

Business Licence (Short-term Rental) Appeal re 1044 Belmont Ave

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 Sandra and Douglas Fraser for the operation of a short-term rental at 1044 Belmont 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 appellants own the property at 1044 Belmont Avenue. The property is zoned R1-A (single family dwelling). Short-term rentals are not a permitted use under this zone.
8. The owners of the property have created a self-contained unit on the upper level. [See attached photos]
9. The unit consists of a living room, a kitchen with dinning area, two bedrooms, and two bathrooms. There is a shared entrance to the building, and two separate entrances for the upper and lower units. The guests have no access to the appellants' home (lower unit).
10. The appellants have rented the entire upper unit as a short-term rental since at least October 2002. Since 2012, the appellants have accepted over 149 short-term rental bookings via Airbnb, and possibly more with various other platforms such as HomeToGo. Attached is a copy of the Airbnb listing as well as the HomeToGo listing.

11. The appellants applied for and received a business licence to operate a short-term rental in 2018, 2019 and 2020. The licence was granted on the basis of the appellants' representation that the short-term rental was offered in the appellants' principal residence.
12. An inspection of the premises on January 8, 2021 revealed that the upper unit is operating as a self-contained dwelling and is not part of the appellants' principal residence.
13. On January 21, 2021, the Licence Inspector advised the appellants that their 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

14. 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.*

15. 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."

IV. Argument

16. 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. Due to the COVID-19 pandemic, many properties were not inspected until 2021. Therefore, the fact that the

appellant was issued a short-term rental business licence in 2018, 2019 and 2020 is not an indication that a 2021 licence should also be issued.

17. Although the appellants reside in the house at 1044 Belmont Ave, the premises that are rented as a short-term rental are not part of her principal residence, because the upper unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as “2bdrm/2bth fully equipped apartment occupying entire top floor of charming home” on Airbnb. [Matched Property Listing Attached]
18. It is clear that the upper unit at 1044 Belmont Ave is being offered as a self-contained dwelling unit: it has its own entrance, a kitchen, and separate bathrooms – it meets the requirements of the definition of “self-contained dwelling unit” in the *Zoning Regulation Bylaw*.
19. For all these reasons, the Licence Inspector submits that the appellants’ application for a short-term rental business licence had to be refused as it contravened the *Zoning Regulation Bylaw*.
20. 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.
21. The property at 1044 Belmont 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.
22. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 1044 Belmont Avenue upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED



Dated: February 17, 2021

Shannon Perkins, Manager of
Bylaw Services




TIMESTAMP

January 8, 2021
12:57 PM



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Tudor Cottage

★ 4.76 (149) · Superhost · [Victoria, British Columbia, Canada](#)

 Share

 Save



Show all photos

Entire guest suite hosted by Sandra

6 guests · 2 bedrooms · 3 beds · 2 baths



 Entire home


You'll have the guest suite to yourself.

 Enhanced Clean


Add dates for prices ★ 4.76 (149)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	


Photos Amenities Reviews Location

- 


Enhanced Clean

This host committed to Airbnb's 5-step enhanced cleaning process. [Learn more](#)
- 

Self check-in

Check yourself in with the keypad.
- 

Cancellation policy

Add your trip dates to get the cancellation details for this stay.
- 

House rules


This host doesn't allow smoking. [Get details](#)

In the historic Rockland area of Victoria, this charming home and garden offers the most comfortable accommodations on a quiet street, close to all amenities. Newly remodelled bathrooms offer a spa experience and the kitchen is completely equipped. Second bedroom can be made up with either two twin beds or one king, and the sitting room sofa converts to a double bed.


The space
2bdrm/2bth full... [read more](#)

[Contact host](#)

Sleeping arrangements

- 

Bedroom 1

1 king bed
- 

Bedroom 2

2 single beds

Add dates for prices

★ 4.76 (149)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	

Check availability

 [Report this listing](#)

Photos

Amenities

Reviews

Location

Enhanced Clean

This host committed to Airbnb's 5-step enhanced cleaning process. [Learn more](#)

Self check-in

Check yourself in with the keypad.

Cancellation policy

Add your trip dates to get the cancellation details for this stay.



About this space

In the historic Rockland area of Victoria, this charming home and garden offers the most comfortable accommodations on a quiet street, close to all amenities. Newly remodelled bathrooms offer a spa experience and the kitchen is completely equipped. Second bedroom can be made up with either two twin beds or one king, and the sitting room sofa converts to a double bed.

The space

2bdrm/2bth fully equipped apartment occupying entire top floor of charming home with wonderful garden, close to centre in historic Rockland, located on a quiet street but just steps from shopping, transit and a park with tennis courts and playground.

Guest access

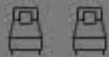
The guests have use of our lovely front garden.

Sleeping arrangements



Bedroom 1

1 king bed



Bedroom 2

2 single beds

Photos

Amenities

Reviews

Location

- 🅑

Free parking on premises
- 📶

Wifi
- 📺

Cable TV
- 🧺

Washer
- 👤

Hangers
- 🍴🔪

Kitchen
- 📺

TV
- 💻

Dedicated workspace
- 🧊

Iron
- 🔔

Carbon monoxide alarm

Show all 23 amenities

Select check-in date

Add your travel dates for exact pricing

February 2021							March 2021						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6		1	2	3	4	5	6
7	8	9	10	11	12	13	7	8	9	10	11	12	13
14	15	16	17	18	19	20	14	15	16	17	18	19	20
21	22	23	24	25	26	27	21	22	23	24	25	26	27
28							28	29	30	31			

Clear dates

Add dates for prices

★ 4.76 (149)

CHECK-IN Add date	CHECKOUT Add date
GUESTS 1 guest	

Check availability

🚩 [Report this listing](#)

Add dates for prices

★ 4.76 (149)

[Check availability](#)

★ 4.76 (149 reviews)

Cleanliness



4.8

Communication



4.9

Check-in



4.9

Accuracy



4.8

Location



4.9

Value



4.8



Leslie

January 2021

Fabulous accommodations great location lovely hosts.
 Couldn't do better!



Elizabeth

January 2021

Beautiful spot and perfect accommodation.



Mary

November 2020

The Tudor Cottage is a charming and comfortable place to stay. The hosts are friendly and very accommodating. Thanks for everything!



Ryan

October 2020

It was in a easy to access location to both downtown and the highway. They were very accommodating with our trailer that we had to park in their lot.



Debbie

October 2020

We had a lovely stay in this gorgeous two bedroom suite. The sea is within walking distance, about 2km away. The home is spacious and clean and we had everything we needed.



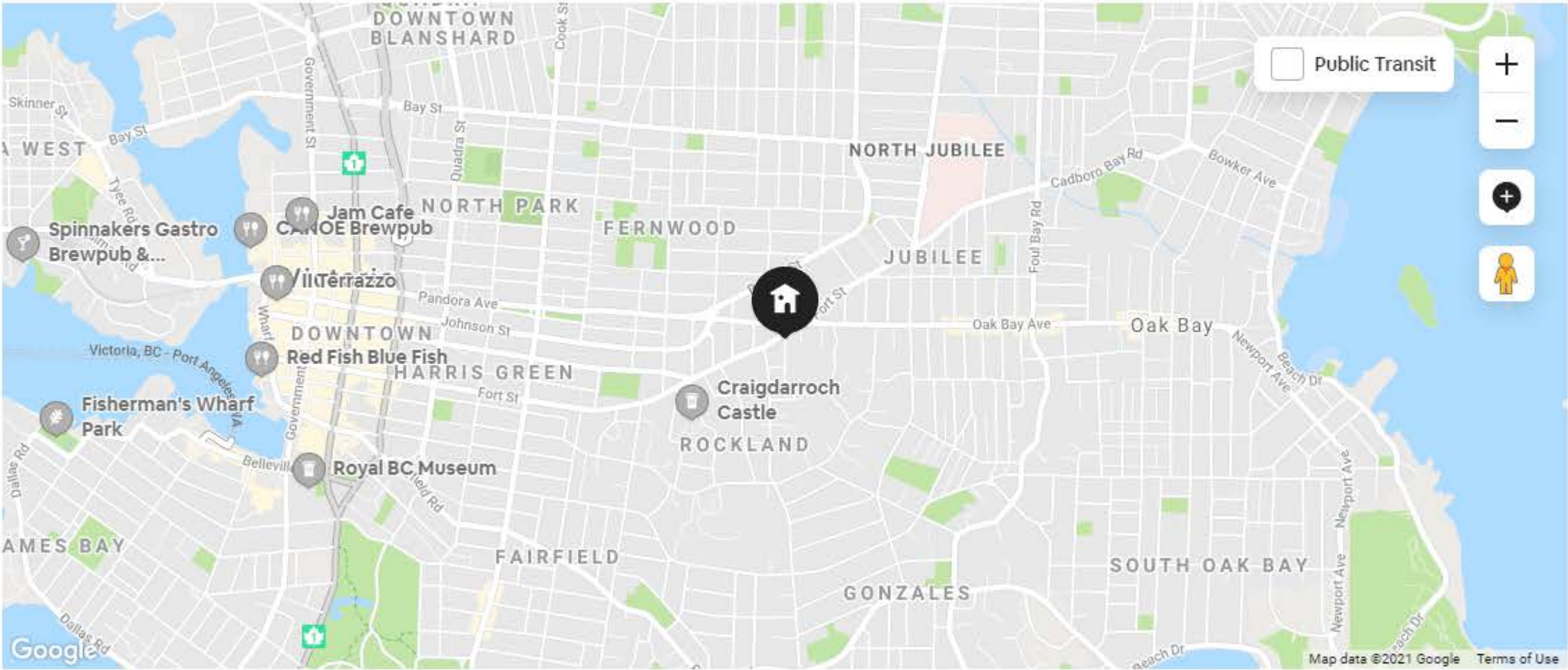
Naomi

September 2020

Lovely space above Sandra's home with use of the front courtyard and walking distance to everything you could need. Short drive to lovely beaches and great cafes. Public transport right outside the door!

[Show all 149 reviews](#)

Location



Victoria, British Columbia, Canada

We are surrounded by heritage homes with lovely gardens, and close to the Governor's residence and Craigdarroch Castle, both open to the public.

More about the location

Photos Amenities Reviews Location

Add dates for prices
★ 4.76 (149)
Check availability

Hosted by Sandra
Joined in August 2011

★ 149 Reviews ❤️ Identity verified 🏆 Superhost

Retired, gardener, love to cook

During your stay

We are always available if our guests need anything and often find a few minutes to chat in the garden, but our guests may be as private as they wish.

Sandra is a Superhost

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

Response rate: 100%
Response time: within an hour

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: Flexible
- 🕒 Checkout: 11:00 a.m.
- 🔑 Self check-in with keypad
- 🚭 No smoking
- 🐾 Pets are allowed
- ✅ Long-term stays (28 days or more) are allowed

Show all >

Health & safety

- ✳️ Committed to Airbnb's enhanced cleaning process. [Learn more](#)
- 🧻 Airbnb's social-distancing and other COVID-19-related guidelines apply
- ❗ No carbon monoxide alarm
- ✅ Smoke alarm

Show all >

Cancellation policy

Add your trip dates to get the cancellation details for this stay.

Add dates >