



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

July 11, 2014

AMENDED NOTICE OF VIOLATION

Mezeker Mengesha, Owner  
Little Grocery  
1724 University Avenue West  
St. Paul, MN 55104

RE: Cigarette/Tobacco license held by Little Grocery, LLC d/b/a Little Grocery for the premises located at 1724 University Avenue West in Saint Paul.  
License ID #: 20120003282

Dear Mezeker Mengesha:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Little Grocery, LLC d/b/a Little Grocery for the premises located at 1724 University Avenue West in Saint Paul. The basis for the recommendation is as follows:

On April 30, 2014, the Department of Safety and Inspections received a report from the Minnesota Department of Revenue regarding an inspection of the licensed premises on February 24, 2014. The report listed two hundred and eighty-five (285) packs of Little Cigars and Cigarillos and two hundred thirty-seven (237) individual cigars/cigarillos seized as contraband under Minn. Stat. Chapter 297F.21 Subdivision 1(a) & (i). These items were seized for any one of the following reasons: *"1) cigarette packages which do not have stamps affixed to them as provided by this chapter including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in item (i) are found, including all contents contained within the devices. (i) Tobacco products on which the tax has not been paid by a license distributor."*

The items seized were in excess of \$500.00 which is considered a Gross Misdemeanor under Minn. Stat. § 297F.20, Subdivision 6(b). Saint Paul Legislative Code Section 310 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."*

In addition, on July 9, 2014, a tobacco compliance check was conducted at Little Grocery located at 1724 University Avenue West. A sixteen year old female entered your establishment and asked to buy tobacco products. She was asked to show her identification, and did so. It correctly stated her date of birth, which indicated she was underage. Nevertheless, the clerk sold her a Swisher Single Cigar. Sale of tobacco to an underage person is a violation of Minn. Stat. § 609.685 and Saint Paul Legislative Code § 324.07(c).

Due to the fact that this criminal activity is directly related to the licensed activity, per Saint Paul Legislative Code § 310.05 (m) (5) the licensing department will recommend a \$700.00 matrix penalty. The licensing office will also recommend an additional \$200.00 matrix penalty for the sale of tobacco products to a minor.

At this time, you have three options to proceed:

1. You can pay the recommended \$900.00 in matrix penalties. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, July 21, 2014**. A self-addressed envelope is enclosed for your convenience. Payment of the \$900.00 in matrix penalties will be considered to be a waiver of the hearing to which you are entitled.
2. If you wish to admit the facts but you contest the 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. I will need to receive your letter by **Monday, July 21, 2014**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$900.00 in matrix penalties. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. 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 **Monday, July 21, 2014**. 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 or DSI by **Monday, July 21, 2014**, I will assume that you do not contest the imposition of the \$900.00 in matrix penalties. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact me at 266-8710.

Sincerely,



Geoffrey Karls  
Assistant City Attorney

Cc: Mezeker Mengesha, 436 Fulton Street, Saint Paul, MN 55102  
Julie Reiter, Executive Director, Union Park District Council, 1570 Concordia Avenue, Ste. LL100  
St. Paul, MN 55104

STATE OF MINNESOTA)  
 ) ss.  
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE BY U.S. MAIL


Julie Kraus, being first duly sworn, deposes and says that on the 11<sup>th</sup> day of July she served the attached **AMENDED NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Mezeker Mengesha, Owner  
Little Grocery  
1724 University Avenue West  
Saint Paul, MN 55104

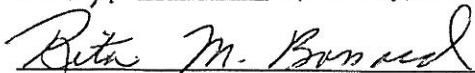
Mezeker Mengesha  
436 Fulton Street  
Saint Paul, MN 55102

Julie Reiter, Executive Director  
Union Park District Council  
1570 Concordia Avenue, Ste. LL100  
Saint Paul, MN 55104

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.

  
Julie Kraus

Subscribed and sworn to before me  
this 11<sup>th</sup> day of July, 2014

  
Notary Public

