



Legislation Details (With Text)

File #: RES 11-1957 **Version:** 1
Type: Resolution **Status:** Passed
In control: City Council
Final action: 10/5/2011

Title: Memorializing City Council action taken on September 21, 2011 sustaining adverse licensing action against all licenses held by Blue Store St. Paul, 879 Fremont Avenue.

Sponsors: Kathy Lantry

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Attachments:

Date	Ver.	Action By	Action	Result
10/11/2011	1	Mayor's Office	Signed	
10/5/2011	1	City Council	Adopted	Pass

Memorializing City Council action taken on September 21, 2011 sustaining adverse licensing action against all licenses held by Blue Store St. Paul, 879 Fremont Avenue.

WHEREAS, Blue Store St. Paul, d/b/a Blue Store St. Paul (License ID # 20090000478) (hereinafter "licensee") located at 879 Fremont Avenue in Saint Paul received a Notice of Violation dated July 7, 2011; and

WHEREAS, the Notice alleged that on June 30, 2011 an employee of licensee was observed smoking a cigarette inside of the establishment in violation of § 144.414, subd. 1, the Minnesota Clean Indoor Air Act; and

WHEREAS, under St. Paul Legislative Code § 310.06, subd. (b)(6)(a), a violation of state statute which is "reasonably related to the licensed activity" is sufficient basis for adverse licensing action; and

WHEREAS, licensee is the holder of a cigarette/tobacco license, which is reasonably related to a violation of the Clean Indoor Air Act; and

WHEREAS, licensee denied all the allegations and requested a hearing before an Administrative Law Judge; and

WHEREAS, a hearing was held before an Administrative Law Judge on August 23, 2011, at which each party presented testimony; and

WHEREAS, the Administrative Law Judge issued a Report on August 30, 2011, in which the Administrative Law Judge issued Findings of Fact, Conclusions of Law, a Recommendation and a Memorandum; and

WHEREAS, the Administrative Law Judge found that there was sufficient proof that licensee had committed the violation in the Notice of Violation; and

WHEREAS, the Administrative Law Judge also found that the recommendation by the Department of Safety and Inspections of a \$500 fine was consistent with the penalty matrix in Chapter 310 of the Legislative Code; and

WHEREAS, the licensee was given notice that a public hearing would be held before the City Council on September 21, 2011 at which time licensee would have an opportunity to present oral or written argument to the Council; and

WHEREAS, licensee did not file any exceptions to the report of the Administrative Law Judge; and

WHEREAS, at a public hearing on September 21, 2011, Council File # PH 11-23, the Council of the City of Saint Paul considered all the evidence contained in the record, the arguments of licensee at the public hearing, the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations; now, therefore, be it

RESOLVED, that the Council of the City of Saint Paul issues this decision based upon consideration of the record of the entire proceedings herein, including the hearing before the Administrative Law Judge, all the documents and exhibits introduced therein, the Findings of Fact, Conclusions of Law and Recommendation as referenced above, and the deliberations of the council in open session of that hearing; and be it

FURTHER RESOLVED, that a fine of \$500.00 is imposed against all licenses held by Blue Store St. Paul; and be it

FURTHER RESOLVED that the \$500.00 fine be paid within 30 days of the passage and approval of this resolution; and be it

FINALLY RESOLVED, that the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Law Judge in this matter are hereby adopted as amended as the Findings and Conclusions of the City Council in this matter.

A copy of this resolution, as adopted, shall be sent by first class mail to the Administrative Law Judge and to the license holder.