

REALHART LLC
DBA PLAY ON WEST 6TH

PERMIT NO. MB-1079613, FB, LB, PE

TRAVIS COUNTY, TEXAS

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BEFORE THE TEXAS

ALCOHOLIC

BEVERAGE COMMISSION

EMERGENCY ORDER OF SUSPENSION

The Texas Alcoholic Beverage Commission ("Commission") is the state agency authorized to administer and enforce the Texas Alcoholic Beverage Code and the administrative rules adopted to implement the Code.

REALHART LLC ("Permittee") is the holder of a Mixed Beverage Permit, a Beverage Cartage Permit, a Mixed Beverage Late Hours Permit, and a Food and Beverage Certificate ("Permits"). The permitted premises is known as PLAY ON WEST 6TH, located at 620 W 6th Street Unit 2, Austin, Travis County, Texas 78701, and its mailing address is 2407 S Congress Ave Suite E556, Austin, Texas 78704.

On March 13, 2020, Governor Abbott issued a disaster proclamation certifying that the novel coronavirus ("COVID-19") poses an imminent threat of disaster for all Texas counties. Dr. John Hellerstedt, Commissioner of the Texas Department of State Health Services (DSHS), has determined that COVID-19 represents a public health disaster within the meaning under Chapter 81 of the Texas Health and Safety Code.

Governor Abbott issued Executive Order GA-29 (GA-29) on July 2, 2020, requiring that every person in Texas shall wear a face covering over the nose and mouth when inside a commercial entity open to the public. On October 7, 2020, Governor Abbott issued Executive Order GA-32 (GA-32), which states that restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, and whose customers eat or drink only while seated, may offer dine-in services. Additionally, GA-32 also sets forth the occupancy requirements and minimum standards for safely operating businesses which includes wearing face coverings, and failure to comply with GA-32 may be subject to regulatory enforcement.

On or about January 8, 2021, Permittee failed to operate its business in accordance with the social distancing requirements and minimum standard health protocols recommended by DSHS found at www.dshs.texas.gov/coronavirus/opentexas.aspx and GA-32. Additionally, the Permittee and Permittee's patrons were not wearing face coverings in compliance with Governor Abbott's Executive Order GA-29 and the DSHS minimum standard health protocols.

In light of the foregoing, I have determined that the continued operation of Permittee's business would constitute a continuing threat to the public welfare.

IT IS THEREFORE ORDERED, pursuant to Texas Alcoholic Beverage Code § 11.614, that Permittee's Permits are **suspended for thirty (30) days** effective immediately.

This Order is enforceable on the date it is signed. On that date, the Commission will serve notice to the parties listed below.

1/10/2021

SIGNED ON _____

DocuSigned by:

Bentley Nettles

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A. Bentley Nettles, Executive Director
 Texas Alcoholic Beverage Commission

REALHART LLC
DBA PLAY ON WEST 6TH

PERMIT NO. MB-1079613, FB, LB, PE

TRAVIS COUNTY, TEXAS

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DocuSigned by:

Bentley Nettles


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A. Bentley Nettles, Executive Director
Texas Alcoholic Beverage Commission

OFFICER'S RETURN

Came to hand on the 11 day of January, 2021 and executed on the 11 day of January, 2021 at 1045 a.m. or (p.m.) by delivering in person to the Permittee's or Permittee's representative, to-wit: a true copy of this Emergency Order of Suspension for Permit/License # MS1079613.

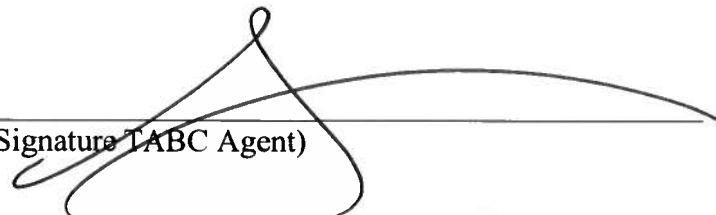
PERMITTEE'S REPRESENTATIVE



(Signature)

Michael Tyler General Manager
(Printed Name & Title)

BY:


(Signature TABC Agent)
Jerry TALLEY
(Printed name)

DOCKET NO. _____

REALHART LLC	§	BEFORE THE TEXAS
DBA PLAY ON WEST 6TH, RESPONDENT	§	
	§	
PERMITS NO. MB-1079613, FB, LB, PE	§	ALCOHOLIC
	§	
TRAVIS COUNTY, TEXAS	§	BEVERAGE COMMISSION

SETTLEMENT AGREEMENT AND WAIVER OF HEARING

The Texas Alcoholic Beverage Commission ("Commission") is the state agency with the authority to administer and enforce the provisions of the Texas Alcoholic Beverage Code ("Code") and the administrative rules ("Rules") adopted to implement the Code.

On March 13, 2020, Governor Abbott issued a disaster proclamation certifying that the novel coronavirus ("COVID-19") poses an imminent threat of disaster for all Texas counties. Dr. John Hellerstedt, Commissioner of the Texas Department of State Health Services has determined that COVID-19 represents a public health disaster within the meaning under Chapter 81 of the Texas Health and Safety Code.

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REALHART LLC, Respondent, is the holder of a Mixed Beverage Permit, a Beverage Cartage Permit, a Mixed Beverage Late Hours Permit, and a Food and Beverage Certificate ("Permits"). The permitted premises is known as PLAY ON WEST 6TH, located at 620 W 6th Street Unit 2, Austin, Travis County, Texas 78701, and its mailing address is 2407 S. Congress Ave Suite E556, Austin, Texas 78704.

My name is ALBERT T. VAN HUFF, ATTORNEY for Respondent. I have authority to enter into and bind Respondent to the terms of this Settlement Agreement and Waiver of Hearing ("Agreement").

The Commission alleges that, on or about January 8, 2021, Respondent failed to operate its business in accordance with the social distancing requirements and minimum standard health protocols recommended by DSHS found at www.dshs.texas.gov/coronavirus/opentexas.aspx and GA-32. Additionally, the Permittee and Permittee's patrons were not wearing face coverings in compliance with Governor Abbott's Executive Order GA-29 and the DSHS minimum standard health protocols.

SETTLEMENT AGREEMENT AND WAIVER OF HEARING

DOCKET NO. 662246

PAGE 1 OF 3

Respondent's Permits were then suspended by the Commission by Emergency Suspension Order dated January 10, 2021, and effective immediately.

To avoid the time and expense of formal proceedings, Respondent hereby agrees to accept and comply with the terms and conditions stated in this Agreement. In return, the Commission agrees to issue an Order canceling the remaining days of suspension cited in the Emergency Suspension Order.

RESPONDENT UNDERSTANDS the opportunity for a contested case hearing includes the right to be heard by an impartial person; the right to be represented by an attorney; and the right to respond and offer evidence and argument. **Respondent agrees to waive the opportunity for a hearing, including any right Respondent may have to a rehearing and the right to appeal concerning the violation(s) listed above.**

RESPONDENT AGREES to comply with **Governor Abbott's executive orders and all related protocols and checklists unless modified or rescinded.**

RESPONDENT ALSO AGREES and acknowledges that Governor Abbott's executive orders and all related protocols and checklists are not suggestions but are requirements under the terms of this Agreement.

RESPONDENT FURTHER AGREES that any future violations of executive orders, protocols and checklists will be treated as 11.61(b)(7) place or manner violations under the Code and will be subject to additional emergency orders.

RESPONDENT AGREES that its Mixed Beverage Late Hours Permit (LB) be **ASSESSED A SUSPENSION OF THIRTY (30) DAYS** for the above-referenced violation. Accordingly, all rights and privileges granted by the Commission under Respondent's Mixed Beverage Late Hours Permit will be **SUSPENDED** for a period of **30 DAYS** effective when the Commission Order is signed.

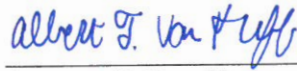
RESPONDENT UNDERSTANDS that this Agreement settles only the violation(s) and matter(s) stated herein, and does not affect the authority of the Commission to enforce the Code and Rules for future violations, nor does it exclude the violations above from being used to enhance penalties for future violations of the Code and Rules.

RESPONDENT AGREES that this Agreement becomes final and enforceable on the date the Order is signed.

SIGNATURE PAGE FOLLOWS

AGREED to and signed by ALBERT T. VAN HUFF, ATTORNEY, acting on behalf of Respondent, on this 12TH day of January 2021.

**REALHART LLC
RESPONDENT**



ALBERT T. VAN HUFF
ATTORNEY FOR RESPONDENT

ACCEPTED by the Texas Alcoholic Beverage Commission on this 12th day of January 2021.

/s/ Clark Miller

CLARK MILLER
ATTORNEY FOR THE COMMISSION
Texas Alcoholic Beverage Commission
Legal Services Division

DOCKET NO. 662246

REALHART LLC	§	BEFORE THE TEXAS
DBA PLAY ON WEST 6TH, RESPONDENT	§	
	§	
PERMITS No. MB-1079613, FB, LB AND PE	§	ALCOHOLIC
	§	
TRAVIS COUNTY, TEXAS	§	BEVERAGE COMMISSION

WAIVER ORDER

On this day, the above-numbered and styled cause came before the Texas Alcoholic Beverage Commission ("Commission") for resolution. After review and due consideration, the Commission now makes the following determinations.

REALHART LLC, Respondent, is the holder of a Mixed Beverage Permit, a Beverage Cartage Permit, a Mixed Beverage Late Hours Permit, and a Food and Beverage Certificate. The permitted premises is known as PLAY ON WEST 6TH, located at 620 W 6th Street Unit 2, Austin, Travis County, Texas 78701, and its mailing address is 2407 S. Congress Ave Suite E556, Austin, Texas 78704.

Respondent has waived its rights for the violation listed in the Settlement Agreement and Waiver of Hearing attached hereto and incorporated herein for all purposes in its entirety.

IT IS THEREFORE ORDERED that the remaining days of suspension cited in the Emergency Suspension Order issued to Respondent on January 10, 2021, be cancelled and the suspension lifted.

IT IS FURTHER ORDERED that Respondent's Mixed Beverage Late Hours Permit be **SUSPENDED FOR 30 (THIRTY) CONSECUTIVE DAYS** with no option to pay a civil penalty in lieu of suspension, effective as of the date this Order is signed.

This Order is final and enforceable on the date it is signed. On that date, the Commission will serve notice to the parties listed below.

SIGNED ON 1/15/2021

DocuSigned by:

Bentley Nettles

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A. Bentley Nettles, Executive Director
Texas Alcoholic Beverage Commission

Attachment:

Settlement Agreement and Waiver of Hearing

ALBERT T. VAN HUFF

ATTORNEY FOR RESPONDENT

VIA ELECTRONIC MAIL: REDACTED

CLARK MILLER

ATTORNEY FOR THE COMMISSION

TABC Legal Services Division

TABC Headquarters Licensing Division

TABC Enforcement Regional Office

Austin, Texas