



CITY OF SAINT PAUL
Mayor Melvin Carter

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

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

November 29, 2018

NOTICE OF VIOLATION

Northern Tier Retail, LLC
Marketing Services
19100 Ridgewood Parkway
San Antonio, TX 78259

RE: Cigarette/Tobacco, Gas Station and Malt Off-Sale licenses held by Northern Tier Retail, LLC d/b/a SuperAmerica #4359 for the premises located at 950 Lexington Parkway North in Saint Paul
License ID #: 20100004250

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco, Gas Station and Malt Off-Sale licenses held by Northern Tier Retail, LLC d/b/a SuperAmerica #4359 for the premises located at 950 Lexington Parkway North in Saint Paul. The basis for the recommendation is as follows:

On November 13, 2018, the Department of Safety and Inspections received a letter and Notice of Seized Contraband from the Minnesota Department of Revenue concerning an inspection of the licensed premises on September 4, 2018.

During this inspection the following tobacco products were seized as contraband under the authority granted in Minn. Stat. 297F.21 (a) which states: "Cigarette packages which do not have stamps affixed to them as provided in this chapter, including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in the item (i) are found, including all contents contained within the devices."

7 Packs Swisher Sweet Menthol Little Cigars
16 Packs Winchester Little Cigars

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 laced 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.”*

Because of this violation the licensing department will recommend a \$500.00 matrix penalty.

You have four (4) options to proceed:

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 **Monday, December 10, 2018**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the **January 2, 2019** City Council Consent Agenda for approval of the proposed remedy.
2. You can pay the \$500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, December 10, 2018**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. 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 no later than **Monday, December 10, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 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 **Monday, December 10, 2018**. 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 Monday, December 10, 2018, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the January 2, 2019 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact Julie Kraus, my Legal Assistant at (651) 266-8776.

Sincerely,



Therese Skarda
Assistant City Attorney
License No. 0240989

Cc Carina Duffy, President, SuperAmerica #4359, 950 Lexington Parkway North, St. Paul, MN 55103
Kerry Antrim, Executive Director, North End Neighborhood Organization, 171 Front Avenue, St. Paul, MN 55117
Realty Income Properties 3, LLC, Attn: Portfolio Management, 11995 El Camino Real, Suite 101
San Diego, CA 92130-2565

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 29TH day of November she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

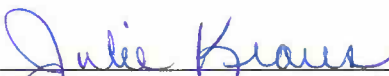
Northern Tier Retail, LLC
Marketing Services
19100 Ridgewood Parkway
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Carina Duffy, President
SuperAmerica #4359
950 Lexington Parkway North
St. Paul, MN 55103

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Attn: Portfolio Management
11995 El Camino Real, Suite 101
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(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 29TH day of November 2018


Notary Public
