

From: Moe Kia <moekia09@yahoo.com>
Sent: Wednesday, November 29, 2023 3:07 PM
To: Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us>
Subject: License violation for 830 S. Robert st.

Think Before You Click: This email originated **outside** our organization.

Dear Mr. Berkowitz,

In response to your letter dated November 18, 2023, regarding license ID 200057957.

Your letter was delivered to the next door business around November 22 while I was out of town for thanksgiving holiday. When I returned I learned about the letter from the next door business and went to the City of St Paul right away for guidance. They advised to contact you. I called the city attorney office and left a message on November 28 but have not gotten a response. So today I went to City Attorney office personally and I requested to have an explanation in front of city council (option #3).

So I'm requesting to get a chance to see all the related violation photos for MFK Enterprises and have a chance to explain in front of the city council.

Thank you for your consideration

Sincerely

Moe Kia

MFK Enterprises

612.231.3222

On Dec 1, 2023, at 8:37 AM, Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us> wrote:

Hello Mr. Kia,

If you are represented by a lawyer in this matter, please let me know. We are not allowed to talk to you directly if you are represented by a lawyer in this matter.

I was out of the office the past couple of days and unable to respond.

If you wish to have a public hearing before the Saint Paul City Council then you **must admit to the facts in the letter dated November 18, 2023.**

Do you admit that you violated license conditions #1 and #2 on August 9, 2023, as documented by Inspector Vang?

If you do, then I will go ahead and begin the process of arranging a public hearing in front of the Saint Paul City Council. The Council will then determine if a fine should be imposed, but before that you will have an opportunity to make a statement on your own behalf regarding the matter.

Please let me know.

Thank you,

<image001.png>

Alan Tellez Berkowitz

Law Clerk – Civil Division

Pronouns: he/him/his
Office of the City Attorney
15 W. Kellogg Blvd.

Saint Paul, MN 55102

P: 651-266-8744

alan.tellez@ci.stpaul.mn.us

From: Moe Kia <moekia09@yahoo.com>
Sent: Friday, December 1, 2023 11:14 AM
To: Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us>
Subject: Re: License violation for 830 S. Robert st.

Think Before You Click: This email originated **outside** our organization.

Good morning sir: In response to your letter I should mention I have no lawyer and it is just me representing myself. I admit a violation has happened but Mr Vang inspector, has spoken to the other business manager and he has told him violation is on my side and blamed it on me. On both inspection visits I was closed and not been here and Mr Vang even has mentioned that in his visit. So if you please tell the inspector Vang to provide me all the photos in this case so I can get a chance to see them before appearing in front of city council members. Thank you so much for your help in this matter.
Respectfully: Moe Kia

Sent from my iPhone

On Friday, December 1, 2023 at 12:03:43 PM CST, Alan Tellez Berkowitz
<alan.tellez.berkowitz@ci.stpaul.mn.us> wrote:

Mr. Moe Kia,

I have spoken to Therese Skarda, the city attorney representing the Department of Safety and Inspections (DSI). She has informed me that if you want a hearing before City Council, then you must admit that **you** are responsible for the violation and **that you allowed those cars to park in violation of your license conditions.**

If you believe that your neighboring business manager is responsible for the violation, then we **cannot** have a hearing before City Council.

However, you can have a hearing before an Administrative Law Judge (ALJ) to dispute the facts (option 4), and there you can argue that you were not responsible for the violation.

Please let me know if you either:

1. Want to have a hearing before an ALJ to dispute the facts of the violation **OR**
2. If you **admit that you caused and are responsible for the violations** and still would like to have a hearing before City Council.

Also, please find attached the Notice of Violation packet which has all the pictures.

These are all the pictures Inspector Vang took there are no other pictures.

Thank you,

Alan Tellez Berkowitz

From: Moe Kia <moekia09@yahoo.com>
Sent: Tuesday, December 5, 2023 12:20 PM
To: Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us>
Subject: Re: License violation for 830 S. Robert st.

Think Before You Click: This email originated outside our organization.

Dear Mr. Berkowitz

I am in receipt of your email containing the photos regarding the violation. As you witness in the photos, the Toyota Rav4 is parked in front of the their garage belonging to Import Auto Enterprises and it is their car. The owner Mr. Mohamed Abedi is generally not here due to poor health and his friend Mr. Manouchehr Dousti runs the business for him and is easy for this man to not accept full responsibility for his act and instead blames it on others. So Import Auto is responsible for license violation #2.

The other photos regarding the 2 BMW customer cars that were towed here and the engines were not running. They dropped the cars in the spots designated for customer parking and were parked in a crooked way. Therefore there was no way for us to move it right away because the engine was locked up. But those cars have been removed from our lot. If parking a car in the designated area but a bit crooked is a violation of license condition, I will take the responsibility although I explained the logic behind it.

We are a small location with a capacity of 10 cars for each of us in this lot. Having been here for over 20 years serving the lower income community with no interest loans and very low down payments so we have no intention to cause problems for the neighborhood. I look forward to explaining the situation in front of the council and to do our best for the future.

Happy holidays and thank you for your time.

Respectfully,

Moe Kia
612.231.3222

From: Alan Tellez Berkowitz
Sent: Wednesday, December 6, 2023 8:22 AM
To: Moe Kia <moekia09@yahoo.com>
Subject: RE: License violation for 830 S. Robert st.

Hello Mr. Kia,

If you want to go before City Council then you must admit all the violations were your fault, and then in front of City Council you can argue about the penalty.

However, if you cannot admit the violations, or as in this case, you argue that one violation was not caused by you, then we need to go to an administrative law judge to have the hearing.

Please let me know what you would like to do.

Thank you,

Alan Tellez Berkowitz

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Alan Tellez Berkowitz, being first duly sworn, deposes and says that on the sixteenth day of November he served the attached **NOTICE OF VIOLATION RECOMMENDATION FOR IMPOSITION OF A \$500 MATRIX PENALTY** and a correct copy thereof in an envelope addressed as follows:

M F K Enterprise Inc
d/b/a M F K Enterprise
830 Robert Street South
St. Paul, MN 55107

Moe Faryaneh Kia
9133 Utica Avenue South
St. Paul, MN 55107

Mohammad Bagher Abedi / Mostafa Kia
830 Robert Street South
St. Paul, MN 55107

Monica Bravo, Executive Director,
West Side Community Organization
Baker Center, 209 Page Street West
St. Paul, MN 55107

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.



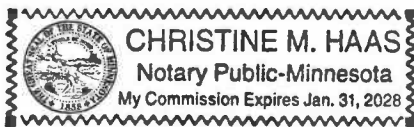
Alan Tellez Berkowitz

Subscribed and sworn to before me
This sixteenth day of November 2023



Christine Haas

Notary Public





November 16, 2023

**NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF A \$500 MATRIX PENALTY**

M F K Enterprise Inc
d/b/a M F K Enterprise
830 Robert Street South
St. Paul, MN 55107
Attn: Moe Faryaneh Kia

RE: Auto Repair Garage and Second Hand Dealer – Motor licenses held by M F K Enterprise Inc d/b/a M F K Enterprise for the premises located at 830 Robert Street South in Saint Paul.
License ID #: 200057957

Mr. Faryaneh Kia:

The Department of Safety and Inspections (“Department”) will recommend adverse action against the Auto Repair Garage and Second Hand Dealer – Motor licenses held by M F K Enterprise (Licensee) for the premises located at 830 Roberts Street South in Saint Paul (“Licensed Premises”).

Saint Paul Legislative Code §310.06 (b) lays out the basis for adverse action. Subsection (6)(a) allows for adverse action when “The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith”.

Saint Paul Legislative Code §310.05(m)(1) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the conditions placed on the license.

License condition #1 states: “The number of vehicles on the lot for sale shall not exceed (20) twenty. There shall be (8) eight customer/employee parking spaces provided on the property. The arrangement of sales display area and off-street parking shall be as shown on site plan on file with DSI.”

License condition #2 states: “A drive lane shall be maintained open for thru vehicle access as shown on the site plan.”



The Department asserts the following facts along with attachments herein constitute proof of a violation of license conditions #1 and #2 by a preponderance of the evidence.

Synopsis of alleged facts:

An inspection of the licensed premises was conducted on July 17, 2023, due to a complaint submitted to the Department of Safety and Inspections (DSI). The following violations were discovered during the inspection: vehicles were not parked in accordance with the site plan filed with DSI and the licensed premises did not provide a maneuvering lane. Both violations violate the agreed upon licensed conditions.

You were given a Correction Notice indicating that these violations needed to be fully corrected on or before August 8, 2023, at which time, or shortly thereafter, a re-inspection would take place.

On August 9, 2023, Inspector Vang returned to the licensed premises for a re-inspection and observed and photographed cars parked in violation of the license conditions #1 and #2. Inspector Vang spoke with Mohammed Abedi. Inspector Vang introduced himself as a licensing inspector for the City of Saint Paul DSI. Inspector Vang explained to Mr. Abedi the reason for the visit was a re-inspection from an earlier inspection held on July 17, 2023. Inspector Vang handed a copy of the site plan to Mr. Abedi, the correction notice, and the license conditions. Inspector Vang asked if Moe Faryaneh, the license holder for M F K Enterprise, was there that day. Mr. Abedi proceeded to call Mr. Faryaneh and informed him of the situation. Inspector Vang continued his inspection and observed vehicles parked on the side of the building and a vehicle parked in front of the garage door. Inspector Vang educated Mr. Abedi that these vehicles were in violation for not being parked in accordance with the approved site plan. Mr. Abedi stated that he had brought his side of the business into compliance with the city's request and did not want to be in violation due to Mr. Faryaneh's violations on his side of the business.

As the Licensee you have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **November 27, 2023**, 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.
2. You can admit to the violation and pay the \$500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **November 27, 2023**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$500.00 matrix penalty, you may have a public 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 **November 27, 2023**. The matter will then be scheduled



before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the 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 **November 27, 2023**. 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 public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by November 27, 2023, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Alan Tellez Berkowitz, my Law Clerk at alan.tellez.berkowitz@ci.stpaul.mn.us

Sincerely,

/s/

Therese Skarda
Assistant City Attorney
License No.: 0240989

cc: Moe Faryaneh Kia, 9133 Utica Avenue South, Bloomington, MN 55437
Mohammad Bagher Abedi / Mostafa Kia, 830 Robert Street South, St. Paul, MN 55107-3232
Monica Bravo, Executive Director, West Side Community Organization
Baker Center, 209 Page Street West, St. Paul, MN 55107

Attachments: Inspector's Report 8/9/2023
Adverse Action Comments Text 11/6/2023
Saint Paul Legislative Code §310.05(m)(2)
Correction Notice cc: 9133 Utica Avenue South 7/25/2023
License Group Conditions Text
Correction Notice cc: 830 Robert Street South 7/25/2023



SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

License Group Comments Text
Site Plan - Zoning Information
Photographs taken on 8/9/2023 detailing license condition violations
Saint Paul Legislative Code § 310.06
Saint Paul Legislative Code § 310.05
ECLIPS Screenshots



Inspector's Report

Inspectors Name: Allan Vang

Date & Time: 8/9/2023 at 10:23am Staff Member's Name: Mohammed Abedi (Import Auto)

Business/DBA Name: Import Auto Enterprise Inc

Property Address: 830 Robert Street South

Reason for Visit: Re-inspection

Observations: vehicles not parked according to approved site plan

Photos Taken: ☒ Yes ☐ No – Area(s) of where the Photo(s) where taken: outside property

Action Taken: ☐ Education / warning

☐ Request for Adverse Action

Other: _____

Details of Conversations (Statements to and by Person Responsible for Property):

Upon arrival I spoke to the license holder Mohammed Abedi. I introduced myself as a DSI Licensing Inspector for the City of Saint Paul- Department of Safety and Inspections. Mohammed stated, "how can I help you with." I explained to Mohammed the reason for today's visit was for a re-inspection from an earlier inspection held on 7/17/2023, I handed a copy of the site plan, correction notice, with license conditions. I asked if Moe Faryaneh the license holder for MFK Enterprise was here today.

Mohammed stated no, and proceeded to call the license holder, Moe mentioned to Mohammed that he is current close for today and is currently at an auction. Mohammed informed Moe that a City Inspector was here.

Continuing my inspection, I observed vehicles parked on the side of the building and a vehicle parked in-front of the garage door. I educated Mohammed that these vehicles are in violation for not being parked in accordance with the approved site plan. Mohammed stated those vehicles belong to Moe and he will call Moe to come remove them and park correctly.

Mohammed also stated that he had brought his side of business into compliance with the city's request and does not want to be in violations for Moe's side of business.



Licensee: M F K ENTERPRISES INC

DBA: M F K ENTERPRISE

License #: 0057957

4/3/2020- Notice of Violation sent with an 4/27/2020 deadline to respond. SM

10/17/2018 - Entered resolution and attachments into Legistar (RES PH #18-331) for 11/7/2018 Public Hearing Agenda. JAK

10/16/2018 - Sent Notice of Council Hearing with attachments to licensee and District Council (November 7th 2018 @ 5:30 p.m.) JAK

10/03/2018 - Received letter from licensee requesting a public hearing. JAK

9/25/2018 - Sent Notice of Violation with a 10/05/2018 deadline to respond. JAK

09/26/2006 Cancel alarm permit per verbal & written confirmation from the licensee. LKK



July 25, 2023

Moe Faryaneh Kia
830 Robert Street South
St Paul, MN 55107

CORRECTION NOTICE

RE: Auto Repair Garage/Second Hand Dealer-Motor Vehicle - License ID 200057957 – 830 Robert Street South – DBA: M F K Enterprise

Moe Faryaneh Kia,

The above referenced property was inspected on 7/17/2023, due to a complaint submitted to the City of Saint Paul Department of Safety and Inspections (DSI). The following violation(s) discovered during the inspection must be fully corrected on or before 8/8/2023, at which time, or shortly thereafter, a re-inspection will take place. A request to extend this deadline may be submitted in writing to allan.vang@ci.stpaul.mn.us or mailed to 375 Jackson Street, Suite 220, Saint Paul, MN 55101 and must include a reason for extension.

Failure to fully correct the violation(s) noted below prior to re-inspection may result in adverse action against all licenses issued at the location up to and including license revocation.

Violation(s) discovered:

- License Condition 1: Vehicles not parked accordance with the approved site plan. Allow only twenty (20) vehicles
- License Condition 2: Must provide maneuvering lane at all time
- License Condition 4: All repair must be conducted inside the building
- License Condition 5: No exterior storage, and be in accordance with the Ramsey County Hazardous Waste -Tires, trash, oil, etc

Section 65.705 paragraph (c) of the Saint Paul Legislative Code requires/states that: All repair work shall be done within an enclosed building.

NOTE: License conditions for the property are listed on the reverse side of this document.

If you have questions regarding this matter or wish to request additional information, I may be reached at phone number 651-266-1915.

Respectfully,

Allan Vang
Inspector, DSI Licensing

C: 9133 Utica Avenue South- Bloomington, MN 55437

License Group Conditions Text

Licensee: M F K ENTERPRISES INC

DBA: M F K ENTERPRISE

License #: 0057957

07/12/2000 CF00-653

1. The number of vehicles on the lot for sale shall not exceed (20) twenty. There shall be (8) eight customer/employee parking spaces provided on the property. The arrangement of sales display area and off-street parking shall be as shown on site plan on file with DSI.
2. A drive lane shall be maintained open for thru vehicle access as shown on the site plan.
3. Vehicles shall not project into or be parked on public streets or boulevards. The post and chain barrier restraint device must be maintained along the property line on Winona to prevent encroachment into the public area.
4. All repair and servicing of vehicles shall be conducted inside the building and not on the exterior of the lot or on the public streets or boulevards.
5. There shall be no exterior storage of vehicle parts.
6. Storage of vehicle fluids batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste Regulations.
7. The dumpster must be stored on the property in an area of the site which is not required for customer parking or maneuvering.
8. Licensee shall monitor noise of equipment required for servicing vehicles. Overhead doors shall be kept closed when using noise producing tools.
9. Customer/employee parking spaces shall be designated with painted lines on parking surface and with appropriate signage delineating these spaces for the intended use. Striping of parking to be completed by July 1, 2000.



July 25, 2023

Moe Faryaneh Kia
9133 Utica Avenue South
Bloomington, MN 55437

CORRECTION NOTICE

RE: Auto Repair Garage/Second Hand Dealer-Motor Vehicle - License ID 200057957 – 830 Robert Street South – DBA: M F K Enterprise

Moe Faryaneh Kia,

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Respectfully,

Allan Vang
Inspector, DSI Licensing

C: 830 Robert Street South- St. Paul, MN 55107

License Group Conditions Text

Licensee: M F K ENTERPRISES INC

DBA: M F K ENTERPRISE

License #: 0057957

07/12/2000 CF00-653

1. The number of vehicles on the lot for sale shall not exceed (20) twenty. There shall be (8) eight customer/employee parking spaces provided on the property. The arrangement of sales display area and off-street parking shall be as shown on site plan on file with DSI.
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Licensee: M F K ENTERPRISES INC

DBA: M F K ENTERPRISE

License #: 0057957

11/6/2023 AA sent to JNV for review. AYV

8/9/2023 Re-inspection completed. under review for LC violation. AYV

7/25/2023 Correction Notice was mailed out. AYV

7/17/2023 Complaint inspection completed. In violation of lic. condition- under review. AYV

5/22/2023 Complaint inspection completed. In violations of license conditions. AYV

01/18/2023 Re-Inspection. Violations regarding the amount of vehicles in compliance. Outdoor storage was also brought to compliance. One vehicle not in approved parking space. License holder, Moe, stated that they cannot move the vehicle due to the motor not working. Said that tow truck left the vehicle in such location (behind the building, next to the south parking locations) when it was originally dropped off. Said he would have the vehicle moved the next time the tow truck comes over. Talking it over with licensing manager, given that the nature of the original complaint (number of vehicles) and that the outdoor storage was resolved, we will take license holder's word that it will be moved to a proper parking space. LSP

01/17/2023 Re-Inspection. Cars exceeding parking spaces were being towed upon arrival. Tow truck could only take one at a time, but property manager stated that it would be back and all cars exceeding spaces will be gone within an hour or two. Old outdoor storage was removed, but new items were placed out. Employee put away vehicle part (Steering Wheel) left outside. Upon review with JV, no outdoor storage of any kind allowed, including grills, lawnmower, chairs and tables found during inspection. Called License holder, letting him know this would need to be moved as well, and I would be back in 24hrs of call (3 P.M.) to reinspect the cars and outdoor storage. License holder Moe said he will do it, but expressed great frustration over the time we are giving (24hrs) and that the snow was making it hard to do so. LSP

01/09/2023 Re-inspection. Violations found. Property manager requested extension. Granted for 1 week. Re-inspection due 1/17/23

12/21/2022 Notice of Violation sent for 01/09/23 deadline for re-inspection.-LSP

12/01/2022 Violations found for outdoor storage. Also forwarding to Fire Safety for review of possible CofO concerns. -LSP

11/30/2022 Sent Photos to Ross Haddow for review.-LSP

11/28/2022 Inspection conducted-LSP

3/10/2022 Sent email to the CAO to remove AA for review of the new parking regulations JNV

3/8/2022 Sent to the CAO for an AA for lic con violations for a first violation with a \$500 fine JNV

3/8/2022 Sent to JNV for AA review ARM

3/4/2022 Reinspection conducted violations found. Will prepare of sending for AA. ARM

2/14/2022 Mailed correction notice with response date of 2/24/2022. ARM

2/11/2022 Follow up inspection, found violation will be sending correction notice. ARM

7/01/2020 Stayed for one year - no same or similar (on 10/28/2020 entered by) JNV

3/18/20 To CAO for adverse actionKS

02/26/2020: Re-inspection. In violation of condition 1. Black SUV on jacks and desk behind the black suv. KY

2/18/2020 Correction Letter Sent for violations JNV

02/10/2020: Complaint received. In violations of license conditions 5 and 6. KY

09/30/2019 Sent delinquent letter. Response deadline date is October 21, 2019. Max

3/6/2019 Received complaint 2/26/2019 regarding too many vehicles; inspected 3/5/2019. Lot was compliant regarding amount of vehicles. Called both lic. holders to let them know that they need to clean up the auto parts outside. Closed complaint. DSE

11/07/2018 CF #18-331 Imposes \$500.00 penalty for lic. cond. violations. Penalty stayed 6 mos. no same or sim. SLH

11/07/2018 Went to City Council on Nov 7, 2018. Both Import Auto and MFK: matrix penalty imposed but stayed imposition for 6 months pending no same or similar violations. DSE

07/05/2018 Sent to CAO for adverse action- \$500 penalty requested for first violation within 12 months. DE

06/28/2018 Reinspection- Vehicles not parked according to site plan, blocking drive lane, exterior storage of vehicle parts. To send to CAO for adverse action. DE

06/21/2018 Inspected site in response to complaint. 33 vehicles on lot, drive lane blocked, exterior storage of parts, and painted lines missing. Gave verbal warning. DE

09/29/2015 Sent delinquent letter. Response deadline date is October 20, 2015. Max

12/11/2014 Inspected site based on complaint of veh. parked on street nearby possibly associated with business. Observed 25 total cars on lot (18 for-sale + 7 cust./employee). One veh. parked on Robert St which an licensee (Moe Kia) stated had been repaired and was waiting for the owner to come pick-up (NOTE: whiel I was present someone from the property got into the car, drove onto the lot and spoke with Mr. Kia, left the lot in the vehicle, then returned with the vehicle and parked in the cust./employee parking area to the north of the bldg.). Provided licensee a copy of lic. cond. and site plan. Pictures taken. JWF

9/24/14 29 cars on lot numerous veh on Winona and Robert St. Watched customers park on Winona and Robert and walk in. Police incident at the time of my visit.KS

8/7/14Cars registered to MFK Parked on S.bound Robert.customer waiting for Moe to make a payment. Pic.taken.KS

12/11/2013 25 veh. parked on lot, one veh. not parked according to site plan (was a maneuvering lane of 9' between cars), no veh. parked on street surrounding property. Advised veh. not parked according to plan must be moved, they stated would be corrected by next day because customer parked it here and took keys. Took pictures. JWF

5/8/13 28 veh. on lot.One on street. Female came from office and got into silver car. Pict. taken. Several parked on street spoke to one of the owners that was very agumentive. KS

12/28/11 written orders to clean up garbage and car parts. comply by 12/30/11KS

10/28/11 In comp. with cond. 19 cars on lot 10 days to get rid of pallets dropped off by strangers. KS

4/19/11 In comp. with conditions 22 cars total on lot that included cars for sale and customer cars parked in lot.KS

2/24/09 Checked 830 So. Robert for license conditions. I spoke to Mohammad Abedi owner of Import Auto.

I explained to him that I needed to go over the conditions on the licenses with him. I counted the cars the total was within the allowable limit [he is allowed 28 total]. The number of vehicles for sale can not exceed 20.

The total offered for sale at the time of my inspection was 15. I saw no work being performed on the lot at the time of my inspection.RJ

01/10/2007 In compliance with lic. conditions. JWF

12/22/2006 Orders issued regarding inspections conducted on 10/17/2006, 10/23/2006, and 12/04/2006. See AMANDA complaint #06-249439. JWF

2/16/06Complaint of too many vehs-complaint stated that 35 cars were for sale-counted 19 no cause for complaint RWJ

4/12/05met Donna S on site concerning possible no parking sign on Robt.e-mail sent to PW requesting signRWJ 02/03/2005 in comp. owner showed up and we walked the area. Side walk clear. Red car HAF694 is not his or emp. KS.

01/24/2005 Met with owner went over conditions-in compliance . Owner indicated that he did not know about the Jeep.RWJ

01/24/2005 Rich Jents has verified that the JEEP has been removed. CAR

01/18/2005 Received complaint from Donna Swanson regarding Jeep parked for repair on the street. CAR

07/12/2000 Adopted resolution 00-653. finalizing City Council action taken 06/28. granting the application for auto repair garage.

Licensee: M F K ENTERPRISES INC

DBA: M F K ENTERPRISE

License #: 0057957

06/15/2000 Notice of Council Hearing from CAO for ALJ report. Hearing set for 06/28/2000 at 5:30 PM. ALJ is recommending approval of the license with conditions. CAR

05/15/2000 96 Ply.van 036-MPV regist. to MFK Enterprises parked on Robert St. Pic. taken.KS

04/26/2000 Letter from CAO rescheduling hearing from 05/26/2000 to 06/05/2000, 9:30AM, Room 41. CAR

04/20/2000 Notice of Hearing on adverse action set for 05/26/2000, 9:30AM, Room 41. CAR

03/23/2000 complaint,cars parked on Robert Stl. Dealer sticker for MFK,Dir.#2065493 Maxzda also 95Mitsubishe Plate #391-LLy.

03/08/2000 Resolution 00-135 app for auto repair garage laid over indefinitely and referred to LIEP for initiation of scheduling ALJ. CAA

03/06/2000 took picture of a car regis.to MFK on Wyoming St. Permit #CO331049 DrLic.R-200-139-275-093.Also recd.comp. about a junk car in front of 800 Robert took pic.KS.

02/23/2000 Public hearing notification mailed 02/23/2000, copy to Mike Wilde, Attorney for Mr. Kia; 66M & 43EM/JL

02/16/2000 Council laid over to March 8 for public hearing. CAA

02/03/2000 Gerry Strathman to recommend approval w/conditions to City Council, Consent Agenda on 02/16. CAA

01/18/2000 Leg hrg sched: 02/03/2000 at 11:00am. CAA

12/14/1999 Notification response date 01/14/2000, notices mailed 12/14/1999; 68M & 43EM. Condition affidavit mailed for signature and returned to our office/JL

12/06/1999 Need zoning approval to send out 30 day notice for Auto Repair Garage. CAM

11/29/1999 Licensee paid \$500.00 fine - final payment. KS/CAM

11/04/1999 20 cars on the lot.KS

10/29/1999 Paid \$500 fine. \$500 due 11/30. CAR

Licensee wants to make payment on fine.1/2 now and the 2nd 1/2 in 30 days.Ok per CR.

10/27/1999 Kris hand delivered Suspension and/or Fine and Stayed Suspension letter - LAB

10/13/1999 CF99-989 Finalizing City Council action taken 09/22 concerning adverse action against licenses held. Details: 1) The licenses shall be suspended for a period of thirty days effective 12:01am on 11/03/1999 - 11:59pm on 12/02/1999 or in the alternative, the licensees shall pay a fine of \$2,000.00 each, which fine shall be due on or before 10/26. 2) An additional 30-days suspension shall be imposed, which suspension is hereby stayed for a period of 18 months on the condition that there be no further violations of the license conditions or violations of law during that period. 3) The condition on each of the licenses that permit the display of 40 cars on the premises shall be amended

Licensee: M F K ENTERPRISES INC

DBA: M F K ENTERPRISE

License #: 0057957

07/12/2000 CF00-653

1. The number of vehicles on the lot for sale shall not exceed (20) twenty. There shall be (8) eight customer/employee parking spaces provided on the property. The arrangement of sales display area and off-street parking shall be as shown on site plan on file with DSI.
2. A drive lane shall be maintained open for thru vehicle access as shown on the site plan.
3. Vehicles shall not project into or be parked on public streets or boulevards. The post and chain barrier restraint device must be maintained along the property line on Winona to prevent encroachment into the public area.
4. All repair and servicing of vehicles shall be conducted inside the building and not on the exterior of the lot or on the public streets or boulevards.
5. There shall be no exterior storage of vehicle parts.
6. Storage of vehicle fluids batteries, etc. shall be in accordance with the Ramsey County Hazardous Waste Regulations.
7. The dumpster must be stored on the property in an area of the site which is not required for customer parking or maneuvering.
8. Licensee shall monitor noise of equipment required for servicing vehicles. Overhead doors shall be kept closed when using noise producing tools.
9. Customer/employee parking spaces shall be designated with painted lines on parking surface and with appropriate signage delineating these spaces for the intended use. Striping of parking to be completed by July 1, 2000.

101

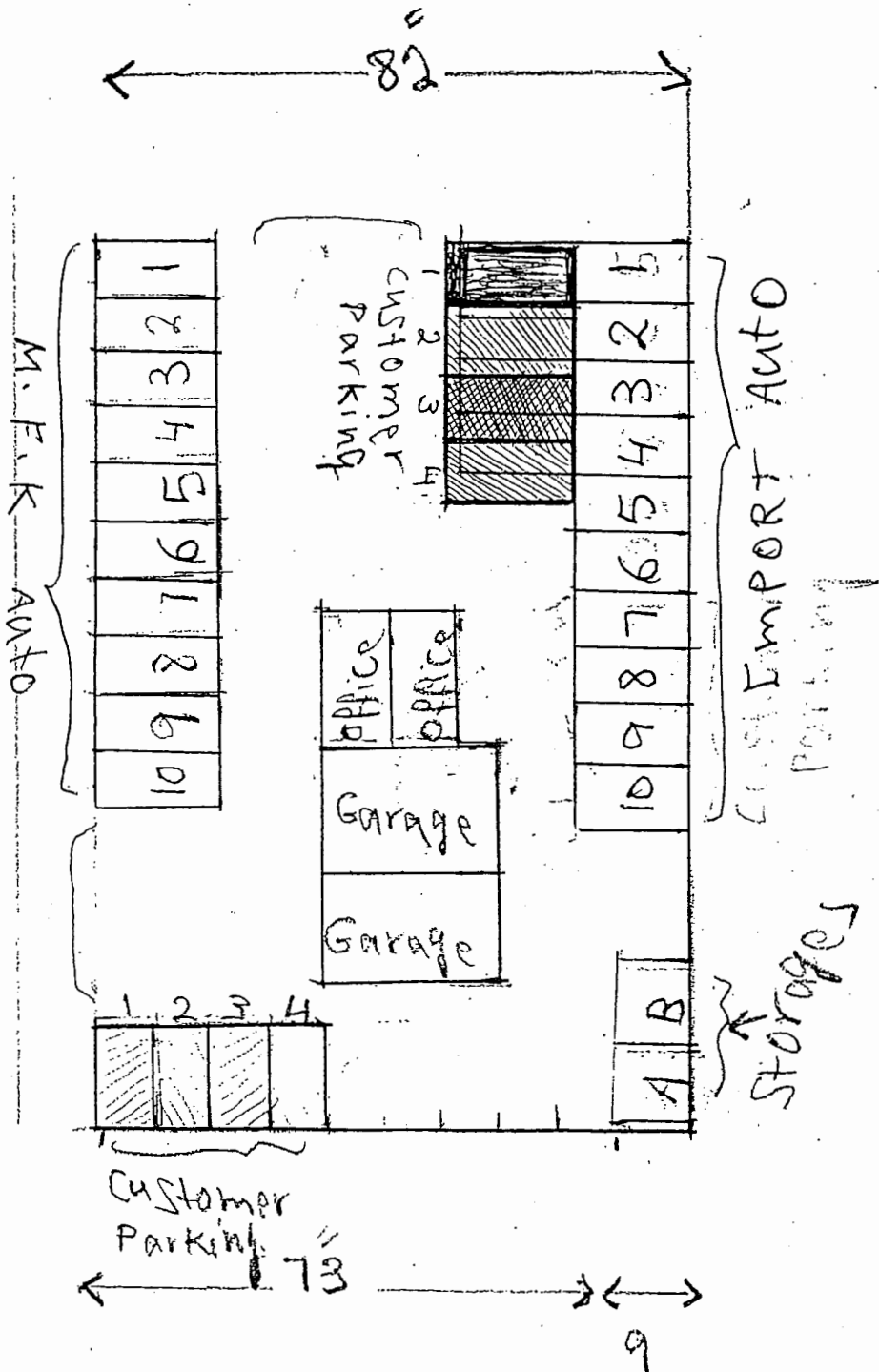
830 Robert St S

Scale
1" = 1 cm



ROBERT ST

WINONA

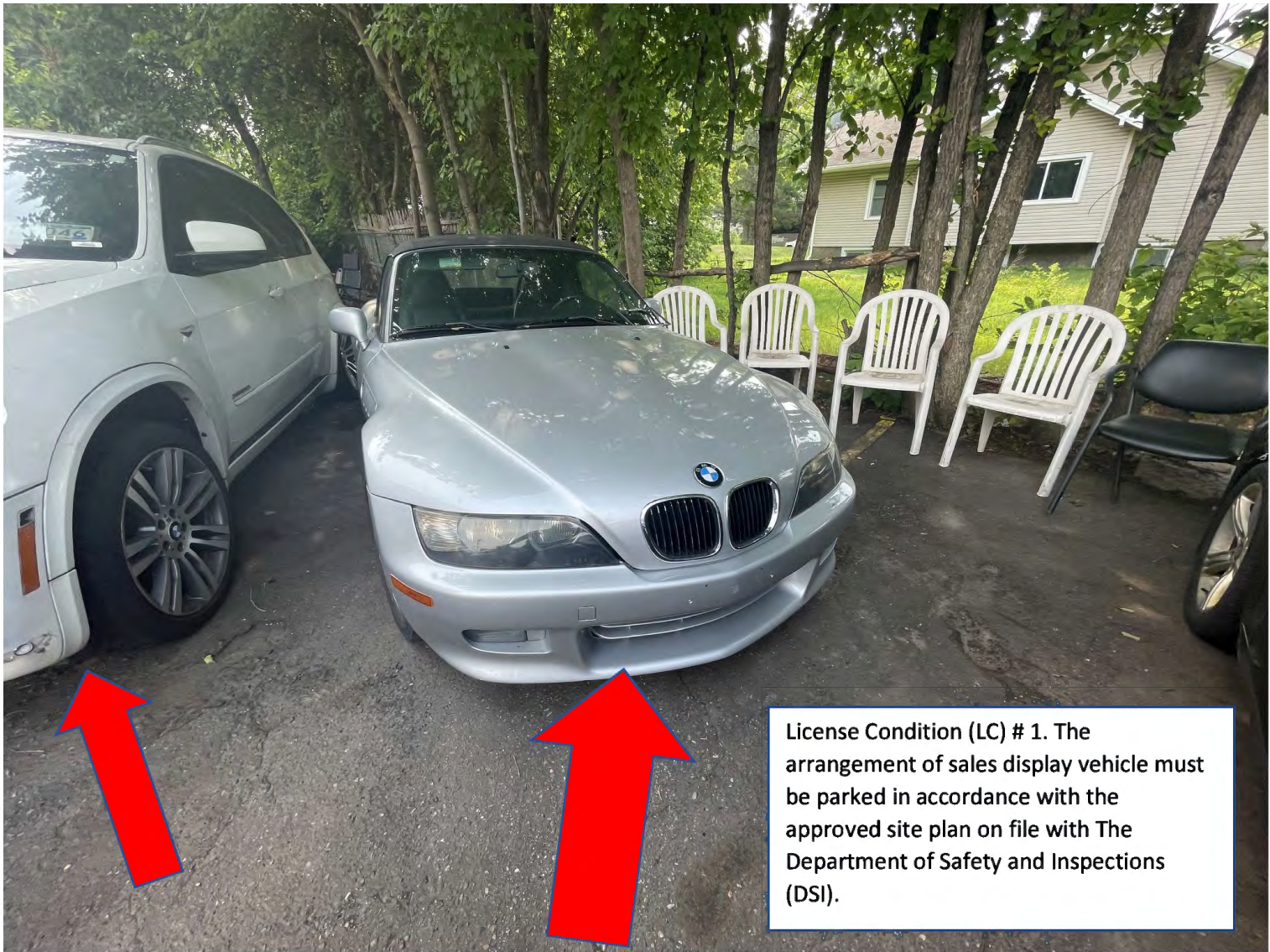


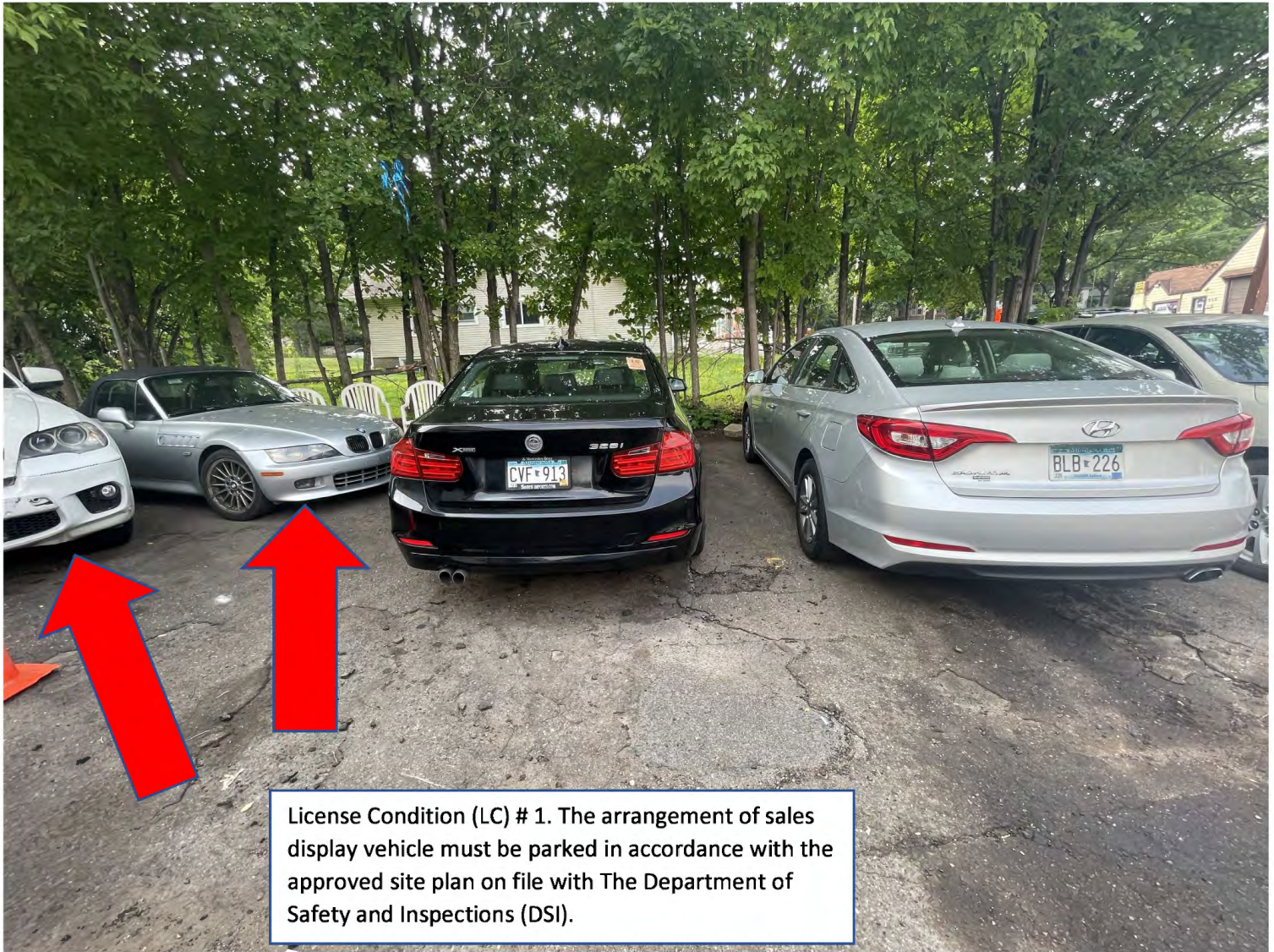
2/3/00 LZO



License Condition (LC) # 1. The arrangement of sales display vehicle must be parked in accordance with the approved site plan on file with The Department of Safety and Inspections (DSI).







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Sec. 310.06. - Revocation; suspension; adverse actions; imposition of conditions.

- (a) *Council may take adverse action.* The council is authorized to take adverse action, as defined in section 310.01 above, against any or all licenses or permits, licensee or applicant for a license, as provided in and by these chapters. Adverse actions against entertainment licenses issued under chapter 411 of the Legislative Code may be initiated for the reasons set forth in subsection (b) below, or upon any lawful grounds which are communicated to the license holder in writing prior to the hearing before the council. Such actions shall be initiated and carried out in accordance with the procedures outlined in section 310.05; provided, however, that the formal notice of hearing shall be used to initiate the adverse action without the use of prior procedural steps.
- (b) *Basis for action.* Such adverse action may be based on one (1) or more of the following reasons, which are in addition to any other reason specifically provided by law or in these chapters:
- (1) The license or permit was procured by misrepresentation of material facts, fraud, deceit or bad faith.
 - (2) The applicant or one acting in his or her behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.
 - (3) The license was issued in violation of any of the provisions of the zoning code, or the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations.
 - (4) The license or permit was issued in violation of law, without authority, or under a material mistake of fact.
 - (5) The licensee or applicant has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license.
 - (6) a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;
 - b. The licensee or applicant has been convicted of a crime that may disqualify said applicant from holding the license in question under the standards and procedures in Minnesota Statutes chapter 364; or
 - c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.
- (7)

The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.

- (8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.
- (9) Failure to keep sidewalks or pedestrian ways reasonably free of snow and ice as required under chapter 114 of the Saint Paul Legislative Code.
- (10) The licensee or applicant has shown by past misconduct or unfair acts or dealings: physical abuse, assaults or violent actions done to others, including, but not limited to, actions meeting the definition of criminal sexual conduct pursuant to Minnesota Statutes sections 609.342 through 609.3451; sexual abuse, physical abuse or maltreatment of a child as defined in Minnesota Statutes section 626.556, subdivisions 2 and 10e, including, but not limited to, acts which constitute a violation of Minnesota Statutes sections 609.02, subdivision 10; 609.321 through 609.3451; or 617.246; neglect or endangerment of a child as defined in Minnesota Statutes section 626.557, subdivision 2; the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minnesota Statutes chapter 152; the possession of a controlled substance as defined in Minnesota Statutes chapter 152 in such quantities or under circumstances giving rise to a reasonable inference that the possession was for the purpose of sale or distribution to others; or by the abuse of alcohol or other drugs, that such licensee or applicant is not a person of the good moral character or fitness required to engage in a licensed activity, business or profession.
- (11) The licensee or applicant has materially changed or permitted a material change in the design, construction or configuration of the licensed premises without the prior approval of the city council in the case of Class N licenses, the director in the case of Class T licenses, and the inspector in the case of Class R licenses, or without first having obtained the proper building permits from the city.
- (12) The licensee or applicant has violated section 294.01 of the Legislative Code, or has made or attempted to make a prohibited ex parte contact with a council member as provided in section 310.05(c-2) of the Legislative Code.
- (13) The licensee violated the law or any license condition and that violation is related to a death or great bodily harm, as defined in Minnesota Statute section 609.02, subd. 8, in or near the establishment.
- (14)

The licensee has failed to pay license fees within sixty (60) days of the date the fees are due. Licensee must pay any outstanding fees and delinquent fees in total. Failure to do so within sixty (60) days of the due date may result in revocation of the license. A revocation for this reason, however, is not considered a revocation resulting from misconduct or unfitness of the licensee, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. Therefore, the requirement of § 310.02(d) prohibiting re-application within one year of revocation shall not apply to revocations under this paragraph.

The terms "licensee" or "applicant" for the purpose of this section shall mean and include any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed.

With respect to any license for activities entitled to the protection of the First Amendment, notwithstanding the foregoing provisions, neither the lack of good moral character or fitness of the licensee or applicant nor the content of the protected speech or matter shall be the basis for adverse action against the license or application.

- (c) *Imposition of reasonable conditions and/or restrictions.* When a reasonable basis is found to impose reasonable conditions and/or restrictions upon a license issued or held under these chapters, any one (1) or more such reasonable conditions and/or restrictions may be imposed upon such license for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting security and safety in nearby neighborhoods. Such reasonable conditions and/or restrictions may include or pertain to, but are not limited to:
- (1) A limitation on the hours of operation of the licensed business or establishment, or on particular types of activities conducted in or on said business or establishment;
 - (2) A limitation or restriction as to the location within the licensed business or establishment where particular type of activities may be conducted;
 - (3) A limitation as to the means of ingress or egress from the licensed establishment or its parking lot or immediately adjacent area;
 - (4) A requirement to provide off-street parking in excess of other requirements of law;
 - (5) A limitation on the manner and means of advertising the operation or merchandise of the licensed establishment;
 - (6) Any other reasonable condition or restriction limiting the operation of the licensed business or establishment to ensure that the business or establishment will harmonize with the character of the area in which it is located, or to prevent the development or continuation of a

nuisance.

The inspector may impose such conditions on Class R licenses with the consent of the license holder, or may recommend the imposition of such conditions as an adverse action against the license or licenses; the inspector has the same power with respect to Class T licenses. The council may impose such conditions on Class N licenses with the consent of the license holder, or upon any class of license as an adverse action against the license or licenses following notice and hearing as may be required. Such conditions may be imposed on a license or licenses upon issuance or renewal thereof, or upon and as part of any adverse action against a license or licenses, including suspension. Conditions imposed on a license or licenses shall remain on such licenses when renewed and shall continue thereafter until removed by the council in the case of conditions on Class N licenses or conditions imposed by adverse action, and by the inspector in the case of Class R and T licenses.

- (d) *Standards for multiple license determination.* In any case in which the council is authorized to take adverse action against less than all of the licenses held by a licensee, or applied for by an applicant, the following standards may be used:
- (1) The nature and gravity of the grounds found by the council to exist upon which the adverse action would be based;
 - (2) The policy and/or regulatory goals for the particular licenses involved, either as embodied in the Legislative Code or as found and determined by the council;
 - (3) The interrelationship of the licenses and their relative importance to the overall business enterprise of the licensee or applicant;
 - (4) The management practices of the licensee or applicant with respect to each of such licenses;
 - (5) The extent to which adverse action against less than all of the licenses or applications would result in difficulty in enforcing and monitoring the adverse action taken;
 - (6) The hardship to the licensee or applicant that would be caused by applying adverse action to all licenses or applications; and
 - (7) The hardship and/or danger to the public, or to the public health and welfare, that would result from adverse action against less than all of the licenses or applications.

(Code 1956, § 510.06; Ord. No. 17584, § 1, 8-25-88; Ord. No. 17657, § 15, 6-8-89; Ord. No. 17659, § 2, 6-13-89; Ord. No. 17901, §§ 2, 3, 1-14-92; Ord. No. 17917, §§ 2, 3, 3-31-92; Ord. No. 17922, § 1, 4-28-92; C.F. No. 94-500, § 3, 7-6-94; C.F. No. 94-1340, § 3, 10-19-94; C.F. No. 95-473, § 5, 5-31-95; C.F. No. 99-500, § 3, 7-7-99; C.F. No. 06-954, § 2, 11-8-06; C.F. No. 06-1072, § 2, 12-27-06)

Sec. 310.05. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee shall be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the inspector, by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee shall have been notified in writing that adverse action may be taken against the license or application, and that he or she is entitled to a hearing before action is taken by the council. The notice shall be served or mailed a reasonable time before the hearing date, and shall state the place, date and time of the hearing. The notice shall state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the inspector or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing shall be held before the council. Otherwise the hearing shall be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee shall be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.
- (c-1) *Procedure; hearing examiner.* The hearing examiner shall hear all evidence as may be presented on behalf of the city and the applicant or licensee, and shall present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council shall consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and shall not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council shall provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations, together with

such additional arguments presented at the hearing, the council shall determine what, if any, adverse action shall be taken, which action shall be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein shall prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, shall mean and include a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken shall contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions shall be complied with and shall supersede inconsistent provisions of these chapters. This shall include, without limitation by reason of this specific reference, Minnesota Statutes, Chapter 364 and Minnesota Statutes, Section 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to

withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action shall be prepared by the license inspector and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the matrix in section 409.26 of the Legislative Code; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole

discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions shall be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision shall be controlling.

- (m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, and shall apply to all license types, except that in the case of a violation involving a liquor license § 409.26 shall apply where a specific violation is listed. In the case of an adverse action filed for a violation of chapter 331A, the licensee shall be given a fine for each individual violation of chapter 331A. The total fine amount for violations of chapter 331A may exceed the maximum fine outlined below due to multiple violations in one (1) appearance. All penalty recommendations for chapter 331A violations shall be based on the food penalty guideline referred to in chapter 331A. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Violations of conditions placed on the license	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(2) Violation of provisions of the legislative code relating to the licensed activity	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation

(3) Violation of provisions of the legislative code relating to the licensed activity, other than violations of the food code	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(4) Failure to permit entrance or inspection by DSI inspector or police	5-day suspension	10-day suspension	15-day suspension	Revocation
(5) Commission of a crime other than a felony on the premises by a licensee or employee	\$700.00	\$1,500.00	5-day suspension	Revocation
(6) Commission of a felony on the premises by a licensee or employee	\$2,000.00	Revocation	n/a	n/a

(7) Death or great bodily harm in establishment related to violation of law or license conditions	30-day suspension	60-day suspension	Revocation	n/a
(8) Failure to pay license fees	Suspension	Revocation		
(9) Critical violations under <u>331A</u>	\$250.00	\$500.00	\$1,000.00, 5-day suspension	Revocation
(10) Non-critical violation under <u>331A</u>	\$150.00	\$250.00	\$500.00	\$1,000.00
(11) Taxi fail to display driver's license as required by <u>376.16(f)</u>	\$100.00	\$250.00	\$500.00	Revocation
(12) Taxi fail to display number of information and complaint office as required by <u>376.11(v)</u>	\$100.00	\$250.00	\$500.00	Revocation

(13) Violation of restrictions upon sidewalk café license under <u>106.01(b)</u>	\$200.00	\$400.00	\$800.00	Revocation
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(i) *Fines payable without hearing.*

- A. Notwithstanding the provisions of section 310.05(c), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- B. For adverse action initiated under chapter 331A of this Code, a fine may be paid without a hearing regardless of how many prior appearances that licensee has made before the council. The above council hearing requirement applies to violations under chapter 331A unless the fine recommended by the department of safety and inspections is equal to or less than the fine amount outlined in the above matrix. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations. A non-critical violation under chapter 331A shall not be considered an "appearance" for purposes of determining presumptive penalties for non-331A violations. A council hearing is required if the department of safety and inspections recommends a fine that is an upward departure for the amount outlined above.

- (ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.

(iii)

Violations occurring after the date of the notice of hearing. Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures shall apply to a second, third or fourth appearance before the council.

- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, non-critical violations of chapter 331A shall not be counted as an "appearance" before the council in relation to any violation other than another violation of chapter 331A.
- (v) *Computation of time.*
 - (1) *Second appearance.* A second violation within twelve (12) months shall be treated as a second appearance for the purpose of determining the presumptive penalty.
 - (2) *Third appearance.* A third violation within eighteen (18) months shall be treated as a third appearance for the purpose of determining the presumptive penalty.
 - (3) *Fourth appearance.* A fourth violation within twenty-four (24) months shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (4) Any appearance not covered by subsections (1), (2) or (3) above shall be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
 - (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions shall be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same shall be counted as a third appearance regardless of how much time has passed since the first or second appearance.
 - (6) For the purpose of a second, third or fourth appearance under this section, "violation" shall mean either one of those violations listed in paragraph (m) or a violation of section 409.26(b).

(Code 1956, § 510.05; Ord. No. 17551, § 2, 4-19-88; Ord. No. 17559, §§ 1, 2, 5-17-88; Ord. No. 17659, § 1, 6-13-89; Ord. No. 17911, § 1, 3-10-92; C.F. No. 94-46, § 7, 2-2-94; C.F. No. 94-898, §§ 2, 3, 7-13-94; C.F. No. 94-1340, § 2, 10-19-94; C.F. No. 95-473, § 4, 5-31-95; C.F. No. 05-180, § 1, 4-6-05; C.F. No. 06-954, § 1, 11-8-06; C.F. No. 06-1072, § 1, 12-27-06; C.F. No. 07-149, § 73, 3-28-07; C.F. No. 07-1053, § 1, 11-28-07; C.F. No. 08-1208, § 1, 12-17-08; C.F. No. 10-665, § 1, 7-28-10; Ord. No. 11-93, § 1, 9-28-11; Ord. No. 11-94, § 1, 10-12-11; Ord 12-42, § 1, 8-22-12; Ord 12-85, § 1, 1-23-13)

From: [Alan Tellez Berkowitz](#)
To: [Moe Kia](#)
Cc: [Therese Skarda](#)
Subject: RE: License violation for 830 S. Robert st.
Date: Wednesday, December 13, 2023 10:25:56 AM

Hello Mr. Kia,

I have not heard back from you regarding my question Mr. Kia, if I do not hear back from you by Friday then the City will be putting this matter on the consent Agenda.

There are three choices you have:

1. Admit the violations were caused by YOU and pay the fine.
2. Admit all the violations were caused by YOU and go before City Council to argue about how much the fine should be only. (you cannot argue that your neighbor caused the violations).
3. Deny the violations were your fault and have an administrative hearing where you can argue to a judge that the violations were not your fault. (there you can make any other arguments).

Please get back to Therese Skarda by **Friday December 15**. She is cc'd in this email.

I will be out of the office for a month and will not respond.

Thank you,

Alan Tellez Berkowitz

From: Alan Tellez Berkowitz
Sent: Wednesday, December 6, 2023 8:22 AM
To: Moe Kia <moekia09@yahoo.com>
Subject: RE: License violation for 830 S. Robert st.

Hello Mr. Kia,

If you want to go before City Council then you must admit all the violations were your fault, and then in front of City Council you can argue about the penalty.

However, if you cannot admit the violations, or as in this case, you argue that one violation was not caused by you, then we need to go to an administrative law judge to have the hearing.

Please let me know what you would like to do.

Thank you,

Alan Tellez Berkowitz

From: Moe Kia <moekia09@yahoo.com>

Sent: Tuesday, December 5, 2023 12:20 PM

To: Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us>

Subject: Re: License violation for 830 S. Robert st.

Think Before You Click: This email originated **outside** our organization.

Dear Mr. Berkowitz

I am in receipt of your email containing the photos regarding the violation. As you witness in the photos, the Toyota Rav4 is parked in front of the their garage belonging to Import Auto Enterprises and it is their car. The owner Mr. Mohamed Abedi is generally not here due to poor health and his friend Mr. Manouchehr Dousti runs the business for him and is easy for this man to not accept full responsibility for his act and instead blames it on others. So Import Auto is responsible for license violation #2.

The other photos regarding the 2 BMW customer cars that were towed here and the engines were not running. They dropped the cars in the spots designated for customer parking and were parked in a crooked way. Therefore there was no way for us to move it right away because the engine was locked up. But those cars have been removed from our lot. If parking a car in the designated area but a bit crooked is a violation of license condition, I will take the responsibility although I explained the logic behind it.

We are a small location with a capacity of 10 cars for each of us in this lot. Having been here for over 20 years serving the lower income community with no interest loans and very low down payments so we have no intention to cause problems for the neighborhood. I look forward to explaining the situation in front of the council and to do our best for the future.

Happy holidays and thank you for your time.

Respectfully,

Moe Kia
612.231.3222

On Friday, December 1, 2023 at 12:03:43 PM CST, Alan Tellez Berkowitz <alan.tellez.berkowitz@ci.stpaul.mn.us> wrote:

Mr. Moe Kia,

I have spoken to Therese Skarda, the city attorney representing the Department of Safety and Inspections (DSI). She has informed me that if you want a hearing before City Council, then you must admit that **you** are responsible for the violation and **that you allowed those cars to park in violation of your license conditions.**

If you believe that your neighboring business manager is responsible for the violation, then we **cannot** have a hearing before City Council.

However, you can have a hearing before an Administrative Law Judge (ALJ) to dispute the facts (option 4), and there you can argue that you were not responsible for the violation.

Please let me know if you either:

1. Want to have a hearing before an ALJ to dispute the facts of the violation **OR**
2. If you **admit that you caused and are responsible for the violations** and still would like to have a hearing before City Council.

Also, please find attached the Notice of Violation packet which has all the pictures.

These are all the pictures Inspector Vang took there are no other pictures.

Thank you,

Alan Tellez Berkowitz

From: Moe Kia <moekia09@yahoo.com>
Sent: Friday, December 1, 2023 11:14 AM
To: Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us>
Subject: Re: License violation for 830 S. Robert st.

Think Before You Click: This email originated **outside** our organization.

Good morning sir: In response to your letter I should mention I have no lawyer and it is just me representing myself. I admit a violation has happened but Mr Vang inspector, has spoken to the other business manager and he has told him violation is on my side and blamed it on me. On both inspection visits I was closed and not been here and Mr Vang even has mentioned that in his visit. So if you please tell the inspector Vang to provide me all the photos in this case so I can get a chance to see them before appearing in front of city council members. Thank you so much for your help in this matter. Respectfully: Moe Kia

Sent from my iPhone

On Dec 1, 2023, at 8:37 AM, Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us> wrote:

Hello Mr. Kia,

If you are represented by a lawyer in this matter, please let me know. We are not allowed to talk to you directly if you are represented by a lawyer in this matter.

I was out of the office the past couple of days and unable to respond.

If you wish to have a public hearing before the Saint Paul City Council then you **must admit to the facts in the letter dated November 18, 2023.**

Do you admit that you violated license conditions #1 and #2 on August 9, 2023, as documented by Inspector Vang?

If you do, then I will go ahead and begin the process of arranging a public hearing in front of the Saint Paul City Council. The Council will then determine if a fine should be imposed, but before that you will have an opportunity to make a statement on your own behalf regarding the matter.

Please let me know.

Thank you,

<image001.png>

Alan Tellez Berkowitz

Law Clerk – Civil Division

Pronouns: he/him/his
Office of the City Attorney
15 W. Kellogg Blvd.

Saint Paul, MN 55102

P: 651-266-8744

alan.tellez@ci.stpaul.mn.us

From: Moe Kia <moekia09@yahoo.com>

Sent: Wednesday, November 29, 2023 3:07 PM

To: Alan Tellez Berkowitz <Alan.Tellez.Berkowitz@ci.stpaul.mn.us>

Subject: License violation for 830 S. Robert st.

Think Before You Click: This email originated **outside** our organization.

Dear Mr. Berkowitz,

In response to your letter dated November 18, 2023, regarding license ID 200057957.

Your letter was delivered to the next door business around November 22 while I was out of town for thanksgiving holiday. When I returned I learned about the letter from the next door business and went to the City of St Paul right away for guidance. They advised to contact you. I called the city attorney office and left a message on November 28 but have not gotten a response. So today I went to City Attorney office personally and I requested to have an explanation in front of city council (option #3).

So I'm requesting to get a chance to see all the related violation photos for MFK Enterprises and have a chance to explain in front of the city council.

Thank you for your consideration

Sincerely

Moe Kia

MFK Enterprises

612.231.3222