

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*

November 1, 2013

**NOTICE OF VIOLATION**

Richard A. Stai, Owner  
5<sup>th</sup> Street Convenience  
55-5<sup>th</sup> Street East  
Saint Paul, MN 55101

RE: Cigarette/Tobacco license held by Richard A. Stai d/b/a 5<sup>th</sup> Street Convenience for the premises located at 55-5<sup>th</sup> Street East in Saint Paul  
License ID #20050004334

Dear Mr. Stai:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Richard A. Stai d/b/a 5<sup>th</sup> Street Convenience for the premises located at 55-5<sup>th</sup> Street East in Saint Paul. The basis for the recommendation is as follows:

**On October 17, 2013, a tobacco compliance re-check was conducted at 5<sup>th</sup> Street Convenience located at 55-5<sup>th</sup> Street East. A sixteen year old male entered your establishment and asked to buy tobacco products. 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 Marlboro 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 second (2<sup>nd</sup>) violation for the sale of cigarettes to an underage person within one year; therefore, per Saint Paul Legislative Code §324.11 (b) (1) the licensing office will recommend a \$400.00 matrix penalty.

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

1. You can pay the recommended \$400.00 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, November 11, 2013**. A self-addressed envelope is enclosed for your convenience. Payment of the \$400.00 matrix penalty 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 no later than **Monday, November 11, 2013**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$400.00 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, November 11, 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 or DSI by Monday, November 11, 2013, I will assume that you are not contesting the imposition of the \$400.00 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 a clerk employed at your store was identified as having made the sale on this date so he/she will be charged an additional \$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  
Richard Stai, 4900 Bartlett, Mound, MN 55364  
Melissa Martinez-Sones, Community Organizer, CapitolRiver Council District 17  
US Bank Center, 101 East 5<sup>th</sup> Street, Suite 240, Saint Paul, MN 55101

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 1st day of November she served the attached **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Richard A. Stai, Owner  
5<sup>th</sup> Street Convenience  
55-5<sup>th</sup> Street East  
Saint Paul, MN 55101

Richard Stai  
4900 Bartlett  
Mound, MN 55364

Melissa Martinez-Sones, Community Organizer  
CapitalRiver Council/District #17  
US Bank Center  
101 E. 5<sup>th</sup> Street, Suite 240  
Saint Paul, MN 55101

(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 1st day of November, 2013

Rita M. Bossard  
Notary Public

