

ATTACHMENT A

OFFICE OF THE CITY ATTORNEY
Samuel J. Clark, City Attorney



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

*Civil Division
400 City Hall
15 West Kellogg Blvd.
Saint Paul, Minnesota 55102*

*Telephone: 651 266-8710
Facsimile: 651 298-5619*

January 12, 2018

NOTICE OF ADMINISTRATIVE HEARING

Dahir Wako, Owner
7th Grocery
43-7th Street West
Saint Paul, MN 55102

RE: Cigarette/Tobacco license held by Dahir Wako d/b/a 7th Grocery for the premises located at 43-7th Street in Saint Paul
License ID #: 20140002629
OAH Docket No.: 80-6020-34978

Dear Licensee:

Please take notice that an administrative hearing has been scheduled on the following dates, times and location concerning the Cigarette/Tobacco license held by Dahir Wako d/b/a 7th Grocery for the premises located at 43-7th Street in Saint Paul

Date: Thursday, February 8, 2017
Time: 9:30 a.m.

Location: Office of Administrative Hearings
600 Robert Street North
St. Paul, MN 55101

The hearing will be presided over by an Administrative Law Judge from the State of Minnesota Office of Administrative Hearings:

Name: Judge LauraSue Schlatter
Office of Administrative Hearings
600 North Robert Street
St. Paul, MN 55101

Telephone: (651) 361-7888

The Council of the City of Saint Paul has the authority to provide for hearings concerning adverse action against such licenses, under Chapter 310, including sections 310.05 and 310.06, of the Saint Paul Legislative Code. Adverse action may include revocation, suspension, denial, fines and other penalties or conditions.

Evidence will be presented to the administrative law judge that may lead to adverse action against the Cigarette/Tobacco license held by Dahir Wako d/b/a 7th Grocery:

On December 21, 2017, a DSI Inspector was contacted by the Minnesota Department of Revenue concerning flavored tobacco products they discovered during an inspection of your store on December 20, 2017. The DSI Inspector came to your store on December 21, 2017 and documented with a photograph the following four (4) boxes of flavored tobacco products on display for sale:

**2 boxes of White Owl cigars (Pineapple & White Grape)
2 boxes of Double Platinum Wraps (Strawberry Kiwi & Blueberry)**

The sale of flavored tobacco is a violation of Saint Paul Legislative Code § 324.07 (f): *“No person shall sell, offer for sale, or otherwise distribute any flavored tobacco products....”*

Saint Paul Legislative Code Section 310.06 provides that adverse action may be taken against your licenses based on any one or more of the following grounds:

Section 310.06 (b) (6) (a): *“the license or applicant (or any person whose conduct may by law be imputed to the licensee of applicant) has violated, or performed any act which is a violation of, any of the provision of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith...”*

Section 310.06 (b) (6) (c): *“the licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.”*

Section 310.06 (b) (6) (8): *“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.”*

Based on the violation being directly related to the licensed activity, per Saint Paul Legislative Code §310.05 (m) (2) the licensing department will recommend a \$500.00 matrix penalty.

The licensee has the right to be represented by an attorney before and during the hearing or can represent him/herself. The licensee may also have a person of his/her choice representing his/her interests, to the extent not prohibited as unauthorized practice of law.

The hearing will be conducted in accordance with the requirements of Minnesota Statutes sections 14.57 to 14.62 and such parts of the procedures under section 310.05 of the Saint Paul Legislative Code as may be applicable.

At the hearing, the Administrative Law Judge will have all parties identify themselves for the record. The City will then present its witnesses and evidence, each of whom the licensee or attorney may cross-examine. The licensee may then offer in rebuttal any witnesses or evidence it may wish to present, each of whom the City's attorney may cross-examine. The Administrative Law Judge may in addition hear relevant and material testimony from persons not presented as witnesses by either party who have a substantial interest in the outcome of the proceeding; for example, the owners or occupants of property located in close proximity to the licensed premises may have substantial interest in the outcome of the proceeding. Concluding arguments may be made by the parties. Following the hearing, the Judge will prepare Findings of Fact, Conclusions of Law, and a specific recommendation for action to be taken by the City Council.

The licensee should bring to the hearing all documents, records and witnesses which may be needed to support its position. Subpoenas may be available to compel the attendance of witnesses or the production of documents in conformity with Minnesota Rules, part 1400.7000.

If you think that this matter can be resolved or settled without a formal hearing, please contact the undersigned. If a stipulation or agreement can be reached as to the facts, that stipulation will be presented to the Administrative Law Judge for incorporation into his or her recommendation for Council action.

If you fail to appear at the hearing, your ability to challenge the allegations will be forfeited and the allegations against you which have been stated earlier in this notice may be taken as true. If non-public data is received into evidence at the hearing, it may become public unless objection is made and relief requested under Minnesota Statutes, Section 14.60, subdivision 2.

If you have any questions, you can call me at 266-8710.

Sincerely,



Therese Skarda
Assistant City Attorney

cc: Judge LauraSue Schlatter, Office of Administrative Hearings, P.O. Box 64620, St. Paul, MN 55164-0620
Dahir Wako, 383 Virginia Street, St. Paul, MN 55104
Jon Fure, Director, CapitolRiver Council District 17, 180 East 5th Street, Suite 260, St. Paul, MN 55101

