



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

March 30, 2011

NOTICE OF VIOLATION

William Martineau
Arcade Bar
932 Arcade Street
St. Paul, MN 55106

RE: All licenses held by Bram Corporation d/b/a Arcade Bar for the premises located at 932 Arcade Street in Saint Paul.
License ID #: 0016204

Dear Mr. Martineau:

The Department of Safety and Inspections (DSI) has recommended adverse action against all licenses held by Bram Corporation d/b/a Arcade Bar for the premises located at 932 Arcade Street in Saint Paul. The basis for the recommendation is as follows:

On March 22, 2011, an inspector from the Department of Safety and Inspections came to your establishment for a Tobacco Compliance Check. After the compliance check, the under-aged checker came outside to tell the inspector that he could smell that someone had been smoking in your establishment. The inspector then came into your establishment and could clearly smell a strong odor of smoke.

The inspector asked the bartender behind the bar who was smoking and she said she did not know. The inspector then went over to a group of men at the end of the bar and asked them who was smoking and no one admitted smoking. One of the patrons said he heard that they could smoke if there was no food in the bar. The inspector told the group of men that the law had not changed and smoking was not allowed in a licensed liquor establishment.

The inspector then saw an ashtray with ashes in it behind the bar. The inspector informed the bartender that no ashtrays or other smoking equipment was allowed in the bar. She said the ashtray was from a long time ago.

This is a violation of Saint Paul Legislative Code § 238.03 which states: "Smoking is prohibited in restaurants, pool halls, bowling centers, rental halls, bingo halls and licensed liquor establishments."

Saint Paul Legislative Code § 238.04 (1) and (2) which also state: “The proprietor or other person in charge of a bar or restaurant shall: 1) Post “no smoking” signs that comply with the Minnesota Clean Indoor Air Act Rules, Minnesota Rules part 4620.0500, as amended from time to time; 2) Ensure that ashtrays, lighters, and matchbooks are not provided in any area where smoking is prohibited...”

As a result of the violation, per Saint Paul Legislative Code § 310.05(m) (2), the licensing office will recommend a \$500.00 matrix penalty.

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

1. If you wish to admit to the violation you can pay the \$500.00 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 **Monday, April 11, 2011**. Information should be directed to the attention of Christine Rozek. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty 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 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, April 11, 2011**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$500.00 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). 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 this is your choice, please advise me no later than **Monday, April 11, 2011**, and I will take the necessary steps to schedule the administrative hearing.

If you have not contacted me by Monday, April 11, 2011, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. 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
William Martineau, 1942 Warbler Lane, St. Paul, MN 55119
Leslie McMurray, Executive Director, Payne Phalen District 5 Planning Council
506 Kenny Road, Ste. 130, St. Paul, MN 55130

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

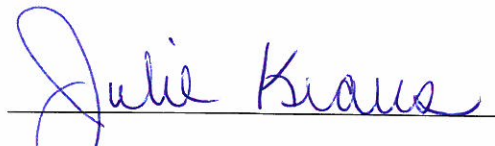
Julie Kraus, being first duly sworn, deposes and says that on the 31st day of March, she served the attached **NOTICE OF VIOLATION** true and correct copy thereof in an envelope addressed as follows:

William Martineau
Arcade Bar
932 Arcade Street
St. Paul, MN 55106


William Martineau
1942 Warbler Lane
St. Paul, MN 55119

Leslie McMurray, Executive Director
Payne Phalen District 5 Planning Council
506 Kenny Road, Ste. 130
St. Paul, MN 55130

(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 31st day of March, 2011


Notary Public

