

# COMMONWEALTH OF PENNSYLVANIA



Bureau of Food Safety and Laboratory Services

DEPARTMENT OF AGRICULTURE

2301 N. Cameron Street • Room 201  
Harrisburg, Pennsylvania 17110-9408  
Tel: 717-787-4315

June 24, 2020

Taste of Sicily  
ATTN: Silvana Drill  
132 East Main Street  
Palmyra, PA 17078

By Hand Delivery to Above Address

**Re: NOTICE OF VIOLATION OF THE  
RETAIL FOOD FACILITY SAFETY ACT and  
NOTICE OF \$3,000 CIVIL PENALTY  
Action No. 2020 – 10**

Dear Silvana Drill:

This document is a proposed adjudication of the Pennsylvania Department of Agriculture, and is directed to you, as owner or management official with respect to the following retail food facility: **Taste of Sicily, 132 East Main Street, Palmyra, PA 17078.**

The retail food facility described above is referred to as the “Retail Food Facility” below, and all references to the “Date of Violation” below refer to **June 24, 2020.**

In summary, this document: (1) provides formal notice that the Pennsylvania Department of Agriculture seeks to impose a civil penalty in the amount of \$3,000 against the Retail Food Facility as a result of a violation of the Retail Food Facility Safety Act; (2) explains the basis for this civil penalty; (3) explains the right of the Retail Food Facility to challenge this civil penalty and the process by which this civil penalty may be paid; and (4) confirms the circumstances under which this adjudication shall become final.

### **A. Notice of \$3,000 Civil Penalty.**

The Pennsylvania Department of Agriculture hereby proposes an administrative adjudication imposing a \$3,000 civil penalty against the Retail Food Facility as a result of the violation of the Retail food Facility Safety Act described below. In summary, this action is based upon the Retail Food Facility operating without the retail food facility license required under that statute.

This proposed administrative adjudication is explained in greater detail below, under Section “B.”

This administrative adjudication shall become final unless you appeal this determination in accordance with the procedure described below, under Section “C.”

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### **B. Basis for the Adjudication: Violation of the Retail Food Facility Safety Act.**

The basis for the referenced civil penalty is as follows:

1. The subject of this action is **Taste of Sicily, 132 East Main Street, Palmyra, PA 17078 (the “Retail Food Facility”)**.
2. The Pennsylvania Department of Agriculture (“PDA”) has general authority and responsibility to enforce the Retail Food Facility Safety Act (3 Pa.C.S. §§ 5701 – 5714) and its attendant regulations (at 7 Pa. Code Chapter 46).
3. The Retail Food Facility Safety Act (at 3 Pa.C.S. § 5703, titled *License required*), provides in pertinent part that: “... it shall be unlawful for any proprietor to conduct or operate a retail food facility without first obtaining a license for each retail food facility as provided in this subchapter.”
4. The PDA-issued retail food facility license for the Retail Food Facility was temporarily suspended on June 3, 2020 and remains suspended as of this date. A true and correct copy of the June 3, 2020 *Notice of Temporary Emergency Suspension of Retail Food Facility License for Violation of Statutory Public Health Requirements*, by which this license suspension was accomplished, is attached to this proposed adjudication as Attachment “A” and is incorporated as if set forth at length.
5. On the Date of Violation, the Retail Food Facility was in operation as a retail food facility, serving food to customers. This illegal activity was observed by PDA food safety staff.

6. By operating as a retail food facility while its license was under suspension, the Retail Food Facility violated the statutory requirement that retail food facilities be licensed under the Retail Food Facility Safety Act as a condition of operation. (See: Paragraph No. 3, above, and 3 Pa.C.S. § 5703(a).
  7. The Retail Food Facility Safety Act allows PDA to impose a civil penalty of up to \$10,000 *for each violation* of that statute or its attendant regulations, and requires that PDA consider the gravity of the violation involved. (See: 3 Pa.C.S. § 5714(a)(2).
  8. PDA has considered the gravity of the violation involved. The Retail Food Facility is, as determined by the Pennsylvania Department of Health (See Attachment “A”) in violation of one or more statutes relating to public health, and is ignoring the requirement that it be licensed before operating as a retail food facility.
  9. The violation described in this Notice is a continuing, willful violation:
    - a. On June 9, 2020, PDA issued a Notice of Violation assessing a \$1,000 civil penalty against the Retail Food Facility for operating on that date without the license required under the Retail Food Facility Safety Act.
    - b. On June 16, 2020, PDA issued a Notice of Violation assessing a \$2,000 civil penalty against the Retail Food Facility for operating on that date without the license required under the Retail Food Facility Safety Act.
  10. In consideration of the violation described above, PDA issues this Order imposing a **\$3,000** civil penalty on the Retail Food Facility, for operating as a retail food facility without having the required license.
  11. Should violations recur, PDA may impose separate civil penalties, and may increase the civil penalty amount per violation.
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### **C. Notice and Opportunity for a Hearing.**

**If you do not elect to contest this civil penalty, please direct your payment, by check or money order made payable to the “Commonwealth of Pennsylvania” in the amount of \$3,000, to the following address:**

Pennsylvania Department of Agriculture  
Office of Chief Counsel  
ATTN: Angela Black, Paralegal  
2301 North Cameron Street  
Harrisburg, PA 17110-9408

You are hereby notified that you have the right to request an administrative hearing with respect to the adjudication set forth above. At an administrative hearing, you would be entitled to present evidence and testimony, cross-examine witnesses, and have legal representation at your own expense. An administrative hearing officer would preside at the hearing, and would transmit the hearing record, together with a recommended adjudication, to the Secretary of Agriculture. The Secretary would then issue the final adjudication of PDA in this matter.

**If you wish to contest the proposed adjudication, you must deliver written notice of this to the address immediately above no later than 15 days after your receipt of this proposed adjudication.**

A written appeal notice must clearly set forth the basis of your appeal, and should clearly identify the relevant issues or objections to be resolved. If you deny or challenge any averment in the adjudication, the appeal notice should identify that averment by number and describe the general basis for denial. The scope of any subsequent administrative hearings or proceedings would be limited to those issues and objections set forth in the written appeal notice.

At an administrative hearing, PDA would not be limited to the averments set forth in this adjudication in terms of the evidence or testimony it might present to meet its burden of proof.

If you do not wish to contest the adjudication, it shall automatically become the final adjudication of PDA in this matter after the expiration of the 15-day appeal period referenced in the preceding paragraph.

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If you have any questions regarding this proposed action, you are encouraged to contact your attorney at once.

Respectfully,



Jeff Warner, Director

**Attachment “A”**

**Notice of Temporary Emergency Suspension  
of Retail Food Facility License  
for Violation of Statutory Public Health Requirements**