

Business Licence (Short-term Rental) Appeal re 302 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 Nicole Clement-Reynier for the operation of a short-term rental at 302 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 the property at 302 Moss Street. The property is zoned R1-B (single family dwelling). Short-term rentals are not a permitted use under this zone.
8. The owner of the property has created a self-contained studio unit in the basement. [See attached photos]
9. The basement studio unit consists of a living room/bedroom, a separate bathroom and a 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. The kitchenette includes a counter with sink, small fridge, a microwave oven and a kettle. [See attached photos]
11. The appellant has rented the entire basement unit as a short-term rental since at least March 2013. Since that time, the appellant has accepted over 355 short-term rental bookings. In

2019, the appellant had accepted over 45 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.

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 January 14th, 2020 revealed that the basement unit is operating as a self-contained dwelling and is not part of the appellant's principal residence.
14. On January 31st, 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 302 Moss 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 'Private and comfortable lower-level studio' on Airbnb. [Matched Airbnb Property Listing Attached]
19. It is clear that the basement unit at 302 Moss 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 stove; 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. Since the denial of the licence in January, the appellant continues to offer the suite for rent on a 30 night minimum basis, which further demonstrates the unit's ability to operate as a long-term rental (30 + nights per stay).
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. 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.
24. The property at 302 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.
25. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 302 Moss Street upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

A handwritten signature in blue ink, appearing to be 'S. Perkins', written on a light-colored rectangular background.

Dated: November 23, 2020

Shannon Perkins, Manager of
Bylaw Services

Rental Unit Record

302 Moss St, Victoria, BC, Canada

Active ●
Identified ✓
Compliant X

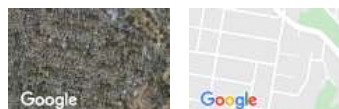
PRINT

Listing(s) Information

Airbnb - 936367



Rental Unit Information



Identified Address

302 Moss St, Victoria, BC, Canada

Identified Unit Number

None

Identified Latitude, Longitude

48.413469, -123.349602

Parcel Number

0123403253019

Owner Address

302 Moss St, Victoria
Victoria, BC V8V 4M8, CA

Matched Details

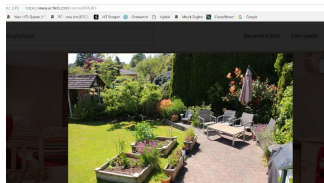
Analyst

IRHY

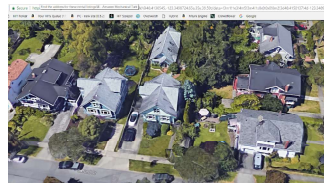
Explanation

Google Satellite view of the backyard matches the one in the listing. Through the suite's entrance door window in the listing photo, you can see a dark greenish blue staircase in front of it, which can be seen in Google Streetview and satellite view.

Listing Photos



Matching 3rd Party Sources

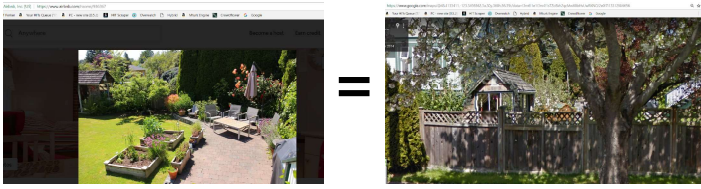


Can see the dark greenish blue staircase and matching patio walkway that leads to the patio table and chairs. The two planters in the grass and the two on the walkway edge are identical to the ones in the listing. You can also see the little shed building in the lower left of the backyard.

Timeline of Activity

View the series of events and documentation pertaining to this property

- Listing air936367 Reposted May 5th, 2020
- X Listing air936367 Removed May 2nd, 2020
- 📅 1 Documented Stay February, 2020



This Google streetview shows the identical backyard small shed and a matching patio chair.

Owner Name Match

Listing Details

Listing URL	— https://www.airbnb.com/rooms/936367
Listing Status	● Active
Host Compliance Listing ID	— air936367
Listing Title	— Cook St Village Studio Near Downtown
Property type	— Guest suite
Room type	— Private room
Listing Info Last Captured	— Sep 22, 2020
Screenshot Last Captured	— Sep 19, 2020
Price	— \$57/night
Cleaning Fee	— \$29

Information Provided on Listing

Contact Name	— Nicole & Gilles
Latitude, Longitude	— 48.415014, -123.348935
Minimum Stay (# of Nights)	— 29
Max Sleeping Capacity (# of People)	— 2
Max Number of People per Bedroom	— 2.0
Number of Reviews	— 355
Last Documented Stay	— 02/2020

Listing Screenshot History

View Latest Listing Screenshot

- 1 Documented Stay
January, 2020
- 1 Documented Stay
December, 2019
- 2 Documented Stays
November, 2019
- 3 Documented Stays
October, 2019
- 6 Documented Stays
September, 2019
- 4 Documented Stays
August, 2019
- 3 Documented Stays
July, 2019
- 5 Documented Stays
June, 2019
- 5 Documented Stays
May, 2019
- 4 Documented Stays
April, 2019
- 6 Documented Stays
March, 2019
- 3 Documented Stays
February, 2019
- 3 Documented Stays
January, 2019
- 5 Documented Stays
December, 2018
- 5 Documented Stays
November, 2018
- 6 Documented Stays
October, 2018
- 5 Documented Stays
September, 2018
- 6 Documented Stays
August, 2018
- 3 Documented Stays
July, 2018
- Listing air936367 Reposted
July 26th, 2018
- ✗ Listing air936367 Removed
July 24th, 2018
- ✓ Listing air936367 Identified
July 16th, 2018
- 6 Documented Stays
June, 2018
- 6 Documented Stays
May, 2018
- 5 Documented Stays
April, 2018
- 5 Documented Stays
March, 2018

July 8

August 7

September 5

-
- ☰ 2 Documented Stays
January, 2018
 - ☰ 3 Documented Stays
December, 2017
 - ☰ 1 Documented Stay
November, 2017
 - ☰ 4 Documented Stays
October, 2017
 - ☰ 4 Documented Stays
September, 2017
 - ☰ 6 Documented Stays
August, 2017
 - ☰ 4 Documented Stays
July, 2017
 - ☰ 5 Documented Stays
June, 2017
 - ☰ 1 Documented Stay
May, 2017
 - ☰ 2 Documented Stays
April, 2017
 - ☰ 3 Documented Stays
March, 2017
 - ☰ 4 Documented Stays
February, 2017
 - ☰ 3 Documented Stays
January, 2017
 - ☰ 4 Documented Stays
December, 2016
 - ☰ 1 Documented Stay
November, 2016
 - ☰ 6 Documented Stays
October, 2016
 - ☰ 7 Documented Stays
September, 2016
 - ☰ 6 Documented Stays
August, 2016
 - ☰ 5 Documented Stays
July, 2016
 - ☰ 4 Documented Stays
June, 2016
 - ☰ 7 Documented Stays
May, 2016
 - ☰ 4 Documented Stays
April, 2016
 - ✳ Listing air936367 First Crawled
April 20th, 2016
 - ☰ 5 Documented Stays
March, 2016
 - ☰ 2 Documented Stays
February, 2016
 - ☰ 4 Documented Stays
January, 2016

Matched property listing

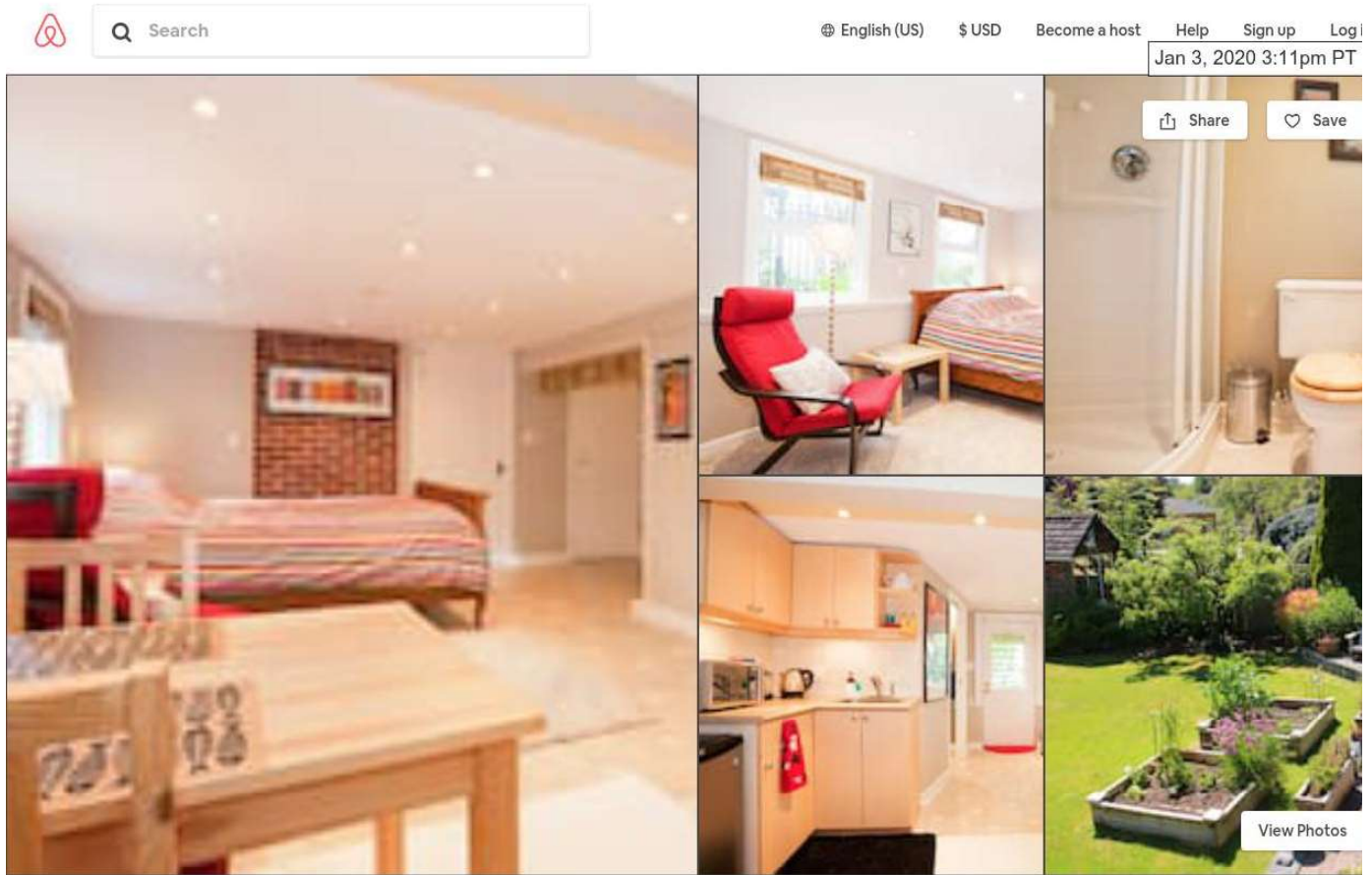
- 3 Documented Stays
December, 2015
- 4 Documented Stays
November, 2015
- 7 Documented Stays
October, 2015
- 7 Documented Stays
September, 2015
- 8 Documented Stays
August, 2015
- 3 Documented Stays
July, 2015
- 3 Documented Stays
June, 2015
- 7 Documented Stays
May, 2015
- 5 Documented Stays
April, 2015
- 7 Documented Stays
March, 2015
- 2 Documented Stays
February, 2015
- 5 Documented Stays
January, 2015
- 5 Documented Stays
December, 2014
- 5 Documented Stays
November, 2014
- 4 Documented Stays
October, 2014
- 7 Documented Stays
September, 2014
- 7 Documented Stays
August, 2014
- 6 Documented Stays
July, 2014
- 5 Documented Stays
June, 2014
- 4 Documented Stays
May, 2014
- 5 Documented Stays
April, 2014
- 6 Documented Stays
March, 2014
- 1 Documented Stay
February, 2014
- 4 Documented Stays
December, 2013
- 6 Documented Stays
November, 2013
- 4 Documented Stays
October, 2013

Matched property listing

- 4 Documented Stays
September, 2013
- 4 Documented Stays
August, 2013
- 4 Documented Stays
July, 2013
- 5 Documented Stays
June, 2013
- 5 Documented Stays
May, 2013
- 5 Documented Stays
April, 2013
- 2 Documented Stays
March, 2013
- Listing air936367 First Activity
March 3rd, 2013

January 03, 2020 - 04:11PM America/Vancouver

Screenshot printed at: 9/22/2020 11:31:27 AM



Cook St Village Studio Near Downtown

Victoria

2 guests Studio 1 bed 1 bath



Nicole & Gilles

Entire home

You'll have the guest suite to yourself.

Self check-in

Check yourself in with the keypad.

Sparkling clean

10 recent guests said this place was sparkling clean.

Nicole & Gilles is a Superhost

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

\$66 per night

★ 4.90 (352 reviews)

Dates

01/04/2020 → Checkout

Guests

1 guest

Reserve

You won't be charged yet

Report this listing

Our studio is in a quiet and friendly neighbourhood within walking distance to downtown, beautiful coastal views and the fun shops and restaurants of Cook St. Village. We're also a short stroll from a fantastic Farmer's Market every Saturday! Business License: 35014

The space

Private and comfortable lower-level studio located in lovely Fairfield, within walking distance to ocean-side strolls and all the great cafes, restaurants and shops of Cook St Village.

Guest access

You have your own private entrance with a 3-piece bathroom and kitchenette as well as a Queen-sized bed, wireless internet and dining for two. Enjoy your coffee in the relaxing, sunny back patio and yard or wander just up the street to check out the Moss St Farmer's market every Saturday morning (Apr - Nov) for great local food, crafts and music.

- Free On-Street Parking
- Small Refrigerator
- Microwave
- Electric Kettle
- French Press
- Tea & Coffee Provided

Bath Amenities:

- Shower Gel
- Shampoo & Conditioner
- Hand Soap
- Towels (bath, hand & wash cloths)
- Hair Dryer

Other Items:

- Iron and ironing board
- Graco Pack n Play on request for little ones

Other things to note

Coffee and tea are provided as well as shared laundry facilities, full closet and storage for those wanting to stay longer.

Please note there is a beam that runs across the ceiling of the suite so those taller than 6'1" will have to duck!

Sorry, no pets or smokers please.

[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

Washer

In the building, free or for a fee

Iron

Dryer

In the building, free or for a fee

Essentials

Towels, bed sheets, soap, and toilet paper

Heating

Central heating or a heater in the listing

Hot water

Family features

Baby bath

Pack 'n Play/travel crib

Room-darkening shades

Room-darkening shades

Facilities

Free parking on premises

Free street parking

Dining

Coffee maker

Cooking basics

Pots and pans, oil, salt and pepper

Dishes and silverware

Microwave

Refrigerator

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

Bed linens

Extra pillows and blankets

Outdoor

Garden or backyard

Safety features

Fire extinguisher

Carbon monoxide detector

Smoke detector

First aid kit

Not included

Kitchen

Air conditioning

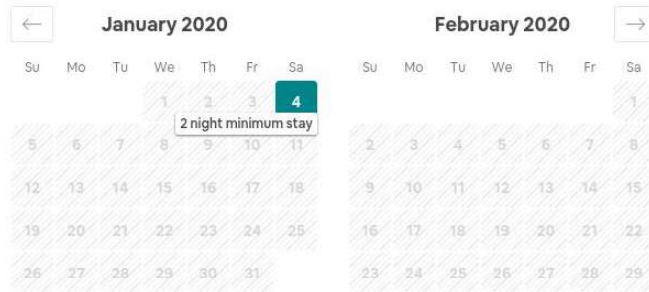
Sleeping arrangements



Common spaces
1 queen bed

Availability

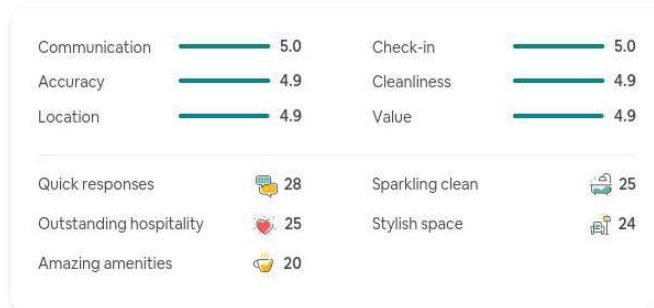
This host offers 10% off if you stay a week and a 20% monthly discount.



[Clear dates](#)

Reviews

★ 4.90 352 reviews



Search reviews

 **Andy**
June 2019

From the minute we arrived after traveling all day from Lawrence, Kansas, it felt like we were home. It was a perfect location for everything we did during our three nights there. We will definitely stay there again if we ever visit again and will highly recommend them to...[Read more](#)

 **Natalie**
April 2019

Great place for a relaxing vacation!

 **Robin**
March 2019

Nicole and Gilles offer a compact, but fully equipped smart, clean and comfortable studio. Tea, coffee, sparkling water, juice and snack facilities were a welcome boon for our late night arrival. The location is just a five minute walk from the centre of Cook Village which offers...[Read more](#)



Dan

January 2019

LAST MINUTE TRIP

Nice n cozy, full kitchen, good privacy.



Whitney

December 2018

Nicole & Gilles's place was great! My husband and I stayed in Victoria our whole stay and the house is walking distance to everything! The hosts are very friendly, helpful, and respectful of privacy. We loved our stay and would definitely stay again.



Chelsea

November 2018

Nicole and Gilles place is perfectly located and has the personal touches of feeling 'at home.' Nicole was very prompt with details and tailored local recommendations! They are a quick walk to the coast, trails and downtown! We appreciated all of the local recommendations and the...[Read more](#)



Thomas

November 2018

Wonderful place. Great value.



Hosted by Nicole & Gilles

Victoria, Canada · Joined in October 2012



★ 352 Reviews · Verified

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



We love to travel and have lived in England, France and Canada. We look forward to hosting visitors from all around and are happy to help guests explore this beautiful city with its amazing coastal surroundings.

Interaction with guests

The studio is in our home so we are available for our guests but we will also leave you in peace if desired.

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](#)

The neighborhood

Nicole & Gilles's place is located in Victoria, British Columbia, Canada.

We live in the beautiful and quiet neighbourhood of Fairfield, known for the friendly cafes and restaurants of Cook St Village, only a short stroll away. We are also close to the stunning water and mountain views of Dallas Road.

You'll enjoy having the Victoria Art Gallery, Craigdarroch Castle, Government House and Mose Rock Park all within walking distance - we certainly do!

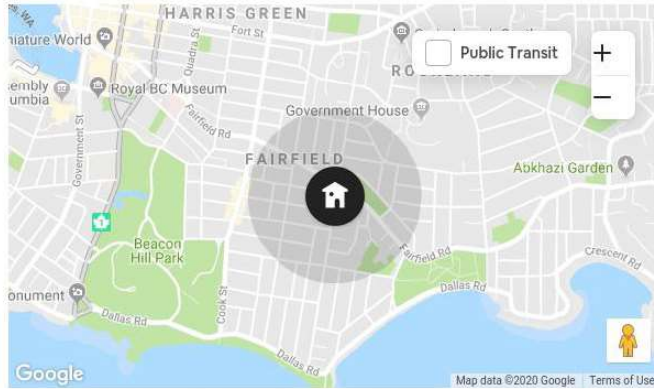
HOUSE AND MASS ROCK PARK, all within walking distance - WE CERTAINLY CAN!

Getting around

Free on-street parking, close to public transit or you can walk to downtown Victoria in only 20 minutes.

Hide ^

See guidebook



Exact location information is provided after a booking is confirmed.

Things to keep in mind

Check-in: 3PM - 12AM (midnight)

Checkout: 12PM (noon)

Self check-in with keypad

House Rules

- No smoking
- No pets
- No parties or events

You must also acknowledge

- Pet(s) live on property - We have a small Havanese pup (Otis) that stays in our home but is never allowed in the suite.

Additional Rules

We enjoy hosting but do ask that you please respect our neighbours, we appreciate quiet time after 11pm.

Please remove your shoes at the door and before departure, please turn down the heat and do your dishes if you have time.

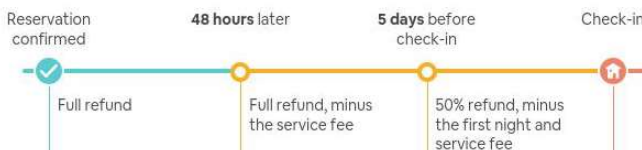
Thanks!
Nicole and Gilles

Hide rules ^

Cancellations

Free cancellation for 48 hours

After that, cancel up to 5 days before check-in and get a full refund, minus the service fee.



Get full details

Hide policies ^

More homes you may like



Entire guesthouse · 2 beds
Macaulay Point Guest House
\$58 / night

★ 4.87 (561)



PLUS Entire condominium · 1 bed
Soak in the Marble Tub at a Sleek, Urban...
\$84 / night

★ 4.84 (545)



PLUS Entire apartment · 2 beds
Hip Chinatown Apartment, Walk to Inner...
\$69 / night

★ 4.94 (503)

Things to do near this home



HISTORY WALK
Explore Hidden Gems in
Victoria
From \$24/person
4.92★ (177)



COCKTAIL TASTING
Customized & delicious whisky
tasting
From \$79/person
5.0★ (1)



CULTURE WALK
Victoria Booze, Bites & Sights
From \$52/person
5.0★ (3)



WORKSHOP
Learn to Shuck Oysters in
Market Square
From \$57/person
4.95★ (41)

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Kelowna
Bellevue
Surrey

Portland
Whistler
North Vancouver
Burnaby
Tacoma
Salt Spring Island

Seattle
Eugene
Bellingham
Tofino
Hood River
Coeur d'Alene

Location 4.9 Value 4.9



Karren
October 2015

The picture does justice to this apartment. A bright and comfortable living space for two. It has all the essentials to make meals in if you like (just note there is no stove but two electric burners which work just fine). We only met Giles but he was warm and accomodating, gave us a quick tour and gave us our space for the rest of our stay which was appreciated. There were some breakfast beverages and muffins provided which was a nice touch and gesture. You can hear the family and children playing above but it was never too late in the evening where it would keep you from going to sleep. We were out most of the day time enjoying the city. A great location if you don't want to be right in the commotion of downtown but still within walking distance. A few coffee shops bakery in the area and a fabulous weekend market where we picked up our food for dinner. We recommend bringing a laptop or I pad if you like to wind down to a show or movie as there is no TV. They do provide lots of info of the area I noticed some books and a couple of games. The WIFI is also a great added bonus with a strong connection!



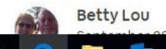
Brett
October 2015

Nicole and Gilles were wonderful hosts. We stayed at their place for 3 nights. The place was very clean and stocked with everything we needed... the place is stocked with coffee, tea, etc...they even left us muffins, juice, coffee cream, and apples. The location for us was...[Read more](#)



Darshan
September 2015

Lets start with the highlight. One of the best AirBnB experiences I have had. Nicole was always ahead in communicating with directions and made the check in easy. The suite is fantastic and the all natural toiletries were super fantastic. Nicole always went out of her way to make...[Read more](#)



Betty Lou
September 2015

\$86 per night
★ 4.90 353 reviews

Dates [Get the calendar](#)
Check-in → Checkout

Guests
1 guest

Reserve

You won't be charged yet

This place is getting a lot of attention.
It's been viewed 94 times in the past week.

Report this listing



January 14, 2020 12:30 PM

TIME STAMP 



January 14, 2020 12:29 PM

TIME STAMP 



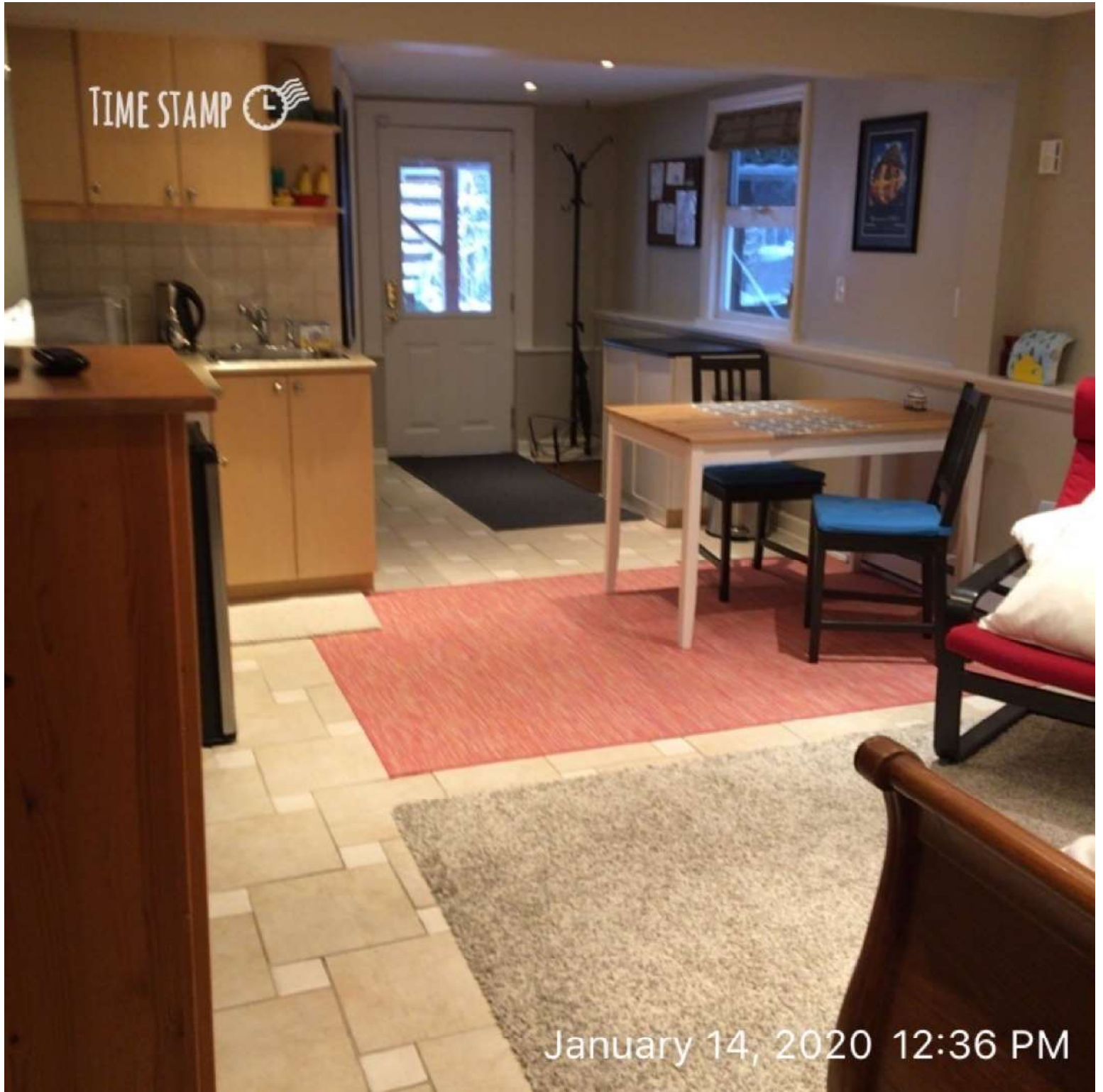
January 14, 2020 12:30 PM

TIME STAMP 



January 14, 2020 12:32 PM

TIME STAMP 



January 14, 2020 12:36 PM

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January 14, 2020 12:32 PM

TIME STAMP



January 14, 2020 12:32 PM

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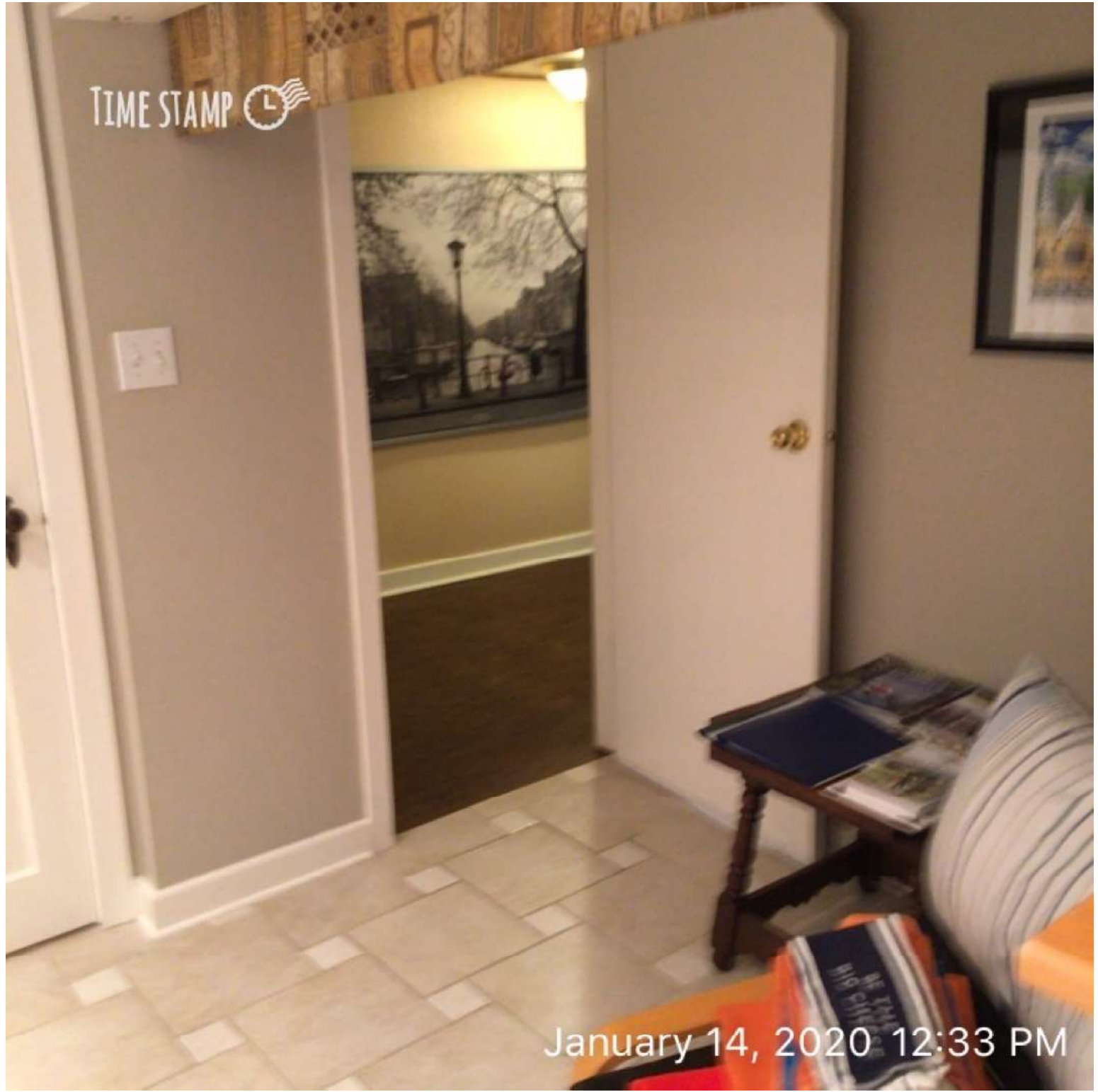


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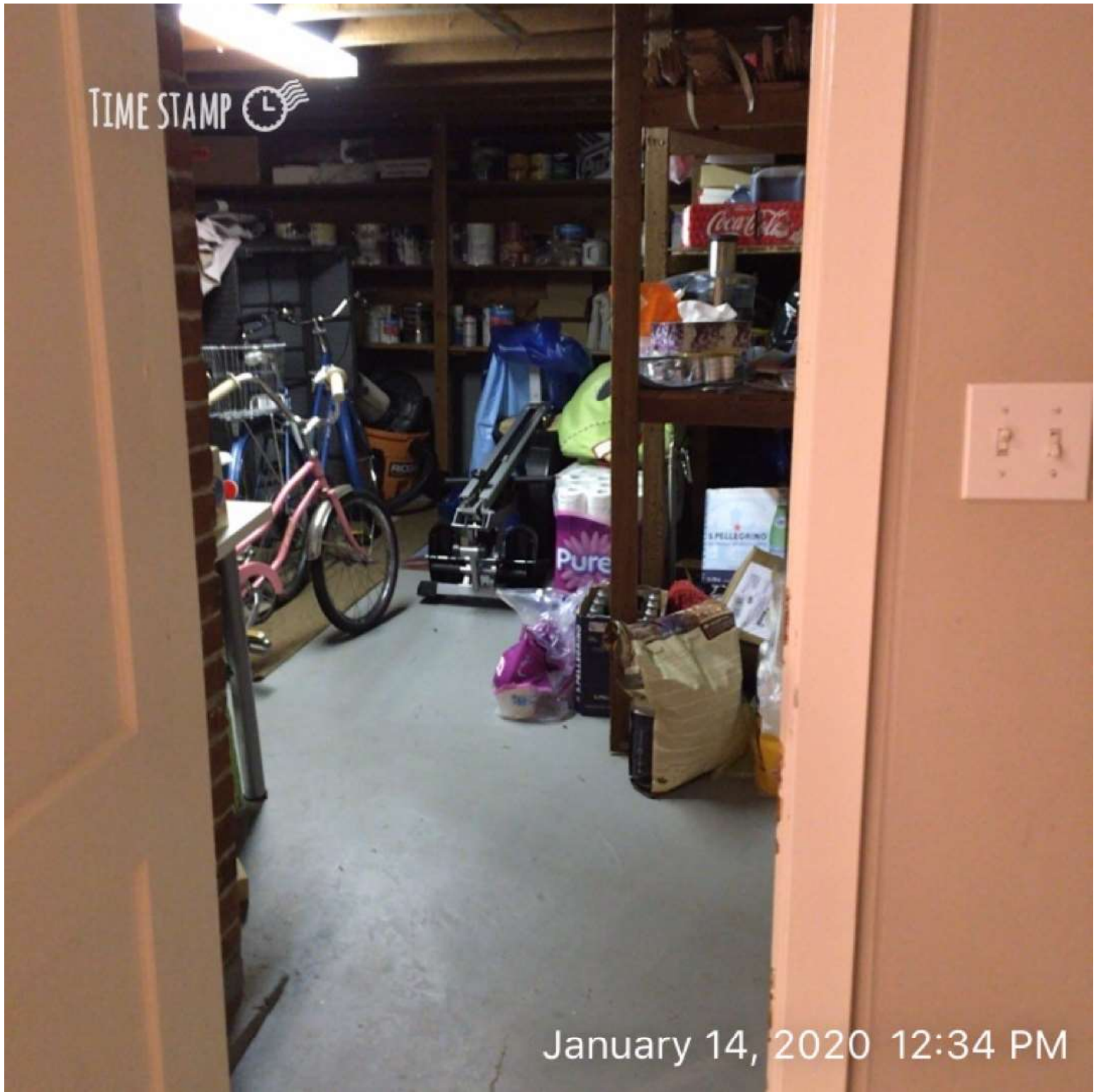
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January 14, 2020 12:33 PM

TIME STAMP 



January 14, 2020 12:34 PM