

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

_____)	
In the Matter of:)	
)	
PGT, LLC)	
t/a Public Tenley)	
)	
Holder of a)	License No. ABRA-085626
Retailer's Class CR License)	Order No. 2014-370
)	
at premises)	
4611 41 st Street, N.W.)	
Washington, D.C. 20016)	
_____)	

PGT, LLC, t/a Public Tenley (Licensee)

Matthew Frumin, Chairperson, Advisory Neighborhood Commission (ANC) 3E

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ORDER ON AMENDMENT AND RESTATED SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that PGT, LLC, t/a Public Tenley, (Licensee), and ANC 3E have entered into an Amendment and Restated Settlement Agreement (Agreement), dated September 15, 2014, that governs the operation of the Licensee's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Licensee and Chairperson Matthew Frumin, on behalf of ANC 3E, are signatories to the Agreement.

Accordingly, it is this 8th day of October, 2014, **ORDERED** that:

1. The above-referenced Amendment and Restated Settlement Agreement, dated September 15, 2014, submitted by the Parties to govern the operations of the Licensee's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modifications:

Section 5 (Community Meetings) – This Section shall be removed.

A new Section shall be included stating the following: “This agreement hereby supersedes all previous agreement between the Parties.”

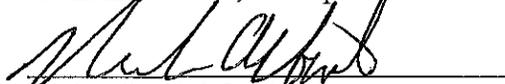
The parties have agreed to these modifications.

2. This Agreement replaces and supersedes previous Settlement Agreements between the parties; and
3. Copies of this Order shall be sent to the Licensee and ANC 3E.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



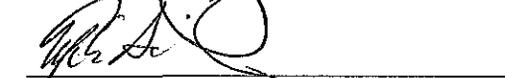
Nick Alberti, Member



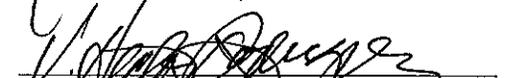
Donald Brooks, Member



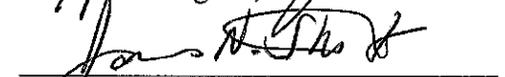
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to D.C. Official Code § 25-433, stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b).

AMENDED AND RESTATED VOLUNTARY AGREEMENT

THIS VOLUNTARY AGREEMENT (The "Agreement") made this th day of August 2014, by and between PGT LLC doing business as Public Tenley at 4611 41st Street, NW and Advisory Neighborhood Commission 3E ("ANC 3E")

RECITALS

WHEREAS, Applicant holds a Retailer Class C Restaurant license for premises located at 4611 41st Street, NW, Washington, D.C. (the "Premises") for the operation of a restaurant and bar;

WHEREAS, the Applicant seeks a substantial change to that license to allow for increased capacity in a rooftop service area;

WHEREAS, the Applicant is subject to an existing voluntary agreement and the parties seek to update that voluntary agreement to apply to the proposed substantial change;

WHEREAS, the parties have discussed the concerns of ANC 3E and have reached an understanding related to the operation of the establishment;

WHEREAS, the parties have agreed to enter into this Voluntary Agreement and request the District of Columbia Alcoholic Beverage Control Board (the "Board") to approve the issuance of the license, conditioned upon Applicant's compliance with the terms and conditions of this written agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, the mutual covenants and conditions herein after set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. Advertising. Applicant agrees that it will not advertise the restaurant as a nightclub.
3. Exterior Maintenance and Neighborhood Peace.

Applicant will make sure that the area surrounding the exterior of the restaurant is clean, that the trash is properly disposed of and that the general appearance is in good order.

Applicant will make reasonable efforts to maintain the peace and quiet of the nearby residential neighborhood.

If patrons loiter in nearby parks, open areas or the nearby residential neighborhood, then Applicant will take reasonable steps to discourage activity.

Whenever Applicant features live entertainment after 10:00 p.m., Applicant shall employ a security guard or doorman as reasonably necessary to ensure the safety of its patrons and the peace and order of the nearby residential neighborhood.

When music is being played at the establishment, it shall not be audible from the opposite side of Wisconsin Avenue, NW. No music from the establishment, whatsoever, shall be audible in the Tenley Hill condominium located at 4650 41st Street, NW. Applicant will retain a sound engineer to design and maintain a sound system to ensure that sound projects as little as possible and fully complies with this provision.

The outside seating areas located at the street level in the immediate front of the premises shall close at 11:00 p.m., Sunday through Thursday, and midnight Fridays and Saturdays. All patrons shall be made to vacate the outside seating areas and any outdoor music shall cease by such times. On Applicant's second floor and rooftop summer gardens, applicant may operate until 1:00 am Sunday through Thursday and 2:00 am Fridays and Saturdays; provided, however, that music on said summer gardens shall cease not later than 11 pm Sundays through Wednesday, midnight Thursdays and 1:00 am Fridays and Saturdays.

4. Kitchen Hours. The kitchen will remain open up until one hour prior to closing of the premises.

5. Community Meetings. Applicant agrees to meet regularly with representatives of a committee to be appointed by ANC 3E at times and locations to be agreed upon by the parties; such meetings will take place once every other month, unless the parties mutually agree that no such meeting is necessary.

If, after the regularly scheduled meetings, excessive noise and loitering persist, then Applicant will hire employees to patrol the neighborhood in a reasonable effort to abate any such problems.

6. Notices. In the event of a violation of the provisions of this Voluntary Agreement, Applicant shall be notified in writing of such violation. Any notices required to be given under this Agreement shall be in writing and mailed by certified mail or hand delivered to the other parties to this Agreement. Notice is deemed to be received upon mailing. Notice is to be given as follows:

If to Applicant:

Public Tenley
c/o Edwin Villegas
4611 41 Street, NW
Washington, DC 20016

With a copy to:

Stephen J. O'Brien
Mallios & O'Brien
2600 Virginia Avenue, NW
Suite 406

Washington, DC 20037

If to Protestant:

ANC 3E
c/o Lisner Home
Suite #219
Washington, DC 20016

Either party may change the notice addresses listed above by written notice to the other party at the addresses listed above. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the Alcoholic Beverage Control Board.

7. ANC Will Not Protest. In consideration of Applicant's agreement to the provisions of this Voluntary Agreement, ANC 3E agrees not to protest the substantial change to the License.

8. Acceptance of Agreement by Board. If the Board shall not accept this Agreement in its entirety, ANC 3E's consent to the issuance of the license shall be deemed withdrawn.

9. Entire Agreement. This Agreement sets forth the entire understanding of the parties hereto with respect to the subject matter herein and shall not be changed or terminated orally. There are no other warranties or representations made or relied upon by any of the parties to this matter other than those expressly set forth in said Agreement. This Agreement shall be construed in accordance with the laws of the District of Columbia

10. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

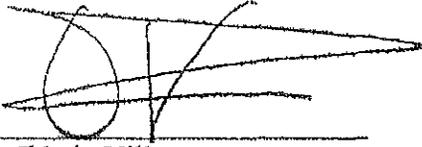
11. Successors and Partial Invalidity. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. In the event any part of this Agreement should be determined by a court of competent jurisdiction or the Alcoholic Beverage Control Board to be invalid or unenforceable, the validity of the rest of the Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part held to be invalid or unenforceable.

12. Authority. Each party who signs the Agreement warrants that he or she is authorized to do so.

[SIGNATURE BLOCKS ON FOLLOWING PAGE]

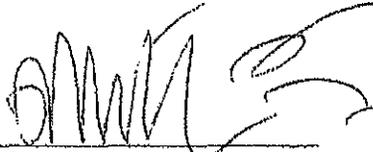
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year stated below:

Applicant:
PGT LLC doing business as Public Tenley,


By: _____

Edwin Villegas

Date Signed: September 15, 2014

ANC 3E 
By: _____

Matthew Frumin, Chairperson

Date Signed: September 15, 2014