Legislation Text

File #: RES 24-1937, **Version:** 1

Authorizing the Department of Safety and Inspections ("DSI") to enter into a Settlement Agreement with Khaled Aloul on behalf of Maryland One Stop Food & Fuel Market, Inc., d/b/a Maryland Amoco/BP Market Place ("Licensee").

WHEREAS, Licensee holds a Tobacco Shop and Gas Station licenses (#20050003472) for the premises located at 1200 White Bear Avenue North in Saint Paul ("Licensed Premises"); and

WHEREAS, on June 1, 2023, Inspector Allen Vang, conducted a complaint inspection where a large amount of prohibited flavored tobacco products were found and documented in a report with photos; and

WHEREAS, on June 1, 2023, Inspector Allen Vang, described an incident during his complaint inspection in which he witnessed the store clerk selling tobacco to an underage customer; and

WHEREAS, on March 20, 2024, the Licensee failed the underage buyer tobacco compliant inspection when the underage buyer entered the licensed business in an attempt to purchase a pack of Marlboro Red 100's cigarettes; and

WHEREAS, Saint Paul Legislative Code 324.07(i) states, "No holder of a license issued under this chapter, nor any employee or agent of same may sell tobacco products to a person under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited;" and

WHEREAS, on May 15, 2024, the Parties attended a City Council hearing before the Saint Paul City Council involving two proposals of adverse action resolution for City Council to choose from; and

WHEREAS, the conclusion of the City Council Hearing resulted in the Parties agreeing to adopt version 1 of the resolution (RES 24-623) herein as Exhibit 1, which directs the Department of Safety and Inspections to move forward with the adverse action against Maryland Amoco; and

WHEREAS, the Notice detailed in RES 24-623, mentioned the Department of Safety and Inspections believe there is substantial and compelling reasons to upwardly depart to revocation in this case due to the sheer volume of prohibited flavored products, blatant nature of the violations, and the history of the same/similar violations related to this Licensee;

WHEREAS, on September 18, 2024, a complaint-related compliance inspection was conducted by DSI Inspector Joseph Voyda. Upon arrival, Inspector Joseph Voyda observed through the cashier's window multiple flavor tobacco products.

WHEREAS, on September 18, 2024, Inspector Joseph Voyda attempted to purchase coffee, and packs of Camel Crush and Newport Menthol cigarettes, to which the clerk responded that they had no menthol cigarettes. The clerk insisted that the coffee was free numerous times to Inspector Joseph Voyda. Inspector Joseph Voyda responded consistently with rejecting the offer of free coffee. Inspector Joseph Voyda subsequently purchased a package of Backwoods Russian Cream Cigars (flavored cigars) and coffee, which came to a total of $12 dollars. Inspector Joseph Voyda returned to his vehicle to retrieve his inspector's badge and to store the purchased cigars; and

WHEREAS, subsequent discussions between Counsel for Licensee, CAO and DSI have resulted in a signed Settlement Agreement under which, if approved today by City Council would result in Revocation of the Tobacco Shop License held by Licensee effective December 31, 2024; and

WHEREAS, DSI believes that the Settlement Agreement will provide certainty regarding the violation and accompanying penalties; and

WHEREAS, the parties agree that settling this matter as described below is beneficial to both parties; and

WHEREAS, both parties knowingly and voluntarily wish to enter into this Settlement Agreement; and

WHEREAS, the terms of the Settlement Agreement, herein incorporated as Exhibit 2, include the following terms:

1. The City agrees to the requested revocation of the Tobacco Shop license from Maryland Amoco effective December 6, 2024, unless otherwise Licensee pays to reinstate license be the expiration date of December 6, 2024, notwithstanding the license renewal, revocation of Tobacco Shop license will be effective December 31, 2024.
2. Maryland Amoco agrees to sign the License Conditions and agrees to the imposition of the following license condition upon its Tobacco Shop license:
   a. No further subsequent violations this includes but not limited to:
   b. No late-night deliveries between the hours of 11:00pm-6:00am,
   c. Security cameras must be functional,
   d. Maintain the fence on the East and South side of the property, adjoining the residential property,
   e. Maintain landscaping,
   f. All customer and employee vehicles (one spaced shall be designated and marked for Handicap parking) must be parked in the area designated on the approved site plan, on file with DSI,
   g. All vehicles parked outdoors must appear to be completely assembled with no major body parts missing,
   h. Vehicle salvage is not permitted,
   i. Vehicle parts, tires, oil or similar items will not be stores outdoors, trash will be stored in a covered dumpster,
   j. No general auto repair is allowed, no auto body repair painting is permitted,
   k. No vehicle sales allowed,
   l. Customer vehicles may not be parked longer than 10 days on the premises,
   m. Limit car wash operation and pay phone usage to the hours of 7:00am-10:00pm,
   n. Maintain the property clean from trash on a daily basis,
   o. The sale of blunts and single cigarettes is not permitted. Tobacco products must be sold in the original packaging,
   p. The sale of jewelry bags/baggies is not permitted,
   q. Licensee must comply with all federal, state and local laws,
   r. No sale or possession of flavored tobacco products in the licensed premises, and
   s. No sale of tobacco products to a person under the age of twenty-one (21) years,

3. Failure to comply with any conditions listed in paragraph 2 above, will result in an immediate revocation of the Tobacco Shop license,

4. The Parties agree that this is an subsequent violation, which warrants a revocation of license under the Saint Paul Legislative Code Chapter 310.03(3) penalty matrix.

and;

WHEREAS, the Council finds that the terms and license conditions agreed upon by the parties will improve safety and help ensure that prohibited flavored tobacco are not sold on the Licensed Premises; and now, therefore, be it,

RESOLVED, that the Department of Safety and Inspections is authorized to enter into the Settlement Agreement; and be it

FURTHER RESOLVED that the execution of the agreement will be considered the final adverse action of Council and the revocation of the license will be imposed.