

Business Licence (Short-term Rental) Appeal re 95 Wellington Avenue

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 [REDACTED] for the operation of a short-term rental at 95 Wellington Avenue.
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 95 Wellington Ave. The property is zoned R1-B (single family dwelling), and there is a secondary suite on the property which is currently operating as a long-term rental. Short-term rentals are not a permitted use under this zone.
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]
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 self-entry. 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]

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]
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.
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 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]
14. On February 13th, 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.” 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 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]
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*.
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*.
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 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.
24. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 95 Wellington Avenue upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: November 25, 2020



Shannon Perkins, Manager of
Bylaw Services

Rental Unit Record

95 Wellington Avenue, Victoria, BC
V8V 4H5, Canada

Active ●
Identified ✓
Compliant X

PRINT

Listing(s) Information

Airbnb - 5430755

Airbnb - 17191992



✓ Matched Details

Analyst RTNR

Explanation
BL# 34883 on the listing. Information gathered from city website for that license number, names match.

Owner Name Match

Listing Details

Listing URL	— https://www.airbnb.com/rooms/5430755
Listing Status	● Active
Host Compliance Listing ID	— air5430755
Listing Title	— Bright & Sunny Ocean Loft - Stunning Views!

Rental Unit Information



Identified Address
95 Wellington Avenue, Victoria, BC
V8V 4H5, Canada

Identified Unit Number
None

Identified Latitude, Longitude
48.409479, -123.352305

Parcel Number
0123403238041

Owner Address
95 Wellington Ave, Victoria
Victoria, BC V8V 4H5, CA

Timeline of Activity
View the series of events and documentation pertaining to this property

- 7 Documented Stays
January, 2020
- 6 Documented Stays
December, 2019
- 13 Documented Stays

Property type	— Guest suite
Room type	— Entire home/apt
Listing Info Last Captured	— Oct 13, 2020
Screenshot Last Captured	— Oct 13, 2020
Price	— \$72/night
Cleaning Fee	— \$38

Information Provided on Listing

Contact Name	— Joy And Matt
Latitude, Longitude	— 48.409110, -123.352816
Minimum Stay (# of Nights)	— 1
Max Sleeping Capacity (# of People)	— 2
Max Number of People per Bedroom	— 2.0
Number of Reviews	— 490
Last Documented Stay	— 01/2020


Listing Screenshot History


 View Latest Listing Screenshot


August7


September7


October4


- November, 2019
- 


17 Documented Stays
October, 2019
- 


18 Documented Stays
September, 2019
- 


23 Documented Stays
August, 2019
- 


19 Documented Stays
July, 2019
- 


29 Documented Stays
June, 2019
- 


26 Documented Stays
May, 2019
- 


17 Documented Stays
April, 2019
- 


19 Documented Stays
March, 2019
- 


19 Documented Stays
February, 2019
- 


14 Documented Stays
January, 2019
- 


18 Documented Stays
December, 2018
- 


16 Documented Stays
November, 2018
- 


16 Documented Stays
October, 2018
- 


17 Documented Stays
September, 2018
- 


26 Documented Stays
August, 2018
- 


21 Documented Stays
July, 2018
- ✓ Listing air5430755 Identified
July 26th, 2018
- ✓ Listing air17191992 Identified
July 26th, 2018
- Listing air5430755 Reposted
July 25th, 2018
- ✕ Listing air5430755 Removed
July 24th, 2018
- 

23 Documented Stays
June, 2018
- 

27 Documented Stays
May, 2018
- 
























20 Documented Stays
April, 2018
- 

14 Documented Stays
March, 2018
- 

15 Documented Stays
February, 2018
- 









9 Documented Stays

January, 2018

-  17 Documented Stays
December, 2017
-  14 Documented Stays
November, 2017
-  14 Documented Stays
October, 2017
-  18 Documented Stays
September, 2017
-  17 Documented Stays
August, 2017
-  36 Documented Stays
July, 2017
-  26 Documented Stays
June, 2017
-  18 Documented Stays
May, 2017
-  15 Documented Stays
April, 2017
-  25 Documented Stays
March, 2017
- ✱ Listing air17191992 First Crawled
March 3rd, 2017
-  10 Documented Stays
February, 2017
- Listing air17191992 First Activity
February 12th, 2017
-  11 Documented Stays
January, 2017
-  6 Documented Stays
December, 2016
-  9 Documented Stays
November, 2016
-  13 Documented Stays
October, 2016
-  8 Documented Stays
September, 2016
-  15 Documented Stays
August, 2016
-  12 Documented Stays
July, 2016
-  7 Documented Stays
June, 2016
-  9 Documented Stays
May, 2016
-  7 Documented Stays
April, 2016
- ✱ Listing air5430755 First Crawled
April 20th, 2016
-  12 Documented Stays
March, 2016
-  10 Documented Stays


Matched property listing

February, 2016

-  7 Documented Stays
January, 2016
-  5 Documented Stays
December, 2015
-  4 Documented Stays
July, 2015
-  7 Documented Stays
June, 2015
-  3 Documented Stays
May, 2015
-  7 Documented Stays
April, 2015
-  2 Documented Stays
March, 2015
-  Listing air5430755 First Activity
March 23rd, 2015

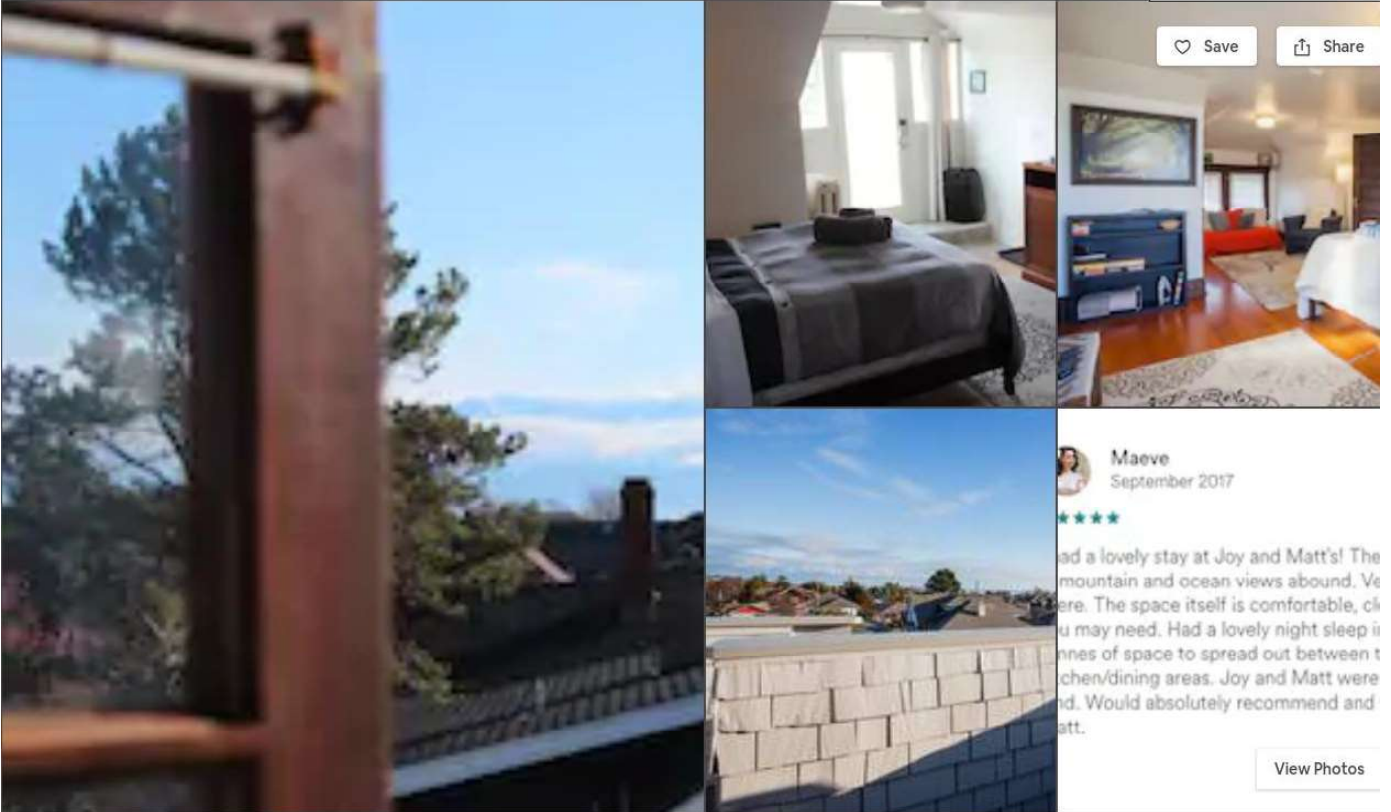
February 08, 2020 - 01:25AM America/Vancouver

Screenshot printed at: 7/9/2020 11:06:56 AM



English (US) \$ USD Become a host Help Sign up Log in

Feb 8, 2020 12:25am PT



☀ Bright & Sunny Ocean Loft - Stunning Views! ☀

Victoria

2 guests 1 bedroom 2 beds 1 bath



Joy And Matt

★ Entire home

You'll have the guest suite to yourself.

🔑 Self check-in

Check yourself in with the keypad.

🌟 Sparkling clean

13 recent guests said this place was sparkling clean.

🏠 Joy And Matt is a Superhost

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

\$74 per night

Dates

02/09/2020 → Checkout

Guests

1 guest

Reserve

You won't be charged yet

Report this listing

Large, light-filled suite with STUNNING OCEAN & MOUNTAIN views! Perfect for couples, solo adventurers & business travelers.

- Steps to the ocean
- Private balcony with AMAZING views of the ocean + Olympic Mountains
- Nearby hiking trails & parks
- Close to restaurants & shopping
- ★ "This home is a must stay!!" ★

- › Free on-street parking
- › 5-10 minute walk to restaurants & shops of Cook Street Village
- › 5 minute drive / 25 minute walk to the Inner Harbour / Downtown
- › Multiple nearby bus routes

The space

★ "All together this space is super cozy, functional, clean and all around great. I had high expectations and you surpassed them!" ★

→ Is this your first time booking on Airbnb? Use this link to receive as much as \$50 off your stay: <https://www.airbnb.ca/c/jandersen184>

→ A real gem in the heart of Fairfield. Live like a local in a historic character house built in 1913 as the Honourary German Consulate.

→ The space is a quiet and comfortable 600 sq feet with a queen size bed and a pull-out couch. Accessible by private entrance and located on the third floor, the loft is easily reached by a private outdoor staircase.

→ Enjoy a drink from your private balcony with views of Mt. Baker, the Olympic Mountains & the Trial Islands, with amazing sunrises and sunsets.

› The bathroom features a clawfoot tub with a European style shower.

› The space is clean, has new windows and has been freshly painted.

› Includes free wifi with a strong connection. There's also a TV with a premium cable package (HBO, etc).

› Light breakfast items are provided when you check-in: instant oatmeal, tea & coffee, etc.

→ The apartment is not child proofed and there are steep stairs, so please no children or guests with mobility concerns.

BL# 34883

Guest access

→ You have full access to your suite, as well as a beautiful private balcony with some of the best views in the city!

→ Access to the suite is via an exterior staircase and you'll be sent a unique access code for the keypad on the door.

Other things to note

→ Please remember, this is a house not a hotel. We live below the suite - therefore we ask you to be mindful of noise levels as well as heavy footsteps. Not that you have to feel like you're walking on egg-shells, just please no jumping jacks at odd hours :)

[Hide](#) ^

Contact host



Amenities

Basic

Wifi

Continuous access in the listing

TV

Cable TV

Laptop-friendly workspace

A table or desk with space for a laptop and a chair that's comfortable to work in

Iron

Essentials

Towels, bed sheets, soap, and toilet paper

Heating

Central heating or a heater in the listing

Hot water

Facilities

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

Patio or balcony

Safety features

Fire extinguisher

Carbon monoxide alarm

Smoke alarm

First aid kit

Not included

Kitchen

Air conditioning

Washer

Sleeping arrangements



Bedroom 1
1 queen bed



Common spaces
1 sofa bed

Accessibility

Handheld shower head

Availability

This host offers a 5% weekly discount.

[Clear dates](#)

No reviews (yet)

This host has 324 reviews for other properties.

[View other reviews](#)

We're here to help your trip go smoothly. Every reservation is covered by Airbnb's [Guest Refund Policy](#).

Hosted by Joy And Matt

Victoria, Canada · Joined in June 2012



★ 814 Reviews · 1 Reference · Verified

Joy And Matt is a Superhost · Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

We are Joy and Matt - two free spirited love birds always looking for the next destination. We are partners in travel, work and life! Matt: A BC native, he's lived in Victoria for over 15 years. He will be there to answer any questions, give you recommendations, map it out for...[Read more](#)

Interaction with guests

→ The place is yours to enjoy! We live in the house downstairs but we don't believe in micro-hosting. We are fully accessible or highly invisible. It's completely your choice.

Response rate: 93%

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 Joy And Matt's place.



Matt helps host.

**The neighborhood**

Joy And Matt's place is located in Victoria, British Columbia, Canada.

We're one block from Dallas Road Beach (Clover Point), an absolutely beautiful park on the ocean. You can take the long way downtown with a casual cliff top stroll past the breakwater or (for the more adventurous!) along the rocky oceanfront.

If you're looking for some exercise while here, there is a great yoga studio just one block away, as well as a world famous jogging trail on Dallas Road, at the end of the block beside the ocean.

Restaurants and groceries are readily available in Cook St village, just a 5-10 minute walk away.

Getting around

- › Uber & Lyft do not operate in BC, however we have many taxi companies to help you get around (Blue Bird, Yellow Cab)
- › Several nearby bus routes

★ We want you! Please reach out with any questions you may have. ★

→ Add our listing to your wishlist by clicking the ♥ in the upper-right corner.

→ Don't forget to claim your discount, if this is your first time booking on AirBnB!

Use the following link for up to \$50 USD off:

<https://www.airbnb.ca/c/jandersen184>

Hide ^

Show guidebook

The map shows this place's specific location.

Things to keep in mind

Check-in: After 3:00 PM

Checkout: 11:00 AM

Self checkin with keypad

House Rules

✖ Not suitable for children and infants

✖ No smoking

✖ No pets

✖ No parties or events

You must also acknowledge

- ✎ Must climb stairs - Large exterior staircase gets you to the entrance to the loft. Two full flights. It's how you get such a great view!

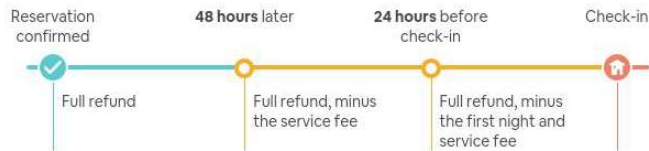
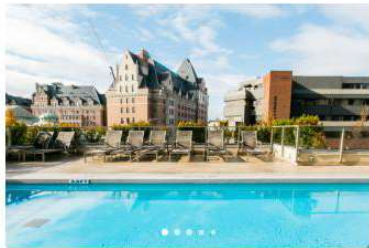
Additional rules

- Check-in time is anytime after 3PM. You'll receive your self check-in instructions a few days before your arrival.

Please respect the neighbors regarding noise levels and treat the place like your home. This is a non-smoking property.

[Hide rules ^](#)
Cancellations**Free cancellation for 48 hours**

After that, cancel up to 24 hours before check-in and get a full refund, minus the service fee.


[Get full details](#)
[Hide policies ^](#)
More homes you may like

PLUS Entire condominium · 1 bed ★ 4.84 (548)
Soak in the Marble Tub at a Sleek, Urban...
\$89 / night



PLUS Entire apartment · 2 beds ★ 4.94 (507)
Hip Chinatown Apartment, Walk to Inner...
\$59 / night



Entire apartment · 2 beds ★ 4.97 (506)
Special Downtown Relaxing Getaway
\$78 / 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)



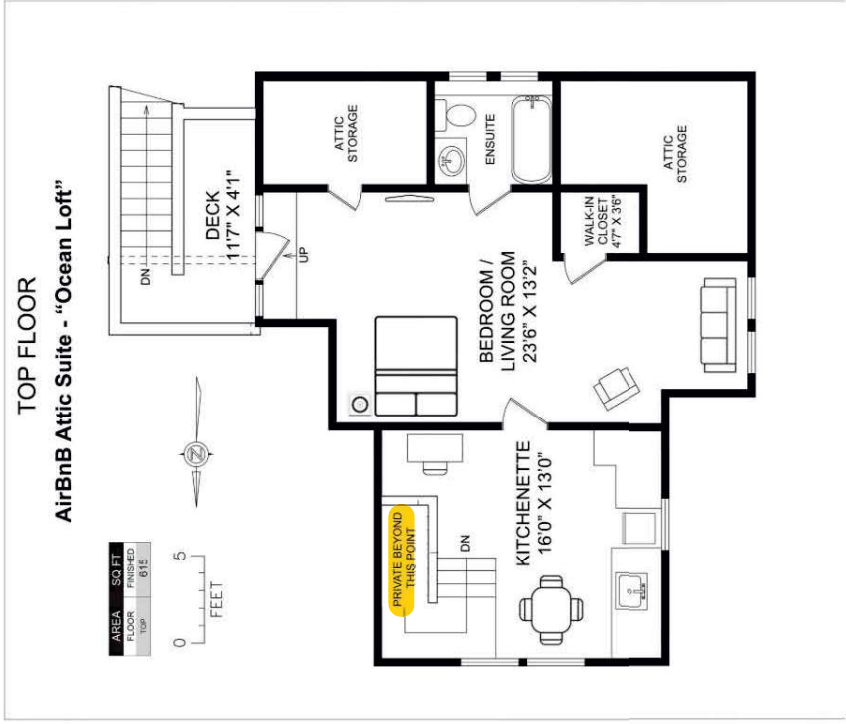
WORKSHOP
Learn to Shuck Oysters in Market Square
From \$59/person · Food, Equipment included
4.95★ (43)



DINNER PARTY
Plant Based Cookin' Class & Dinner Party
From \$46/person · Food, Drinks included
5.0★ (10)

X Close

24 / 24



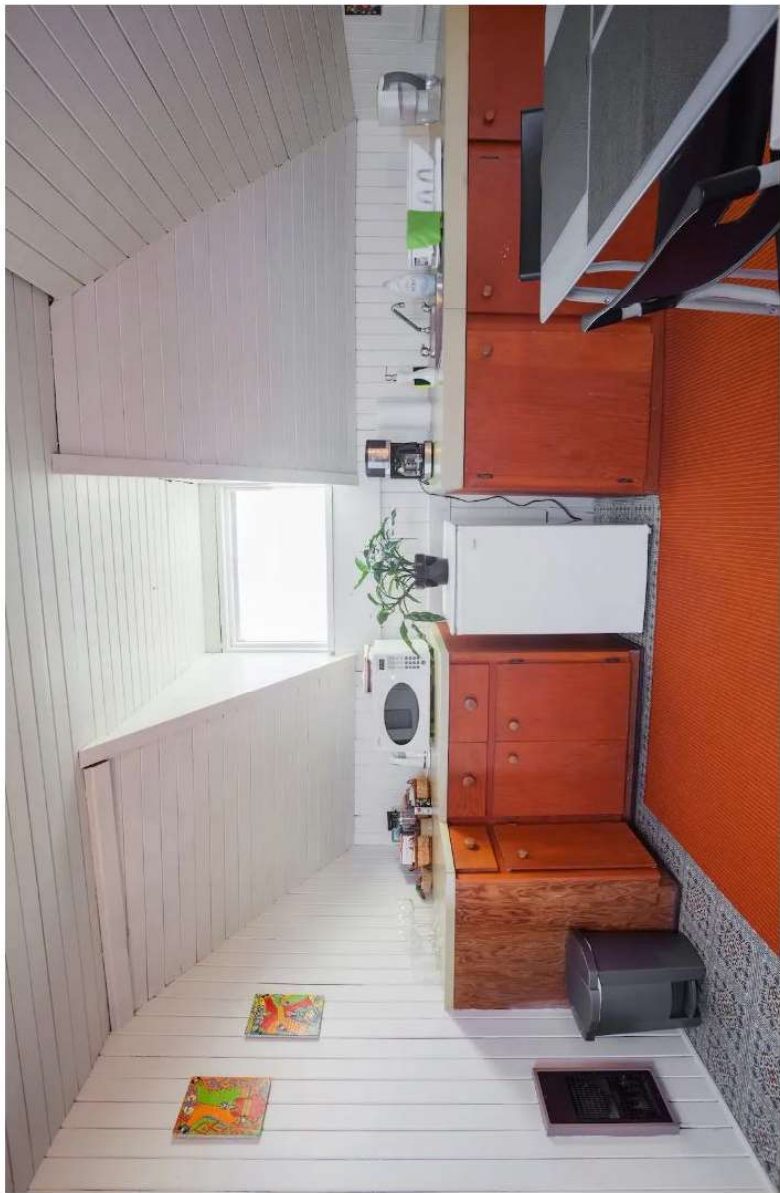
This is a floorplan of the loft, showing approximate measurements and general layout.

✕ Close

8 / 24

🏠

🔖



Kitchenette with mini-fridge, microwave, and complimentary snacks.



Add dates for prices

4.92 (490 reviews)

Cleanliness

5.0

Accuracy

5.0

Communication

5.0

Location


4.9

Check-in

5.0

Value


4.9



Susan

August 2018


We really enjoyed our stay at Joy and Matt's place! The upper suite is truly sunny and airy - we loved the cool breeze at night and the sunshine coming in during the day. **The suite is clean, has the kitchen essentials**, and our hosts were excellent communicators. We highly recommend!!



Sahar

August 2018

Joy and Matt's place was extremely clean, nicely decorated, and a pleasure to stay at. It was stocked with everything you'd need and more (e.g. I forgot my shampoo, conditioner, and hair dryer, but was relieved to find these all in the bathroom). They also included a list of things to do in the area which was helpful. Checking in and out was easy and painless, and the location was great with Beacon Hill Park walking distance away. I would highly recommend!



Annabelle

August 2018

A great little spot in a lovely location! Fast responses and communication, Would highly recommend. Thanks for having us!

black and white logo.jpg

Type here to search

Show all

11:22 AM 2020-11-25 ENG

Add dates for prices



★ 4.92 (490 reviews)

Cleanliness	5.0
Accuracy	5.0
Communication	5.0
Location	4.9
Check-in	5.0
Value	4.9

breezy, and had a spectacular view... Plus all the amenities that one needs: a large kitchen, beautiful clawfoot tub, comfortable bed! I only wish I could've stayed a whole week. On top of that the value was amazing... Plus check in/out was unbelievably easily.



David
August 2017

Great spot in a lovely location. Will definitely be back!



Bailey
July 2017

Thanks Matt and Joy for the amazing stay. Your attention to detail was great, providing many comforts of home. The loft had an incredible view of the mountains and ocean. The place was very clean and recently renovated, while still keeping the old charm. We wish we could of stayed longer!



Johanna
July 2017

This is a great spot for a getaway to Victoria. We especially enjoyed having the separate kitchenette space for prepping and eating meals in. The surrounding neighbourhood is charming, close to amenities and cute businesses, and felt very close to downtown. Thanks for a wonderful stay!

Add a place or address to

Add dates for prices

X

★ 4.92 (490 reviews)

Cleanliness	5.0
Accuracy	5.0
Communication	5.0
Location	4.9
Check-in	5.0
Value	4.9



Helen
October 2018

This is a very special place to stay on the top floor of the house with its fabulous view of the Ocean and neighbourhood gardens, with sunshine pouring in. Loved to sit out on the balcony chairs even when it was misty and rainy. Location is outstanding. Minutes walk away from Cook Street Village and its stores, cafe's restaurants, and to the beach in the other direction. An easy walk into the centre of Victoria. Heating was very efficient when required. Great water pressure in the shower and lots of hot water. The shower was a touch too low for me to stand under but the hand held works perfectly. Kitchen is well supplied and a lovely welcome basket of tea, coffee, oatmeal, sugar and other basics. Joy and Matt are fantastic hosts and communicate really well. Instructions are clear and keyless entry is easy. If you are good with stairs, stay here!



Sangjae
October 2018

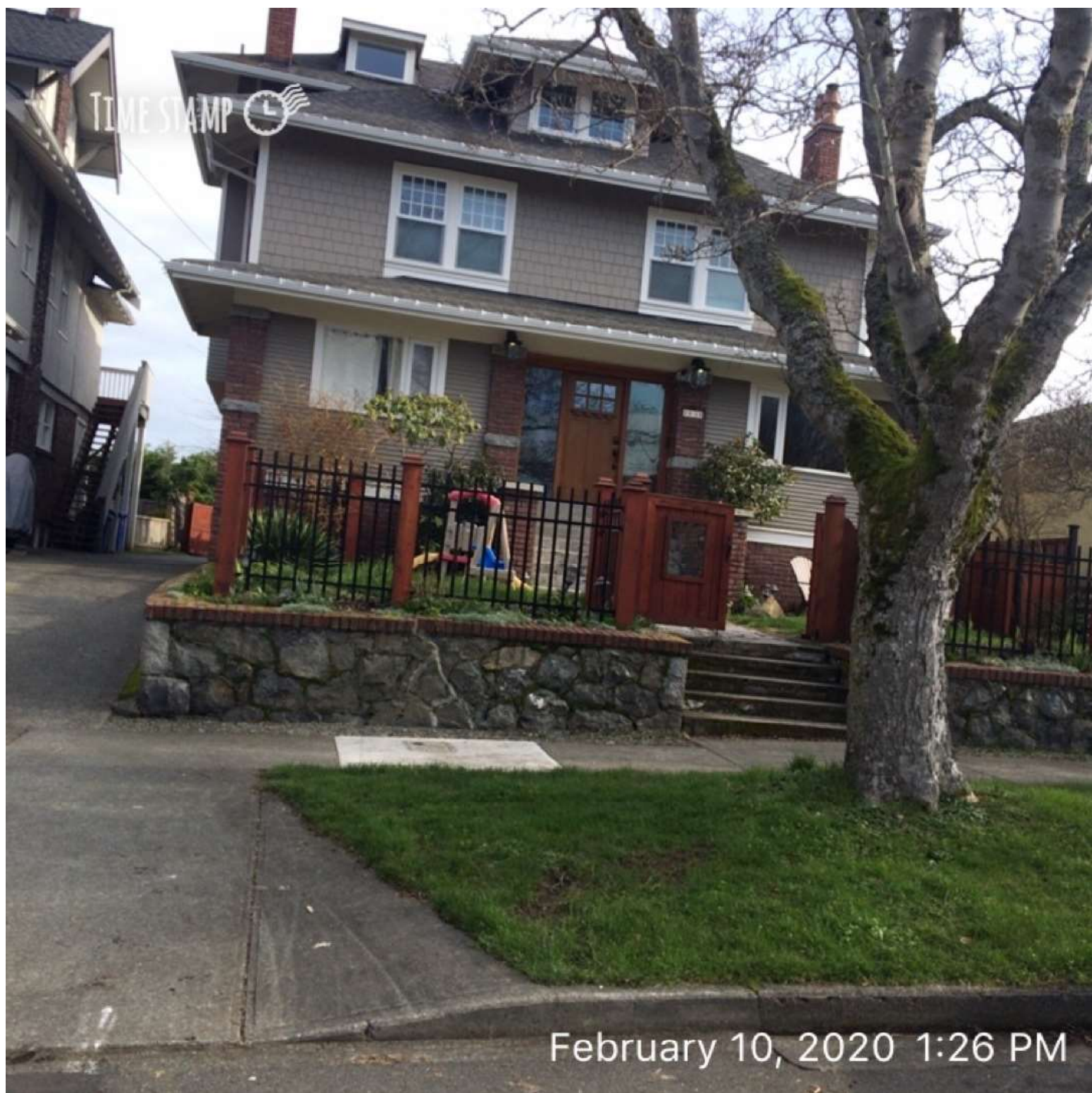
They treated us very kindly when they first saw us. A friend who came to Canada for the first time was also satisfied. If someone visits Victoria, it is the house I would definitely recommend



Karen
September 2018

Add a place or address to

Show all



February 10, 2020 1:26 PM

TIME STAMP 

Ocean Loft – 3rd Floor



Fairfield Suite – 2nd Floor



Questions? Please call or text Matt & Joy at +1 250 532 5571. Also refer to the check-in instructions you were sent on Airbnb.

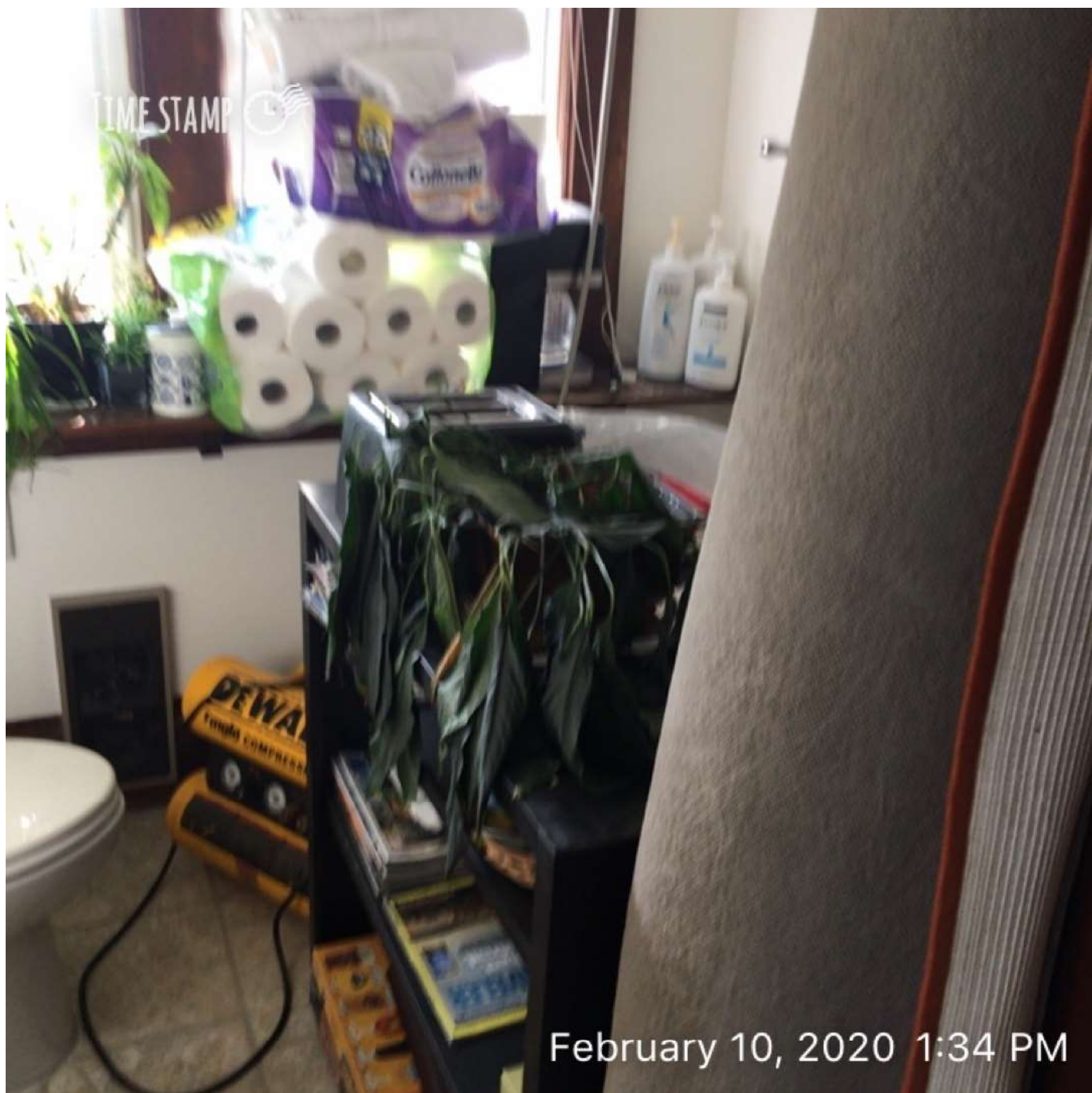
Welcome!

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