



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*

April 26, 2017

**NOTICE OF ADMINISTRATIVE HEARING**

Charles E. Bethel  
Bethel Legal Services, P.A.  
1191 Winthrop Street South  
St. Paul, MN 55119

RE: All licenses held by Ly Brothers, LLC d/b/a Red Wok for the premises located at 1626 White Bear Avenue North in Saint Paul.  
License ID #: 20150002529  
OAH Docket No.: 72-6020-34353

Dear Mr. Bethel:

Please take notice that an administrative hearing has been scheduled for the following date, time and location concerning all licenses held by Ly Brothers, LLC d/b/a Red Wok for the premises located at 1626 White Bear Avenue North in Saint Paul:

**Date:** Friday, May 19, 2017  
**Time:** 9:30 a.m.

**Location:** Office of Administrative Hearings  
600 Robert Street North  
St. Paul, MN 55101

The hearing will be presided over by an Administrative Law Judge from the State of Minnesota Office of Administrative Hearings:

**Name:** Judge Barbara Neilson  
Office of Administrative Hearings  
600 North Robert Street  
St. Paul, MN 55101

**Telephone:** (651) 361-7881

The Council of the City of Saint Paul has the authority to provide for hearings concerning adverse action against such licenses, under Chapter 310, including sections 310.05 and 310.06, of the Saint Paul Legislative Code. Adverse action may include revocation, suspension, denial, fines and other penalties or conditions.

Evidence will be presented to the administrative law judge that may lead to adverse action against all licenses held by Ly Brothers, LLC d/b/a Red Wok for the premises located at 1626 White Bear Avenue North in Saint Paul:

On February 3, 2017, Saint Paul Police executed a search warrant at the licensed premises. During the search, cocaine, marijuana, a large amount of U.S. currency and firearms were recovered (CN #17-24-409) at your restaurant.

During the execution of the warrant, officers secured and arrested, Futchy Ly, a (co-owner). Officers read co-owner Futchy Ly his Miranda rights which he said he understood and began talking about the restaurant. The officer told Futchy Ly they found drugs on the premises and he admitted that he knew about the drugs.

The officer asked Futchy Ly how much cocaine he currently had on the premises and he said "one key" (referring to one kilo) in the safe. The officer asked Futchy Ly how much he paid for the kilo and he said \$34,000. Futchy Ly told the officer he deals with Mexicans and they bring it right to the licensed premises.

The officer then asked Futchy Ly about the marijuana. He admitted that he and his brother, Teng Ly (owner) have some on the premises. Futchy Ly said that you both sell both marijuana and cocaine. Teng Ly deals with the marijuana and Futchy Ly sells the cocaine. It is sold by the kilo and by the ounce.

The officer asked about the cash found. Futchy Ly said the cash was from the restaurant and the money was in a safe with the cocaine.

Another officer arrived with the narcotics detection K9 and was directed to the white Mercedes Benz C300 in the rear parking lot with MN Plates 080MXZ. While searching around the vehicle, the K9 gave the officers multiple indications of an odor of a controlled substance. The K9 started checking the front door seam of the driver's door and immediately went into a sit which indicates he was as close to the source of the odor. He gave the officer a positive alert for the presence of a narcotic odor.

Futchy Ly was taken into custody and transported to the Ramsey County Law Enforcement Center and booked on Possession of a Controlled Substance - 1<sup>st</sup> Degree.

Saint Paul Legislative Code Section 310.05 (m) (6) provides that adverse action may be taken against your licenses based on the following grounds: "*Commission of a Felony on the premises by a licensee or employee.*"

On April 9, 2017, at approximately 12:10 a.m., Saint Paul Police were dispatched to the licensed premises concerning a Disorderly Conduct call where an intoxicated party inside was attempting to fight with other customers (CN #17-076-926).

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When the officers arrived and went inside, they observed a group of males carrying what appeared to be an intoxicated male out the front door. The intoxicated male was shirtless and appeared unconscious but breathing. When the officers confronted the group, who also appeared intoxicated, they stated they were from a gang called G-loc. Before the officers left, they noticed the group of males re-entered the restaurant. The officers asked staff if they wanted them to trespass the party, but were told no they would allow the group to re-enter the restaurant.

During that time, the officers also observed at least four (4) customers in suits and dresses entering the restaurant around 12:45 a.m.

On April 15, 2017 at approximately 12:30 a.m., Saint Paul Police were patrolling the area around Red Wok and observed the "Open" sign still on (CN #17-082-248). The officers parked across the lot facing the entrance and observed multiple people coming in and out, loitering outside and smoking in front of the restaurant. The officers also observed an SUV in the parking lot around 12:45 a.m. and multiple people got out and went inside the restaurant.

The officers could see through the front glass window and observed customers sitting in the bar area. At 12:50 a.m., the officers noticed the "Open" sign had been turned off but people were still coming in and out of the restaurant. When the officers left around 12:57 a.m., they noted there were approximately twenty-three (23) vehicles parked in the lot near the restaurant. They also noted that Red Wok was the only business open at the time.

On April 16, 2017, at approximately 12:45 a.m., Saint Paul Police were again patrolling the area around the Red Wok (CN #17-082-974). The officers drove into the parking lot and noticed customers going in and out of the restaurant. The officers also observed more than twenty (20) vehicles still parked in the lot. The officers noted that even though the blinds were down they could see from the front glass door customers sitting in the bar area.

The officers returned at 1:30 a.m. and observed people still inside and multiple vehicles still parked outside the business. They noted the Red Wok was the only business open at this time.

License condition #1 states: "Per Section 409.03 of the City of Saint Paul Legislative Code, a new liquor on-sale license shall only be issued to a restaurant as defined under Chapter 409 of the City Code. The licensee agrees to operate the establishment in compliance with the definition of a restaurant as defined under Chapter 409 of the City's Code, acknowledges having been given a copy of this definition, and understands the definition."

Saint Paul Legislative Code § 409.02 (2) (g) states: "For establishments first licensed to serve liquor at on-sale on February 1, 2016, or thereafter, an establishment other than a hotel, whose food and liquor services are under the control of a single proprietor or manager, serving food and beverages, meeting the definition in Minn. Stats. § 157.15, subd. 12, and classified as a high- or medium-risk establishment under Minn. Stats. § 157.20, subd. 2a, that meets the following additional criteria: .....g. Ends all food and beverage service no later than 12:00 a.m., and closes no later than 12:30 a.m. "

Saint Paul Legislative Code Section 310.06 also 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 or 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) (7): *"The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner."*

Section 310.06 (b) (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."*

As a result, per Saint Paul Legislative Code § 310.05 (m) (6), the licensing office will recommend revocation of your licenses.

The licensee has the right to be represented by an attorney before and during the hearing or can represent him/herself. The licensee may also have a person of his/her choice representing his/her interests, to the extent not prohibited as unauthorized practice of law.

The hearing will be conducted in accordance with the requirements of Minnesota Statutes sections 14.57 to 14.62 and such parts of the procedures under section 310.05 of the Saint Paul Legislative Code as may be applicable.

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At the hearing, the Administrative Law Judge will have all parties identify themselves for the record. The City will then present its witnesses and evidence, each of whom the licensee or attorney may cross-examine. The licensee may then offer in rebuttal any witnesses or evidence it may wish to present, each of whom the City's attorney may cross-examine. The Administrative Law Judge may in addition hear relevant and material testimony from persons not presented as witnesses by either party who have a substantial interest in the outcome of the proceeding; for example, the owners or occupants of property located in close proximity to the licensed premises may have substantial interest in the outcome of the proceeding. Concluding arguments may be made by the parties. Following the hearing, the Judge will prepare Findings of Fact, Conclusions of Law, and a specific recommendation for action to be taken by the City Council.

The licensee should bring to the hearing all documents, records and witnesses which may be needed to support its position. Subpoenas may be available to compel the attendance of witnesses or the production of documents in conformity with Minnesota Rules, part 1400.7000.

If you think that this matter can be resolved or settled without a formal hearing, please contact the undersigned. If a stipulation or agreement can be reached as to the facts, that stipulation will be presented to the Administrative Law Judge for incorporation into his or her recommendation for Council action.

If you fail to appear at the hearing, your ability to challenge the allegations will be forfeited and the allegations against you which have been stated earlier in this notice may be taken as true. If non-public data is received into evidence at the hearing, it may become public unless objection is made and relief requested under Minnesota Statutes, Section 14.60, subdivision 2.

If you have any questions, you can call me at 266-8710.

Sincerely,



Therese Skarda  
Assistant City Attorney

cc: Judge Barbara Neilson, Office of Administrative Hearings, P.O. Box 64620  
St. Paul, MN 55164-0620  
Chuck Repke, Executive Director, District 2 Community Council Greater East Side  
1365 Prosperity Avenue, St. Paul, MN 55106  
Larry M. Saliterman, 5005 Old Cedar Lake Road, St. Louis Park, MN 55416-1621  
Bryan Larson, 375 Jackson Street, Ste. 700W, St. Paul, MN 55101-1810

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 26<sup>th</sup> day of April she served the attached **NOTICE OF ADMINISTRATIVE HEARING** and a correct copy thereof in an envelope addressed as follows:

Charles E. Bethel  
Bethel Legal Services, P.A.  
1191 Winthrop Street South  
St. Paul, MN 55119

Judge Barbara Neilson  
Office of Administrative Hearings,  
P.O. Box 64620  
St. Paul, MN 55164-0620

Chuck Repke, Executive Director  
District 2 Community Council Greater East Side  
1365 Prosperity Avenue  
St. Paul, MN 55106

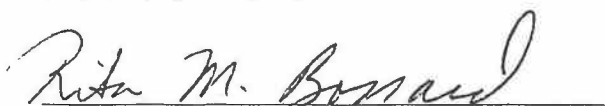
Larry M. Saliterman  
5005 Old Cedar Lake Road  
St. Louis Park, MN 55416-1621

Bryan Larson  
375 Jackson Street, Ste. 700W  
St. Paul, MN 55101-1810

(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 26<sup>th</sup> day of April, 2017

  
Notary Public

