

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Riddhi Mistry, being first duly sworn, deposes and says that on this twelfth day of June she served the attached **NOTICE OF INTENT TO DENY LICENSE** and a correct copy thereof in an envelope addressed as follows:

MSP Tobacco and Vapor INC
d/b/a MSP Tobacco and Vapor
2419 7th Street West
Saint Paul, MN 55116
Attn: Khader Safi

Khader Safi
1364 Arden View Drive
Arden Hills, MN 55112

Sibley Plaza Limited Partners Lp
606 Washington Avenue North, Suite 400
Minneapolis, MN 55401-3200

Kathy Carruth, Executive Director,
Highland District Council
Highland Park Community Center
1978 Ford Pkwy
Saint Paul, MN 55116

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.

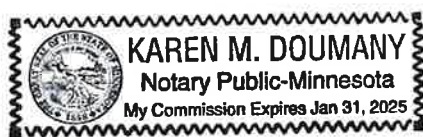


Riddhi Mistry

Subscribed and sworn to before me
This twelfth day of June 2024



Notary Public





June 12, 2024

NOTICE OF INTENT TO DENY LICENSE

MSP Tobacco and Vapor INC
d/b/a MSP Tobacco and Vapor
2419 7th Street West
Saint Paul, MN 55116

RE: Tobacco Products Shop license application submitted MSP Tobacco and Vapor INC
d/b/a MSP Tobacco and Vapor for the premises located at 2419 7th Street West, Saint
Paul, MN 55116
License ID #: 20240000984

Dear Applicant:

The Department of Safety and Inspections will recommend denial of Tobacco Products Shop license application submitted by MSP Tobacco and Vapor INC d/b/a MSP Tobacco and Vapor ("Licensee") located at 2419 7th Street West, in Saint Paul.

Legal Basis for Adverse Action:

Saint Paul Legislative Code §310.01, defines Adverse Action as:

"the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee or applicant for a license. "Adverse action" includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. "Adverse action" also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license."

Saint Paul Legislative Code §310.03 requires that new license application be investigated and reviewed stating:

"The inspector shall determine the sufficiency and accuracy of each new application and obtain such



criminal history information as may be used under Minnesota Statutes, chapter 364, and is otherwise available by law.”

Saint Paul Legislative Code §324.04(b)(1) states: “The total number of tobacco shop licenses under this chapter will not exceed one hundred (100). The total number of tobacco products shop licenses issued under this chapter will not exceed fifteen (15). Establishments or locations holding either tobacco shop or tobacco product shop licenses on July 31, 2021, or with an application of a license pending on July 31, 2021, that is ultimately granted will not be affected by this limitation but will be entitled to have such licenses renewed or new license granted subject to the following conditions:

- a. The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
- b. The previous license has not terminated or expired more than one (1) year before the new license had been first applied for;
- c. A previous license has not been revoked by the council”

Saint Paul Legislative Code §324.04(b)(2) states: “No tobacco may be issued to a person, or corporation for any establishment located within one-half mile (2,640 feet) of another establishment possessing a tobacco license. Said one-half mile being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the tobacco license to the property line of any other tobacco license.”

Adverse Action Recommendation:

Because your tobacco products shop license application did not meet the distance requirements the Department of Safety and Inspections will recommend denial of the Tobacco Products Shop license application based on violation to Saint Paul Legislative Code § 324.04(b)(1)&(b)(2).

Factual basis for denial of Tobacco Products Shop license application:

On June 5, 2024, you submitted Class “R” License Application for a Tobacco Products Shop license.

On May 17, 2024, you received a letter from Paster Properties stating that your tobacco products shop has been considered for relocation at Sibley Plaza to a different premises within the shopping



center. The right to relocate your store was included in the Second Amendment to Lease. You were advised that the letter is being served as a 90-day written notice.

On June 10, 2024, Inspector Voyda sent you an email to SAFIO2@GMAIL.COM, informing you that your tobacco products shop license application was submitted to the Department of Safety and Inspections (DSI), and it does not meet the distance requirements. You were provided with two options on how to proceed with your tobacco products shop license application. The first option was to fill out a request to withdraw form and return it to DSI, or, forward your application to the City Attorney's Office for adverse action.

On June 10, 2024, you responded back to Inspector Voyda's email to joseph.voyda@ci.stpaul.mn.us, and advised that you do not wish to fill out a request to withdraw form and you would like to pursue the application further.

On June 10, 2024, Inspector Voyda sent you an email to SAFIO2@GMAIL.COM, clarifying that DSI will forward your application to the City Attorney's Office for denial. You were informed that you and the property owner will be receiving a 'Notice of Intent to Deny License' letter.

You have five (5) options on how to proceed:

1. If I have not heard from you by **June 22, 2024**, 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 and denial of you license application.
2. Submit the required information requested to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **June 22, 2024**.
3. If you wish to admit the facts but you contest the penalty, you may have a 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 **June 22, 2024**. The matter will then be scheduled before the City Council to determine whether or not your Tobacco Products Shop license application should be denied. You will have an opportunity to appear before the City 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 **June 22, 2024**. 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 hearing will need to be scheduled before the City Council. 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 recommend that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code §310.05 (k).

5. You can withdraw your Tobacco Products Shop license application. Complete and return the attached REQUEST TO WITHDRAW REQUEST FOR REFUND form to the Department of Safety and Inspections (DSI), located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **June 22, 2024**.

If you have not contacted me by June 22, 2024, I will assume that you do not contest the denial of your Tobacco Products Shop application. In that case, the matter will be placed on the next available City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact my Paralegal, Riddhi Mistry at (651) 266-8835 or riddhi.mistry@ci.stpaul.mn.us.

Sincerely,

Sly Onyia
Assistant City Attorney
License No. 0402320

Cc: Khader Safi, 1364 Arden View Drive, Arden Hills, MN 55112
Sibley Plaza Limited Partnership Lp, 606 Washington Avenue North, Suite 400, Minneapolis, MN 55401-3200



Kathy Caruth, Executive Director, Highland District Council, Highland Park Community Center,
1978 Ford Pkwy, Saint Paul, MN 55116

Attachments: Copy of Class R license Application dated 06/05/2023
Letter from Paster Properties 05/17/2024
Exhibit A – Site Plan
Email from Inspector Voyda to SAFI02@GMAIL.COM 06/10/2024
Email from SAFI02@GMAIL.COM to Inspector Voyda 06/10/2024
Email from Inspector Voyda to SAFI02@GMAIL.COM 06/10/2024
324.04(b)(1)&(b)(2)– St. Paul, MN Code of Ordinance