

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

In the Matter of the Off-Sale Beer License,
Held by Lela, Inc.
dba Lyndale Deli and Grocery

**FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATIONS**

This matter came on for a License Settlement Conference (“LSC”) meeting on Wednesday December 13, 2006 at 8:30 a.m. in Room 1 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The LSC meeting was held to discuss issues related to the operation of Lela, Inc. dba Lyndale Deli and Grocery, located at 2551 Lyndale Avenue South, Minneapolis, Minnesota 55405 pursuant to a Notice to Appear, dated November 15th, 2006. Present at the LSC meeting was the following representative of Lyndale Deli and Grocery: Thabt Osman-Mohamed (Owner). Also present were the following representatives of the City of Minneapolis: Ricardo Cervantes (Deputy Director-Licenses and Consumer Services) and Lieutenant Travis Glampe (Minneapolis Police License Investigation Division).

Based upon the agreement between the parties and all files and records contained herein, the following recommendation is issued:

FINDINGS OF FACT

1. The Minneapolis Police Department License Investigation Division conducts youth alcohol compliance checks in an effort to assure retail-alcohol license holders are not serving alcohol to persons under the age of 21.

2. On August 17, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Lyndale Deli and Grocery. A 19 year old female decoy was sent into the business. The decoy presented a six pack of Bud Light beer for purchase to an employee working behind the counter. The employee requested the decoy's identification. The decoy produced her actual Minnesota Driver's License that showed her to be 19 years of age. The employee looked at the driver's license, rang up the beer and accepted payment from the decoy. The sale was completed and the business was considered to have failed the compliance check. This was Lyndale Deli and Grocery's first alcohol compliance failure. As a result of the compliance failure, an administrative citation was issued to Lyndale Deli and Grocery in the amount of \$500 as detailed in a City Council resolution. Lyndale Deli and Grocery paid the \$500 fine on September 1, 2006.

3. On November 1, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Lyndale Deli and Grocery. A 19 year old female decoy and 19 year old male decoy were sent into the business. The decoys presented a 12 pack of Leinenkugel's beer for purchase to an agent of the establishment behind the front counter. Without asking for identification or taking other steps to confirm the decoys' ages, the agent rang up the beer and accepted payment from the

decoys. This constituted Lyndale Deli and Grocery's second youth alcohol compliance failure. As a result of the compliance failure, an administrative citation was issued to Lyndale Deli and Grocery in the amount of \$1,000 as detailed in a City Council resolution. Lyndale Deli and Grocery requested an administrative hearing on the citation. On December 12, 2006 an administrative hearing was held. The hearing officer found that a sale of beer was made to a minor by an agent of the establishment. The hearing officer reduced the fine to \$500.

4. The two alcohol compliance violations have resulted in a criminal conviction of one of the applicable Lyndale Deli and Grocery employees. The guilty plea entered was for the sale of alcoholic beverages to an underage person. Criminal charges are pending as a result of the November 1, 2006 failure.

CONCLUSIONS

1. On two separate occasions, agents of Lyndale Deli and Grocery sold alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures all occurred in a period of less than three months.

RECOMMENDATIONS

That the Off-Sale Beer License, issued to Lyndale Deli and Grocery shall be subject to adverse license action up to and including revocation, with the commencement of such adverse license action stayed through and including August 17, 2008 subject to full compliance with the following conditions:

1. Lyndale Deli and Grocery will surrender its Off-Sale Beer License and withdraw its application for the license in person at room 1 of City Hall, 350 Fifth Street South, Minneapolis, Minnesota. This surrender and withdrawal shall be immediate and no sale of beer by Lyndale Deli and Grocery shall occur after 8:30 a.m. on December 13, 2006.
2. Lyndale Deli and Grocery will not reapply for an Off-Sale Beer License until August 17, 2008.
3. Lyndale Deli and Grocery will pay the outstanding \$500 administrative fine as ordered by the hearing officer at the December 12, 2006 administrative hearing. Per City Ordinance, this fine must be received by the Minneapolis Police License Investigation Division, Room 1 City Hall, 350 South Fifth Street, Minneapolis, Minnesota by 1:00 p.m. on Tuesday January 2, 2007.
4. Lyndale Deli and Grocery will pay a \$250 financial sanction to the City. This payment must be received by the Minneapolis Police License Investigation Division, Room 1 City Hall, 350 South Fifth Street, Minneapolis, Minnesota by 1:00 p.m. on Tuesday January 2, 2007
5. This Agreement does not alter or preclude any previously imposed license conditions that may exist.
6. This Agreement shall not preclude any other adverse license action, including but not limited to suspension or revocation, for subsequent violations of this Agreement, or for subsequent violations or subsequently-discovered violations of any federal, state or local laws, ordinances, or regulations.

7. Term of Agreement. This Agreement shall remain in effect through and including August 17, 2008. It is understood between the parties that this Agreement shall bind only the present licensee and will not bind any subsequent, unrelated person or persons should the business be sold and a new license approved.
8. "Date of Agreement" shall be defined as the date that the licensee signs or otherwise executes this Agreement. This Agreement is subject to approval by the Minneapolis City Council, however should such approval be obtained after the execution of this Agreement the approval shall be retroactive to the date of execution.

Lyndale Deli and Grocery

By: _____
Thabt Osman-Mohamed
Owner

Date: _____

Minneapolis Police Department

By: _____
Lt. Travis Glampe
Commander, License Division

Date: _____

**City of Minneapolis Office of
Licenses and Consumer Services**

By: _____
Ricardo Cervantes
Deputy Director of Consumer
Services

Date: _____