



## Legislation Text

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**File #:** RES 15-1449, **Version:** 1

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Memorializing City Council action taken August 12, 2015 sustaining adverse licensing action against all licenses held by Tom Super, LLC d/b/a Super USA for the premises located at 976 - 7<sup>th</sup> Street East in St. Paul.

WHEREAS, Tom Super LLC, d/b/a Super USA (License ID #20090000182) (hereinafter "licensee"), received a Notice of Violation dated May 14, 2015 (hereinafter "Notice"); and

WHEREAS, the Notice alleged the licensee sold single cigarettes to a Saint Paul Police Department Confidential Reliable Informant (hereinafter "CRI") on April 22, 2015 in violation of Saint Paul Legislative Code § 324.07 (a); and

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

WHEREAS, a hearing was scheduled before an Administrative Law Judge on July 13, 2015; and

WHEREAS, the Notice of Administrative Hearing sent to the licensee on June 3, 2015, alleged an additional sale of single cigarettes to a CRI on May 28, 2015 in violation of Saint Paul Legislative Code § 324.07 (a); and

WHEREAS, due to the egregiousness of the continued violations, the licensing office recommended an upward departure to a \$2,000.00 matrix penalty and a ten (10) day suspension of the Cigarette/Tobacco license; and

WHEREAS, prior to the start of the hearing the City and the licensee reached an agreement in resolution of the matter;

WHEREAS, the City and the licensee agreed that the alleged facts asserted in the Notice of Administrative Hearing, dated June 3, 2015, would constitute the Findings of Fact and the recommended penalty for the license violations would be a \$1,000.00 matrix penalty and a five (5) day suspension of the Cigarette/Tobacco license; and

WHEREAS, the Administrative Law Judge issued a Report on July 14, 2015, in which he issued Findings of Fact, Conclusions of Law and Recommendation stating the parties had stipulated to the Findings of Fact and agreed to a \$1,000.00 matrix penalty and a five (5) day suspension of the Cigarette/Tobacco license; and

WHEREAS, the Administrative Law Judge recommended that the City of Saint Paul impose a \$1,000.00 matrix penalty and a five (5) day suspension of the Cigarette/Tobacco license; now, therefore be it

RESOLVED, that the Council of the City of Saint Paul issues this decision based on consideration of the record of the entire proceedings herein, all the documents and exhibits introduced therein and the Findings of Fact, Conclusion of Law and Recommendation as referenced above; and be it

FURTHER RESOLVED, that the Findings of Fact of the Administrative Law Judge issued on July 14, 2015, are hereby adopted as the Findings of the City Council in this matter and be incorporated herein by reference, and be it

FURTHER RESOLVED, that the Conclusions of Law of the Administrative Law Judge issued on July 14, 2015, are hereby adopted as the Conclusions of the City Council in this matter and be incorporated herein by reference, and be it

FURTHER RESOLVED, that the City Council adopts the Administrative Law Judge's Recommendation issued on July 14, 2015, imposing a \$1,000.00 matrix penalty against all licenses held by the licensee; and be it

FURTHER RESOLVED, that the City Council adopts the Administrative Law Judge's Recommendation issued on July 14, 2015, imposing a five (5) day suspension of the Cigarette/Tobacco license held by the licensee. Said suspension will begin at 12:00 midnight on Wednesday, September 2, 2015 and end at 11:59 p.m. on Sunday, September 6, 2015.

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