

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

February 3, 2017

NOTICE OF VIOLATION

Talib Al-Tamar, Owner  
Blue Store St Paul  
879 Fremont Avenue  
Saint Paul, MN 55106

RE: Cigarette/Tobacco license held by Blue Store St Paul d/b/a Blue Store St Paul for the premises located at 879 Fremont Avenue in Saint Paul.  
License ID #: 20090000478

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Blue Store St Paul d/b/a Blue Store St Paul for the premises located at 879 Fremont Avenue in Saint Paul. The basis for the recommendation is as follows:

On January 18, 2017, the Department of Safety and Inspections received a letter and Notice of Seized Contraband from the Minnesota Department of Revenue regarding an inspection of the licensed premises on November 8, 2016. During the inspection the following items were seized as contraband:

- 27 Newport Menthol cartons
- 2 Newport 100 Menthol cartons
- 1 Newport 100 carton
- 1 Maverick 100 regular carton
- 1 Kool super long carton
- 2 Camel Crush Menthol cartons
- 1 Camel Crush Menthol sliver
- 2 Marlboro Menthol Gold 100 cartons
- 1 Marlboro Menthol Gold carton
- 9 Marlboro Red 100 packs
- 15 Kool 100 packs
- 9 Maverick 100 packs
- 21 Maverick Menthol packs
- 35 Newport Menthol packs
- 4 Newport Menthol 100 packs
- 1 Marlboro Gold 100 pack
- 10 Marlboro Menthol Gold packs
- 25 Single Black and Mild Jazz wood tip cigars  
(returned 11/21/2016)
- 1 Marlboro Menthol 100 carton
- 25 Single Black and Mild Jazz plastic tip cigars  
(returned 11/21/2016)
- 4 Marlboro Menthol cartons
- 1 Marlboro Gold carton
- 72 packs of 5 Black and Mild wood tips (total cigars 360)
- 24 packs of 5 Black and Mild Wine (total cigars 120)  
(10-5 packs - 50 cigars) returned 11/21/2016)
- 1 Marlboro Gold 100 carton
- 1 Marlboro Red 100 carton
- 1 Marlboro Red carton
- 8 Newport Red packs
- 7 Camel Crush Menthol silver packs
- 9 Marlboro Gold packs
- 9 Marlboro Red packs
- 75 packs of 5 Black and Mild plastic tips (total cigars 375)

Affirmative Action Equal Opportunity Employer

These items were seized by the Commissioner of Revenue under Chapter 297F of the Minnesota Statutes and declared contraband under Minn. Stat. § 297F.21 Subdivision 1 (h) (i) and (j) which state:

- *“(h) Cigarette packages offered for sale or held as inventory in violation of section 297F.20, subdivision 7.*
- *“(i) Tobacco products on which the tax has not been paid by the licensed distributor.*
- *“(j) Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a license seller as required under section 297F.13, subdivision 4.”*

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 lack 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.”*

Due to the fact the violations are directly related to the licensed activity, per Saint Paul Legislative Code § 310.05 (m) (2) the licensing department will recommend a \$500.00 matrix penalty.

At this time, you have four (4) 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 **Tuesday, February 14, 2017**, 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. You can pay the recommended \$500.00 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Tuesday, February 14, 2017**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered to be a waiver of the hearing to which you are entitled.
3. 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 **Tuesday, February 14, 2017**. 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.
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 **Tuesday, February 14, 2017**. 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.

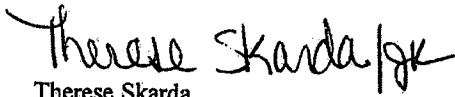
Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

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If you have not contacted me by Tuesday, February 14, 2017, 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,

A handwritten signature in black ink that reads "Therese Skarda" followed by a stylized flourish or initials.

Therese Skarda  
Assistant City Attorney

Cc: Talib Al-Tamar, 6487 – 5<sup>th</sup> Street NE, Fridley, MN 55432-5087  
Deanna Abbott-Foster, Executive Director, Dayton's Bluff District 4 Community Council, East Side Enterprise Center  
804 Margaret Street, Saint Paul, MN 55106

STATE OF MINNESOTA)  
 ) ss.

**AFFIDAVIT OF SERVICE BY U.S. MAIL**

COUNTY OF RAMSEY )

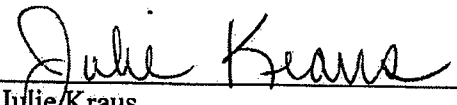
Julie Kraus, being first duly sworn, deposes and says that on the 3<sup>RD</sup> day of February she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

Talib Al-Tamar, Owner  
Blue Store St Paul  
879 Fremont Avenue  
Saint Paul, MN 55106

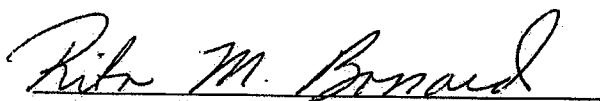
Talib Al-Tamar  
6487 – 5<sup>th</sup> Street NE  
Fridley, MN 55432-5087

Deanna Abbott-Foster, Executive Director  
Dayton's Bluff District 4 Community Council  
East Side Enterprise Center  
804 Margaret Street  
Saint Paul, MN 55106

(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 3<sup>RD</sup> day of February, 2017

  
Notary Public

