

Business Licence (Short-term Rental) Appeal re 906 Fairfield Road

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 Nadia Tatlow and James McCracken for the operation of a short-term rental at 906 Fairfield Rd.
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 appellants own the property at 906 Fairfield Road. The property is zoned R1-S2 (restricted small lot). Short-term rentals are not a permitted use under this zone.
8. The owners of the property have created a self-contained unit in the attic of the property. This work was done without a permit by previous owners. [See attached photos]
9. The attic suite consists of a living room/bedroom, a separate bathroom and a kitchenette/dining area. It has a separate entrance from outside with keypad for self-entry. There is an interior staircase with a locked door separating the suite and the rest of the house, and there is no access provided for guests to the remainder of the house. [See attached photos]
10. The kitchenette area includes a counter with cabinets, a sink, small fridge, a microwave oven, a coffee maker, a kettle, and other essentials. [See attached photos]
11. The appellant has rented the entire unit as a short-term rental since at least June 2017. Since that time, the appellant has accepted over 306 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 appellants 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 appellants' representation that the short-term rental was offered in the appellants' principal residence.
13. An inspection of the premises on January 30th, 2020 revealed that the unit is operating as a self-contained dwelling and is not part of the appellants' principal residence.
14. On January 31st, 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 appellants reside in the house at 906 Fairfield Road, the premises that are rented as a short-term rental are not part of their principal dwelling unit because the unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as 'luxuriously appointed guest suite, featuring a private entranceway' on Airbnb. [Matched Airbnb Property Listing Attached]
19. It is clear that the attic suite at 906 Fairfield Road 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, and separate bathroom – it meets the requirements of the definition of "self-contained dwelling unit" in the *Zoning Regulation Bylaw*.
20. The appellants appears to rely on the absence of a full kitchen; however, the unit has been prepared to operate independently as a self-contained suite with no access to the appellants' dwelling unit, and not as two bedrooms in their 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 906 Fairfield Road 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 906 Fairfield Road upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: November 25, 2020



Shannon Perkins, Manager of
Bylaw Services

Rental Unit Record

906 Fairfield Road, Victoria, BC, Canada

Removed X
Identified ✓
Compliant X

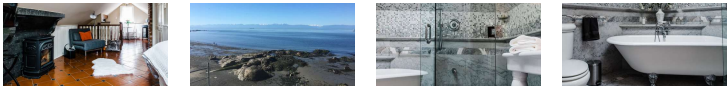
PRINT

Listing(s) Information

VRBO - 321.1102334.1650495

Flipkey - 8821207

Airbnb - 18510487



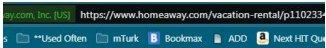
Matched Details

Analyst CDZT

Explanation

Exterior matches in street view. The Victoria BC records and map confirm the location and address and show Area-Jurisdiction-Roll 01-234-03-199-019.
<http://prntscr.com/k23uj9>

Listing Photos



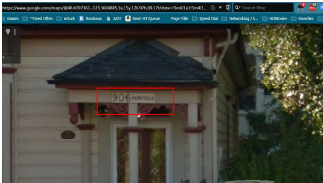
BC, Can...

Search

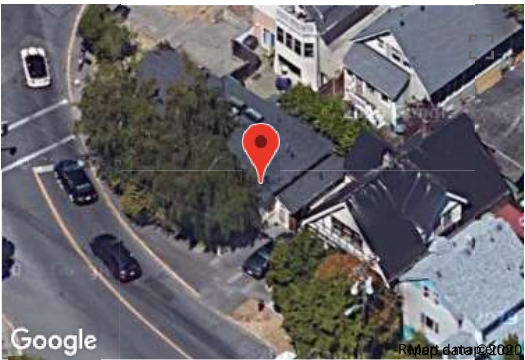


Same exterior. #906 is visible on the photo and in street view.

Matching 3rd Party Sources



Rental Unit Information



Identified Address

906 Fairfield Road, Victoria, BC, Canada

Identified Unit Number

None

Identified Latitude, Longitude

48.419616, -123.360192

Parcel Number

0123403199019

Owner Address

906 Fairfield Rd, Victoria
Victoria, BC V8V 3S5, CA

Timeline of Activity

View the series of events and documentation pertaining to this property

- X Listing air18510487 Removed September 6th, 2020
- Listing air18510487 Reposted April 8th, 2020
- X Listing air18510487 Removed

Listing Details

Listing URL	— https://www.vrbo.com/1102334
Listing Status	● Inactive
Host Compliance Listing ID	— hma321.1102334.1650495
Listing Title	— Downtown Victoria - Modern Luxury Heritage
Property type	— House
Room type	— Entire home/apt
Listing Info Last Captured	— Dec 23, 2018
Screenshot Last Captured	— Dec 26, 2018
Price	— \$91/night
Cleaning Fee	— \$75

Information Provided on Listing

Contact Name	— Not provided
Latitude, Longitude	— 48.420363, -123.358805
Minimum Stay (# of Nights)	— 2
Max Sleeping Capacity (# of People)	— 2
Max Number of People per Bedroom	— 2.0
Number of Reviews	— 4
Last Documented Stay	— 07/2018

Listing Screenshot History

 [View Latest Listing Screenshot](#)

August 0

September 0










October 0

April 2nd, 2020

-  2 Documented Stays
March, 2020
-  5 Documented Stays
February, 2020
- Listing air18510487 Reposted
February 10th, 2020
- ✕ Listing air18510487 Removed
February 7th, 2020
-  6 Documented Stays
January, 2020
-  12 Documented Stays
December, 2019
-  9 Documented Stays
November, 2019
-  12 Documented Stays
October, 2019
-  11 Documented Stays
September, 2019
- Listing air18510487 Reposted
September 8th, 2019
- ✕ Listing air18510487 Removed
September 8th, 2019
- Listing air18510487 Reposted
September 5th, 2019
- ✕ Listing air18510487 Removed
September 5th, 2019
- Listing air18510487 Reposted
September 3rd, 2019
- ✕ Listing air18510487 Removed
September 2nd, 2019
-  16 Documented Stays
August, 2019
- Listing air18510487 Reposted
August 30th, 2019
- ✕ Listing air18510487 Removed
August 30th, 2019
- Listing air18510487 Reposted
August 24th, 2019
- ✕ Listing air18510487 Removed
August 24th, 2019
- Listing air18510487 Reposted
August 16th, 2019
- ✕ Listing air18510487 Removed
August 15th, 2019
-  13 Documented Stays
July, 2019
-  12 Documented Stays
June, 2019
-  8 Documented Stays
May, 2019
-  9 Documented Stays

- April, 2019
- 📅 8 Documented Stays
March, 2019
- 📅 9 Documented Stays
February, 2019
- 📅 8 Documented Stays
January, 2019
- 📅 9 Documented Stays
December, 2018
- ✗ Listing hma321.1102334.1650495 Removed
December 27th, 2018
- ✓ Listing fli8821207 Identified
November 28th, 2018
- 📅 5 Documented Stays
November, 2018
- 📅 11 Documented Stays
October, 2018
- 📅 12 Documented Stays
September, 2018
- 📅 12 Documented Stays
August, 2018
- 📅 10 Documented Stays
July, 2018
- ✓ Listing hma321.1102334.1650495 Identified
July 10th, 2018
- ✓ Listing air18510487 Identified
July 10th, 2018
- 📅 7 Documented Stays
June, 2018
- 📅 10 Documented Stays
May, 2018
- 📅 11 Documented Stays
April, 2018
- ✗ Listing fli8821207 Removed
April 25th, 2018
- 📅 8 Documented Stays
March, 2018
- Listing hma321.1102334.1650495 Reposted
March 2nd, 2018
- 📅 8 Documented Stays
February, 2018
- ✗ Listing hma321.1102334.1650495 Removed
February 20th, 2018
- 📅 6 Documented Stays
January, 2018
- 📅 5 Documented Stays
December, 2017
- 📅 8 Documented Stays
November, 2017
- 📅 8 Documented Stays
October, 2017
- 📅 7 Documented Stays

September, 2017

-  12 Documented Stays
August, 2017
-  Listing fli8821207 First Crawled
August 4th, 2017
-  Listing fli8821207 First Activity
August 4th, 2017
-  Listing air18510487 First Crawled
August 1st, 2017
-  13 Documented Stays
July, 2017
-  4 Documented Stays
June, 2017
-  Listing hma321.1102334.1650495 First
Crawled
June 23rd, 2017
-  Listing hma321.1102334.1650495 First
Activity
June 23rd, 2017
-  Listing air18510487 First Activity
June 16th, 2017

Δ Plus

Downtown Modern Heritage with Spa Bathroom



2 guests 1 bedroom 1 bed 1 bath

ENTIRE GUEST SUITE IN VICTORIA

★ 4.87/293 reviews

★ 4.87/793
https://www.airbnb.ca/?loco=1

"A luxurious Victorian heritage home experience awaits!
We love the character updates and spa bathroom

\$31 /night

check availability

2 guests 1 bedroom 1 bed 1 bath

Luxuriate in the swish spa bathroom with claw-foot tub and steam shower in this luxuriously appointed guest suite. Featuring a pleasant private entranceway through a tranquil garden, the suite's slanted ceilings lend character to the open-plan space.



"A luxurious Victorian heritage home experience awaits! We love the character updates and spa bathroom featuring marble from a local quarry. We hope you love it as much as we do!"

Hosted by James

Tour this guest suite



Living room



Bedroom · Queen bed



Kitchenette



Full bathroom

Explore all 17 photos

plus ENTIRE GUEST SUITE IN VICTORIA
★4.87/293 reviews

\$31 /night

Check availability

View all rooms

Living room

Indoor fireplace, Netflix



plus
ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



plus
ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms

Bedroom

Queen bed, Indoor fireplace, Netflix

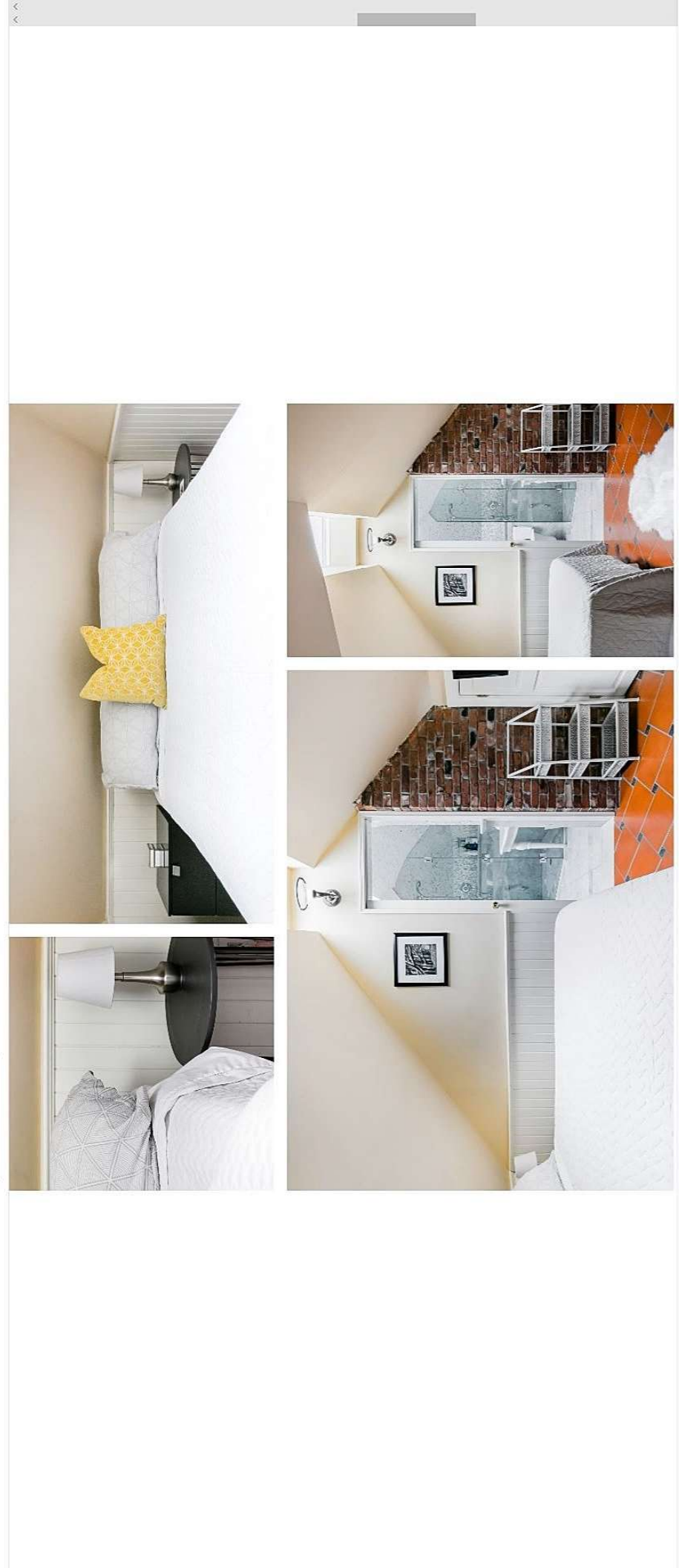


plus ENTIRE GUEST SUITE IN VICTORIA
★ 487293 reviews

\$31 /night

Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★4.87/293 reviews

\$31 /night

Check availability

Full bathroom

Heated floors, Walk-in shower, Soaking tub, Steam shower



Plus
ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★4.87/293 reviews

\$31 /night

Check availability



TIME STAMP



January 30, 2020 1:50 PM

TIME STAMP 

906 FAIRFIELD

January 30, 2020 1:50 PM

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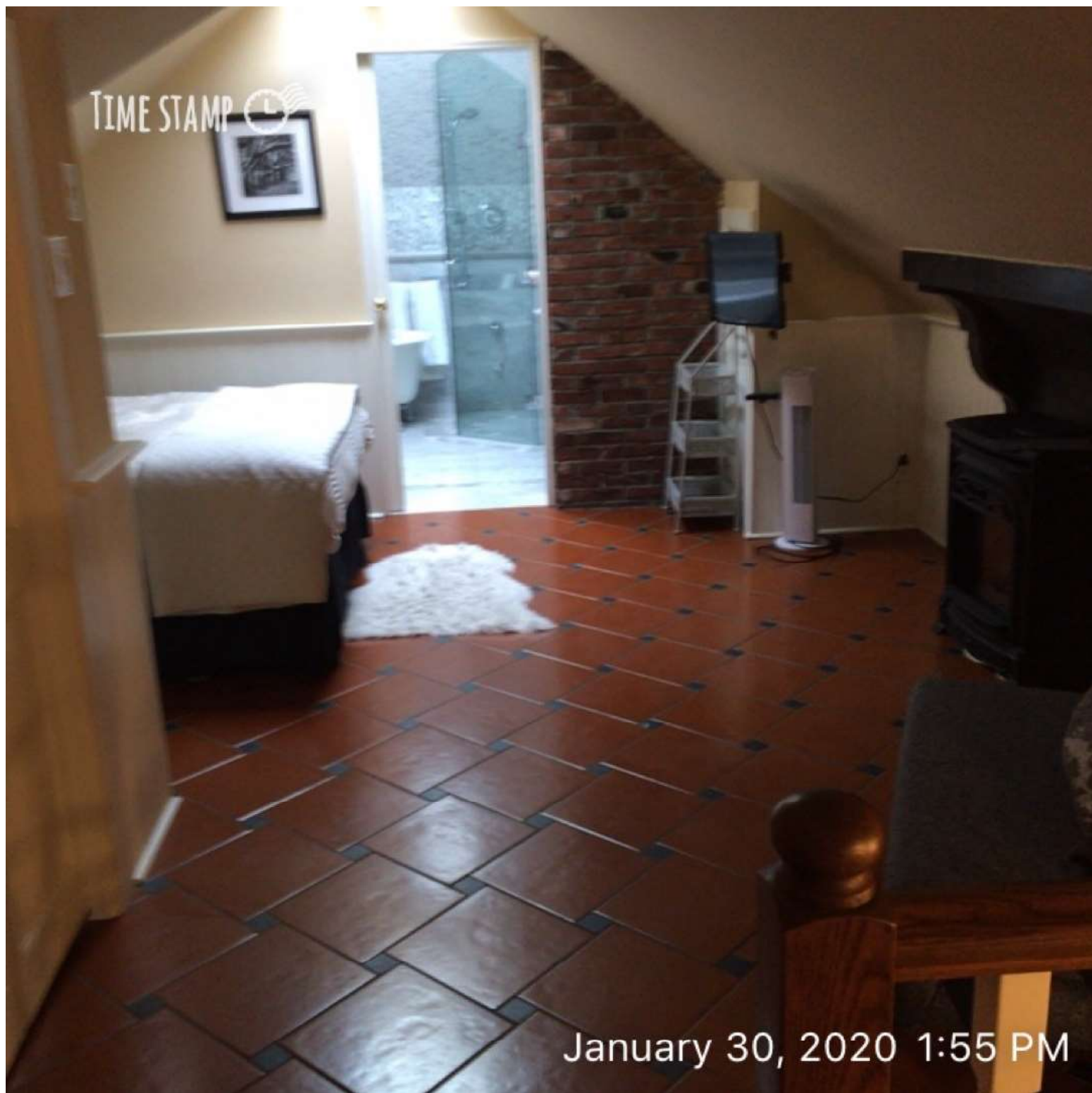
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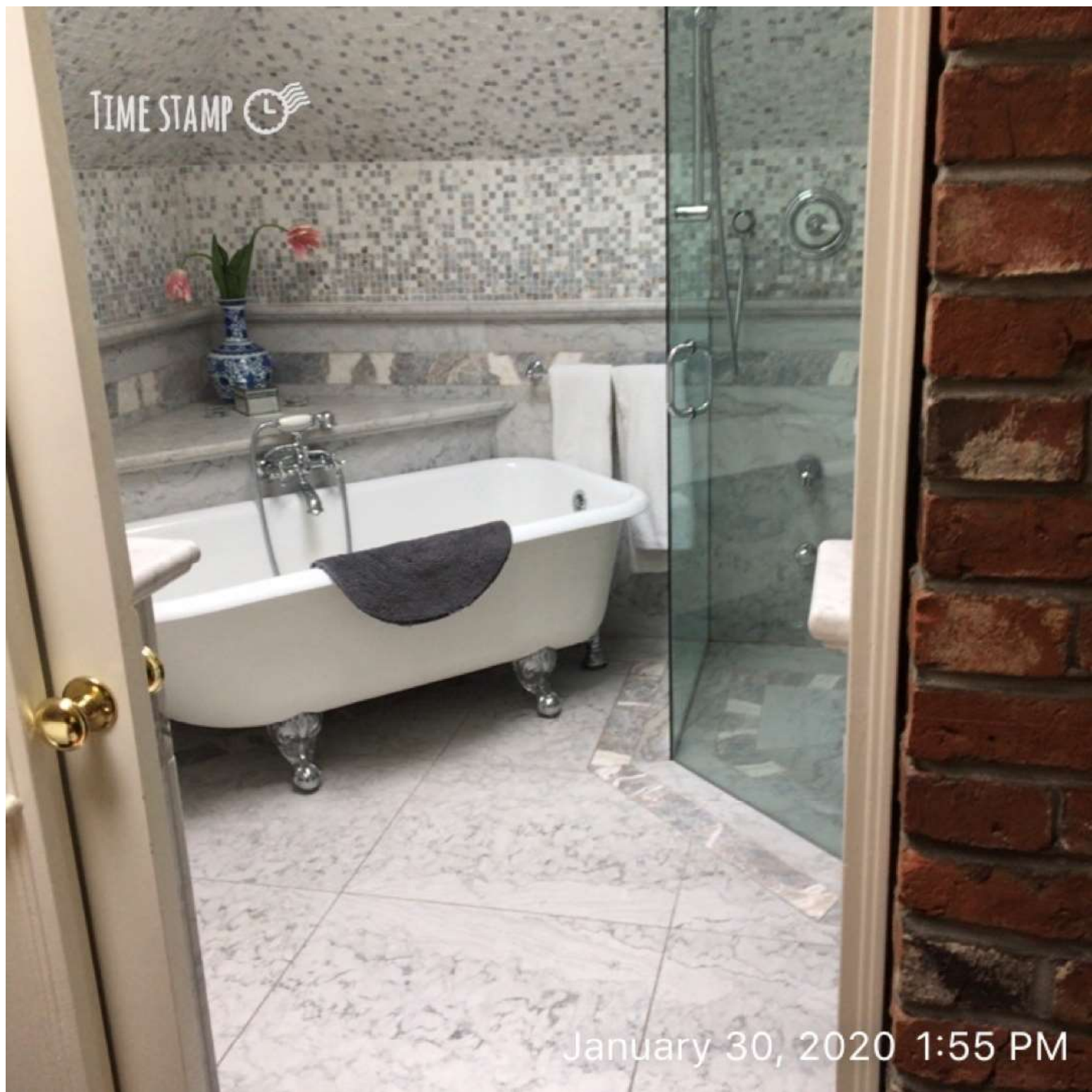
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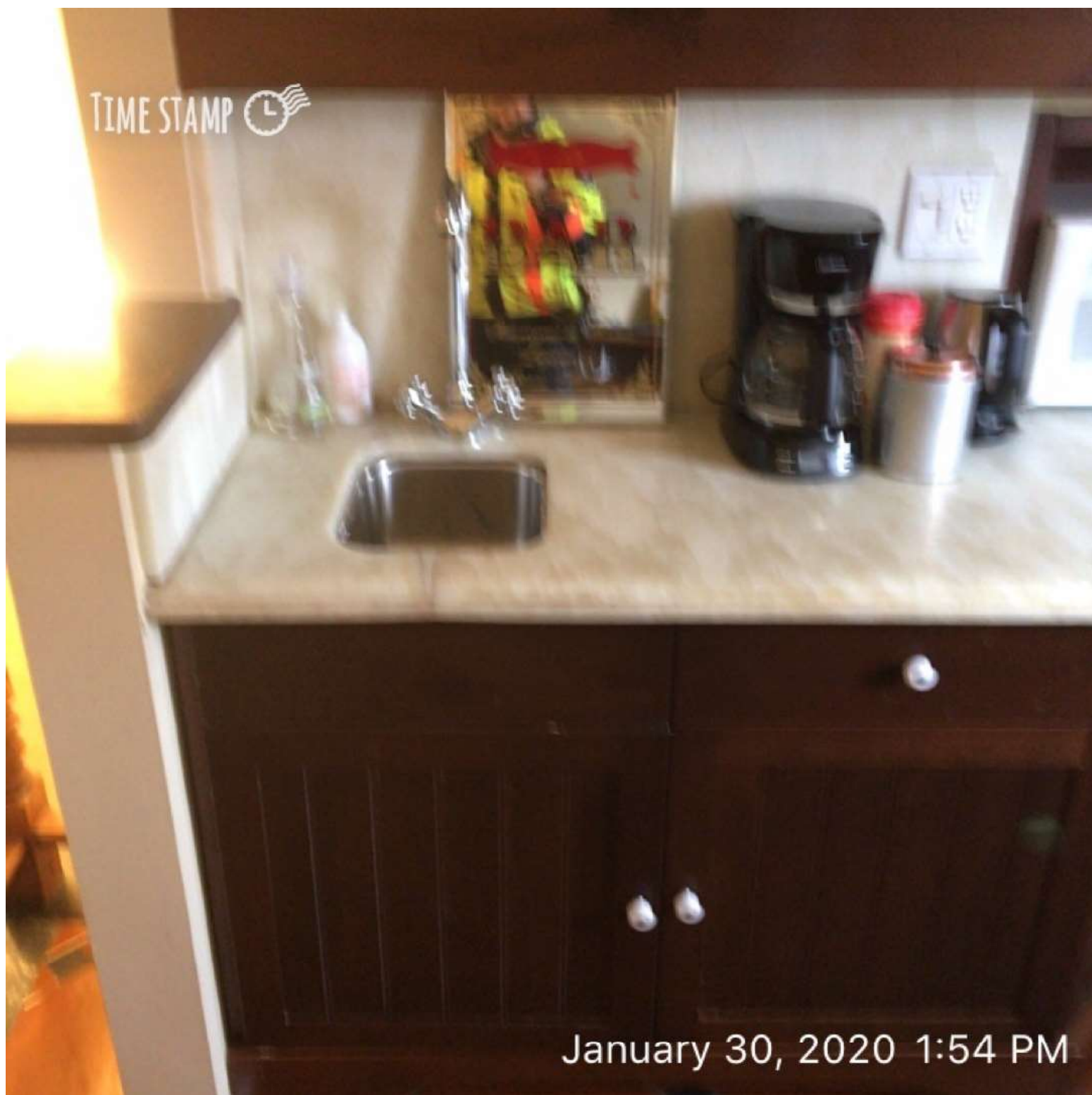
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