

HEARINGS, MEETINGS, LICENSES
8-11-08

Law Office of Thomas A. Dougherty, III

11 North Main Street
Middleboro, MA 02346
HAND DELIVERED THIS DATE

(508) 509-5912

July 24, 2008

Ms. Jean Spaulding, RS, CHO
Town Of Middleboro Board of Health
20 Center Street
Middleboro, MA 02346

RE: Mel's Ice Cream- 350 Wareham Street, Middleboro, MA
Randall Gould

To whom It may concern:

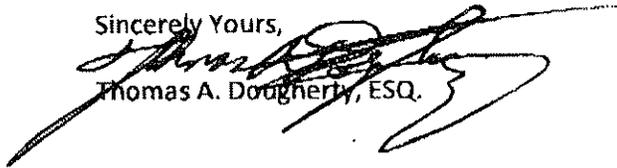
This office has been consulted and retained by Mr. Randall Gould relative to an untitled letter sent certified mail and received by him on Monday July 21, 2008.

Upon review of your letter most of the alleged violations are based upon an apparent inspection and most of the alleged violations can be easily cured. He is meeting with the Plumbing Inspector on July 24, 2008 in the AM to address the plumbing issue. Pursuant to the letter I am hereby giving you formal notice that he is requesting a hearing on these matters as portions of the ORDER appear to be arbitrary and capricious and he is aggrieved. Mr. Gould feeds his family of five children and maintains his home on the income he derives from the ice cream business and has been doing so for twenty two years and his family has been operating Mel's Ice Cream for over forty eight years and to the best of his knowledge he or his family have never received any written violations from the Board of Health.

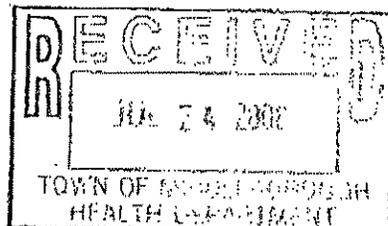
Please send to my office at the address copies of all investigation reports or inspection reports from Fall River, Middleboro, the State or any other entity or municipality you have in your possession regarding this issue. Copies of any documents you have regarding this issue, all receipts from any vendors or reports or invoices from any vendor or distributors you reviewed prior to writing your order dated July 17, 2008 and any documents you received since July 17, 2008 up to the present and continuing. Copies of all notices sent or received by you. Any complaints received by your office relative to the above from any source. Names and addresses of all persons you have spoken to regarding this matter including any writing or statements from such persons or companies or business entities. Please notify me in writing when the hearing is to take place. Please notify me if it would be easier for you if I came in to inspect and copy the documents personally.

I look forward to hearing from you soon.

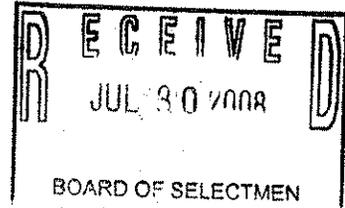
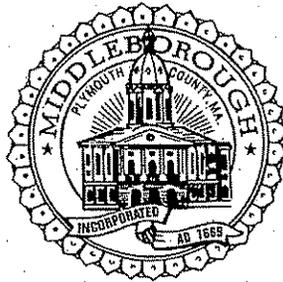
Sincerely Yours,


Thomas A. Dougherty, ESQ.

cc: Randall Gould/file



or two years
1st Class Mail® or Priority Mail®
with Certified Mail



TOWN OF MIDDLEBOROUGH HEALTH DEPARTMENT

Jeanne Spalding, RS, CHO
Health Officer
Hours: 9am-5pm

PH: 508-946-2408
FX: 508-946-2321

July 17, 2008

Randall Gould
350 Wareham Street
Middleborough, MA 02346

RE: Mel's Ice Cream- 350 Wareham St. Middleborough, MA

Mr. Gould:

On July 15, 2008 this office received information from the Fall River Health Dept. that they were conducting a foodborne illness investigation possibly linked to frozen slush manufactured at 350 Wareham St. Middleborough and sold by you on ice cream trucks associated with your business referenced above. Robert Ellenwood, the food inspector for the Fall River Health Dept. was inquiring about your food service license with this department and inspection history associated with the manufacture of frozen slush product. Mr. Ellenwood was advised that you were issued a temporary one day ice cream truck permit only and that there were no food service manufacturing operations or storage facility inspected or licensed at 350 Wareham Street in Middleborough. We also advised Mr. Ellenwood we would contact the State Food Protection Division to report this as a possible unlicensed food storage and manufacturing operation that may be involved in a foodborne illness investigation.

Middleborough Health Inspector, Catherine Hassett met with two state inspectors from the Food Protection Program at the 350 Wareham St. location and observed a freezer unit trailer onsite containing ice cream and slush product.

This trailer unit is in operation and plumbed for water service without permits for installation or operation from the Health Dept. or the Middleborough Plumbing Dept. additionally without proper waste disposal facilities.

The following physical deficiencies were observed during the trailer unit inspection:

- 3-304.12 In-Use Utensils, Between-Use Storage
 - Incorrect storage of utensils in-between use. Scoops kept in manufactured slush product.
- 4-101.11 Characteristics
 - Unapproved material -2' x 6' piece of wood used in freezer storage area between storage containers of ice cream truck which is not easily cleanable material.
- 4-301.12 Manual Warewashing, Sink Compartment
 - Unapproved warewashing procedures in place, no 3 bin sink available and procedure used was not approved.
- 4-602.13 Non-contact food surfaces
 - Buildup of mold on ceilings.
- 5-202.11 Approved System and Cleanable Fixtures
 - Water service to trailer is from an unknown connection that was installed without permits or approvals from the Health Dept. or Plumbing Inspector.
- 5-403.11 Approved Sewage Disposal
 - No waste water disposal provided. Wastewater was dumped onto the ground.
- 6-101.11 Surface Characteristics
 - Exposed foam insulation observed in ceiling of area used for processing food.
- 6-202.11 Light Bulbs Protective Shielding
 - Three light bulbs were uncovered in walk-in freezer and in area used to process food.
- 6-202.15 Outer Openings Protected
 - Outer opening of area used to process food product is unprotected when door is left open.

8-301.11 Pre-requisite for Operation

- Unlicensed food storage, food handling facility at this location.

In addition, the state inspector has indicated that NE Ice Cream, the company you have identified as your supplier for frozen single serve product and slush, provided information during an inspection that slush product from his facility was not ordered for this year prior to the delivery of a shipment on July 16th which is contrary to what you have indicated.

You are hereby ordered;

- to cease and desist any and all unlicensed food preparation associated with the vending of frozen product at this location **immediately**
- to provide receipts for all food product, including slush that has been stored at this site by **July 24th, 2008**
- to contact the Middleborough Plumbing Inspector relative to the unapproved water supply connection to the freezer trailer by **July 24th, 2008**

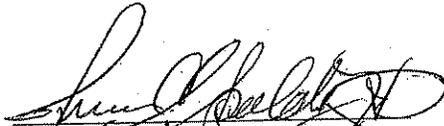
The Health Dept. will allow temporary use of the freezer trailer for the remaining stock of **frozen single serve ice cream product only** until the date of August 15th, 2008 with the following conditions:

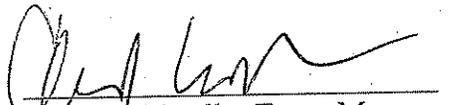
- that no additional stock will be brought onto this site and stored in this trailer and that slush product is not approved to be stored on this site.
- that the electrical service is not interrupted to the freezer unit for any period of time that might render the product unsafe.
- that any future plans for expansion of foodservice operations within the Town of Middleborough follows proper process of plan review approval, inspection and licensing with all appropriate departments.

Should you be aggrieved by this order, you have the right to request a hearing before the Board of Health. A request for said hearing must be received in writing in the office of the Board of Health within seven (7) days of receipt of this order. At said hearing you will be given an opportunity to be heard and to present witness and documentary evidence as to why this order should be modified or withdrawn. You may be represented by an attorney. Please be informed that you have the right to inspect and obtain copies of all relevant inspection or investigation reports, notices and other documentary information in the possession of this Board and that any adverse party has the right to be present at the hearing.

Please contact Health Inspector Catherine Hassett at 508-946-2408 if you have any questions relative to this order.

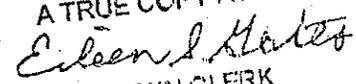
Yours truly,


Jeanne Spalding, Health Officer


Charles Cristello, Town Manager

Cc: Kim Foley, Food Protection Program, DPH
Robert Ellenwood, Sr. Food Inspector, Health Dept. City of Fall River

Cert # 70071490000316782322

ATRUE COPY ATTEST:

TOWN CLERK



Soule Homestead Education Center
46 Soule Street

Middleboro, MA 02346

soule1@verizon.net - 508-947-6744 - www.soulehomestead.org

Tax ID # 043-123-966

August 1, 2008

Middleboro Board of Health
Bank Building
20 Centre Street
Middleboro, MA 02346

Dear Friends on the Middleboro Board of Health:

I'm writing to request a variance for the remainder of our 2008 "Summer Fun on the Farm Program"

After meeting with Health Agent, Catherine Hassett, and her call to the State Department of Public Health for clarification of the regulations, it appears our "Summer Fun on the Farm Program", as it exists now, must be classified as a recreational camp.

The program runs for 7 weeks, Tuesday thru Friday, July 15 through August 22 from 9:30am to 12:30pm. We accept registrations for children from 5 to 12 years and have a maximum enrollment of 16 children for each week. We currently have between 8-10 children registered for the remaining few weeks.

Our Board of Directors will meet on Thursday, August 7, 2008 to discuss our options for this year and the State requirements for continuing this program in the future.

I'm requesting a variance; so that we may finish out the remaining few weeks as scheduled while we consider our options and decide on a course of action.

Thank you for your consideration. If I may be of assistance, please give me a call.

Sincerely,

Frank V. Albani, Jr.
Executive Director
Soule Homestead Education Center

Cc: Catherine Hassett

