



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 24, 2011

NOTICE OF VIOLATION

Lauren Trejo
Arby's Restaurant #778
1807 Suburban Avenue
St. Paul, MN 55119

RE: Restaurant (4) 51-150 Seats license held by Franchise Associates, Inc. d/b/a Arby's Restaurant #778 for the premises located at 1807 Suburban Avenue in Saint Paul
License ID #0095589

Dear Ms. Trejo:

The Department of Safety and Inspections (DSI) will recommend adverse action against the Restaurant (4) 51-150 Seats license held by Franchise Associates, Inc. d/b/a Arby's Restaurant #778 for the premises located at 1807 Suburban Avenue in Saint Paul. The basis for the recommendation is as follows:

On June 13, 2011, the Department of Safety and Inspections (DSI) - Environmental Health Division conducted an inspection of your establishment and cited you for one (1) CRITICAL-MAJOR Environmental Health Code violation: Cold food not maintained at 41 degrees Fahrenheit or less (*sliced turkey in prep cooler 46.5°F, Italian Swiss 47.3°F, tomato sliced 43.7°F, ham/turkey all in prep cooler 52.5°F*).

On June 14, 2011, you were sent a Notice of New Critical Violations listing this violation and stating that it needed to be corrected. You were then informed that a re-inspection would take place on or after July 13, 2011.

On August 1, 2011, the Environmental Health Division of DSI conducted a re-inspection and cited you for same CRITICAL-MAJOR Environmental Health Code violation that had not been corrected by the July 13, 2011 deadline: Cold food not maintained at 41 degrees Fahrenheit or less (*sliced turkey in prep refrigerator 47.1°F, roast beef/cheese in prep refrigerator 50.1°F, mayonnaise in prep refrigerator 42.4°F, sliced tomatoes in prep refrigerator 42.8°F*).

This is a violation of 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."

As a result, per Saint Paul Legislative Code §310.05 (m) (9), the licensing office will recommend a \$250.00 matrix penalty.

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

1. If you wish to admit to the violation and you do not contest the penalty you need to do two things:
 - 1) Pay the \$250.00 matrix penalty. You can send the payment to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Friday, September 2, 2011**. A self-addressed envelope is enclosed for your convenience.
 - 2) You also need to contact Oren Larson, R.S., Environmental Health Specialist at (651) 266-9140 by **Friday, September 2, 2011**, to schedule a re-inspection in order to verify that the violation has been corrected. Payment of the \$250.00 matrix penalty and correction of the violation 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 \$250.00 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 by **Friday, September 2, 2011**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$250.00 matrix penalty and license suspension. 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 no later than **Friday, September 2, 2011**. 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 you have not contacted me or the Environmental Health Specialist by Friday, September 2, 2011, I will assume that you are not contesting the imposition of the \$250.00 matrix penalty and license suspension. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,



Kyle Lundgren
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI
Bill Gunther, Environmental Health Manager
Franchise Associates, Inc. 1155 Perimeter Center West, 5th Floor, Atlanta, GA 30338
Betsy Leach, Executive Director, District 1 Community Council, Sunray Shopping Center
2105 ½ Old Hudson Road, Saint Paul, MN 55119

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 24th day of August, she served the attached the **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Lauren Trejo
Arby's Restaurant #778
1807 Suburban Avenue
St. Paul, MN 55119

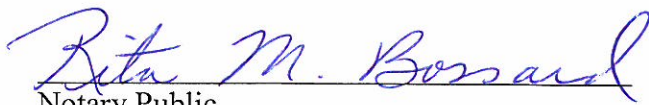
Franchise Associates, Inc.
1155 Perimeter Center West, 5th Floor
Atlanta, GA 30338

Betsy Leach, Executive Director
District 1 Community Council
Sunray Shopping Center
2105 ½ Old Hudson Road
Saint Paul, MN 55119

(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 24th day of August, 2011


Notary Public

