

STAFF REPORT

TO: Environment & Planning Committee

FROM: Graham Caradus, Co-ordinator Regulatory

REFERENCE: FP0019

SUBJECT: **APPLICATION FOR EXEMPTION FOR COMPLIANCE WITH THE FOOD HYGIENE REGULATIONS 1974 THREE ROOMS RESTAURANT- REPORT REP10-09-06** - Report prepared for meeting of 23 September 2010

1. LEGAL OBLIGATIONS FOR COUNCIL

- 1.1 With minor exception, premises that prepare food for sale are required to be registered by Council. A physical standard for premises is established by the Food Hygiene Regulations 1974 (the Regulations), and Council is required to ensure that those physical standards are met before it registers any particular commercial food premises. [Regulation 5.(1)]
- 1.2 The process defined in 6.(3) of the Regulations is: *“Where a local authority is satisfied that undue hardship would be caused by...(compliance with physical standards)... it may grant the occupier of the premises a certificate of exemption...”*
- 1.3 The issue of exemptions as per 1.2 above under the Regulations has been delegated from Council to the Environment & Planning Committee.

2. REQUIREMENT TO PROVIDE WASH-HAND BASINS IN FOOD PREMISES

- 2.1 The basic requirement to provide dedicated hand washing facilities is included in the First Schedule of the Regulations. It requires wash-hand basins *“...be installed as near as may be practicable to the parts of the premises where workers for whose use it is intended will be engaged...”*.
- 2.2 The “Explanatory Comment to the Food Hygiene Regulations 1974” issued by the then Department of Health suggests that typically a hand basin should be in the same space and within 6 metres of a work area.
- 2.3 The expectation of Council’s Environmental Health Officers (EHOs) is that in any bar area, there will be a sink for disposal of waste liquids and pre-cleaning of glassware, and a separate hand basin supplied.

- 2.4** The bar area that serves the “Three Rooms Restaurant”, 294 Queen Street, Richmond is served with a sink and glass washer, but there is neither a hand basin provided, nor space within the existing layout, for such a hand basin to be provided. Significant alteration of the existing structure would be required for a hand basin to be installed, and as such the issue of undue hardship is relevant.
- 2.5** The nearest hand basin is in the kitchen, therefore through a door and some metres away. In practice, it would require considerable motivation on the part of staff to walk to a nearby room to rinse hands, whereas if such facility was close by, it is much more likely to be used.

3. PUBLIC HEALTH AND “FAIRNESS” CONSIDERATIONS

- 3.1** There are three broad matters that EHOs keep in mind when auditing premises for compliance. The first requirement is not negotiable, and that is to administer and work within the provisions of the law as it legally compels EHOs and Council.
- 3.2** Interpretation is required for those “grey areas” where the application of the law provides latitude, or discretion on the part of the EHO. In those cases, being fair, and administering the rules in a manner that provides a level playing field for all involved is important, but the over-arching consideration needs to be the public health implications and reducing that risk where possible.
- 3.3** The public health risk from handling glassware associated with the operation of a bar is relatively low. However an identifiable risk exists for patrons if clean glassware is contaminated by harmful organisms due to staff not washing hands between handling “dirty” glasses, and handling “clean” glasses.
- 3.4** Staff either visiting the toilet, or being involved in other food handling activities in the kitchen will pass hand basins situated in those areas and have the opportunity for hand washing at those locations.

4. APPROPRIATE EXEMPTION

- 4.1** This is an appropriate case for an exemption, and can be justified on the basis that full compliance with the Regulations could create undue hardship for the operators of this very small bar area in a well established restaurant.
- 4.2** Public health risk associated with the lesser standard recommended below is minor.
- 4.3** The issue of an exemption in this specific situation will not lead to a de facto standard where bar operators can expect to be exempted from the requirement to provide hand basins in close proximity to a bar.

5. RECOMMENDATION

THAT pursuant to Regulation 6(3) of the Food Hygiene Regulations 1974, on the grounds of undue hardship, the Environment & Planning Committee of Council grants an exemption from the requirement to provide a hand basin in the area of the restaurant bar, on the premises operated by T and A Plotnitski and trading as “Three Rooms Restaurant” at 294 Queen Street Richmond subject to:

- 1. A disposable paper towel dispenser and a liquid soap dispenser being provided in close proximity to the existing sink;**
- 2. The existing sink being used for the dual purpose of a sink for disposal of liquid waste and pre-cleaning of glassware, and that of a wash-hand basin.**
- 3. The exemption being specific to T and A Plotnitski and expiring when they cease trading as Three Rooms Restaurant, at 294 Queen Street Richmond.**

Graham Caradus
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