

WHEREAS, on June 10, 2024, Inspector Voyda sent the Applicant an email to SAFI02@GMAIL.COM [<mailto:SAFI02@GMAIL.COM>](mailto:SAFI02@GMAIL.COM), clarifying that DSI will forward the application to the City Attorney's Office for denial. The Applicant and the property owner were informed that they would be receiving a 'Notice of Intent to Deny License' letter; and

WHEREAS, the Notice laid out the basis for adverse action and the Legislative Code upon which the Department was relying as follows:

Saint Paul Legislative Code §310.01, defines Adverse Action as: "the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application of the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, Licensee or applicant for a license. "Adverse action" includes any of the foregoing directed at one (1) or more licenses held by a Licensee at any location in the city. "Adverse action" also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license."

Saint Paul Legislative Code §310.03 requires that new license application be investigated and reviewed stating:

"The inspector shall determine the sufficiency and accuracy of each new application and obtain such criminal history information as may be used under Minnesota Statutes, chapter 364, and is otherwise available by law."

Saint Paul Legislative Code §324.04(b)(1) states: "The total number of tobacco shop licenses under this chapter will not exceed one hundred (100). The total number of tobacco products shop licenses issued under this chapter will not exceed fifteen (15). Establishments or locations holding either tobacco shop or tobacco product shop licenses on July 31, 2021, or with an application of a license pending on July 31, 2021, that is ultimately granted will not be affected by this limitation but will be entitled to have such licenses renewed or new license granted subject to the following conditions:

- a. The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
- b. The previous license has not terminated or expired more than one (1) year before the new license had been first applied for;
- c. A previous license has not been revoked by the council"

Saint Paul Legislative Code §324.04(b)(2) states: "No tobacco may be issued to a person, or corporation for any establishment located within one-half mile (2,640 feet) of another establishment possessing a tobacco license. Said one-half mile being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the tobacco license to the property line of any other tobacco license."

WHEREAS, the Applicant had been notified they failed to meet the distance requirements for the relocation of the Tobacco Products Shop. The Department of Safety and Inspection recommended a denial of the Tobacco Products Shop license application based on violation of the Saint Paul Legislative Code §310.01, §310.03, §324.04(b)(1), and §324.04(b)(2); and

WHEREAS, the Department of Safety and Inspections recommended a denial of the license application; and

WHEREAS, the Notice laid out options for the Applicant:

“You have five (5) options on how to proceed:

1. If I have not heard from you by **June 22, 2024**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent agenda for approval of the proposed remedy and denial of your license application.
2. Submit the required information requested to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **June 22, 2024**.
3. If you wish to admit the facts but you contest the penalty, you may have a hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **June 22, 2024**. The matter will then be scheduled before the City Council to determine whether or not your Tobacco Products Shop license applications should be denied. You will have an opportunity to appear before the City Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (“ALJ”). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **June 22, 2024**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other’s witnesses. After receipt of the ALJ’s report (usually within 30 days), a hearing will need to be scheduled before the City Council. At that time, the City Council will decide whether to adopt, modify or reject the ALJ’s report and recommendation.
5. You can withdraw your Tobacco Products Shop license application. Complete and return the attached REQUEST TO WITHDRAW REQUEST FOR REFUND form to the Department of Safety and Inspections (DSI), located at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **June 22, 2024**.”

WHEREAS, the Notice was sent to the Applicant on **June 12, 2024**, providing that the Applicant respond by **June 22, 2024 (Exhibit #1)**, on whether they contest the proposed adverse action; and

WHEREAS, a revised Notice was sent to the Applicant on **June 25, 2024**, with a response deadline of **July 5, 2024 (Exhibit #2)**; and

WHEREAS, on July 3, 2024, the Applicant contacted the City Attorney’s Office stating that they admit to the facts but would like to proceed with a Council Hearing. The Applicant advised they wanted to pursue a new business license application for a new location; and

WHEREAS, on November 20, 2024, City Council did not adopt Ordinance # ORD 24-34 (**Exhibit #3**) Chapter 324.04 of the Saint Paul Legislative Code pertaining to the Licensure of Tobacco Retailers Relocating Within a Shopping Center/ Parcel of Property When Unique Circumstances Occur; and

WHEREAS, on February 4, 2025, Applicant’s attorney opted to accept the denial of the Tobacco Product Shop License from the June 12, 2024, Notice, by foregoing a council hearing; and

WHEREAS, the Notice stated if the Applicant failed to contest to the denial of the license application, that the matter would be placed on the City Council Agenda to impose the recommended penalty; now, therefore, be it

RESOLVED, the Tobacco Products Shop license application submitted by MSP Tobacco and Vapor INC d/b/a MSP Tobacco and Vapor (License ID #20240000984) for the premises located at 2419 7th Street West, in Saint Paul is hereby to deny the license since the Applicant did not meet the distance requirements for the relocation of the Tobacco Products Shop, and did not provide the Request to Withdraw Form to the Department of Safety and Inspections in violation of Saint Paul Legislative Code §310.01, §310.03, §324.04(b)(1), and §324.04(b)(2).