

CITY OF MINNEAPOLIS
LICENSES AND CONSUMER SERVICES
350 SOUTH 5TH STREET, ROOM 1-C, CITY HALL
MINNEAPOLIS, MN 55415

**FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATIONS**

In the Matter of License No. L155 18104 CUP FOODS
for FOOD GROCERY

Held by:
CUP FOODS INC
ATTN: SAMIR ABUMAYYALEH
3759 CHICAGO AVE
MINNEAPOLIS, MN 55407

09-0677251

L155-18104-Food Grocery, L022-18104-Tobacco Dealer, L149-18104-Food Manufacturer,
and L157-50175-Food Meat Market

This matter came before a License Settlement Conference on August 21, 2008. Appearing for the Business License Department were Deputy Director Ricardo Cervantes and Lead License Inspector Julie Casey. Appearing for Cup Foods, Inc were Samir Abumayyaleh and his attorney Ronald Meshbesh. Based on the information presented at the hearing the Department makes the following findings of fact.

FINDINGS OF FACT

1. In 2002, a settlement was reached with Cup Foods, Inc. at the Minnesota Court of Appeals settling a prior adverse license action. Business License Operating Conditions were signed specifying regulations Cup Foods, Inc would have to follow to prevent further violations of City ordinances. Cup Foods, Inc also paid a \$1000 administrative fine.
2. Condition #5 requires the owner and employees to use all reasonable efforts to remove persons loitering on the premises. Orders, documenting loitering situations, with no intervention by Cup Foods, were documented on December 19, 2002, August 17, 2007 and August 24, 2007.
3. Condition #8 required security cameras to be in good working order at all times. Orders documenting violations of the surveillance camera ordinance and policies were sent to Cup Foods, Inc on October 28, 2005 and October 30, 2006.

4. Conditions #7 required the licensee to remove all windows and door signage between 42 and 84 inches from the floor. Orders were sent to Cup Foods, Inc on August 15, 2007 documenting signage placed in the prohibited area in the front window.
5. Condition #6 eliminated the sale of metal scrubbing pads without soap, except when sold in prepackaged boxes. On May 1, 2008, an open box of metal scrubbing pads was found behind the counter. A violation notice was sent documenting the violation of this condition.
6. In April 2008, Minneapolis Police notified the Division of Licenses that the employees of Cup Foods, Inc allegedly purchased stolen second hands goods from a minor. MPD documented the items were stolen and the party selling them to Cup Foods, Inc was charged with the sale of stolen property. Conditions #10 specified that, "the licensee shall comply with other laws and regulations including those related to fire, building, and housing maintenance, environmental regulations, food manufacturing, and service and check cashing. If the licensee engages in the purchase, sale, or exchange of used merchandise, it shall obtain a secondhand goods dealer's license." A \$250 citation for operating without a second hand goods license was issued for the purchase of second hand goods. This citation was paid. On May 1, 2008, Lead License Inspector Julie Casey inspected Cup Foods, Inc to determine if second hand purchases or sales were occurring. There were used games and gaming systems in a glass cabinet at the front of the store. A second \$500 citation was issued for operating without a secondhand goods license. This citation was paid. A violation order was sent documenting that the goods purchased on April 17, 2008 were from a minor. Minneapolis ordinance 321.180 prohibits the purchase of second hand goods from a minor without parental approval. The purchase of second hand goods was verified with a copy of photos from the surveillance camera material from Cup Foods, Inc. The employees identified making the purchase, were the owners brothers.

CONCLUSIONS

1. Cup Foods, Inc violated Condition #5 when loitering occurred on three (3) documented occasions in violation of Minneapolis Code of Ordinances 259.250.
2. Cup Foods, Inc violated Condition #8 by failing to maintain their surveillance camera in compliance with Minneapolis Code of Ordinances 259.230.
3. Cup Foods, Inc violated Condition #7 when signage was posted between 42 and 84 inches from the floor of the business.
4. Cup Foods, Inc. violated Condition #6 by having an open box of metal scrubbing pads behind the sales counter when sale of individual pads were prohibited.
5. The employees of Cup Foods, Inc violated Condition #10 by purchasing and offering for sale second hand goods in violation of Minneapolis Code of Ordinances 321.20.
6. The employees of Cup Foods, Inc purchased sell second hand goods from a minor without permission of a parent/guardian in violation of Minneapolis Code of Ordinances 321.180.

RECOMMENDATIONS

1. Cup Foods, Inc shall serve a three (3) day license suspension at a future date to be agreed upon with the License Department after this agreement is signed. A \$1000 sanction shall be paid upon the licensee signing this agreement.
2. For a period of one year, Mahmoud Abumayyaleh, aka Mike, and Amed Abumayyaleh will be under the physical supervision of Samir Abumayyaleh or a trained store manager. They will not be allowed to be in the store unsupervised at any time during this one year period. Mahmoud Abumayyaleh and Amed Abumayyaleh shall be suspended from the working in the store for a period of ten days. These suspensions can be served consecutively. Samir Abumayyaleh shall notify the Business License Department, in writing, of when these suspension are to take place.
3. The lawful hours of operation are Sunday to Thursday 6 a.m. to 11 p.m. and Friday and Saturday from 6 a.m. to 12:00 a.m. Deli operators shall stop taking orders 15 minutes before the store closes. From 6 a.m. to 10 a.m. one person may be on duty. At all other times, at least two persons shall be on duty in the store. Whenever the deli is in operation, three persons shall be on duty.
4. CUP Foods, Inc shall use all reasonable efforts to prohibit the sale, distribution or use of illegal drugs. Any person found selling, distributing, or using illegal drugs shall be trespassed from the property.
5. "No Trespassing" signs will remain clearly posted on the exterior of the business. Grocery store staff will immediately ask people who are observed loitering in the immediate vicinity of the store to leave. If the loitering activity persists, staff will call 9-1-1 and request police assistance to alleviate the loitering activity. The business agrees to cooperate fully in the prosecution of criminal activity. Mpls Ord. 259.250(1) (I), and Minnesota Statute 609.605.
6. CUP Foods shall do criminal background checks on all employees. Any employee determined to have a criminal history with controlled substances shall not be employed if the conviction/sentence has not been served as determined by the criteria set in Minnesota Statute 364.03.
7. The business agrees not to sell items which are commonly used by drug users and drug dealers. These items include glass pipes, Steel scrub pads such as Brillo Pads or Chore Boy products, tobacco pipes, small zip lock bags also known as jewelry bags, postal scales, and single use tobacco products to include rolling papers (single cigars are allowed). The business will also agree not to supply matches to non-tobacco customers. Bulk packages of pseudoephedrine (more than 24 tablets/package) will not be sold in the store.
8. The business agrees not to sell single cigarettes.
9. Payphones shall not be allowed on the Cup Foods, Inc premises, indoors or outdoors.
10. CUP Foods, Inc shall ensure that there is a clear and unobstructed view of all deli customer seating from the cashier station. CUP Foods, Inc shall remove all items which obstruct the cashier's clear view of customers entering and exiting the store.

11. CUP Foods, Inc shall remove all window and door signage between 42 and 84 inches from the floor.
12. CUP Foods, Inc shall remove or relocate all shelving and stacked merchandise from next to store windows between 42 and 84 inches from the floor. Shelving and merchandise is allowed below the 42 inch height. An American with Disabilities Act compliance aisle width must be maintained between any below window shelving/merchandise and other shelving/merchandise.
13. The surveillance camera system shall be in compliance with Minneapolis City Ordinance 259.230. The surveillance camera system shall have multiple cameras covering the entire inside of the store, rear lot, including the new shed loading and unloading areas and the abutting sidewalk and a monitor at the cashier's stand.
14. The business agrees to clean the property, and all areas within 100 feet of the property line of litter and trash twice daily. The business shall maintain a litter receptacle in front of the business that is convenient for customer use.
15. Refuse shall be stored in a regularly serviced, closed container (dumpster) that shall be screened from view as is required by Minneapolis Codes. At no time shall this refuse container be overfilled so that the cover cannot be completely closed at all times.
16. CUP Foods, Inc shall not sell or purchase second hand merchandise of any kind.
17. The business agrees to keep all exterior and interior lights illuminated and functioning properly. Mpls Ord. 259.250 (8)
18. The business will stock a variety of common staple food items such as milk, bread, canned and frozen vegetables, soups, fruit juice, and cereals, etc. Food items shall be removed from stock when the printed shelf life date has expired. Minneapolis Code of Ordinance 203.

Samir Abumayyaleh understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility, and, as such, it is understood that there is a minimum standard that shall be met in order to hold such a license. Furthermore, it is understood that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances and regulations. As such, it is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any agreed upon or stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

Business

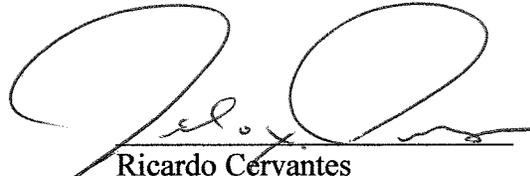
CUP FOODS

By: 
(signature)

Its: President
(title)

Dated: 5-5, 2009

For the City of Minneapolis:


Ricardo Cervantes
Deputy Director of Licenses

Dated: MAY 14, 2009