



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

November 5, 2010

NOTICE OF VIOLATION

Amer Mustafa Aqel
Pappy's Gyros
1783 Maryland Avenue East
St. Paul, MN 55119

RE: All licenses held by Pappy's Chicago Style Eatery, Inc., d/b/a Pappy's Gyros for the premises located at 1783 Maryland Avenue East in Saint Paul
License ID #20040003494

Dear Amer Mustafa Aqel

The Department of Safety and Inspections (DSI) will recommend adverse action against all licenses held by Pappy's Chicago Style Eatery, Inc., d/b/a Pappy's Gyros for the premises located at 1783 Maryland Avenue East in Saint Paul. The basis for the recommendation is as follows:

On August 10, 2010, the Department of Safety and Inspections (DSI) - Environmental Health Division conducted an inspection of your establishment and cited you with one (1) CRITICAL-MINOR and two (2) CRITICAL-MAJOR violations: 1) Handwashing lavatories are not accessible for use, convenient or of sufficient number (*large knife and strainer found in handsink*) and 2) cold food not maintained at 41 degrees Fahrenheit or less (*prep cooler temperature was 53°F all food items were removed and placed in walk-in cooler*).

On August 11, 2010, you were sent a Notice of New Critical Violations regarding these violations stating that they needed to be corrected. You were then informed that a re-inspection would take place on or after September 9, 2010.

On September 13, 2010, the Environmental Health Division conducted a re-inspection and cited you with the same two (2) CRITICAL-MAJOR violations that had not been corrected by the September 9, 2010 deadline: 1) Handwashing lavatories are not accessible for use, convenient or of sufficient number (*large knife and strainer found in handsink*) and 2) cold food not maintained at 41 degrees Fahrenheit or less (*prep cooler temperature between 48°F and 55°F*).

These are violations of Minnesota Administrative Rules part 4626.1110: "*Handwashing lavatory must be accessible to employees at all times. Do not store items, in, on or near the handwashing lavatories.*" and Minnesota Administrative Rules part 4626.0395: "*Maintain all cold potentially hazardous foods at 41 degrees Fahrenheit or below under mechanical refrigeration, to prevent bacterial growth and/or toxin production.*"

Per Saint Paul Legislative Code §310.05 (m) (9), the licensing office will recommend a \$325.00 matrix penalty for the two violations. Also, due to the fact that these new violations occurred within twenty-four (24) months, the licensing office will also recommend the imposition of the \$400.00 fine suspended by City Council on December 16, 2009 (CF #09-1379).

At this time, you have three options on how to proceed:

1. If you wish to admit to the violations and you do not contest the penalties you need to do two things:
 - 1) Pay the \$325.00 matrix penalty and the \$400.00 suspended penalty for a total of \$725.00. You can send the payments to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, November 15, 2010**. A self-addressed envelope is enclosed for your convenience.
 - 2) You also need to contact Mark Kaisersatt, R.S., Environmental Health Specialist at (651) 266-1908 by **Monday, November 15, 2010**, to schedule a re-inspection in order to verify that the violations have been corrected. Payment of the \$325.00 matrix penalty, the \$400.00 suspended penalty and correction of the violations will be considered a waiver of the hearing to which you are entitled.
2. If you wish to admit the facts but you contest the \$725.00 in penalties, 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, November 15, 2010**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$325.00 matrix penalty, the \$400.00 suspended penalty and license suspensions. 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). 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. If this is your choice, please advise me no later than **Monday, November 15, 2010**, and I will take the necessary steps to schedule the administrative hearing.

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

Sincerely,



Rachel Tierney
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI
Bill Gunther, Environmental Health Manager
Amer Mustafa Aqel, 4655 Pinetree Curve, Eagan, MN 55122
Lisa Heilman, Community Organizer, District 2 Community Council Greater East Side
1961 Sherwood Avenue, St. Paul, MN 55119-3230

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 5th day of November, she served the attached **NOTICE OF VIOLATION** by placing a true and correct copy thereof in an envelope addressed as follows:

Amer Mustafa Aqel
Pappy's Gyros
1783 Maryland Avenue East
St. Paul, MN 55119

Amer Mustafa Aqel
4655 Pinetree Curve
Eagan, MN 55122

Lisa Heilman, Community Organizer
District 2 Community Council Greater East Side
1961 Sherwood Avenue
St. Paul, MN 55119-3230

(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 5th day of November, 2010


Notary Public

