

Subject: Appeal for Business License at 1403-728 Yates Street: Concerns Regarding Evidence Validity

This appeal challenges the decision of the License Inspector to deny Mr. Kenneth Ross a business license to operate a short-term rental at **1403-728 Yates Street**. The denial rests on an inconsistent interpretation of "principal residence" and an alleged history of non-compliance. Mr. Ross respectfully submits that the refusal was based on incomplete, inaccurate, and biased evidence, ignoring the critical context that supports his eligibility for the license.

Principal Residence Establishment

The **City of Victoria's Short-Term Rental (STR) application guidelines** clearly outline that acceptable proof of residency includes a **utility bill** and a **driver's license** listing the applicant's principal residence. Mr. Ross has provided these required documents, which fully satisfy the City's criteria for establishing **1403-728 Yates Street** as his principal residence.

However, the City has dismissed this evidence and instead relied on conflicting, circumstantial, and, at times, demonstrably false claims. This approach is inconsistent with the City's own stated requirements, undermining the transparency and fairness of the decision.

Principal Residence Establishment

The core issue is whether 1403-728 Yates Street qualifies as Mr. Ross's principal residence. To establish this:

- **Evidence of Residency:** Mr. Ross provided utility bills, government identification, and other documents affirming 1403-728 Yates Street as his residence. While the City doubts the sufficiency of these materials, such documents are widely accepted legal proof of residency in other contexts (ie voter registration, taxation).
- **Seasonal Lifestyle Explained:** As "snowbirds," Mr. and Mrs. Ross spend portions of the year in warmer climates. This lifestyle does not negate their principal residence at 1403-728 Yates Street, as the unit remains their primary location for the majority of the year.

- **Family Use Misinterpreted:** The suggestion that relatives occasionally stay at the unit does not alter its status as a principal residence. Family visits are consistent with personal use and do not equate to commercialization.
- **Officers' Observations During Unannounced Visits:** During visits by Bylaw Officers **Carr and Duarte**, Mr. and Mrs. Ross were observed in **unit 1403**, interacting with the officers both in the building lobby and inside the residence. The officers also noted that Mr. Ross utilized **parking spot #44** at **728 Yates Street**, where his vehicle was consistently parked, further substantiating his active residence at this location.

Conflicting Address Claims Refuted:

- **1201-160 Wilson Street:** While Mr. and Mrs. Ross previously resided at **1201-160 Wilson Street**, they moved to **1403-728 Yates Street** in 2024. Neighbor testimony confirming their past residency at **160 Wilson Street** is irrelevant to their current situation, particularly when the same neighbor admitted to having no knowledge of their present living arrangements.
- **702-728 Yates Street:** The claim that **702-728 Yates Street** is Mr. Ross's principal residence is factually inaccurate. Mr. Ross has never owned or resided in this unit. Reports from the Era Strata Council suggesting otherwise are erroneous and lack corroboration.
- **Marital Residence:** Mr. Ross and his wife, Lana Ross, are a married couple residing together. Claims suggesting they maintain separate principal residences are implausible and unsupported by any evidence.

Challenges with Evidence Collection and Interpretation

Circumstantial and Subjective Evidence:

The City has relied on circumstantial evidence, such as the absence of personal items in unit 1403, as proof of non-residency. However:

- Minimalist living or preparation for short-term rental guests easily explains the unit's appearance during inspections.
- Observations of a "strange smell" further support regular occupancy and cooking, contradicting claims of non-residency.
- **Strata Council Statements:** The Strata Council's assertion that Mr. Ross declared another unit as his residence is hearsay, unsupported by direct evidence.

- **Property Inspection:** The absence of personal items during an inspection does not prove non-residency. As individuals who frequently travel, Mr. and Mrs. Ross maintain a minimalist lifestyle, which explains the unit's setup.

Reliance on Unverified Statements:

- Strata Council allegations and neighbor testimony are hearsay and lack corroboration. Strata Council members may have personal grievances or biases, raising questions about their motivations in reporting alleged violations.
- Neighbour testimony regarding **160 Wilson Street** fails to account for Mr. Ross's documented relocation to **1403-728 Yates Street**. The credibility and context of this neighbor's statements were not thoroughly vetted.

Procedural Fairness and Escalation of Enforcement

- **Repeated Fines and Warnings:** While the report documents repeated violations and fines, it does not explore whether Mr. Ross took steps to address or rectify issues after these fines, nor does it give credit for prior compliance with non-principal short-term rental licences in earlier years. Having been compliant for 5 years. (2019-2023)
- **Overemphasis on Historical Non-Compliance:** Past violations are used extensively to discredit Mr. Ross's current claims, despite his submission of proof for the principal residence application in 2024. This suggests a prejudgment of his application based on prior history.

Bias in Evidence Collection and Enforcement

The enforcement process demonstrates notable bias:

- **Assumptions of Non-Compliance:** Evidence, such as Airbnb and VRBO listings, has been interpreted as proof of illegal activity without considering legitimate uses or transitional challenges during regulatory changes.
- **Inspection Dynamics Misrepresented:** Mr. Ross's request to record inspections was misinterpreted as combative, whereas such actions reflect a reasonable desire for transparency.
- **Role of Strata Members:** The involvement of Strata Council members in reporting alleged violations and submitting evidence suggests potential bias, especially if these members have personal grievances or interests in reducing short-term rentals in the building.

Given the above concerns, a request is made to reconsider Mr. Ross's application based on the following:

- His move from **1201-160 Wilson Street** to **1403-728 Yates Street** in 2024 is well-documented.
- Conflicting claims about other addresses being his principal residence are either outdated or factually incorrect.
- Mr. Ross's consistent presence at **1403-728 Yates Street**, verified through documentation and officer observations, confirms his residency.

The City's reliance on circumstantial, conflicting, and unverified evidence, alongside potential biases in enforcement and interpretation, renders the denial of Mr. Ross's license unjustified. The decision heavily references statements made by Strata Council members and residents. These claims lack corroboration through independent verification.

A fair reconsideration of the application should focus on clear, objective criteria for determining principal residency, consistent with the City's stated requirements.

The denial should be overturned, and the license granted to Mr. Ross, with any reasonable conditions necessary to ensure ongoing compliance.

Sincerely,

Kenneth Ross