

## Christine Havelka

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**Subject:** FW: STR Appeal - response from Bylaw Services - 1871 Fern - Dec 3 to Council

**From:** Scott Pilecki <

**Sent:** November 25, 2020 10:50 PM

**To:** Christine Havelka [REDACTED]

**Cc:** Kaila Pilecki <

**Subject:** Re: STR Appeal - response from Bylaw Services - 1871 Fern - Dec 3 to Council

Hi Christine,

we're responding with our appeal to the bylaw services report on our request for an Airbnb license this year.

In reference to the Report Submission:

*7. According to the submission our property is zoned R1-B (single family dwelling) and short term rentals are not allowed.*

We were previously awarded a business license to operate short term rentals. If short term rentals are "not allowed" then a license should not have been given.

*8. The owner of the property has created a self contained unit in the basement.*

There has always been a separate entrance in the basement. No modifications to access have been made to the basement of the home, apart from a door to the basement from the main floor, which creates privacy when family and friends stay, as well as aids in reducing heat loss in the home. It also would create separation if used for short term rental. And since we were able to operate a short-term rental before, we installed a lock.

*10. According to Airbnb listing the kitchenette includes a small fridge, toaster oven and a kettle. These items, as described in the listing, were not present in the unit at the time of the inspection, but remain advertised in the Airbnb listing.*

As soon as we were told by "Michael, from Bylaw" that the fridge, kettle and toaster oven were not allowed, if the space was to be used as a short term rental, the items were removed.

*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 56 short-term rental bookings, 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.*

Short term rentals were taken when we were granted a license (2019 and previous). This should not be an issue.

*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.*

We were never told that the short term rental had to be advertised as offered in the entirety of our home, and the listing never mentioned this as the case. The rental was always listed as a self-contained unit.

13. *An inspection of the premises on February 10, 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 oven from the unit.*

As mentioned in point 10 the items were removed when we were told they were not allowed. And as mentioned in point 12, we were never told that the unit being self-contained was not allowed.

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".*

May we assume that everyone has an understanding of a kitchen, and the English language. You could prepare food and cook it in a bedroom, bathroom, closet, hallway, however none of those areas are kitchens. You cannot advertise a home for sale, and assume that because you *could* prepare food in the living room that it contains a kitchen there. A kitchen has a sink, stove/oven, ventilation fan, refrigerator. Our unit does not have the power source, ducting, or plumbing to properly facilitate a kitchen.

This basement does not contain a kitchen.

Hotels offer visitors a comfortable accommodation to support an enjoyable stay, often featuring a coffee maker, mini-fridge, and sometimes a toaster. We intended to offer a comfortable stay and only support needs as visitors would expect to be supported in a hotel stay.

## **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.*

Short term rentals are not a new thing. The city has had plenty of time to react and come prepared to respond to business licenses. The argument could be made that instead of just saying yes to everyone, no could have been a reasonable response until it was clear how the topic should be approached. If individuals and families have come to rely on short term rentals as a way to support their cost of living, such as in the case of long term rental suites as "mortgage helpers", removing one's access to a business licence can severely impact a family's ability to support themselves.

19. *It is clear that the basement unit at 2-1871 Fern 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.*

You cannot bend the language, *ie. kitchen*. If it is not a kitchen, it is not. End of story. If you were to purchase a stay in a hotel that advertised "kitchenette" you would not expect a kitchen, nor would they reduce your expectations and give you a kitchen, but advertise it as a kitchenette. In the same way you couldn't call a bedroom, with a bucket for water to wash, a bathroom.

The language is being bent, specifically to favour the Bylaw officer in an unfair way.

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.*

The zoning regulations state *up to two bedrooms, not specifically two bedrooms*.

*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.*

This space in the basement of our house cannot accommodate long-term rental. There are not the proper electrical outlets for a stove/oven, no ventilation, there is no kitchen, and no sink separate from the bathroom.

The space is also used for family and friends visiting our home and cannot be made available full-time. When we do not have visiting family or friends, the business licence for short term rental allowed us to make use of the space, and support the cost of living of Victoria, a city that continues to become more expensive for a young family to afford. The flexibility of the modern sharing economy allowed us to still accommodate long term family visits from out of town, while creating a little extra income that makes a difference for our growing family.

There are nearly (I say nearly as I cannot confirm they aren't all short-term rental units) entire apartment buildings downtown, where **complete** homes, complete with actual kitchens, are used as **full-time!** short-term rentals. These types of dwellings are what are truly restrict access to rental of long-term self contained dwelling units. The city is not cracking down on these units. We witnessed this Summer friends staying in a short-term rental in a building on Pandora where the floor they stayed on, at least, was entirely short term rental, if not the whole building.

*23. The property at 2-1871 Fern 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.*

Look at the points above. Try an entire floor of an apartment building to our one make-shift rental to make an impact on availability of long-term rental units.

Secondly, the inspector that visited our home, "Michael" was confident that what he saw in our unit was fair to be granted a licence. However, the information was passed onto "Kim" Michael's boss to make the final call, where Kim did not actually make the in person inspection. Michael even noted that he thought it was fine, but Kim would likely not allow it, and we would have to appeal her judgement. This shows that there is an issue in the system with people that have the power to grant or deny licences are doing so not with the intentions of assessing the units actual compliance, but with the intent to reduce short-term rental units, even if they have to change the well understood meaning of what a kitchen is, just to accomplish their goal.

Thirdly, we were suggested to open up access of the basement to our entire house if we wanted to receive the licence and offer short-term rentals. And since we argued the space does not support long-term rental without the proper facilities for a kitchen, we were suggested to open the rest of our home to a long-term renter as well.

We are hard working adults with a baby and a dog, and have worked diligently to purchase our home. At our age, and in our point in life, we do not wish to have roommates and it should not be recommended that we take on roommates if we want to rent our space, short-term or long-term, to appease the city.

In short, we are all in favour of having more rentals available in Victoria, but suitable rentals that offer all the amenities one needs to live safely and comfortably in a rental long-term.

Our basement space has been used as an Airbnb in the past, bringing a more affordable price point for visitors wanting or needing to visit Victoria, in some cases allowing them to contribute to the economy in ways they could not if they were paying for pricier accommodations. We have also supported proximity that some people needed or at least very much appreciated as we are close to the Jubilee Hospital and allowed people easy access to the hospital, which prompted their visit. Airbnb and other short term rental services serve Victoria well in bringing more people to our city.

We should not be told that we have to share the entire space of our home with others if we wish to rent the space, this is our home and our privacy.

In order to create more self-contained rental dwellings those with power in the city should not manipulate common language in order to deny people what they seek. Mandate developers to create more rental housing, rather than further inflate the cost of housing with more expensive units, and don't allow large portions of well maintained, complete, self-contained apartment units to be rented for short-term rental.

The city should be looking to find a balance of allowing its residents to earn additional income to support their families through short term rentals, and not just go on a rampage of shutting them down, even where suitable, yet leaving downtown condos to be left to rent short-term.

Thank you for your time.

Scott & Kaila Pilecki

On Tue, Nov 17, 2020 at 8:30 AM Christine Havelka [REDACTED] wrote:

Good morning,

Attached is the Licence Inspector's Report Submission that will be added to the report going to Council at its **December 3** Council meeting (that follows Committee of the Whole).

You now have 7 days until **November 25, 2020** to responds to the Licence Inspector's report. That response, along with all other submissions, will be added to the report and published on the agenda on Friday, November 27 and can be found [here](#) .

Public attendance at meetings is not permitted due to COVID-19, but you can also watch the live webcast of the meeting to observe Council's deliberations on your appeal. The webcast will also be archived.

Please note that once your response has been received, the opportunity for comment will have closed and the decision before Council is to either uphold or overturn the Licence Inspector's denial of your license.

We will notify you as soon as Council has made a decision.

Best regards,

Christine

Christine Havelka

Deputy City Clerk / Manager of Legislative Services

Legislative Services

City of Victoria

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