



Legislation Details (With Text)

File #: RES PH 20-162 **Version:** 1

Type: Resolution-Public Hearing **Status:** Passed

In control: City Council

Final action: 8/5/2020

Title: Considering and adopting the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Law Judge, and request of the Department of Safety and Inspections for imposition of \$1,000 matrix penalty against the Liquor on sale 101-180 seats, Liquor on sale Sunday, 2AM closing, and Entertainment (B) licenses held by Kavin Choua Thao, d/b/a Pupraya Thai Restaurant at 945 Rice Street.

Sponsors: Dai Thao

Indexes:

Code sections:

Attachments: 1. [http://Q6HEVW9L0DUFBI][v][Pupraya Thai Exhibits 1-13, Ex] (3), 2. [http://Q6QU8ZBP0DC6IM][v][Pupraya Thai Exhibit 17] (2), 3. [http://PMP4UF3A0E87G0][v][OAH 5-6020-36685 - Findings of] (2)

| Date | Ver. | Action By | Action | Result |
|----------|------|----------------|--------------------|--------|
| 8/7/2020 | 1 | Mayor's Office | Signed | |
| 8/5/2020 | 1 | City Council | Adopted As Amended | Pass |

Considering and adopting the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Law Judge, and request of the Department of Safety and Inspections for imposition of \$1,000 matrix penalty against the Liquor on sale 101-180 seats, Liquor on sale Sunday, 2AM closing, and Entertainment (B) licenses held by Kavin Choua Thao, d/b/a Pupraya Thai Restaurant at 945 Rice Street.

WHEREAS, the Liquor on sale 101-180 seats, Liquor on sale Sunday, 2AM Closing, and Entertainment (B) licenses held by Kavin Choua Thao d/b/a Pupraya Thai Restaurant for the premises located at 945 Rice Street ("Licensed Premises") were the subject of a Notice of Violation ("NOV") and request for imposition of \$1,000 matrix penalty by the Department of Safety and Inspections for the City of Saint Paul ("City") on December 2, 2019, herein incorporated as Exhibit 1-1 through 1-4; and

WHEREAS, the NOV outlined the City's basis for the recommendation for adverse action and request for imposition of \$1,000 matrix penalty; and

WHEREAS, the NOV alleged that the Licensee violated license conditions and city ordinances by:

- failing to provide copies of MN Revenue monthly sales tax filings for the entire 2018 calendar year;
- providing insufficient information to verify if the establishment is operating within the definition of a "restaurant";
- failing to provide the Department of Safety and Inspections with copies of requested video; and

WHEREAS, the NOV detailed that this was the second adverse action against the license in a twelve (12) month period, the previous violation stemming from the lapse in liquor liability coverage that was detailed in a September 25, 2018 Notice of Intent to Suspend Licenses; and

WHEREAS, under the penalty matrix in Chapter 310.05 (m) of the Legislative Code the presumptive penalty for a second violation within twelve (12) months is a fine of \$1,000.00; and

WHEREAS, the Licensee responded to the NOV with a letter admitting to the facts and requesting a hearing before the Saint Paul City Council; and

WHEREAS, the Licensee appeared and testified at a public hearing before Council on January 15, 2020 and disputed some of the facts; and

WHEREAS, the matter was laid over to January 22, 2020 and subsequently withdrawn to allow for a hearing so that the Licensee could dispute the facts alleged in the NOV before an Administrative Law Judge; and

WHEREAS, on April 21, 2020 a hearing was held before Administrative Law Judge, Jim Mortenson ("ALJ"); and

WHEREAS, in support of the allegations contained in the NOV, the City filed exhibits with the Office of Administrative Hearings, herein incorporated as Exhibits 1-1 through 17; and

WHEREAS, in support of the allegations contained in the NOV the City produced Licensing Manager, Eric Hudak as a witness; and

WHEREAS, the Licensee also presented exhibits and testimony for the consideration of the ALJ; and

WHEREAS, on May 7, 2020 the ALJ issued his findings of fact, conclusions of law and recommendation, which are herein incorporated as exhibit 16; and

WHEREAS, the ALJ found that the Licensee violated license condition #2 when he failed to provide all of the video surveillance requested by DSI; and

WHEREAS, the ALJ found that the Licensee violated Saint Paul Legislative Code §310.12 for failure to provide DSI with requested information demonstrating his compliance with license condition #1; and

WHEREAS, the ALJ's report found no substantial and compelling reason to deviate from the presumptive penalty of \$1,000.00; and

WHEREAS, at a public hearing on August 5, 2020, the City Council considered all the evidence contained in the record including the ALJ Report and the oral arguments presented before City Council; now therefore be it

RESOLVED, that the Council has considered the Findings of Fact, Conclusions of Law and Recommendation of the Administrative Law Judge and hereby adopts it as the Memorandum and Conclusions of the City Council in this matter; and be it

FINALLY RESOLVED, that the Liquor on sale 101-180 seats, Liquor on sale Sunday, 2AM Closing, and Entertainment (B) licenses held by Kavin Choua Thao d/b/a Pupraya Thai Restaurant for the premises located at 945 Rice Street is hereby ordered to \$1,000 matrix penalty, however due to hardships related to COVID-19, payment of such penalty is stayed until August 5, 2021.

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