

**BEFORE THE HEARING OFFICER  
ALLEGHENY COUNTY HEALTH DEPARTMENT**

EL PASA, INC., d/b/a DONUT	)	Docket no.: ACHD-22-051
CONNECTION,	)	
	)	<b>ALLEGHENY COUNTY HEALTH</b>
Appellant,	)	<b>DEPARTMENT’S POST-HEARING</b>
	)	<b>BRIEF</b>
v.	)	
	)	
ALLEGHENY COUNTY	)	
HEALTH DEPARTMENT	)	
	)	
Appellee.	)	

**ALLEGHENY COUNTY HEALTH DEPARTMENT’S POST-HEARING BRIEF**

**I. INTRODUCTION**

The Allegheny County Health Department (“ACHD” or “Department”), by and through its undersigned counsel, files this post-hearing brief supporting its position in the appeal of El Pasa, Inc., d/b/a Donut Connection (“Donut Connection”), a Pennsylvania corporation. There are several franchised Donut Connection locations. However, the only establishment relevant to these proceedings is situated at 2704 Harbison Street Natrona Heights, PA 152065 (the “subject facility”). At issue is the ACHD Food Program’s denial of Appellant’s variance request pursuant to Article III of its Rules and Regulations, Food Safety (“Article III”).<sup>1</sup>

**II. PROPOSED FINDINGS OF FACT**

On August 27, 2020, ACHD Food Safety Inspector David Martincek visited the subject facility. H.T. 14:4-7, 16:4-5. He cited Appellants for, *inter alia*, violation of Section 314 of Article III<sup>2</sup>, for failure to comply with the ACHD Plumbing Code (“Article XV”), which, in turn, requires

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<sup>1</sup> Article III has been amended since this action commenced. For purposes of this Brief, ACHD will cite to the version effective at the time of the underlying action, which had been amended on March 20, 2017.

<sup>2</sup> The proper Section was actually Section 315 of Article III; however, this error was corrected in a subsequent penalty letter. *See* Exhibit B.

utilization of grease-interceptors in kitchen facilities. *See* Exhibit A. The purpose of this requirement is to ensure that grease-laden waste, including residue from deep frying oil and dairy products, does not end up damaging municipal sewers. H.T. 14:17-15:18; 21:22-22:6; 24:1-18. The subject facility, by virtue of its use of deep fryers, disposal of dairy products, and associated ware washing of utensils, produces grease-laden waste. H.T. 21:22-22:6. The Department transmitted a letter advising the operator of the subject facility, Sandra DeAngelis, of these violations. *Id.*; H.T. 18:2-4.

On September 14, 2021, Inspector Martincek visited the subject facility for a second inspection. H.T. 17:21-24. Again, Appellant was cited under Section 315 of Article III. (September 2021 letter attached hereto as “Exhibit B”). On September 20, 2021, ACHD Food Safety Program Supervisor, Aaron Burden, transmitted a letter directing Appellant to install a grease trap by December 14, 2021. Exhibit C.

In response, on October 11, 2021, Donut Connection sent a variance request letter to Supervisor Burden asking the Department to “reconsider [its] request for the grease trap and grant [her] small business a variance.” Exhibit D. Appellant argued that, because the operators were not actively disposing of used deep fryer oil by pouring it down the drain, there was no need for a grease interceptor. *Id.*; H.T. 32-8-12. On October 14, 2021, ACHD’s Plumbing Program issued a field order to Donut Connection, citing it for a violation of Section 1003.3.1 of Article XV. Exhibit E.

On November 17, 2021, Donut Connection sent an additional variance request arguing that they should be exempt from requirements because: (1) the issue had not been raised during inspections in years prior; (2) DeAngelis had spoken with local officials who had stated that there were no problems with the municipal sewer system; (3) food is not prepared on site; (4) Donut

Connection only uses disposable items to serve its products; and (5) it properly disposes of the oil from its deep fryers. (November 2021 Variance Request attached hereto as “Exhibit F”). On October 6, 2022, ACHD transmitted its Variance Denial on the basis that the required washing of kitchen equipment and utensils that is inherent in food facility operation “results in fats, oils, and grease being present in the wastewater.” Exhibit G.

Donut Connection submitted its Notice of Appeal of the Variance Denial on November 4, 2022, objecting on the basis that it was a financial strain to install the grease trap, in addition to the lost revenue during installation. Appellant again stated that the Township Commissioner had told her there were no reported issues with the sewer system in the area. Appellant also stated that another Donut Connection owner had stated to DeAngelis that “her grease trap was never cleaned out for 24 yrs, leading [Appellant] to believe that donut shops do not contaminate drains.”

### **III. ARGUMENT**

Section 1105.C.7.b.i of Article XI of ACHD’s Rules and Regulations, Hearings and Appeals (“Article XI”) states dictates that “[a] party appealing an action of the Department shall have the burden of proof ... [w]hen the Department denies a license, permit, approval or certification.” Art. XI § 1105.C.7.b.i. Since this appeal pertains to a variance denial, rather than revocation of an existing permit, the burden is on Appellant to prove they should have been granted such variance. *Id.*; *contrast*, Art. XI 1105.C.7.a.ii (stating that the burden of proof rests with the Department when it revokes or suspends a license, permit, approval or certification).

Section 346 of Article III pertains to the granting of variances. Art. III § 346. It provides that the Food Safety Program “may grant [a] variance or conditional variance from any of the requirements of this regulation if the Department determines that the granting of the variance poses no real or potential hazard to the health, safety, or welfare of the public.” *Id.* Here, Appellant was seeking an exemption from the requirements of Section 315 of Article III, which requires that

“[p]lumbing shall be properly maintained and installed according to the Allegheny County Health Department Plumbing Code.” Art. III § 315. In turn, Section 1003.3.1 of Article XV requires grease interceptors and automatic grease removal devices “to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas.” Art. XV § 1003.3.1.

Reviewing courts must give an agency’s interpretation of its own regulation considerable weight and deference, considering such interpretation as “controlling unless the interpretation is plainly erroneous, inconsistent with the regulation or statute, or unreasonable.” *Rubino v. Pennsylvania Gaming Control Bd.* 1 A.3d 976, (Pa. Commw. Ct. 2010) (citing *Bayada Nurses, Inc. v. Department of Labor and Industry*, 958 A.2d 1050 (Pa. Commw. Ct. 2008); *Portalatin v. Department of Corrections*, 979 A.2d 944 (Pa. Commw. Ct. 2009)). In interpreting its own regulatory requirements, ACHD found that Appellant’s November variance request was flawed inasmuch as it did not adequately address the Department’s concerns regarding grease-laden waste and utensils. Exhibit F. Specifically, it did not. Furthermore, the Department did not find that the supposed financial burden of installing a grease interceptor was a valid reason for exemption. H.T. 35:20-23.

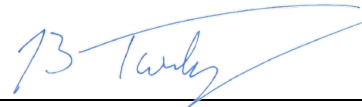
Furthermore, Appellant’s variance request was flawed for several reasons aside from those articulated in ACHD’s denial letter. First, it contradicted itself in stating both that food was not prepared on site while also admitting that there was a need for fryer oil disposal. Exhibit F. Second, it is irrelevant whether damage to municipal sewers can be traced to the operation as traceable damage is not a requirement of Article XV, Section 1003.31. Third, Donut Connection did not address the cleaning of grease-laden utensils which had been ACHD’s primary concern. In sum, ACHD did not find that Donut Connection should be denied.

#### IV. CONCLUSION

ACHD properly denied Appellant's variance request pursuant to Article III. Appellant has failed to meet its burden of proof to show such denial was improper. Therefore, this tribunal is bound to affirm ACHD's action based on the evidence presented at hearing.

Dated: April 24, 2023

Respectfully Submitted,

A handwritten signature in blue ink that reads "B Turley". The signature is written in a cursive style and is positioned above a horizontal line.

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Brendan Turley, Esq.  
Pa. Id. No. 326538  
Assistant Solicitor  
Allegheny County Health Department  
301 39<sup>th</sup> Street, Building #7  
Pittsburgh, PA 15201-1811  
Email: [Brendan.turley@alleghenycounty.us](mailto:Brendan.turley@alleghenycounty.us)  
Telephone: (412) 578-8398

# EXHIBIT A

COUNTY OF



ALLEGHENY

Rich Fitzgerald  
County Executive

August 27, 2020

El Pasa Inc  
Paul DeAngelis  
2328 Freeport Road  
Natrona Heights, PA 15065

Re: Client# 56782  
Donut Connection  
2328 Freeport Road  
Natrona Heights, PA 15065  
Harrison

Dear Sir or Madam,

An inspection was conducted at your facility on 08/27/2020 and reviewed with Sandy DeAngelis, Owner. The conditions identified on the attached assessment report provide the current food safety status of your operation. All violations of Article III - "Food Safety Rules and Regulations", must be corrected immediately. If violations are indicated, correction will be verified on your next routine inspection.

Article XI-"Hearings and Appeals" provides for your right for a hearing if aggrieved by this notice. Requests for a hearing must be made in writing and filed with the Director with in thirty (30) days upon receipt of this notice.

Your cooperation is greatly appreciated. Should you have any questions, please feel free to contact me (Phone: (412)578-2662 or email: David.Martincek@AlleghenyCounty.US).

Sincerely,

David Martincek,  
Environmental Health Specialist II

Food Safety Program  
2121 Noblestown Road, Suite # 210  
Pittsburgh, Pennsylvania 15205-3917  
Phone: (412) 578-8044  
Fax: (412) 578-8190  
[www.achd.net](http://www.achd.net)

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Allegheny County Health Department  
542 4th Avenue • Pittsburgh, PA 15219  
Phone (412) 687-2243 • Fax (412) 578-8325 • [www.achd.net](http://www.achd.net)



# Allegheny County Health Department

Food Safety Program  
 2121 Noblestown Rd, Suite # 210,  
 Pittsburgh, PA 15205  
 Phone: 412-578-8044 Fax: 412-578-8190

## Food Safety Assessment Report

<b>Client ID:</b> 56782	<b>Client Name:</b> Donut Connection	<b>Inspection Date:</b> 08/27/2020
<b>Address:</b> 2328 Freeport Road	<b>State:</b> PA <b>Zip:</b> 15065	<b>Purpose:</b> Initial
<b>City:</b> Natrona Heights	<b>Inspector:</b> Martincek, David	<b>Permit Exp. Date:</b> 09/30/2023
<b>Municipality:</b> Harrison		<b>Priority Code:</b> 1
<b>Category Code:</b> 212-Chain Restaurant without Liquor		
<b>Re-Inspection:</b> No - Inspector		<b>Re-Inspection Date:</b>

Food Safety Assessment Categories	◆	Assessment Status					Violation Risk		
		S	NO	NA	V	High	Med.	Low	
1 Food Source/Condition		x							
2 Cooking Temperatures #			x						
3 Consumer Advisory				x					
4 Reheating Temperatures #			x						
5 Cooling Food #			x						
6 Hot Holding Temperatures #			x						
7 Cold Holding Temperatures #		x							
8 Facilities to Maintain Temperature		x							
9 Date Marking of Food		x							
10 Probe-Type Thermometers		x							
11 Cross-Contamination Prevention #		x							
12 Employee Health #		x							
13 Employee Personal Hygiene #		x							
14 Cleaning and Sanitization #		x							
15 Water Supply		x							
16 Waste Water Disposal					x			x	
17 Plumbing		x							
18 Handwashing Facilities		x							
19 Pest Management #		x							
20 Toxic Items		x							
21 Certified Food Protection Manager					x		x		
22 Demonstration of Knowledge		x							
23 Contamination Prevention - Food, Utensils and Equipment		x							
24 Fabrication, Design, Installation and Maintenance					x			x	
25 Toilet Room		x							
<b>TOTAL</b>	<b>0</b>	<b>17</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>2</b>	

General Sanitation	◆	Assessment Status					Violation Risk		
		S	NO	NA	V	High	Med.	Low	
26 Garbage and Refuse		x							
27 Floors					x			x	
28 Walls and ceilings					x			x	
29 Lighting		x							
30 Ventilation		x							
31 Dressing rooms and Locker rooms		x							
32 General Premises		x							
33 Administrative					x				
<b>TOTAL</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>	

# U.S. Centers for Disease Control and Prevention "high risk" for foodborne illness and establishment of priority of inspection.

◆ - Diamond Exceptional      S - Satisfactory    NO - Not Observed    NA - Not Applicable    V- Violation





# Allegheny County Health Department

Food Safety Program  
2121 Noblestown Rd, Suite # 210,  
Pittsburgh, PA 15205  
Phone: 412-578-8044 Fax: 412-578-8190

## Food Safety Assessment Report

### Inspection Details

<b>Inspector Name:</b> Martincek, David	<b>Balance Amount:</b> \$0.00
<b>Placarding:</b> Inspected & Permitted	<b>Contact:</b> Paul DeAngelis
<b>Start Time:</b> 01:10:00 PM	<b>End Time:</b> 01:45:00 PM
	<b>Phone:</b> (724) 224-5859

**Violation:** 16 Waste Water Disposal  
**Comments:** \*LOW RISK\*  
 - There is no grease interceptor for waste water disposal at the three compartment sink as required by the Allegheny County Health Department Plumbing Code.

**Food Code Section(s):** 314

**Corrective Action:** Dispose of waste water in an approved manner

**Violation:** 21 Certified Food Protection Manager  
**Comments:** \*MEDIUM RISK\*\*  
 - There is no Certified Food Protection Manager on-site.

**Food Code Section(s):** 336

**Corrective Action:** Provide Certified Food Protection Manager to premises during all hours of operation

**Corrective Action:** Obtain approved Certified Food Protection Manager

**Violation:** 24 Fabrication, Design, Installation and Maintenance  
**Comments:** \*LOW RISK\*  
 - There is soiled cardboard on the floor by the fryers.

**Food Code Section(s):** 309

**Corrective Action:** Utilize approved, safe materials

**Violation:** 27 Floors  
**Comments:** \*LOW RISK\*  
 - Pieces of floor tile are missing in front of the men's toilet room urinal.

**Food Code Section(s):** 320

**Corrective Action:** Repair or replace

**Violation:** 28 Walls and ceilings  
**Comments:** \*LOW RISK\*  
 - Plastic is covering several ceiling tiles in the back storage room.

**Food Code Section(s):** 321

**Corrective Action:** Replace stained and damaged ceiling tiles.

**Violation:** 33 Administrative  
**Comments:** - Face coverings are not being used by employees.  
 \*Universal wearing of face coverings is required by the current Pa Dept of Health and Allegheny County Health Department orders for operating under the modified Green Phase.

**Food Code Section(s):** 330

**Corrective Action:** - Wear face coverings in accordance with the current Allegheny County Health Department and Pa Dept of Health orders.

**Other Assessment observations and comments:**

**Exceptional Observations:**



# Allegheny County Health Department

Food Safety Program

2121 Noblestown Rd, Suite # 210,  
Pittsburgh, PA 15205

Phone: 412-578-8044 Fax: 412-578-8190

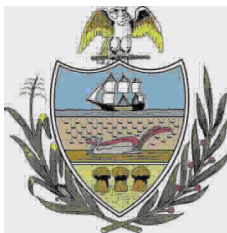
## Food Safety Assessment Report

### **General Comments:**

This inspection was performed during the Covid-19 pandemic. Face coverings were not being worn by employees when the inspection started. A warning was issued to the owner and the ensuing education discussion included information that additional steps will be taken to enforce the ACHD and Pa Dept of Health orders for universal wearing of face coverings.

# EXHIBIT B

COUNTY OF



ALLEGHENY

Rich Fitzgerald  
County Executive

September 14, 2021

El Pasa Inc  
Paul DeAngelis  
2328 Freeport Road  
Natrona Heights, PA 15065

Re: Client# 56782  
Donut Connection  
2328 Freeport Road  
Natrona Heights, PA 15065  
Harrison

Dear Sir or Madam,

An inspection was conducted at your facility on 09/14/2021 and reviewed with Sandy DeAngelis, Owner. The conditions identified on the attached assessment report provide the current food safety status of your operation. All violations of Article III - "Food Safety Rules and Regulations", must be corrected immediately. If violations are indicated, correction will be verified on your next routine inspection.

Article XI-"Hearings and Appeals" provides for your right for a hearing if aggrieved by this notice. Requests for a hearing must be made in writing and filed with the Director with in thirty (30) days upon receipt of this notice.

Your cooperation is greatly appreciated. Should you have any questions, please feel free to contact me (Phone: (412)578-2662 or email: David.Martincek@AlleghenyCounty.US).

Sincerely,

David Martincek,  
Environmental Health Specialist II

Food Safety Program  
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# Allegheny County Health Department

Food Safety Program  
 2121 Noblestown Rd, Suite # 210,  
 Pittsburgh, PA 15205  
 Phone: 412-578-8044 Fax: 412-578-8190

## Food Safety Assessment Report

<b>Client ID:</b> 56782	<b>Client Name:</b> Donut Connection	<b>Inspection Date:</b> 09/14/2021
<b>Address:</b> 2328 Freeport Road	<b>State:</b> PA <b>Zip:</b> 15065	<b>Purpose:</b> Initial
<b>City:</b> Natrona Heights	<b>Inspector:</b> Martincek, David	<b>Permit Exp. Date:</b> 09/30/2023
<b>Municipality:</b> Harrison		<b>Priority Code:</b> 1
<b>Category Code:</b> 212-Chain Restaurant without Liquor		
<b>Re-Inspection:</b> No - Inspector		<b>Re-Inspection Date:</b>

Food Safety Assessment Categories	◆	Assessment Status					Violation Risk		
		S	NO	NA	V	High	Med.	Low	
1 Food Source/Condition		x							
2 Cooking Temperatures #			x						
3 Consumer Advisory				x					
4 Reheating Temperatures #			x						
5 Cooling Food #			x						
6 Hot Holding Temperatures #				x					
7 Cold Holding Temperatures #		x							
8 Facilities to Maintain Temperature					x			x	
9 Date Marking of Food		x							
10 Probe-Type Thermometers		x							
11 Cross-Contamination Prevention #		x							
12 Employee Health #		x							
13 Employee Personal Hygiene #		x							
14 Cleaning and Sanitization #					x			x	
15 Water Supply		x							
16 Waste Water Disposal					x			x	
17 Plumbing		x							
18 Handwashing Facilities		x							
19 Pest Management #		x							
20 Toxic Items		x							
21 Certified Food Protection Manager					x		x		
22 Demonstration of Knowledge		x							
23 Contamination Prevention - Food, Utensils and Equipment					x			x	
24 Fabrication, Design, Installation and Maintenance					x			x	
25 Toilet Room		x							
<b>TOTAL</b>	<b>0</b>	<b>14</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>0</b>	<b>1</b>	<b>5</b>	

General Sanitation	◆	Assessment Status					Violation Risk		
		S	NO	NA	V	High	Med.	Low	
26 Garbage and Refuse		x							
27 Floors					x			x	
28 Walls and ceilings					x			x	
29 Lighting		x							
30 Ventilation		x							
31 Dressing rooms and Locker rooms		x							
32 General Premises					x			x	
33 Administrative		x							
<b>TOTAL</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	

# U.S. Centers for Disease Control and Prevention "high risk" for foodborne illness and establishment of priority of inspection.

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# Allegheny County Health Department

Food Safety Program  
2121 Nobl estown Rd, Suite # 210,  
Pittsburgh, PA 15205  
Phone: 412-578-8044 Fax: 412-578-8190

## Food Safety Assessment Report

### Inspection Details

<b>Inspector Name:</b> Martincek , David	<b>Balance Amount:</b> \$0.00
<b>Placarding:</b> Inspected & Permitted	<b>Contact:</b> Paul DeAngelis
<b>Start Time:</b> 11:00:00 AM	<b>End Time:</b> 12:30:00 PM
	<b>Phone:</b> (724) 224-5859

#### **Violation:** 8 Facilities to Maintain Temperature

**Comments:** \*LOW RISK\*  
- Two residential style refrigerators in the back rooms are in use for temperature maintenance.

**Food Code Section(s):** 309

**Corrective Action:** - Replace residential style refrigerators when they break down with National Sanitation Foundation (NSF) approved commercial refrigerators.

#### **Violation:** 14 Cleaning and Sanitization

**Comments:** \*LOW RISK\*  
- Test strips for chlorine sanitizer can not be located.

**Food Code Section(s):** 312

**Corrective Action:** Provide appropriate test strips or monitoring equipment

#### **Violation:** 16 Waste Water Disposal

**Comments:** \*LOW RISK\*  
- There is no grease interceptor at the three compartment sink as required by the Allegheny County Health Department Plumbing Code.

**Food Code Section(s):** 315

**Corrective Action:** Dispose of waste water in an approved manner

#### **Violation:** 21 Certified Food Protection Manager

**Comments:** \*MEDIUM RISK\*\*  
- There is no Certified Food Protection Manager on-site.

Information for obtaining certification can be found at the following link:  
<https://www.alleghenycounty.us/Health-Department/Programs/Food-Safety/Food-Protection-Manager-Certification.aspx>

**Food Code Section(s):** 336

**Corrective Action:** Provide Certified Food Protection Manager to premises during all hours of operation

#### **Violation:** 23 Contamination Prevention - Food, Utensils and Equipment

**Comments:** \*LOW RISK\*  
- Sprinkles in uncovered small plastic containers in the back storage room are double stacked.

**Food Code Section(s):** 303

**Corrective Action:** Protect Food

#### **Violation:** 24 Fabrication, Design, Installation and Maintenance

**Comments:** \*LOW RISK\*  
- Cardboard is on the floor next to the donut fryer.

**Food Code Section(s):** 309

**Corrective Action:** Provide smooth non-absorbent easily cleaned surfaces



# Allegheny County Health Department

Food Safety Program  
2121 Nobl estown Rd, Suite # 210,  
Pittsburgh, PA 15205  
Phone: 412-578-8044 Fax: 412-578-8190

## Food Safety Assessment Report

**Violation:**

**27 Floors**

**Comments:**

\*LOW RISK\*

- Some floor tiles are missing in front of the urinal in the men's toilet room.

**Food Code Section(s):** 320

**Corrective Action:**

Repair or replace

**Violation:**

**28 Walls and ceilings**

**Comments:**

\*LOW RISK\*

- Some missing ceiling tiles in the back storage room are covered by plastic.

- Daylight is visible along portions of the back door frame/wall juncture.

- A ceiling tile is missing in the corner of the women's toilet room.

- Base coving is missing in the corner of the men's toilet room.

- There are holes in the wall where the toilet paper dispenser was formerly mounted in the women's toilet room.

**Food Code Section(s):** 321

**Corrective Action:**

Repair or replace

**Violation:**

**32 General Premises**

**Comments:**

\*LOW RISK\*

- A mop is stored head down in the mop bucket wringer.

**Food Code Section(s):** 326

**Corrective Action:**

Store inverted or hung off of the floor to facilitate drying

**Other Assessment observations and comments:**

**7 Cold Holding Temperatures**

**Satisfactory**

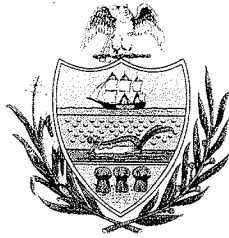
The front refrigeration units behind the counter are not in use.

**Exceptional Observations:**

# EXHIBIT C



COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE

20 September 2021

Client# 56782  
Donut Connection  
2328 Freeport Road  
Natrona Heights, PA 15065

RE: Grease Trap/Interceptor Installation  
Harrison Twp.

Dear Owner / Operator,

It has been brought to the attention of this office that your facility lacks a grease trap / interceptor. Fats, oil, and grease (FOG) from food facilities have long caused operational problems for wastewater collection and treatment systems. Accumulation of FOG in collection systems can reduce the system capacity and eventually cause blockages that result in sewer backups. This and other FOG handling issues increase operating costs and often generate negative publicity.

Therefore, your facility is ordered to install a grease interceptor no later than **14 December 2021** in accordance with Article XV, Section 1003. The grease interceptor must be installed by a Master Registered Plumber with plans submitted to the ACHD Plumbing Program.

An inspection will be conducted after 14 December 2021 to verify installation of the grease interceptor. A maintenance schedule and records, including the hauler, shall be kept on the premises and made available upon request to the ACHD.

Article XI-"Hearings and Appeals" provides for your right for a hearing if aggrieved by this notice. Requests for a hearing must be made in writing and filed with the Director with in thirty (30) days of this notice.

Thank you for your time, feel free to contact me at 412 587-8044 or the ACHD Plumbing Program at (412) 578-8036 if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Aaron Burden'.

Aaron Burden, MSES, REHS/RS

Supervisor, Food Safety Program

AB:SM

C: Amanda Mator, Operations Manager  
David Martincek, Environmental Health Specialist II  
ACHD Plumbing Program



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR  
ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

2121 NOBLESTOWN ROAD • SUITE 210 • PITTSBURGH, PA 15205

PHONE: 412.578.8044 • FAX: 412.578.8190

WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



Advancing  
public health  
performance

# EXHIBIT D

OCT 13 2021

October 11, 2021

Allegheny County Health Department  
2121 Noblestown Road  
Suite 210  
Pittsburgh, PA 15205

Donut Connection  
2328 Freeport Road  
Natrona Heights, PA 15065  
Client # 56782

Re: Grease Trap / Interceptor installation  
Harrison Township

Dear Mr. Burden,

I am writing to you in reference to your letter dated September 20, 2021, requiring the installation of a grease trap.

I have owned and operated my business since 1997, and have been inspected every year. There has not been a grease trap in all the years that I have owned the business, or any mention of a grease trap during any of my inspections.

As a Donut Connection all of our mixes arrive in 50 LB bags and we just add water. There is no grease involved.

As for the frying of our donuts, the shortening is removed into buckets and disposed of properly. We do not put grease down our sink. The fryer grease only needs to be changed sparingly as we add fresh shortening daily.

Please reconsider your request for the grease trap and grant my small business a variance.

Respectfully,



Sandra DeAngelis  
Donut Connection

# EXHIBIT E



# ADMINISTRATIVE FIELD ORDER

Allegheny County Health Department

Date: 10/14/2022  
 Time Arrive: N/A  
 Time Leave: \_\_\_\_\_  
 Inspector: Patrice Nestler  
 Supervisor Consulted: \_\_\_\_\_  
 Complaint No.: 202-22  
 Tracking/Plan No.: \_\_\_\_\_

<input type="checkbox"/> Air Quality Program Phone: (412) 578-8103	<input checked="" type="checkbox"/> Plumbing Program Phone: (412) 578-8036	<input type="checkbox"/> Food Safety Program Phone: (412) 578-8044
<input type="checkbox"/> Water Pollution Control & Solid Waste Management Program Phone: (412) 578-8040	<input type="checkbox"/> Housing & Community Environment Program Phone: (412) 350-4046	

Location of Violation <u>2328 Freepport Road Natrona Heights PA</u>		Facility No.
Company/Individual Name <u>Paul and Sandra DeAngelis</u>		Phone Number <u>724 224 5859</u>
Contact Person	Title <u>Owner</u>	Email

### Violation(s) of the following Allegheny County Health Department Rules and Regulations:

Regulation Section(s)	Description of Violation(s)
<u>102.3 Maintenance</u>	<u>All Plumbing systems, material and appurtenances, both existing and new...</u>
<u>Article XV 1003.3.1</u>	<u>Grease Traps</u>

### The Company/Individual identified above is hereby ORDERED:

- Immediately stop all work and/or cease operations in the following location(s) of the premises or facility:  
\_\_\_\_\_
- OTHER ORDERS: Need to install Grease Trap

The above Order(s) shall remain in effect until you are notified in writing by the Department. Please contact the appropriate Program at the above phone number if you have any questions regarding this Order(s) or to arrange for a reinspection. **Please be advised that the Department may assess a civil penalty for a failure to comply with this Order.** The above Order(s) is not necessarily the final administrative order or Department enforcement action for this matter. The Department may issue a separate enforcement action or administrative order which may result in a civil penalty.

Pursuant to Allegheny County Health Department Rules and Regulations, you are notified that you have thirty (30) days in which to file an appeal from the receipt of this Order. The notice of appeal shall be filed in the Office of the Director, 542 Fourth Avenue, Pittsburgh, PA 15219. In the event that an appeal is not filed within thirty (30) days from the receipt of this Order, the within actions shall become final. **This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay.**

By signing below, the recipient acknowledges receipt of this Order, but does not admit the fact of or liability for the violation(s).

Recipient Name	Title/Company	Phone #
<u>Patrice Nestler</u>		
Inspector Signature	Recipient Signature	Date
		<u>10/14/2022</u>

# EXHIBIT F

November 17, 2021

Director of the Allegheny County Health Dept.  
c/o ACHD Food Safety Program  
2121 Noblestown Road  
Suite 210  
Pittsburgh, PA 15205

09/28/2022

Harrison  
Ien

Grease trap req.  
Refer to Plumbing

Sandra DeAngelis  
Donut Connection  
2328 Freeport Road  
Natrona Heights PA, 15065  
Client # 56782

Dear Director,  
I am a small business applying for a variance

**To do what:** To remove the order for the installation of a grease trap / interceptor.

**Specify Regulation:** Article III Section 315 Plumbing; 2017 Article XV Allegheny Plumbing Code, Chapter 10, Section 1003.

**State why Requesting Variance:**

I have been in this business for 24 years; inspected every year without a grease trap / interceptor. Also I have no issues with plumbing or drains. Furthermore I spoke to our local officials and they have stated that there hasn't been an issue in my area.

**Why the Request Should be Approved:**

My small business has a capacity of 24 customers, and 75% of my customers are take out services. The mixes are in 50 LB bags and simply add water. No shortening or grease is added. The food we offer is already prepared. We heat and serve on disposable paper. Our beverages are also served in disposable cups. Coffee and donuts are 90% of our business. Nothing related to the production of coffee or donuts goes down the drain system. The food safe frying oil is disposed of, and removed by our garage service, thereby creating no potential hazard to the customers or the public.

Please approve this variance as I do not have the adequate space or slope needed for the grease trap / interceptor.

It would be a financial burden for the cost of the trap; as well as the days of work lost for our already short staff due to the pandemic.

Respectfully,



Sandra M. DeAngelis  
Donut Connection

# EXHIBIT G



COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE

October 6, 2022

El Pasa Inc.  
c/o Paul and Sandra DeAngelis  
2704 Harbison Street  
Natrona Heights, PA 15065

RE: Request for Variance  
Client # 56782  
Donut Connection  
2328 Freeport Road  
Natrona Heights, PA 15065  
Harrison

Dear Sandra DeAngelis:

This letter is in response to your request for a variance from Article III, the Allegheny County Health Department (ACHD) rules and regulations governing "Food Safety," section 315 – "Plumbing." Article III requiring that plumbing be installed according to the ACHD Plumbing Code (Article XV), and the requirement for a grease trap/interceptor is in Article XV, Section 1003.3.1.

It is the decision of this office to deny your request for a variance due to the presence of fats, oils, and/or grease present in wastewater resulting from the ware-washing process in a food facility offering donuts and coffee.

While your request indicates that "nothing related to the production of coffee or donuts goes down the drain system," the required washing of kitchen equipment and utensils is an integral function of the food facility operation which results in fats, oils, and grease being present in the wastewater. The lack of a grease trap/interceptor has a negative impact allowing these substances to clog sewer pipes and restrict flow of wastewater to and through sewer treatment systems. The request for variance does not describe how there is no real or potential hazard to the health, safety, or welfare of the public.

Pursuant to Article XI, entitled "Hearings and Appeals", you are hereby notified that you have thirty (30) days from the date of this notice in which to file a written appeal. The appeal shall be filed in the office of the Director, 542 Fourth Avenue, Pittsburgh, PA 15219. In the event that an appeal is not filed within thirty (30) days from the date of this order, the within action shall become final.

Please contact me if you have further questions via phone at 412-578-8161 or email at [Amanda.Mator@AlleghenyCounty.us](mailto:Amanda.Mator@AlleghenyCounty.us).

Respectfully,

Amanda L. Mator  
Program Manager  
Food Safety Program



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR  
ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

2121 NOBLESTOWN ROAD • SUITE 210 • PITTSBURGH, PA 15205

PHONE: 412.578.8044 • FAX: 412.578.8190  
WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT

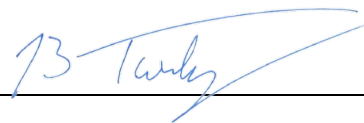


Advancing  
public health  
performance

**CERTIFICATE OF SERVICE**

I hereby certify that on April 24, 2023, I served a true and correct copy of the Allegheny County Health Department's Post-Hearing Brief on the following individual by electronic mail as follows:

Sandra DeAngelis  
2704 Harbison Street  
Natrona Heights, PA 152065  
Tel.: (724) 224-5859  
Email: elpasadc@hotmail.com



Brendan Turley, Esq.  
Attorney for the Appellee