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NOTICE OF DECISION

June 26, 2024

Ahmed Dubaih
3770 San Pablo Dam Road
El Sobrante, CA 94803

IN THE MATTER OF:

NAME: Smoke Depot
SITE: 3770 San Pablo Dam Road
El Sobrante, CA 94803
APN: 420-140-035

WRITTEN DECISION FOLLOWING
HEARING

This matter came on for hearing before Dr. Sefanit Mekuria, Contra Costa County Medical Director, Deputy Health Officer, on June 11, 2024, 11:00 a.m., at 597 Center Avenue, Suite 120, Martinez, CA 94553. The purpose of the hearing was to determine whether the above-referenced tobacco retailer committed violations of the County's Tobacco Product Control Ordinance (County Ordinance Code Division 445).

The following individuals testified on behalf of the County:

1. Monica Marquez, Senior Health Education Specialist, Contra Costa County
Public Health

The following individuals testified on behalf of the retailer:

1. Ismail Mahyoub Abduljala

The following evidence was submitted:

1. Contra Costa County Sheriff Tobacco Retail Inspection Report, dated April 18, 2024
2. Contra Costa County Sheriff Citation #20-1602762, dated April 18, 2024
3. Photos taken by Public Health Department Staff during April 18, 2024 site inspection

After considering the testimony and evidence, the Director makes the following factual findings:

1. The above-named retailer purchased the Smoke Depot, located at 3770 San Pablo Dam Road, El Sobrante, CA, in or around August 2023 and has been operating the Smoke Depot without obtaining a new, valid tobacco retailer's license. It is unlawful for any retailer, individual, or entity to conduct tobacco retailing in the unincorporated area of the county without first obtaining and maintaining a valid tobacco retailer's license from Contra Costa County for each location where tobacco retailing is conducted. Accordingly, this is a violation of County Ordinance Code, Section 445-10.002.
2. Additional violations occurred at the above-referenced retail location and were observed on April 18, 2024.

3. The additional violations include:

April 18, 2024

- a. Flavored tobacco products on display and offered for sale. (County Ordinance Code, Section 445-6.006.)
 - b. Menthol cigarettes on display and offered for sale. (County Ordinance Code, Section 445-6.006.)
 - c. Electronic smoking devices on display and offered for sale. (County Ordinance Code, Section 445-6.014.)
 - d. Drug paraphernalia, specifically mushrooms, cannabis flower, flavored cannabis vaping liquids, and blunts were on display and offered for sale, and offered for sale in a location that did not exclude unaccompanied persons under the age of 18. (County Ordinance Code, Section 445-10.018(a); 21 U.S. Code, Section 863; Cal. Health and Saf. Code, Section 11364.5; Cal. Health and Saf. Code, Section 11377.)
 - e. Single cigars on display and offered for sale. (County Ordinance Code, Section 445-6.010.)
 - f. Self-service displays. (County Ordinance Code, Section 445-6.002.)
4. The Sheriff's Report, Citation, and photos include documentary evidence that each of the violations occurred.
5. The herein cited violations constitute the second violation of the County's Tobacco Product Control Ordinance at the above-referenced Smoke Depot retail location within the past five years. A Notice of Fine was issued and became a final administrative order on January 26, 2023, documenting the first violation occurring at the Smoke Depot
6. The above-named retailer, Mr. Dubaih, through his representative or agent, has acknowledged the violations.

ORDER

The Public Health Director orders:

The above-referenced tobacco retailer does not have valid tobacco retailer's license from Contra Costa County to sell tobacco products at 3770 San Pablo Dam Road, El Sobrante, CA,

commonly known as Smoke Depot. **All retailing of tobacco products at this location must be discontinued immediately.** Tobacco products may not be retailed at this location until a valid tobacco retailer's license for this location has been issued.

The processing of the above-named retailer's application for a new tobacco retailer's license for the Smoke Depot will be placed on hold for a period of **90 days** from the date of this decision. The application may not be approved, and a new tobacco retailer's license for the Smoke Depot will not be issued, before **September 23, 2024**. Any additional violations of the County's Tobacco Product Control Ordinance during this period may further delay issuance of a tobacco retailer's license.

This decision may be appealed to the Board of Supervisors by filing a written notice of appeal with the Clerk of the Board of Supervisors, County Administration Building, 1025 Escobar Street, Martinez, California, within 30 days of the date this decision is served.

Date: 6/26/2024

Sefanit Mekuria
Sefanit Mekuria, MD
Medical Director,
Deputy Health Officer
Contra Costa County