



Legislation Details (With Text)

File #: RES 22-1617 **Version:** 1

Type: Resolution **Status:** Passed
In control: City Council
Final action: 10/19/2022

Title: Denying a stay in implementation of Council File #RES PH 22-223 the Cigarette/Tobacco license Held by Bright Star Inc. d/b/a Tom and Joe's Market (License ID #20190003653) at 684 Western Avenue North.

Sponsors: Russel Balenger

Indexes:

Code sections:

Attachments: 1. ALJ's Findings of fact, Conclusions of Law, and Recommendation, 2. ANSR support for adverse action letter, 3. Bright Star Petition to Stay Administrative Order Pending Review, 4. Bright Star Statement of Facts, Conclusion of Law, and Proposed Recommendations, 5. City's Exhibits 1-8 - Tom and Joe's Market - 7-13-2022, 6. Petition for Writ of Certiorari

Date	Ver.	Action By	Action	Result
10/20/2022	1	Mayor's Office	Signed	
10/19/2022	1	City Council	Adopted	Pass

Denying a stay in implementation of Council File #RES PH 22-223 the Cigarette/Tobacco license Held by Bright Star Inc. d/b/a Tom and Joe's Market (License ID #20190003653) at 684 Western Avenue North.

WHEREAS, pursuant to RES PH 22-233, on September 21, 2022, the Saint Paul City Council revoked all licenses held by Bright Star Inc., d/b/a Tom and Joe's Market; and

WHEREAS, on October 6, 2022 the City Clerk was served with a Petition for Reconsideration or a Stay of Proceedings ("Petition") in the above entitled matter; and

WHEREAS, Bright Star Inc., d/b/a Tom and Joe's Market has applied for a Writ of Certiorari from the Court of Appeals for the State of Minnesota; and

WHEREAS, Counsel for Bright Star Inc., d/b/a Tom and Joe's Market has petitioned the Saint Paul City Council for an Order staying the determinations made on September 21, 2022, effective until the final adjudication of the appeal action; and

WHEREAS, under Minnesota Rule of Civil Appellate Procedure 108.01, the City Council has the power to grant a stay and impose reasonable terms and conditions that are proper for the security of the rights of the City of Saint Paul; and

WHEREAS, on September 21, 2022, in revoking all licenses held by Bright Star Inc. d/b/a Tom and Joe's

Market, the Council considered all the evidence in the record including the report of an Administrative Law Judge; and

WHEREAS, that evidence included:

- Documentation that during a complaint based inspection on January 6, 2022, a DSI inspector and an inspector from the Minnesota Department of Revenue (“MDR”) observed and documented with photographs multiple flavored product violations that were located next to the counter/cash register in violation of Saint Paul Legislative Code section 324.07(j); and
- Information that the inspector also noticed hidden flavored tobacco products in a bag under a plastic chair, an open box of Newport menthol cigarettes under the cash register, and unstamped cigarettes found in a black jacket; and

WHEREAS, and ALJ hearing was held at the request of the Licensee and the report of the ALJ recommended the revocation of the Cigarette/Tobacco license held by Bright Star Inc., d/b/a Tom and Joe’s Market; and

WHEREAS, the record in RES PH 22-233 supports that Council carefully considered the matter before them before taking action; and

WHEREAS, through RES PH 22-233, the Council adopted the ALJ’s report as the Memorandum and Conclusions of the City Council and revoked the Cigarette/Tobacco license held by Bright Star Inc., d/b/a Tom and Joe’s Market; and

NOW, THEREFORE, BE IT RESOLVED, that the above stated reasons as well as all of the information contained in RES PH 22-233 and the supporting council file which is incorporated by reference demonstrate that no terms and conditions could be added to the licenses of Bright Star Inc., d/b/a Tom and Joe’s Market that would adequately protect the health and safety of the City and its citizens; and be it

FINALLY RESOLVED, that the Saint Paul City Council will not stay the enforcement of the resolution to revoke all licenses held by Bright Star Inc., d/b/a Tom and Joe’s Market.