

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

December 22, 2011

NOTICE OF INTENT TO SUSPEND LICENSE

Basher Elwagi
MNA Food Mart
361 Earl Street
St. Paul, MN 55106

RE: Cigarette/Tobacco license held by Elwagie Foods Corp. d/b/a MNA Food Mart for the premises located at 361 Earl Street in Saint Paul
License ID #20080000534

Dear Basher Elwagi:

The Department of Safety and Inspections (DSI) has recommended suspension of the Cigarette/Tobacco license held by Elwagie Foods Corp. d/b/a MNA Food Mart for the premises located at 361 Earl Street in Saint Paul. The basis for the recommendation is as follows:

On December 1, 2011, a tobacco compliance check was conducted at MNA Food Mart on 361 Earl Street. A seventeen year old male entered your store and asked to buy smokeless chewing tobacco. He was not asked to show his identification, which would have indicated he was underage. Nevertheless, the clerk sold him a package of smokeless chewing tobacco. 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 third (3rd) violation for the sale of tobacco products to an underage person within the past eighteen (18) months; therefore, per Saint Paul Legislative Code §324.11 (b) (1) the licensing office will recommend a thirty (30) day suspension of your Cigarette/Tobacco license.

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

1. 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 by **Monday, January 2, 2012**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the thirty (30) day suspension of 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 a letter from you disputing the facts and requesting an administrative hearing by **Monday, January 2, 2012**. 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 by Monday, January 2, 2012, I will assume that you do not contest the thirty (30) day suspension 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.

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,



Meghan Kisch
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI
Basher Elwagi, 8908 Nicollet Avenue South, Apt. #2, Bloomington, MN 55420
Karen DuPaul, Community Organizer, Dayton's Bluff District 4 Community Council
798 East Seventh Street, St. Paul, MN 55106-6625

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 23rd day of December she served the attached the **NOTICE OF INTENT TO SUSPEND LICENSE** and correct copy thereof in an envelope addressed as follows:

Basher Elwagi
MNA Food Mart
361 Earl Street
St. Paul, MN 55106

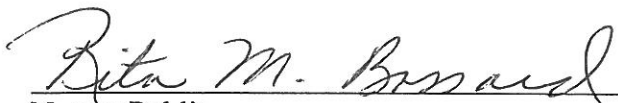
Basher Elwagi
8908 Nicollet Avenue South, Apt. #2
Bloomington, MN 55420

Karen DuPaul, Community Organizer
Dayton's Bluff District 4 Community Council
798 East Seventh Street
St. Paul, MN 55106-6625

(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 22nd day of December, 2011


Notary Public

