



Legislation Text

File #: RES 19-1617, **Version:** 1

Considering and adopting the Findings of Facts, Conclusions of Law, and Recommendation Upon Default submitted by the Administrative Law Judge concerning the Peddler license held by Todd L. Grosklags (Licensee ID# 20140001156).

WHEREAS, the Peddler license held by Todd L. Grosklags ("Licensee") (License ID# 20140001156) for the City of Saint Paul was the subject of a Notice of Violation ("Notice") dated February 21, 2019; and

WHEREAS, the Notice stated in August of 2018, the Department of Safety and Inspections conducted license compliance checks for peddlers operating during the Minnesota State Fair; and

WHEREAS, on August 24, 2018, a DSI inspector observed and photographed the Licensee selling State Fair tickets on the median at Snelling Avenue and Midway Parkway while remaining stationary in violation of Saint Paul Legislative Code §§ 345.08 (d) and (f); and

WHEREAS, this location is a parkway within twenty-five (25) feet of a sidewalk forming the corner at the intersection of two streets; and

WHEREAS, the licensee was issued a written Warning Notice stating his conduct was in violation of Saint Paul Legislative Code which he signed on August 24, 2018; and

WHEREAS, on August 30, 2018 a DSI inspector again observed and photographed the licensee selling State Fair tickets on the median at Snelling Avenue and Midway Parkway while remaining stationary in violation of Saint Paul Legislative Code §§ 345.08 (d) and (f); and

WHEREAS, per Saint Paul Legislative Code § 310.05 (m) (2), the licensing office recommended a \$500.00 matrix penalty; and

WHEREAS, the Licensee responded to the Notice on March 6, 2019 to request a public hearing which was held on March 6, 2019; and

WHEREAS, On March 6, 2019 a public hearing was held at which the Licensee appeared and it was determined that there was a dispute as to the facts underlying the violation; and

WHEREAS, pursuant to Saint Paul Legislative Code Section 310.05 (c) the matter was referred to the Office of Administrative Hearings for a hearing and recommendation on the Department of Safety and Inspections request for adverse action; and

WHEREAS, the Licensee participated by phone in a prehearing conference on May 2, 2019 and participated in the scheduling of the administrative hearing on July 15, 2019; and

WHEREAS, a notice with the administrative hearing date was mailed to Licensee on May 8, 2019; and

WHEREAS, the City Attorney and its witnesses appeared for the administrative hearing on July 15, 2019; and

WHEREAS, the Licensee failed to appear for the administrative hearing on July 15, 2019 and did not request a

continuance; and

WHEREAS, the City Attorney representing DSI requested a default judgement and that the allegations in the Notice of Violation be deemed true due to the failure of the Licensee to show up for the hearing; and

WHEREAS, the Administrative Law Judge issued Findings of Fact, Conclusion of Law and Recommendation Upon Default on July 15, 2019; and

WHEREAS, the Administrative Law Judge concluded that the Licensee was in default because of his failure to appear or send a representative to the hearing under Minn. R. 1400.6000; and

WHEREAS, the Administrative Law Judge concluded that Under Minn. R. 1400.6000, when a party defaults by failing to appear at a hearing, the allegations and the issues set out in the Notice of Administrative Hearing may be taken as true and deemed proved and therefore deemed the allegations in the Notice of Violation to be true; and

WHEREAS, the Administrative Law Judge then found that the allegations set forth in the Notice and Order for Hearing were true and recommended that the Licensee should be required to pay a matrix penalty of \$500; and

WHEREAS, DSI agrees with the Finding of Fact, Conclusion of Law and Recommendation submitted by the Administrative Judge and the imposition of a \$500.00 matrix penalty; and

WHEREAS, additionally, DSI is requesting imposition of the costs of the administrative hearing pursuant to Saint Paul Legislative Code §310.05(k); and

WHEREAS, the total of those costs per invoices received from the Office of Administrative Hearings is \$935.00; and

WHEREAS, City Council reviewed the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommendation Upon Default 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 July 15, 2019, are hereby adopted as the Findings of Fact of the City Council in this matter and be incorporated herein by reference; and be it

FURTHER RESOLVED, the Conclusion of Law issued by the Administrative Law Judge on July 29, 2019, are hereby adopted as the Conclusions of Law of the City Council in this matter and be incorporated herein by reference; and be it

FURTHER RESOLVED, Todd L. Grosklags (License ID# 20140001156) for the City of Saint Paul is hereby ordered to pay the matrix penalty of \$500.00; and be it

FINALLY RESOLVED, due to his nonappearance at the administrative hearing, the City Council further imposes a cost equal to the amount reflected on any invoices sent by Office of Administrative Hearings for this matter against the Licenses to defray the costs incurred by the city in preparation for the July 15, 2019 administrative hearing of \$935.00.

Payment of all penalties 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 Licensee.