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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Civil Division**

District of Columbia	)	
	)	
Plaintiff,	)	Case No. 2010-CA-001009B
	)	
v.	)	Judge Zeldon
	)	
Philly Pizza & Grill, Inc.	)	
	)	
Defendant.	)	
_____	)	

**FINAL CONSENT ORDER**

WHEREAS, this Court entered a Consent Order on March 9, 2010, ordering Defendant to “remain closed and not conduct business from within the location of 1211 Potomac St. NW, Washington, D.C.”;

WHEREAS, the Defendant’s former operations have remained closed at all times and the Defendant has dismantled, removed and/or demolished all equipment, fixtures and mechanical and exhaust facilities associated with the discontinued “restaurant” operations;

WHEREAS, by its terms, the March 9, 2010 Consent Order was to “remain in effect until vacated by the Court or [Defendant] obtains a valid Certificate of Occupancy for 1211 Potomac St. NW Washington D.C.”;

WHEREAS, Defendant, on March 19, 2010 filed an application with the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”) for a Certificate of Occupancy that would allow the premises at 1211 Potomac St., N.W., Washington, D.C. (“Premises”), to be used as a Prepared Food Shop, which is a use

permitted as a matter-of-right in the C-2-A Zone where this property is located. Under the Zoning Regulations, 11 DCMR § 199.1, Prepared Food Shop is defined as “a place of business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food non-alcoholic beverages, or cold refreshments. This term includes an establishment known as a sandwich shop, coffee shop, or an ice cream parlor.”

WHEREAS, as demanded by the Plaintiff, Defendant has in good faith revised and resubmitted the original Certificate of Occupancy application on April 26, 2010, June 21, 2010, July 6, 2010, and July 14, 2010;

WHEREAS, Defendant participated in a “Required Informational Meeting” sponsored by DCRA and attended by a wide-range of D.C. government officials, including the Director of DCRA, the Mayor’s Office, Metropolitan Police, and the immediate neighbors and Advisory Neighborhood Commission 2E;

WHEREAS, the Defendant has agreed to limitations on its Prepared Food Shop operations not required by the Zoning Regulations, including limits on the food served, the hours and type of operation and type of equipment used;

WHEREAS, the Plaintiff has made the agreement to a Consent Order as a pre-condition to issuance of the matter-of-right Certificate of Occupancy;

WHEREAS, Defendant objects to this pre-condition, as beyond the scope of the Zoning Regulations and the matter-of-right use sought and the limited ongoing jurisdiction of this Court;

WHEREAS, on September 17, 2010, DCRA has prepared the attached Certificate of Occupancy No. CO1001509 to “Go Fresh” which specifically reads and authorizes use

of the cellar and first and second floor of Premises as a “Prepared Food Shop; 18 seats [Hours of operation: Dine-In/Carry-out 6:00 a.m. – 1:00 a.m. (7 days); Delivery: 11:00 a.m. – 1:00 a.m. (Sun-Wed), 11:00 a.m. – 3:00 a.m. (Thurs, Fri., Sat.)]. Install Turbochef Tornado 2 Ventless Oven” (the “C of O”).

It is this \_\_\_\_ day of September, 2010, **ORDERED**, that

1. Except as expressly authorized by DCRA, Defendant shall not use the Premises for any business other than for a Prepared Food Shop doing business as “Go Fresh,” in accordance with this Consent Order and the attached Certificate of Occupancy No. \_\_\_\_ “Prepared Food Shop; 18 seats [Hours of operation: Dine-In/Carry-out 6:00 a.m. – 1:00 a.m. (7 days); Delivery: 11:00 a.m. – 1:00 a.m. (Sun-Wed), 11:00 a.m. – 3:00 a.m. (Thurs, Fri., Sat.)]. Install Turbochef Tornado 2 Ventless Oven.” Use as a “Prepared Food Shop” shall include the assembling of food and the warming and/or reheating of food using a microwave, toaster, panini press, or the ventless oven expressly authorized by this Consent Order, but shall not include the cooking of raw ingredients not intended for immediate human consumption, including but not limited to meat, fish, dough, pasta, or similar items; and it is further **ORDERED** that

2. Defendant will stop serving dine-in and carryout customers at 12:45 a.m. (fifteen (15) minutes before closing) and require all customers to vacate the Premises by 1:00 a.m., and the public entrances to the Premises will be locked (“Closing”). After Closing, Defendant may continue its authorized Delivery operations; and it is further **ORDERED** that

3. Defendant may install more than one Turbochef Tornado 2 Ventless Oven, microwave, toaster, or panini press, subject to Building and Electrical Code compliance,

but Defendant shall not install any other kind of oven, except as authorized in advance by DCRA. In the event the Turbochef Tornado 2 Ventless Oven requires future replacement or upgrade, Defendant will only install a similar “ventless” oven; and it is further

**ORDERED** that

4. Defendant shall not serve and/or sell pizza; and it is further **ORDERED** that

5. Defendant will post a “No Loitering” sign on the exterior (subject to historic preservation approval) and in the interior of the Premises and discourage patrons from loitering in the immediate vicinity of the Premises. Customers consuming Defendant’s food outside the Premises shall be considered to be loitering. Customers orderly waiting in line outside the Premises to be served or to place an order shall not be considered to be loitering. Defendant will promptly notify the Metropolitan Police of loitering in the immediate vicinity of the Premises, but shall not be responsible under this Consent Order for enforcement measures by the Metropolitan Police; and it is further **ORDERED** that

6. Defendant’s delivery vehicles will not block the public alley or private driveways at any time and at all times park and/or stand on private property or in authorized on-street parking facilities. Vendors and/or third party deliveries will be discouraged by Defendant from blocking the alley, private driveways or the public street; and it is further **ORDERED** that

7. This Court shall retain jurisdiction to enforce the C of O with respect to any material violations of the express terms of the C of O, the Zoning Regulations (11 DCMR), and the terms of this Consent Order. This Consent Order shall not preclude

independent enforcement measures by the Plaintiff pursuant to Building Code (12A DCMR), Business Licensing, Food and Food Operations (25 DCMR), or other non-zoning regulations; and it is further **ORDERED** that

8. The Plaintiff agrees that prior to seeking any judicial or other enforcement of this Consent Order, the Plaintiff will provide the Defendant written notice hand-delivered to the Premises, with an electronic copy to undersigned Defendant's counsel, setting forth the specific nature of any alleged violation, the specific action necessary to cure the alleged violation, and a reasonable deadline for compliance ("Notice of Violation"). Any cure required by Plaintiff must be proportionate and directly responsive to the alleged violation. The Defendant shall be provided not less than two (2) calendar days to cure the alleged violation, except in the case of a life-threatening situation; and it is further **ORDERED** that

9. If the Defendant denies the alleged Notice of Violation, Defendant shall provide Plaintiff with written notice and, if appropriate, propose an alternative cure to be undertaken ("Notice of Dispute"). The Parties shall meet to discuss the alleged violation and alternatives for curing it. If the parties do not reach a resolution, neither party shall object to the other party filing a motion for review and enforcement by the Court on an expedited basis. Defendant shall comply with the Notice of Violation while the dispute is pending before the Court, unless and until the Notice of Violation is modified by the Court or by agreement of the parties; and it is further **ORDERED** that

10. The attached C of O will be issued by the Plaintiff and be immediately effective upon approval of this Consent Order by the Court.

AGREED TO FOR DEFENDANT:

AGREED TO FOR PLAINTIFF:

PETER J. NICKLES  
Attorney General for the District of  
Columbia

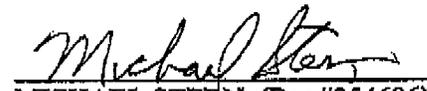
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(202) 727-3881

Attorneys for the District of Columbia

So ORDERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Joan Zeldon, Superior  
Court Judge

**DRAFT**  
**Department of Consumer and Regulatory Affairs**  
 Permit Operations Division  
 1100 4th Street SW  
 Washington DC 20024  
 Tel. (202) 442 - 4589 Fax (202) 442 - 4862



**CERTIFICATE OF OCCUPANCY**

THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE

PERMIT NO. C01001509

Date:

Address of Use: 1211 Potomac Street, N.W.		Zone: C-2-A	Ward: 2	Square: 1207	Suffix:	Lot: 0124
Description of Occupancy: Prepared Food Shop; 18 seats (Hours of operation: Dine-In/Carry-out 6:00 a.m. - 1:00 a.m. (7 days); Delivery: 11:00 a.m. - 1:00 a.m. (Sun-Wed), 11:00 a.m. - 3:00 a.m. (Thurs, Fri., Sat.)). Install Turbochef Tornado 2 Ventless Oven. Change of use from Restaurant						
Permission Is Hereby Granted To: Mehmet Kocak		Trading As: Go Fresh		Floor(s) Occupied Cellar, 1st, 2nd		PERMIT FEE: tbd
Property Owner: Juanita Gray		Previous Use(s): Restaurant		Occupant Load: 18		BZA Number: 0
Type of Application: Use Change		Occupied Sq. Footage: 1207	Approved Use(1): Other (Specify)			
Conditions/ Restrictions:  As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.						
Director: Linda K. Argo		Permit Clerk		Expiration Date:		
XXXXXXXXXXXXXXXXXXXX		XXXXXXXXXXXXXXXXXXXX				
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-621-1639  FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557  TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.						

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