



THE PRIORY HOTEL • PRIORY FINE PASTRIES • THE GRAND HALL

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November 17, 2017

**BY HAND DELIVERY**

Karen A. Hacker, M.D., MPH  
Director  
Allegheny County Health Department  
542 Fourth Avenue  
Pittsburgh, PA 15219

**Re: Priory Fine Pastries, 528 East Ohio Street, Appeal and Request for Variance**

Dear Dr. Hacker:

I am writing to appeal a citation from the Allegheny County Health Department's ("ACHD") Food Safety Program for our operation at Priory Fine Pastries, 528 East Ohio Street, Pittsburgh, PA 15212, and to request a variance from the County Food Safety Code's requirement at section 316 that a food service venue with any seating must provide two (2) public restrooms.

The reason for this appeal and request for a variance is as follows:

- When Priory Hospitality Group. ("PHG") opened Priory Fine Pastries ("PFP") in 2007, ACHD inspected and licensed the premises. As part of that authorization, ACHD's permit allowed for six seats without any public restroom.
- In reliance on that authorization, since 2007, PFP has maintained limited seating in the front portion of the store.
- PFP's primary business is selling baked goods to the public at retail for take-out. The vast majority of its trade consists of transactions across the counter, with the customer selecting and paying for baked goods and then leaving the premises.
- However, PFP does offer coffee, pastries and sandwiches which some customers enjoy consuming within the store. PFP also uses the seating to meet with clients regarding wedding and other elaborate cakes and displays of baked goods. Take out customers will also use the seating as they wait for an order to be prepared.

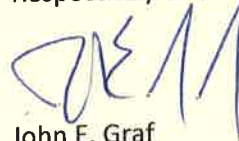
- In addition, the seating at PFP has become a neighborhood asset and a respite in a struggling business district. Children see the PFP store as a safe space, while the elderly will use the seating as a resting place while they shop. It acts as a gathering place for neighbors.
- PFP is located in a Victorian era building which first served as the production facility and store for the D. L. Clark candy company. The production area of the building consumes  $\frac{3}{4}$ 's of the building's floor space. The vast majority of the "store" area is devoted to counter space and retail display. Consequently, there is no possibility of operating the production facility and the retail area while maintain one, much less two, public restrooms.
- Thus, the only way to comply with the directive from the Food Safety Program is to remove the seating.

Removal of the seating from this store would be an unjust result, however, and would result in harm to the public without any benefit, due to:

- When opened, ACHD authorized seating in the store. PFP operated for more than ten (10) years without complaint from the public or from ACHD food safety inspectors. PFP has relied upon the variance issued by ACHD in 2007 in purchasing the furniture, designing menus to highlight certain items for in-store consumption, and in making the in-store seating a key part of its product offering. If required to remove the seating, PFP will suffer harm to its business, which already operates on thin margins in a financially distressed business district.
- As noted, it is impossible to remedy the problem by adding bathrooms. The sole remedy is to remove the seating. Thus, there is no way the public will benefit by the addition of restrooms. It will, however, deprive the public of a safe space, a respite and a gathering place.

Accordingly, Priory Fine Pastries respectfully requests that ACHD (a) schedule a hearing regarding this appeal; and (b) following such hearing grant PFP a variance from the restroom requirement of the section 316 of the Food Safety Code based upon the foregoing reasons.

Respectfully submitted,



John E. Graf  
Owner  
Priory Fine Pastries