

OFFICE OF THE CITY ATTORNEY
Sara Grewing, 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*

August 21, 2013

NOTICE OF VIOLATION

Rosario Santos, Owner
Mi Linda Tierra
585 University Avenue West
Saint Paul, MN 55103-1940

RE: Cigarette/Tobacco license held by Rolu, LLC d/b/a Mi Linda Tierra for the premises located at
585 University Avenue West in Saint Paul
License ID #20080000868

Dear Ms. Santos:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Rolu, LLC d/b/a Mi Linda Tierra for the premises located at 585 University Avenue West in Saint Paul. The basis for the recommendation is as follows:

On August 15, 2013, tobacco compliance check was conducted at Mi Linda Tierra located at 585 University Avenue West. A fifteen year old male entered your establishment and asked to buy cigarettes. He was asked to show his identification, and did so. It correctly stated his date of birth, which indicated he was underage. Nevertheless, the clerk sold him a package of Newport cigarettes. Sale of tobacco to an underage person is a violation of Minn. Stat. § 609.685 and Saint Paul Legislative Code § 324.07(c).

This is the first (1st) violation for the sale of cigarettes to an underage person; therefore, per Saint Paul Legislative Code §324.11 (b) (1) the licensing office will recommend a \$200.00 matrix penalty.

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

1. You can pay the recommended \$200.00 matrix penalty. 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, September 2, 2013**. A self-addressed envelope is enclosed for your convenience. Payment of the \$200.00 matrix penalty will be considered to be a waiver of the hearing to which you are entitled.

Mi Linda Tierra
August 21, 2013
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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 no later than **Monday, September 2, 2013**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$200.00 matrix penalty. 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 by **Monday, September 2, 2013**. 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, September 2, 2013, I will assume that you are not contesting the imposition of the \$200.00 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Please be advised that the clerk who was identified as having made the sale on this date is also being charged a \$50.00 administrative penalty pursuant to Minn. Stat. §461.12, subd. 3. This is a separate action from this license matter.

If you have any questions, please feel free to contact me at (651) 266-8710.

Sincerely,



Geoffrey Karls
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI
Rosario Santos, 11975-71st Place North, Maple Grove, MN 55369
Sam Buffington, Community Organizer, Frogtown Neighborhood Association (District 7)
685 Minnehaha Avenue West, Saint Paul, MN 55104

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 21st day of August she served the attached **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Rosario Santos, Owner
Mi Linda Tierra
585 University Avenue West
Saint Paul, MN 55103-1940

Rosario Santos
11975-71st Place North
Maple Grove, MN 55369

Sam Buffington, Community Organizer
Frogtown Neighborhood Association (District 7)
685 Minnehaha Avenue West
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
Julie Kraus

Subscribed and sworn to before me
this 21st day of August, 2013

Rita M. Bossard
Notary Public

