

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

In the Matter of the Minnesota
Currency Exchange License of New
Money Express, Inc., d/b/a New Money
Express, Inc.

**FINDINGS OF FACT,
CONCLUSIONS
AND RECOMMENDATION**

The above matter came on for hearing before Administrative Law Judge Linda F. Close on November 2, 2009. The OAH record closed on that day at the conclusion of the hearing.

Virginia D. Palmer, Assistant City Attorney, appeared on behalf of the City's Office of Safety and Inspections (DSI).

Alice Gunderson, manager for New Money Express, Inc. (the Licensee), appeared on behalf of the Licensee.

Prior to hearing, the City Attorney learned that the two persons who had filed objections to the license renewal would not appear at the hearing. Given the absence of any testimony in opposition to renewal, DSI, through the City Attorney, took the position that there was no basis for denial of the application. The matter was submitted on DSI exhibits relating to the application and the testimony of the Licensee's manager.

STATEMENT OF THE ISSUE

Should the currency exchange license of New Money Express be renewed?

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Licensee has held a currency exchange license from the Department of Commerce (the Department) since at least 1999.¹ On September 25, 2009, the Department informed DSI that the Department had received applications to renew certain currency exchange licenses located within the City.² On October 5, 2009, DSI

¹ Ex. 1-1.

² Ex. 2.

notified the Licensee it had received the Department information about the Licensee's renewal application. DSI further informed the Licensee that the City had notified various neighborhood organizations about the renewal application. The notice to these organizations gave those organizations until October 20, 2009, to object to the renewal.³

2. The City received two letters objecting to renewal of the license. The first, dated October 13, 2009, argues against licensure of check-cashing establishments such as the Licensee.⁴ The second is undated and criticizes the policy of allowing check-cashing establishments such as the Licensee to operate in the neighborhood. The letter further alleged that the Licensee's parking lot has loiterers and vendors, as well as large amounts of trash.⁵ Both letters are unsigned.⁶

3. At hearing, the manager for the Licensee testified that the Licensee does not allow loitering or sales of goods in the parking lot. Trash is not allowed to accumulate in the lot.⁷

Based on these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

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

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 as set forth in Minn. Stat. § 53A and Sec. 381.02 of the Legislative Code of the City of St. Paul.

4. Sec. 381.03(b) of the St. Paul Legislative Code provides, in relevant part, that the following constitute grounds for disapproval of an application:

- (1) Violation of any provision of the state currency exchange law contained in Chapter 53A.
- (2) Any one (1) or more of the reasons, conditions, or standards for adverse action under section 310.06 of the Legislative Code.

....

³ Ex. 4. Ex. 6 is a copy of the letter sent to the neighborhood organizations.

⁴ Ex. 9. The individual requested that his/her identity not be revealed, and the City Attorney agreed to removal of the signature from the letter, which is why it is unsigned.

⁵ Ex. 10. This writer also requested anonymity, and the City Attorney submitted the letter unsigned.

⁶ See Ex. 9-10.

⁷ Testimony of Alice Gunderson.

(4) (ii) The existing currency exchange has caused significant adverse consequences or impacts upon the neighborhoods within three hundred (300) feet of the exchange.

5. Under section 310.01 of the St. Paul Legislative Code, "adverse action" against a license means "revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license." It includes "disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license."

6. Section 310.06(b) of the Code provides, in relevant part, that the council may take adverse action against a licensee or applicant based on one or more of the following reasons:

....

(6) a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;

....

c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

(7) The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.

(8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.

7. The record does not demonstrate any violation of ordinance or statute justifying adverse action against the license of the Licensee.

8. Because the record demonstrates no violation of ordinance or statute, there is no legal basis for adverse action against the license of the Licensee.

Based upon these Conclusions, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

Based upon these Conclusions, the Administrative Law Judge recommends that: the City Council renew the currency exchange license of New Money Express, Inc.

Dated: November 5, 2009

s/Linda F. Close

LINDA F. CLOSE

Administrative Law Judge

Reported: Digitally recorded
No transcript prepared

NOTICE

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

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 renewal application is denied, the Commissioner shall mail notice of the denial and the reasons therefor to the applicant. The applicant, upon denial, may request a further hearing as provided for in Minn. Stat. § 53A.04(b).

MEMORANDUM

As required by City ordinance, this matter was scheduled for hearing based on written objections to the renewal of the license.⁸ However, the letters are unsigned and their authors did not appear at hearing to testify. The letters have no probative value, under the circumstances. The record lacks credible evidence that the Licensee allows conditions on its premises to adversely impact the neighborhood. The ALJ concurs with the position of DSI that there is no basis to deny re-licensure or take other adverse action against the license.

L. F. C.

⁸ See St. Paul City Ord. § 381.02 (c).