



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 30, 2015

NOTICE OF INTENT TO SUSPEND LICENSE

Mezeker Mengesha, Owner  
Little Grocery  
1724 University Avenue West  
St. Paul, MN 55104

RE: Cigarette/Tobacco license held by Little Grocery, LLC d/b/a Little Grocery for the premises located at 1724 University Avenue West in Saint Paul  
License ID #20120003282

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Little Grocery, LLC d/b/a Little Grocery for the premises located at 1724 University Avenue West in Saint Paul. The basis for the recommendation is as follows:

**On August 6, 2014, your license was assessed a \$700 matrix penalty for selling contraband cigarettes within the licensed premises, Little Grocery, located at 1724 University Avenue West. You paid the penalty on October 24, 2014.**

**On October 7, 2015, Saint Paul Police received an anonymous tip that your establishment was selling cigarettes with an out-of-state stamp from Nebraska.**

**On October 22, 2015, a Saint Paul Police Sergeant came into your establishment, went to the front counter and asked to purchase a pack of Marlboro Lights Gold Pack cigarettes (CN #15-228-902). The employee reached under the counter to retrieve the cigarettes. The sergeant paid for the cigarettes and left the store. Once outside, the Sergeant examined the pack of cigarettes and found a tax stamp from the State of Nebraska (#72525).**

**On October 23, 2015, the sergeant met with the Criminal Investigation Unit (CID) of the Department of Revenue and was told they had conducted an investigation on Little Grocery in which tobacco products were seized as contraband in February of 2014. The sergeant also learned that according to their records, the State of Nebraska tax stamp (#72525) showed the cigarettes were purchased in Nebraska on October 9, 2015.**

**On November 4, 2015, Saint Paul Police Sergeant returned to your establishment went to the front counter and asked to purchase a pack of Marlboro Light cigarettes (CN #15-228-902). The employee reached under the counter to retrieve the cigarettes. The sergeant paid for the cigarettes and left the store. Once outside, the Sergeant examined the pack of cigarettes and found these cigarettes also had a State of Nebraska stamp (#72525).**

Based on this information, a search warrant was obtained and executed on November 10, 2015. Officers recovered the following items during the search: packs of cigarettes under the front counter and in the overhead display with State of Nebraska tax stamps, cigarettes on the display shelf behind the counter with tax stamps removed, cartons of cigarettes located under the cashier counter with State of Nebraska tax stamps, cartons of cigarettes located in the rear of the stores with State of Nebraska tax stamps.

Minn. Stat. § 297F.08, Subd 3 clearly states: *“In all cases where cigarettes are shipped into this state by any licensed distributor from outside the state, the appropriate stamps must be affixed to packages at the time the package enters the state.”*

Minn. Stat. § 297F.21 Subd 1, provides that possession of contraband cigarettes is subject to criminal penalties and defines contraband as: *“(a) Cigarette packages which do not have stamps affixed to them as provided in this chapter, including but not limited to (i) packages with illegible stamps and package with stamps that are not complete or whole even if the stamps are legible....”*

Saint Paul Legislative Code Section 310 provides that adverse action may be taken against your licenses based on any one or more of the following grounds:

Section 310.06 (b) (6) (a): *“the license or applicant (or any person whose conduct may by law be imputed to the licensee of 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...”*

Section 310.06 (b) (6) (c): *“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 licensed activity or from which an inference of laced of fitness or good character may be drawn.”*

Section 310.06 (b) (6) (8): *“the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.”*

Per Saint Paul Legislative Code § 310.05 (m) (5), the presumptive matrix penalty for a second appearance due to the commission of a crime other than a felony by the licensee in the licensed premises is a \$1,500 fine. Due to the severity of the repeated violations, per Saint Paul Legislative Code § 310.05 (m), the licensing office will recommend an upward departure to a five (5) day suspension of your Cigarette/Tobacco license.

At this time, you have three (3) 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 **Monday, January 11, 2016**, 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 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 the facts and requesting a public hearing. I will need to receive your letter by **Monday, January 11, 2016**. The matter will then be scheduled before the City Council for a public hearing to determine whether to suspend your Cigarette/Tobacco license for five (5) days. 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 **Monday, January 11, 2016**. 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 or DSI by Monday, January 11, 2016, I will assume that you do not contest the five (5) 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.**

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

Sincerely,



Geoffrey Karls  
Assistant City Attorney

Cc: Eric Hudak, DSI Licensing Manager  
Mezeker Mengesha, 436 Fulton Street, St. Paul, MN 55102  
Michael Johnson, Community Organizer, Union Park District Council, 1602 Selby Avenue, Suite 10  
St. Paul, MN 55104  
Leonard A. Murray, 1282 Goodrich Avenue, St. Paul, MN 55105-2707

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 30<sup>th</sup> day of December she served the attached **NOTICE OF INTENT TO SUSPEND LICENSE** and a correct copy thereof in an envelope addressed as follows:

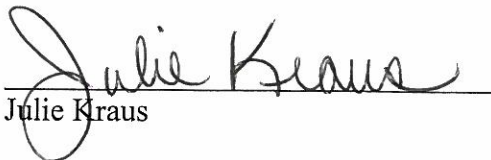
Mezeker Mengesha, Owner  
Little Grocery  
1724 University Avenue West  
St. Paul, MN 55104

Mezeker Mengesha  
436 Fulton Street  
St. Paul, MN 55102

Michael Johnson, Community Organizer  
Union Park District Council  
1602 Selby Avenue, Suite 10  
St. Paul, MN 55104

Leonard A. Murray  
1282 Goodrich Avenue  
St. Paul, MN 55105-2707

(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 30<sup>th</sup> day of December, 2015

  
Notary Public

