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

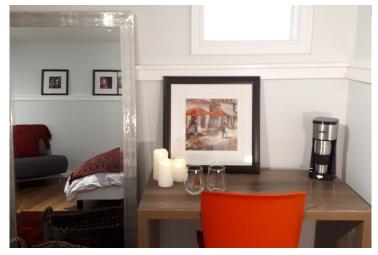
290 Superior St, Victoria, BC, Canada

Active ● Identified ✓ Compliant X



Listing(s) Information

Airbnb - 27493479





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

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



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

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

2 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



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

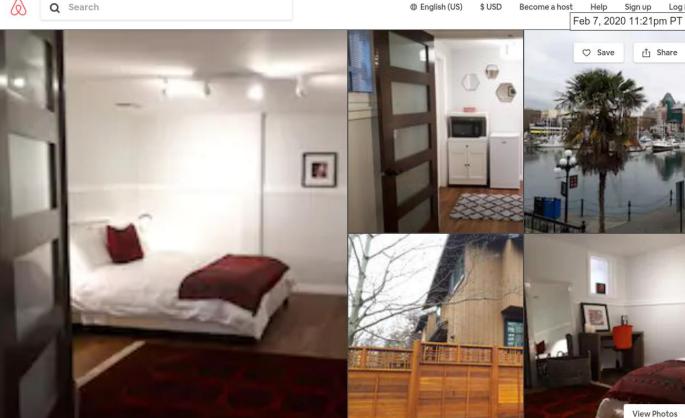
- 7 Documented Stays October, 2019
- 12 Documented Stays September, 2019
- 11 Documented Stays August, 2019
- 15 Documented Stays July, 2019
- 6 Documented Stays June, 2019
- 8 Documented Stays May, 2019
- 4 Documented Stays April, 2019
- 5 Documented Stays March, 2019
- ✓ Listing air27493479 Identified 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







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



Victoria

rivate 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.

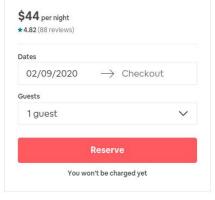
Jessica is a Superhost Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

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.

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.



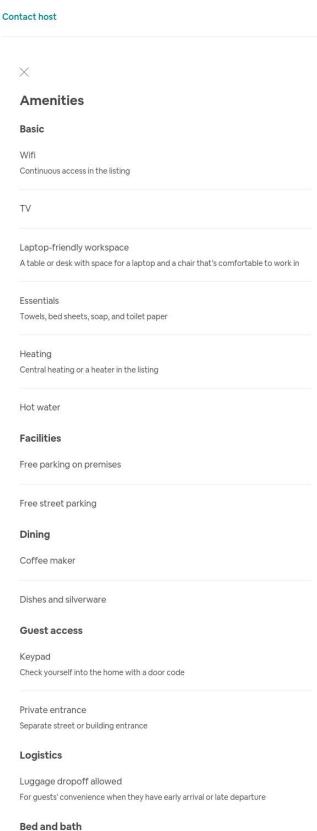
P Report this listing

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.

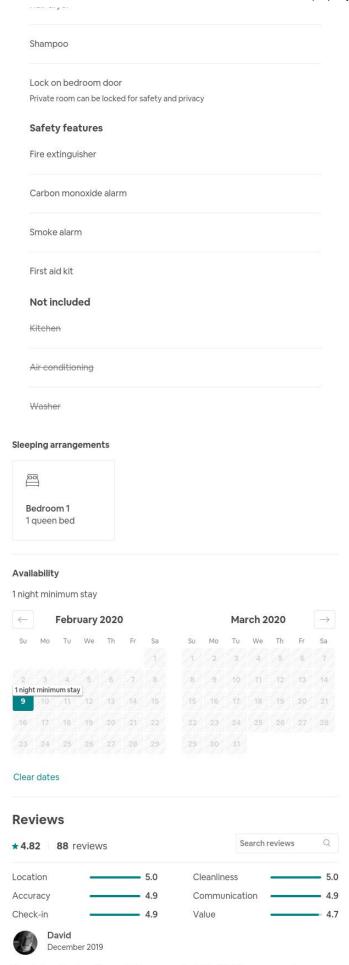
City of Victoria Business License 36135.

Hide ^



Hangers

Hair drver



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



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

onathan

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!!!



2



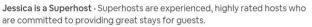
13



Hosted by Jessica

Victoria, Canada · Joined in June 2017







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.

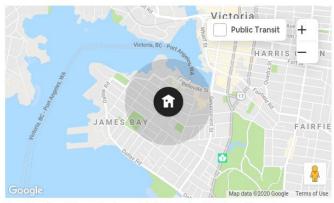
James Bay is the oldest neighbourhood in Victoria surrounded by water on three sides and beautiful Beacon Hill Park on the other. Quickly walk to and from the cruise ship terminal, Ogden Point breakwater, Fisherman's Wharf, the BC Legislasture, Empress Hotel, downtown, museums, shopping, coffee shops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



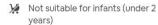
Exact location information is provided after a booking is confirmed.

Things to keep in mind

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

Self checkin with keypad

House Rules





No pets



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



Downtown Victoria: Modern w Parking(Max ... \$53 / night



★ 4.82 (170) Entire condominium · 2 beds ★ 4.99 (151) king(Max ... Super Clean, Legal, 4th FIr 1 BR in Old/China... \$53 / 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





