

CITY OF SAINT PAUL

Mayor Melvin Carter

Civil Division

400 City Hall

15 West Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: 651 266-8710

Facsimile: 651 298-5619

July 6, 2018

NOTICE OF VIOLATION

David Anderson, Owner
Max Grocery & Tobacco
962 Burr Street
St. Paul, MN 55130

RE: Cigarette/Tobacco license held by Max Mart 1, LLC d/b/a Max Grocery & Tobacco for the premises located at 962 Burr Street in Saint Paul
License ID #:20170001061

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco held by Max Mart 1, LLC d/b/a Max Grocery & Tobacco for the premises located at 962 Burr Street in Saint Paul. The basis for the recommendation is as follows:

On February 23, 2016 and again on December 20, 2016, all Cigarette/Tobacco license holders were sent a letter regarding annual inspections/compliance checks on all establishments that sell tobacco products. These letters also reminded every license holder of the regulations concerning Cigar Pricing & Flavored Tobacco.

On May 1, 2018, a menthol education and a compliance inspection was conducted by DSI Inspector Joseph Voyda at Max Grocery & Tobacco located at 962 Burr Street. During the compliance inspection, Inspector Voyda observed flavored twisted hemp wraps and flavored filter tip herbal wraps displayed for sale in violation of Saint Paul Legislative Code § 324.07 (f) which state: “No person shall sell, offer for sale, or otherwise distribute any flavored products...”

During the inspection, Inspector Voyda also observed 5 packs of Backwoods cigars priced at \$9.99 in violation of Saint Paul Legislative Code § 324.07 (e) states: “No person shall sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person shall sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.”

After the menthol education and compliance check was complete, Inspector Voyda instructed the clerk to remove all flavored tobacco products from the sales area and change the cigars to the correct price.

This is a second violation within the past twelve (12) months and the licensing office is recommending a \$1,000.00 matrix penalty.

You have four (4) options:

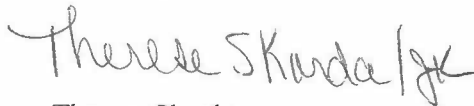
1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, July 16, 2018**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the **August 1, 2018** City Council Agenda for approval of the proposed remedy.
2. You can pay the recommended \$1,000.00 matrix penalty. If this is your choice, you should send the payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, July 16, 2018**. A self-addressed envelope is enclosed for your convenience. Payment of the \$1,000.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. 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 **Monday, July 16, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$1,000.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. 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 **Monday, July 16, 2018**. 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, July 16, 2018, I will assume that you do not contest the imposition of the \$1,000.00 matrix penalty. In that case, the matter will be placed on the August 1, 2018 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Julie Kraus, my Legal Assistant at (651) 266-8776.

Sincerely,



Therese Skarda
Assistant City Attorney
License No. 024989

cc: David Anderson, 13499 Caramel Trail, Eden Prairie, MN 55346
Kerry Antrim, Executive Director, North End Neighborhood Organization, 171 Front Avenue, St. Paul, MN 55117
962 Burr Street, LLC, 14551 Kentucky Avenue, Savage, MN 55378-2259

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 6th day of July she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

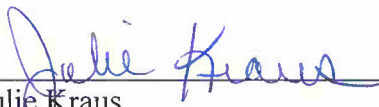
David Anderson, Owner
Max Grocery & Tobacco
962 Burr Street
St. Paul, MN 55130

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13499 Caramel Trail
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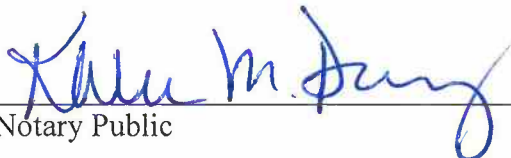
Kerry Antrim, Executive Director
North End Neighborhood Organization
171 Front Avenue
St. Paul, MN 55117

962 Burr Street, LLC
14551 Kentucky Avenue
Savage, MN 55378-2259

(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 6th day of July, 2018


Notary Public

