

Business Licence (Short-term Rental) Appeal re 408 Superior St

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 Garrett McClure and Annalea Sordi for the operation of a short-term rental at 408 Superior 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 appellants own and reside at the property at 408 Superior Street. The property is zoned R-2 (Two Family Dwelling District). Short-term rentals are not a permitted use under this zone.
8. The property contains a single-family home with a lower-level studio suite. The application for a short-term rental business licence was for the lower-level studio suite, which the appellants also use as their work studio. The appellants reside in the self-contained dwelling unit above the lower-level studio suite.
9. The lower-level studio suite consists of a living/dining room with a full kitchen, and a three-piece bathroom (no tub). It has a separate entrance from outside into the front hall. The upper-level unit has its own entrance directly from outside. There is an inside connection between the upper-level suite and the front hall that locks on the owner's side (cannot be accessed by STR guests). [See attached photos 4&5]
10. The lower-level studio suite contains its own kitchen facilities, with gas range stove, oven, dishwasher, fridge, kitchen sink, and counters and cabinets. [See attached photos 7&8]

11. The appellants have rented the upper-level unit as a short-term rental since at least September 2018. Between 2018 and 2021, the appellants have accepted 5 short-term rental bookings, with stays as short as 2 days. [See attached listing]
12. The appellants have never applied for a business licence for the use of their principal dwelling unit (the upper-level suite, as shown in the attached Airbnb Listing). A business licence application could be approved for this unit as it is their principal dwelling unit, but the application and appeal are pertaining to the lower-level studio suite exclusively.
13. On May 3rd 2021, the appellants applied for a business licence to operate a short-term rental at 408 Superior St, for the lower-level studio suite.
14. On May 11th 2021, a bylaw officer completed an inspection of the premises, which revealed that the lower-level studio suite is, in fact, a self-contained dwelling unit, and is not part of the appellant's principal residence. [See attached photos]
15. On May 31st 2021, the Short-Term Rental Coordinator advised the appellants that their application could be approved for the use of their principal dwelling unit, the upper-level suite, but that the lower-level studio suite would be refused. The appellants did not wish to move forward with the business licence for which they were eligible.
16. On June 16th 2021, the business 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

17. 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.*

18. 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

19. Although the appellants reside in the house at 408 Superior Street, the premises that are rented as a short-term rental, the lower-level studio suite, are not part of their principal residence, because the lower-level studio suite is an independent self-contained dwelling unit.
20. It is clear that the lower-level studio suite at 408 Superior Street is a self-contained dwelling unit: it has its own entrance, its own full kitchen, and full bathroom – it meets all the requirements of the definition of “self-contained dwelling unit” in 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. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 408 Superior Street upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED



Dated: September 2nd, 2021

Shannon Perkins, Manager of
Bylaw Services

Attached Images:

1. Official building plan on record with the City of Victoria (dated July 8, 1986)
2. East entrance to upper-level suite (top left opening on lower floor plan)
3. West entrance to front hall to lower-level studio suite (top right opening on lower floor plan)
4. Front hall looking to entrance to upper-level suite (hall not shown on plan)
5. Front hall door to upper-level suite (side opening to stairs on lower floor plan)
6. Front hall door to lower-level studio suite (not shown on plan)
7. Lower-level studio suite kitchen, with gas range (not shown on plan)
8. Lower-level studio suite kitchen (not shown on plan)
9. Lower-level studio suite bathroom (not shown on plan)
10. Lower-level studio suite bathroom (not shown on plan)
11. Lower-level studio suite bathroom shower (not shown on plan)
12. Lower-level studio suite murphy bed (not shown on plan)
13. Lower-level studio suite living room (not shown on plan)
14. Lower-level studio suite storage intended for personal possessions when unit would be rented (not shown on plan)
15. Staircase to upper-level suite (shown on plan)
16. Upper-level suite dining room (shown on plan)
17. Upper-level suite, entrance to kitchen from dining room (shown on plan)
18. Upper-level suite kitchen (shown on plan)
19. Upper-level suite kitchen (shown on plan)
20. Upper-level suite front sitting room (shown on plan)
21. Upper-level suite living room (shown on plan as bedroom 11'3 x 11' 4")
22. Upper-level suite bedroom (shown on plan next to kitchen)
23. Upper-level suite bathroom (shown on plan)
24. Upper-level suite bathroom (shown on plan)

SUPERIOR
24'6"

STREET

40'3"

STAIRS

PROPOSED FOR
HOME OCCUPANCY USE
OF INSTRUCTING BALLET.

LOWER FLOOR

BEDROOM
11'3" x 11'4"

FRONT SITTING
11'3" x 15'8"

STAIRS
DOWN

TOILET

BATHROOM

BEDROOM
11'3" x 9'3"

DINING ROOM
11'3" x 11'8"

KITCHEN
11'3" x 12'3"

STAIRS
DOWN

PORCH



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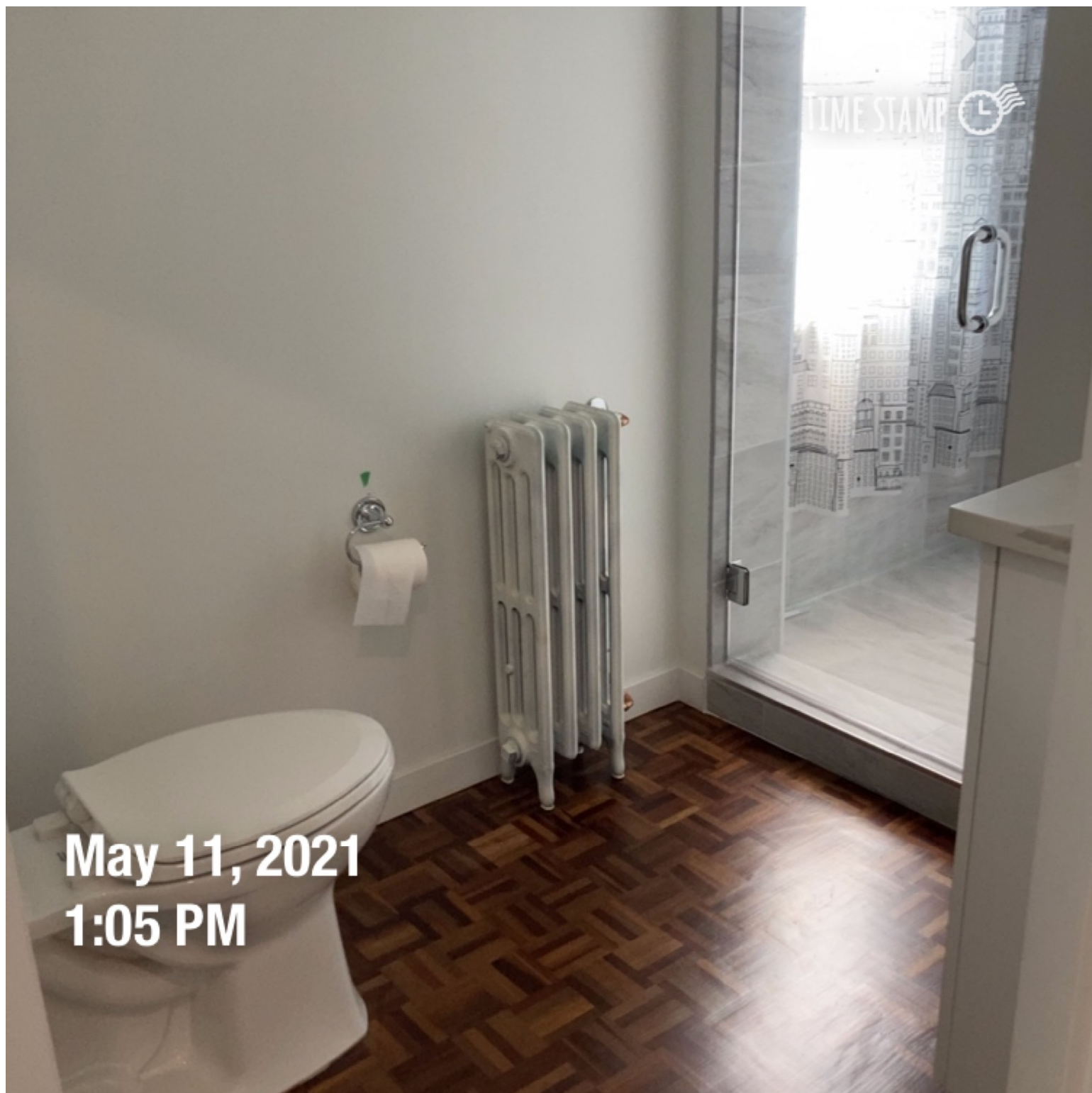
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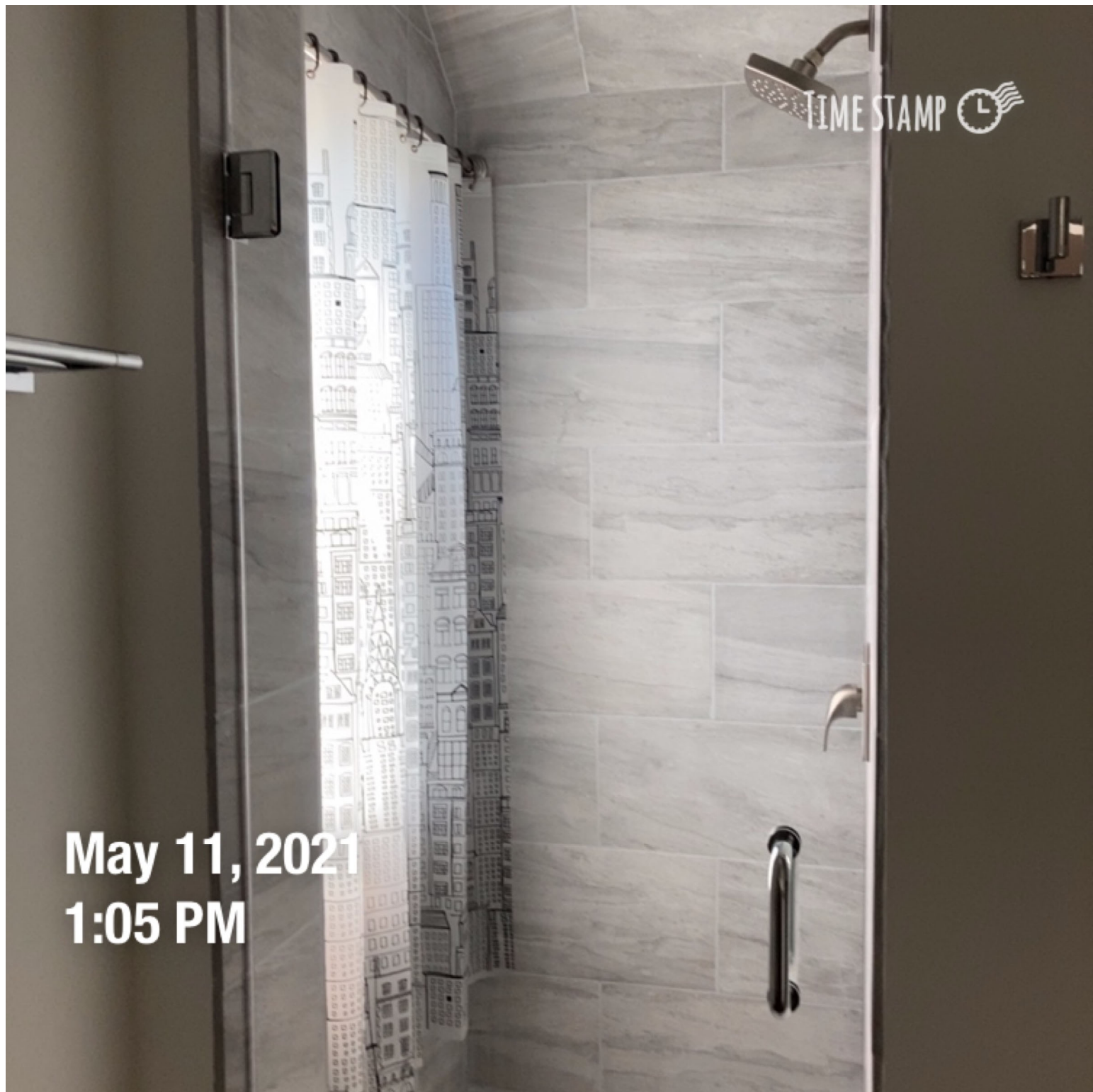




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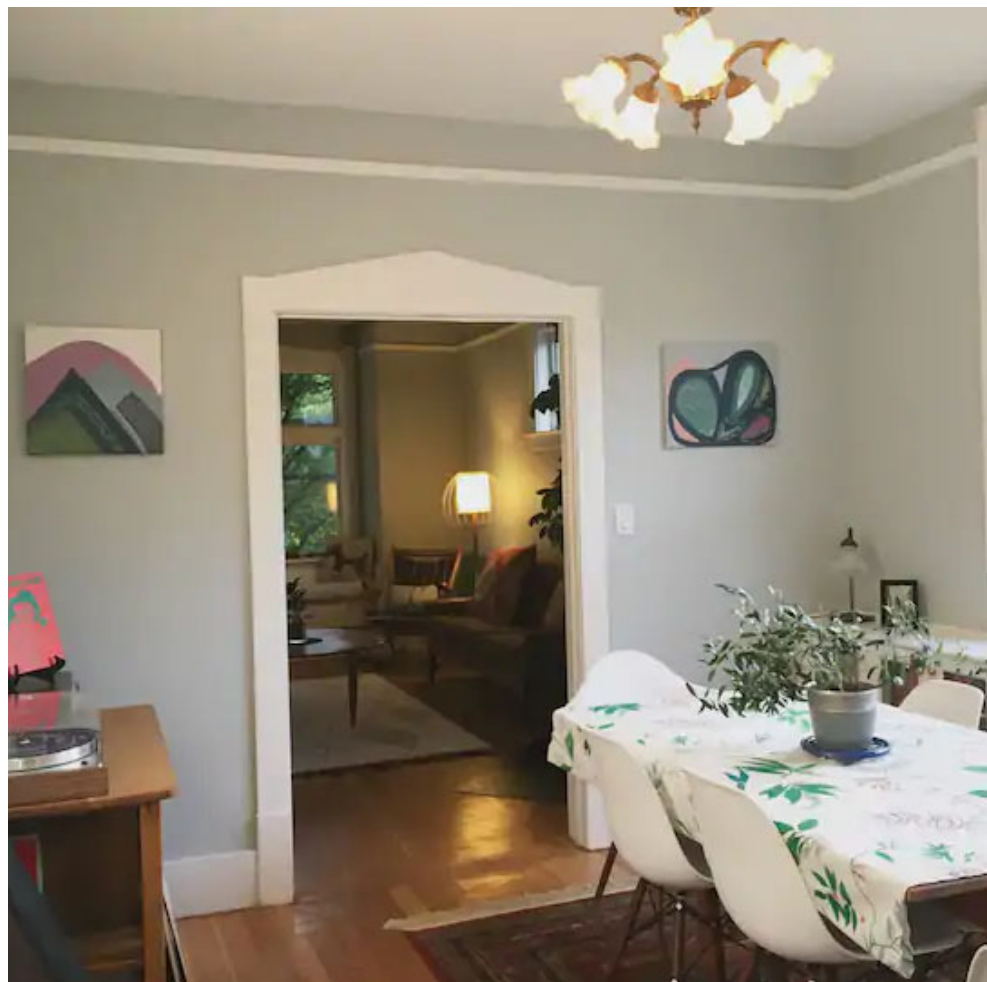
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James Bay Gem by Victoria's downtown harbour

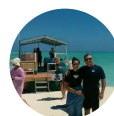
★ 4.80 (5 reviews) · [Victoria, British Columbia, Canada](#)

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Entire house hosted by Garrett

2 guests · 1 bedroom · 1 bed · 1 bath



**Entire home**

You'll have the house to yourself.

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

Garrett has 23 reviews for other places.

**House rules**This place isn't suitable for children under 12 and the host doesn't allow pets, parties, or smoking. [Get details](#)

This character house Gem is the perfect home-away-from-home for travellers who enjoy being central, walkable to the sites & downtown. James Bay is vibrant with fab coffee shops & restaurants, pubs, markets, a library, yoga studio & -- best of all -- is surrounded by the Pacific Ocean. Walk downtown, by the seaside & thru Beacon Hill Park to experience the best of Victoria where the flowers are in bloom nearly year-round! This Gem is for lovers of midcentury modern & plants. *Note: no freezer*

[Show more >](#)**\$169** /night

★ 4.80 (5 reviews)

CHECK-IN

05-21-2021

CHECKOUT

05-23-2021

GUESTS

1 guest

**Reserve**

You won't be charged yet

\$169 x 2 nights \$338Service fee \$48Occupancy taxes and fees \$37**Total** **\$423**[Report this listing](#)

Sleeping arrangements



Bedroom 1

1 double bed

Amenities

Kitchen



Wifi



TV



Dedicated workspace



Washer



Hangers



Dryer



Essentials



Hair dryer



Heating



Show all 40 amenities

2 nights in Victoria

May 21, 2021 - May 23, 2021

<

April 2021

May 2021

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

Clear c

★ 4.80 (5 reviews)

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

**Karen**

September 2020

This is truly a gem in James Bay! Close and comfy. Gorgeous clean relaxing home away from home. The space is really lovely for relaxing. I'd love to stay here again!

**Julia**

September 2020

Beautiful character home within walking distance to everything! House has an interesting history. Easy check in and lovely hosts who are looking to help with anything you need! Thanks again Garrett and Annie!

**Tori**

October 2018

Awesome location, spotlessly clean, everything you need in the kitchen. I had a wonderful stay here!

Meaghan



September 2018

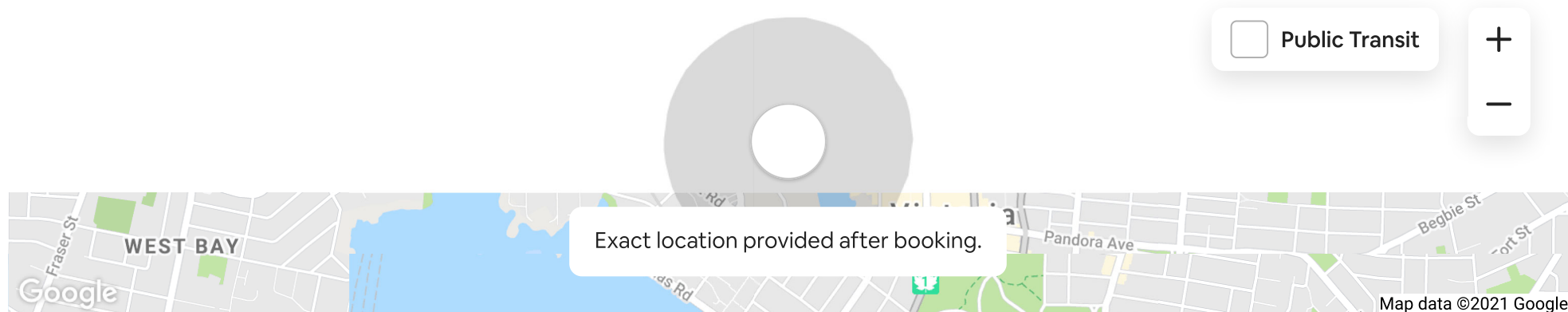
My husband and I had a lovely stay at Garrett's home. Although he was out of the country when we arrived, he was sure to arrange someone to meet us and was still very attentive ensuring that we were all settled in and had everything we needed. The location was excellent. Walking distance to many great restaurants and coffee shops as well as downtown shopping.

**Caity**

October 2019 · Weekend trip

Very cute and unique home! Great location, everything is within walking distance.

Location



Victoria, British Columbia, Canada

James Bay is right downtown & includes Victoria's picturesque Inner Harbour, Fisherman's Wharf, Otter Point breakwater, Holland Point & Beacon Hill Park.

The area is absolutely full of amenities, most of which you'll find on Menzies St.

- 3 grocery stores (Red Barn, Thrifty Foods, For Good Measure)
- Great restaurants (Sushi Matsuri, Nourish, Heron Rock Bistro, Floyd's Diner, Il Covo)
- The Bent Mast Pub
- Coffee shops (Discovery, Imagine Studio Cafe, Good Earth)
- Liquor stores (BCLS, Spinnaker's)
- A Farmer & Artists Market on the corner of Superior St & Menzies St (May-Oct).
- A brand new library
- Bank of Montreal
- Pharmacies (Pure, Pharmasave)
- Yoga & martial arts studios.

Walk 5 minutes to Fisherman's Wharf to:

- Admire the colourful float homes & harbour seals.
- Grab a bite to eat (Imagine Studio Cafe, Pirate Pizza, Finest at Sea, Barb's Fish 'n Chips, Smoke & Anchor, Jackson's Ice Cream).
- Join a whale watching or kayaking tour, if that's more your speed.

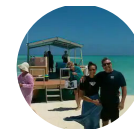
For the nature lovers:

- Stroll through Holland Point & Beacon Hill Park.
- Walk down Oswego St to the Ogden Point breakwater.
- The pathways & beaches along Dallas Road are beautiful -- the perfect place to have a picnic, dip your toes in the ocean & watch the sunrise/sunset. You'll likely spot some animals (seals, otters, sea lions, heron, Canada geese, ducks), & bald eagles & orca if you're really lucky.

More about the location

Hosted by Garrett

Joined in August 2011



★ 28 Reviews

✓ Identity verified

I'm a friendly, married Canadian from Victoria, BC. I work as a behavioural therapist with kids. I play music and enjoy traveling, sailing, cycling and eating good food.

During your stay

We'll be away during your stay, but Garrett's sweet mum Danya or our friend Viny will meet you with the key. We'll be available to answer any questions you have about the house or Victoria. Just send a message through the Airbnb app.

Language: English

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.



Not suitable for children and infants



No smoking



No pets



No parties or events

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Health & safety



Committed to Airbnb's enhanced cleaning process. [Learn more](#)



Airbnb's social-distancing and other COVID-19-related guidelines apply



Carbon monoxide alarm



Smoke alarm



Security Deposit - if you damage the home, you may be charged up to \$200

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Cancellation policy

Free cancellation until 3:00 PM on May 16

After that, cancel before 3:00 PM on May 21 and get a 50% refund, minus the first night and service fee.

[More details](#) >

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