

Business Licence (Short-term Rental) Appeal re 1132 Chapman 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 Roberta Prilusky for the operation of a short-term rental at 1132 Chapman 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 rents the upper units at 1132 Chapman Street. The property is a duplex zoned R1-B. Short-term rentals are not a permitted use under this zone. The lower unit of the duplex has a long term tenant.
8. The owner of the property has created a self-contained one-bedroom unit on the third floor. [See attached photos]
9. The third-floor unit consists of a living room, a bedroom, a separate bathroom and a kitchen. It has a separate entrance from outside on the second floor. There is a locking door between the second-floor entrance, and the unit on the second floor with is occupied by the appellant (i.e., the units occupants have no access to the rest of the house). The appellant, who resides on the second floor, exclusively uses the rear entrance to access her unit.
10. The kitchen includes counters with sink, a full fridge, a microwave, a toaster oven, hot plates, a dishwasher, and a kettle and coffee maker. [See attached photos]

11. The third-floor unit on the property has been rented as a short-term rental since at least September 2014. In 2019, the operator had accepted over 35 short-term rental bookings. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.
12. The previous property manager and tenant of the second-floor unit applied for and received a business licence to operate a short-term rental in 2019. The licence was granted on the basis of the applicant's representation that the short-term rental was offered in the applicant's principal residence.
13. An inspection of the premises on June 17th, 2020 revealed that the third-floor unit is operating as a self-contained dwelling and is not part of the appellant's principal residence.
14. On June 17th, 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 previous tenant was issued a short-term rental business licence in 2019 is not an indication that a 2020 licence should also be issued.
18. Although the appellant resides in the house at 1132 Chapman Street, the premises that are rented as a short-term rental are not part of her principal residence, because the third-floor unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as ‘third floor loft suite’ on Airbnb. [Matched Airbnb Property Listing Attached]
19. It is clear that the third-floor unit at 1132 Chapman 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 1132 Chapman 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 1132 Chapman Street upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

A handwritten signature in blue ink, appearing to be 'S. Perkins', is centered in the upper right portion of the page.


Dated: January 12, 2021

Shannon Perkins, Manager of
Bylaw Services



TIMESTAMP

June 17, 2020 11:25 AM

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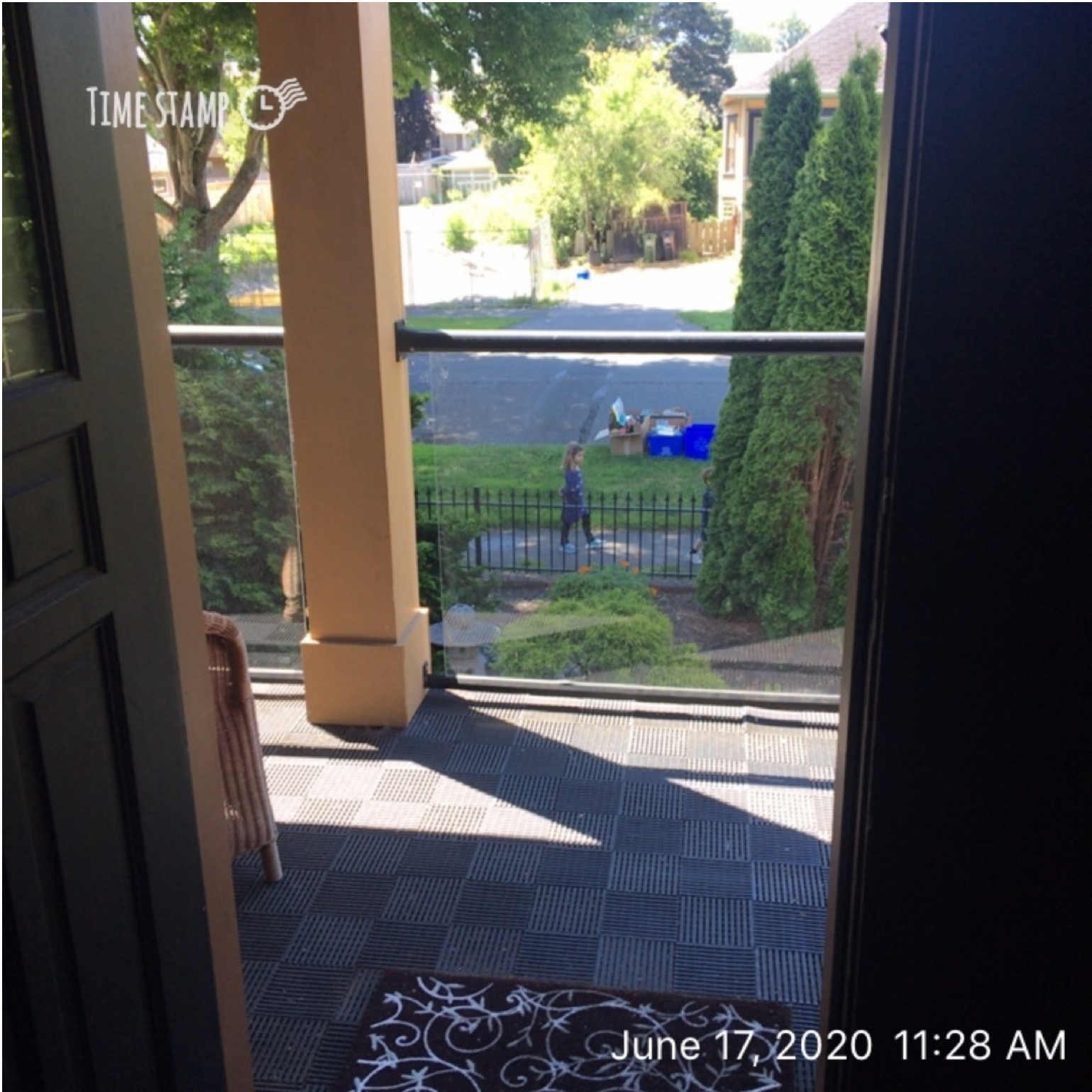
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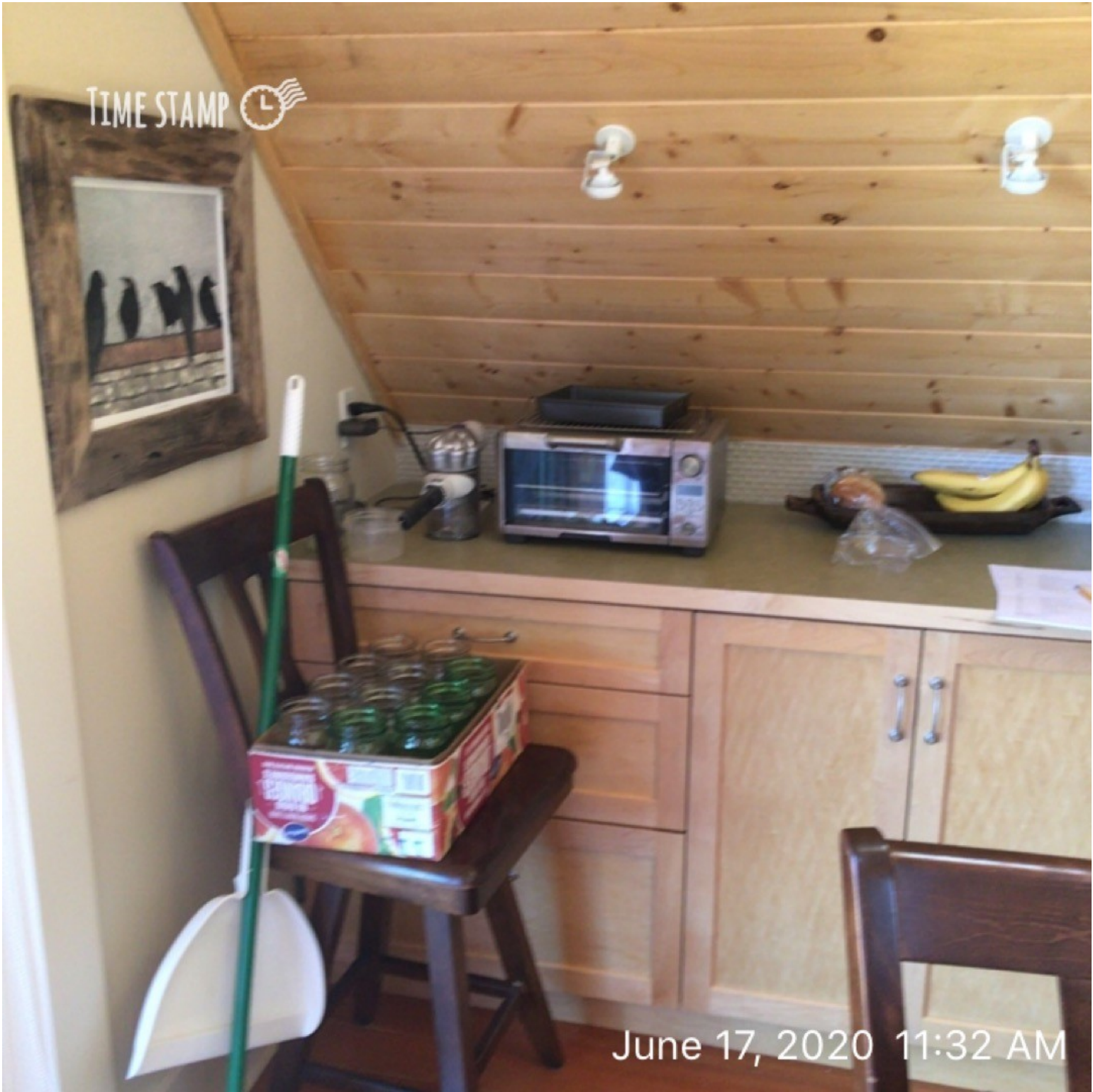
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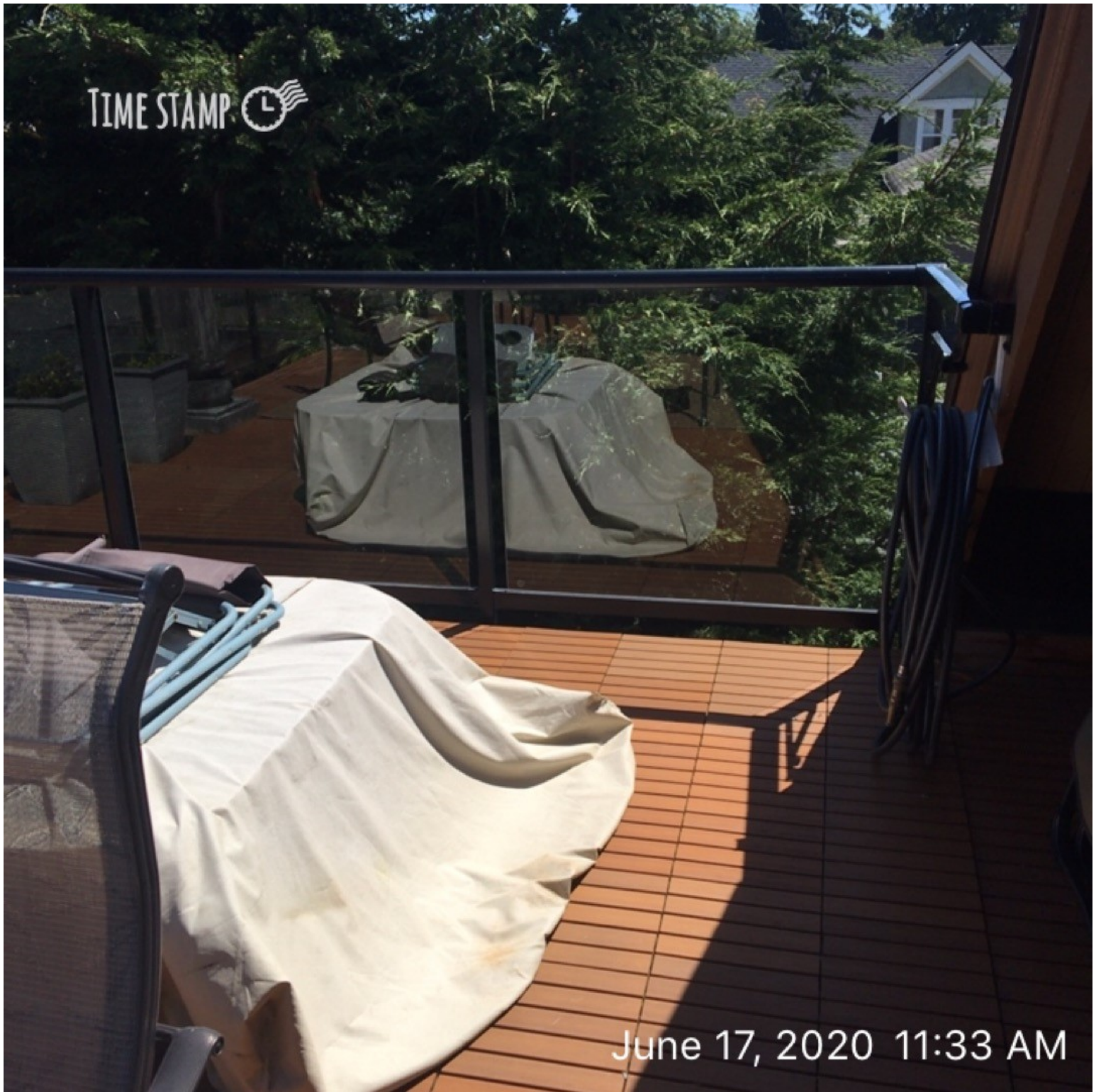
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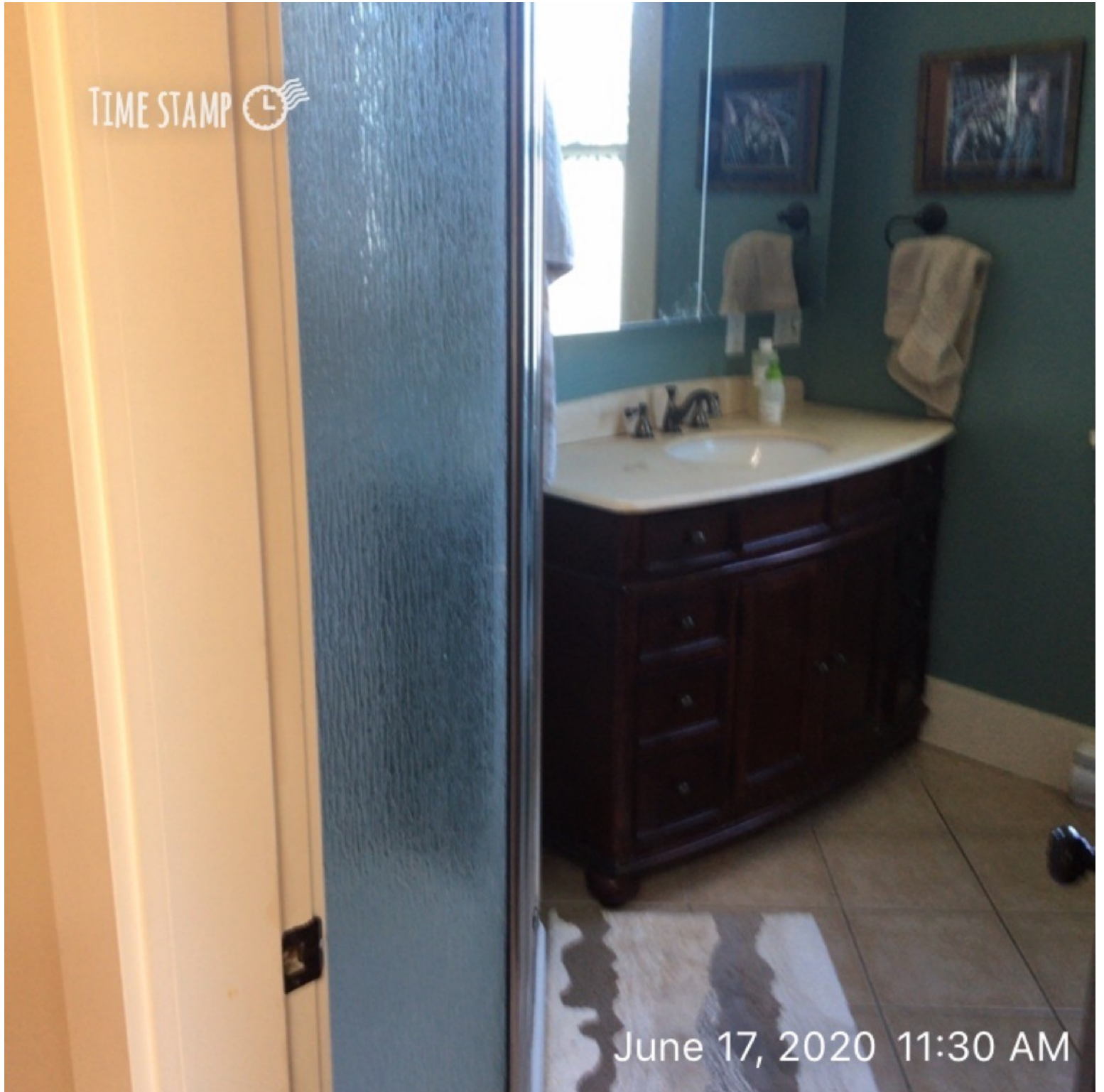
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June 17, 2020 11:30 AM

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June 17, 2020 11:30 AM

Rental Unit Record

1132 Chapman St, Victoria, BC, Canada

Active ●
Identified ✓
Compliant X

PRINT

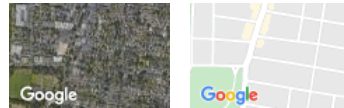
Listing(s) Information

VRBO - 321.793089.1341027

Airbnb - 3851163

VRBO - 321.617910.1165419

Rental Unit Information



Identified Address

1132 Chapman St, Victoria, BC, Canada

Identified Unit Number

None

Identified Latitude, Longitude

48.413208, -123.355787

Parcel Number

0123403228031

Owner Address

1132 Chapman St, Victoria, BC V8V 2T6, CA

Matched Details

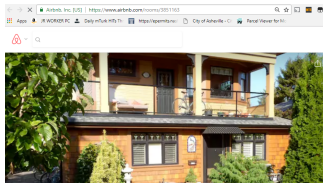
Analyst

QZ4P

Explanation

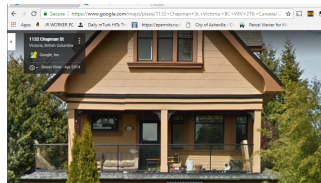
The property was successfully identified after finding the home via google maps then validating the address with the pictures on the listing and the images from google street view, then getting all other information from the tax assessor site.

Listing Photos



Same property.

Matching 3rd Party Sources



Owner Name Match

City Name Match

Timeline of Activity

View the series of events and documentation pertaining to this property

1 Documented Stay
March, 2020

1 Documented Stay
February, 2020

2 Documented Stays
October, 2019

Listing Details

Listing URL	— https://www.airbnb.com/rooms/3851163
Listing Status	● Active
Host Compliance Listing ID	— air3851163
Listing Title	— Spacious walk out close to the ocean and downtown!
Property type	— Apartment
Room type	— Entire home/apt
Listing Info Last Captured	— Oct 13, 2020
Screenshot Last Captured	— Oct 13, 2020
Price	— \$145/night
Cleaning Fee	— \$190

Information Provided on Listing

Contact Name	— Roberta
Latitude, Longitude	— 48.411974, -123.355147
Minimum Stay (# of Nights)	— 30
Max Sleeping Capacity (# of People)	— 4
Max Number of People per Bedroom	— 2.0
Number of Reviews	— 7
Last Documented Stay	— 12/2018



















Listing Screenshot History

 [View Latest Listing Screenshot](#)

August 7

September 7

October 4

-  7 Documented Stays
September, 2019
-  7 Documented Stays
August, 2019
-  7 Documented Stays
July, 2019
-  2 Documented Stays
June, 2019
-  3 Documented Stays
May, 2019
-  1 Documented Stay
April, 2019
-  4 Documented Stays
March, 2019
-  3 Documented Stays
February, 2019
- Listing hma321.793089.1341027 Reposted
December 29th, 2018
- ✕ Listing hma321.793089.1341027 Removed
December 10th, 2018
-  1 Documented Stay
December, 2018
-  3 Documented Stays
November, 2018
-  4 Documented Stays
October, 2018
-  3 Documented Stays
September, 2018
-  5 Documented Stays
August, 2018
-  6 Documented Stays
July, 2018
- ✓ Listing hma321.793089.1341027 Identified
July 20th, 2018
- ✓ Listing air9826024 Identified
July 20th, 2018
- ✓ Listing air3851163 Identified
July 10th, 2018
- ✓ Listing hma321.617910.1165419 Identified
July 10th, 2018
-  6 Documented Stays
June, 2018
-  3 Documented Stays
May, 2018
-  2 Documented Stays
April, 2018
-  1 Documented Stay
March, 2018
- Listing hma321.617910.1165419 Reposted
March 2nd, 2018
- Listing hma321.793089.1341027 Reposted
March 2nd, 2018

- ✘ Listing hma321.617910.1165419 Removed
February 20th, 2018
- ✘ Listing hma321.793089.1341027 Removed
February 20th, 2018
- 📅 1 Documented Stay
February, 2018
- 📅 2 Documented Stays
January, 2018
- 📅 3 Documented Stays
December, 2017
- 📅 3 Documented Stays
November, 2017
- 📅 3 Documented Stays
October, 2017
- 📅 6 Documented Stays
September, 2017
- 📅 6 Documented Stays
August, 2017
- 📅 9 Documented Stays
July, 2017
- 📅 4 Documented Stays
June, 2017
- 📅 1 Documented Stay
May, 2017
- 📅 2 Documented Stays
April, 2017
- 📅 2 Documented Stays
March, 2017
- 📅 2 Documented Stays
February, 2017
- 📅 2 Documented Stays
December, 2016
- 📅 2 Documented Stays
October, 2016
- 📅 6 Documented Stays
September, 2016
- 📅 3 Documented Stays
August, 2016
- 📅 8 Documented Stays
July, 2016
- 📅 4 Documented Stays
June, 2016
- 📅 1 Documented Stay
May, 2016
- ✱ Listing air3851163 First Crawled
April 20th, 2016
- ✱ Listing air9826024 First Crawled
April 20th, 2016
- ✱ Listing hma321.793089.1341027 First
Crawled
April 15th, 2016

- ✳ Listing hma321.617910.1165419 First Crawled
April 15th, 2016
- Listing hma321.793089.1341027 First Activity
April 13th, 2016
- 📅 1 Documented Stay
April, 2016
- 📅 1 Documented Stay
March, 2016
- 📅 1 Documented Stay
February, 2016
- 📅 1 Documented Stay
January, 2016
- 📅 2 Documented Stays
December, 2015
- Listing air9826024 First Activity
December 28th, 2015
- 📅 1 Documented Stay
November, 2015
- 📅 3 Documented Stays
August, 2015
- 📅 2 Documented Stays
July, 2015
- Listing air3851163 First Activity
June 3rd, 2015
- 📅 2 Documented Stays
March, 2015
- 📅 1 Documented Stay
February, 2015
- 📅 1 Documented Stay
October, 2014
- 📅 1 Documented Stay
September, 2014
- Listing hma321.617910.1165419 First Activity
September 1st, 2014



Add a location Add dates Add guests

Help Sign up

Loft close to ocean & downtown!

★ 4.98 (52) · Superhost · [Victoria, British Columbia, Canada](#)

Share Save



Entire loft hosted by Roberta

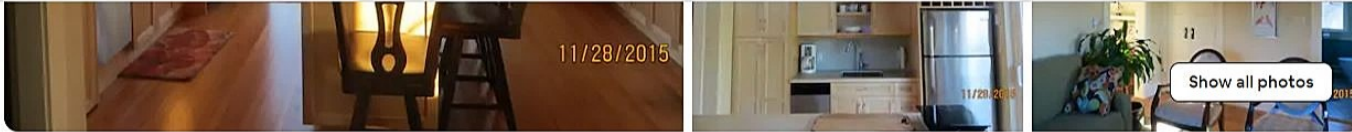
4 guests · 1 bedroom · 0 beds · 1 bath



★ Entire home
You'll have the loft to yourself.

Add dates for prices ★ 4.98 (52)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	




Entire loft hosted by Roberta

4 guests · 1 bedroom · 0 beds · 1 bath



 **Entire home**
You'll have the loft to yourself.

 **Sparkling clean**
5 recent guests said this place was sparkling clean.

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

 **Free cancellation for 48 hours**
After that, cancel up to 7 days before check-in and get a 50% refund, minus the service fee.

Add dates for prices ★ 4.98 (52)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	

[Check availability](#)

 [Report this listing](#)

This newly renovated loft is nestled in the elegant and trendy Cook Street Village (close to ocean and downtown!) This third floor loft suite sleeps up to 4 people (1 bedroom and queen pullout in living room) and is in a 100 year old heritage home!

The unit has its own entrance and we are taking extra precautions with sanitizing (due to Covid) to ensure that your stay feels safe and comfortable.

The space

The 100 year old house is surrounded by unique plants and flowers, and with your private patio you can enjoy the heat of the day and setting sun!

Waiting for you will be:

Photos Amenities Reviews Location

*BBQ

*Outdoor eating area

*The BEACH! (only 5 min walk away to popular Dallas Road)

*A popular Victorian pub (the Beagle) right across the street

*Grocery stores/shops/coffee/bakery/restaurants literally a stones throw away

This suite is located in the heart of Cook Street Village (you literally could not be ANY closer.) Cook Street Village is a hot spot for hipsters and locals to hang out/eat/shop/beach. People in Cook Street are generally always friendly (and happy.)

Beacon hill park is across the street and is one of Victoria's most beautiful city parks (with a renowned outdoor petting zoo.) Not to mention they have an unbelievable outdoor park, complete with a state of the art flying fox for kids (ok adults too....)

Cook Street boasts bakery's, organic grocery shops, a masterful butcher, a plethora of coffee shops, antique furniture shops, clothing stores etc. Not to mention every house in the area is like being transported back to the early 1900's.

You will be walking distance to downtown (10 minutes), and we will gladly provide you with directions! There is a constant flow of buses on the street nearby which can take you wherever you want to go in and around Victoria.

During your stay, there may be people living below you. The house manager is committed to ensuring you have the best, most relaxing stay possible!

*The house is stocked with spices and condiments, as well as basic toiletries.

Other things to note

Note: No stove/oven. However we do have new BBQ, state of the art hot plate and toaster oven.

Add dates for prices ★ 4.98 (52)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	

Check availability

 [Report this listing](#)

Photos Amenities Reviews Location

Amenities

- Free parking on premises
- Wifi
- Indoor fireplace
- Cable TV
- Washer
- Kitchen
- Air conditioning
- TV
- Laptop-friendly workspace
- Carbon monoxide alarm

Show all 25 amenities

Add dates for prices ★ 4.98 (52)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	

Check availability

[Report this listing](#)

Select check-in date

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

May 2020						June 2020							
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					1	2		1	2	3	4	5	6
3	4	5	6	7	8	9	7	8	9	10	11	12	13
10	11	12	13	14	15	16	14	15	16	17	18	19	20
17	18	19	20	21	22	23	21	22	23	24	25	26	27

X

★ 4.98 (52 reviews)

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



Taina
October 2018

We could not ask for a better "home away from home" in Victoria! Located in the trendy area of Cook Village, super close to restaurants and grocery stores, yet on a very quiet street... a perfect place for a Victoria holiday. The loft is super clean, with high-end furnishings and comfortable furniture. Our teenage daughter slept on the pull-out couch, and found it comfortable too. Good internet connection, and a very well equipped kitchen made it easy to feel right at home.



Phillip And Amanda
September 2018

The space was very nice and comfortable. The home had nice character and we enjoyed the large balcony. The area was amazing for walkability, the park, and restaurants. We would like to stay here again!



Terry
June 2018

Fantastic loft in a great location, close to the city yet in a quiet area. Host was great to deal with, would highly recommend this rental and would definitely stay there again.



Theresa
June 2018



Hosted by Roberta

Joined in August 2014

★ 61 Reviews Verified Superhost

Greetings! My name is Roberta. I have just moved to Victoria from Sidney on the island. Previously I lived in Yukon (3rd generation). I am so excited to be able to reside here Chapman House and meet and greet you! This the loveliest location in Victoria as you shall see. The ocean, - 4 blocks away, the park -2 blocks away, and Cook Street Village at your doorstep. I love to travel and know that this is one special place in this world that you must visit!

During your stay

My husband and I live on the middle floor suite- so we are only a knock or a call away. You will however have complete privacy in your secluded suite.

Roberta is a Superhost

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

Response rate: 100%

Response time: within a few hours

Contact host



To protect your payment, never transfer money or communicate outside of the Airbnb website or app.

Things to know

House rules

Check-in: After 3:00 p.m.

Cancellation policy

Free cancellation for 48 hours