

July 29, 2019

VIA EFILING ONLY

Shari Moore
City Clerk
City of St. Paul
310 City Hall
15 W Kellogg Blvd
Saint Paul, MN 55102
cityclerk@ci.stpaul.mn.us

**Re: *In the Matter of the Peddler License held by Todd L. Grosklags for
the City of Saint Paul***
OA# 21-6020-36043

Dear City Clerk Moore:

Enclosed and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION UPON DEFAULT** in the above-entitled matter. The official record is also enclosed. The Office of Administrative Hearings' file in this matter is now closed.

If you have any questions, please contact me at (651) 361-7888, lisa.armstrong@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



LISA ARMSTRONG
Legal Assistant

Enclosure

cc: Therese Skarda
Todd L. Grosklags
Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE CITY OF ST. PAUL

In the Matter of the Peddler License held
by Todd L. Grosklags for the City of Saint
Paul

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION
UPON DEFAULT**

This matter came on for a hearing before Administrative Law Judge Kimberly J. Middendorf on July 15, 2019.

Therese Skarda, Assistant City Attorney, appeared on behalf of the City of St. Paul (City). There was no appearance by, or on behalf of, Respondent Todd L. Grosklags (Respondent). The record in this matter closed on July 29, 2019.

STATEMENT OF THE ISSUES

1. Did Respondent violate St. Paul Legislative Code § 345.08 (d) and (f)?
2. Is the proposed penalty authorized and reasonable under applicable law?

SUMMARY OF RECOMMENDATION

The Administrative Law Judge concludes that Respondent is in default and recommends that the allegations in the Notice of Administrative Hearing (Notice) be accepted as true and deemed proven.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Respondent appeared at a prehearing conference in this matter on May 2, 2019, and participated in the scheduling of this matter for hearing on July 15, 2019.
2. On May 8, 2019, the Notice was mailed to Respondent at his last known address.¹
3. The Notice indicated that a hearing would be held in this matter on July 15, 2019, at 9:30 a.m.²

¹ See Attachment A at Affidavit of Service dated May 8, 2019.

4. In conformity with Minn. R. 1400.6000 (2017), the Notice includes the following statement:

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.³

5. No one appeared at the July 15, 2019, hearing on behalf of Respondent. No request was made for a continuance, nor was any communication received by the undersigned from Respondent prior to the July 15, 2019, hearing.

6. Respondent's failure to appear at the hearing was without consent of the Administrative Law Judge.

7. Because Respondent failed to appear at the hearing, Respondent is in default.

8. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of Administrative Hearing, a copy of which is attached as Attachment A, are taken as true, deemed proven without further evidence, and incorporated by reference into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The City and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and the St. Paul Legislative Code (2018).

2. The Respondent received timely and proper notice of the hearing in this matter when the City sent the Notice to his last known address.

3. The City has complied with all relevant procedural requirements of statute and rule.

4. Under Minn. R. 1400.6000, the Respondent is in default as a result of his failure to appear at the scheduled prehearing conference.

5. Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, the allegations and the issues set out in the Notice may be taken as true and deemed proved. The Administrative Law Judge therefore deems the allegations to be true.

² *Id.* at 1.

³ *Id.*

6. St. Paul Legislative Code § 310.05 provides that the City may discipline a licensee who engages in conduct that violates the rules or law applicable to a licensee.

7. The City has grounds to take disciplinary action against the Respondent's license based upon the allegations set forth in the Notice.

8. An order by the City taking disciplinary action against the Respondent's license is in the public interest.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATION

The City should take reasonable and appropriate disciplinary action against Todd L. Grosklags.

Dated: July 29, 2019

A handwritten signature in black ink, appearing to read 'Kim', is written over a horizontal line.

KIMBERLY MIDDENDORF
Administrative Law Judge

Reported: Default

NOTICE

This Report is a recommendation, not a final decision. The Saint Paul City Council will make a final decision after a review of the record and may adopt, reject, or modify these Findings of Fact, Conclusions of Law, and Recommendation. Pursuant to Saint Paul Legislative Code § 310.05 (c-1), the City Council shall not make a final decision until the parties have had the opportunity to present oral or written arguments to the City Council. Parties should contact Shari Moore, City Clerk, City of Saint Paul, 310 City Hall, 15 W. Kellogg Blvd., Saint Paul, Minnesota 55102, to ascertain the procedure for filing exceptions or presenting arguments.

ATTACHMENT A

OFFICE OF THE CITY ATTORNEY
Lyndsey M. Olson, City Attorney



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*

May 8, 2019

RCVD OAH '19 MAY 10

NOTICE OF ADMINISTRATIVE HEARING

Todd L. Grosklags- Licensee
6660 Anoka Street NE
Fridley, MN 55432

RE: Peddler license held by Todd L. Grosklags for the City of Saint Paul
License ID #: 20140001156
OAH Docket No.: 21-6020-36043

Dear Licensee:

Please take notice that a **ADMINISTRATIVE HEARING** has been scheduled concerning the Peddler license held by Todd L. Grosklags for the City of Saint Paul.

Date: Monday, July 15, 2019
Time: 9:30 a.m.

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

Name: Judge Kim Middendorf
Office of Administrative Hearings
600 North Robert Street
St. Paul, MN 55101
Telephone: (651) 361-7841

The attached evidence will be presented to the administrative law judge that may lead to adverse action against Peddler license held by Todd L. Grosklags for the City of Saint Paul:

When you received your license, you were given a handout which explained that under Saint Paul Legislative Code Section 345.08 you cannot peddle within twenty-five feet of the sidewalk forming the corner at the intersection of two streets, and that you were not permitted to peddle on any park or parkway.

On August 24, 2018 at approximately 12:08 p.m. Inspector Muhammad was conducting license compliance checks. He observed and photographed you selling State Fair tickets for fourteen dollars (\$14.00) at the corner of Snelling Avenue and Midway Parkway. This location is on the parkway within 25 feet of a corner or intersection. Inspector Muhammad also noted that you remained stationary. Inspector Muhammed talked with you and verified your peddler's license. He also issued a written warning stating that your conduct was in violation of Saint Paul Legislative Code. You signed this warning.

On August 30, 2018, Inspector Eide was conducting peddler license compliance checks. While conducting checks he observed and photographed you selling State Fair tickets on the median at Snelling Avenue and Midway Parkway. This location is a parkway and within 25 feet of a sidewalk forming the corner at the intersection of two streets. The photograph taken by Inspector Eide shows that your customer has their wallet out and is removing cash and that you had tickets in your hands.

Saint Paul Legislative Code § 345.08 (e) states that:

(d) Peddling is prohibited within twenty-five (25) feet of the sidewalk forming the corner at the intersection of two (2) streets, or on any sidewalk less than six (6) feet wide.

(f) Peddling is prohibited within the State Capitol complex buildings and grounds and the Saint Paul River Centre complex buildings, grounds and surrounding sidewalks. Peddling is also prohibited at any park or parkway, building or place under the jurisdiction of the director of parks and recreation unless by the permission of said director or by some person duly authorized by the director and subject to such rules and regulations as the director shall prescribe. Peddling is not prohibited if the activity takes place on land owned or leased by said person.

Pursuant to Saint Paul Legislative Code Section 310.05 (m)(2), a violation of provisions of the legislative code relating to the licensed activity is a basis for adverse action. The City alleges that you violated Saint Paul Legislative Code § 345.08. This is your first violation and pursuant to Saint Paul Legislative Code Section 310.05 (m)(2) the Department is recommending a \$500.00 matrix penalty.

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.

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 near 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 (651) 266-8710.

Sincerely,



Therese Skarda
Assistant Saint Paul City Attorney
License No.: 0240989

Cc: Kim Middendorf Administrative Law Judge, Office of Administrative Hearings, P.O. Box 64620
St. Paul, MN 55164-0620

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL


COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 8TH day of May, he served the attached **NOTICE OF ADMINISTRATIVE HEARING** and a correct copy thereof in an envelope addressed as follows:

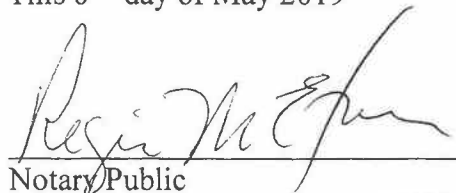
Todd L. Grosklags- Licensee
6660 Anoka Street NE
Fridley, MN 55432

Judge Kim Middendorf
Office of Administrative Hearings
600 North Robert Street
St. Paul, MN 55101

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


Shawn McDonald

Subscribed and sworn to before me
This 8TH day of May 2019


Notary Public

