

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE CITY OF ST. PAUL

In Re the Licenses of
Juggy's M & M Fishworks, Inc.
LAW
d/b/a McCarthy's Fishworks

FINDINGS OF FACT,
CONCLUSIONS OF
AND RECOMMENDATION

The above-entitled matter came on for hearing before Steve M. Mihalchick, Administrative Law Judge, at 9:00 a.m. May 21, 1992, at 800 Landmark Towers, St. Paul, Minnesota. Terry Sullivan, Assistant City Attorney, 800 Landmark Towers, 345 St. Peter Street, St. Paul, Minnesota 55102, appeared on behalf of the City of St. Paul (the City). Thomas J. McCarthy, owner, appeared on behalf of Juggy's M & M Fishworks, Inc., 400 Sibley Street, Suite 190, St. Paul, Minnesota 55101, (the Licensee). Also present were Kristina Van Horn of the City's Licensing and Permit Division and Rose Underhill and John Ridge of the Minnesota Department of Revenue. The record closed upon adjournment of the hearing.

Prior to the hearing, the parties agreed that certain statements and documents should be entered into the record in this matter. Based upon the record as submitted, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Licensee operates a restaurant in the City known as McCarthy's Fishworks and holds wine on-sale, restaurant and on-sale malt (3.2) licenses issued by the City. The licenses expired February 15, 1992,
2. On March 27, 1992, the Minnesota Department of Revenue notified Licensee of delinquent sales taxes and of the requirement for a Tax Clearance Certificate before the City could issue, transfer or renew any licenses for Licensee. The notice was received by Licensee. A copy of the notice was also sent to and received by the City.

3. A Notice of Hearing in this matter was mailed to Licensee April 15, 1992, notifying Licensee of a hearing to be held concerning its licenses and stating that the City could not renew any of Licensee's licenses until it received a Tax Clearance Certificate from the Minnesota Department of Revenue. Licensee received the Notice of Hearing.

4. Licensee recently closed McCarthy's Fishworks and does not intend to seek renewal of its licenses.

5. Licensee does not object to its licenses not being renewed and has been informed that it may not be eligible for any licenses from the City for a period of one year should any application be made.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the City Council have jurisdiction in this matter pursuant to Section 310.05 of the Legislative Code of the City of St. Paul and Minn. Stat. 14.55.

2. Minn. Stat. 270.72, the Tax Clearance Statute, provides that a political subdivision of the state may not issue, transfer, or renew a license for the conduct of a profession, occupation, trade, or business if the Minnesota Commissioner of Revenue notifies the licensing authority that the applicant owes the state delinquent taxes, penalties or interest.

3. Licensee has agreed not to renew its licenses, so no action is necessary.

4. Should Licensee seek renewal of its existing licenses, the Tax Clearance Statute requires that the City deny renewal until it receives a Tax Clearance Certificate from the Minnesota Department of Revenue.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that no action be taken on Licensee's licenses because Licensee will not seek to have them renewed. However, if Licensee does seek renewal, renewal should be denied.

Dated this day of May, 1992.

STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Taped, not transcribed. Tape No. 10,599.

