



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 VIOLATION

Edward Carlson
Lucky Pizza's & Pasta's
1215 Randolph Avenue
St. Paul, MN 55105

RE: Restaurant (1) – No Seats license held by Lucky Pizza's & Pasta's LLC d/b/a Lucky Pizza's & Pasta's for the premises located at 1215 Randolph Avenue in Saint Paul.
License ID #: 20080003151

Dear Mr. Carlson:

The Department of Safety and Inspections (DSI) has recommended adverse action against Restaurant (1) – No Seats license held by Lucky Pizza's & Pasta's LLC d/b/a Lucky Pizza's & Pasta's for the premises located at 1215 Randolph Avenue in Saint Paul. The basis for the recommendation is as follows:

On November 4, 2011, an Environmental Health Inspector from the Department of Safety and Inspections came to your establishment for an Environmental Health Inspection re-check. During the course of the inspection, the inspector found an ashtray full of cigarette butts that appeared to be new in the employee break room in the basement. When the inspector asked about the ashtray, the person in charge stated that he was unaware that they could not smoke in the break area.

This is a violation of the Minnesota Clean Indoor Air Act Minn. Stat. §§ 144.411 (2011) and Saint Paul Legislative Code § 238.04 (1) and (2) which 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..."

Saint Paul Legislative Code § 238.09 states: "Failure to comply with the requirement of Chapter 238 shall be a basis for adverse action (against any or all licenses or permits, licensee or applicant for a license) under Saint Paul Legislative Code § 310.06(b) (7) and shall be considered a violation of the provisions of the legislative code relating to the licensed activity under § 310.05 (m) (2) and shall be punishable accordingly under that section."

As a result of this second (2nd) violation within one (1) year, per Saint Paul Legislative Code § 310.05(m) (2), the licensing office will recommend a \$1,000.00 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 \$1,000.00 matrix penalty. You can send the payments to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, January 2, 2012**. Information should be directed to the attention of Christine Rozek. 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.
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, January 2, 2012**. The matter will then be scheduled before the City Council for a public hearing 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.
3. 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, 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 imposition of the \$1,000.00 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,



Meghan Kisch
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI
Edward Carlson, 108 Evergreen Drive East, Cannon Falls, MN 55009
Afton Martens, Exec. Director, Macalester Groveland Community Council, 320 South Griggs Street
St. Paul, MN 55105-2800

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 22nd day of December she served the attached the **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Edward Carlson
Lucky Pizza's & Pasta's
1215 Randolph Avenue
St. Paul, MN 55105

Edward Carlson
108 Evergreen Drive East
Cannon Falls, MN 55009

Afton Martens, Exec. Director
Macalester Groveland Community Council
320 South Griggs Street
St. Paul, MN 55105-2800

(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
Julie Kraus

Subscribed and sworn to before me
this 22nd day of December, 2011

Rita M. Bossard
Notary Public

