



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

June 3, 2015

NOTICE OF ADMINISTRATIVE HEARING

Towfik Hassen, President
Super USA
976 – 7th Street East
Saint Paul, MN 55106

RE: All licenses held by Tom Super USA, LLC d/b/a Super USA for the premises located at 976 – 7th Street East in Saint Paul
License ID #20090000182
OAH Docket No.: 5-6020-32579

Dear Mr. Hassan

Please take notice that an administrative hearing has been scheduled for the following date, time and location concerning all licenses held by Tom Super USA, LLC d/b/a Super USA for the premises located at 976–7th Street East in Saint Paul.

Date: Monday, July 13, 2015
Time: 9:30 a.m.

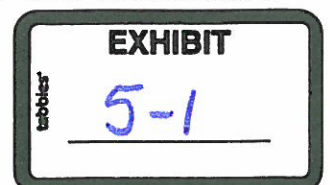
Location: Office of Administrative Hearings
600 Robert Street North
St. Paul, MN 55101

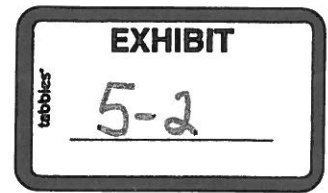
The hearing will be presided over by an Administrative Law Judge from the State of Minnesota Office of Administrative Hearings:

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

Telephone: (651) 361-7881

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 all licenses held by Tom Super USA, LLC d/b/a Super USA for the premises located at 976-7th Street East in Saint Paul:

A Notice of Violation was sent to the licensee on April 27, 2015, alleging the sale of single cigarettes took place at the licensed premises on April 22, 2015 (CN #15-080-519). The licensee admitted the violation and paid the \$500.00 matrix penalty on May 11, 2015.

On May 5, 2015, St. Paul Police came to 976-7th Street East to investigate numerous reports regarding the illegal sale of individual cigarettes (CN #15-090-625). The officer met with a Confidential Reliable Informant (CRI), who was given \$2.00 and directed to purchase individual cigarettes from an employee inside the store.

The officers watched as the CRI went into the store and returned a short time later. The CRI then produced three (3) Newport brand individual cigarettes which he/she had purchased with the \$2.00 from an employee inside the store. According to the CRI, he/she handed the money directly to the employee and received the unpackaged cigarettes from that same employee.

This is a violation of Saint Paul Legislative Code § 324.07 (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."*

On May 28, 2015, two weeks after the Notice regarding the incident above was sent to the licensee, Saint Paul Police sent a Confidential Reliable Informant (CRI) into the Super USA located at 976 - 7th Street East with an amount of money and was told to see if he or she could purchase single cigarettes from an employee (CN #15-108-639).

The CRI was dropped off and told to walk into the store, which was being watch by police the entire time. The CRI walked into the store and exited a short time later. The CRI handed the officers a single Newport cigarette he or she had purchased from an employee behind the counter.

The CRI stated that while he or she was inside, there was another customer in the store. When the CRI asked if he or she could purchase a couple single cigarettes, the employee asked "don't you have to use the bathroom?" The CRI stated he or she went to the bathroom for a short period of time and when he or she returned the customer was gone. The CRI stated he or she went to the counter and asked if he or she could purchase three (3) Newport cigarettes for two dollars (\$2.00). The employee shook his head and said, "we don't sell single cigarettes anymore." Then the employee handed CRI one (1) single Newport cigarette from behind the counter and said it would cost one dollar (\$1.00). The CRI handed the employee the \$1.00 and left the store.

This is a another violation of Saint Paul Legislative Code § 324.07 (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."*

Due to the egregiousness of the continued violations, the licensing office will request an upward departure and recommend a \$2,000.00 matrix penalty and a ten (10) day suspension of all licenses.

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,



Geoffrey Karls
Assistant City Attorney

cc: Dan Niziolek, DSI Deputy Director
Rigo Aguirre, DSI
Judge James Mortenson, Office of Administrative Hearings, P.O. Box 64620, Saint Paul, MN 55164-0620
Towfik Hassan, 8371 Savannah Oak Lane, Woodbury, MN 55125
Deanna Abbott-Foster, Executive Director, Dayton's Bluff District 4 Community Council
804 Margaret Street, Saint Paul, MN 55106
Morgan Vi LLC, 34321 Myrtle Lane, Union City, CA 94587-8027



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 3rd day of June she served the attached **NOTICE OF ADMINISTRATIVE HEARING** and correct copy thereof in an envelope addressed as follows:

Towfik Hassen, President
Super USA
976 – 7th Street East
Saint Paul, MN 55106

Judge James Mortenson
Office of Administrative Hearings
P.O. Box 64620
Saint Paul, MN 55164-0620

Towfik Hassen
8371 Savannah Oak Lane
Woodbury, MN 55125

Deanna Abbott-Foster, Executive Director
Dayton's Bluff District 4 Community Council
East Side Enterprise Center
804 Margaret Street
Saint Paul, MN 55106

Morgan Vi LLC
34321 Myrtle Lane
Union City, CA 94587-8027



(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
Julie Kraus

Subscribed and sworn to before me
this 3rd day of June, 2015

Rita M. Bossard
Notary Public

