OFFICE OF THE CITY ATTORNEY
Samuel J. Clark, 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

November 29, 2016

NOTICE OF VIOLATION

Arnellia Allen, President
Arnellia's
1183 University Avenue West
Saint Paul, MN 55104

RE: All licenses held by Metro Bar & Grill, Inc. d/b/a Arnellia's for the premises located at 1183 University Avenue West in Saint Paul
License ID #: 0054523

Dear Licensee:

The Department of Safety and Inspections will recommend adverse action against all licenses held by Metro Bar & Grill, Inc. d/b/a Arnellia's for the premises located at 1183 University Avenue West in Saint Paul. The basis for the recommendation is based on the following information:

On November 4, 2016, at approximately 2:00 a.m. Saint Paul Police were sent to United Hospital to take a report concerning an assault that took place at Arnellia's Bar early that morning (CN #16-227-484).

The victim told police that she had participated in a "Smack Fest" held at the bar earlier in the evening. After the event, she spoke with her opponent and she did not seem to be upset. However, when the victim left the bar a short time later, her opponent approached her in the parking lot and wanted to fight. The victim reported that she was surrounded by her former opponent and approximately 5-6 other people and punched and kicked. The fight continued until police arrived. Then everyone but the victim quickly left the premises. The victim's injuries required a trip to the hospital.

Promoting and allowing patrons to participate in a "Smack Fest" within the licensed premises is a violation of license condition #4 which states: *"Control Entertainment Format: Arnellia's shall continue to be responsible for screening out entertainment that promotes or glorifies violence and nefarious or anti-social behavior"*

In addition, on November 8, 2016, at approximately 9:38 a.m. Sergeant Aguirre from the Saint Paul Police Department requested all video surveillance from 9:00 p.m. on November 3, 2016 to 3:00 a.m. on November 4, 2016 (CN #16-227-484). Sergeant Aguirre clearly notified you that the video would need to be delivered by 9:42 a.m. the following day to meet your license condition. You took his contact information. Later in the afternoon on November 9, 2016, a CD was dropped off at DSI by Mr. Allen. Sergeant Aguirre was unable to retrieve any information on the CD and on November 10, 2016 at approximately 9:00 a.m. he called Mr.

Allen to notify him that he was unable to retrieve any footage because the CD was blank. Mr. Allen told the Sergeant Aguirre that he would go down to the bar and get the VHS copy but Sergeant Aguirre told Mr. Allen that the video needed to be in a digital format. He gave Mr. Allen his cellphone number and told him he would wait for his call.

At approximately 10:00 a.m., Sergeant Aguirre called Mr. Allen who told him he was in the process of making the video and he would have it ready within an hour. Sergeant Aguirre instructed him to bring both the digital copy and the VHS copy with him in case one did not work. During the conversation, Mr. Allen admitted that the security system had not been upgraded in a long time.

Later that same morning, Sergeant Aguirre called Mr. Allen again to let him know that there were no files on the CD and the VHS tape only played a short timeframe which did not fulfill his request. In sum, none of the media he provided was useful. Sergeant Aguirre advised Mr. Allen that according to the license conditions he was required to produce the video surveillance for the timeframe requested by 9:42 a.m. that morning.

Due to the fact that the Veteran's Day Holiday was November 11, 2016, Sergeant Aguirre said he would give Mr. Allen until Monday, November 14, 2016 to produce the requested video surveillance. However, he informed Mr. Allen that would not excuse the fact that the video was not produced within the 48-hour requirement. Sergeant Aguirre told Mr. Allen that he needed the video in a manner that he could view it on a Windows computer.

On November 15, 2016 a Zip-Loc style bag was submitted to DSI with a note reading "11-14-16". The information had been brought to the front counter on November 14, 2016 and was placed in his office. When Sergeant Aguirre viewed the CD's they were from Arnellia's and after a brief scan it showed that most, if not all, of the video requested was present and viewable.

Failure to provide video surveillance to Saint Paul Police within forty-eight hours is a violation of license condition #12: *"The license holder shall maintain 10 video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Dept. immediately upon request. In addition, if the Saint Paul Police Dept. responds to a call at the licensed premises, and due to the serious nature of the crime, requests a copy of the surveillance footage be immediately provided, the license holder shall have technology available to make the copy at the time of the request and shall have it for the Police without delay. In other cases, if the Saint Paul Police Dept. or the Dept. of Safety and Inspections requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies."*

This is the third (3rd) violation within the past eighteen (18) months; therefore, per Saint Paul Legislative Code § 310.05 (m) (2), the licensing department will recommend a $2,000.00 matrix penalty and a ten (10) day suspension of your licenses.

At this time, you have three (3) options how 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 **Friday, December 9, 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 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 **Friday, December 9, 2016.** The matter will then be scheduled before the City Council to determine whether to impose the $2,000.00 matrix penalty and ten (10) day suspension of your licenses. 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 **Friday, December 9, 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 by Friday, December 9, 2016, I will assume that you do not contest the imposition of the $2,000.00 matrix penalty and ten (10) day suspension or your licenses. 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,

Therese Skarda
Assistant City Attorney

cc: Arnellia Allen, 1595 Sandhurst Drive East, Maplewood, MN 55109-3635
Michael Jon Olson, Executive Director, Hamline Midway Coalition, 1558 W. Minnehaha Avenue, St. Paul, MN 55104

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE BY U.S. MAIL

Julie Kraus, being first duly sworn, deposes and says that on the 29th day of November she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

Arnellia Allen, President
Arnellia's
1183 University Avenue West
Saint Paul, MN 55104

Arnellia Allen
1595 Sandhurst Drive East
Maplewood, MN 55109-3635

Michael Jon Olson, Executive Director
Hamline Midway Coalition
1558 W. Minnehaha Avenue
St. Paul, MN 55104

(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 29th day of November, 2016

Notary Public

RITA M. BOSSARD
NOTARY PUBLIC - MINNESOTA
My Commission Expires
January 31, 2020