



CITY OF SAINT PAUL
Mayor Melvin Carter

Civil Division
400 City Hall
15 West Kellogg Blvd.
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

August 16, 2018

**NOTICE OF VIOLATION
NOTICE OF INTENT TO SUSPEND LICENSES**

Tulshi Kharel, Owner
Asian Market
1423 Rice Street
St. Paul, MN 55117

RE: Cigarette/Tobacco and Malt Off-Sale licenses held by Asian Market, Inc. d/b/a Asian Market for the premises located at 1423 Rice Street in Saint Paul
License ID #:20160002560

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Asian Market, Inc. d/b/a Asian Market for the premises located at 1423 Rice Street in Saint Paul. The basis for the recommendation is as follows:

On July 23, 2018, 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 May 22, 2018. During the inspection, the following tobacco products were seized as contraband under the authority granted in Minn. Stat. 297F.21 which states: “Subdivision 1. Contraband defined. The following are declared contraband and therefore subject to civil and criminal penalties under this chapter Cigarette/Tobacco 297F.21: (j) Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a licensed seller as required under section 297F.13, subdivision 4.”

**19 cases of Naaz Tobacco 70 – 1.7g pouches per case
69 packs Naaz Tobacco – 1.7g per pack
1 – 50g tin of Baba Tobacco
14 packs RMD Ghutka
7 packs Udta Panchhi**

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.”*

This is the third (3rd) violation within the past eighteen (18) months directly related to the licensed activity; therefore, the licensing department will recommend a \$2,000.00 matrix penalty and a ten (10) day suspension of your licenses.

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, August 27, 2018**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the **September 12, 2018** 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 no later than **Monday, August 27, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$2,000.00 matrix penalty and a 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 **Monday, August 27, 2018**. 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 Monday, August 27, 2018, I will assume that you do not contest the imposition of the \$2,000.00 matrix penalty and ten (10) day suspension of your licenses. In that case, the matter will be placed on the September 12, 2018 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact Julie Kraus, my Legal Assistant at (651) 266-8776.

Sincerely,

A handwritten signature in black ink that reads "Therese Skarda /js". The signature is written in a cursive, flowing style.

Therese Skarda
Assistant City Attorney
License No. 0240989

Cc Tulshi Kharel, 1812 Clarence Street, Maplewood, MN 55109
Kerry Antrim, Executive Director, North End Neighborhood Organization, 171 Front Avenue
St. Paul, MN 55117
1419 Rice Street LLC, 2038 Cottage Grove Drive, St. Paul, MN 55129-5369

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 16th day of August, she served the attached **NOTICE OF VIOLATION AND NOTICE OF INTENT TO SUSPEND LICENSES** and a correct copy thereof in an envelope addressed as follows:

Tulshi Kharel, Owner
Asian Market
1423 Rice Street
St. Paul, MN 55117

Tulshi Kharel
1812 Clarence Street
Maplewood, MN 55109

Kerry Antrim, Executive Director
North End Neighborhood Organization
171 Front Avenue
St. Paul, MN 55117

1419 Rice Street LLC
2038 Cottage Grove Drive
St. Paul, MN 55129-5369

(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 16th day of August, 2018

Rita M. Bossard
Notary Public

