

**CITY OF MINNEAPOLIS
CITY COUNCIL
PUBLIC SAFETY & REGULATORY SERVICES COMMITTEE**

In the Matter of the Grocery & Tobacco Dealer,
Licenses Held by Uncle Bill's Market, Inc.
d/b/a Uncle Bill's Market

**PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION FOR
ADVERSE LICENSE ACTION**

This matter comes on for a license hearing on Wednesday September 27, 2006 at the regularly-scheduled meeting of the Public Safety & Regulatory Services Committee of the Minneapolis City Council. The license hearing has been called to consider the Findings of Fact, Conclusions of Law and Recommendation submitted by Administrative Law Judge Richard C. Luis on September 1, 2006 related to the operation of Uncle Bill's Market, Inc., d/b/a Uncle Bill's Market (hereinafter "the Licensee"), located at 2428 Plymouth Avenue North, Minneapolis, Minnesota 55411.

Based upon the record as forwarded to the Committee by the State of Minnesota Office of Administrative Hearings as well as the arguments and exceptions presented to the Committee in hearing, the Committee hereby makes the following:

FINDINGS OF FACT

1. At the March 22, 2006 meeting of the Public Safety & Regulatory Services Committee this matter was referred to the State of Minnesota Office of Administrative Hearings for purposes of the holding of an administrative hearing regarding the Grocery and Tobacco Dealer licenses held by the Licensee. On March 31, 2006 the full Minneapolis City Council approved the referral.

2. The administrative hearing process was initiated pursuant to a Notice of and Order for Hearing dated May 19, 2006. Administrative Law Judge (hereinafter “ALJ”) Richard C. Luis was assigned to preside over the matter, OAH Docket No. 7-6010 17292-3.

3. The Notice of and Order for Hearing alleged that good cause exists to take adverse license action against the business licenses held by the Licensee and recommended revocation of the licenses as the appropriate sanction.

4. An administrative hearing was held in this matter in front of ALJ Richard C. Luis on July 20, 2006. The Licensee—Alioe Meshjell—was present at the administrative hearing and represented by Leon A. Trawick, attorney at law. Joel M. Fussy, Assistant Minneapolis City Attorney appeared on behalf of the City of Minneapolis.

5. At the administrative hearing the following individuals testified on behalf of the City of Minneapolis: Business License Manager Grant Wilson, License Inspector Daniel Jacobs, Minneapolis Police Officers Troy Schoenberger and Grant Snyder, as well as community residents George Roberts and Beverly Roberts. The Licensee, Mr. Meshjell, testified in his own behalf.

6. The record was closed by ALJ Luis effective August 2, 2006 and he issued his Findings of Fact, Conclusions of Law and Recommendation on September 1, 2006.

7. ALJ Luis concluded that the City of Minneapolis **did establish** the existence of the following business license violations:

- The Licensee failed to take appropriate action to prevent further loitering violations by persons on the store’s premises in violation of Minneapolis Code of Ordinances (hereinafter “M.C.O.”) § 259.250(1)(i).

- The Licensee is vicariously liable for the sale of crack cocaine that occurred on the premises within the store in January of 2006 as facilitated by an employee of the Licensee.
- The Licensee failed to provide adequate security to prevent criminal activity in violation of M.C.O. § 259.250(4).
- The Licensee failed to take appropriate action to prevent the premises from being used to maintain a public nuisance in violation of Minn. Stat. § 609.745 and M.C.O. § 259.250(1)(j).
- The Licensee failed to regularly remove litter and debris from the premises and property within 100 feet of the premises in violation of M.C.O. § 259.125.
- The Licensee was overdue in excess of 90 days on its payment of false alarm penalties for a third and fourth false alarm on the premises in violation of M.C.O. Ch. 176 and § 259.15.

8. ALJ Luis concluded that the City of Minneapolis **did not establish** the existence of the following business license violations:

- That the Licensee failed to take appropriate action to prevent further violations by persons on the business premises of statutes prohibiting the unlawful sale or possession of controlled substances in violation of M.C.O. § 259.250(1)(c).
- That the Licensee intentionally maintained or permitted a public nuisance in violation of Minn. Stat. § 609.74.

9. Pursuant to applicable law and procedure, and as described on page 1 of the ALJ report:

This Report is a recommendation, not a final decision. The Minneapolis City Council will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Pursuant to Minn. Stat. § 14.61, the City Council will not make its final decision until after it has provided each party adversely affected an opportunity to file exceptions and present argument to the Minneapolis City Council.

10. The City of Minneapolis served a proper Notice of Committee Hearing upon the Licensee and his attorney of record dated September 5, 2006 which notified the

Licensee and his attorney of the September 27th License Hearing and additionally provided notification of the right to file written exceptions to the ALJ report by filing such with the City Clerk's Office.

CONCLUSIONS

1. The Committee hereby **ADOPTS** and **INCORPORATES** the Findings of Fact, Conclusions of Law and Recommendation as issued by Administrative Law Judge Richard C. Luis and thereby determines that good cause exists to take adverse license action against the Grocery and Tobacco Dealer licenses held by the Licensee based on the established business license violations. Good cause exists under Minneapolis City Charter Chapter 4, Section 16 as well as Minneapolis Code of Ordinances §259.250.

RECOMMENDATION

That the City Council impose the following adverse license sanctions upon the Licensee pursuant to its authority derived from the Minneapolis City Charter Chapter 4, Section 16 (providing for revocation and adverse license action upon good cause) and M.C.O. § 259.250 (providing for adverse license action based on failure to comply with enumerated business license management responsibilities), and that these Findings and Recommendation be adopted by the City Council and made part of the official record:

1. The Grocery and Tobacco Dealer licenses held by the Licensee shall be **REVOKED**. However, the revocation shall be **STAYED** upon the condition that the Licensee fully comply with all conditions imposed in this adverse license action proceeding as detailed below.
2. The Licensee shall serve a fifteen (15) day suspension of its Grocery and Tobacco Dealer licenses and shall cease all business operations during the suspension

period. The fifteen (15) days of executed suspension shall be served consecutively and the days may be chosen by the Licensee. The Licensee shall notify Business License Manager Grant Wilson (612-673-3902) of the days of suspension it will serve on or before November 3, 2006 and shall serve the entire suspension on or before December 31, 2006.

3. The Licensee shall pay a monetary fine of five-thousand dollars (\$5,000.00) on or before December 31, 2006 to the City of Minneapolis. The fine shall be paid by check or money order payable to "The City of Minneapolis" and delivered to:

*Minneapolis Business Licensing
c/o: Grant Wilson
Room 1C, City Hall
350 South 5th Street
Minneapolis, MN 55415-1316*

4. The Licensee shall conduct its business operations in strict adherence to the Business License Operating Conditions attached and incorporated into these Findings as Exhibit A.
5. This action shall not preclude any other adverse license action, including but not limited to license suspension or revocation, for subsequent violations of this action, or for subsequent violations or subsequently-discovered violations of any federal, state or local laws, ordinances, statutes, operating conditions, or regulations.