:00 p.m. Mohamad comes back out of the store holding a handgun in his right hand. Both of the individuals in the dark colored vehicle get into the vehicles and drive off. Mohamed is then seen putting the gun back into his right waistband area. The dark colored SUV leaves the parking lot but gets stuck behind vehicles that appeared to of been waiting for a red light at Maryland.
- At 5:01p.m. the two passengers in the dark colored SUV are seen getting out and running back toward the Licensed Premises, Mohamed appears to waive these males inside. One of the males is then seen running back to the rear driver's side door as others followed. The occupants then got back in and the vehicle left turning right onto W/B Maryland. Mohamed is then seen going back into the store. He later comes back out and is seen talking/face timing on this phone.
- At 5:04 p.m. a male (who appears to be another employee) comes out of the store with a pit bulldog on a leash and walks to the west.

Abdulhafiz Abukhdeir Mohamad ("Mohamad"), was identified as the individual shown on camera wearing the black rubber gloves. He is the store manager at The One Stop Market and does possess a permit to carry license. When interviewed, Mohamad said he passed his gun to another employee, Abdul Hafiz Abukhdeir Zakaria to hold onto as he attempted to disrupt the brawl. Mohamad stated after the shooting had occurred he ran back into the store to hide. He then came back outside into the parking to make sure no one was struck by gun fire. Mohamad said he had his gun out, but it was pointed towards the ground and never pointed it in the direction of anyone. Mohamad said people from the Dodge Durango ran towards him and asked him to call the police for someone that was shot. Mohamad said he told another employee to call the police. A third employee, Faris Loay Abukhdair was also working at the Licensed Premises when the shooting occurred.

Violation #2

License Condition Violated: Condition #3 The license holder shall maintain video surveillance cameras inside and outside the establishment in accordance with the Saint Paul Police Dept. (SPPD) recommendations. The video recording shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department (SPPD) immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the crime, requests that a copy of the surveillance footage be immediately provided, the license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections (DSI) requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies.

Synopsis of Alleged Facts: On April 27, 2020, the Department sent a letter to the Licensee requesting copies of all surveillance video from the March 30, 2020 incident starting at 4:30 p.m. and ending at 5:30 p.m. The letter from the Department directed that the Licensee deliver this video to DSI no later than 4:30 PM on May 4, 2020.

On May 4, 2020, the Licensee notified the Department by email that the requested video was not available due to the "mistreatment of my surveillance equipment, my DVR system fell to the floor causing both of my hard drives to fail."

In response to the Licensee's allegation, the Department requested the Video Technician James Legierski ("Legierski") detail his efforts to collect video from the Licensed Premises on April 24, 2020. Legierski produced Saint Paul Police Report ("CN") 2007656 which noted that when he went to collect the video, he found that the DVR was stored approximately 16 feet up in the ceiling. Legierski indicated that he downloaded the video and then left the video equipment in the custody of the licensee. Legierski also noted that there were 12 separate cables attached to the recording system. Legierski detailed that he downloaded the video that he needed and once he was done he tried to push the DVR back up onto the rafter that it was originally on. He couldn't reach high enough to get it back up to its resting spot, even while using the ladder provided. He told the manager about this issue and the manager replied, "I will take care of it, don't worry about it."

Violation #3

License Condition and Sections of Saint Paul Legislative Code Violated: Condition #3 The license holder shall maintain video surveillance cameras inside and outside the establishment in accordance with the Saint Paul Police Dept. (SPPD) recommendations. The video recording shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department (SPPD) immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the crime, requests that a copy of the surveillance footage be immediately provided, the license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections (DSI) requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies.

Saint Paul Legislative Code Section Violated: 324.07(a) and (f) and 310.06(b)(7) and (8)

Synopsis of Alleged Facts: On June 5, 2020, Licensing Manager Eric Hudak requested copies of video surveillance from the Licensed Premises. The request included a copy of continuous, uninterrupted video footage from all camera views from Monday June 1, 2020 from 8:30 until 10:00 p.m. A review of this video showed violations of License Conditions and Saint Paul Legislative Code:

- 21:02:27 Employee lights customers cigarette inside the Licensed Premises in violation of MN Clean Indoor Air Act – MN Statute 144.414 and 144.416 and Ramsey County Ordinance B2015-302.
- 21:03:06 Licensee is seen selling package of Newport menthol cigarettes.
- 21:05:07 Licensee is seen selling a single cigarette outside of its original packaging.
- 21:16:10 Uncontrolled and dangerous environment which includes fighting.
- 21:30:36 Individual comes from behind the counter with a shotgun.
- 21:30:52 Individual retrieves handgun from behind the counter.
- 21:31:13 Handgun is transferred behind the counter.



- 21:31:59 Unsecured shotgun is left leaning against the counter during the uncontrolled event.
- 21:33:17 Individual seen motioning for another to retrieve a handgun from behind the counter.

Saint Paul Legislative Code Section 310.05 (m)(1) lays out the penalty matrix for violations of a license condition placed on the license.

Violation #4

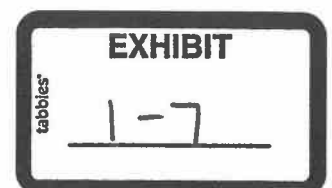
License Condition Violated: Condition #2 The licensee shall take reasonable steps to discourage loitering in front of or on the property of the licensed business.

Synopsis of Alleged Facts: On June 17, 2020 you met with Licensing Manager Eric Hudak and representatives from the Saint Paul Police Department at the Eastern District Police Office. The purpose of the meeting was to discuss the violations described above and your responsibility as a Licensee to ensure compliance with the rules and regulations that relate to the Licenses you hold for the Licensed Premises. After that meeting, Licensing Manager Eric Hudak sent you an email summarizing the meeting and included links to rules and regulations related to cigarette/tobacco, imitation tobacco products, secondhand dealers, and uniform license procedures. Eric Hudak asked you to confirm receipt of this email. Licensing Manager Eric Hudak sent a second email on June 24, 2020 again asking you to confirm receipt. To date it has not been confirmed. On July 20, 2020 officers on in route to another call drove by the Licensed Premises and noted under CN 20145047 that they know this business to be a known gang member hangout and narcotics trafficking area. As they drove by, they observed a large group of black males loitering on the west side of the building. They further noted that the males were gambling and shooting dice with a large pile of us currency in the middle of them on the ground as the prize and that this was happening in broad daylight on the store property where the employees could view them by looking out a window with ease.

Violation #6

Saint Paul Legislative Code Section Violated: 324.07(a) and (f)

Synopsis of Alleged Facts: On July 20, 2020 Officer R. Anderson and Officer Peter Baldwin used a confidential reliable informant ("CRI") to investigate an allegation that the employees of the Licensed Premises were selling single cigarettes and menthol cigarettes. Officer Baldwin details their investigation under CN 20144580. He documented that that they pat searched the CRI and made sure he did not have anything on him including money or cigarettes. They then have him an undisclosed amount of money to attempt to purchase single cigarettes from an employee behind the counter. The officers reported that the CRI was observed the entire time until he entered the store. The CRI exited the store and was again observed by officers until he was back with Officer Baldwin. The CRI reported that he was able to obtain two single cigarettes from an employee at the store who was working behind the counter. Officer Baldwin took custody of the cigarettes and placed them into property. The CRI stated that the employee took the money from the CRI and placed int into a box behind the counter. The employee then went into the back room and came back and handed the CRI two Newport menthol cigarettes. The CRI was able to describe the employee and this information was also documented in the report.



As the Licensee you have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Friday, September 25, 2020**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on a City Council Consent Agenda for approval of the proposed remedy.
3. If you wish to admit the facts but you contest the \$2,000.00 and 10-day suspension matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Friday, September 25, 2020**. The matter will then be scheduled before the City Council to determine whether to impose the \$2,000.00 and 10-day suspension matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Friday, September 25, 2020**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by Friday, September 25, 2020, I will assume that you do not contest the imposition of the \$2,000.00 and 10-day suspension. In that case, the matter will be placed on a City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,



Therese Skarda
Assistant City Attorney
License No.: 0240989

cc: Zhariya Abukhudeer; 520 Lake Elmo Ave N; Lake Elmo, MN 55042
Zamzam Inc.; 1149 97th LN NW; Coon Rapids, MN 55433

Attachments: License Group Text
April 27, 2020 Surveillance video request letter
Email from Licensee responding to video request letter
STAMP-Ownership/Zoning Information
EClips system Screenshots
Saint Paul Police Reports
Saint Paul Police Department Address/Intersection Report

