

8. The owner of the property has created two self-contained units on the second and third floors of the property. While both suites appear to operate in contravention of the Short-Term Regulation Bylaw, this report and the denial of the licence focus on the Ocean Loft Suite (third floor), as the Fairfield Suite could potentially be brought into compliance. [See attached photos]

**For clarity, the guest bedroom on the second floor, which we named the “Fairfield Suite” is now our 6 month old child’s bedroom. Because it’s part of our house and clearly not a ‘self contained suite’. When our license was first denied earlier in the year, my wife was still pregnant. We had hoped to continue to rent the room for a few months until the baby arrived to help make some extra money.**



9. The Ocean Loft unit on the third floor consists of a living room/bedroom, a separate bathroom and a separate kitchen area. It has a separate entrance from outside with keypad for selfentry. There is an interior staircase with separating door (at the bottom) between the suite kitchen and the rest of the house which is marked as private and is not provided for access by guests to access the remainder of the house. [See attached photos and floor plan of suite]

**I don’t see how offering guests convenience is wrong, especially given that the access has been there for decades. How ridiculous would it be to tell guests that they could NOT use that door?**

10. The kitchen, in a separate room, includes a counter with sink, small fridge, a microwave oven, a coffee maker, a kettle, and other cooking essentials. [See attached photos and reviews of kitchen]

**We have glasses so people can drink water, and plates so if people bring takeout over (which they always do, since it’s not a kitchen that can be used for anything more than making a sandwich) they have something to use. We specifically refer to this as a kitchenette no different than what is available in a hotel room. Offering the convenience of plates and drinking glasses, or a microwave to heat up take-out, does not make this even remotely a full kitchen like you would find in an apartment.**

11. The appellant has rented the entire unit as a short-term rental since at least March 2015. Since that time, the appellant has accepted over 490 short-term rental bookings in the third

floor Ocean Loft Suite. In 2019, the appellant had accepted over 220 short-term rental bookings in the Ocean Loft Suite, with stays as short as 1 day. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.

**We're good at this. We love sharing our neighbourhood and city with others, while providing a service that helps everyone.**

13. An inspection of the premises on February 10th, 2020 revealed that the Ocean Loft unit is operating as a self-contained dwelling and is not part of the appellant's principal residence. At the time of the inspection, the suite was undergoing small renovations, such as upgrades to the kitchen. [shown in inspection photos]

**You can't say this isn't part of our principal residence. We live here. We know what it is. That room was used by the previous owner as a utility room / art studio. It's not a kitchen. The presence of a sink does not make a kitchen. I suggest speaking to the building permit department and ask them. You are allowed to put a sink in any room – that doesn't convert the use of a room to a kitchen.**

**You can also see in the original photos the sink and cabinets were 30+ years old and falling apart – leak in the sink, old plumbing, etc. It had to be fixed. So, we replaced the cabinets at the same time because that makes sense.**

**Also, it's not a separate rentable suite in the traditional sense because that would be illegal. Running a tertiary self contained suite in our home would be illegal and in violation of all kinds of regulations (municipal, provincial, etc). Simply closing a door doesn't convert our house to a triplex.**

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”.

**You just admitted that there is no definition of a kitchen in the bylaw. There is nowhere in the bylaw suggesting that “Unless otherwise noted, please look up all words in the Oxford English dictionary?”**

**Let's stick with this definition for a moment:**

**" a room where food is PREPARED AND COOKED " – You can't cook if you don't have a cooking appliance. I don't see how making a pot of coffee or heating up takeout in a microwave is “cooking”**

#### 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.

**We were one of the very first applicants because we WANT to be onside with the regulations.**

18. Although the appellant resides in the house at 95 Wellington Avenue, the premises that are rented as a short-term rental are not part of his principal residence, because the third floor Ocean Loft unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as 'Private apartment with private balcony and exterior access' on Airbnb. [Matched Airbnb Property Listing Attached]

**No it is not being offered or advertised as an “independent self contained dwelling unit” – this has already been addressed in our previous two responses, which again seem to have been entirely ignored. As mentioned, in our previous response Airbnb’s definition of suite/apartment are different than the city’s. The same way that Victoria’s definition may be different than Saanich’s. The same way the Oxford English Dictionary may define it differently.**

19. It is clear that the third floor Ocean Loft unit at 95 Wellington Avenue is being offered as a self-contained dwelling unit: it has its own entrance from outside, a kitchen with space to prepare and cook food, and separate bathroom – it meets the requirements of the definition of “self-contained dwelling unit” in the Zoning Regulation Bylaw.

**No it’s not – the inspector who wrote this has not even personally been in the space. Anyone who has been in the space knows that it is part of our home. Closing a door between rooms does not make it an apartment. Ask a building inspector. I assume they will ask “Is it a fire proof door? Is there fire separation? What about ventilation?” etc.**

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 his principal dwelling unit, as required by Schedule D of the Zoning Regulation Bylaw.

**I can plug a mini fridge, toaster, coffee maker into any standard outlet in any room of any building. How does that make it a kitchen? If those items were removed would it cease to be a kitchen in your view? Or would it still be a kitchen because there is a sink, and potential to make a sandwich? For every guest review highlighted mentioning the word “Kitchen” you’ll see just as many people saying “Wish we could cook in the kitchen” – and you will also see our responses telling them that in order to be compliant with the City of Victoria bylaws, we are unable to offer that.**

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.

**Which we agree with whole heartedly.**

23. The property at 95 Wellington Avenue 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.

**Once again, completely false. It’s also incredibly insulting to suggest that by creatively finding a way to make our home more affordable for our family we are contributing to the housing crisis. This space has not been or ever will be part of the ‘housing stock’ – because it is simply not an**

apartment. The attic is clearly part of our home. My kids are using it as a playroom right now, since we're not able to rent it out or have visitors.



## Christine Havelka

---

**Subject:** FW: FW: Short Term Rental Appeal - Licence Inspector's Report Submission

**Sent:** December 1, 2020 8:03 AM

**To:** Christine Havelka <chavelka@victoria.ca>

**Subject:** Re: FW: Short Term Rental Appeal - Licence Inspector's Report Submission

Thanks. One final statement to add as a conclusion.

This house was once operated as an illegal 4 plex. There was a massive fire in the attic, so severe that half the house had to be rebuilt. And the city ordered the house be returned to "Single family". This is in the City's own archives, I suggest looking it up.

Fast forward to 2015, we buy the house as a single family home. We renovate extensively and add a legal basement suite. We turn the attic into a guest bedroom, and decide that in order to help offset the costs of the renovation and addition of the legal basement suite, Airbnb would be a good option to help float our costs, while maintaining the flexibility to have a room for friends and family when visiting. To be clear we have never STR'd the basement, that has always had a long term tenant in place - who's rent we have been able to subsidize by renting the guest room in our attic.

Now we're told by the bylaw office that WE are the ones contributing to the housing crisis in this city by "removing a unit from the housing stock" - when it's the City who ordered the 4 plex shutdown (and rightfully so, given the fire). We fixed the house, and added back a legal basement suite. And the bylaw officer is now suggesting, even after the fact there was a devastating fire that the neighbours still talk about to this day, that we convert BACK to illegal suites.

It's truly frustrating, contradictory, and insulting. I really think this is a case of overzealous enforcement, and making poor assumptions. Which clearly does not align with council's goals, and unfairly penalizes us as homeowners who have done our best to do everything by the book.