



Legislation Text

File #: RES 16-2087, **Version:** 1

Sustaining adverse licensing action against the Cigarette/Tobacco license held by Maryam, Inc., d/b/a Mounds Park Market at 241 Earl Street.

WHEREAS, Maryam, Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street (License ID #20100001072) (hereinafter "licensee"), received a Notice of Violation dated June 29, 2016 (hereinafter "Notice"); and

WHEREAS, the Notice alleged that on June 24, 2016 the Department of Safety and Inspections received a Notice of Seizure of Contraband from the Minnesota Department of Revenue regarding an inspection at 241 Earl Street on April 18, 2016 in which at least 145 items of illegal contraband were seized; and

WHEREAS, the Notice stated that the licensing office recommended a \$700.00 matrix penalty; and

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

WHEREAS, a Notice of Administrative Hearing was sent to all parties on September 7, 2016, scheduling the hearing before an Administrative Law Judge on October 19, 2016; and

WHEREAS, the Administrative Law Judge issued his Findings of Fact, Conclusions of Law and Recommendation on October 28, 2016, stating that the licensee is in default because it did not send a representative to appear at the hearing duly scheduled and noticed for October 19, 2016; and

WHEREAS, the Administrative Law Judge also found that as a result of the default, the allegations of, or the issues set out in the Notice of Administrative Hearing are deemed to be true or deemed proved without further evidence and the violation of having tobacco products seized as contraband by the Department of Revenue is "directly related to the licensed activity"; and

WHEREAS, the Administrative Law Judge then recommended the City of Saint Paul impose a \$500.00 matrix penalty; and

WHEREAS, the Department of Safety and Inspections agrees with the Findings of Fact, Conclusions of Law and Recommendation submitted by the Administrative Judge and the imposition of a \$500.00 matrix penalty; and

WHEREAS, the licensee was sent a Notice of Council Hearing on September 3, 2015; stating a public hearing would be held before the City Council on October 21, 2015, at which time licensee would have an opportunity to present oral or written arguments to the Council; and

WHEREAS, City Council reviewed the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommendation and found the report to be without error and the penalty appropriate, now therefore be it

RESOLVED, the Findings of Fact issued by the Administrative Law Judge on October 28, 2016, are hereby adopted as the Findings of Fact of the City Council in this matter and be incorporated herein by reference.

FURTHER RESOLVED, the Conclusions of Law issued by the Administrative Law Judge on October 28, 2016, are hereby adopted as the Conclusions of Law of the City Council in this matter and be incorporated herein by reference.

FURTHER RESOLVED, the Recommendation issued by the Administrative Law Judge on October 28, 2016, is hereby adopted as the Recommendation of the City Council in this matter and be incorporated herein by reference.

FINALLY RESOLVED, Maryam, Inc. d/b/a Mounds Park Market is hereby ordered to pay a matrix penalty of \$500.00 for the civil seizure of tobacco product contraband pursuant to Minn. Stat. §297F (2016) which is a violation of the legislative code that related to the licensed activity.

Payment of such penalty shall be made within thirty (30) days of the date of the adoption of this resolution.

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