

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY COUNCIL OF THE CITY OF ST. PAUL

In the Matter of the Currency Exchange
License Application of Cash-A-Check,
LLC d/b/a Money X Change for the
Premises located at 1676 Lexington
Avenue in St. Paul

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter was came on for hearing before Administrative Law Judge George A. Beck, serving as hearing officer for the St. Paul City Council on February 13, 2001 at 9:30 a.m. in Room 42, St. Paul City Hall, Ramsey County Courthouse. By consent of the parties, that hearing was continued for the purpose of conducting an inquiry that could lead to settlement of this matter. The continuance was granted to February 20, 2001, at 1:30 p.m., when a telephone conference was scheduled to take place.

Virginia D. Palmer, Assistant City Attorney, 400 City Hall, 15 West Kellogg Blvd., St. Paul, MN 55102, appeared on behalf the Office of License, Inspections and Environmental Protection (LIEP). Mark Austin Smith, Attorney at Law, 13969 Grand Avenue, Burnsville, MN 55372, appeared on behalf of Cash-A-Check, LLC (Cash-A-Check). The record in this matter closed on February 26, 2001.

NOTICE

This Report is a recommendation, not a final decision. The St. Paul 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. Under Section 310.05(c)(c-1) of the City's Legislative Code, the City Council will provide the applicant the opportunity to present oral or written argument to the City Council before it takes final action. Parties should contact the St. Paul City Council to determine the procedure for presenting argument.

STATEMENT OF ISSUE

Should this application for a currency exchange license be approved by the St. Paul City Council?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On January 22, 2001 the Department of Commerce forwarded an application for a currency exchange license to the City of St. Paul. Mark Smith had submitted the application to the Department to operate a currency exchange business at 1676 Lexington Avenue North in St. Paul. The application indicates that the name of the currency exchange will be MoneyXchange, which is the business name of Cash-A-Check, LLC, a Minnesota corporation.^[1]

2. A search of criminal history filed by the Minnesota Bureau of Criminal Apprehension found no record for Mark Austin Smith.^[2]

3. The proposed location for the currency exchange is not within one-half mile of another licensed currency exchange.

4. The currency exchange is proposed to be located in a building within 100 feet of a residential lot.^[3]

5. The operation of a currency exchange at the proposed location is not permitted under with the St. Paul Zoning Code. No variance has been obtained from this restriction imposed by the St. Paul Zoning Code.

6. The proposed location is in compliance with the fire and health requirements of the City of St. Paul.

7. Upon receipt of the application from the Department of Commerce the City provided notice of the application to community organizations.^[4] The City received no objections to the issuance of the currency exchange license.

8. On January 30, 2001 the City issued a Notice of Hearing on the application which set a hearing for February 13, 2001.^[5]

9. After taking some testimony, the parties agreed to continue the hearing to determine if a variance could be obtained from the St. Paul Zoning Code to allow the proposed currency exchange to be established within 100 feet of a residential lot. The parties agreed that a telephone conference would be held on February 20, 2001, at 1:30 p.m.

10. No one was available to participate in the telephone conference scheduled for February 20, 2001 on behalf of Cash-A-Check. The Administrative Law Judge informed Cash-A-Check, by letter dated February 21, 2001 that failure to respond by February 26, 2001 would result in a default report being issued to the City Council. No response has been received from Cash-A-Check.

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

CONCLUSIONS

1. The City Council of the City of St. Paul and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. § 14.55 and the St. Paul Legislative Code §§ 310.05, 310.06 and 381.02.

2. The City of St. Paul has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The City of St. Paul has given proper notice of the hearing in this matter including proper notice in accordance with the requirements set forth in Minn. Stat. Ch. 53A and § 381 of the Legislative Code of the City of St. Paul.

4. The applicant has complied with the application requirements set out in law.

5. St. Paul Zoning Code Section 60.542(4) establishes allowed land uses for currency exchange businesses when the following requirement is met:

Currency exchange business when located at least one hundred (100) feet from any residential lot in a residential district or at least one hundred (100) feet from any residential lot occupied with a one-, two-, three-, four-, townhouse, or multiple-family dwelling, measured from the closest point of the building in which the business is located to the closest residential property line.

6. That the record in this matter shows by a preponderance of the evidence that the proposed currency exchange location is not an allowed use for a currency exchange business.

7. The applicant has not introduced any evidence that a variance has been obtained from the restrictions imposed by St. Paul Zoning Code Section 60.542(4) on currency exchange businesses.

8. St. Paul Legislative Code Section 381.03(b)(10) includes noncompliance in the proposed business location as a ground to disapprove a currency exchange application.

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

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: That the St. Paul City Council deny the application for a currency exchange license by Cash-A-Check, LLC for premises located at 1676 Lexington Avenue in St. Paul.

Dated this 1st day of March 2001.

/s/

GEORGE A. BECK
Administrative Law Judge

Reported: Taped, No Transcript Prepared.

NOTICE

Pursuant to Minn. Stat. § 53A.04, the St. Paul City Council is required to forward its approval or disapproval of the license application to the Commissioner of Commerce of the State of Minnesota for the Commissioner's approval or disapproval. If the application is denied, the Commissioner shall mail notice of the denial and the reason therefor to the applicant. The applicant, upon denial, may request a further hearing as provided for in Minn. Stat. § 53A.04(b).

MEMORANDUM

The only objection to Cash-A-Check's currency exchange license application is that the proposed location does not conform to the applicable zoning requirement. The hearing was continued to allow Cash-A-Check to investigate the possibility of obtaining a variance. With the failure of Cash-A-Check to participate further in this proceeding, there has been no showing that a variance was, or could be, obtained.

The record on this appeal demonstrates that the proposed business location is not an allowable use for a currency exchange business. Accordingly, it is recommended that the City Council deny the license application by Cash-A-Check for a currency exchange at the proposed location.

G.A.B.

^[1] Ex. 1.

^[2] Ex. 1.

^[3] Ex. 2. The parties also stipulated to this fact at the hearing.

^[4] Ex. 2.

^[5] Ex. 2.