

January 19, 2023

VIA EFILING ONLY

Shari Moore
City Clerk
City of Saint Paul
310 City Hall
15 W Kellogg Blvd
St. Paul, MN 55102
cityclerk@ci.stpaul.mn.us

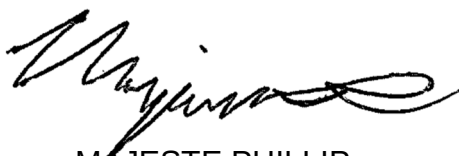
Re: *In the Matter of the Auto Repair Garage License Held by Castillo Auto Repair for the Premises Located at 744 3rd Street in Saint Paul*
OAH 22-6020-38526

Dear Ms. Shari Moore:

Enclosed and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** in the above-entitled matter. The official record, along with a copy of the recording of the hearing, is also enclosed. The Office of Administrative Hearings' file in this matter is now closed.

If you have any questions, please contact me at (651) 361-7853, majeste.phillip@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



MAJESTE PHILLIP
Legal Specialist

Enclosure

cc: Docket Coordinator
Therese Skarda
Isaac Castillo

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE CITY OF ST. PAUL

In the Matter of the Auto Repair Garage
License Held by Castillo Auto Repair for
the Premises Located at 744 3rd Street in
Saint Paul

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

This matter came before Administrative Law Judge Christa L. Moseng for an evidentiary hearing on December 8, 2022, and the hearing record closed on that date.

Therese Skarda, Assistant City Attorney, appeared on behalf of the City of St. Paul (City) Department of Safety and Inspections (Department or DSI). Isaac Castillo appeared on behalf of Castillo Auto Repair (Licensee), without legal counsel.

STATEMENT OF THE ISSUES

1. Has the Department established by a preponderance of the evidence that Licensee violated the St. Paul Legislative Code and the conditions of its licenses by:
 - a. Failing to follow the approved site plan in violation of license condition #2;
 - b. Exterior storage of vehicle parts in violation of license condition #4;
 - c. Failing to maintain maneuvering space on the property in violation of license condition #9; or
 - d. Displaying tires outside of the area on the approved site plan in violation of license condition #13?
2. May the City impose a matrix penalty of \$1,000?

SUMMARY OF RECOMMENDATION

The Judge concludes that the Department has established by a preponderance of the evidence that Castillo Auto Repair violated conditions 2, 9, and 13 of its Auto Repair Garage license. Because these are the Licensee's second licensing violations within one year, the City may impose a penalty of \$1,000 related to this conduct.

Based on the evidence in the hearing record, the Judge makes the following:

FINDINGS OF FACT

1. Isaac Castillo owns Castillo Auto Repair, located at 744 3rd Street East, St. Paul, Minnesota.¹ Castillo Auto Repair holds Auto Repair Garage License #20200001910 (License).²

2. The License is subject to 14 conditions, which include:

- a. Condition 2: Customer and employee parking on the licensed premises shall be in accordance with the approved site plan on file with the Department of Safety and Inspections (DSI). A maximum of six (6) vehicles may be parked on the exterior of the premises at any time;
- b. Condition 4: There shall be no exterior storage of vehicle parts, tires, oil, or any other similar materials associated with the business unless explicitly approved in writing by the City Zoning Administrator;
- c. Condition 9: Licensee shall maintain an unobstructed maneuvering space on the property to allow vehicles entering and exiting the site to proceed forward. Backing from the street or onto the street is prohibited; and
- d. Condition 13: The display of tires outdoors for-sale shall be limited to the area shown on the approved site plan on file with DSI. Outdoor display of tires for-sale shall only be done when the business is open to the public and all tires shall be stored inside the building when the business is closed. No tires (for-sale and/or discarded) may be placed in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.).³

3. On or about March 19, 2022, The City assessed a \$500 penalty to Castillo Auto Repair for violating license conditions 2, 5, and 7.⁴ Castillo Auto Repair did not appeal the violation or the penalty and paid the penalty on April 20, 2022.⁵

4. On June 6, 2022, License Inspector Akbar Muhammad inspected the property after receiving a complaint.⁶ During his inspection, Inspector Muhammad observed:

- a. More than two dozen vehicle tires stacked and scattered on the property's exterior;⁷

¹ Ex. 2; Ex. 3.

² Ex. 1.

³ Ex. 5.

⁴ Ex. 6.

⁵ *Id.*

⁶ Ex. 2.

- b. Seven (7) vehicles parked on the property.⁸
- c. Vehicles parked in a manner that prevented vehicles from proceeding forward when entering and exiting the site.⁹
- d. Tires displayed for sale on a rack that rested, in part, on the public sidewalk.¹⁰

5. The tires observed by Inspector Muhammed on the exterior of the premises had been delivered that day.¹¹ They were put inside by that evening.¹²

6. On July 6, 2022, the City issued a Notice of Violation and Request for Imposition of \$1,000 Matrix Penalty (Notice).¹³ The Notice alleged violations of four license conditions: condition 2 (Violation #1), condition 4 (Violation #2), condition 9 (Violation #3), and condition 13 (Violation #4). The Notice provided a July 21, 2022, deadline for requesting a contested case hearing.

7. Castillo Auto Repair requested a contested case hearing.¹⁴

Based on these Findings of Fact, the Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the City of St. Paul have authority to hear this matter pursuant to St. Paul Legislative Code § 310.05(c), Minn. Stat. § 14.55 (2022).

2. The hearing in this matter was conducted in accordance with St. Paul Legislative Code § 310.05 and the contested case procedures of Minn. Stat. §§ 14.57-.62 (2022).

3. The Department provided proper notice of the hearing and fulfilled all relevant procedural requirements of rule and law.

4. The Department must show by a preponderance of the evidence that Licensee committed the violations alleged.¹⁵

⁷ Ex. 2; Ex. 10.

⁸ Ex. 2; Ex. 10.

⁹ Ex. 2; Ex. 10.

¹⁰ Ex. 10.

¹¹ Testimony (Test.) of Jerry Castillo.

¹² *Id.*

¹³ Ex. 1.

¹⁴ See Notice of Prehearing Telephone Conference (July 25, 2022).

¹⁵ Minn. R. 1400.7300, subp. 5 (2021).

5. St. Paul Legislative Code § 310.06(a) provides that the City Council may take adverse action against a license or licensee as provided by ordinance, including when a licensee has failed to comply with any condition set forth in the license.¹⁶

6. The Department established by a preponderance of the evidence that on June 6, 2022:

- a. More than six (6) vehicles were parked on the exterior of the premises, violating condition 2 of the License.
- b. Unobstructed maneuvering space on the property was not maintained, violating condition 9 of the License.
- c. Display of tires was not limited to the area shown on the approved site plan, violating condition 13 of the License.

7. The Department has not established by a preponderance of the evidence a violation of license condition number 4.

8. In accordance with the penalty matrix in Section 310.05(m) of the St. Paul Legislative Code, a penalty of \$1,000 may be imposed for a second violation within one year.

9. The Department established that a penalty of \$1,000 may be imposed for the conduct alleged in Violations #1, #3, and #4.

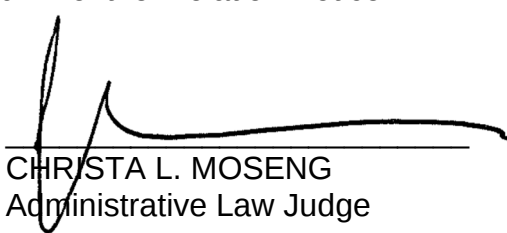
10. Any Finding of Fact or portion of the accompanying Memorandum more properly considered to be a Conclusion of Law is adopted herein.

Based upon these Conclusions of Law, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

The St. Paul City Council may impose a matrix penalty of \$1,000, based on the conduct alleged in Violations #1, #3, and #4 of the Violation Notice.

Dated: January 19, 2023



CHRISTA L. MOSENG
Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

¹⁶ St. Paul Legislative Code § 310.06(b)(5).

NOTICE

This Report is a recommendation, not a final decision. The St. Paul City Council will make a final decision after a review of the record and may adopt, reject, or modify these Findings of Fact, Conclusions of Law, and Recommendation. Pursuant to Saint Paul Legislative Code § 310.05 (c-1), the City Council shall not make a final decision until the parties have had the opportunity to present oral or written arguments to the City Council. Parties should contact the St. Paul City Clerk, 310 City Hall, 15 W. Kellogg Blvd., Saint Paul, MN 55102, to ascertain the procedure for filing exceptions or presenting arguments.

MEMORANDUM

I. Introduction

The Department alleges four violations of the St. Paul Legislative Code and the licensing conditions under which Licensee operates. It argues that a matrix penalty of \$1,000 is warranted. The Administrative Law Judge determines that the Department established three of the four alleged violations, and that the record supports imposing a penalty in the amount of \$1,000.

The City Council may penalize a licensee when a licensee has failed to comply with a license condition. A party proposing that certain action be taken must prove the facts at issue by a preponderance of the evidence.¹⁷ Accordingly, the City has the burden to prove the facts establishing the alleged violations and in support of its proposed penalty.

II. Violations

Violation #1

The City alleges that Castillo Auto Repair violated Condition 2 of its license, which prohibits more than six (6) vehicles parked on the exterior of the premises at any time. Castillo Auto Repair concedes that during the inspector's visit, more than six (6) vehicles were parked on the premises but argues that at least one was parked there for a short time and was later moved. The license condition does not include any exceptions to the six-vehicle limitation, and expressly prohibits exceeding the maximum "at any time." The City has met its burden to establish this violation.

Violation #2

The City alleges that Castillo Auto Repair violated Condition 4 of its license, which prohibits "exterior storage of vehicle parts, tires, oil, or any other similar materials associated with the business unless explicitly approved in writing by the City Zoning Administrator." In support of its allegation, the City offered evidence of a large number

¹⁷ Minn. R. 1400.7300, subp. 5.

of tires “stacked and scattered,” not on an approved display rack, on the exterior of the building. Jerry Castillo credibly testified that the tires observed by the inspector had been delivered that day and had not yet been processed and put away.

“Courts generally strive to construe a term according to its plain and ordinary meaning.”¹⁸ While there are senses of the word “storage” that can include temporary placement of an item, the ordinary meaning of the word connotes keeping something over a longer term.¹⁹ The license condition does not prohibit “placement” of vehicle parts or materials outside the building—only storage.

In light of the record evidence, the Department has not established by a preponderance of the evidence that the tires the inspector photographed on the exterior of the building were being stored there. Their presence during the inspector’s visit—without evidence that they remained outside the building for long enough to conclude they were being stored there—does not meet the City’s burden to show that Castillo Auto Repair violated Condition 4 of the license.

Violation #3

The City alleges that Castillo Auto Repair violated Condition 9 of its license, which requires Castillo Auto Repair to maintain an unobstructed maneuvering space on the property to allow vehicles entering and exiting the site to proceed forward. Castillo Auto Repair conceded that the photographs taken by the inspector accurately represent the state of the business during Inspector Muhammad’s inspection on June 6, 2022. The photographs establish that forward progress through the designated through-lane on the property was obstructed.

Castillo Auto Repair argued that the vehicle obstructing the through lane was only there for a short time and was later moved. Similar to violation #1, this obstruction nevertheless violated Condition 9 of the license. The City has met its burden to establish this violation.

Violation #4

The City alleges that Castillo Auto Repair violated Condition 13 of its license, which provides that “[n]o tires (for-sale and/or discarded) may be placed in the public right-of-way (e.g., street, alley, sidewalk, boulevard, etc.).” A photograph taken by Inspector Muhammad shows a tire display rack resting in-part on a public sidewalk. Slight though the encroachment may have been, the tires were placed in the public right-of-way. The City has met its burden to establish this violation.

¹⁸ See *Frank’s Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 609 (Minn. 1980) (construing a city ordinance).

¹⁹ See, e.g., <https://merriam-webster.com/dictionary/storage>, definition 2 (“the act of storing : the state of being stored *especially*: the safekeeping of goods in a depository (such as a warehouse)”).

III. Penalty

The presumptive matrix penalty for a second appearance is \$1,000,²⁰ which is the penalty amount the Department selected. The Department did not seek an upward variance of the penalty, and it aggregated the violations alleged into one violation notice, instead of treating them separately. Because this is Castillo Auto Repair's second penalty within one year, imposition of a \$1,000 penalty is lawful based on the St. Paul Legislative Code and the record in this case.

IV. Conclusion

The Department established Violations #1, #3, and #4 by a preponderance of the evidence. On these facts, the penalty matrix establishes a \$1,000 presumptive penalty. Therefore, a matrix penalty of \$1,000 is appropriate.

C. L. M.

²⁰ St. Paul Legislative Code Section 310.05(m).