



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

January 12, 2017

NOTICE OF INTENT TO DENY LICENSE

Ahmad Al-Hawwari, Owner
Stryker Market
605 Stryker Avenue
St. Paul, MN 55107

RE: Cigarette/Tobacco license application submitted by Stryker Market, LLC d/b/a Stryker Market for the premises located at 605 Stryker Avenue in Saint Paul
License ID #20160003136

Dear Applicant:

The Department of Safety and Inspections (DSI) will recommend denial of the Cigarette/Tobacco license application submitted by Stryker Market, LLC d/b/a Stryker Market for the premises located at 605 Stryker Avenue in Saint Paul. The basis for the recommendation is as follows:

On September 14, 2016 you submitted an application for a Cigarette/Tobacco license with the Department of Safety and Inspections (DSI). On September 22, 2016, you received a letter from a DSI Inspector requesting the following additional information by October 24, 2016 in order to continue processing your application:

- **Evidence of any current City of Saint Paul –issued Cigarette/Tobacco license(s) held by you or any entity in which you have a legal interest.**

OR

- **Evidence of at least five (5) years of previous experience operating a tobacco retail establishment in the State of Minnesota.**

AND

- **A complete list of all business licenses held by you or any entity in which you have legal interest, current or expired, within the past five (5) years (if none please indicate so)**

AND

- **A complete list of any adverse or disciplinary actions against business licenses held by you or any entity in which you have legal interest, current or expired, within the past five (5) years and, and violations of law related to operating a retail establishment committed by you in the previous five (5) years (if none please indicate so).**

On October 20, 2016, DSI received a letter from Chris E. Royal of Encompass Law responding to our letter of September 22, 2016. In the letter, Mr. Royal listed three (3) stores that you own with active cigarette/tobacco licenses and two (2) stores you manage with active cigarette/tobacco licenses.

Information provided by the City of Minneapolis shows numerous violations related to the license activity within the previous five (5) years:

1. December 9, 2011 – (Citation Notice #11-0886654) -Illegal sale of tobacco to a minor at Penwood Market (2125 Glenwood Avenue)
2. March 23, 2016 – (Violation Notice #16-1164427) - Illegal offering of a flavored tobacco product at the Loon Grocery and Deli (2501 Lyndale Avenue South)
3. April 29, 2016- (Violation Notice #16-1172204)– Illegal offering of flavored tobacco products at Buzz Mart (6-5th Street North)
4. June 20, 2016 – (Administrative Citation #16-1185758) - Illegal sale of tobacco to a minor at Buzz Mart (6-5th Street North)
5. July 1, 2016 – (Violation Notice #16-1187699) - Illegal pricing of tobacco products at Skyline Market (2400 – 10th Avenue South)

Saint Paul Legislative Code §324.01 (d) states the criteria to be met in order to issue a Cigarette/Tobacco license:

- (d) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years, subject to the following exceptions:

- (1) Notwithstanding subdivision (d), a license may be issued if the new applicant:
 - a. Currently holds another tobacco license in the city;
 - b. Has held the license for at least five (5) years; and
 - c. The license:
 1. Has not been subject to adverse action within the past two (2) years;
 2. Has been subject to no more than one (1) adverse action within the past five (5) years; and
 3. Is not the subject of any pending adverse actions.
- (2) Notwithstanding subdivision (d), a license may be issued if the new applicant is otherwise able to demonstrate at least five (5) years of previous experience operating a tobacco retail establishment in a law abiding manner in the State of Minnesota. In considering an application made pursuant to this subsection, the factors to be considered by the council include, but are not limited to:
 - a. Any adverse or disciplinary actions against any business licenses held by the applicant in the previous five (5) years; and
 - b. Any violations of the law related to operating a retail establishment, committed by the applicant in the previous five (5) years, regardless of whether any criminal charges have been brought in connection therewith.

Saint Paul Legislative Code § 310.06 (b) (6) (c) (a) states: “The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or 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.”

Saint Paul Legislative Code § 310.06 (b) (6) (c) states: “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 license activity or from which an inference of lack of fitness or good character may be drawn.”

At this time, 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 **Tuesday, January 24, 2017**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the City Council agenda for approval of the proposed remedy.
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 no later than **Tuesday, January 24, 2017**. The matter will then be scheduled before the City Council to determine whether to deny your Cigarette/Tobacco license. 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). I will need to receive your letter no later than **Tuesday, January 24, 2017**. 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).

4. You may withdraw your license application. Send a written statement to that effect to the Department of Safety and Inspections (DSI), 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Tuesday, January 24, 2017**. Information should be directed to the attention of Eric Hudak. Any request for a refund of the license application fee must also be made in writing to the Department of Safety and Inspections.

If you have not contacted me by Tuesday, January 24, 2017, I will assume that you are not contesting the denial of your Cigarette/Tobacco license. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Stryker Market
January 3, 2017
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If you have questions about these options, please feel free to contact me at 266-8710.

Sincerely,

A handwritten signature in black ink, appearing to read "Therese Skarda". The signature is fluid and cursive, with the first name "Therese" and last name "Skarda" clearly distinguishable.

Therese Skarda
Assistant City Attorney

cc: Ahmad Al-Hawwari, 6301 Balsam Lane North, Maple Grove, MN 55369
Monica Bravo, Community Organizer, West Side Community Organization, Baker Center, 209 Page Street West
Saint Paul, MN 55107

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Rita Bossard, being first duly sworn, deposes and says that on the 12th day of January she served the attached **NOTICE OF INTENT TO DENY LICENSE** and a correct copy thereof in an envelope addressed as follows:

Ahmad Al-Hawwari, Owner
Stryker Market
605 Stryker Avenue
St. Paul, MN 55107

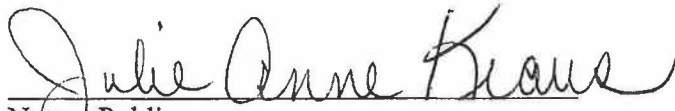
Ahmad Al-Hawwari
6301 Balsam Lane North
Maple Grove, MN 55369

Monica Bravo, Community Organizer
West Side Community Organization
Baker Center
209 Page Street West
Saint Paul, MN 55107

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Rita Bossard

Subscribed and sworn to before me
this 12th day of January, 2017


Notary Public

