# Business Licence (Short-term Rental) Appeal re 1743 Pembroke 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 Phil Greet for the operation of a short-term rental at 1743 Pembroke 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 1743 Pembroke Street. The property is zoned R3-2 (Multiple Dwelling). Short-term rentals are not a permitted use under this zone.
- 8. The property contains a single family home with a basement suite. [See attached photos]
- 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.
- 10. The basement suite contains its own kitchen facilities, with gas stove, 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 April 2016. Between 2017 and 2019, the appellants have accepted an average of 13 to 20 short-term rental bookings per year, with stays as short as 3 days. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.

- 12. The appellants 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. An inspection of the premises on January 15, 2020 revealed that the basement suite is, in fact, a self-contained dwelling and is not part of the appellant's principal residence.
- 14. On January 31, 2020, the Licence Inspector advised the appellant that his 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."

### 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 2019 is not an indication that a 2020 licence should also be issued.

18. Although the appellant resides in the house at 1743 Pembroke Street, the premises that are rented as a short-term rental are not part of his principal residence, because the basement suite is an independent self-contained dwelling unit.

19. It is clear that the basement suite at 1743 Pembroke 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 a "self-contained dwelling unit" in the *Zoning Regulation Bylaw*.

20. While the appellant has re-installed an inside connection between the basement suite and the appellant's residence, the suite contains its own separate entrance and kitchen and bathroom facilities, and still meets all the requirements of the definition of a "self-contained dwelling unit" in 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 1743 Pembroke Street is an example of a family sized 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 1743 Pembroke Street upheld.

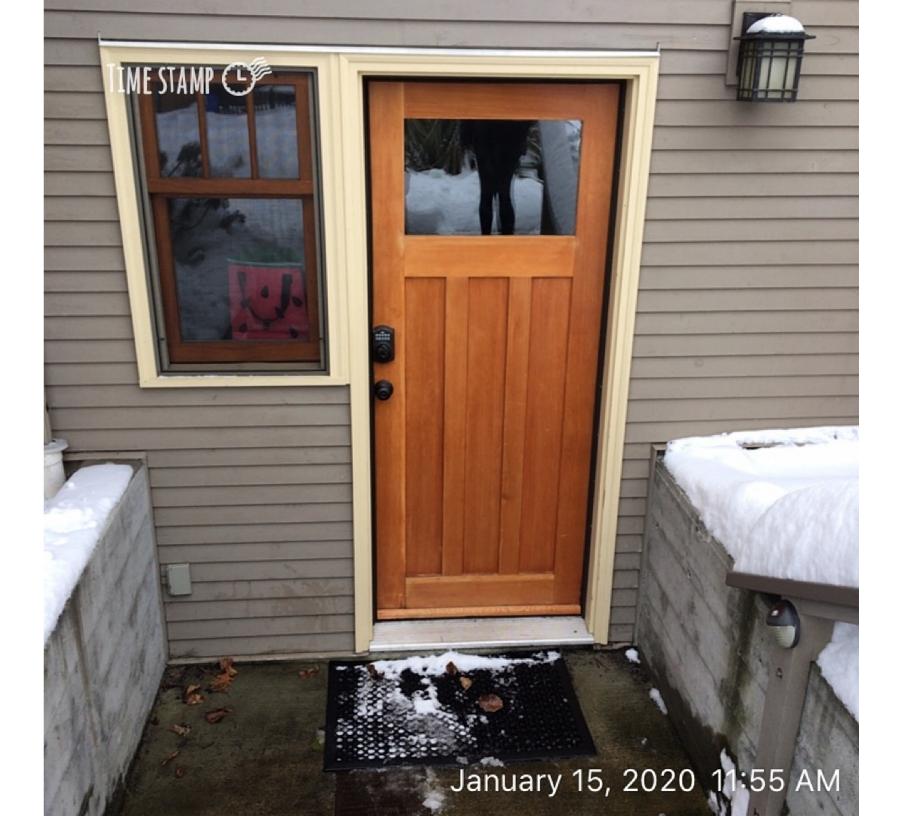
### **ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Dated: September 16th, 2020

Shannon Perkins, Manager of Bylaw Services

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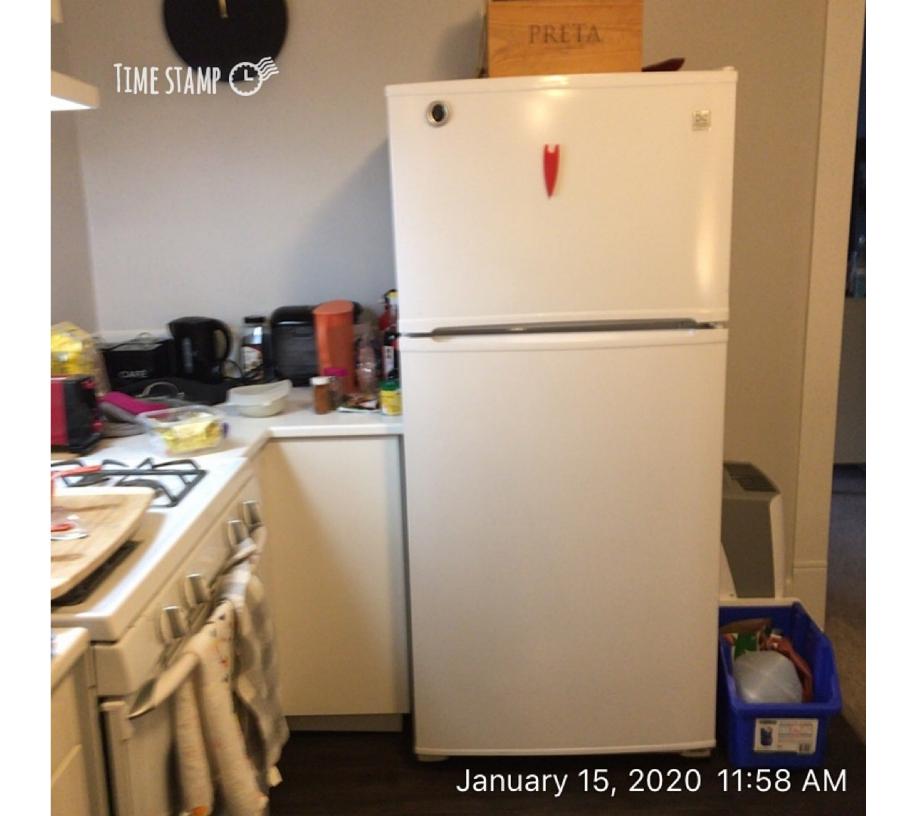








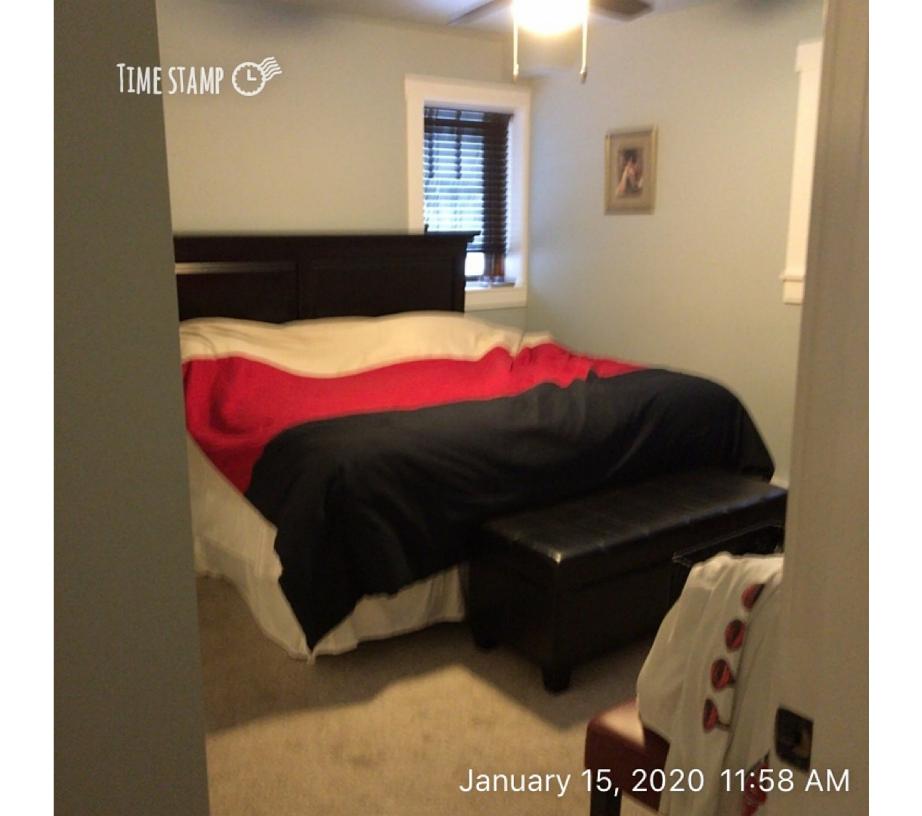












Dashboard

Rental Unit Record

# 1743 Pembroke St, Victoria, BC, Canada

Active Identified < Compliant X



Listing(s) Information

Airbnb - 11591689











# Matched Details

Analyst

CHN6

#### Explanation

Google street view and real estate website images match listing image.

#### Listing Photos



Matching 3rd Party Sources

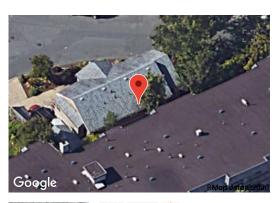




Exterior is the same.



# Rental Unit Information







#### Identified Address

1743 Pembroke St, Victoria, BC, Canada

# Identified Unit Number

None

# Identified Latitude, Longitude

48.430810, -123.331770

#### Parcel Number

0123407410002

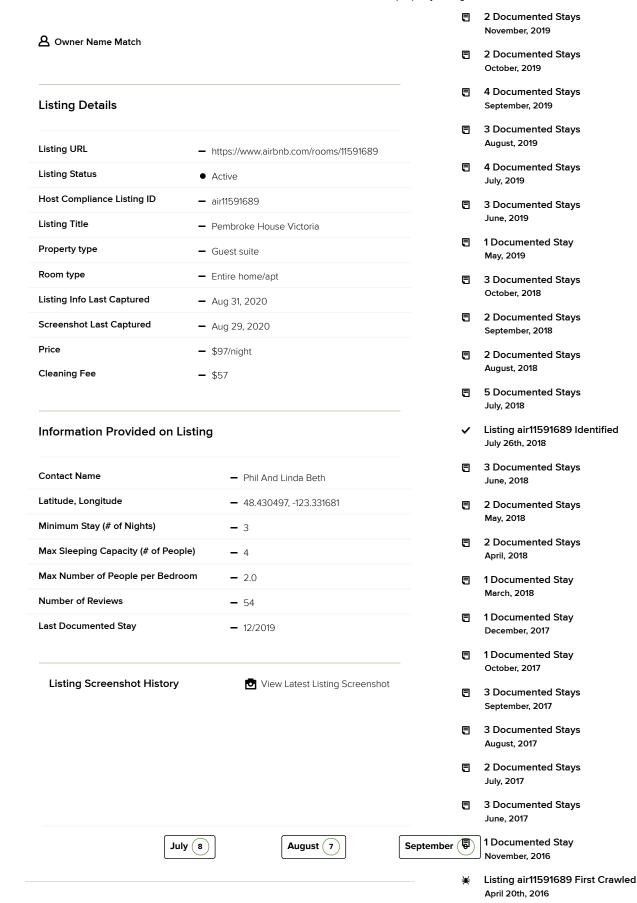
# Owner Address

1743 Pembroke St, Victoria Victoria, BC V8R 1W6, CA

# Timeline of Activity

View the series of events and documentation pertaining to this property

- 1 Documented Stay December, 2019
- Listing air11591689 Reposted December 10th, 2019
- Listing air11591689 Removed December 7th, 2019



https://appca.hostcompliance.com/property/l5qZYupHKf8NEv8b?geoid=16000CA5917034

Listing air11591689 First Activity

April 19th, 2016