

COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE

March 13, 2017

VIA E-MAIL PDF AND FIRST CLASS MAIL

Shawn N. Gallagher, Esq.  
Buchanan Ingersoll & Rooney PC  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219

**RE: Heinz Lofts Apartment Pool – Lifeguard Requirement Waiver Revocation  
Appeal – Request for a Stay.**

Dear Mr. Gallagher:

On February 17, 2017, you requested that the Allegheny County Health Department (hereinafter “ACHD”) reconsider your client’s request for a stay of the ACHD’s July 15, 2016 revocation of a waiver of the lifeguard requirements at the Heinz Lofts Apartment Pool. For the following reasons, the ACHD is now granting your client’s request for a stay of the July 15, 2016 determination:

1. The ACHD finds that granting the stay will not result in an immediate danger to the public health and welfare because:
  - a. At a depth of 39 inches, the pool is shallow, which lessens the risk of drowning;
  - b. At 98 square feet, the pool is very small, which lessens the risk of drowning;
  - c. The pool is only available to the residents of the Heinz Lofts Apartments;
  - d. The pool is locked and only accessible via an electronic key system; and
  - e. The pool has been operated without a drowning or near-drowning for 12 years without a lifeguard.
2. As an apartment pool, the pool would not be required to operate with a lifeguard under the applicable Pennsylvania regulation. See 28 Pa. Code § 18.1 and § 18.42.

The granting of this stay does not resolve the issues raised in your client’s appeals, and the hearing officer’s final decision may be that a lifeguard is necessary during operation the Heinz Loft Apartment Pool. This stay simply reinstates, while your client’s administrative appeal is pending, the September 29, 2004 waiver, as well as its terms and conditions.

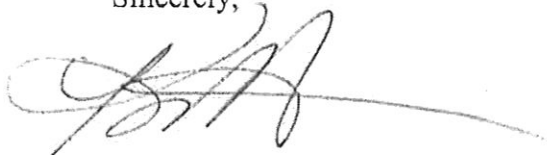


KAREN HACKER, MD, MPH, DIRECTOR  
**ALLEGHENY COUNTY HEALTH DEPARTMENT**  
542 FOURTH AVENUE • PITTSBURGH, PA 15219  
PHONE (412) 687-ACHD (2243) • FAX (412) 578-8325 • WWW.ACHD.NET

It should also be noted that this stay does not relieve your client from having to comply with future regulation changes. If the ACHD promulgates new regulations mandating a lifeguard on duty during operation of swimming pools such as the one at the Heinz Lofts Apartments, then your client must comply with that new requirement.

If you have any questions or concerns regarding this stay or the appeal proceedings in general, please contact the ACHD's Hearing Officer, Max Slater, at 412-578-8074 or via e-mail at [max.slater@alleghenycounty.us](mailto:max.slater@alleghenycounty.us).

Sincerely,

A handwritten signature in black ink, appearing to be 'KAH', with a long horizontal line extending to the right.

Dr. Karen Hacker, M.D., M.P.H.  
ACHD Director

- c: Max Slater, Esq., ACHD Hearing Officer (e-mail only)  
Michael A. Parker, Esq., ACHD Solicitor (e-mail only)  
James L. Kelly, ACHD Deputy Director for Environmental Health (e-mail only)  
David Namey, ACHD-HCE Program Manager (e-mail only)