Thursday, November 12, 2020

COUNCIL CHAMBERS - 1 CENTENNIAL SQUARE, VICTORIA BC

To be held immediately following the Committee of the Whole Meeting

The City of Victoria is located on the homelands of the Songhees and Esquimalt People

Due to the COVID-19 Pandemic, public access to City Hall is not permitted. This meeting may be viewed on the City's webcast at www.victoria.ca

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F.1.b.c. Sheltering Impacts Within the Downtown Victoria Business Association

F.1.b.d. Council Member Motion: Immediate Temporary and Long-Term Housing Solutions for People Sheltering in City Parks and repealing Temporary Adjustments to the Parks Regulation Bylaw

*F.1.b.e. Council Member Motion: Funding for Sanctuary Youth

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G. BYLAWS

G.1. Bylaw for 324/328 Cook Street and 1044, 1048, and 1052/1054 Pendergast Street: Rezoning Application No. 00634 and Development Permit with Variance Application No. 000527 17

A report recommending:

- 1st and 2nd readings of:
  - Zoning Regulation Bylaw, Amendment Bylaw (No. 1233) No. 20-081
- 1st, 2nd, and 3rd readings of:
  - Housing Agreement (324 Cook Street) Bylaw (2020) No. 20-082

The application is ready to proceed to Public Hearing and proposes increase the density and construct a four-storey, mixed-use building with commercial uses and residential uses.

H. NEW BUSINESS

H.1. Short Term Rental Business Licence Appeal Hearings

*H.1.a. Short Term Rental Appeal Hearing: 7-290 Superior Street *39*

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I. CLOSED MEETING

MOTION TO CLOSE THE NOVEMBER 12, 2020 COUNCIL MEETING TO THE PUBLIC

That Council convene a closed meeting that excludes the public under Section 90 of the *Community Charter* for the reason that the following agenda items deal with matters specified in Sections 90(1) and/or (2) of the *Community Charter,* namely:

Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

Section 90(1)(c) labour relations or other employee relations;

Section 90(1)(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment; and

Section 90(1)(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

J. APPROVAL OF CLOSED AGENDA

K. READING OF CLOSED MINUTES

L. UNFINISHED BUSINESS

M. CORRESPONDENCE

N. NEW BUSINESS

N.1. Legal Advice - Community Charter Section 90(1)(i)

N.2. Legal Advice - Community Charter Section 90(1)(i)

N.3. Law Enforcement - Community Charter Section 90(1)(f)

N.4. Employee Relations - Community Charter Section 90(1)(c)

O. CONSIDERATION TO RISE & REPORT

P. ADJOURNMENT

MINUTES - VICTORIA CITY COUNCIL

October 15, 2020, 3:04 P.M.
COUNCIL CHAMBERS - 1 CENTENNIAL SQUARE, VICTORIA BC
To be held immediately following the Committee of the Whole Meeting
The City of Victoria is located on the homelands of the Songhees and Esquimalt People

PRESENT:	Mayor Helps in the Chair, Councillor Alto, Councillor Dubow, Councillor Loveday, Councillor Potts, Councillor Thornton-Joe, Councillor Young
PRESENT ELECTRONICALLY:	Councillor Isitt
STAFF PRESENT:	J. Jenkyns - City Manager, S. Thompson - Deputy City Manager / Director of Finance, P. Bruce - Fire Chief, C. Coates - City Clerk , T. Zworski - City Solicitor, B. Eisenhauer - Head of Engagement, K. Hoese - Director of Sustainable Planning and Community Development, C. Havelka - Deputy City Clerk, C. Mycroft - Manager of Executive Operations, K. Moore - Head of Business and Community Relations, P. Bellefontaine - Director of Engineering & Public Works, P. Rantucci – Head of Strategic Real Estate, J. Jensen – Head of Human Resources, P. Bruce – Fire Chief, M. Heiser - Committee Secretary

A. CONVENE COUNCIL MEETING

B. APPROVAL OF AGENDA

Moved By Councillor Alto
Seconded By Councillor Potts

That the agenda be approved.

Amendment:

Moved By Councillor Loveday
Seconded By Councillor Alto

That the following item be added to the agenda:

G.1.b Report from the October 8, 2020 COTW Meeting

G.1.b.a Investing in Canada Infrastructure Program – Grant Funding Application

CARRIED UNANIMOUSLY

On the main motion as amended:

CARRIED UNANIMOUSLY

D. PROCLAMATIONS

D.1 "Waste Reduction Week" - October 19 to 27, 2020

Moved By Councillor Loveday
Seconded By Councillor Alto

That the following proclamation be endorsed:
1. "Waste Reduction Week" - October 19 to 27, 2020

CARRIED UNANIMOUSLY

D.2 "World Pneumonia Day - Pneumolight" - November 12, 2020

Moved By Councillor Thornton-Joe
Seconded By Councillor Loveday

That the following proclamation be endorsed:
1. "World Pneumonia Day - Pneumolight" - November 12, 2020

CARRIED UNANIMOUSLY

G. REPORTS OF COMMITTEE

G.1 Committee of the Whole

G.1.a Report from the October 8, 2020 COTW Meeting

G.1.a.a 1088 Johnson Street - Development Permit Application No. 000576 (Downtown)

Moved By Councillor Thornton-Joe
Seconded By Councillor Potts

That Council authorize the issuance of Development Permit Application No. 000576 for 1088 Johnson Street, in accordance with:
1. Plans date stamped August 4, 2020
2. Development meeting all Zoning Regulation Bylaw requirements.

CARRIED UNANIMOUSLY

Councillor Alto withdrew from the meeting at 3:07 p.m. due to a potential non-pecuniary conflict of interest with the following item.

G.1.a.b 210 Gorge Road East - Updated Victoria Housing Reserve Fund Grant (Burnside)

Moved By Councillor Loveday
Seconded By Councillor Potts

That Council direct staff to maintain the amount of the $600,000 grant with 42 non-market housing and 52 bedrooms.

FOR (5): Mayor Helps, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts
OPPOSED (2): Councillor Thornton-Joe, Councillor Young
CARRIED (5 to 2)

Councillor Alto returned to the meeting at 3:08 p.m.

G.1.a.c Official Community Plan Annual Review 2019

Moved By Councillor Alto
Seconded By Councillor Loveday

That Council:

1. Receive the Official Community Plan Annual Review 2019 (Attachment 1) for information and direct staff to communicate the findings and highlights to the public.
2. Direct staff to prepare amendments to the Official Community Plan, 2012 as part of the adaptive management framework to address the following:
    a. Alignment with the Victoria Climate Leadership Plan, 2018
    b. Alignment with Go Victoria – Our Mobility Future, 2019
    c. Alignment with the Transgender, Non-Binary and Two Spirit + Inclusion Plan, 2019
    d. Alignment with the Accessibility Framework, 2020
    e. Alignment with Victoria 3.0
    f. This should be aligned with the endorsed guidelines and principles of the equity framework.
    g. Amendments to support the Inclusionary Housing and Community Amenity Policy, 2019 regarding Council's motion of June 27, 2019 to consider densities and building heights above OCP maximums for affordable housing and community amenity contributions
    h. Amendments to help achieve Victoria Housing Strategy objectives and COVID-19 recovery, including the priority action to advance and support the rapid supply of affordable and supportive housing with government partners and non-profit housing providers
    i. Amendments to Section 6: Land Management and Development to fix inconsistent language and improve policy interpretation
    j. Amendments to Appendix A: Development Permit Areas to add the Guidelines for: Multi-Unit Residential, Commercial

DRAFT

and Industrial to: DPA 4: Hillside Town Centre; DPA 5: Stadacona Village, Jubilee Village (excepting Jubilee Hospital), James Bay Village; DPA 6A: Oak Bay Avenue Village; DPA 7A: Hillside Corridor, Oak Bay Avenue Corridor, Fort Street Corridor (north of Oak Bay Avenue), Shelbourne Avenue Corridor; and DPA 7B(HC): Fort Street Corridor.

3. Consider consultation under Section 475(2)(b) of the Local Government Act and direct that no referrals of the Official Community Plan Amendment Bylaw are necessary to the Capital Regional District Board, Island Health, provincial or federal governments, Township of Esquimalt, District of Saanich and the District of Oak Bay.
4. That the OCP amendments be referred to the Esquimalt and Songhees Nations.
5. Consider consultation under Sections 475(1) and 475(2) of the Local Government Act and direct consultation on the proposed Official Community Plan amendments in accordance with the consultation plan in Attachment 2.

FOR (7): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, Councillor Thornton-Joe
OPPOSED (1): Councillor Young

CARRIED (7 to 1)

G.1.a.d Proposed Adjustments to Parking Fees

Moved By Councillor Potts
Seconded By Councillor Young

That Council adjust parking fees as follows effective October 15, 2020 unless otherwise specified:

1. View Street and Broughton Street parkades
   a. Hourly rates
      i. 1st hour free
      ii. 2nd and 3rd hour $2
      iii. 4th hour and beyond $3
      iv. reduced daily maximum of $14.50
   b. Increase monthly rate to $200 effective November 1, 2020
2. Yates Street Parkade
   a. Increase monthly rate to $200 effective November 1, 2020
3. Centennial Square Parkade
   a. Increase monthly rate to $150 effective November 1, 2020
4. Johnson Street Parkade
   a. Hourly rates
      i. $2 per hour to a daily maximum of $12
   b. Increase monthly rate to $175 effective November 1, 2020

CARRIED UNANIMOUSLY

G.1.a.e Youth Bus Passes - Proposed New U-Pass Program

Moved By Councillor Dubow
Seconded By Councillor Loveday

That Council:

1. Request approval from the Victoria Regional Transit Commission for a U-Pass program paid by the City of Victoria that provides youth bus passes:
   a. For eligible youth 18 years and younger who reside within the municipality of Victoria
   b. for January 1 to December 31 ,2021
   c. Using the following fee structure:
      i. Fixed fee of $11.25 per eligible youth aged 11-18 to a minimum of approximately 4,000 youth. The number of eligible youth to be updated every four months.
      ii. Variable fee of $11.25 per pass issued for eligible youth younger than 11
2. Direct staff to include a budget of $700,000 in the draft 2021 Financial Plan for the Youth Bus Pass Program, with funding to be determined as part of the 2021 financial planning process
3. Authorize the Mayor and City Clerk to execute a U-Pass Agreement with BC transit generally in accordance with the terms outlined in this report.

CARRIED UNANIMOUSLY

G.1.b Report from the October 8, 2020 COTW Meeting

G.1.b.a Investing in Canada Infrastructure Program – Grant Funding Application

Moved By Councillor Alto
Seconded By Councillor Loveday

That Council:

1. Approve the submission of a grant application through the Investing in Canada Infrastructure Program – Community, Culture and Recreation for $2.4 million in funding and commits the City's share of $1.853 million for the Topaz Park Artificial Turf Replacement Project.
2. If the grant is awarded, authorize the City entering into a shared cost agreement with the Province of British Columbia, generally described in this report, on the terms acceptable to the Chief Financial Officer and the Director of Parks, Recreation and Facilities and in a form acceptable to the City Solicitor.

CARRIED UNANIMOUSLY

DRAFT

Councillor Isitt requested that the Mayor recall the vote on the previous motion.

The Mayor recalled the vote on the previous motion.

Moved By Councillor Alto
Seconded By Councillor Loveday

That Council:

1. Approve the submission of a grant application through the Investing in Canada Infrastructure Program – Community, Culture and Recreation for $2.4 million in funding and commits the City's share of $1.853 million for the Topaz Park Artificial Turf Replacement Project.
2. If the grant is awarded, authorize the City entering into a shared cost agreement with the Province of British Columbia, generally described in this report, on the terms acceptable to the Chief Financial Officer and the Director of Parks, Recreation and Facilities and in a form acceptable to the City Solicitor.

FOR (7): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Loveday, Councillor Potts, Councillor Thornton-Joe, Councillor Young
OPPOSED (1): Councillor Isitt

CARRIED (7 to 1)

H. BYLAWS

H.1 Bylaw for Business Recovery from Pandemic

Moved By Councillor Thornton-Joe
Seconded By Councillor Alto

That the following bylaw **be adopted:**

1. Business Recovery from Pandemic Bylaw Amendment Bylaw (No. 01) No. 20-105

CARRIED UNANIMOUSLY

I. NEW BUSINESS

I.1 Short Term Rental Business License Appeals

I.1.a Short Term Rental Business License Appeal for 704 Robleda Crescent

Council received a report dated October 5, 2020 from the City Clerk regarding the Short Term Business License Appeal for 704 Robleda Crescent.

Council discussed the following:

- *Photos confirming that the property is a self-contained suite*

- *Details of the property's advertisement*

Council members provided their rationale for supporting the Licence Inspector's denial of the short-term rental business licence for this address.

Moved By Councillor Alto
Seconded By Councillor Dubow

That Council deny the reconsideration request of Thaddeus Monckton and uphold the Licence Inspectors decision to deny a short-term rental business licence for premises at 704 Robleda Crescent.

CARRIED UNANIMOUSLY

I.1.b Short Term Rental Business License Appeal for 246 Wilson Street

Council received a report dated October 5, 2020 from the City Clerk regarding the Short Term Business License Appeal for 246 Wilson Street.

Council discussed the following:
- *Compliance visits dating back to 2016*
- *Self-containment of suite*

Council members provided their rationale for supporting the Licence Inspector's denial of the short-term rental business licence for this address.

Moved By Councillor Young
Seconded By Councillor Thornton-Joe

That Council deny the reconsideration request of Cindy Jansen and uphold the Licence Inspectors decision to deny a short-term rental business licence for premises at 246 Wilson Street.

CARRIED UNANIMOUSLY

J. CLOSED MEETING

MOTION TO CLOSE THE OCTOBER 15, 2020 COUNCIL MEETING TO THE PUBLIC
That Council convene a closed meeting that excludes the public under Section 90 of the *Community Charter* for the reason that the following agenda items deal with matters specified in Sections 90(1) and/or (2) of the *Community Charter,* namely:
Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:
- *Section 90(1)(c) labour relations or other employee relations;*
- *Section 90(1)(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;*
- *Section 90(1)(g) litigation or potential litigation affecting the municipality.*

K. APPROVAL OF CLOSED AGENDA

Moved By Councillor Potts
Seconded By Councillor Loveday

That the closed agenda be approved.

CARRIED UNANIMOUSLY

O. NEW BUSINESS

O.1 Litigation/Law Enforcement - Community Charter Sections 90(1)(f) and 90(1)(g)

Councillor Isitt withdrew from the meeting at 3:30 p.m. due to a potential non-pecuniary conflict of interest with the following item's discussion.

Council discussed a litigation matter.

Councillor Isitt returned to the meeting at 3:33 p.m.

Council discussed a law enforcement matter.

The conversation was recorded and kept confidential.

All staff except exempt staff withdrew from the meeting at 4:15 p.m.

O.2 Employee Relations - Community Charter Section 90(1)(c)

Council discussed an employee relations matter.

The motion was recorded and kept confidential.

All staff except the City Manager withdrew from the meeting at 4:30 p.m.

O.3 Employee Relations - Community Charter Section 90(1)(c)

Council discussed an employee relations matter.

DRAFT

Q. ADJOURNMENT

Moved By Councillor Alto
Seconded By Councillor Loveday

That the Closed Council Meeting be adjourned at 4:45 p.m.

CARRIED UNANIMOUSLY

CITY CLERK	MAYOR

DRAFT

"RISING ECONOMY WEEK"

WHEREAS *the COVID-19 pandemic has heavily impacted all communities throughout Southern Vancouver Island and underscored the need for a collaborative, cross-sector response that will engage our citizens, ensure our region's economic resilience and create sustainable, inclusive economic growth into the future; and*

WHEREAS *during Rising Economy Week, South Island Prosperity Partnership will announce the economic recovery recommendations developed by the multi-stakeholder Rising Economy Taskforce. These recommendations will focus on accelerating regional economic recovery and will help to create the resiliency within our communities to withstand future economic shocks. At its core, Rising Economy Week is a tangible representation of how our regional community is able to rally together and unite in the face of such an unprecedented situation; and*

WHEREAS *South Island Prosperity Partnership responded to the unprecedented economic conditions created by the COVID-19 pandemic by convening the Rising Economy Taskforce, a multi-stakeholder collaborative initiative made up of an alliance of over 65 public and private-sector partners on southern Vancouver Island, including 11 local governments, nine First Nations, three post-secondary institutions, nine industry associations and nonprofits, five Chambers of Commerce and more than 30 major employers; and*

WHEREAS *the not-for-profit South Island Prosperity Partnership is committed to fulfilling its mandate to advance the economic growth and sustainable prosperity of the Southern Vancouver Island region.*

NOW, THEREFORE *I do hereby proclaim the week of November 16th to 20th, 2020 as "**RISING ECONOMY WEEK**" on the HOMELANDS of the Lekwungen speaking **SONGHEES AND ESQUIMALT PEOPLE** in the **CITY OF VICTORIA, CAPITAL CITY** of the **PROVINCE** of **BRITISH COLUMBIA***

IN WITNESS WHEREOF*, I hereunto set my hand this November 12th Two Thousand and Twenty.*

LISA HELPS
MAYOR
CITY OF VICTORIA
BRITISH COLUMBIA

Sponsored by:
Greame Wheeler
South Island Prosperity Partnership

"THE DAY OF AWARENESS FOR SURVIVORS OF FINANCIAL ABUSE AND ECONOMIC INJUSTICE"

WHEREAS *Whereas economic abuse is a deliberate pattern of control in which individuals interfere with their partner's ability to acquire, use, and maintain economic resources; and*

WHEREAS *a lack of access to economic resources undermines a woman's independence and agency, such as limiting her access to social support services, undermining mental well-being, and exacerbating other risk factors contributing to poverty and other forms of marginalization affecting women; and*

WHEREAS *each day in Canada, approximately 51% of women staying in shelters for women and children report experiencing financial abuse, economic abuse is a seldom talked about yet prevalent issue faced by survivors of domestic violence in Canada; and*

WHEREAS *economic abuse has happened to many generations of Canadian women and continues to happen regardless of socio-economic status, race, age or other identity factors; and*

WHEREAS *it is of utmost importance that government, at all levels, take action to protect victims and support survivors of economic abuse.*

NOW, THEREFORE *I do hereby proclaim Thursday, November 26th, 2020 as "**THE DAY OF AWARENESS FOR SURVIVORS OF FINANCIAL ABUSE AND ECONOMIC INJUSTICE**" on the HOMELANDS of the Lekwungen speaking **SONGHEES AND ESQUIMALT PEOPLE** in the **CITY OF VICTORIA, CAPITAL CITY** of the **PROVINCE** of **BRITISH COLUMBIA***

IN WITNESS WHEREOF*, I hereunto set my hand this November 12th, Two Thousand and Twenty.*

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LISA HELPS
MAYOR
CITY OF VICTORIA
BRITISH COLUMBIA

Sponsored by:
Canadian Centre for Women's Empowerment

"ORANGE DAYS: END VIOLENCE AGAINST WOMEN AND GIRLS"

WHEREAS *As people retreat inside their homes in efforts to curb the COVID-19 pandemic, reports from around the globe have shown an alarming increase in the already existing pandemic of violence against women. All types of violence against women and girls, and particularly domestic violence, have intensified. Although older women in Africa are strong and resilient, they are also among the most victimized groups when it comes to gender-based violence. We are calling this "the shadow pandemic"; and*

WHEREAS *In response to the COVID-19 pandemic and its impacts, global UNiTE Campaign activities this year take place under the theme: "Orange the World: Fund, Respond, Prevent, Collect!"; and*

WHEREAS *In recognition of the impact of the COVID-19 pandemic on our community, GRAN is inviting Victorians to undertake safe, local activities to raise awareness of the urgent need to include funding and strategies to respond to and prevent "the shadow pandemic," violence against women during COVID-19; and*

WHEREAS *in Canada, violence against women is disproportionately inflicted on Indigenous women; and*

WHEREAS *by creating worldwide awareness and calling on governments to match adequate, sustained resources to their political promises, we will find solutions to end gender-based violence.*

NOW, THEREFORE *I do hereby proclaim the 16 days from November 25th to December 10th, 2020 as "**ORANGE DAYS: END VIOLENCE AGAINST WOMEN AND GIRLS**" on the HOMELANDS of the Lekwungen speaking **SONGHEES AND ESQUIMALT PEOPLE** in the **CITY OF VICTORIA, CAPITAL CITY** of the **PROVINCE** of **BRITISH COLUMBIA** and urge all Victoria residents to participate in the United Nations campaign to "Orange the world."*

IN WITNESS WHEREOF*, I hereunto set my hand this November 12th, Two Thousand and Twenty.*

_____

LISA HELPS
MAYOR
CITY OF VICTORIA
BRITISH COLUMBIA

Sponsored by:
Anne Moon
Grandmothers Advocacy Network
Victoria Branch

"WORLD DIABETES DAY"

WHEREAS *diabetes is a serious condition affecting more than 425 million people worldwide; and*

WHEREAS *11 million Canadians live with diabetes or prediabetes, meaning one in three Canadians either has diabetes or prediabetes; and*

WHEREAS *520 000 British Columbians currently live with diabetes; and*

WHEREAS *the cost of diabetes in British Columbia is approximately $509 million and is expected to rise to $685 million by 2029; and*

WHEREAS *there is a great need to raise funds for research into better methods of treatment, and ultimately a cure; and*

WHEREAS *Diabetes Canada is leading the fight against diabetes by helping people with diabetes live healthy lives while it works to find a cure; and*

WHEREAS *maintaining positive health and wellness can in many cases lead to the prevention of prediabetes and type 2 diabetes as well as better diabetes management; and*

WHEREAS *World Diabetes Day this year focuses on a nationwide diabetes strategy, Diabetes 360°, and British Columbia will work on developing a provincial strategy modelled on the Diabetes 360° framework; and*

WHEREAS *Diabetes Canada encourages governmental and non-governmental organizations to recognize World Diabetes Day to raise public awareness of diabetes and its related complications.*

NOW, THEREFORE *I do hereby proclaim Saturday, November 14th, 2020 as "**WORLD DIABETES DAY**" on the HOMELANDS of the Lekwungen speaking **SONGHEES AND ESQUIMALT PEOPLE** in the **CITY OF VICTORIA, CAPITAL CITY** of the **PROVINCE** of **BRITISH COLUMBIA**.*

IN WITNESS WHEREOF*, I hereunto set my hand this November 12th, Two Thousand and Twenty.*

LISA HELPS
MAYOR
CITY OF VICTORIA
BRITISH COLUMBIA

Sponsored by:
Michaela Cunningham
Development Coordinator
Diabetes Canada

COMMITTEE OF THE WHOLE REPORT
FROM THE MEETING HELD NOVEMBER 5, 2020

For the Council meeting of November 12, 2020, the Committee recommends the following:

F.1 611 and 629 Speed Avenue - Development Variance Permit No. 00243 (Burnside)

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:
"That Council authorize the issuance of Development Variance Permit Application No. 00243 for 611 and 629 Speed Avenue, in accordance with:

1. Plans date stamped October 14, 2020.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
   i. reduce the site area of proposed strata lot 1 from 5340m² to 2112m²;
   ii. reduce the site area of proposed strata lot 2 from 5340m² to 3237m²;
   iii. reduce the required number of residential parking spaces from 65 to 16 for strata lot 1;
   iv. reduce the required number of visitor parking spaces from 7 to 4 for strata lot 1.
3. The applicant must provide two car share vehicles, two designated car share parking spaces with energized electrical outlets each capable of 240 volts and 30 amps, 100 car share memberships and usage credits in Phase 1, to the satisfaction of the Director of Sustainable Planning and Community Development.
4. The Development Permit lapsing two years from the date of this resolution."

F.6 1002 Vancouver Street: Development Permit with Variance Application No. 00154 (Fairfield)

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, if it is approved, consider the following motion:
"That Council authorize the issuance of Development Permit with a Variance Application No. 00154 for 1002 Vancouver Street, in accordance with:

1. Plans date stamped August 19, 2020.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
   i. reduce the rear yard setback from 6.65 metres to 0.3 metres
   ii. reduce the minimum parking requirement from 31 spaces to 10 spaces
   *Development Variance Permit Application No. 00195 reduced the parking requirement from 21 spaces to 12 parking spaces
3. The Development Permit lapsing two years from the date of this resolution."

D.1 Equity Workshop - Update, Community Profile, Next Steps

That Council receive this report for information.

F.3 1133 Fort Street: Rezoning Application No. 00727 (Fairfield)

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment and Land Use Contract Discharge Bylaw that would authorize the proposed development outlined in Rezoning Application No. 00727 for 1133 Fort Street, that first and second reading of the Zoning Regulation Bylaw Amendment and Land Use Contact Discharge Bylaw be considered by Council and a Public Hearing date be set.

F.4 1628 Edgeware Road: Rezoning Application No. 00726 and Development Permit with Variances Application No. 00138 (Oaklands)

Rezoning Application No. 00726

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00726 for 1628 Edgeware Road, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation and execution of a legal agreement to secure operational details including staffing and services offered, to the satisfaction of the Director of Sustainable Planning and Community Development.
2. Preparation and execution of a statutory right-of-way of 1.18m along the rear lane, to the satisfaction of the Director of Engineering and Public Works.

Development Permit with Variances Application No. 00138

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00726, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00138 for 1628 Edgeware Road, in accordance with:

1. Plans date stamped October 5, 2020.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
   i. reduce the front yard setback from 7.5m to 6.75m
   ii. reduce the rear yard setback from 9.14m to 8.3m
   iii. reduce the combined side yard setbacks from 4.5m to 3.04m
   iv. increase the site coverage from 40% to 41.4%
   v. reduce the required vehicle parking from 6 stalls to 1 stall.
3. Registration of legal agreements on the property's title to secure the operation of the rest home facility, to the satisfaction of the Director of Sustainable Planning and Community Development.
4. Final plans to be generally in accordance with plans date stamped October 5, 2020.
5. The Development Permit lapsing two years from the date of this resolution."

G.1 1834 Stanley Avenue: Work Without Permit - Bylaw File #156641

1. That the Council direct the City Clerk to file a notice in the Land Title Office in relation to a property located at 1834 Stanley Avenue, legally described as *SECTION 75 VICTORIA PLAN VIP206 PARCEL B, E PT LOTS 14/15/16 HERITAGE DESIGNATION* indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw,* and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

G.2 2021-2025 Draft Financial Plan

That Council receive this report for information and give further consideration on November 30, 2020.

I.2 Council Member Motion: Extended Hours for Showers and Washrooms

That the City continue to provide funding to Our Place through Emergency Management BC for shower services and to seek funding from Island Health and BC Housing to extend services to provide showers from 8am to 9pm daily.

That staff report back to Council should Emergency Management BC indicate that it intends to withdraw its funding.

I.3 Council Member Motion: Access to Transit

1. That the City of Victoria allocate up to $2812.50 per month to the Community Social Planning Councils BC Transit Ticket Assistance Program, from the financial stability reserve, for the provision of transit fare for persons sheltering outdoors.
2. That the City of Victoria work with the Coalition to End Homelessness, the Community Social Planning Council, and existing distributors to determine a distribution plan for transit fare.
3. That this funding allocation be reviewed in 3 months time.

Council Report
For the Meeting of November 12, 2020

To:	Committee of the Whole	**Date:**	October 29, 2020
From:	Karen Hoese, Director, Sustainable Planning and Community Development		
Subject:	**Update on Rezoning Application No. 00634 and Development Permit with Variance Application No. 000527 for 324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast Street**		

RECOMMENDATION

That Council give first and second reading of the Zoning Regulation Bylaw Amendment No. 20-081 (Amendment No. 1233), and give first, second and third readings of Housing Agreement (324 Cook Street) Bylaw No. 20-082.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with an update regarding the Rezoning and Development Permit with Variance Application for the properties located at 324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast Street. The proposal is to increase the density and construct a four-storey, mixed-use building with commercial uses and residential uses at an overall density of 2.19:1 floor space ratio.

In accordance with Council's motion of May 21, 2020, included below, the necessary conditions that would authorize the approval of Rezoning Application No. 00634 have been fulfilled.

Description of Proposal

This Rezoning Application is to rezone from the CR-3M Zone, Commercial Residential Apartment Modified District, and the R-K Zone, Medium Density Attached Dwelling District, to a new site-specific zone in order to increase the density and construct a four-storey, mixed-use building with commercial uses and residential uses at an overall density of 2.19:1 floor space ratio. The new zone would allow for reduced setbacks and increased density, height, and number of storeys in comparison to the CR-3M Zone.

The relevant motion reads:

Rezoning Application No. 00634

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00634 for

324/328 Cook Street and 1044, 1048 and 1052/1054 Pendergast Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council, and a Public Hearing date be set once the following conditions are met:

1. *Preparation and execution of the following legal agreements:*
    a. *Statutory Right-of-Way securing 1.38 metres of the site adjacent to Pendergast Street, to the satisfaction of the Director of Engineering and Public Works.*
    b. *Housing Agreement ensuring that future strata bylaws cannot restrict the rental of units to non-owners, to the satisfaction of the Director of Sustainable Planning and Community Development.*
    c. *Section 219 Covenant securing an amenity contribution in the amount of $136,163.47 toward the Local Amenities Reserve Fund, to the satisfaction of the Director of Sustainable Planning and Community Development.*
    d. *Section 219 Covenant to secure the construction of the following public realm improvements, to the satisfaction of the Director of Engineering and Public Works:*
        i. *raingardens along Pendergast Street;*
        ii. *enhanced boulevard planting and low seating walls; and*
        iii. *permeable and impermeable concrete sidewalk pavers.*
    e. *Section 219 Covenant to secure the maintenance of the proposed rain gardens and boulevard planting for a period of one year to the satisfaction of the Director of Parks, Recreation and Facilities.*
    f. *Section 219 Covenant securing an amenity contribution in the amount of $161,356.80 toward the Victoria Housing Reserve Fund, to the satisfaction of the Director of Sustainable Planning and Community Development.*
2. *Update report to Council on the potential acquisition of the commercial strata unit located at 380 Cook Street at 25% below market value.*

Development Permit with Variance No. 000527

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00634, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00527 for 324/328 Cook Street and 1044, 1048, 1052/1054 Pendergast Street, in accordance with:

1. *Receipt of final plans, generally in accordance with the plans date stamped October 9, 2019, with refinement of the artwork panels, to the satisfaction of the Director of Sustainable Planning and Community Development.*
2. *Development meeting all Zoning Regulation Bylaw requirements, except for the following variance:*
    i. *increase the building height from 13.5m to 16.2m (to the projecting portions of the roof).*
3. *The Development Permit lapsing two years from the date of this resolution."*

Update on Conditions

Legal Agreements

- an executed housing agreement was provided to ensure that a future strata cannot restrict rental of the dwelling units
- a 1.38 metre wide statutory right-of-way along Pendergast Street has been registered on title.
- a 219 covenant securing public realm improvements along Cook Street and Pendergast Street and the maintenance of the proposed rain-gardens for a period of one year has been registered on title.

Community Amenity Contributions

The amenity contributions to the Local Amenities Reserve Fund ($136,163.47) and Victoria Housing Reserve Fund ($161,356.80) have been included as conditions of additional density within the new zone and would be provided with a future building permit application to construct the proposed building. Until the amenity contributions are paid, they shall be adjusted annually by adding to the base contribution amounts an amount calculated by multiplying that base contribution as of the previous year by the annual percentage increase in the Consumer Price Index (CPI) for Victoria.

Commercial Strata Unit Acquisition

As noted in the applicant's letter to Mayor and Council dated October 26, 2020, the applicant is offering a commercial strata unit adjacent to the Cook Street Village Activity Centre (CSVAC) at a discount of 20.4% from fair market value as a community amenity associated with this proposal. At a Closed Council meeting on October 22, 2020, Council authorized staff to complete negotiations with Aragon Properties to acquire Strata Unit #2 at 380 Cook Street (Southgate Villa) for $589,225. This represents a $150,775 reduction from the fair market value, which was determined by an independent Appraisal Institute of Canada appraiser. As a consequence, an irrevocable right of first refusal at 79.6% of fair market value has been included as a condition of additional density within the proposed new zone. Although Council has provided this authorization for the acquisition of the strata unit, it has not yet considered the merits of the land use application.

CONCLUSIONS

The recommendation provided for Council's consideration contains the appropriate language to advance these applications to a Public Hearing.

Respectfully submitted,

Alec Johnston
Senior Planner
Development Services Division

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:

Date: November 2, 2020

List of Attachments

- Attachment A: Applicant's letter to Mayor and Council dated October 26, 2020.

ARAGON

Via Email and Mail

Updated October 26, 2020

Mayor and Council
City of Victoria
c/o 1 Centennial Square
Victoria, BC V8W 1P6

Re: Cook & Pendergast Street, Response to Council's Request for Affordable Housing & Clarification to the Proposed Daycare

Dear Mayor and Council,

We would like to provide you with some additional information in support of our Rezoning and Development Application.

While investigating the purchase of the land on the corner of Cook and Pendergast Street in 2017, we did extensive research into the official community plan, the City of Victoria's stated policies, and had many discussions with local neighbours, architects, and developers. At the time of purchase, the Official Community Plan envisioned a maximum height of 6 stories and a split of 2.0 and 2.5 FSR across the site, in addition to a range of other guidelines from Community Amenity Contributions (CAC) together with planning principles to allow a successful multifamily building.

At that time we recognized the significance of this site to the Cook Street Village Community, and we engaged with the neighbourhood extensively. Aragon managed eight (8) Neighbourhood and CALUC meetings over a 6 month span. We listened to the community and made substantial changes to our original plan. While we could not accommodate every comment/suggestion of the neighbours who came to speak, we listened to each of them, and very carefully addressed the common issues in creating a successful design. Cascadia Architects should be given a large amount of credit for listening and being flexible by changing the look and feel of the building to fit with the neighbourhood's comments. We made the decision at that time, well before the Fairfield Community Plan was developed, to lower the height from 6 stories to 4 stories. Also, from these meetings grew some excellent additions to the project, such as the addition of vertical panels of art which are to be designed by a Coast Salish Artist, Chris Paul. We ultimately made our application in February of 2018.

At our Committee of The Whole (COTW) meeting in November of 2018, we were asked by council to go back and assess our project's ability to include affordable housing. Since then we have met with BC Housing, and looked hard to find a way to include affordability with the current building. Ultimately in order to incorporate affordable housing, while making the project work financially we would require either funding from a 3rd party program, such as BC Housing's CHF fund, or pay for this affordable housing by changing the project to incorporate additional density. The reasons why we did not pursue these options is that both options would require a full re-design of the project. Further the "Interim Density Bonus Policy" as well as the recently adopted "Inclusionary Housing and Community Amenity Policy" both explicitly exempt projects previously submitted such as ours. We believe a full re-design would ultimately result in a building which the community will not be satisfied with. However, we do recognize the need to provide affordable housing in Victoria and thus have decided to make a contribution to the Affordable Housing Reserve fund as outlined below.

At the time of our COTW meeting last November, we offered our commercial strata unit, #2 – 280 Cook Street, in the neighboring "Cook Street Activity Center" building at a subsidized rental rate in order to allow a daycare to

ARAGON

occupy this space. Unfortunately, this proposal was ultimately turned down by the Strata Council of this building. It is our opinion that the Strata Council simply did not want a daycare in their building. As a result, providing a daycare in this space is no longer possible. We were willing to offer a daycare at 50% reduced rental rate for 7 years, with an additional 25% discount on rental rate for the following 3 years (for a total of 10 years of discounts), and we estimated this market rate of rent to be $16, triple net, per square foot. This contribution amounted to an estimated reduction in rent of $161,356.80. As the daycare is no longer an option, and in an effort to provide a meaningful contribution towards affordable housing in Victoria, **Aragon is including the donation of the previously proposed reduction in rent ($161,356.80) for the daycare towards Victoria's Affordable Housing Fund. This is in addition to the $136,163.47 currently being offered as part of the project's CAC which can be used at the discretion of council.**

Our efforts with the daycare lead us to have a discussion with the City's Real Estate acquisition team, who have expressed that the CSVAC has identified a desire to expand their programming if they can acquire additional space. This space could be provided by our adjacent commercial unit. #2 – 380 Cook and would allow the City to expand CVSAC programming and/or other civic services. We recognize the contribution of the Cook Street Activity Center with improving the livelihood of the member of the Cook Street Community, and the demand for increased space and programming of that organization. **As a result, we would also like our application to include the option for the city to acquire the space at #2- 380 Cook Street, at a 20.4% reduction on fair market value.** Currently this unit is estimated to be valued at $740,000, thus, **this discount would represent an additional $150,960 in contribution as part of the application**. We understand that we will still need to work with the City's Real Estate teams to fairly and openly direct the appraisal and process the city's acquisition.

In summary, Aragon's contribution to the City of Victoria as a result of our application totals as follows:

A) CAC Contribution - $136,163.47
B) Affordable Housing Contribution in-lieu of Daycare - $161,356.80
C) Discounted value of Commercial Unit to allow for Cook Street Activity Centre Expansion - $150,960.00

Total Contribution $ 448,480.27

We sincerely believe that this project will be a positive addition to the Cook Street Village community and we are satisfied that we have met our goal to go above and beyond the City's policies which were current at the time of their application.

We hope the Mayor and Council can conclude that our application was made under the guidelines existing at that time and evaluate it under those circumstances existing at that time. We believe we have an outstanding project through extensive community consultation and support.

We respectfully seek your approval of our application.

We are available to answer your questions as required. We will follow up with a meeting request in order to provide any clarifications required.

Sincerely,

Lenny Moy
President, Aragon (Cook) Properties Ltd

NO. 20-081

A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to amend the Zoning Regulation Bylaw by creating the CR-CP Zone, Cook and Pendergast District, and to rezone lands known as:

(a) 324/328 Cook Street from the CR-3M Zone, Commercial Residential Apartment Modified District; and

(b) 1044, 1048 and 1052/1054 Pendergast Street from the R-K Zone, Medium Density Attached Dwelling District,

all to the CR-CP Zone, Cook and Pendergast District.

The Council of The Corporation of the City of Victoria enacts the following provisions:

1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1233)".

2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended in the Table of Contents of Schedule "B" under the caption PART 4 – GENERAL COMMERCIAL ZONES by adding the following words:

"4.102 CR-CP Cook and Pendergast District"

3 The Zoning Regulation Bylaw is also amended by adding to Schedule B after Part 4.101 the provisions contained in Schedule 1 of this Bylaw.

4 The land known as 324/328 Cook Street, legally described as PID: 000-309-745, Lot 1, Fairfield Farm Estate, Victoria City, Plan 34863 and shown hatched on the attached map, is removed from the CR-3M Zone, Commercial Residential Apartment Modified District, and placed in the CR-CP Zone, Cook and Pendergast District.

5 The properties described below and shown cross-hatched on the attached map are removed from the R-K Zone, Medium Attached Dwelling District, and placed in the CR-CP Zone, Cook and Pendergast District:

(a) 1044 Pendergast Street, legally described as PID: 000-217-107, Lot 24, Fairfield Farm Estate, Victoria City, Plan 28; and

(b) 1048 Pendergast Street, legally described as PID: 000-772-887, Lot 23, Fairfield Farm Estate, Victoria City, Plan 28; and

(c) 1052/1054 Pendergast Street, legally described as PID: 002-477-921, Lot 22, Fairfield Farm Estate, Victoria City, Plan 28.

READ A FIRST TIME the day of 2020

READ A SECOND TIME the day of 2020

Public hearing held on the	day of	2020
READ A THIRD TIME the	day of	2020
ADOPTED on the	day of	2020

CITY CLERK MAYOR

PART 4.102 – CR-CP ZONE, COOK AND PENDERGAST DISTRICT

4.102.1 Permitted Uses in this Zone

The following uses are the only uses permitted in this Zone:

a. Multiple dwelling

b. Financial service

c. Office

d. Retail sales

e. Restaurant

f. Personal service

g. High tech

h. Day care

i. Home occupation subject to the regulations in Schedule "D"

j. Accessory Buildings subject to the regulations in Schedule "F"

4.102.2 Location and Siting of Permitted Uses

a. Commercial uses must be located on the first storey in those parts of the building that are within 35 metres from Cook Street.

b. Residential uses are not permitted on the first storey in those parts of a building within 30 metres from Cook Street.

4.102.3 Lot Area

a. Lot area (minimum) $2800m^2$

PART 4.102 – CR-CP ZONE, COOK AND PENDERGAST DISTRICT

4.102.4 Community Amenities

a. As a condition of additional density pursuant to Part 4.102.5, a monetary contribution of $161,356.80 must be provided to the Victoria Housing Reserve Fund prior to issuance of a Building Permit.

b. As a condition of additional density pursuant to Part 4.102.5, a monetary contribution of $136,163.47 must be provided to the Local Amenities Reserve Fund prior to issuance of a Building Permit.

c. As a condition of additional density pursuant to Part 4.102.5, the owner shall grant the City, prior to issuance of a Building Permit, an irrevocable right of first refusal, to purchase a space of no less than 230m^2 (2,500 sq. ft.) suitable for community use within a building in the City, at a price no more than 79.6% of the fair market value of that space, as determined by a mutually agreed upon Appraisal Institute of Canada appraiser.

d. Until the amenity contributions identified in Part 4.102.4 a. and b. are paid in full, they shall be adjusted annually on January 1 commencing the second calendar year following the year Bylaw #20-081 is adopted and each year thereafter, by adding to the base contribution amounts in Part 4.102.4 a. and b. an amount calculated by multiplying that base contribution as of the previous January 1 by the annual percentage increase in the CPI for the most recently published 12 month period.

e. For the purposes of this Part 4.102.4 “CPI” means the all-items Consumer Price Index for Victoria published by Statistics Canada or its successor in function.

4.102.5 Floor Area, Floor Space Ratio

a. Floor space ratio where the amenities have not been provided pursuant to Part 4.102.4 (maximum)	1:1
b. Floor space ratio where the amenities have been provided pursuant to Part 4.102.4 (maximum)	2.19:1

4.102.6 Height, Storeys

a. Principal building height (maximum)	13.5m

PART 4.102 – CR-CP ZONE, COOK AND PENDERGAST DISTRICT

4.102.7 Setbacks, Projections

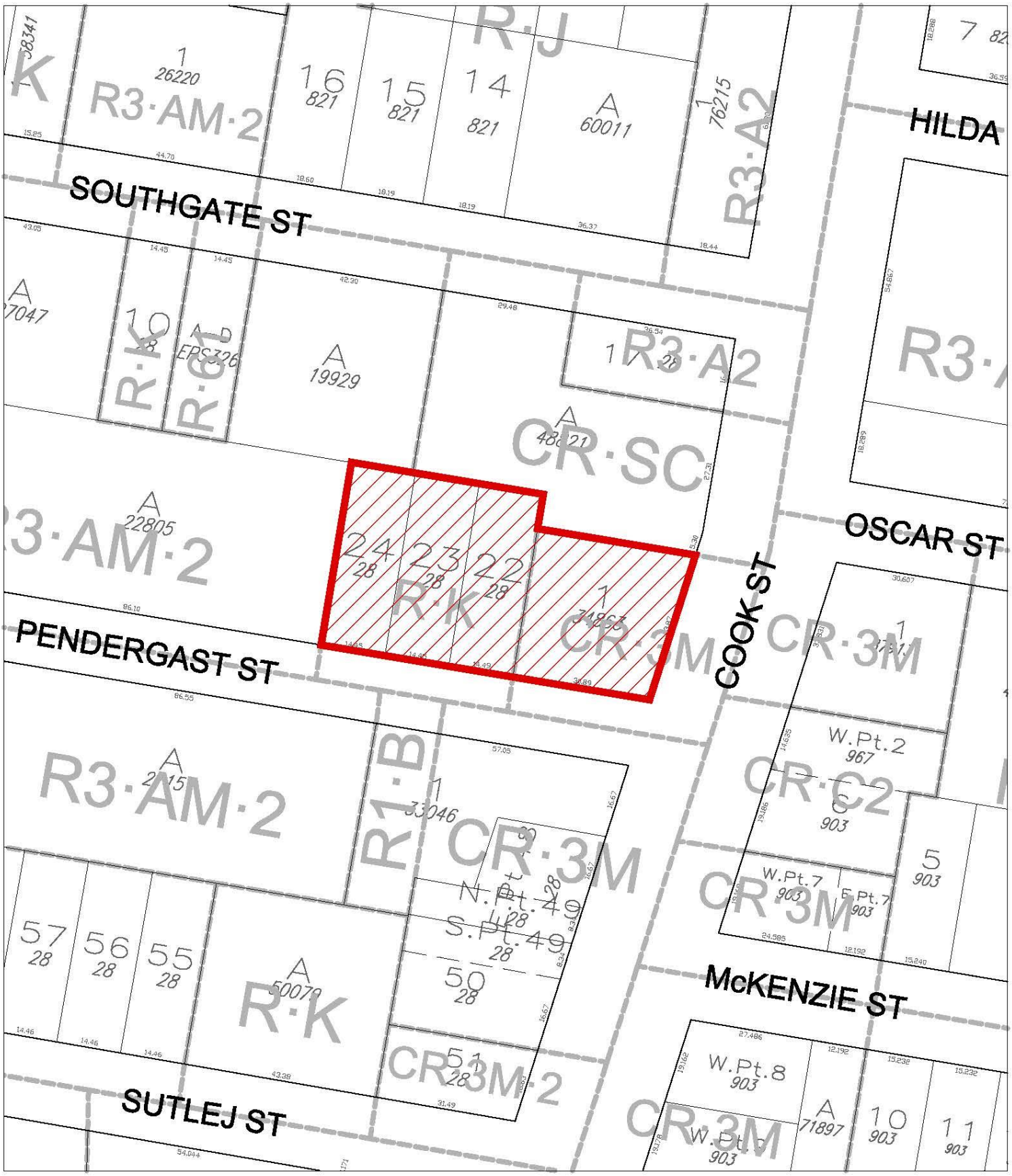
a.	Cook Street setback (minimum)	0.0m for the first storey of a building 2.5m for portions of a building above the first storey
b.	Rear yard setback (minimum)	3.5m for portions of a building that are more than 0.6m above grade
c.	Side yard setback from interior lot lines (minimum)	4.0m
d.	Side yard setback on a flanking street for a corner lot (minimum)	3.0m
e.	Any balcony, stairs, canopy or deck may project into a setback (maximum)	2.5m

4.102.8 Site Coverage, Open Site Space

a.	Site Coverage (maximum)	66%
b.	Open site space (minimum)	34%

4.102.9 Vehicle and Bicycle Parking

a.	Vehicle parking	Subject to the regulations in Schedule “C”
b.	Bicycle parking	Subject to the regulations in Schedule “C”



N

324-328 Cook Street,
1044, 1048, 1052-1054 Pendergast Street
Rezoning No.00634

CITY OF VICTORIA

NO. 20-082

HOUSING AGREEMENT (324 COOK STREET) BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize a Housing Agreement to ensure that future strata bylaws cannot prohibit the rental of units for the lands known as 324/328 Cook Street and 1044, 1048, 1052/1054 Pendergast Street, Victoria BC.

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of The Corporation of the City of Victoria in an open meeting enacts the following provisions:

Title

1 This Bylaw may be cited as the "HOUSING AGREEMENT (324 COOK STREET) BYLAW (2020)".

Agreement authorized

2 The Director of Sustainable Planning and Community Development is authorized to execute a Housing Agreement:

(a) substantially in the form attached to this Bylaw as Schedule A;

(b) between the City and Aragon (Cook) Properties Ltd. (Inc. No. BC1127192) or other registered owners from time to time of the lands described in subsection (c); and

(c) that applies to the lands located within the City of Victoria, in the Province of British Columbia with following civic addresses and legal descriptions:

324/328 Cook Street
PID: 000-309-745; Lot 1, Fairfield Farm Estate, Victoria City, Plan 34863;

1044 Pendergast Street
PID: 000-217-107; Lot 24, Fairfield Farm Estate, Victoria City, Plan 28;

1048 Pendergast Street
PID: 000-772-887; Lot 23, Fairfield Farm Estate, Victoria City, Plan 28; and

1052/1054 Pendergast Street
PID: 002-477-921; Lot 22, Fairfield Farm Estate, Victoria City, Plan 28

READ A FIRST TIME the	day of	2020
READ A SECOND TIME the	day of	2020
READ A THIRD TIME the	day of	2020
ADOPTED on the	day of	2020

CITY CLERK MAYOR

HOUSING AGREEMENT
(Pursuant to section 483 of the *Local Government Act*)

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA
#1 Centennial Square
Victoria, B.C.
V8W 1P6
(the "**City**")

AND:

ARAGON (COOK) PROPERTIES LTD
201 – 1628 West 1st Ave
Vancouver, B.C.
V6J 1G1
(the "**Owner**")

WHEREAS

A. Capitalized terms used herein will have the respective meanings ascribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein.

B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*.

C. The transferor, Aragon (Cook) Properties Ltd., (Inc. No. BC1127192) (as more particularly defined in section 1.0, the "**Owner**"), is the registered owner in fee-simple of those lands and premises located within the City of Victoria, in the Province of British Columbia with following civic addresses and legal descriptions:

324/328 Cook Street:
PID: 000-309-745, Lot 1, Fairfield Farm Estate, Victoria City, Plan 34863;

1044 Pendergast Street:
PID: 000-217-107, Lot 24, Fairfield Farm Estate, Victoria City, Plan 28;

1048 Pendergast Street:
PID: 000-772-887, Lot 23, Fairfield Farm Estate, Victoria City, Plan 28;

1052/1054 Pendergast Street:
PID: 002-477-921, Lot 22, Fairfield Farm Estate, Victoria City, Plan 28;

(collectively, and including any lands into which the same may be consolidated or subdivided, the "**Lands**");

D. The owner has made an application to redevelop the Lands to enable construction of a mixed-use strata development containing commercial and residential uses under Rezoning Application No. 00634 and DPV No. 000527;

E. The Dwelling Units are intended to be stratified and therefore will be subject to the *Strata Property Act* (British Columbia) and the bylaws of the strata corporation, but the intent of this housing agreement is to ensure the perpetual availability of rental units (in addition to owner-occupied units); and

F. The City and the Owner wish to enter into this Agreement, as a housing agreement pursuant to section 483 of the *Local Government Act,* to establish the terms and conditions regarding the occupancy of the residential units identified in this housing agreement.

NOW THIS AGREEMENT WITNESSES that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

1.0 Definitions

1.1 In this Agreement:

"**Business Day**" means Monday to Friday, other than any such day which is a statutory holiday in Victoria, British Columbia.

"**Development**" means the proposed mixed use development on the Lands to include 48 Dwelling Units.

"**Dwelling Units**" means any or all, as the context may require, of the 48 self-contained residential dwelling units within the Development and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise; and "**Dwelling Unit**" means any of such residential dwelling units located on the Lands.

"Immediate Family" includes a person's spouse, child, grandchild, parent, grandparent, sibling, niece and nephew, and includes the Immediate Family of the person's spouse.

"**Non-owner**" means a person other than a Related Person or the Owner.

"**Owner**" includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 7.3.

"**Related Person**" includes, where the registered or beneficial owner of the Lands or Dwelling Unit, as applicable, is:

(a) a corporation or society:

(i) an officer, director, shareholder, or member of such corporation or society, or of another entity which is a shareholder or member of such corporation or society; or

(ii) an Immediate Family of a person to whom paragraph (i) applies, or

(b) an individual, an Immediate Family of the registered or beneficial owner.

"**Strata Corporation**" means, for the portions of the Lands or any building on the Lands that is subdivided under the *Strata Property Act,* a strata corporation as defined in that Act, including the Owner while in control of the strata corporation and subsequently the individual strata lot owners collectively acting as the strata corporation.

"**Tenancy Agreement**" means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act.

2.0 No Restrictions on Rentals

2.1 The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would be to prevent or restrict the Owner of a Dwelling Unit from renting that Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.

2.2 Without limiting the generality of section 2.1, the Owner covenants and agrees that it will not make application to deposit a strata plan for or in respect of the Lands or a building on the Lands unless the strata bylaws in no way restrict rental of any Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.

2.3 For certainty, if the Lands or the Development on the Lands are subdivided under the *Strata Property Act*, the Dwelling Units within the Development may be occupied by the Owners of the strata lots.

3.0 Reporting

3.1 The Owner covenants and agrees to provide to the City's Director of Sustainable Planning and Development, within thirty (30) days of the Director's written request, a report in writing confirming:

(a) the number, type and location by suite or strata lot number, of Dwelling Units that are being rented to Non-owners; and

(b) any changes or proposed changes to the Strata Corporation's bylaws that may affect the terms of this Agreement.

3.2 The Owner covenants and agrees:

(a) to exercise its voting rights in the Strata Corporation against the passage of any bylaws that would restrict the availability for rental of any Dwelling Unit under the terms of a Tenancy Agreement unless this Agreement is amended; and

(b) to notify the City of any proposed amendments to its strata bylaws.

3.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications to this Agreement and that such consent may be withheld for any reason.

4.0 Notice to be Registered in Land Title Office

4.1 Notice of this Agreement (the "**Notice**") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

5.0 Liability

5.1 The Owner agrees to indemnify and saves harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement, or otherwise that would not have arisen "but for" this Agreement.

5.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement, or otherwise that would not have arisen "but for" this Agreement.

6.0 [deliberately deleted]

7.0 General Provisions

7.1 **Notice.** If sent as follows, notice under this Agreement is considered to be received:

(a) upon confirmation of delivery by Canada Post if sent by registered mail,

(b) on the next Business Day if sent email with no notice of failure to deliver being received back by the sender, and

(c) on the date of delivery if hand-delivered, and

in the case of the City, addressed to:

City of Victoria
#1 Centennial Square
Victoria, BCV8W 1P6

Attention: Director of Sustainable Planning and Community Development
Email: khoese@victoria.ca

and in the case of the Owner, addressed to:

Aragon (Cook) Properties Ltd
201 – 1628 West 1st Ave
Vancouver, B.C.
V6J 1G1

Attention: Luke Ramsay
Email: lramsay@aragon.ca

or upon registration of a strata plan for the Lands, to the Strata Corporation, and to the Owner of any Dwelling Unit that is subject to the restrictions under section 2.1.

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail, email or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

(d) notice sent by the impaired service is considered to be received on the date of delivery, and

(e) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

7.2 **Time.** Time is of the essence of this Agreement.

7.3 **Binding Effect.** This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

7.4 **Waiver.** The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

7.5 **Headings.** The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.

7.6 **Language.** Words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa, and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

7.7 **Legislation.** Reference to any enactment includes any regulations, orders or directives made under the authority of that enactment, and is a reference to that enactment as

consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

7.8 **Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

7.9 **Cumulative Remedies.** No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

7.10 **Entire Agreement.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

7.11 **Further Assurances.** Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

7.12 **Amendment.** This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

7.13 **Law Applicable.** This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

7.14 **No Derogation from Statutory Authority.** Nothing in this Agreement shall:

(a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or

(b) relieve the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.

7.15 **Severability.** If any section, term or provision of this Agreement is found to be partially or wholly illegal or unenforceable, then such sections or parts will be considered to be separate and severable from this Agreement and the remaining sections or parts of this Agreement, as the case may be, will be unaffected thereby and will remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Agreement.

7.16 **Joint and Several.** The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

7.17 **Counterparts.** This Agreement may be executed in counterparts and delivered by

emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

7.18 **Effective Date.** This Agreement is effective as of the date of the signature of the last party to sign.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year last below written.

THE CORPORATION OF THE CITY OF VICTORIA by its authorized signatories:	)
	)
	)
	)
_____	)
Director of Planning	)
	)
	)
Date signed:_____	)
	)

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ARAGON (COOK) PROPERTIES LTD.)
by its authorized signatory(ies):)
)
)
_____)
Print Name: _____)
Lenny Moy, President)
_____)
Print Name: _____)

Date signed: Sept 2/20

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ARAGON (COOK) PROPERTIES LTD.)
by its authorized signatory(ies):)
)
)
_____)
Print Name: _____)
)
_____)
Print Name: _____)

Date signed: _____

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Council Report
For the Meeting November 12, 2020

To:	Council	**Date:**	November 5, 2020
From:	Chris Coates, City Clerk		
Subject:	Short Term Rental Business License Appeal for 7-290 Superior Street		

RECOMMENDATION
That Council receive this report for information and either uphold or overturn the License Inspector's denial of a business license for the short-term rental unit at 7-290 Superior Street.

EXECUTIVE SUMMARY
This report presents documents from an Appellant and the City's Licence Inspector for Council's consideration under the Short-term Business Licence Appeal Process Policy.

The Short-term Rental Regulation Bylaw establishes a short-term rental business licence and fee, eligibility for short-term rental business licence, the Licence Inspector's authority to refuse a licence, conditions for refusing a licence, operating requirements, offences, and penalties. The Bylaw is attached as Appendix A.

Each year short-term rental operators apply for a short-term rental business licence and a Licence Inspector determines whether to issue a licence or not. If an application is not compliant with the City's requirements for short-term rental units, a Licence Inspector may deny a business licence. In this instance, the Licence Inspector notifies the applicant of this decision and advises them how to seek Council's reconsideration as established under section 60(5) of the Community Charter. The City Clerk's Office coordinates the appeal process.

The Short-term Business Licence Appeal Process Policy contains for a process for an Appellant to seek an opportunity to be heard by Council for a denied business licence in accordance with the Community Charter, section 60(5). The Policy is attached as Appendix B. This policy establishes terms and conditions for reconsideration by Council, required documentation to submit as a part of the appeal process, next steps following Council's decision, and other matters.

The Policy establishes the following process:

1. An applicant may start an appeal by submitting a request to the City Clerk
2. The City Clerk replies to an Appellant to acknowledge the request
3. An Appellant makes a written submission (Appendix C)
4. The Licence Inspector makes a written submission in response to the Appellant (Appendix D)
5. An Appellant may also make a written submission in response to the Licence Inspectors reasons for denial of the License. (Appendix E)

6. Once this process is complete, the City Clerk's Office informs the Appellant and Licence Inspector of the date that Council will consider the appeal
7. The City Clerk's Office consolidates these documents and submits them to Council for Council to determine whether the License Inspector's denial of the License is upheld or overturned.

Council's role is to review this information and to either grant or deny an appeal. Denying an appeal means a Licence Inspector will not issue a short-term rental business licence. Granting an appeal means that the Licence Inspector will issue a short-term rental business licence as soon as practicable.

In this instance the operator at 7-290 Superior Street of a short-term rental unit was denied a license and has exercised the Community Charter right to have council reconsider the matter. The submissions of both the operator and the License Inspector are attached as appendices as noted above.

Respectfully submitted,

Chris Coates
City Clerk

Report accepted and recommended by the City Manager: _____

Date: **November 10, 2020**

Attachments
Appendix A: Short-Term Rental Regulation Bylaw
Appendix B: Short-term Rental Business Licence Appeal Process Policy
Appendix C: Appellant's Submission
Appendix D: Licence Inspector's Response to Appellant's Submission
Appendix E: Appellant's Response to the Licence Inspector
Appendix F: Licence Inspector's Submission

NO. 18-036

SHORT-TERM RENTAL REGULATION BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to provide for the regulation of short-term rentals including vacation rentals in operators' principal residences where permitted under the Zoning Regulation Bylaw No. 80-159 and where permitted pursuant to section 528 of the *Local Government Act*.

Contents

1 Title
2 Definitions
3 Licence Required
4 Power to Refuse a Licence
5 Licence Number to be Included in Advertising
6 Responsible Person
7 Offences
8 Penalties
9 Severability
10 Transition Provisions
11 Commencement

Pursuant to its statutory powers, including section 8(6) of the *Community Charter*, the Council of The Corporation of the City of Victoria, in an open meeting assembled, enacts the following provisions:

Title

1 This Bylaw may be cited as the "Short-Term Rental Regulation Bylaw".

Definitions

2 In this Bylaw

"operator" means a person who rents out, or offers for rent, any premises for short-term rental but does not include a person who acts as an intermediary between the short-term renal tenant and the person who receives the rent;

"principal residence" means the usual place where an individual makes their home;

"responsible person" means a person designated by the operator as the primary contact under section 6.

"short-term rental" means the renting of a dwelling, or any part of it, for a period of less than 30 days and includes vacation rentals;

"strata corporation", "strata council", and "strata lot" have the same meaning as in the *Strata Property Act*.

Licence Required

3 (1) A person must not carry on business as a short-term rental operator unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence Bylaw.

(2) A person applying for the issuance or renewal of a licence to operate a short-term rental must, in addition to meeting the requirements of the Business Licence Bylaw:

(a) make an application to the Licence Inspector on the form provided for that purpose;

(b) pay to the City the applicable licence fee prescribed under subsection (3);

(c) provide, in the form satisfactory to the Licence Inspector, evidence that:

(i) the person owns the premises where the short-term rental will be offered, or

(ii) the owner of the premises where the short-term rental will be offered has consented to their use as a short-term rental;

(d) if the premises where the short-term rental will be offered are located within a strata lot, provide a letter from the strata council confirming that provision of short-term rental does not contradict any bylaws of the strata corporation or applicable provisions of the Strata Property Act; and

(e) provide, in the form satisfactory to the Licence Inspector,

(i) evidence that the premises where the short-term rental will be offered are occupied by the operator as their principal residence; or

(ii) provide the name and contact information for the responsible person in relation to the short-term rental premises.

(3) The licence fee for purposes of subsection (2)(b) is:

(a) $150 where the short-term rental is offered in the operator's principal residence; or

(b) $1,500 for all short-term rentals that do not qualify under paragraph (a).

Power to Refuse a Licence

4 The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,

(a) the applicant has failed to comply with section 3; or

(b) the short-term rental operation would contravene a City bylaw or another enactment.

Licence Number to be Included in Advertising

5 A person may offer to rent premises for rent as a short-term rental only if a valid business licence number is included in any advertising, listing, or promotion material that is intended to communicate availability of the premises for short-term rental.

Responsible Person

6 (1) A person may only operate a short-term rental in premises other than their principal residence if they designated a responsible person who, at all times that the short-term rental is operated, has access to the premises and authority to make decisions in relation to the premises and the rental agreement.

(2) A person may only operate a short-term rental if they ensures that the name and contact information of the responsible person is prominently displayed in the short-term rental premises at all times when the short-term rental is operated.

(3) The operator may be the responsible person except when subsection (5) applies.

(4) The responsible person must be able to attend at the short-term rental premises within two hours of being requested to do so.

(5) If a person who operates a short-term rental in their principal residence is going to be away during the term of the short-term rental, they must designate a responsible person and comply with this section.

Offences

7 (1) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw and the Offence Act if that person

(a) contravenes a provision of this Bylaw;

(b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw; or

(c) neglects or refrains from doing anything required be a provision of this Bylaw.

(2) Each instance that a contravention of a provision of this Bylaw occurs and each day that a contravention continues shall constitute a separate offence.

Penalties

8 A person found guilty of an offence under this Bylaw is subject to a fine of not less than $100.00 and not more than $10,000.00 for every instance that an offence occurs or each day that it continues.

Severability

9 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, it shall be severed from the Bylaw and the balance of the Bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

Transition Provisions

10 (1) In the calendar year that this bylaw is adopted only, the fee payable under section 3 shall be prorated by 1/12 for each month in that year prior to the adoption of this bylaw, including the month the bylaw is adopted.

(2) Any operator who, at the time of adoption of this bylaw, holds a valid licence for a short-term rental under the Business Licence Bylaw shall be credited with amount paid for that licence towards the fee payable under section 3.

Commencement

11 This bylaw comes into force on adoption.

READ A FIRST TIME the	**22nd**	day of	**February**	2018
READ A SECOND TIME the	**22nd**	day of	**February**	2018
READ A THIRD TIME the	**22nd**	day of	**February**	2018
ADOPTED on the	**8th**	day of	**March**	2018

"CHRIS COATES"
CITY CLERK

"LISA HELPS"
MAYOR

CITY OF VICTORIA	**COUNCIL POLICY**	
	No.1	Page 1 of 2

SUBJECT:	**Short-Term Rental Business Licence Appeal Process Policy**		
PREPARED BY:	Monika Fedyczkowska		
AUTHORIZED BY:	Council		
EFFECTIVE DATE:	April 23, 2020	**REVISION DATE:**	
REVIEW FREQUENCY:	Every 3 years		

A. PURPOSE

The purpose of the Short-Term Rental Business Licence Appeal Process Policy [the Policy] is to establish a process for applicants for short-term rental business licences to have Council reconsider a Licence Inspector's decision to reject their application in accordance with section 60 of the Community Charter.

B. DEFINITIONS

Appellant means "an applicant for a short term rental business licence who is appealing a decision by a Licence Inspector to Council"

City Clerk means "the City Clerk and delegates"

Council means "the Council of the City of Victoria"

Short-term Rental Business Licence means "a business licence established under the Short-term Rental Regulation Bylaw"

C. POLICY STATEMENTS

Under the Community Charter, section 60(5), if a municipal officer or employee exercises authority to grant, refuse, suspend, or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have Council reconsider the matter.

Applicants must apply for a new short-term rental business licence each year.

D. PROCEDURES

1. Appeal Procedure
    a. An Appellant may start an appeal by submitting a request for an appeal to the City Clerk within 30 days after receiving notice from a Licence Inspector of a decision to reject the short-term rental business licence.
    b. The City Clerk must reply to the Appellant to acknowledge the request for an appeal and explain the appeal process.
    c. An Appellant must make a written submission to the City Clerk within 14 days. A written submission may include:
        i. Reasons that Council should grant the appeal to issue a short-term rental business licence
        ii. Any supporting documents

d. A Licence Inspector must submit a document to the City Clerk responding to the Appellant's written submission. The Licence Inspector's document must include:
    i. Reasons for refusing to issue a short-term rental business licence
    ii. Any supporting documents
e. An Appellant must provide a written submission in response to a Licence Inspector's response to the City Clerk within 7 days
f. A Licence Inspector must prepare a report for Council that includes:
    i. Reference(s) to relevant City Bylaw provisions
    ii. Direction to Council on what they should/should not consider, and
    iii. The following documents:
        1. The Appellant's business licence application
        2. The letter from a Licence Inspector giving notice of refusal to issue a business licence
        3. The Appellant's request to the City Clerk to appeal the refusal
        4. The City Clerk's acknowledgment of the request
        5. The Appellant's written submission and any supporting documents
        6. The Licence Inspector's written response and any supporting documents
        7. The Appellant's written response to the Licence Inspector's response
g. The City Clerk will inform the Appellant of the date that Council will consider the appeal.

2. Council's Decision
    a. Council may grant or deny an appeal by a majority vote.
    b. Council will provide reasons for a decision, which may be accomplished by way of the rationale by Council members during deliberation preceding a vote if not included specifically in the motion of Council.
    c. If Council grants an appeal, a Licence Inspector must issue the relevant business licence as soon as practicable.
    d. If Council denies an appeal, an Appellant may not make a new business licence application for a business for 3 months, unless Council unanimously votes to allow an Appellant to apply for a short-term rental business licence sooner than 3 months.

E. REVISION HISTORY

City Clerk
City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

RECEIVED
MAR 1 0 2020
LEGISLATIVE SERVICES

March 8, 2020

Re: 7 – 290 Superior Street, Victoria BC V8V 1T3 – Business license appeal

To whom it may concern,

Please review my application for a short term-rental business license. I believe it has been mistakenly rejected. The space in question is not a "self-contained dwelling unit," as per Schedules A and D - it is one bedroom inside my primary residence that does not have a separate entrance or kitchen facilities.

> 12 Subject to the following requirements, a short-term rental is permitted as a home occupation in a principal residence.
>
> Amended March 8, 2018 Bylaw 18-035
>
> (1) subject to subsection (2), no more than two bedrooms may be used for short-term rental and the short-term rental cannot occupy an entire self-contained dwelling unit;

> **"Self-contained Dwelling Unit"** means a suite of rooms in a building designed for occupancy of one family which has a separate entrance, and kitchen and bathroom facilities.

Please get back to me about the status of my appeal.

Sincerely,

Jessica Tatlow
7 – 290 Superior Street
Victoria, BC V8V 1T3
[redacted]

Legislative and Regulatory Services Department

Bylaw and Licensing Services Division

1 Centennial Square
Victoria BC V8W 1P6

June 24, 2020

Tatlow, Jessica
7-290 Superior St
Victoria BC V8V 1T3

Re: **Short-Term Rental Business Licence Appeal – 7-290 Superior St**

Your 2020 application was rejected due to non-compliance with City bylaws, including Schedule D of the Zoning Regulation Bylaw, which provides that a short-term rental cannot occupy an entire self-contained dwelling unit, except occasionally while the operator is away.

Per Schedule A of the Zoning Bylaw:
"Self-contained Dwelling Unit" means a suite of rooms in a building designed for occupancy of one family which has a separate entrance, kitchen and bathroom facilities.

You advertise the unit as "Self-contained, private guest suite", as shown in the attached copy of the description of your AirBnb listing.

You also advertise an area with mini fridge, microwave and coffee maker.
We consider a kitchen to be a place to prepare food. The removal of kitchen items does not qualify you to offer a self-contained dwelling unit. Also attached is a photo of the front door to the suite, which is not consistent with an interior door.

An inspection, conducted February 9, confirmed these findings. For these reasons, your 2020 application for a short-term rental business licence was rejected.

Regards,

Kim Ferris
Bylaw Officer/Business Licence Inspector
Legislative & Regulatory Services Department
City of Victoria
1 Centennial Square, Victoria B.C. V8W 1P6

To Contact

Telephone: **250.361.0726**
E-Mail: **str@victoria.ca**

Fax: **250.361.0205**
Web: **www.victoria.ca**

The City of Victoria recognizes the Songhees and Esquimalt Nations in whose traditional territories we live and work
"Hay swx qa"

Host Compliance - The #1 S | Listings | Superior Suite - 1 BR ne

Airbnb, Inc. [US] https://www.airbnb.ca/rooms/27493479?locale=en&_set_bev_on_new_domain=1553376698_VB9D8%2BKZLF%2FqC%2B5b&source_impression_id=p3_1581258169_oxem9rz69EU%2Fz7px

Overview · Reviews · The host · Location · Policies

Save Share

Welcome to my home in James Bay, Victoria's oldest neighbourhood - walking distance to downtown sights, museums, shopping, dining, nature and more! Spacious 1-bedroom guest suite with private entrance and creature comforts, perfect for business travel or vacationing singles or couples who want to get out and experience beautiful Victoria. Relax and unwind steps from the Inner Harbour, Empress Hotel, Ogden Point breakwater, Beacon Hill Park and downtown to the sound of horse-drawn carriages.

The space

Self-contained, private basement guest suite in a great James Bay townhouse (down a few stairs), close to the bustle of downtown, but in a calm residential neighbourhood. You have your own entrance from a shared vestibule with private bathroom, queen sized bed, smart TV, and coffee maker.

Guest access

You will have a secure, private guest suite with bedroom, 3-piece bathroom and an area with mini fridge and microwave. There is also a vestibule area that is shared with me, where you may leave wet shoes and jackets.

Other things to note

There is a Smart TV in the suite, where you can sign in to Netflix and watch Youtube, News apps, and some free apps, but there is no cable.

City of Victoria Business License 36135.

Hide

Contact host

Amenities

Free parking on premises
TV
Wifi
Laptop-friendly workspace

Show all 21 amenities

$59 per night
★4.82 88 reviews

Dates
Check-in → Checkout

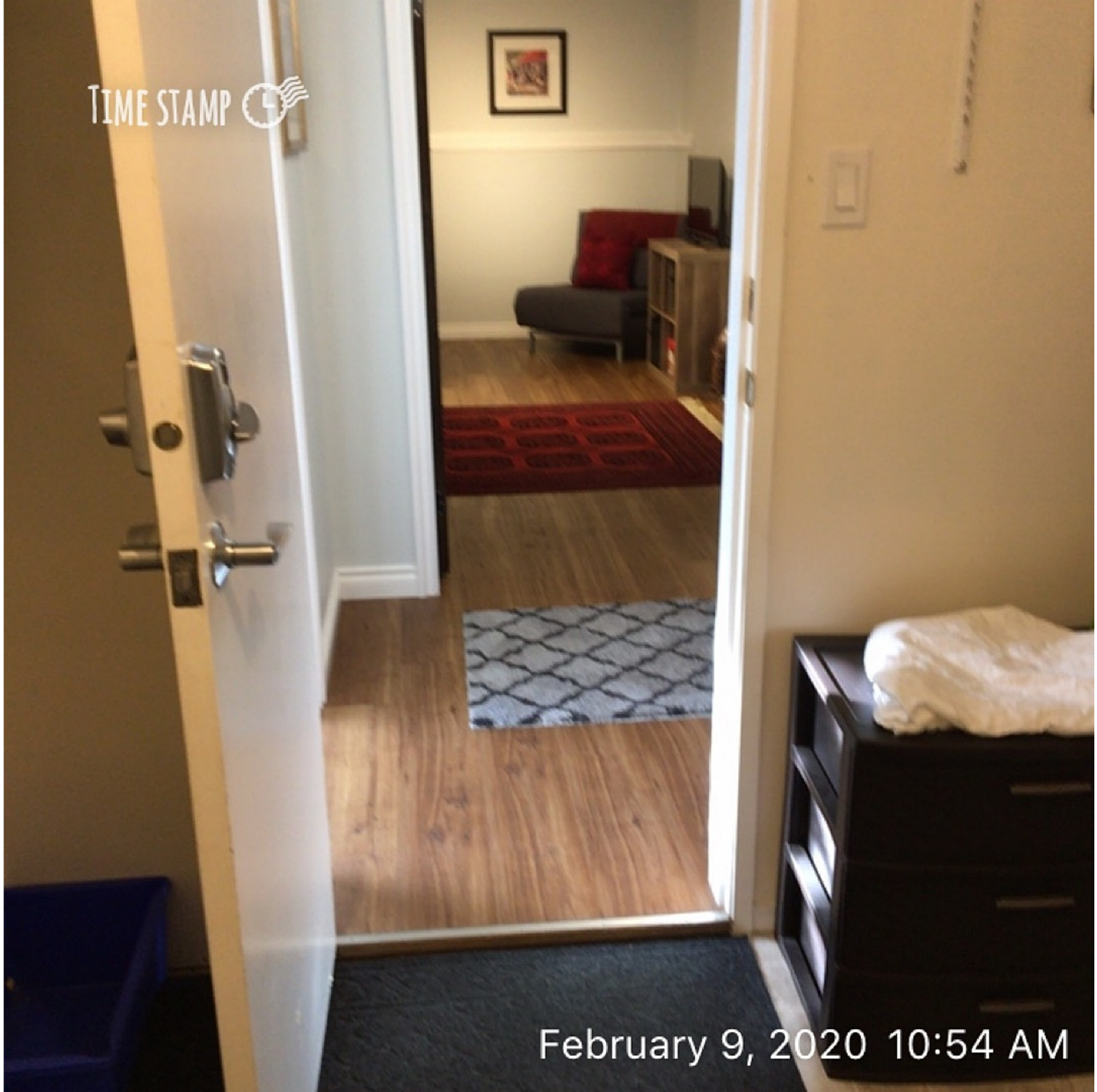
Guests
1 guest

Reserve

You won't be charged yet

Report this listing

6:23 AM
2020-02-09


TIME STAMP
February 9, 2020 10:54 AM

Jessica Tatlow
290 Superior Street, Suite 7
Victoria, BC V8V1T3
[redacted]

November 6, 2020

Dear Mayor and Council members,

Thank you for considering my appeal of the refusal of my application for a short-term rental business license for the basement room in my house.

1. I bought my townhome in 2018 after explicitly reviewing the City of Victoria STR bylaws and concluding that a short-term rental in the basement room in my home would comply completely. In 2018 and 2019 I applied for and was granted a license. The occasional extra income has helped me to afford the significant cost of financing a home in Victoria, including ever increasing property taxes, insurance, and maintenance. The denial of my license renewal would significantly damage my dream and the hard work I have done to own a home in a city I love. If denied I will have to consider selling my home and/or taking legal action against the City of Victoria.

2. The room I would like to rent is one bedroom and a bathroom in the basement of my primary residence. There are two ways to access this room - through my laundry room and another through the basement. There are no kitchen or cooking facilities - no sink, cooking range, or cooking ventilation, which I (and other bylaws) would consider necessary to constitute a “kitchen.” I used to provide a microwave and mini fridge as any reasonable person might expect to find in a vacation rental room, but I have since removed them (from both the room and the listing) to avoid confusion given the city’s lack of definition of this term.

3. The bylaw office states that “One of the objectives of the City’s regulations of the short-term rentals was to address the problem of self-contained dwelling units being diverted from the housing market to a vacation rental market. This is the rationale behind the provisions of the zoning bylaw which limit short-term rentals to bedrooms within self-contained units rather than entire self-contained units.” The over-reaching interpretation of the bylaw to include any space with a door and where a microwave could be plugged in is ridiculous and invasive to homeowner’s rights to their own homes.

4. The basement room in my home has never been available on the “regular” rental market as it is *not* a “self-contained dwelling unit” and is certainly not an appropriate space for long-term accommodation. It has not been lost to the regular rental market. I invite council members to visit or move in and test out this theory themselves.

5. I would submit that the City should not conflate their own vague definition of a self-contained dwelling with AirBnB’s definition of “guest suite,” which merely means that

> the guest can expect a private space during their stay and does not imply that the available space comprises the elements necessary to make it a home for long-term occupation.

I applaud and support the City's efforts to make more long-term housing units available on the rental market. That said, the room in my basement does not meet the criteria without a stretch of the imagination and an over-reaching interpretation of the bylaws, which feels like a significant invasion of my property rights as a homeowner and lip service to the political issue of rental inventory in Victoria. The ability to rent out this room for short-term stays helps me afford my home and was a big part of the reason I bought it. I think it would be a shame to make living in Victoria unaffordable for some tax-paying, home-owning citizens in an effort to make it more affordable for others.

Thank you for your consideration.

Jessica Tatlow

Business Licence (Short-term Rental) Appeal re 7-290 Superior Street

Submission of the Licence Inspector

I. Introduction

1. This is an appeal from the decision of the Licence Inspector to refuse to issue a business licence to Jessica Tatlow for the operation of a short-term rental at 7-290 Superior St.

2. The business licence was denied pursuant to section 4(b) of the *Short-term Rental Regulation Bylaw*, which states:

> *4. The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,*
>
> *…*
>
> *(b) the short-term rental operation would contravene a City bylaw or another enactment.*

5. The appeal is brought pursuant to section 60(5) of the *Community Charter*, which requires that an applicant for a business licence has the right to have a staff decision to refuse such licence reconsidered by Council.

6. On a reconsideration such as this, Council can apply its own judgment and may either uphold the decision to refuse the licence or grant the licence.

II. Facts

7. The appellant owns the property at 7-290 Superior Street. The property is zoned R3-L (Low density multiple dwelling). Short-term rentals are not a permitted use under this zone.

8. The owner of the property has created a self-contained unit in the basement. [See attached photos]

9. The basement unit consists of a living room/bedroom, a separate bathroom and a separate food preparation area (kitchenette). It has a separate entrance from outside with keypad for self-entry. There is a locking door between the basement suite and the rest of the house. That door locks from outside of the basement unit (i.e., the units occupants have no access to the rest of the house).

10. According to Airbnb listing the kitchenette includes a small fridge, microwave and a coffee maker. The small fridge and microwave, as shown in the listing photos, were not present in the unit at the time of the inspection, but remain advertised in the Airbnb listing.

11. The appellant has rented the entire basement unit as a short-term rental since at least December 2018. In 2019, the appellant had accepted over 80 short-term rental bookings, with stays as short as 1 day. Since the rejection of her application, the appellant has accepted at least 6 more short-term rental bookings from June to September 2020. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.

12. The appellant applied for and received a business licence to operate a short-term rental in 2018 and 2019. The licence was granted on the basis of the appellant's representation that the short-term rental was offered in the appellant's principal residence.

13. An inspection of the premises on February 9, 2020 revealed that the basement unit is operating as a self-contained dwelling and is not part of the appellant's principal residence. At the time of the scheduled inspection, the appellant had also removed the small fridge and microwave from the unit.

14. On February 14, 2020, the Licence Inspector advised the appellant that her application for a short-term rental licence has been refused because short-term rental of a self-contained dwelling did not comply with applicable zoning.

III. Relevant Regulations

15. The City regulates short-term rentals through the *Short-term Rental Regulation Bylaw* and through provisions of the zoning bylaws. In relation to the property, the relevant zoning bylaw is the *Zoning Regulation Bylaw*, which states, in part:

> *17 …*
>
> *(4) Without limiting the generality of subsection (1), short-term rentals, whether as a principal or accessory use, are prohibited in all zones except*
>
> *(a) where they are expressly permitted subject to regulation applicable in those zones;*
> *(b) rental of no more than two bedrooms in a self-contained dwelling unit, as home occupation, provided that:*
> *(i) the self-contained dwelling unit is occupied by the operator of the short-term rental; and*
> *(ii) short-term rental complies with all regulations in Schedule D as if it were a transient accommodation.*

16. A self-contained dwelling unit is defined in the *Zoning Regulation Bylaw* as "a suite of rooms in a building designed for occupancy of one family which has a separate entrance, and kitchen

and bathroom facilities." A kitchen is not defined in the bylaw. However, the Oxford English Dictionary defines "kitchen" as "a room where food is prepared and cooked".

IV. Argument

17. When short-term regulations were initially introduced, the City was flooded with applications of business licences. In an effort to encourage compliance with regulations, these applications were processed very quickly and were not always fully screened. More careful reviews and inspections have been conducted as part of 2020 application process. Therefore, the fact that the appellant was issued a short-term rental business licence in 2018 and 2019 is not an indication that a 2020 licence should also be issued.

18. Although the appellant resides in the house at 7-290 Superior Street, the premises that are rented as a short-term rental are not part of her principal residence, because the basement unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as a self-contained guest suite on Airbnb. [See attached copy of the Matched Property Listing]

19. It is clear that the basement unit at 7-290 Superior Street is being offered as a self-contained dwelling unit: it has its own entrance from outside, a kitchenette with space to prepare and cook food (i.e., "kitchen"), and separate bathroom – it meets the requirements of the definition of "self-contained dwelling unit" in the *Zoning Regulation Bylaw*.

20. The appellant appears to rely on the absence of a full kitchen; however, the unit has been prepared to operate independently as a self-contained suite, and not as two bedrooms in her principal dwelling unit, as required by Schedule D of the *Zoning Regulation Bylaw.*

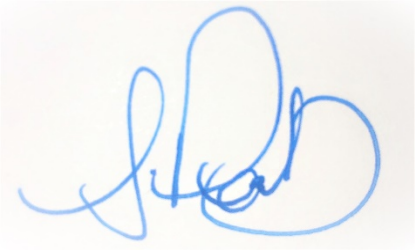
21. For all these reasons, the Licence Inspector submits that the appellant's application for a short-term rental business licence had to be refused as it contravened the *Zoning Regulation Bylaw*.

22. One of the objectives of the City's regulations of the short-term rentals was to address the problem of self-contained dwelling units being diverted from the housing market to a vacation rental market. This is the rationale behind the provisions of the zoning bylaw which limit short-term rentals to bedrooms within self-contained units rather than entire self-contained units.

23. The property at 7-290 Superior St is an example of a self-contained dwelling unit that has been lost to the regular housing market in the past, contrary to the intent behind City regulations, which prohibit rental of entire self-contained dwelling units as short-term rentals.

24. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 7-290 Superior Street upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED



Dated: _October 29, 2020

_____
Shannon Perkins, Manager of
Bylaw Services

Dashboard

Rental Unit Record

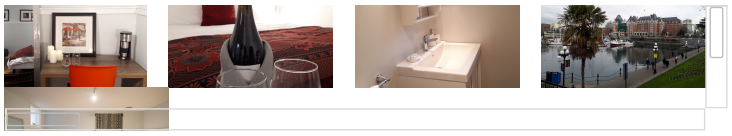
290 Superior St, Victoria, BC, Canada

Active ●
Identified ✔
Compliant X

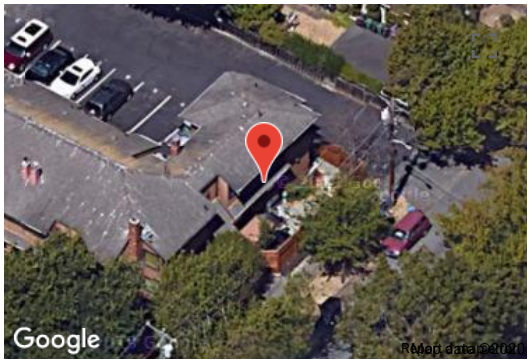
PRINT

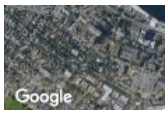
Listing(s) Information

Airbnb - 27493479



Rental Unit Information





Identified Address

290 Superior St, Victoria, BC, Canada

Identified Unit Number

7

Identified Latitude, Longitude

48.419917, -123.376233

Parcel Number

0123402120037

Owner Address

290 Superior St #7, Victoria
Victoria, BC V8V 1T3, CA

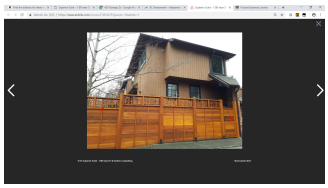
Matched Details

Analyst 9XN5

Explanation

Street view matches exterior of the unit and the listing has a business license that also matches exterior of the property.

Listing Photos **Matching 3rd Party Sources**



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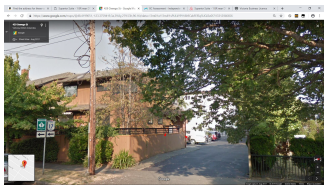
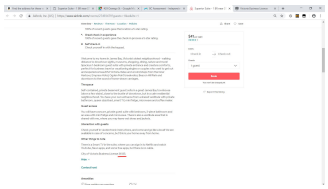


Can see same fence and unit number 7 and the windows are also the same



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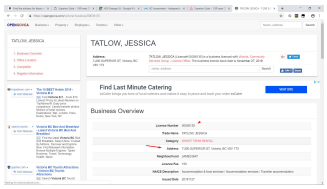


Timeline of Activity

View the series of events and documentation pertaining to this property

- ● **Listing air27493479 Reposted**
  October 11th, 2020
- ✕ **Listing air27493479 Removed**
  October 8th, 2020
- **1 Documented Stay**
  October, 2020

Shows business licese leads to address found

Owner Name Match

Listing Details

Listing URL	https://www.airbnb.com/rooms/27493479
Listing Status	Active
Host Compliance Listing ID	air27493479
Listing Title	James Bay 1 BR near DT & harbour w/parking
Property type	Guest suite
Room type	Entire home/apt
Listing Info Last Captured	Oct 13, 2020
Screenshot Last Captured	Oct 05, 2020
Price	$61/night
Cleaning Fee	$57

Information Provided on Listing

Contact Name	Jessica
Latitude, Longitude	48.419492, -123.375622
Minimum Stay (# of Nights)	2
Max Sleeping Capacity (# of People)	2
Max Number of People per Bedroom	2.0
Number of Reviews	101
Last Documented Stay	10/2020

Listing Screenshot History

View Latest Listing Screenshot

August 0 September 1 October 1

- Listing air27493479 Reposted
  October 4th, 2020
- Listing air27493479 Removed
  September 21st, 2020
- 4 Documented Stays
  September, 2020
- Listing air27493479 Reposted
  September 20th, 2020
- Listing air27493479 Removed
  September 15th, 2020
- Listing air27493479 Reposted
  September 12th, 2020
- Listing air27493479 Removed
  September 9th, 2020
- Listing air27493479 Reposted
  September 6th, 2020
- Listing air27493479 Removed
  September 3rd, 2020
- Listing air27493479 Reposted
  September 1st, 2020
- Listing air27493479 Removed
  August 21st, 2020
- 2 Documented Stays
  August, 2020
- Listing air27493479 Reposted
  August 16th, 2020
- Listing air27493479 Removed
  August 13th, 2020
- Listing air27493479 Reposted
  August 8th, 2020
- Listing air27493479 Removed
  August 6th, 2020
- 2 Documented Stays
  July, 2020
- Listing air27493479 Reposted
  July 20th, 2020
- Listing air27493479 Removed
  July 14th, 2020
- Listing air27493479 Reposted
  July 13th, 2020
- Listing air27493479 Removed
  July 11th, 2020
- 1 Documented Stay
  June, 2020
- 4 Documented Stays
  February, 2020
- 3 Documented Stays
  January, 2020
- 3 Documented Stays
  December, 2019
- 5 Documented Stays
  November, 2019

- **7 Documented Stays**
  October, 2019
- **12 Documented Stays**
  September, 2019
- **11 Documented Stays**
  August, 2019
- **15 Documented Stays**
  July, 2019
- **6 Documented Stays**
  June, 2019
- **8 Documented Stays**
  May, 2019
- **4 Documented Stays**
  April, 2019
- **5 Documented Stays**
  March, 2019
- **Listing air27493479 Identified**
  February 27th, 2019
- **4 Documented Stays**
  February, 2019
- **3 Documented Stays**
  January, 2019
- **1 Documented Stay**
  December, 2018
- **Listing air27493479 First Crawled**
  December 9th, 2018
- **Listing air27493479 First Activity**
  December 8th, 2018

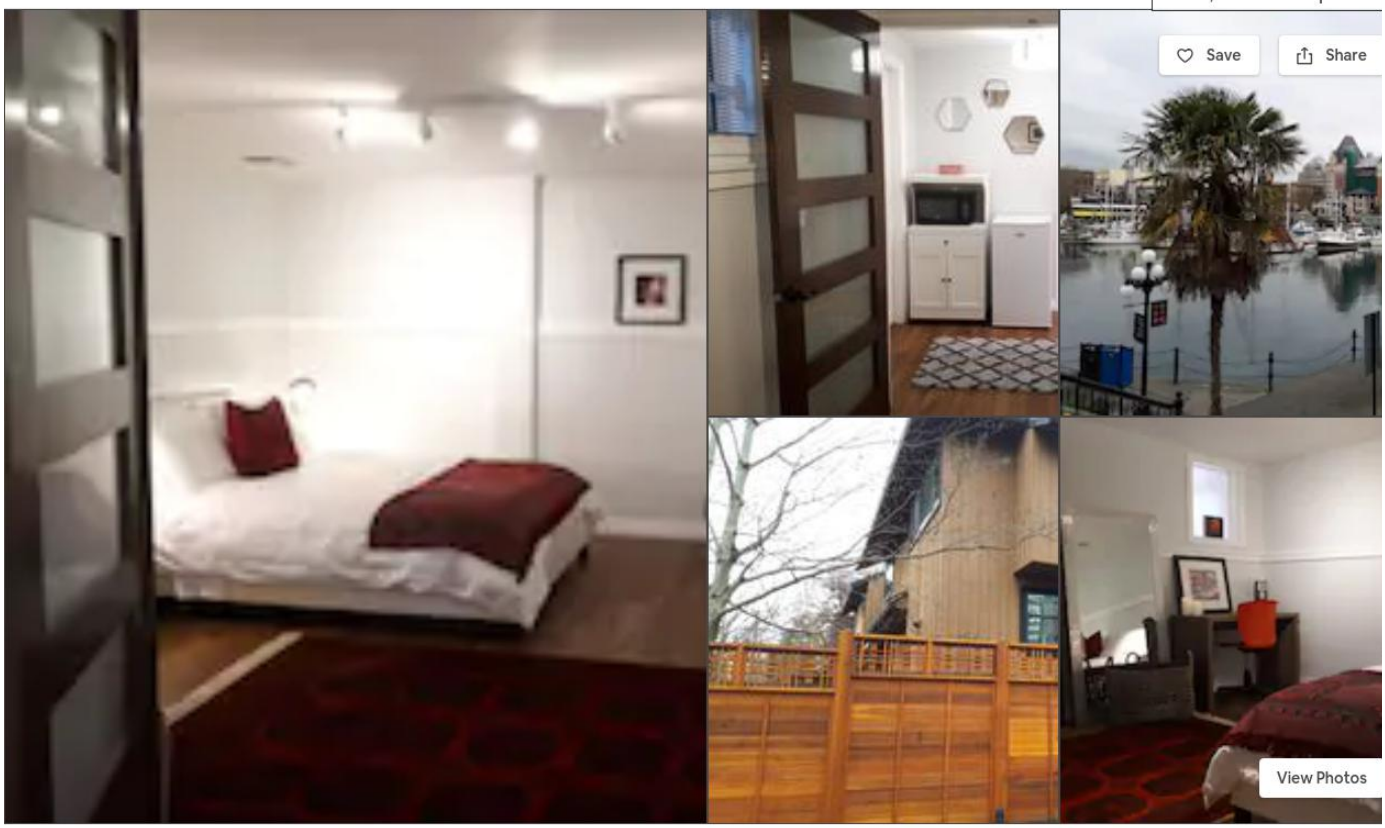
February 08, 2020 - 12:21AM America/Vancouver

Screenshot printed at: 9/15/2020 8:57:08 AM

Search

English (US) $ USD Become a host Help Sign up Log

Feb 7, 2020 11:21pm PT



Superior Suite - 1 BR near DT & harbour w/parking

Victoria

Jessica

Private room in guest suite
2 guests 1 bedroom 1 bed 1 bath

Self check-in
Check yourself in with the keypad.

Sparkling clean
12 recent guests said this place was sparkling clean.

Jessica is a Superhost
Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

$44 per night
★4.82 (88 reviews)

Dates
02/09/2020 → Checkout

Guests
1 guest

Reserve

You won't be charged yet

Report this listing

Welcome to my home in James Bay, Victoria's oldest neighbourhood - walking distance to downtown sights, museums, shopping, dining, nature and more! Spacious 1-bedroom guest suite with private entrance and creature comforts, perfect for business travel or vacationing singles or couples who want to get out and experience beautiful Victoria. Relax and unwind steps from the Inner Harbour, Empress Hotel, Ogden Point breakwater, Beacon Hill Park and downtown to the sound of horse-drawn carriages.

The space

Self-contained, private basement guest suite in a great James Bay townhouse (down a few stairs), close to the bustle of downtown, but in a calm residential neighbourhood. You have your own entrance from a shared vestibule with private bathroom, queen sized bed, smart TV, and coffee maker.

Guest access

You will have a secure, private guest suite with bedroom, 3-piece bathroom and an area with mini fridge and microwave. There is also a vestibule area that is shared with me, where you may leave wet shoes and jackets.

Other things to note

There is a Smart TV in the suite, where you can sign in to Netflix and watch Youtube, News apps, and some free apps, but there is no cable.

City of Victoria Business License 36135.

Hide

Contact host

Amenities

Basic

Wifi
Continuous access in the listing

TV

Laptop-friendly workspace
A table or desk with space for a laptop and a chair that's comfortable to work in

Essentials
Towels, bed sheets, soap, and toilet paper

Heating
Central heating or a heater in the listing

Hot water

Facilities

Free parking on premises

Free street parking

Dining

Coffee maker

Dishes and silverware

Guest access

Keypad
Check yourself into the home with a door code

Private entrance
Separate street or building entrance

Logistics

Luggage dropoff allowed
For guests' convenience when they have early arrival or late departure

Bed and bath

Hangers

Hair dryer

Shampoo

Lock on bedroom door
Private room can be locked for safety and privacy

Safety features

Fire extinguisher

Carbon monoxide alarm

Smoke alarm

First aid kit

Not included

~~Kitchen~~

~~Air conditioning~~

~~Washer~~

Sleeping arrangements

Bedroom 1
1 queen bed

Availability

1 night minimum stay

February 2020

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

1 night minimum stay

March 2020

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Clear dates

Reviews

★ **4.82** | **88** reviews

Search reviews

Location	5.0	Cleanliness	5.0
Accuracy	4.9	Communication	4.9
Check-in	4.9	Value	4.7

David
December 2019

Great place to stay. Clean, stylish and comfortable. Highly recommend.

Jason
November 2019

Extremely clean and very well located place to stay. If you have a car great but Jessicas place is so close to the Black Ball ferry dock that you can walk to it. It is in my opinion a top notch place to stay!

Ted
November 2019

Lovely space! A comfortable bed and the room was sparkling clean. It was in an extremely convenient location - minutes walk to downtown and the ferry terminals. Truly a gem!

Marissa
October 2019

Great location! We didn't have to drive anywhere the entire trip. Very close to downtown and the water. Perfect landing spot during our 4 night stay.

Jonathan
October 2019 LAST MINUTE TRIP

Super clean, great location, simple and nice. Be aware there is only a mini fridge and a microwave, so plan on eating out!

Brianna
September 2019

Jessica's place was very nice, private and clean. It was well-within walking distance to downtown Victoria and very close to the water. I appreciated the parking space provided and found it very easy to get to. A great place to come back to after spending the day exploring...Read more

Tori
September 2019

Beautiful spot in lovely Victoria!! Easy to walk everywhere downtown. Clean, spacious and just so comfortable!!! Easy to find and CLEAN. GREAT mattress to sleep!!!

1 2 3 ··· 13 >

Hosted by Jessica

Victoria, Canada · Joined in June 2017

★ 88 Reviews Verified

Jessica is a Superhost · Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

Equal love of travel and being at home in beautiful Victoria!

Interaction with guests
Check yourself in via electronic instructions, and come and go like a local! We are available in case of concerns, but this is your home away from home.

Languages: **English, Français**

Response rate: **100%**

Response time: **within an hour**

Contact host

Always communicate through Airbnb · To protect your payment, never transfer money or communicate outside of the Airbnb website or app. **Learn more**

About this place

When you stay in an Airbnb, you're staying at someone's place.

This is Jessica's place.

Patricia and Norm help host.

The neighborhood

Jessica's place is located in Victoria, British Columbia, Canada.

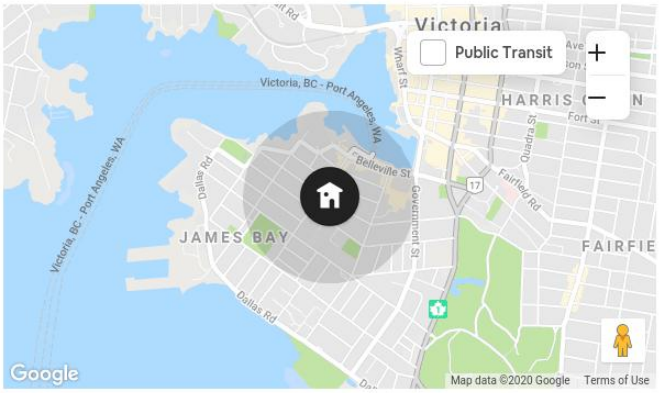
James Bay is the oldest neighbourhood in Victoria surrounded by water on three sides and beautiful Beacon Hill Park on the other. Quickly walk to and from the cruise ship terminal, Ogden Point breakwater, Fisherman's Wharf, the BC Legislasture, Empress Hotel, downtown, museums, shopping, coffee shops and world class dining.

Getting around

We're located right in the Inner Harbour, close to downtown, beaches and anything you could want. Victoria is a very walkable city, so bring comfy shoes to stroll along the ocean front on Dallas Road and through Beacon Hill Park! Buses, taxis (no Uber or Lyft), and even water taxis and horse-drawn carriages are also available - And, if you're driving there is private parking available on site. Many tours to sights such as Butchart Gardens or winery tours will offer bus transportation from downtown stops only 10 minutes' walk away. We are also located 6 blocks away from the cruise ship terminal, and a 15-minute walk to the seaplane terminal in the inner harbour. It will take you about 30 minutes to drive (or taxi) from the Victoria International Airport or Schwartz Bay ferry terminal to my place in James Bay.

Hide

Show guidebook



Exact location information is provided after a booking is confirmed.

Things to keep in mind

Check-in: After 4:00 PM
Checkout: 11:00 AM

Self checkin with keypad

House Rules

- Not suitable for infants (under 2 years)
- No smoking
- No pets
- No parties or events

You must also acknowledge

- Must climb stairs - There are a few steps down to the suite from the entrance.

Security deposit - if you damage the home, you may be charged up to $188

Some spaces are shared - Entryway vestibule is my laundry room - please be respectful when going through to the suite.

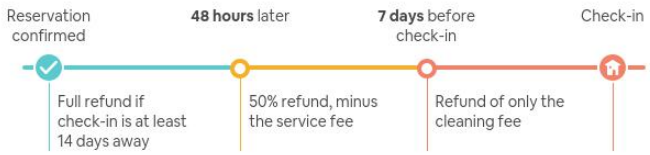
Additional rules

All communication must happen in the app; call or text only in case of emergency
No laundry
No bicycles in the suite (you can lock them to the railing inside the gate)

Hide rules

Cancellations

Free cancellation for 48 hours
After that, cancel up to 7 days before check-in and get a 50% refund, minus the service fee.



Get full details

Hide policies

More homes you may like

Entire condominium · 2 beds ★ 4.82 (170)
Downtown Victoria: Modern w Parking(Max ...
$53 / night

Entire condominium · 2 beds ★ 4.99 (151)
Super Clean, Legal, 4th Flr 1 BR in Old/China...
$53 / night

Entire condominium · 2 beds ★ 4.95 (143)
One bedroom in the heart of victoria.With...
$104 / night

Things to do near this home

PHOTO WALK
Photoshoot in Downtown Victoria
From $53/person · Equipment included
5.0★ (30)

BIKE RIDE
VeloGuide's Discover Victoria Tour
From $77/person · Food, Drinks included
5.0★ (13)

WORKSHOP
Learn to Shuck Oysters in Market Square
From $59/person · Food, Equipment included
4.95★ (43)

DINNER PARTY
Plant Based Cookin' Class & Dinner Party
From $46/person · Food, Drinks included
5.0★ (10)

Explore other options in and around Victoria

Name MICHAEL ALTON On Feb 9, 2020 11:20 AM

Comments

At 10:49AM on February 9th, 2020 I arrived at #7-290 Superior Street and spoke with RO Jessica TATLOW, who showed me the basement suite advertised on Airbnb. I observed that the suite is accessed from a concrete staircase located at the north side of the townhouse. There is a separate entrance with keypad for self entry. The separate entrance leads into the laundry room, where there is a small sign posted on the stacking washer/dryer indicating that the laundry is not for guest use. Once through the laundry room there is a private bathroom and an open space containing a bed, lounge chair, shelving, tv, and a desk with a small 1 cup coffee maker. There is a locking door that separates the suite from a staircase leading to the RO's main floor upstairs. I asked TATLOW where the fridge and microwave were located as depicted in the Airbnb listing and she told me she removed them a "couple of weeks ago".

Name MICHAEL ALTON On Feb 9, 2020 11:37 AM

Comments

Notes Continued.

I explained to TATLOW that she was permitted to rent out up to 2 bedrooms in the home that she occupies while sharing kitchen/living space and that she could rent out the entire home occasionally while she was on vacation. I advised TATLOW that she was not permitted to rent out a self-contained dwelling unit. TATLOW told me that she was aware of Schedule D and quoted the definition of self-contained in Schedule A, pointing out that she did not have a kitchen. I agreed that while she currently did not have cooking facilities in the suite, she has been clearly advertising and operating the suite as being a "self-contained, private basement guest suite", which was not in the spirit of the bylaw. I suggested that TATLOW allow guests to share her kitchen and living space if they so desired, however TATLOW did not want to keep the separating door unlocked, citing security concerns.

Name MICHAEL ALTON On Feb 9, 2020 11:49 AM

Comments

Notes Continued.

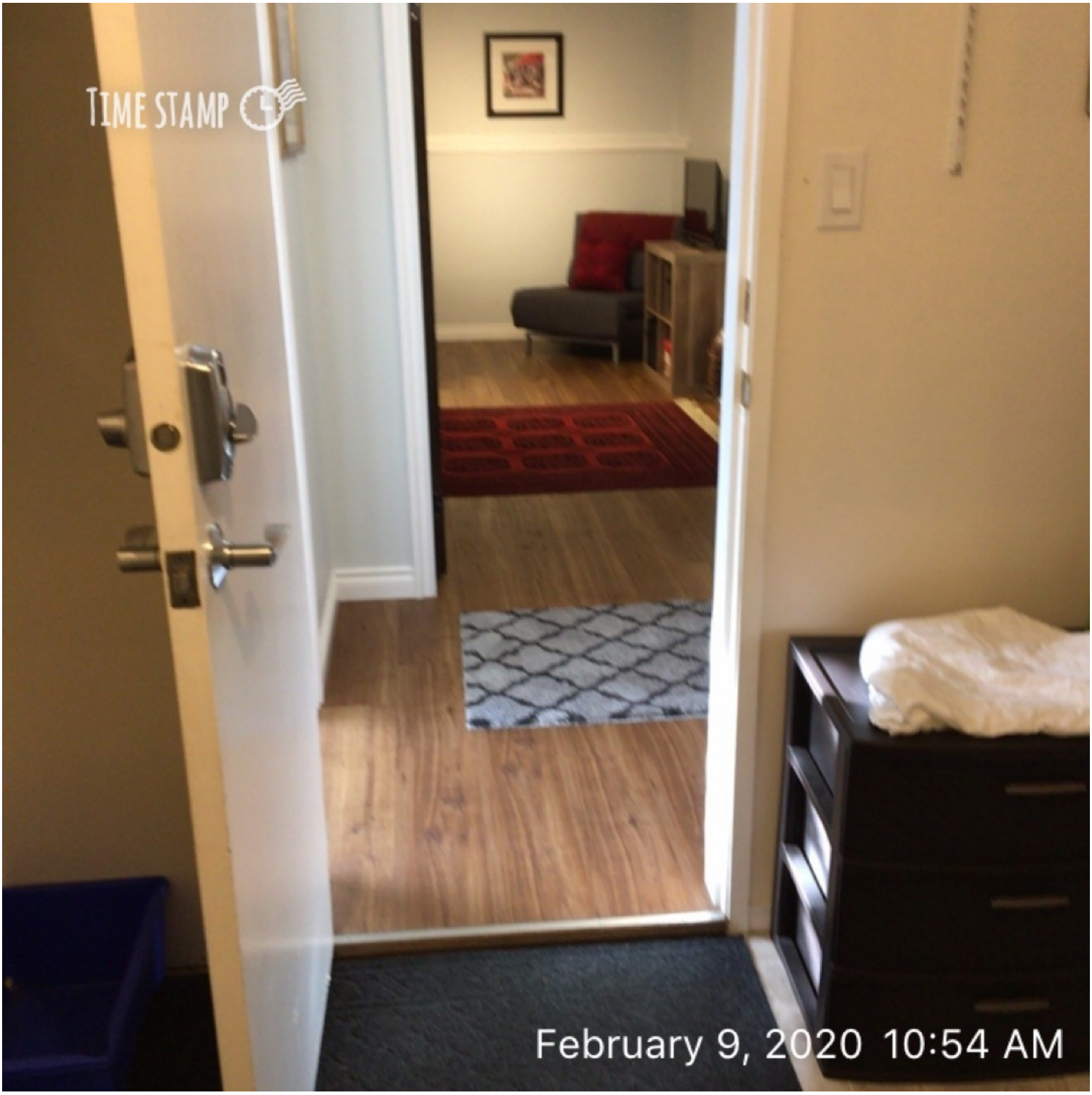
I advised TATLOW that should her STR License application be denied, she could rent out the space 30 days or more. TATLOW indicated that because the space has no cooking facilities, it was not an appropriate space for long term rentals.

Please be advised that while the mini-fridge and microwave were absent from the suite, the Airbnb Listing still states, "You will have a secure, private guest suite with bedroom, 3-piece bathroom and an area with mini fridge and microwave. .."

TIME STAMP
7
February 9, 2020 10:51 AM

TIME STAMP
February 9, 2020 10:53 AM

TIME STAMP
February 9, 2020 10:53 AM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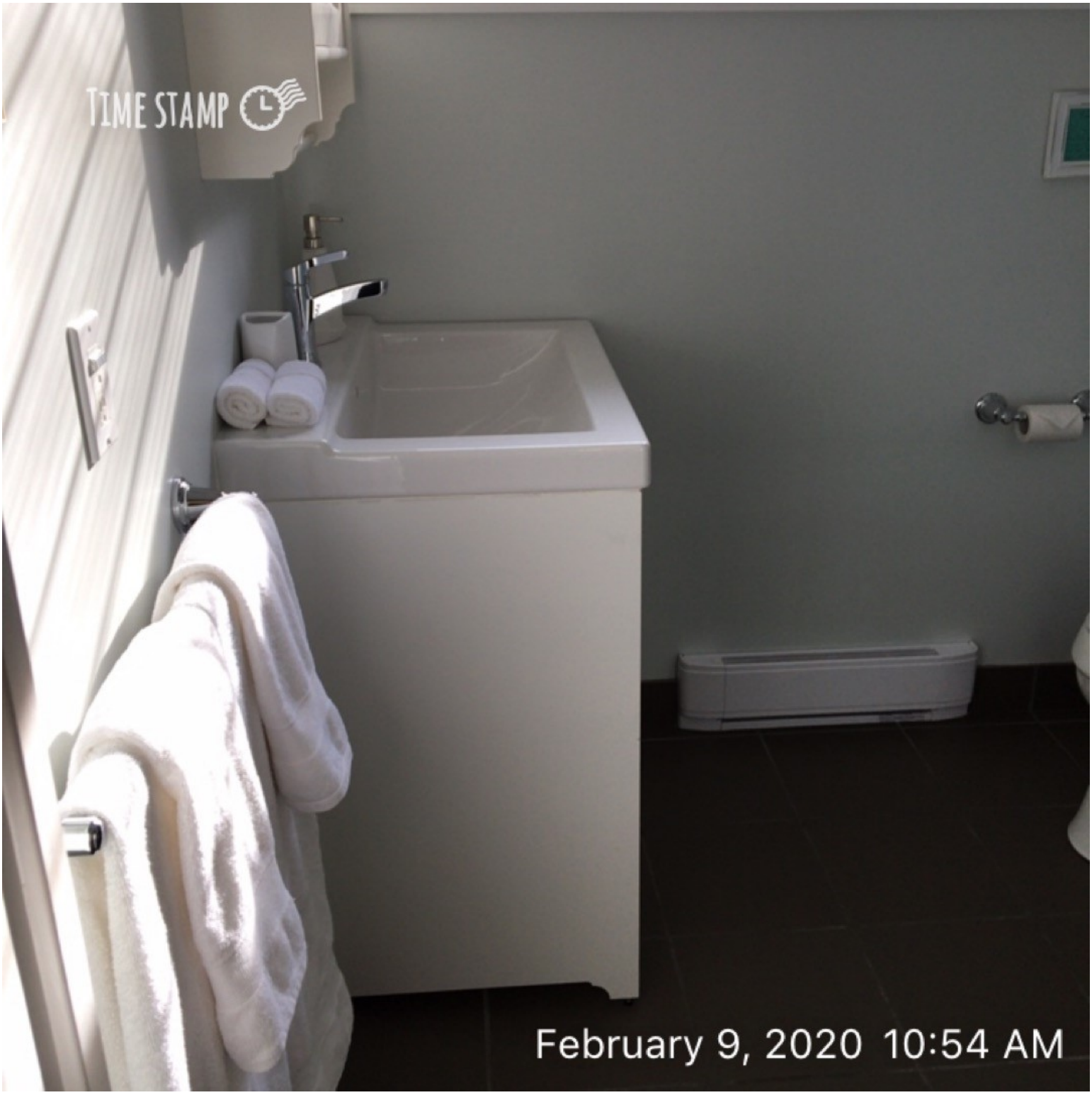
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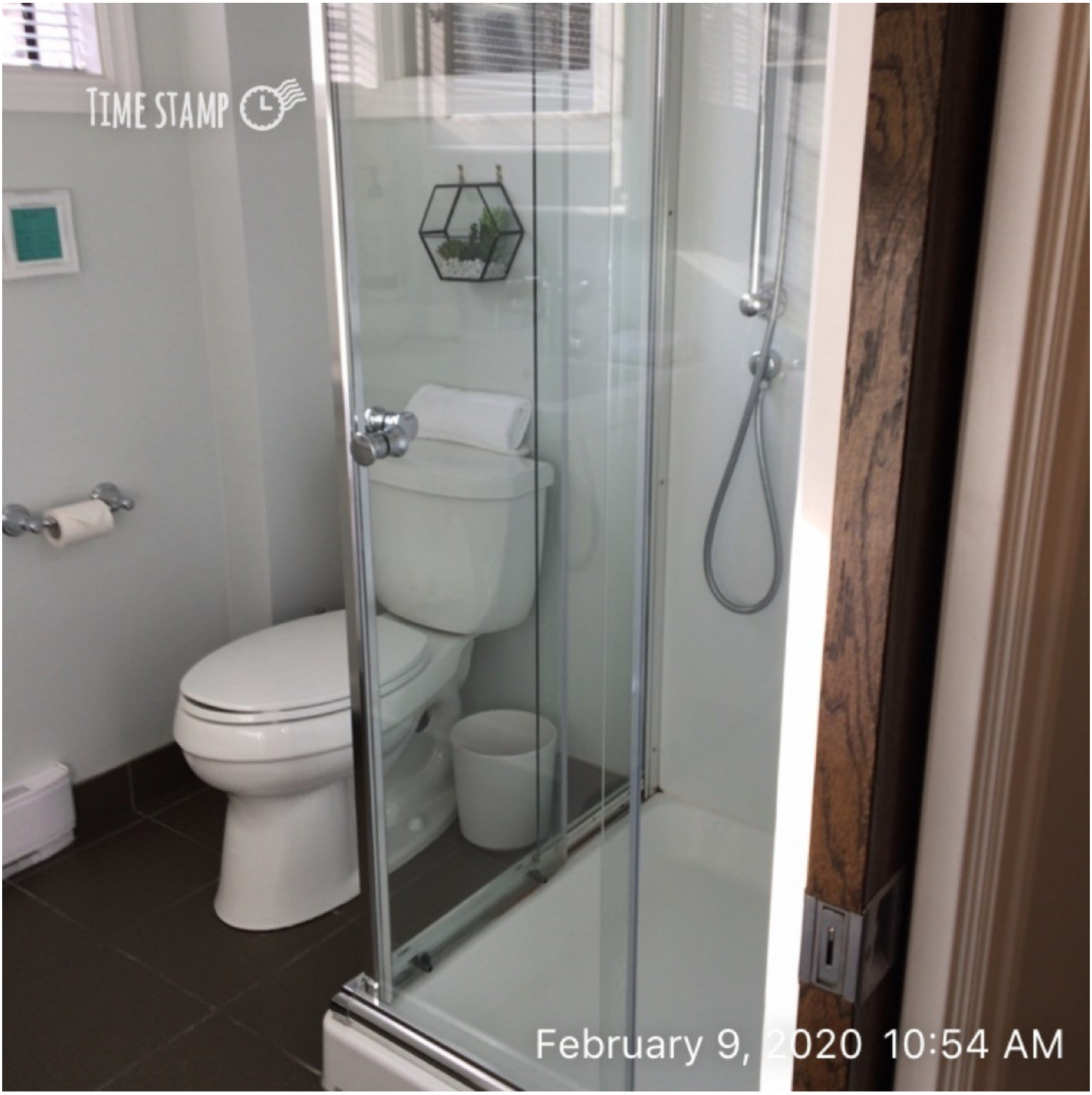
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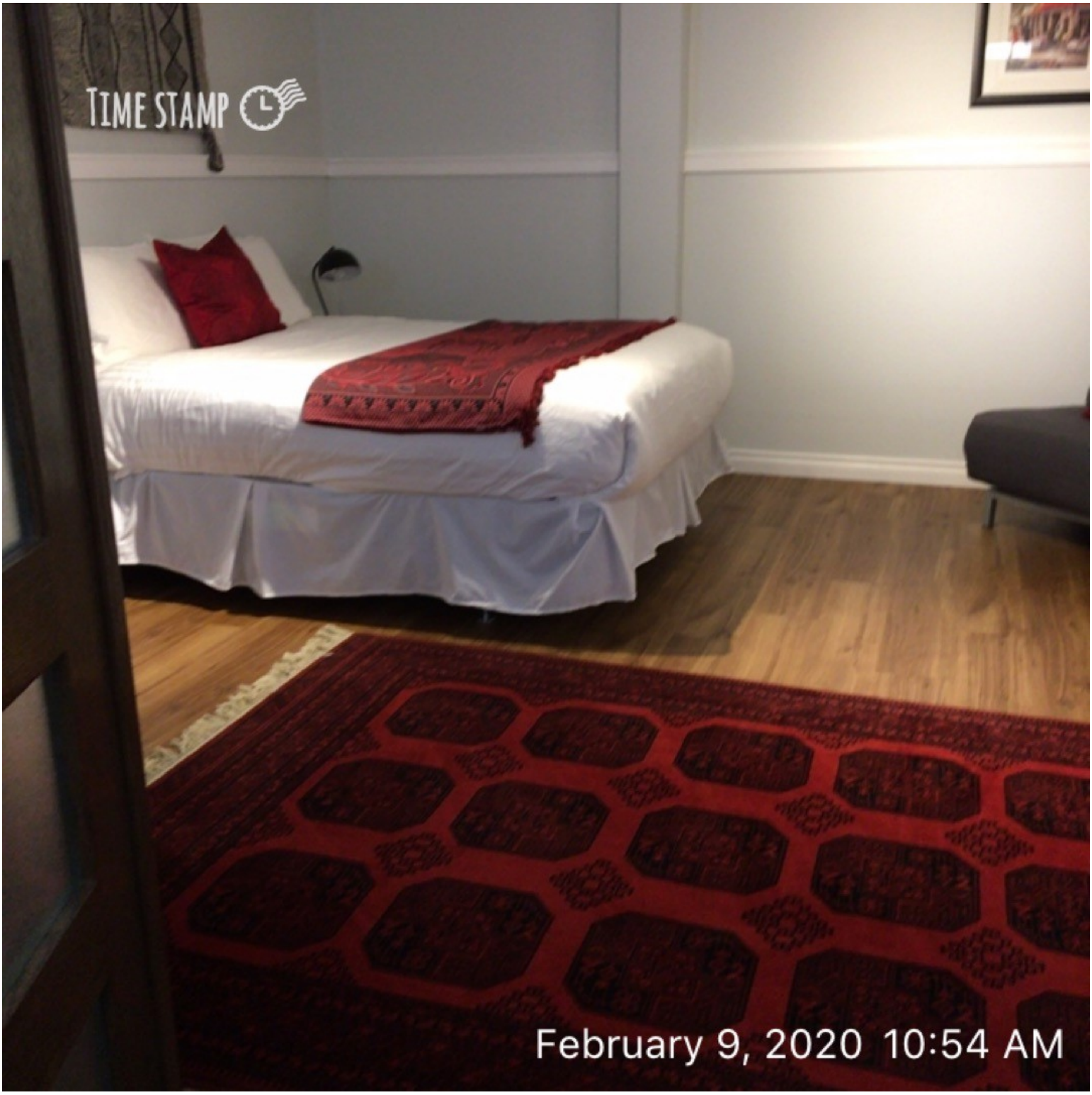
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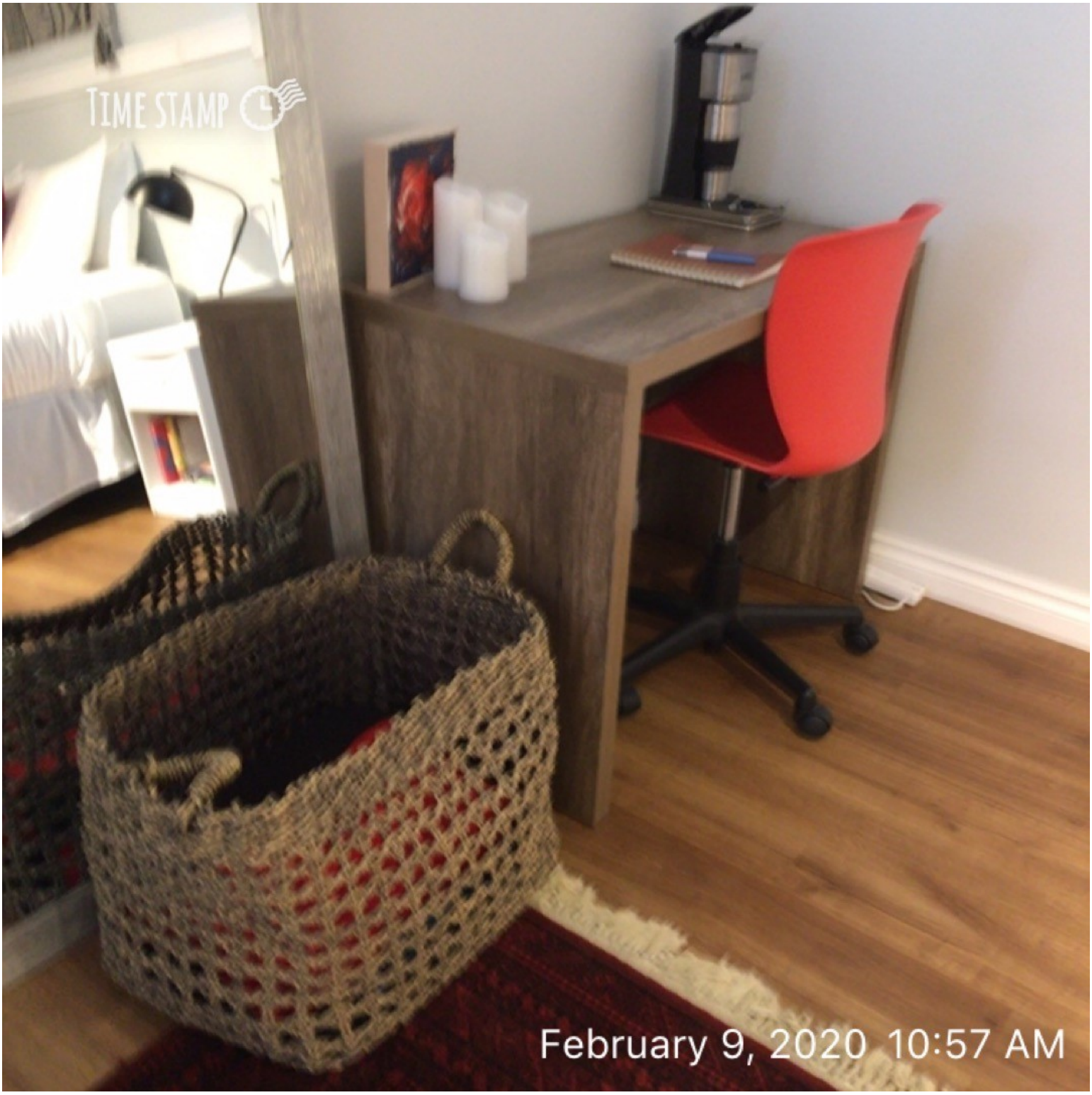
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February 9, 2020 10:58 AM

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February 9, 2020 10:54 AM

TIME STAMP
February 9, 2020 10:55 AM

Council Report
For the Meeting November 12, 2020

To:	Council	**Date:**	November 5, 2020
From:	Chris Coates, City Clerk		
Subject:	Short Term Rental Business License Appeal for 42 Moss Street		

RECOMMENDATION
That Council receive this report for information and either uphold or overturn the License Inspector's denial of a business license for the short-term rental unit at 42 Moss Street.

EXECUTIVE SUMMARY
This report presents documents from an Appellant and the City's Licence Inspector for Council's consideration under the Short-term Business Licence Appeal Process Policy.

The Short-term Rental Regulation Bylaw establishes a short-term rental business licence and fee, eligibility for short-term rental business licence, the Licence Inspector's authority to refuse a licence, conditions for refusing a licence, operating requirements, offences, and penalties. The Bylaw is attached as Appendix A.

Each year short-term rental operators apply for a short-term rental business licence and a Licence Inspector determines whether to issue a licence or not. If an application is not compliant with the City's requirements for short-term rental units, a Licence Inspector may deny a business licence. In this instance, the Licence Inspector notifies the applicant of this decision and advises them how to seek Council's reconsideration as established under section 60(5) of the Community Charter. The City Clerk's Office coordinates the appeal process.

The Short-term Business Licence Appeal Process Policy contains for a process for an Appellant to seek an opportunity to be heard by Council for a denied business licence in accordance with the Community Charter, section 60(5). The Policy is attached as Appendix B. This policy establishes terms and conditions for reconsideration by Council, required documentation to submit as a part of the appeal process, next steps following Council's decision, and other matters.

The Policy establishes the following process:

1. An applicant may start an appeal by submitting a request to the City Clerk
2. The City Clerk replies to an Appellant to acknowledge the request
3. An Appellant makes a written submission (Appendix C)
4. The Licence Inspector makes a written submission in response to the Appellant (Appendix D)
5. An Appellant may also make a written submission in response to the Licence Inspectors reasons for denial of the License. (Appendix E)

6. Once this process is complete, the City Clerk's Office informs the Appellant and Licence Inspector of the date that Council will consider the appeal
7. The City Clerk's Office consolidates these documents and submits them to Council for Council to determine whether the License Inspector's denial of the License is upheld or overturned.

Council's role is to review this information and to either grant or deny an appeal. Denying an appeal means a Licence Inspector will not issue a short-term rental business licence. Granting an appeal means that the Licence Inspector will issue a short-term rental business licence as soon as practicable.

In this instance the operator at 42 Moss Street of a short-term rental unit was denied a license and has exercised the Community Charter right to have council reconsider the matter. The submissions of both the operator and the License Inspector are attached as appendices as noted above.

Respectfully submitted,

Chris Coates
City Clerk

Report accepted and recommended by the City Manager:

Date: November 6, 2020

Attachments
Appendix A: Short-Term Rental Regulation Bylaw
Appendix B: Short-term Rental Business Licence Appeal Process Policy
Appendix C: Appellant's Submission
Appendix D: Licence Inspector's Response to Appellant's Submission
Appendix E: Appellant's Response to the Licence Inspector
Appendix F: Licence Inspector's Submission

NO. 18-036

SHORT-TERM RENTAL REGULATION BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to provide for the regulation of short-term rentals including vacation rentals in operators' principal residences where permitted under the Zoning Regulation Bylaw No. 80-159 and where permitted pursuant to section 528 of the *Local Government Act*.

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Pursuant to its statutory powers, including section 8(6) of the *Community Charter*, the Council of The Corporation of the City of Victoria, in an open meeting assembled, enacts the following provisions:

Title

1 This Bylaw may be cited as the "Short-Term Rental Regulation Bylaw".

Definitions

2 In this Bylaw

"operator" means a person who rents out, or offers for rent, any premises for short-term rental but does not include a person who acts as an intermediary between the short-term renal tenant and the person who receives the rent;

"principal residence" means the usual place where an individual makes their home;

"responsible person" means a person designated by the operator as the primary contact under section 6.

"short-term rental" means the renting of a dwelling, or any part of it, for a period of less than 30 days and includes vacation rentals;

"strata corporation", "strata council", and "strata lot" have the same meaning as in the *Strata Property Act*.

Licence Required

3 (1) A person must not carry on business as a short-term rental operator unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence Bylaw.

(2) A person applying for the issuance or renewal of a licence to operate a short-term rental must, in addition to meeting the requirements of the Business Licence Bylaw:

(a) make an application to the Licence Inspector on the form provided for that purpose;

(b) pay to the City the applicable licence fee prescribed under subsection (3);

(c) provide, in the form satisfactory to the Licence Inspector, evidence that:

(i) the person owns the premises where the short-term rental will be offered, or

(ii) the owner of the premises where the short-term rental will be offered has consented to their use as a short-term rental;

(d) if the premises where the short-term rental will be offered are located within a strata lot, provide a letter from the strata council confirming that provision of short-term rental does not contradict any bylaws of the strata corporation or applicable provisions of the Strata Property Act; and

(e) provide, in the form satisfactory to the Licence Inspector,

(i) evidence that the premises where the short-term rental will be offered are occupied by the operator as their principal residence; or

(ii) provide the name and contact information for the responsible person in relation to the short-term rental premises.

(3) The licence fee for purposes of subsection (2)(b) is:

(a) $150 where the short-term rental is offered in the operator's principal residence; or

(b) $1,500 for all short-term rentals that do not qualify under paragraph (a).

Power to Refuse a Licence

4 The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,

(a) the applicant has failed to comply with section 3; or

(b) the short-term rental operation would contravene a City bylaw or another enactment.

Licence Number to be Included in Advertising

5 A person may offer to rent premises for rent as a short-term rental only if a valid business licence number is included in any advertising, listing, or promotion material that is intended to communicate availability of the premises for short-term rental.

Responsible Person

6 (1) A person may only operate a short-term rental in premises other than their principal residence if they designated a responsible person who, at all times that the short-term rental is operated, has access to the premises and authority to make decisions in relation to the premises and the rental agreement.

(2) A person may only operate a short-term rental if they ensures that the name and contact information of the responsible person is prominently displayed in the short-term rental premises at all times when the short-term rental is operated.

(3) The operator may be the responsible person except when subsection (5) applies.

(4) The responsible person must be able to attend at the short-term rental premises within two hours of being requested to do so.

(5) If a person who operates a short-term rental in their principal residence is going to be away during the term of the short-term rental, they must designate a responsible person and comply with this section.

Offences

7 (1) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw and the Offence Act if that person

(a) contravenes a provision of this Bylaw;

(b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw; or

(c) neglects or refrains from doing anything required be a provision of this Bylaw.

(2) Each instance that a contravention of a provision of this Bylaw occurs and each day that a contravention continues shall constitute a separate offence.

Penalties

8 A person found guilty of an offence under this Bylaw is subject to a fine of not less than $100.00 and not more than $10,000.00 for every instance that an offence occurs or each day that it continues.

Severability

9 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, it shall be severed from the Bylaw and the balance of the Bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

Transition Provisions

10 (1) In the calendar year that this bylaw is adopted only, the fee payable under section 3 shall be prorated by 1/12 for each month in that year prior to the adoption of this bylaw, including the month the bylaw is adopted.

(2) Any operator who, at the time of adoption of this bylaw, holds a valid licence for a short-term rental under the Business Licence Bylaw shall be credited with amount paid for that licence towards the fee payable under section 3.

Commencement

11 This bylaw comes into force on adoption.

READ A FIRST TIME the	**22nd**	day of	**February**	2018
READ A SECOND TIME the	**22nd**	day of	**February**	2018
READ A THIRD TIME the	**22nd**	day of	**February**	2018
ADOPTED on the	**8th**	day of	**March**	2018

"CHRIS COATES"
CITY CLERK

"LISA HELPS"
MAYOR

CITY OF VICTORIA	**COUNCIL POLICY**	
	No.1	Page 1 of 2

SUBJECT:	**Short-Term Rental Business Licence Appeal Process Policy**		
PREPARED BY:	Monika Fedyczkowska		
AUTHORIZED BY:	Council		
EFFECTIVE DATE:	April 23, 2020	**REVISION DATE:**	
REVIEW FREQUENCY:	Every 3 years		

A. PURPOSE

The purpose of the Short-Term Rental Business Licence Appeal Process Policy [the Policy] is to establish a process for applicants for short-term rental business licences to have Council reconsider a Licence Inspector's decision to reject their application in accordance with section 60 of the Community Charter.

B. DEFINITIONS

Appellant means "an applicant for a short term rental business licence who is appealing a decision by a Licence Inspector to Council"

City Clerk means "the City Clerk and delegates"

Council means "the Council of the City of Victoria"

Short-term Rental Business Licence means "a business licence established under the Short-term Rental Regulation Bylaw"

C. POLICY STATEMENTS

Under the Community Charter, section 60(5), if a municipal officer or employee exercises authority to grant, refuse, suspend, or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have Council reconsider the matter.

Applicants must apply for a new short-term rental business licence each year.

D. PROCEDURES

1. Appeal Procedure
    a. An Appellant may start an appeal by submitting a request for an appeal to the City Clerk within 30 days after receiving notice from a Licence Inspector of a decision to reject the short-term rental business licence.
    b. The City Clerk must reply to the Appellant to acknowledge the request for an appeal and explain the appeal process.
    c. An Appellant must make a written submission to the City Clerk within 14 days. A written submission may include:
        i. Reasons that Council should grant the appeal to issue a short-term rental business licence
        ii. Any supporting documents

d. A Licence Inspector must submit a document to the City Clerk responding to the Appellant's written submission. The Licence Inspector's document must include:
    i. Reasons for refusing to issue a short-term rental business licence
    ii. Any supporting documents
e. An Appellant must provide a written submission in response to a Licence Inspector's response to the City Clerk within 7 days
f. A Licence Inspector must prepare a report for Council that includes:
    i. Reference(s) to relevant City Bylaw provisions
    ii. Direction to Council on what they should/should not consider, and
    iii. The following documents:
        1. The Appellant's business licence application
        2. The letter from a Licence Inspector giving notice of refusal to issue a business licence
        3. The Appellant's request to the City Clerk to appeal the refusal
        4. The City Clerk's acknowledgment of the request
        5. The Appellant's written submission and any supporting documents
        6. The Licence Inspector's written response and any supporting documents
        7. The Appellant's written response to the Licence Inspector's response
g. The City Clerk will inform the Appellant of the date that Council will consider the appeal.

2. Council's Decision
    a. Council may grant or deny an appeal by a majority vote.
    b. Council will provide reasons for a decision, which may be accomplished by way of the rationale by Council members during deliberation preceding a vote if not included specifically in the motion of Council.
    c. If Council grants an appeal, a Licence Inspector must issue the relevant business licence as soon as practicable.
    d. If Council denies an appeal, an Appellant may not make a new business licence application for a business for 3 months, unless Council unanimously votes to allow an Appellant to apply for a short-term rental business licence sooner than 3 months.

E. REVISION HISTORY

Notice to appeal

14 April, 2020

Ms. Birute Curran
42 Moss St.
Victoria, B.C.
V8V 4L8

City Clerk at Legislative Services
1 Centennial Square
Victoria, BC
V8W 1P6

Dear City Clerk,

Regarding your March 24, 2020 email notification of the rejection of my application for a short-term rental license (**Subject: 1032278 Application Follow-Up)** I hereby request an appeal of the decision.
Please provide all information on the appeal process and its timeline.

Best regards,

Ms. Birute Curran

CITY OF
VICTORIA

March 24, 2020

Curran, Birute
42 Moss St
Victoria BC V8V 4L8

Re: **42 Moss Street**

The City has completed a review of your short-term rental licence application for the property located at 42 Moss St.

Your 2020 application has been rejected due to non-compliance with City bylaws, including Schedule D of the Zoning Regulation Bylaw, which provides that a short-term rental cannot occupy an entire self-contained dwelling unit, except occasionally while the operator is away.

You are directed to cease offering and operating short-term rental at the above referenced property immediately. Please be aware that operating a short-term rental in contravention of City bylaws is subject to a fine of not less than $100.00 and not more than $10,000.00 for every instance that an offence occurs or each day that it continues.

If you choose to convert your rental to long term (30 days plus) a short-term rental licence is not required.

You may appeal the decision to deny your short-term rental licence to City Council by submitting a written request to appeal within 30 days of the date of this letter to the City Clerk at Legislative Services, 1 Centennial Square. Please note that you are not permitted to operate during the appeal process.

If you have any questions, contact our office at 250.361.0726.

Regards,

Kim Ferris
Bylaw Officer/Business Licence Inspector
Legislative & Regulatory Services Department
City of Victoria
1 Centennial Square, Victoria B.C. V8W 1P6

Reply: Lindsay R. LeBlanc*
*Law Corporation
leblanc@coxtaylor.ca

File: C-1769-1

June 1, 2020

by email: legislativeservices@victoria.ca

City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

Attention: Christine Havelka

Dear Madam:

Re: Short-Term Rental Business Licence Appeal for 42 Moss Street

We have been retained on behalf of Birute Curran, the registered owner of 42 Moss Street, Victoria, British Columbia (the "Property").

On March 24, 2020, the City advised our client that her short-term rental license for 2020 for the Property was being rejected due to non-compliance with the City bylaws. Our client was subsequently delivered a letter on May 13, 2020 advising that an appeal under the Short-Term Rental Business Licence Appeal Process Policy could be submitted by June 1, 2020.

The Property has been used lawfully, without interruption, as a short-term rental since at least 2016. Such use predates the City's current zoning regulating short-term rentals and is permitted pursuant to s.528 of the *Local Government Act* which provides as follows:

> Non-conforming uses: authority to continue use
>
> 528 (1) Subject to this section, if, at the time a land use regulation bylaw is adopted,
>
> (a) land, or a building or other structure, to which that bylaw applies is lawfully used, and
> (b) the use does not conform to the bylaw,
>
> the use may be continued as a non-conforming use.
>
> (2) If a non-conforming use authorized under subsection (1) is discontinued for a continuous period of 6 months, any subsequent use of the land, building or other structure becomes subject to the land use regulation bylaw.

(3) The use of land, a building or other structure, for seasonal uses or for agricultural purposes, is not discontinued as a result of normal seasonal or agricultural practices, including

(a) seasonal, market or production cycles,
(b) the control of disease or pests, or
(c) the repair, replacement or installation of equipment to meet standards for the health or safety of people or animals.

(4) A building or other structure that is lawfully under construction at the time of the adoption of a land use regulation bylaw is deemed, for the purpose of this section,

(a) to be a building or other structure existing at that time, and
(b) to be then in use for its intended purpose as determined from the building permit authorizing its construction.

(5) If subsection (1) authorizes a non-conforming use of part of a building or other structure to continue, the whole of that building or other structure may be used for that non-conforming use.

In support of our client's non-conforming status we enclose the Airbnb records which commence in December, 2016. The use as a short-term rental pre-dates this date; however, this evidence supports the lawful non-conforming status. If the status is disputed, additional documents will be relied upon by our client.

Our client is hereby requesting that the City issue a license for 2020. If the City refuses to issue a license, our client will continue with its lawful use of the Property and consider legal remedies in the nature of mandamus for the issuance of the license.

All further communications regarding this matter can be directed to directed to the writer.

Yours very truly,

COX TAYLOR

Per:

Lindsay R. LeBlanc*
*Law Corporation

LRL/lkr

Reply: **Lindsay R. LeBlanc***
**Law Corporation*
leblanc@coxtaylor.ca

File: C-1769-1

June 30, 2020

by email: chavelka@victoria.ca

City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

Attention: Christine Havelka

Dear Madam:

Re: Short-Term Rental Business Licence Appeal for 42 Moss Street

We acknowledge receipt of your letter of June 18, 2020. The writer has been away from the office recovering from a recent surgery. Further, our client is currently out of the country. We respectfully request a one-week extension to July 10, 2020 to finalize our clients' response.

We look forward to your reply as soon as possible.

Yours very truly,

COX TAYLOR

Per:

Lindsay R. LeBlanc*
*Law Corporation

LRL/jt
cc: client

COX TAYLOR
BARRISTERS | SOLICITORS | NOTARIES

Reply: **Lindsay R. LeBlanc***
**Law Corporation*
leblanc@coxtaylor.ca

File: C-1769-1

July 8, 2020

City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

by email: chavelka@victoria.ca

Attention: Christine Havelka

Dear Madam:

Re: Short-Term Rental Business Licence Appeal for 42 Moss Street

We write in reply to your letter of June 18, 2020. Please accept this letter as our client's submissions in response to the Licence Inspection's response dated June 18, 2020.

In denying our client's application for a short-term business licence, you rely on Schedule D of the Zoning Regulation Bylaw (copy attached). In particular, you rely on the provisions of Schedule D that restrict rental of the entire self-contained dwelling unit (except occasionally while the operator is away).

The provisions relied on in Schedule D were passed by Resolution of Council on March 8, 2018 in Bylaw No. 18-035 (copy attached). Our clients rented the entire self-contained dwelling unit prior to March 8, 2018. Such use has continued uninterrupted and our clients rely on the provisions of s. 528 of the *Local Government Act* which provides for the authority to continue such use. We attach our client's calendar of bookings as evidence supporting the use prior to March 8, 2018.

The short-term rental of our client's property is not restricted by the R1-B Single Family Dwelling Zoning. In fact, Schedule D of the Zoning Regulation Bylaw permits that use, on conditions. One of those conditions, and the only condition that appears to be relied on in refusing our clients 2020 application, is the restriction regarding the rental of the entire self-contained dwelling unit, which does not apply to our clients given their permitted non-conforming legal rights as described above. Further, our client's use of a short-term rental pre-dates the September 21, 2017 bylaw amendment that added a definition of "short-term rental". In that regard, we rely on *Newton v. The Corporation of the City of Victoria*, 2018 BCSC 728 and the finding that prior to September 21, 2017, short-term or vacation rentals were permitted in all zones were transient accommodation was permitted. Transient accommodation was permitted in the R1-B Zone prior to September 21, 2017.

Yours very truly,

COX TAYLOR

Per:

Lindsay R. LeBlanc*
*Law Corporation

LRL/jt
Encl.
cc: client

NO. 18-035
A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to amend the Zoning Regulation Bylaw by updating the home occupation provisions of Schedule D to allow short term rentals in principal residences.

The Council of the Corporation of the City of Victoria, in an open meeting assembled, enacts the following provisions:

1. This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1147)".

2. (1) Bylaw No. 80-159, the Zoning Regulation Bylaw is amended in Schedule A – Definitions, by inserting a new definition of "Principal Residence" between the definition of "Preschool" and "Private Garage", as follows:

    ""Principal Residence" means the usual place where an individual makes their home."

    (2) Bylaw No. 80-159, the Zoning Regulation Bylaw is further amended in Schedule D – Home Occupations by:

    (a) in section 6(2),

    (i) deleting the period at the end of paragraph (l) and replacing it with "; and"; and

    (ii) adding the following as the new paragraph (m):

    "(m) except as provided in Section 12, short-term rental."

    (b) Adding the following as the new subsection (4) to section 8:

    "(4) More than one person may operate a short-term rental in their principal residence.

    (c) adding the following as new subsections (5) and (6) to section 11:

    "(5) A single family dwelling may be used for transient accommodation whether or not the property contains a secondary suite or garden suite provided however that only one transient accommodation use is permitted on the property.

    (6) Transient accommodation is restricted to no more than two bedrooms and cannot occupy an entire self-contained dwelling unit."

    (d) adding, immediately after section 11, the following new section 12:

    "12 Subject to the following requirements, a short term rental is permitted as a home occupation in a principal residence.

(1) subject to subsection (2), no more than two bedrooms may be used for short-term rental and the short-term rental cannot occupy an entire self-contained dwelling unit;

(2) the entire principal residence may be used for a short-term rental only occasionally while the operator is temporarily away;

(3) no liquor may be provided to short-term rental guests; and

(4) no sign may be erected, used, or maintained for the purpose of advertising short-term rental."

READ A FIRST TIME the	**22nd**	day of	**February**	2018
READ A SECOND TIME the	**22nd**	day of	**February**	2018
Public hearing held on the		day of		2018
READ A THIRD TIME the		day of		2018
ADOPTED on the		day of		2018

CITY CLERK MAYOR

Schedule "D"
HOME OCCUPATIONS

1 Where home occupations are permitted pursuant to the provisions of this bylaw, the following conditions shall apply to the use:

Location

2 For the purposes of a home occupation, the location of a business is the address at which the operations of the business are managed.

Exception

3 A home occupation is not required to be operated wholly within a dwelling unit where the work is undertaken entirely off the lot on which the dwelling unit is located.

Prohibition

4 The sale of goods to customers attending on the lot on which the dwelling unit is located is prohibited.

Permitted Uses

5 The following uses are permitted as home occupations:

(a) artist studio;

(b) mail order, provided that no merchandise is sold to customers attending on the lot on which the dwelling unit is located;

(c) making, processing and assembly of products on a small scale;

(d) manufacturing agent;

(e) personal and professional services, including barber, hairdresser, bookkeeper, medical therapy;

(f) teaching, provided that attendance is limited to 5 persons in a detached dwelling and to 1 person in a duplex or multiple dwelling;

(g) testing, servicing and repairing of goods.

Schedule "D"

Prohibited Uses 6 (1) All uses that are noxious or offensive to any other dwelling units or the general public by reason of emitting odour, dust, smoke, gas, noise, effluent, radiation, broadcast interference, glare, humidity, heat, vibration, or hazard or any other emission are prohibited.

(2) The following uses are prohibited:

(a) except as provided in Section 11, Bed and Breakfast;

(b) car repairs and garages;

(c) clubs;

(d) kennels;

(e) radio dispatch services;

(f) restaurants;

(g) retail stores;

(h) salvage lots;

(i) storage lots;

(j) except as provided in Section 11, transient accommodation;

(k) in any building which has been converted from single family dwelling to duplex, multiple dwelling, boarding house, rooming house, or housekeeping apartment, pursuant to the applicable provisions of this bylaw, music teaching or any business which results in the transmission of sound;

(l) cannabis-related business; and; Amended Jan 11, 2018 Bylaw 17-110

(m) except as provided in Section 12, short-term rental. Amended March 8, 2018 Bylaw 18-035

Stock in Trade 7 Except for one licensed vehicle, which shall be a car, van, or pickup truck, no business-related materials, including machinery or vehicles, shall be visible at any time on any lot on which a home occupation is carried out nor shall any machinery or vehicles be parked or stored on the lot unless completely enclosed within a building.

Limitation 8 (1) Subject to this section, not more than one person shall be engaged in a home occupation, with the exception of urban agriculture, where up to two people are permitted to be engaged in the home occupation, and the person(s) shall reside on the lot on which the home occupation is carried on.

(2) Where any lot upon which a home occupation is carried on has a boundary or portion of a boundary in common with any lot which is located in a zone which permits retail use, then no more than two persons may be engaged the home occupation where one of the persons resides on the lot on which the home occupation is carried on.

(3) This section does not apply to any employees of a home occupation who at no time attend on the lot on which the home occupation is carried on, nor park in the immediate vicinity of the lot.

(4) More than one person may operate a short-term rental in their principal residence.

Amended March 8, 2018 Bylaw 18-035

9 No more than three home occupations shall be carried on in any one dwelling unit, provided that only one of the home occupations has customers that attend the dwelling unit.

Amended Jan 11, 2018 Bylaw 17-110

Advertising

10 Except as expressly permitted in this bylaw, or in the Sign By-law, no sign or other advertising device or advertising matter may be exhibited or displayed on any lot on which a home occupation is being carried on.

11 Subject to the following requirements, where any building is used as a single family dwelling, up to two bedrooms may be used for transient accommodation as a home occupation.

(1) Notwithstanding Section 4, meals or food services may be provided to any customers but not after 12:00 noon.

(2) No liquor shall be provided to any customers.

(3) One parking space for each room available for transient accommodation shall be provided on the lot and a parking space may be located behind another parking space.

(4) No sign may be erected, used, or maintained for the purpose of advertising transient accommodation use within a single family dwelling.

(5) A single family dwelling may be used for transient accommodation whether or not the property contains a secondary suite or garden suite provided however that only one transient accommodation use is permitted on the property

Amended March 8, 2018 Bylaw 18-035

(6) Transient accommodation is restricted to no more than two bedrooms and cannot occupy an entire self-contained dwelling unit.

Amended March 8, 2018 Bylaw 18-035

12 Subject to the following requirements, a short-term rental is permitted as a home occupation in a principal residence.

Amended March 8, 2018 Bylaw 18-035

(1) subject to subsection (2), no more than two bedrooms may be used for short-term rental and the short-term rental cannot occupy an entire self-contained dwelling unit;

(2) the entire principal residence may be used for a short-term rental only occasionally while the operator is temporarily away;

(3) no liquor may be provided to short-term rental guest; and

(4) No sign may be erected, used, or maintained for the purpose of advertising short-term rental.

Amending Bylaw 09-01 adopted Jan 19, 2009
Amending Bylaw 17-110 adopted Jan 11, 2018
Amending Bylaw 18-035 adopted March 8, 2018

Airbnb

Completed reservations

Printed May 25, 2020

Status	Guests	Contact	Check-in	Checkout ▲	Booked	Listing	Total payout
Confirmed	[redacted]	[redacted]	Feb. 19, 2020	Feb. 23, 2020	Jan. 25, 2020 11:56 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed			Jan. 27, 2020	Jan. 30, 2020	Jan. 23, 2020 7:38 p.m. PT	Moss Street Garden Suite	
Confirmed			Dec. 28, 2019	Jan. 11, 2020	Nov. 4, 2019 8:09 a.m. PT	Moss Street Garden Suite	
Confirmed			Aug. 31, 2019	Sep. 2, 2019	Jul. 29, 2019 9:20 p.m. PT	Moss Street Garden Suite	
Confirmed			Jun. 18, 2019	Jun. 21, 2019	May 6, 2019 9:46 a.m. PT	Moss Street Garden Suite	
Confirmed			May 19, 2019	May 21, 2019	Mar. 23, 2019 7:18 a.m. PT	Moss Street Garden Suite	
					Nov. 24,		

Confirmed	[redacted]	[redacted]	Dec. 30, 2018	Jan. 2, 2019	2018 4:02 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Dec. 23, 2018	Dec. 27, 2018	Oct. 23, 2018 11:57 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Aug. 31, 2018	Sep. 2, 2018	Jul. 12, 2018 5:25 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Aug. 22, 2018	Aug. 25, 2018	Jul. 5, 2018 6:10 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Aug. 20, 2018	Aug. 22, 2018	Aug. 10, 2018 7:37 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Aug. 11, 2018	Aug. 14, 2018	Jul. 15, 2018 10:43 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Jul. 27, 2018	Jul. 30, 2018	Jun. 21, 2018 6:09 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Jun. 11, 2018	Jun. 15, 2018	Apr. 24, 2018 10:05 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Jun. 2, 2018	Jun. 4, 2018	May 10, 2018 5:22 p.m. PT	Moss Street Garden Suite	[redacted]

Confirmed	[redacted]	[redacted]	May 26, 2018	May 28, 2018	May 6, 2018 6:22 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	May 21, 2018	May 26, 2018	Mar. 28, 2018 6:43 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	May 19, 2018	May 21, 2018	Apr. 14, 2018 5:59 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	May 5, 2018	May 15, 2018	Mar. 14, 2018 6:02 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Apr. 2, 2018	Apr. 7, 2018	Mar. 24, 2018 4:34 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Feb. 23, 2018	Feb. 25, 2018	Feb. 16, 2018 7:40 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Feb. 16, 2018	Feb. 18, 2018	Feb. 16, 2018 4:32 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Dec. 29, 2017	Dec. 31, 2017	Dec. 2, 2017 4:17 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Dec. 25, 2017	Dec. 29, 2017	Nov. 24, 2017 1:57 p.m. PT	Moss Street Garden Suite	[redacted]

Confirmed	[redacted]	[redacted]	Oct. 7, 2017	Oct. 9, 2017	Sep. 29, 2017 2:16 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Sep. 29, 2017	Oct. 1, 2017	Jun. 7, 2017 3:23 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Sep. 8, 2017	Sep. 11, 2017	Aug. 7, 2017 11:59 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Sep. 1, 2017	Sep. 3, 2017	Aug. 16, 2017 11:52 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Aug. 5, 2017	Aug. 12, 2017	Aug. 17, 2016 7:49 p.m. PT	3 Bedroom Seaside Beauty	[redacted]
Confirmed	[redacted]	[redacted]	Jul. 30, 2017	Aug. 2, 2017	Jun. 5, 2017 9:14 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Jul. 25, 2017	Aug. 2, 2017	Sep. 19, 2016 7:33 a.m. PT	3 Bedroom Seaside Beauty	[redacted]
Confirmed	[redacted]	[redacted]	Jul. 28, 2017	Jul. 30, 2017	Jul. 26, 2017 8:45 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Jul. 14, 2017	Jul. 16, 2017	Feb. 6, 2017 2:45 p.m. PT	Moss Street Garden Suite	[redacted]

Confirmed	[redacted]	[redacted]	Jul. 4, 2017	Jul. 7, 2017	Jan. 30, 2017 11:04 a.m. PT	3 Bedroom Seaside Beauty	[redacted]
Confirmed	[redacted]	[redacted]	May 18, 2017	May 22, 2017	Apr. 15, 2017 6:43 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	May 5, 2017	May 7, 2017	Mar. 30, 2017 5:13 p.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Apr. 27, 2017	Apr. 30, 2017	Apr. 27, 2017 11:49 a.m. PT	3 Bedroom Seaside Beauty	[redacted]
Confirmed	[redacted]	[redacted]	Apr. 14, 2017	Apr. 16, 2017	Mar. 26, 2017 1:14 a.m. PT	Moss Street Garden Suite	[redacted]
Confirmed	[redacted]	[redacted]	Mar. 11, 2017	Mar. 14, 2017	Feb. 25, 2017 7:10 p.m. PT	3 Bedroom Seaside Beauty	[redacted]
Confirmed	[redacted]	[redacted]	Dec. 31, 2016	Jan. 3, 2017	Dec. 11, 2016 7:49 a.m. PT	3 Bedroom Seaside Beauty	[redacted]

2 3 ›

ABOUT

Diversity & Belonging
Accessibility
Trust & Safety
Airbnb Citizen
Newsroom

COMMUNITY

Airbnb Magazine
Airbnb Associates
Airbnb for Work
Invite friends
Careers

HOST

Host your home
Host an experience
Responsible hosting
Open Homes
Olympics
Resource Centre

SUPPORT

Help Centre
Neighbourhood Support

English (CA) $ CAD

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Legislative and Regulatory Services Department

Bylaw and Licensing Services Division

1 Centennial Square
Victoria BC V8W 1P6

June 18, 2020

Curran, Birute
42 Moss St
Victoria BC V8V 4L8

Re: **Short-Term Rental Business Licence Appeal – 42 Moss St**

Your 2020 application was rejected due to non-compliance with City bylaws, including Schedule D of the Zoning Regulation Bylaw, which provides that a short-term rental cannot occupy an entire self-contained dwelling unit, except occasionally while the operator is away.

Per Schedule A of the Zoning Bylaw:
"Self-contained Dwelling Unit" means a suite of rooms in a building designed for occupancy of one family which has a separate entrance, kitchen and bathroom facilities.

You also advertise the unit as an entire apartment, as shown in the attached copy of your AirBnb listing.

Further, the zoning of the property is R1-B Single Family Dwelling. As the zoning of this property never changed, nor was the unit licensed prior to the bylaw changes that affected Transient Zoning, legal non-conforming use is not applicable at this address.

For these reasons, your 2020 application for a short-term rental business licence was rejected. Attached is a copy of your AirBnb listing.

Regards,

Kim Ferris
Bylaw Officer/Business Licence Inspector
Legislative & Regulatory Services Department
City of Victoria
1 Centennial Square, Victoria B.C. V8W 1P6

To Contact

Telephone: **250.361.0726**
E-Mail: **str@victoria.ca**

Fax: **250.361.0205**
Web: **www.victoria.ca**

https://www.airbnb.ca/rooms/1345737?locale=en&_set_bev_on_new_domain=1579563075_8nX5Mg0%2F%2FqXCgYSx&source_impression_id=p3_1592335591_GgFfEFW8lUTpowF6&guests=1&adults=1

airbnb

Add a location | Add dates | Add guests

Help | Sign up

Moss Street Garden Suite

★ 4.61 (39) · Victoria, British Columbia, Canada

Share | Save

Entire apartment hosted by Birute

4 guests · 2 bedrooms · 3 beds · 1 bath

Entire home

You'll have the apartment to yourself.

Add dates for prices

★ 4.61 (39)

CHECK-IN Add date | CHECKOUT Add date

GUESTS 1 guest

12:26 PM 2020-06-16

https://www.airbnb.ca/rooms/1345737?locale=en&_set_bev_on_new_domain=1579563075_8nX5Mg0%2F%2FqXCgYSx&source_impression_id=p3_1592335591_GgFfEFW8lUTpowF6&guests=1&adults=1

Not syncing

Entire home
You'll have the apartment to yourself.

Clean and tidy
4 recent guests said this place was sparkling clean.

Great location
100% of recent guests gave the location a 5-star rating.

Free cancellation for 48 hours
After that, cancel up to 7 days before check-in and get a 50% refund, minus the service fee.

Add dates for prices

★ 4.61 (39)

CHECK-IN Add date | CHECKOUT Add date

GUESTS 1 guest

Check availability

Report this listing

The space

Garden suite close to Ocean, Downtown and Beacon Hill Park.

We work very hard to provide our guests with the best experience possible. All sheets and towels go through a santization clean and we place protective covers over all mattresses and pillows.

Our two bedroom suite provides its guests all amenities. On a quiet street just steps away from the beach and easy walk... read more

Contact host

Amenities

Free parking on premises

Kitchen

12:27 PM
2020-06-16

https://www.airbnb.ca/rooms/1345737?locale=en&_set_bev_on_new_domain=1579563075_8nX5Mg0%2F%2FqXCgYSx&source_impression_id=p3_1592335591_GgFfEFW8lUTpowF6&guests=1&adults=1

Not syncing

Photos Amenities Reviews Location

Amenities

- Free parking on premises
- Wifi
- Cable TV
- Dryer
- Hair dryer
- Kitchen
- TV
- Washer
- Essentials
- Heating

Show all 17 amenities

Add dates for prices

★ 4.61 (39)

CHECK-IN
Add date

CHECKOUT
Add date

GUESTS
1 guest

Check availability

Report this listing

Select check-in date

Add your travel dates for exact pricing

June 2020

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July 2020

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

12:28 PM
2020-06-16

https://www.airbnb.ca/rooms/1345737?locale=en&_set_bev_on_new_domain=1579563075_8nX5Mg0%2F%2FqXCgYSx&source_impression_id=p3_1592335591_GgFfEFW8lUTpowF6&guests=1&adults=1

Not syncing

★ 4.61 (39 reviews)

Cleanliness	4.8
Communication	4.8
Check-in	4.9
Accuracy	4.7
Location	4.9
Value	4.6

Patricia
January 2020

Small and cozy suite. Great location.

Virginia
January 2019

Birute's place was such a nice surprise. It exceeded my expectations for location and cosiness. There are some nice conveniences at Cook's Village which we took advantage of. It was great for my dog as there is a wonderful dog-friendly beach within a two minute walk. The two bottles of wine and the box of chocolates was a very thoughtful gesture.

Pippa
December 2018

This Apartment is exactly as described. Quiet and comfortable and close to town and the waterfront. Would recommend without hesitation.

Leah
September 2018

The host canceled this reservation 7 days before arrival. This is an automated posting.

Susan
June 2018

What a wonderful place to stay! Birute was wonderful with communication and tips, and the space is very thoughtful with all the little touches that make travel easy. It was the per...
read more

Jennifer
February 2018

Really lovely suite! Very clean, well equipped and cozy. Fantastic location and only a few minutes drive from city centre. We would love to stay again :-)

12:28 PM
2020-06-16

https://www.airbnb.ca/rooms/1345737?locale=en&_set_bev_on_new_domain=1579563075_8nX5Mg0%2F%2FqXCgYSx&source_impression_id=p3_1592335591_GgFfEFW8lUTpowF6&guests=1&adults=1

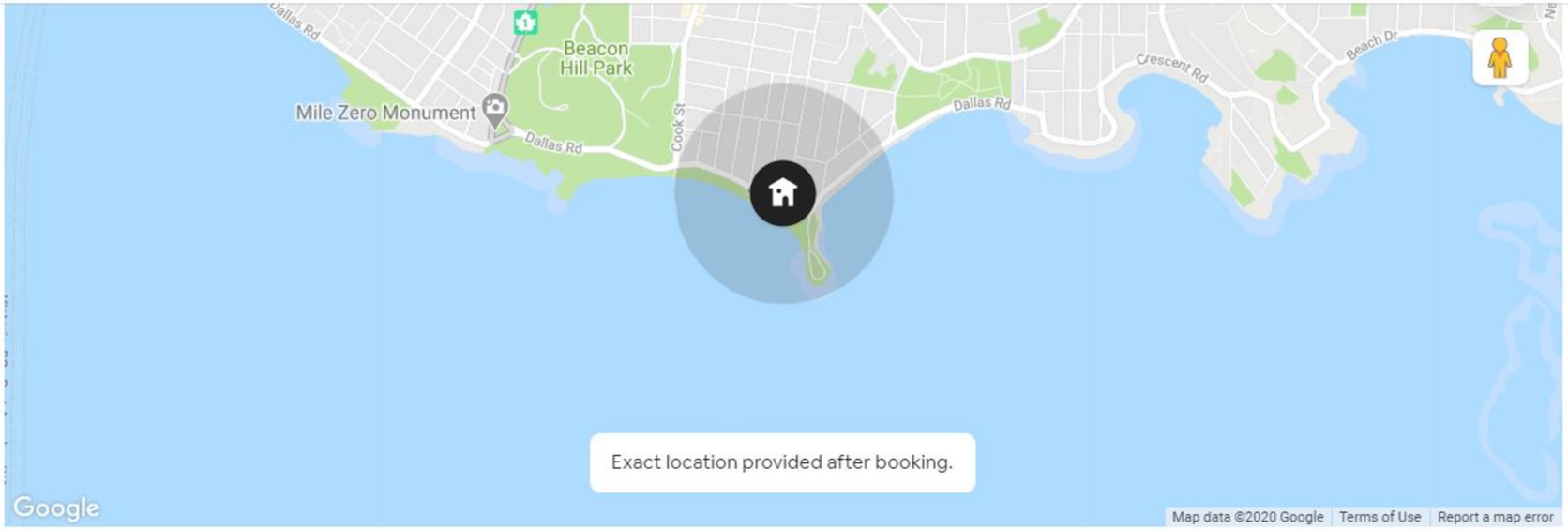
Not syncing

Photos Amenities Reviews Location

Add dates for prices

★ 4.61 (39)

Check availability



Hosted by Birute

Joined in June 2013

★ 54 Reviews Identity verified

Response rate: 100%

Response time: within an hour

Contact host

12:28 PM
2020-06-16

Reply: **Lindsay R. LeBlanc***
**Law Corporation*
leblanc@coxtaylor.ca

File: C-1769-1

November 6, 2020

City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

Attention: Mayor and Council

Dear Sir/Madam:

Re: Business Licence Appeal for 42 Moss Street

We act for Birute Curran, also known as Birute Foster (the "Appellant"). We have received the Licence Inspector's letter dated June 18, 2020 (the "June 18 Letter") along with the Submissions of the Licence Inspector dated October 29, 2020 (the "Submissions").

The Submissions raise, for the first time, additional grounds for denying a business licence to the Appellant. As such, we are instructed to submit the following reply submissions on behalf of the Appellant:

FACTS:

1. In 2020, the Appellant applied for a business licence for a short-term rental at the Property, as had been granted in the past by the City. The application was rejected on the grounds that the use is not permitted pursuant to Schedule D of the Zoning Regulation Bylaw. The Appellant appealed the decision on the grounds that the use is legal and permitted.

2. The Appellant, with her partner, reside at the Property as her principle residence. This is not in dispute.

3. The Appellant has rented out 2 bedrooms of the Property since at least August 2012 for short-term rental. This is not in dispute.

4. The house located on the Property was constructed in 1954. The only modification that has been undertaken to the house since construction is a renovation to the kitchen (electrical permit obtained) and some minor upgrading over the years, such as replacement of windows. There has been no conversion of the Property to a duplex, as suggested by the Licence Inspector at paragraph 8 of the Submissions. There are no outstanding permits or occupancy permits required for the Property, as paragraph 8 of the Submissions suggest. The Appellant has not applied to convert the Property to a duplex and any notation contained in the Prospero database relates to the City's own initiative to convert the description of the Property, which the Appellant refused.

5. The Property remains as it was constructed in 1954 as an approved "building".

6. In reply to paragraph 9 of the Submissions, the two bedrooms are accessed through the house as the photographs attached to the Submissions and the original building permits confirm. The Licence Inspector, at paragraph 13 of the Submissions, submits that the 2 bedrooms are not part of the Appellant's principle residence – this is incorrect. A review of the original building permit plans clearly demonstrates that the two bedrooms are part of the in-law suite attached to and forming part of the Appellant's principle residence, as approved in 1954.

7. In reply to paragraph 12 of the Submissions, the Appellant received a business licence in 2019; however, denies making the representation attributed to her and says that the licence application speaks for itself. In any event, the short-term rental is within the in-law suite that was part of the originally constructed single-family house.

8. The Licence Inspector originally refused the business licence relying on Schedule D of Bylaw No. 18-035 (copy attached) that restrict rental of the entire self-contained dwelling unit (except occasionally while the operator is away). Schedule D of Bylaw No. 18-035 was passed by Resolution of Council on March 8, 2018 after the Appellant commenced the use of the Property as a short-term rental.

9. The use of the Property, as a short-term rental, also pre-dates the September 21, 2017 bylaw amendment that added a definition of "short-term rental".

LAW:

10. The Appellant relies on s. 528 of the *Local Government Act,* [RSBC 2015] CHAPTER 1, and the decision of the Supreme Court of British Columbia decision, *Newton v. The Corporation of the City of Victoria,* 2018 BCSC 728 (attached).

11. Section 528 of the *Local Government Act* provides as follows*:*

Non-conforming uses: authority to continue use

528 (1) Subject to this section, if, at the time a land use regulation bylaw is adopted,

(a) land, or a building or other structure, to which that bylaw applies is lawfully used, and
(b) the use does not conform to the bylaw,

the use may be continued as a non-conforming use.

(2) If a non-conforming use authorized under subsection (1) is discontinued for a continuous period of 6 months, any subsequent use of the land, building or other structure becomes subject to the land use regulation bylaw.

(3) The use of land, a building or other structure, for seasonal uses or for agricultural purposes, is not discontinued as a result of normal seasonal or agricultural practices, including

(a) seasonal, market or production cycles,
(b) the control of disease or pests, or
(c) the repair, replacement or installation of equipment to meet standards for the health or safety of people or animals.

(4) A building or other structure that is lawfully under construction at the time of the adoption of a land use regulation bylaw is deemed, for the purpose of this section,

(a) to be a building or other structure existing at that time, and
(b) to be then in use for its intended purpose as determined from the building permit authorizing its construction.

(5) If subsection (1) authorizes a non-conforming use of part of a building or other structure to continue, the whole of that building or other structure may be used for that non-conforming use.

12. In 2012, when the Appellant commenced renting out 2 bedrooms, on a short-term basis, short-term rental was lawfully permitted.

13. The relevant provisions of the pre-2017 amendments are contained within paragraph 17 of the Submissions and read as follows:

    "Subject to the following requirements, where any building is used as a single-family dwelling, up to two bedrooms may be used for transient accommodation as a home occupation."

14. The relevant language is "building".

15. The present zoning bylaw defines "building" as "anything constructed or placed on a lot used or intended for supporting or sheltering any use, excluding landscaping, docks, wharfs and piers". The definition appears to be consistently applied during the relevant periods.

16. The house, as constructed in 1954, is a "building" and the Appellant has for all revenant periods of time used the building as a single-family dwelling. Accordingly, on a proper reading of the applicable bylaw, the Appellant is permitted to rent up to two bedrooms for transient accommodation provided the two bedrooms are located <u>in the "building"</u> and the "building" is used as a "single family dwelling" which is not disputed by the Licence Inspector. The applicable zoning of the property is "single-family dwelling" – R1B which is also not disputed.

17. In a May 30, 2016 Report to the Committee of the Whole prepared by Jocelyn Jenkins, Deputy City Manager, the Appellant's use of the property was confirmed as permitted:

    "In Zones where Home Occupation Use is permitted a licence may be obtained to rent up to two bedrooms for transient accommodation with limited regulations in Schedule "D" of the zoning bylaw. Home Occupation uses can occur in most single-family areas. This allows for the rental of rooms and shared accommodation as long as the homeowner is living in the establishment. See Appendix C for a map of all parcels where transient accommodation is permitted including single-family dwellings and strata condominium parcels."

18. At paragraph 15 of the Submissions, the Licence Inspector relies on subparagraph 17(4) of the Zoning Regulation Bylaw. The Licence Inspector does not; however, identify that the subparagraph 17(4) of the Zoning Regulation Bylaw was part of the September 21, 2017 amendments approved by Council. The Appellants use pre-dates Bylaw No. 17-084 and such reliance by the Licence Inspector is inconsistent with s. 528 of the *Local Government Act*. Attached is a copy of Bylaw No. 17-084 (as attached to the Victoria City Council meeting September 21, 2017 meeting agenda).

19. The Licence Inspector seeks to apply a restriction regarding "self-contained dwelling units" that did not exist in 2012.

20. The Applicant has a legal non-conforming authority to continue to rent out up to two bedrooms in the Property as per the pre-September, 2017 bylaws.

21. In response to paragraphs 26 and 27 of the Submissions, it is respectfully submitted that such current objectives of the City cannot be the basis for denying a legally protected right to use the Property.

22. In conclusion, the Appellant has demonstrated a clear permitted use of the Property pursuant to s. 528 of the *Local Government Act*. The Licence Inspector relies incorrectly on the current *Zoning Regulation Bylaw* to restrict a permitted use. The Appellant requests issuance of its 2020 business licence and a finding that it has a lawful non-conforming status to continue to rent up to two bedrooms in the building as per the pre-September, 2017 bylaws.

23. The Appellant seeks prompt written reasons of the decision of Council and the record of the decision should Council uphold the decision of the Licence Inspector.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Yours very truly,

COX TAYLOR

Per:

Lindsay R. LeBlanc*
*Law Corporation

LRL/jt
Encl.
cc: client

NO. 17-084

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Zoning Regulation Bylaw by amending the definition of Transient Accommodation, adding a definition for Short-Term Rental and prohibiting Short-Term Rentals in the entire City unless where expressly allowed.

The Council of The Corporation of the City of Victoria enacts the following provisions:

1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1112)".

2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended:

(a) in section 17, by adding a new subsection (4) as follows:

"(4) Without limiting the generality of subsection (1), short-term rentals, whether as a principal or accessory use, are prohibited in all zones except

(a) where they are expressly permitted subject to regulations applicable in those zones;

(b) rental of no more than two bedrooms in a self-contained dwelling unit, as home occupation, provided that:

(i) the self-contained dwelling unit is occupied by the operator of the short-term rental; and

(ii) short-term rental complies with all regulations in Schedule D as if it were transient accommodation."

(b) in Schedule A – Definitions by:

(i) deleting the words "vacation rentals" in the "Transient Accommodation" definition; and

(ii) adding a definition of "Short-Term Rental" immediately after the definition for "Setback" as follows:

""Short-Term Rental" means the renting of a dwelling, or any portion of it, for a period of less than 30 days and includes vacation rentals."

3 This bylaw comes into force on adoption.

READ A FIRST TIME the	**7th**	day of	**September**	2017
READ A SECOND TIME the	**7th**	day of	**September**	2017
Public hearing held on the		day of		2017
READ A THIRD TIME the		day of		2017
ADOPTED on the		day of		2017

CITY CLERK MAYOR

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Newton v. The Corporation of the City of Victoria,* 2018 BCSC 728

Date: 20180213
Docket: S174644
Registry: Victoria

2018 BCSC 728 (CanLII)

Between:

John Newton, Steven Nguyen, Jacqueline King, Lea Cathcart, Jocelyn Cathcart and 613 Herald Street Ltd.

Petitioners

And

The Corporation of the City of Victoria

Respondent

Before: The Honourable Madam Justice Winteringham
(appearing by teleconference)

Oral Reasons for Judgment

In Chambers

Counsel for the Petitioners:	A. Faulkner-Killam
Counsel for the Respondent:	T. Zworski
Place and Date of Trial/Hearing:	Victoria, B.C. January 15 and 16, 2018
Place and Date of Judgment:	Victoria, B.C. February 13, 2018

[1] **THE COURT:** Counsel indicated at the outset of this hearing that there was some urgency in determining the issue raised in the petition. I am thus delivering these reasons orally.

Introduction

[2] The petitioner seeks various declarations with respect to a building under construction at 613 Herald Street in the City of Victoria (the "Building"). The central issue raised in the petition and request for declaratory relief arises out of an amendment to the City of Victoria's zoning regulation bylaw that restricts the usage of individual units for vacation rentals. The petitioners contend the units in the Building were purchased and sold on the basis that the Building was located within a zoning district that permitted short-term rentals.

[3] The petitioners seek declaratory relief that:

1) the Building was lawfully under construction at the time of the adoption of the bylaw;

2) the residential units are deemed to be in use for their intended purpose in accordance with s. 528 of the *Local Government Act*, RSBC 2015, c. 1; and

3) the intended purpose of the residential units includes vacation rentals and may be lawfully used as vacation rentals pursuant to s. 528 of the *Local Government Act*.

[4] The respondent says the Building does not qualify for lawful non-conforming status under s. 528(4)(b) of the *Local Government Act*, such that it can be used for short-term rentals.

[5] The petitioners made preliminary submissions regarding the jurisdiction of the court to deal with the issues raised and submitted that it did, either pursuant to the *Judicial Review Procedure Act*, RSBC 1996, c. 241, or the inherent jurisdiction of the court. With respect to the latter, the petitioners submit that the declaratory relief

2018 BCSC 728 (CanLII)

sought in this case is sustainable, even without reliance on the *Judicial Review Procedure Act*, citing *Whitechapel Estates v. Canada (Ministry of Transportation and Highways)*, 57 BLLR (3d) 130 (C.A.), where Justice Prowse addressed the nature of the declaratory relief and stated:

> [44] The nature of declaratory relief was also discussed in an earlier decision of the Supreme Court of Canada, in a different context, in *Solosky v. The Queen*, [1980] 1 S.C.R. 821, 105 D.L.R. (3d) 745. There, a penitentiary inmate sought a declaration that mail to and from his solicitor was privileged and must be delivered unopened. His action was dismissed at trial and the dismissal was upheld in the Federal Court of Appeal. The Supreme Court of Canada allowed the appeal. Dickson J., speaking for the majority (Estey J. concurring in separate reasons), stated at p. 753:
>
>> Declaratory relief is a remedy neither constrained by form nor bounded by substantive content, which avails persons sharing a legal relationship, in respect of which a "real issue" concerning the relative interests of each has been raised and falls to be determined.
>>
>> The principles which guide the Court in exercising jurisdiction to grant declarations have been stated time and again. In the early case of *Russian Commercial and Industrial Bank v. British Bank for Foreign Trade Ltd.*, [1921] 2 A.C. 438, in which parties to a contract sought assistance in construing it, the Court affirmed that declarations can be granted where real, rather than fictitious or academic, issues are raised. Lord Dunedin set out this test (at p. 448):
>>
>>> The question must be a real and not a theoretical question; the person raising it must have a real interest to raise it; he must be able to secure a proper contradicter, that is to say, some one presently existing who has a true interest to oppose the declaration sought.
>>
>> In *Pyx Granite Co. Ltd. v. Ministry of Housing and Local Government*, [1958] 1 Q.B. 554 (reversed [1960] A.C. 260, on other grounds), Lord Denning described the declaration in these general terms (p. 571):
>>
>>> . . . if a substantial question exists which one person has a real interest to raise, and the other to oppose, then the court has a discretion to resolve it by a declaration, which it will exercise if there is a good reason for so doing.
>
> [45] These are but two of countless decisions which illustrate the broad nature of declaratory relief and the varied circumstances in which a court may exercise its discretion to grant, or refuse, such relief.

[6] The respondent agrees that there is a real issue between the parties and that the court has jurisdiction to resolve the issues raised in the petition. Based on the position of the parties and the authorities cited above, I am satisfied that this court

2018 BCSC 728 (CanLII)

has jurisdiction to grant the declaratory relief sought. In the words of Justice Prowse, whether the court exercises its jurisdiction to grant the declaration sought is another matter and it is to that issue that I turn now.

The Background to the Dispute

[7] The petitioner, 613 Herald Street Ltd., is the registered owner of the Building. The petitioner John Newton is an officer and director of 613 Herald Street Ltd., and one of the owners of a unit in the Building. The other named petitioners are owners of units in the Building.

[8] The respondent, the Corporation of the City of Victoria, is a local government with jurisdiction over zoning and land use in Victoria. The parties do not disagree about the circumstances giving rise to the dispute, and I summarize those briefly here.

[9] The City adopted the zoning regulation bylaw for the purpose of dividing the city into zones and regulating land uses in each zone. The Building is within the CA-3 zone.

[10] The uses permitted under this zone include residences, as well as transient accommodation. Transient accommodation use includes a wide range of uses for temporary accommodation of visitors, and includes hotels, motels, and bed and breakfast accommodation. Before September 21, 2017, transient accommodation expressly included vacation rentals. "Vacation rentals" is not a defined term in the zoning regulation bylaw.

[11] Before September 21, 2017, short-term rentals or vacation rentals were permitted in all zones where transient accommodation was a permitted use. The city undertook a review and examination of the impact of short-term rentals on its housing supply. On September 21, 2017, the city amended the zoning regulation bylaw. The amendment defined short-term rentals as a distinct use under the bylaw and the amendment prohibited it in most circumstances in most zones. The

2018 BCSC 728 (CanLII)

definition of "transient accommodation" was amended to delete "vacation rentals" and a new separate definition of "short-term rental" was added to the bylaw:

> Short-term rental means the renting of a dwelling or any portion of it for a period of less than 30 days and includes vacation rentals.

[12] The parties agree that, for the purpose of the petition, "transient accommodation", "vacation rental", and "short-term rental" have been used somewhat interchangeably. For consistency, I will try to use the term "short-term rental" as it applies here.

[13] Because of the September 21, 2017, amendment, short-term rentals of less than 30 days became unlawful and was no longer a permitted use. For those buildings where the use was in place on September 21, the city granted a designation of lawful non-conforming use within the CA-3 zone. In other words, and as stated by the city, although transient accommodation continues to be a permitted use within the CA-3 zone, as a result of the September 21, 2017, amendment, short-term rental is no longer a permitted use of the Building under the bylaw unless it is a lawful non-conforming use.

[14] At the time of the amendment, the Building was lawfully under construction. The construction of the Building was authorized by the city through a building permit issued on November 28, 2016. Approved by council of the city on February 11, 2016, development on the property was authorized by a development permit. The building and development permit authorized construction of a new, six-storey, multiple-dwelling building with 32 units and two commercial units on the ground floor. The city does not dispute that the Building was lawfully under construction on September 21, 2017, when the bylaw was amended to prohibit short-term rentals. In addition, the city does not dispute that before the bylaw was amended, short-term rentals would have been a permitted use of the units in the Building.

[15] By correspondence dated November 30 and December 4, 2017, the city informed the petitioners that the Building would not be permitted to be used for

2018 BCSC 728 (CanLII)

vacation rental or short-term rental of less than 30 days. Put another way, the city did not grant lawful non-conforming use status for the Building.

Bylaw and Amendments

[16] Here I set out the statutory framework which governs the resolution of this dispute. Section 528 states:

> Non-conforming uses: authority to continue use
>
> 528 (1) Subject to this section, if, at the time a land use regulation bylaw is adopted,
>
> > (a) land, or a building or other structure, to which that bylaw applies is lawfully used, and
> >
> > (b) the use does not conform to the bylaw,
> >
> > the use may be continued as a non-conforming use.
>
> (2) If a non-conforming use authorized under subsection (1) is discontinued for a continuous period of 6 months, any subsequent use of the land, building or other structure becomes subject to the land use regulation bylaw.
>
> (3) The use of land, a building or other structure, for seasonal uses or for agricultural purposes, is not discontinued as a result of normal seasonal or agricultural practices, including
>
> > (a) seasonal, market or production cycles,
> >
> > (b) the control of disease or pests, or
> >
> > (c) the repair, replacement or installation of equipment to meet standards for the health or safety of people or animals.
>
> (4) A building or other structure that is lawfully under construction at the time of the adoption of a land use regulation bylaw is deemed, for the purpose of this section,
>
> > (a) to be a building or other structure existing at that time, and
> >
> > (b) to be then in use for its intended purpose as determined from the building permit authorizing its construction.
>
> (5) If subsection (1) authorizes a non-conforming use of part of a building or other structure to continue, the whole of that building or other structure may be used for that non-conforming use.

[17] The Building exists in Zone CA-3, referred to as "Central Area General Commercial District". The petitioners and the respondent refer to the following extract from the Victoria Zoning Bylaw showing permitted uses:

> All uses permitted in the CA-4 Zone . . . are permitted in this Zone, subject to the regulations applicable in that Zone, provided that notwithstanding

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> anything contained in Part 6.8 no building shall be constructed, extended, altered or maintained so that any point on the exterior of any integral part thereof is at a greater elevation above the grade of the building than 15m.

[18] Relevant to the petition, CA-4 zoning bylaw includes these permitted uses:

> (f) transient accommodation and transient accommodation accessory uses;

[19] The stated purpose of the Zoning Regulation Bylaw is to "define the zones into which the City of Victoria is divided and to regulate and control the uses of land and buildings therein". On September 21, 2017, the city passed a bylaw which express purpose was to amend the definition of transient accommodation:

> The purpose of this [Bylaw amendment] is to amend the [Bylaw] by amending the definition of transient accommodation, adding a definition for short-term rental and prohibiting short-term rentals in the entire city unless where expressly allowed.

The Positions of the Petitioners and the Respondent

[20] The petitioners and the respondent disagree about whether the Building, as a building under construction, qualifies for non-conforming use status. The petitioners frame the issue this way:

> The narrow point in dispute in this proceeding is whether the use of residential units for vacation rental is within an intended purpose as determined from the building permit.

[21] The respondent frames the issue to be:

> . . . whether or not short-term rental is the intended purpose of the Building as determined from the building permit.

[22] The petitioners contend that the use or purpose intended, as determined from the Building Permit properly interpreted "intends" all of the available lawful uses that would be permissible and possible in a given unit whose construction is authorized by the Permit.

[23] Presented as an alternative, the petitioners rely on the doctrine of commitment to use.

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[24] The respondent takes the position that the Building under construction does not qualify for lawful non-conforming status under s. 528(4)(b) of the *Local Government Act*, such that it can be used for short-term rentals. The respondent says the determination of this issue is driven by the building permit and whether short-term rentals is the Building's intended purpose as determined from the building permit. The city says it is not.

[25] With respect to the petitioners' reliance on the doctrine of commitment to use, the respondent submits that s. 528(4) was intended by the legislature to govern the resolution of disputes such as these. As such, the respondents say the doctrine of commitment to use does not apply to buildings under construction and hence the court cannot rely on the doctrine here.

[26] Clearly the Building permit and the interpretation of it is central to the determination of this dispute. I reproduce those portions of the building permit referenced by the parties. Attached as Exhibit E to the John Newton affidavit provides:

> Permit Type: BP-RES-MULTI - MF NEW STR
>
> Permit Scope: CONSTRUCT RESIDENTIAL COMPLEX (STRATA) - The Residences
> PART 3 BLDG GROUP C/F3 3.2.2.50./80 6 STOREY 533.0 SQ M COMBUSTIBLE / NONCOMBUSTIBLE (BASEMENT) SPRINKLER / FIRE ALARM / STANDPIPE

Address:	613 HERALD ST	Zone: CA-3
Legal:	LOT 617, VICTORIA	P.I.D. 009-375-5686
Owner:	613 HERALD STREET LTD	Phone: 250-475-1130
Address:	160-4396 WEST SAANICH RD VICTORIA B.C. V8Z 3E9	
Applicant:	613 HERALD STREET LTD	Phone: 250-475-1130
Address:	160 4396 WEST SAANICH RD VICTORIA B.C. V8Z 3E9	

Description	Quantity	Amount	Description	Quantity	Amount
Bp App Fee	3,684,000.00	11,520.00	Bp Fee	3,684,000.00	34,560.00
Bp Fee Reduce	3,684,000.00	-500.00	En Art Fee Sssd	1.00	1,230.00

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En Art Fee Ww	1.00	1,230.00	En Ww Cutcap 25	1.00	1,000.00
En City Works	1.00	2,500.00	En New Works	1.00	23,500.00
En Ss/sd 2-150	1.00	19,500.00	En Ww 50mm	1.00	17,500.00
En Ww Fire 150	1.00	14,000.00	Pl Ldscp Dep	1.00	18,190.62
Bp Multiple	1.00	70,806.06			
			Total		$215,036.68

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[27] The respondents state that short-term rental was a permitted use at the time the development permit and building permit were issued. However, the respondent states the documents submitted as part of the application for the development permit and the building permit made no reference to vacation rentals or transient accommodation. The respondent says that the building permit is clear that it authorizes construction of a residential complex with two retail spaces on the ground floor. The building permit makes no reference to transient accommodation, vacation rental, or short-term rentals.

[28] In support of its interpretation, the respondent refers to material relating to a parking variance sought by the petitioners. The respondent states that the development permit allows for variances from the bylaw, including a reduction in the mandated minimum number of parking spaces for the Building. As part of the application for the development permit and parking variance, the petitioner 613 Herald Street Ltd. submitted to the city a parking study and access review. Included in this review, the respondent highlights the following excerpt that was used by 613 Herald Street Ltd. to justify the parking variance:

> . . . It should be noted developments with reduced parking supply result in residents "self selecting". That is, the future residents of the subject development are less likely to purchase (or rent) a unit if parking was desired but not available to them. Marketing of the units will be directed towards first time buyers and residents working and living within the Downtown core.

[29] The respondent says the documents submitted in support of the development and building permits made no reference to vacation rentals or transient accommodation.

Analysis

General Legal Framework

[30] Counsel did not refer to any authorities addressing the interpretation of s. 528(4) in the context where, as here, a bylaw is amended such that it impacts the future use of a building under construction. However, the existing case law does assist with the interpretation of s. 528 in the context presented here. As a starting point, it is useful to refer to a number of basic legal principles applicable to the construction of municipal legislation. In so doing, I have considered Chief Justice Bauman's review of those principles in *Society of Fort Langley Residents for Sustainable Development v. Langley (Township)*, 2014 BCCA 271 at paragraphs 11-18 where he states:

> [11] Second, it is always salutary to remind oneself of the basic principles of statutory interpretation applicable in construing this species of delegated legislative authority.
>
> [12] Counsel, of course, cited the Supreme Court of Canada's decision in *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, and then noted Tysoe J.A.'s reformulation of the direction in the context of a municipal law case in *North Pender Island Local Trust Committee v. Conconi*, 2010 BCCA 494 at para. 13:
>
>> . . . the words of an [enactment] are to be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the [enactment], the object of the [enactment], and the intention of [the legislative body that passed the enactment].
>
> [13] Again, in the context of municipal empowering legislation and bylaws enacted pursuant thereto, this Court said in *Neilson v. Langley (Township)* (1982), 134 D.L.R. (3d) 550 (at 554 per Hinkson J.A.):
>
>> In the present case, in my opinion, it is necessary to interpret the provisions of the zoning by-law not on a restrictive nor on a liberal approach but rather with a view to giving effect to the intention of the Municipal Council as expressed in the by-law upon a reasonable basis that will accomplish that purpose.
>
> [14] In *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, 2004 SCC 19, Mr. Justice Bastarache stated for the Court (at paras. 6 and 8):
>
>> 6 The evolution of the modern municipality has produced a shift in the proper approach to the interpretation of statutes empowering municipalities. . . . The "benevolent" and "strict" construction dichotomy has been set aside, and a broad and purposive approach to the interpretation of municipal powers has been embraced . . .

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> . . .
>
> 8 A broad and purposive approach to the interpretation of municipal legislation is also consistent with this Court's approach to statutory interpretation generally. . . .
>
> [15] These common law rules must be married with the expressions of intent by the Legislative Assembly.
>
> [16] Generally, in s. 8 of the *Interpretation Act*, R.S.B.C. 1996, c. 238 we are told that:
>
> > 8 Every enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.
>
> [17] Specifically, under s. 4(1) of the *Community Charter*, S.B.C. 2003, c. 26, we are directed so:
>
> > 4(1) The powers conferred on municipalities and their councils under this Act or the Local Government Act must be interpreted broadly in accordance with the purposes of those Acts and in accordance with municipal purposes.
>
> [18] Frankly, the Court can take the hint – municipal legislation should be approached in the spirit of searching for the purpose broadly targeted by the enabling legislation and the elected council, and in the words of the Court in Neilson, "with a view to giving effect to the intention of the Municipal Council as expressed in the bylaw upon a reasonable basis that will accomplish that purpose".

[31] I am also reminded that the burden of proving entitlement to a lawful non-conforming use rests on the petitioners: see *Sanders v. Langley (Township)*, 2010 BCSC 1543 where Justice Wedge stated:

> [33] One significant difference between the two provisions is that "use" is not a defined term under the *Local Government Act*. The judicial interpretation of "use" under that enactment is as follows: where a property owner can demonstrate that at the time of a new zoning bylaw his or her property was actually used in a manner that was a lawfully permitted use but for the new bylaw, the property owner is entitled to continue that formerly lawful, but now non-conforming use. The property owner must establish the actual use of the property on the exact date of the adoption of the new bylaw (*City of North Vancouver v. Vanneck* (1997), 39 M.P.L.R. (2d) 249 (B.C.S.C.) and cases cited therein).

[32] In support of the city's position that use is to be interpreted in accordance with the building permit, the city refers to authorities which are said to support the proposition that transient accommodation, including short-term rentals, is not a residential use but a commercial one and is more akin to a motel or hotel than to a

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residence: see *Kamloops (City) v. Northland Properties Ltd.*, 2000 BCCA 344, *Whistler v. Miller*, 2009 BCSC 419, and *Winchester Resorts Inc. v. Strata Plan KAS2188*, 2002 BCSC 1165.

[33] The petitioners submit that I must adopt a purposive approach to the interpretation of s. 528(4) and not the narrow interpretation advanced by the respondent. To that end, the petitioners assert the building permit provides for much more than the interpretation proffered by the city. That is because, the petitioners submit, Zone CA-3 is expressly included on the building permit.

[34] The B.C. Court of Appeal considered the objective of s. 528(4), then s. 970(3), of the *Municipal Act*, RSBC, c. 290 in *Whistler (Resort Municipality) v. Whistler Service Park Ltd.* (1990), 71 D.L.R. (4th) 168. Here, Whistler Service Park obtained a building permit to construct a building for the public storage and work it was obligated to perform pursuant to its contract with Whistler Municipality. The building permit indicated that the use was industrial, even though industrial and commercial use of the land in question had been prohibited since 1976. After the building permit was issued, Whistler passed a bylaw which made that use a lawful non-conforming use. Once the building was complete, Whistler Service Park sought to extend the use by renting out parts of the building for other industrial purposes. Whistler Service Park argued the purpose of s. 528(3) is to allow a building under construction to be used as stated in the building permit.

[35] The B.C. Court of Appeal disagreed. Justice Macdonald stated (at page 175) that subsection (1) and (3) must be read together:

> The legislative objective is apparent. Subsection (3) deals with the situation of a building in the course of construction when the by-law is adopted. Its purpose, for the sake of fairness, is to place that building under construction in a situation similar to the one enjoyed, under s-s. (1), by buildings completed before adoption of the by-law. That purpose appears from use of the words: "shall, for the purpose of this section...".
>
> The subsection is predicated upon the building permit having been issued for a purpose which was lawful just before adoption of the by-law. It does not make an unlawful use lawful. It permits a non-conforming use. Therefore, "industrial use" is not permitted under s. 970 if it was not permitted before the new by-law.

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[36] In *Nanaimo (Regional District of) v. Salapura* (1994), 94 B.C.L.R. (2d) 213, Justice Owen-Flood also considered the purpose of s. 528, then s. 970, of the *Municipal Act* and stated at page 28:

> The purpose of s. 970 of the *Municipal Act* is to allow lawfully established uses to continue when zoning amendments are made which would otherwise prohibit those uses. If the defendants' use of the land and building on November 10, 1981, the date the plaintiff's zoning bylaw came into effect, was a lawful use under the *Land Commission Act*, which until that point had governed the use of the lands in question, then the defendants use became a lawful non-conforming use protected by s. 722 of the *Municipal Act* . . . The defendants right to continue such protected use would have vested by the time the bylaw came into effect. As a result, unless and until the protection of the Act was lost, the defendants use would remain a lawful non-conforming use unaffected by the plaintiff's bylaws.

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[37] With respect to the term "use", I refer to Justice Wedge's review of the term as it was defined in the bylaw at issue before her in *Sanders*. She found that the wording of the applicable sections of the zoning bylaw was unambiguous and the definition of "use" broad at page 1544.

[38] Finally, I examine the term "residence" as it has been considered elsewhere in the authorities provided to me, for example in *Okanagan-Similkameen (Regional District) v. Leach*, 2012 BCSC 63, Justice Dardi dealt with the impact of a bylaw amendment in circumstances where the defendants owned a vacation home that was zoned as residential single-family one zone. The defendants stayed at the vacation home approximately three months during each year and advertised the property on a vacation rental site and rented it out for about five weeks each year, except for one year when they were renovating the property. The Regional District sought a declaration that the defendants were using the property as a commercial tourist accommodation contrary to the bylaw.

[39] In considering lawful non-conforming use at paragraph 117, Justice Dardi refers to *Sunshine Coast (District of) v. Bailey* (1995), 15 B.C.L.R. (3d) 16 (S.C.), which was affirmed on appeal, and she stated:

> [117] In *Sunshine Coast (Regional District) v. Bailey,* (1995), 15 B.C.L.R. (3d) 16 (S.C.) at para. 31, the Court described the purpose of the law of non-conforming use and observed that the courts have adopted a liberal approach

to interpreting the statutory lawful non-conforming use exemption in favour of the user:

> Presumably, it is the concept of fairness that supplies the underlying rationale for the statutory non-conforming use exemption, for its liberal interpretation by the courts through development of the "commitment to use" doctrine, and for the accompanying proposition that any doubt as to prior use ought to be resolved in favour of the owner. To prohibit completion of a land development project to which there has been an unequivocal commitment, including significant physical alteration to the site, savours of unfairness because it is tantamount to giving the zoning bylaw retroactive effect, to the prejudice of the owner.

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Application to the Facts

[40] I turn then to a consideration of "use for its intended purpose as determined from the building permit" in the context of subsections 528(1) and (4). In so doing, I have adopted a purposive approach. The central interpretative question is whether the building permit authorized short-term rentals.

[41] As stated above, the city admits that the Building was lawfully under construction at the time of the amendment, and that prior to the amendment, short-term rental use was a permitted use. In other words, but for the amendment, the petitioners would have been permitted to use their units for short-term rentals. Further, had the Building been operational at the time of the amendment, the petitioners would have been granted lawful non-conforming use status.

[42] Having reviewed the building permit and the zoning bylaws applicable to the Building, it is my view that the city's interpretation is too narrow. The city's suggestion here would require me to ignore express terms of the building permit, including the zone designation. In addition, the city's submission would require me to adopt an interpretation that would require me to ignore the purposive and liberal approach mandated in the municipal law jurisprudence.

[43] The permit scope of the building permit states "residential complex". However, that does not end the interpretive exercise. Importantly, the building permit states the Building exists in Zone CA-3, Central Area General Commercial District, which by definition incorporates CA-4, Central Area Commercial Office District.

[44] In my view, and much like the analysis undertaken by Justice Dardi in *Okanagan-Similkameen*, I am required to consider that residential designation within the context of the zoning provisions expressly identified in the building permit. Prior to the amendment, the bylaw and the definitions then applicable permitted residential use and the bylaw allowed for short-term rentals.

[45] Section 528(4) specifically deemed the Building lawfully under construction at the time of the amendment to be (a) existing and (b) then in use for its intended purpose as determined from the building permit authorizing its construction.

[46] The building permit allows for a residential complex within Zone 3-CA. In my view, a plain reading of s. 528(4), the issue to be determined is not whether short-term rental is the Building's intended purpose as determined from the building permit. Rather, the issue to be determined is whether residential complex in Zone CA-3 is the building's intended purpose as determined from the building permit. That is what the building permit authorized and that is what should be considered, not whether the building permit expressly stated that some units may be used for short-term rentals. In my view, when I consider that these are residential units in a zoning district that permitted short-term rentals at the time of the amendment is sufficient for the petitioners to meet their burden. The respondent does not dispute that short-term rentals were a permitted use in Zone CA-3 prior to the amendment and the Building would have been granted lawful non-conforming use status but for the fact it was a building under construction.

[47] In my view, the petitioners have established, for the purpose of s. 528, that the residential units of the Building maybe lawfully used as vacation rentals. The city relied on evidence related to the application for a parking variance. It is my view that the parking variance application does not detract from the interpretation set out here. In other words, the parking variance application does not change the interpretation of what was authorized by the building permit as I have found here.

[48] Again, I am mindful that municipal legislation must be interpreted in a purposeful fashion. In this regard, I acknowledge that the result of the interpretation

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of s. 528(4), as advanced by the petitioners, is that other buildings lawfully under construction before September 21, 2017, could seek the same declaration. However, as the petitioners submitted, if the city wanted to curtail vacation rentals of residential units in this zone, it could have inserted the available restrictions accordingly. In other words, the building permit could have included a provision to the effect that the residential units cannot be used as short-term rentals.

[49] I address briefly here the testimony of Ryan Morhart. During the hearing, the petitioners applied to strike specific paragraphs of affidavits filed by the city and that application was granted in part. At the same time, the petitioners sought leave to cross-examine Ryan Morhart, the chief building official and manager of permits and inspections for the city. I granted leave to cross-examine Mr. Morhart on a limited basis. I have found that Mr. Morhart's testimony does not impact these reasons in any way. I have also not found it necessary to refer to the reply affidavit filed by the petitioners. In other words, I have found the reply affidavit and Mr. Morhart's testimony do not assist in the interpretation of the relevant provisions before me.

[50] In the present case and in consideration of the whole of the building permit and the bylaw, a plain reading of s. 528 favours the interpretation advanced by the petitioners.

[51] The petitioners advance an alternative argument invoking the doctrine of commitment to use. In light of the interpretation set out above and having resolved the dispute in the petitioners' favour, I will not deal with this alternative argument.

Conclusion

[52] In conclusion, I accept the interpretation of the Building Permit Bylaw and s. 528(4) as advanced by the petitioners in the context here. Accordingly, and in light of the parties' positions regarding jurisdiction, the petitioners are entitled to the following declaratory relief:

a) a declaration that the Building is lawfully under construction and was at the time of the adoption of City of Victoria Bylaw No. 17-084;

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b) a declaration that the residential units disclosed in the drawings attached to the building permit are deemed to exist for the purpose of s. 528 of the *Local Government Act*; and

c) a declaration that the residential units disclosed in the drawings attached to the building permit are lawfully used as vacation rentals pursuant to s. 528 of the *Local Government Act*.

[53] Unless either party wishes to make submissions on the issue of costs, the petitioners are entitled to their costs.

"Winteringham J."

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Business Licence (Short-term Rental) Appeal re 42 Moss Street

Submission of the Licence Inspector

I. Introduction

1. This is an appeal from the decision of the Licence Inspector to refuse to issue a business licence to Birute Curran for the operation of a short-term rental at 42 Moss Street.

2. The business licence was denied pursuant to section 4(b) of the *Short-term Rental Regulation Bylaw*, which states:

> *4. The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,*
>
> *…*
>
> *(b) the short-term rental operation would contravene a City bylaw or another enactment.*

5. The appeal is brought pursuant to section 60(5) of the *Community Charter*, which requires that an applicant for a business licence has the right to have a staff decision to refuse such licence reconsidered by Council.

6. On a reconsideration such as this, Council can apply its own judgment and may either uphold the decision to refuse the licence or grant the licence.

II. Facts

7. The appellant owns and resides at the property at 42 Moss Street (under the name Birute Foster). The property is zoned R1-B (Single Family Dwelling). Short-term rentals are not a permitted use under this zone.

8. The property contains a single family home with a basement suite. According to City records (Prospero database), the appellant submitted a building permit application to revert the property to a duplex in 2013, but no further updates have been received by the City. There is no occupancy certificate for the secondary suite.

9. The basement suite consists of a living/dinning room with a full kitchen, two bedrooms and a full bathroom. It has a separate entrance from outside. It is unknown if there is an inside connection between the basement suite and the rest of the house.

10. The basement suite contains its own kitchen facilities, with stovetop, microwave and microwave oven, fridge, kitchen sink, and counters and cabinets. [See attached photos]

11. The appellant has rented the entire basement suite as a short-term rental since at least August 2012. Between 2013 and 2019, the appellant has accepted an average of 11 to 18 short-term rental bookings per year, with stays as short as 2 days. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.

12. The appellant applied for and received a business licence to operate short-term rental in 2019. The licence was granted on the basis of the appellant's representation that the short-term rental was offered in the appellant's principal residence.

13. Bylaw Officers were unable to complete an inspection of the premises as the appellant was out of the country for most of February 2020, and the COVID-19 pandemic had halted inspections upon her return. The listing photos from VRBO were used to assess compliance instead. These revealed that the basement suite is, in fact, a self-contained dwelling and is not part of the appellant's principal residence. [VRBO listing attached]

14. On March 24, 2020, the Licence Inspector advised the appellant that her application for a short-term rental licence has been refused because short-term rental of a self-contained dwelling did not comply with applicable zoning.

III. Relevant Regulations

15. The City regulates short-term rentals through the *Short-term Rental Regulation Bylaw* and through provisions of the zoning bylaws. In relation to the property, the relevant zoning bylaw is the *Zoning Regulation Bylaw*, which states, in part:

> *17 …*
>
> *(4) Without limiting the generality of subsection (1), short-term rentals, whether as a principal or accessory use, are prohibited in all zones except*
>
> *(a) where they are expressly permitted subject to regulation applicable in those zones;*
> *(b) rental of no more than two bedrooms in a self-contained dwelling unit, as home occupation, provided that:*
> *(i) the self-contained dwelling unit is occupied by the operator of the short-term rental; and*
> *(ii) short-term rental complies with all regulations in Schedule D as if it were a transient accommodation.*

16. A self-contained dwelling unit is defined in the *Zoning Regulation Bylaw* as "a suite of rooms in a building designed for occupancy of one family which has a separate entrance, and kitchen and bathroom facilities."

17. Prior to the bylaw changes in 2017, short-term rentals were considered to be part of "transient accommodation". Transient accommodation was not a permitted use in R1-B zone at any time, except as home occupation in accordance with Schedule D, which prior to 2017 amendments allowed for up to two bedrooms to be used as transient accommodation, including short-term rentals:

> *Subject to the following requirements, where any building is used as a single family dwelling, up to two bedrooms may be used for transient accommodation as a home occupation.*

18. Use of an entire self-contained dwelling unit for transient accommodation was never permitted in the R1-B zone.

IV. Argument

19. When short-term regulations were initially introduced, the City was flooded with applications of business licences. In an effort to encourage compliance with regulations, these applications were processed very quickly and were not always fully screened. More careful reviews and inspections have been conducted as part of 2020 application process. Therefore, the fact that the appellant was issued a short-term rental business licence in 2019 is not an indication that a 2020 licence should also be issued.

20. Although the appellant resides in the house at 42 Moss Street, the premises that are rented as a short-term rental are not part of her principal residence, because the basement suite is an independent self-contained dwelling unit.

21. It is clear that the basement suite at 42 Moss Street is a self-contained dwelling unit: it has its own entrance from outside, its own full kitchen, and full bathroom – it meets all the requirements of the definition of "self-contained dwelling unit" in the *Zoning Regulation Bylaw*.

22. For all these reasons, the Licence Inspector submits that the appellant's application for a short-term rental business licence had to be refused as it contravened the *Zoning Regulation Bylaw*.

23. The appellant's claim that this use is permitted as a lawful non-conforming use, pursuant to section 528 of the *Local Government Act*, is without merit. For section 528 to apply, the use must be lawfully allowed under the zoning prior to bylaw changes. However, use of an entire self-contained dwelling unit for transient accommodation was never lawful in the R1-B zone and, therefore, it cannot be "grandfathered" as suggested by the appellant.

24. The B.C. Supreme Court decision in *Newton v. The Corporation of the City of Victoria*, referenced in the appellant's submission is of no assistance in this instance because in that case, "transient accommodation" was expressly permitted as a use and the petitioner in that

case was not relying on a much narrower provisions for “home occupations” under Schedule D, which is what is at issue in the case of 42 Moss Street.

25. At most under the former rules, the appellant had a right to use up to two bedrooms as transient accommodation. The appellant can still use up to two bedrooms as short-term rental within her principal residence. However, that is not what she has been doing. The basement suite is clearly a separate self-contained dwelling and is being rented out in its entirety – something that was never allowed in this zone and still contrary to City bylaws.

26. One of the objectives of the City’s regulations of the short-term rentals was to address the problem of self-contained dwelling units being diverted from the housing market to a vacation rental market. This is the rationale behind the provisions of the zoning bylaw which limit short-term rentals to bedrooms within self-contained units rather than entire self-contained units.

27. The property at 42 Moss Street is an example of a self-contained dwelling unit that has been lost to the regular housing market in the past, contrary to the intent behind City regulations, which prohibit rental of entire self-contained dwelling units as short-term rentals.

28. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 42 Moss Street upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: October 29, 2020

_____

Shannon Perkins, Manager of Bylaw Services

Dashboard

Rental Unit Record

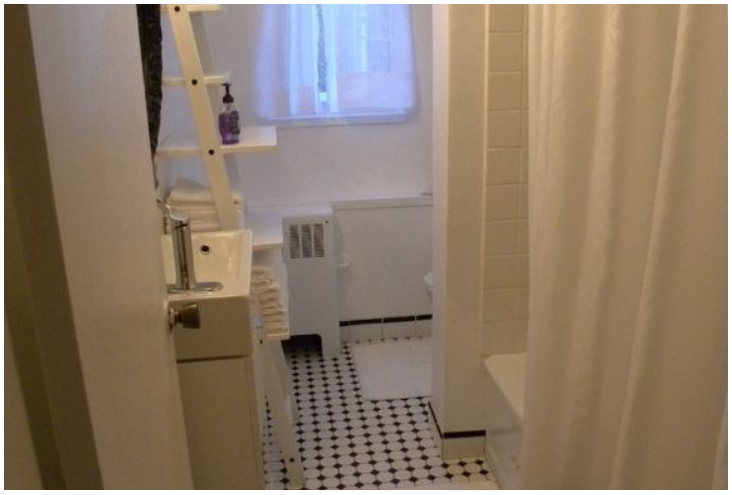
42 Moss St, Victoria, BC, Canada

Active ●
Identified ✔
Compliant X

PRINT

Listing(s) Information

VRBO - 321.482369.1065550 | Airbnb - 1345737 | Airbnb - 2355034



Matched Details

Analyst EGPL

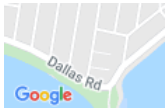
Explanation
Duplicate of fli3231768 .
Duplicate of fli3231768. The same exterior and interior photos are used.

Owner Name Match

Listing Details

Listing URL	– https://www.vrbo.com/482369
Listing Status	● Active
Host Compliance Listing ID	– hma321.482369.1065550
Listing Title	– Beautiful 2 bedroom suite close to all the best sites in Victoria

Rental Unit Information



Identified Address
42 Moss St, Victoria, BC, Canada

Identified Unit Number
None

Identified Latitude, Longitude
48.407120, -123.351165

Parcel Number
0123403239019

Owner Address
42 Moss St, Victoria
Victoria, BC V8V 4L8, CA

Timeline of Activity

View the series of events and documentation pertaining to this property

4 Documented Stays
September, 2020

3 Documented Stays
August, 2020

1 Documented Stay
July, 2020

Property type	House
Room type	Entire home/apt
Listing Info Last Captured	Oct 15, 2020
Screenshot Last Captured	Oct 13, 2020

Information Provided on Listing

Contact Name	Birute Curran
Minimum Stay (# of Nights)	2
Max Sleeping Capacity (# of People)	4
Max Number of People per Bedroom	2.0
Number of Reviews	58
Last Documented Stay	09/2020

Listing Screenshot History

View Latest Listing Screenshot

August 7 | September 7 | October 4

- Listing fli3231768 Removed
  July 1st, 2020
- 1 Documented Stay
  June, 2020
- Listing air2355034 Identified
  April 4th, 2020
- Listing air1345737 Reposted
  April 2nd, 2020
- Listing air2355034 Removed
  April 2nd, 2020
- Listing air1345737 Removed
  March 26th, 2020
- Listing air2355034 Reposted
  March 26th, 2020
- 1 Documented Stay
  March, 2020
- 1 Documented Stay
  February, 2020
- 2 Documented Stays
  January, 2020
- 1 Documented Stay
  November, 2019
- 2 Documented Stays
  October, 2019
- 4 Documented Stays
  September, 2019
- 2 Documented Stays
  August, 2019
- 2 Documented Stays
  July, 2019
- 4 Documented Stays
  June, 2019
- 1 Documented Stay
  May, 2019
- 1 Documented Stay
  April, 2019
- 1 Documented Stay
  March, 2019
- 1 Documented Stay
  January, 2019
- 1 Documented Stay
  December, 2018
- Listing fli3231768 Reposted
  December 13th, 2018
- Listing fli3231768 Removed
  December 10th, 2018
- 2 Documented Stays
  November, 2018
- 1 Documented Stay
  October, 2018
- 3 Documented Stays
  September, 2018

- 1 Documented Stay
  August, 2018
- 2 Documented Stays
  July, 2018
- Listing hma321.482369.1065550 Identified
  July 10th, 2018
- Listing air1345737 Identified
  July 10th, 2018
- Listing fli3231768 Identified
  July 10th, 2018
- 2 Documented Stays
  June, 2018
- 2 Documented Stays
  May, 2018
- 2 Documented Stays
  April, 2018
- Listing hma321.482369.1065550 Reposted
  March 2nd, 2018
- 1 Documented Stay
  February, 2018
- Listing hma321.482369.1065550 Removed
  February 20th, 2018
- 1 Documented Stay
  January, 2018
- 1 Documented Stay
  December, 2017
- Listing air2355034 Removed
  December 19th, 2017
- 2 Documented Stays
  November, 2017
- 1 Documented Stay
  October, 2017
- 1 Documented Stay
  September, 2017
- 3 Documented Stays
  August, 2017
- 6 Documented Stays
  July, 2017
- 2 Documented Stays
  June, 2017
- 1 Documented Stay
  May, 2017
- 1 Documented Stay
  March, 2017
- 1 Documented Stay
  December, 2016
- 2 Documented Stays
  November, 2016
- 3 Documented Stays
  September, 2016
- 4 Documented Stays
  August, 2016

- 3 Documented Stays
  July, 2016
- 2 Documented Stays
  June, 2016
- 1 Documented Stay
  May, 2016
- Listing air1345737 First Crawled
  April 20th, 2016
- Listing air2355034 First Crawled
  April 20th, 2016
- Listing fli3231768 First Crawled
  April 15th, 2016
- Listing hma321.482369.1065550 First Crawled
  April 15th, 2016
- 2 Documented Stays
  January, 2016
- 2 Documented Stays
  December, 2015
- 1 Documented Stay
  November, 2015
- 2 Documented Stays
  October, 2015
- 2 Documented Stays
  September, 2015
- 3 Documented Stays
  August, 2015
- 4 Documented Stays
  July, 2015
- 4 Documented Stays
  May, 2015
- 2 Documented Stays
  April, 2015
- 2 Documented Stays
  March, 2015
- 3 Documented Stays
  December, 2014
- 2 Documented Stays
  October, 2014
- 2 Documented Stays
  September, 2014
- 1 Documented Stay
  August, 2014
- 2 Documented Stays
  July, 2014
- 2 Documented Stays
  June, 2014
- Listing air2355034 First Activity
  June 23rd, 2014
- 2 Documented Stays
  May, 2014
- 3 Documented Stays

December, 2013

- Listing fli3231768 First Activity
  December 26th, 2013
- Listing air1345737 First Activity
  December 25th, 2013
- 1 Documented Stay
  November, 2013
- 1 Documented Stay
  October, 2013
- 1 Documented Stay
  September, 2013
- 2 Documented Stays
  August, 2013
- 3 Documented Stays
  July, 2013
- 1 Documented Stay
  August, 2012
- Listing hma321.482369.1065550 First Activity
  August 1st, 2012

https://www.vrbo.com/482369

Travel safe: Be sure to follow any government safety guidelines for travel. **Visit our help article**

Vrbo

Trip Boards | Login | Sign up | Help | Feedback | USD ($) | EN | List your Property

Where
Victoria, British Columbia, Canada

Check In | Check Out | Guests | Check Availability

View all Victoria properties

$109 avg/night

★★★★½ 58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to 60 days before check-in

Ask owner a question

Property # 482369

Overview | Amenities | Policies | Reviews | Map | Owner | Rates & Availability

Beautiful 2 bedroom suite close to all the best sites in Victoria

Birute Curran
Premier Host

4:10 PM
2020-10-29

House · 600 sq. ft.

Sleeps: 4

Bedrooms: 2

Bathrooms: 1

Min Stay: 2 nights

Fairfield, Victoria, British Columbia, Canada · 1.6 mi to Victoria center

Pets Welcome | No Smoking | Internet | TV | Satellite or Cable

2 Bedrooms, 1 Bathroom, Sleeps 4/5

A two bedroom suite provides its guests all amenities. On a quiet street just steps away from the beach and easy walking distance to downtown, parks, the Mile 0 landmark, and The World's Tallest Totem Pole!

We pride ourselves in continually updating our suite and always make sure the suite is suitable for guests to enjoy themselves. We put all our sheets and towels through a santization cycle between guests and take pride in our comfortable beds and living space. Back bedroom has double bunk beds and main bedroom has a queen size bed. Kitchenette includes stove top, microwave convection oven, refrigerator and dishwasher. Easy access to grocery, shopping and pubs, all within a short, picturesque walk.

Moss Street is known for its gorgeous canopy of cherry blossoms in the spring, the Moss Street Paint-In features local artists displaying their art work along the whole street, from the art gallery to the ocean (Third Sat in July). Saturday mornings is a local outdoor market with all kinds of wonderful treasures to discover.

Steps away from Beacon Hill Park, where the flowers are plentiful, featuring (all free) outdoor concerts, turtle and duck ponds, playgrounds, children's water playgrounds, petting zoo (with twice-daily goat stampede!) and even a 18 hole putting range (for those who need to carry a golf club at all times!).

If you are interested in relaxing and enjoying all Victoria has to offer this suite will not disappoint.

We are pet friendly (please ask) although do charge a pet fee of $25 per pet per week.

View less

$109 avg/night

58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

4:11 PM
2020-10-29

Bedrooms

Bedrooms: 2 Sleeps: 4

Bedroom 1

queen

Bedroom 2

double (2)

$109 avg/night

★★★★½ 58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to 60 days before check-in

Ask owner a question

Property # 482369

You might like these similar properties

See more

2BR · 1BA · Sleeps 4
Beautiful 1 or 2 Bedroom Suite in ...
Victoria, BC, CA
$115 avg/night ★★★★★(50)

2BR · 2BA · Sleeps 6
Tudor Cottage Rental
Victoria, BC, CA
$131 avg/night ★★★★★(4)

2BR · 1BA · Sleeps 4
Perfectly Located Victorian Gem
Victoria, BC, CA
$131 avg/night ★★★★★(62)

2BR · 1BA · Sleeps 5
The Sage Suite - 2BD/1BA
Victoria, BC, CA
$99 avg/night ★★★★½(22)

Popular destinations in the area

4:11 PM
2020-10-29

https://www.vrbo.com/482369

Overview Amenities Policies Reviews Map Owner Rates & Availability

Downtown Victoria, Victoria, B...

Parksville, British Columbia, Ca...

Courtenay, British Columbia, C...

James Bay, Victoria, British Col...

$109 avg/night

★★★★½ 58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to 60 days before check-in

Ask owner a question

Property # 482369

Amenities

Featured

- Internet
- Satellite or cable
- Parking
- Pets Welcome
- Washer & Dryer
- No Smoking
- TV
- Children Welcome
- Heater

Bathrooms

Bathrooms: 1

Bathroom 1
toilet, combination tub/shower

Location Type

Downtown
Walking distance (approximately 20 minute walk)

Near the ocean
House is the fourth house up the street from the ocean

General

4:11 PM
2020-10-29

General

- Telephone
  Local calls
- Heating
- Linens Provided
- Washing Machine
- Clothes Dryer
- Parking
  Street parking
- Internet
  secure wireless
- Towels Provided
- Iron & Board
- Hair Dryer
- Living Room

Kitchen

- Dishwasher
- Refrigerator
- Stove
- Oven
  microwave convection and toaster convection ovens
- Microwave
  convection oven
- Grill
- Coffee Maker
- Toaster
  toaster convection oven
- Pantry Items
  staples provided
- Dishes & Utensils
- Kitchen

Dining

Seating for 4 people

- Dining Area
- Child's Highchair
- Dining
  Bistro table seats two and kitchen counter serves as seating for two.

Entertainment

- Television
- Satellite / Cable
- DVD Player
- Books
- Games

$109 avg/night
58 Reviews
Excellent! 4.7/5
Save
Share
Enter dates for accurate pricing
Check In
Check Out
Guests
Check Availability
Free cancellation up to 60 days before check-in
Ask owner a question
Property # 482369

4:12 PM
2020-10-29

Onsite Services

Housekeeper Optional

Policies

Cancellation Policy

100% refund if you cancel at least 60 days before check-in.

50% refund (minus the service fee) if you cancel at least 30 days before check-in.

No refund if you cancel less than 30 days before check-in.

Learn more about our cancellation policies.

If you have upcoming trips, you can manage or cancel your booking in your traveler account.

View upcoming trip

100% refund	50% refund	No refund
60 days before check-in	30 days before check-in	Check in

Damage and Incidentals

You will be responsible for any damage to the rental property caused by you or your party during your stay.

House Rules

Check in after: 3:00 PM **Check out before:** 11:00 AM

- Children allowed
- Max guests: **4**

$109 avg/night

58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

Check in after: 3:00 PM **Check out before:** 11:00 AM

- Children allowed
  two full size beds (bunks)
- Pets allowed
  need pet information if agreeable additional costs
- Max guests: **4**
- Minimum age of primary renter:

Cancellations handled with care

Travelers who canceled due to COVID-19 told us they recovered the full value of their booking through refund, credit, or rebook options.

5/5 ★★★★★

Remelito D.
Verified booking | June 2020

5/5 ★★★★★

E. Jill S.
Verified booking | May 2020

58 Reviews

★★★★½ *Excellent 4.7/5*

Fantastic property, excellent location!

5/5 ★★★★★ Stayed Sep 2020

Lisa P.

Booked on Vrbo

$109 avg/night

★★★★½ 58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

4:12 PM
2020-10-29

Fantastic property, excellent location!

5/5 ★★★★★ Stayed Sep 2020

Lisa P.

Booked on Vrbo

We really enjoyed our stay here. Very clean, well stocked and had all the comforts of home. It was fantastic to be able to walk to the beach each day which was only a half a block away. It really is the perfect place.

Published Oct 7, 2020

Location is amazing!

5/5 ★★★★★ Stayed Aug 2020

Aran C.

Booked on Vrbo

We loved our stay here. Small but quite comfortable with everything we needed. The beach was 1/2 a block away and we spent our morning and afternoons there. Cook street village is just a walk or bike ride way. We will definitely return!

Published Sep 10, 2020

Enjoy Victoria

5/5 ★★★★★ Stayed Aug 2020

brad u.

Booked on Vrbo

First thought that comes to mind is cozy. Most times that just means small, but it was also comfortable. Everything was well kept and working.

Super close to the ocean, parks, shopping and restaurants. You could walk to downtown or better yet bike. I did not realize how bike friendly Victoria is.

Published Aug 20, 2020

$109 avg/night

★★★★½ 58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

4:13 PM 2020-10-29

Quiet, Clean, Comfortable

5/5 ★★★★★ Stayed Jul 2020

Dave H.

Booked on Vrbo

I really enjoyed staying here.

The place is very comfortable and the chairs out front are perfect for eating lunch and dinner outside.

There was a problem with the internet connection. Birute called Telus right away and had it taken care of.

I would stay here again. Awesome place

Published Aug 14, 2020

Great Victoria spot.

5/5 ★★★★★ Stayed Jun 2020

Tina A.

Booked on Vrbo

Comfortable and beautifully appointed. Close to the beach with many walking options. Some nice touches in the suite were much appreciated.

Published Jul 19, 2020

Owner's Response:
Thank you Tina!

$109 avg/night
★★★★½ 58 Reviews
Excellent! 4.7/5

Save
Share

Enter dates for accurate pricing

Check In | Check Out
Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

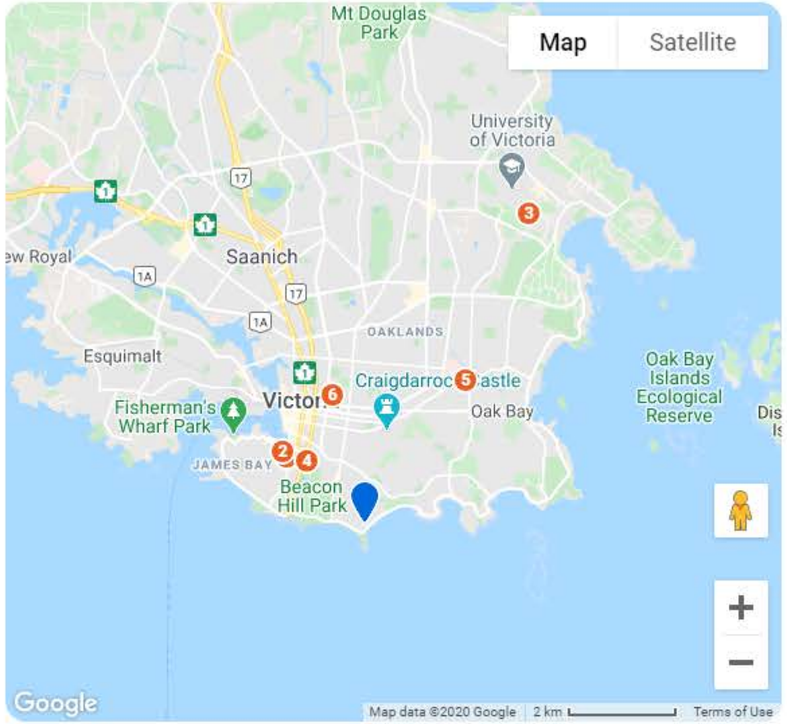
Map

Fairfield, Victoria, British Columbia, Canada
Detailed location provided after booking

What's nearby

1. Victoria Harbour	1.4 mi
2. Victoria Clipper Ferry Terminal	1.5 mi
3. University of Victoria	4.2 mi
4. Royal BC Museum	1.2 mi
5. Royal Jubilee Hospital	2.2 mi
6. Save-On-Foods Memorial Centre	1.7 mi

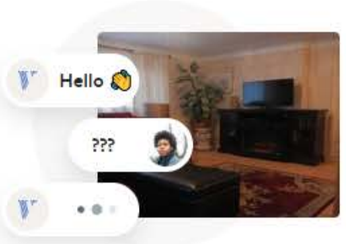
1 - 6 of 25



Still have questions?

Get a fast response about property amenities, check-in times, and general questions.

Chat now



$109 avg/night
58 Reviews
Excellent! 4.7/5

Save
Share

Enter dates for accurate pricing

Check In | Check Out
Guests

Check Availability

Free cancellation up to 60 days before check-in

Ask owner a question

Property # 482369

https://www.vrbo.com/482369

Overview | Amenities | Policies | Reviews | Map | Owner | Rates & Availability

Hosted by Birute Curran

Member Since 2013

Birute Curran is a Premier Host · The owner or manager of this property consistently provides great experiences for their guests.

Languages: English

Ask owner a question

Rates & Availability

October 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30 $109	31 $109

November 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1 $109	2 $109	3	4	5	6	7
8	9	10	11	12	13 $109	14 $109
15 $109	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

$109 avg/night

★★★★½ 58 Reviews

Excellent! 4.7/5

Save

Share

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

4:14 PM
2020-10-29

Taxes and fees are additional

Additional information about rental rates

Cleaning Fee	$56
Pet Fee	$18
Additional Guest Fee	$15

Rate is based on 3 person occupancy. Additional occupants will be charged $25 per night.

Enter dates for accurate pricing

Check In | Check Out

Guests

Check Availability

Free cancellation up to **60 days before check-in**

Ask owner a question

Property # 482369

More properties managed by Birute Curran

1BR · 1BA · Sleeps 4

'New listing' Renovated 4th floor Oceanf...

Lahaina, HI, US

$271 avg/night