

Dr. Francois Oosthuizen  
#105-1234 Wharf Street  
Victoria, BC, V8W 3H9

---

July 18, 2022

City of Victoria City Clerk  
1 Centennial Square,  
Victoria BC, V8W 1P6

To City of Victoria Clerk,

In response to the refusal of the Short-Term Rental Business Licence located at 105-1234 Wharf St, we are submitting the following for consideration in the appeal of this decision.

This application is made for a Short-Term Rental Licence for the principal residence of Dr. Francois Oosthuizen. The building is a Strata consisting of 58 individual dwellings, with the ownership split roughly in half between resident condos and the other half functioning as the Victoria Regent Waterfront Hotel & Suites. The land use district for 1234 Wharf St. is IHR regent district which previously allowed short-term rentals under the permitted use of transient accommodation.

Below we have revisited the requirements in The City of Victoria Bylaw No. 18-036 "Short Term Rental Regulation Bylaw" part 3, which are part of the regulations requiring to be confirmed by the Licence Inspector. Below each point in [blue text](#), we've provided our summary of the provided the information to confirm compliance with this section.

3 (1) A person must not carry on business as a short-term rental operator unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence Bylaw. [No short-term rentals are being advertised or hosted at the applicant address.](#)

(2) A person applying for the issuance or renewal of a licence to operate a short-term rental must, in addition to meeting the requirements of the Business Licence Bylaw:

(a) make an application to the Licence Inspector on the form provided for that purpose; [Application submitted.](#)

(b) pay to the City the applicable licence fee prescribed under subsection (3); [Licence fee paid with application submission.](#)

(c) provide, in the form satisfactory to the Licence Inspector, evidence that:

(i) the person owns the premises where the short-term rental will be offered, or [The appeal documents contain the current land title shows Dr. F. Oosthuizen as title holder since 2014.](#)

(ii) the owner of the premises where the short-term rental will be offered has consented to their use as a short-term rental; [Not applicable.](#)

(d) if the premises where the short-term rental will be offered are located within a strata lot, provide a letter from the strata council confirming that provision of

short-term rental does not contradict any bylaws of the strata corporation or applicable provisions of the Strata Property Act; and [Included with the application is the signed authorization form from Strata President Mark C. Stevens.](#)

(e) provide, in the form satisfactory to the Licence Inspector,

(i) evidence that the premises where the short-term rental will be offered are occupied by the operator as their principal residence; or [#105-1234 Wharf St has been the principal residence for Dr. F. Oosthuizen since his purchase of this property in 2014. The following documents have been provided to correlate this:](#)

- [State of land title dated from July 16, 2022.](#)
- [A current drivers licence \(expires Dec 26, 2024\) as part of the application package.](#)

(ii) provide the name and contact information for the responsible person in relation to the short-term rental premises. [Not applicable.](#)

Continuing to Part 4 of Bylaw 18-036, the power to refuse a Licence follows these guidelines:

4 The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,

(a) the applicant has failed to comply with section 3; or [Section 3 addressed above.](#)

(b) the short-term rental operation would contravene a City bylaw or another enactment. [Refer to the attached letter dated Apr 25 from Bylaw Officer #1007 Cheryl Smith.](#)

The below screenshot is taken from the notice sent to Dr. F. Oosthuizen, with the specific reasons of the licence rejection highlighted:

From: Cheryl Smith [REDACTED]  
Date: Mon, Apr 25, 2022 at 9:48 AM  
Subject: [105-1234 WHARF STREET](#)  
To: [REDACTED]

Dr. Oosthuizen,

As a follow-up to our discussion over the phone on April 22, 2022, you were informed that operating with a Short-Term Rental-Principal Resident Operator licence is not permitted and [you are in violation of operating requirements because the rental unit had been converted into a self-contained suite during rentals.](#) This rental then does not conform to the eligibility requirements which state that if a Short-Term rental is a Principal residence then the rental must be the whole home on occasion (for example, when you are on vacation or up to two bedrooms in you home with a shared kitchen and living spaces. [Having a locked and separated living space for yourself, which then makes a self-contained dwelling space for Short-Term rental is not permitted as per the operating requirements.](#) The Principal Resident Short-Term Licence #1033368 was issued under the belief the requirements were being met. With further inspection this was found to be not the case. The advertisement for less than 30 days was then asked to be removed. Another option if you wish to rent, is a Long-Term rental-30 nights minimum booking. This would require you to apply for the new licence type; Non-Transient One Bedroom. The fee for this licence is \$ 15 per unit.

To provide context for the layout at 105-1234 Wharf St, please see the floor plan below.

- The Green shading highlights the bedroom/ensuite bath that is occupied by Dr. Oosthuizen.
- The Blue shading shows the common living space.
- The Orange shading shows the second bedroom/ensuite bath available for short term rental guests.



The locked door described by the Bylaw Officer is the door that separates the green and blue areas on the plan above. As defined in the CoV Bylaw - Schedule A – Definitions, a “Self-Contained Dwelling Unit” is defined as containing, an entrance, kitchen, and bathroom facility. Based on the suite configuration shown above, there is only the possibility of one Self-Contained Dwelling Unit in this two-bedroom condominium.

Revisiting the Bylaw Officer’s comment:

*“Having a locked and separated living space for yourself, which then makes a self-contained dwelling space for Short-Term rental is not permitted as per the operating requirements”*

Questions regarding this interpretation:

- How is the “locked and separated living space for yourself” limitation defined in the context of short-term rentals?
- Was the intent to consider the locked bedroom a “self-contained suite”? If so, it would be lacking a kitchen to meet this definition.
- Is there a defined limitation on how owners can secure their own space or belongings when hosting guests in their home?
- If the door between the green bedroom and blue hallway not be locked, would the licence then be approved?
- If another scenario, if the short-term guest’s space be contained to only the green area, would the application then be approved since this area doesn’t fulfill the definition of a “self-contained unit”?

It is obvious to see the untenable situation that would be created by not being able to lock a personal bedroom when hosting unknown guests in your home. It is our perspective that because of the unique feature of Dr. Oosthuizen's secondary entry the bedroom, his application is being unfairly perceived that a secondary unit is being created within his condo. However, regardless how the inspector redefines the existing space's boundaries, this condo can only provide *one* self-contained dwelling unit.

The personal situation of Dr. Oosthuizen's must be considered as relevant context regarding why the side bedroom shown in green on the floorplan was allocated for his personal bedroom / office. Dr. Oosthuizen provides medical services for two separate medical clinics in the Greater Victoria Area. In addition to these commitment to these clinics, he also works providing virtual care for Telus Health most evenings until 9pm or later. These appointments are done through video calls on a workstation that is currently setup in the bedroom shaded in green. These medical consults discuss confidential information that is only privy between doctor and patient. If this were overheard by guests while they were occupying the living area, it would be both inconsiderate and unprofessional to subject them to these discussions. If Dr. Oosthuizen were to occupy the orange bedroom, the sound would transfer easily between the uninsulated bedroom wall and the living room, having exactly this effect. Considering the opposite situation, if guests are enjoying socializing in the living room, the detriment would reflect on the virtual consults for Dr. Oosthuizen. Either situation is not acceptable, and the green bedroom was chosen to provide both a greater distance and limiting the shared walls to buffer any possible noise transfer. Due to the requirement to secure both his personal and professional effects, leaving this living space unsecured is not an option.

In the context of this application, we also acknowledge the reasons these bylaws were changed in September 2017 to limit short-term rentals in the City of Victoria. We are fully aware of the housing shortage that is facing both existing and future residents of the city. The proliferation of short-term rentals that reduce supply to long term residents create a high social cost that we do not want to contribute to. The application for this licence is not a situation where a potential long-term rental unit is being taken away from the city's inventory. Dr. Oosthuizen has lived in this location for nearly a decade and is requesting the opportunity to share his home with visitors. There is no potential for an additional self-contained suite to be created within the configuration of his home at #105-1234 Wharf St, and this should not be ruled upon in the same manner as a dwelling that could potentially house an additional self-contained dwelling unit. We believe this rejection to be a deviation of the intent of the STR bylaws which allow principal resident licences and will unfairly limit Dr. Oosthuizen in the flexibility he should be permitted with use of his home.

We will conclude our appeal summary with a snapshot of the Committee of the Whole Report from September 19, 2017 which provided the framework for the rules to permit STR use in all principal residences, which is what we are seeking to be followed in this circumstance.

In summary, the proposed business regulations are:

1. Permit STR use in all principal residences (i.e. the place where an individual usually lives and conducts their daily affairs). This includes owners and renters.
2. Require STR operators to obtain a business licence
3. Require STR operators to comply with operating requirements

Dr. Francois Oosthuizen  
#105-1234 Wharf Street  
Victoria, BC, V8W 3H9

---

Thank you for your time and consideration to this matter.

A handwritten signature in black ink, appearing to read 'F. Oosthuizen', with a stylized flourish at the end.

Dr. Francois Oosthuizen  
#105-1234 Wharf St.

&  
Dan Korchinski  
Acting as agent

Supplemental Documents:  
01 – Short Term Rental Application  
02 - Bylaw rejection response  
03 - State of Title



# SHORT-TERM RENTAL BUSINESS LICENCE APPLICATION

Legislative & Regulatory Services Department  
Bylaw & Licensing Services Division  
625 Pandora  
Victoria, BC V8W 1P6

Application **must** be completed in full. You can submit your completed application and supporting documentation via email to [str@victoria.ca](mailto:str@victoria.ca), mail it to the above address, or fax it to 250.361.0205. All related documentation and information is available at [www.victoria.ca/str](http://www.victoria.ca/str). For information or assistance completing this form, please contact Bylaw Services at 250.361.0215 or email [str@victoria.ca](mailto:str@victoria.ca).

## RESIDENCE TYPE (please check all boxes that apply):

- ☐ Single Family Dwelling
 ☐ Duplex  
☐ Single Family Dwelling with Suite
 ☐ Triplex  
☒ Condominium/Apartment
 ☐ Other (please specify): \_\_\_\_\_  
☐ Update my information (if you need to make any changes to your existing application)

For Definitions please see Section 2 of the Short-Term Rental Regulation Bylaw No. 18-036.

## SHORT-TERM RENTAL ADDRESS:

Unit Number: 105 Address: 1234 Wharfstreet Victoria  
Postal code: V8W 3H9

## If your property is already advertised online, please list all listing IDs.

i.e. [Airbnb.ca/rooms](http://Airbnb.ca/rooms).LISTING\_ID or [vrbo.com](http://vrbo.com)/LISTING\_ID

Not yet

## Is this your Principal Residence (the usual place where an individual makes their home)?

- ☒ Yes  
☐ No

If 'Yes', please attach two items verifying principal residence to confirm this declaration (Proof of principal residence must include a copy of government issued identification, as well as one other item such as a recent utility bill or mail from Medical Services Plan or Canada Revenue Agency)

## Do you own this residence?

- ☒ Own  
☐ Rent

If there is more than one owner on title, or if you rent the above address, you are required to complete the **Owner Consent Form** within this application

Is this residence part of a Strata?

- ☒ Yes  
☐ No

If part of a Strata, complete the *Strata Consent Form* within this application

**OPERATOR** (can be the owner, tenant, or management company; Check all that apply):

**TYPE:**

- ☒ **Sole Proprietors name:** (if you plan to operate the business on your own, either under your own name or a business name):

*Francois Oosthuizen*

- ☐ **Partnership Name(s):** (if you plan to operate the business with one or more partners):

- ☐ **Limited / Incorporated Company Name:** (If you plan to operate the business as a separate legal entity, separate from yourself and your personal assets):

**MAILING ADDRESS:** \_\_\_\_\_

**PHONE NUMBER:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

**INCORPORATION INFORMATION:** (if applicable)

- ☐ **Incorporation Number:** \_\_\_\_\_

If applying as a Limited/Incorporated Company, have you included documents of Incorporation and Notice of Articles?

- ☐ Yes  
☐ I authorize the City of Victoria to obtain the documents of Incorporation and Notice of Articles and acknowledge that a **\$30 fee** plus applicable taxes will be charged by the City of Victoria for this service [Administrative Fees Bylaw No. 04-40].

**MANAGEMENT INFORMATION:** (if applicable)

- ☐ **Management Company:** \_\_\_\_\_ **Contact Name:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Business Licence No.** \_\_\_\_\_

**DESIGNATED RESPONSIBLE PERSON** (if managed by an agency, the designated responsible person can be a representative from this agency):

When the Operator is not available, this person serves as the primary contact for the short-term rental (a person who, at all times that the short-term rental is operated, has access to the premises and has the authority to make decisions in relation to the premises and the rental agreement).

Name: Rene KorlinskiEmail: 

Company Name (if applicable): \_\_\_\_\_

Address: 108 - 2661 Deville Road  
Victoria V9B 0G6Phone Number: 403 702 6193☒ The above Responsible Person has consented to the use of his/her contact information.



## Owner Consent Form Short-Term Rental

Legislative & Regulatory Services Department  
Bylaw & Licensing Services Division  
City of Victoria  
625 Pandora  
Victoria, BC V8W 1P6

This is to certify that I Francois Oosthuizen, as the legal owner of  
(Owner)  
105-1234 Wharf Str, have read the Short-Term Rental Business Licence  
(address)  
application form submitted by Francois Oosthuizen and consent to the above  
(Operator)  
premises being used as a Short-Term Rental in compliance with City of Victoria bylaws.

I, the undersigned, confirm as the business owner(s)/operators(s) that the above noted information is true and will comply with ALL relevant provisions of the Short-Term Rental Regulation Bylaw No. 18-036 and all other applicable City Bylaws.


OWNER'S NAME:	Francois Oosthuizen	
OWNER'S SIGNATURE:		DATE: 2021-12-15
OWNER'S NAME:		
OWNER'S SIGNATURE:		DATE:
OWNER'S NAME:		
OWNER'S SIGNATURE:		DATE:

\*If more than one (1) registered owner, all owners are required to sign the Owner Consent Form.



**Strata Council Consent Form  
Short-Term Rental**  
Legislative & Regulatory Services Department  
Bylaw & Licensing Services Division  
City of Victoria  
625 Pandora  
Victoria, BC V8W 1P6

This is to certify that I \_\_\_\_\_, as **Strata Council Executive Member** for  
(Strata Council Executive Member; Must not be same as Operator)  
\_\_\_\_\_, have read the **Short-Term Rental Business Licence**  
(Address)  
application form submitted by \_\_\_\_\_. I can confirm that our Strata has no  
(Operator)  
bylaws prohibiting the above address from operating as a Short-Term Rental in compliance with  
City of Victoria bylaws.

<b>OPERATOR'S NAME:</b>		
<b>OPERATOR'S SIGNATURE:</b>		<b>DATE:</b>
<b>STRATA COUNCIL EXECUTIVE MEMBER'S NAME:</b>	MARK C. STEVENS.	
<b>STRATA COUNCIL EXECUTIVE MEMBER'S SIGNATURE:</b>		<b>DATE:</b> Dec 22/2021.

## **SHORT-TERM RENTAL BUSINESS LICENCE – IMPORTANT INFORMATION**

Completion of this application does **not** guarantee approval of application. Approved licenses will be issued **only** upon receipt of payment of the Short-Term Rental Business Licence fee. Operating a Short-Term Rental without a valid licence is an **offence** for which penalties are prescribed. A person found guilty of an offence under this Bylaw is subject to a fine of not less than \$250.00 and not more than \$500.00 for every instance that an offence occurs or each day that it continues (*Short-Term Rental Regulation Bylaw No. 18-036; Sec. 8*).

Licenses are effective from January 16 to January 15 of the following year, are non-transferable, and the licence fee(s) paid are non-refundable. Short-Term Rental Business Licenses must be re-applied for at the start of each calendar year, and must include up-to-date supporting documentation.

Please see website for:

- ❖ *Short-Term Rental Regulation Bylaw No. 18-036*
- ❖ *Schedule D – Home Occupations; Zoning Regulation Bylaw No. 80-159*

**Privacy Notification:** This information is being collected for the purpose of determining the Operator's eligibility for a Short-Term Rental Business Licence in the City of Victoria pursuant to its Bylaw(s). In providing this information, you have consented to its use for the above-described purpose and declare that all the information provided herein is correct. This information may be shared with applicable City of Victoria departments and related agencies for the purpose of required inspections and approval of this licence application. The legislated authority to collect your personal information is Section 26 (c) of the *Freedom of Information and Protection of Privacy Act* and Section 3 (2) of the *Short-Term Rental Regulation Bylaw*. If you wish to obtain further information regarding the collection of your personal information, please contact the Information Access and Privacy Analyst Archives and Records Management, 1 Centennial Square, Victoria, BC V8W 1P6 250.361.0347 or email [foi@victoria.ca](mailto:foi@victoria.ca).

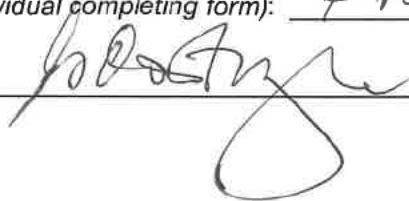
### **Declaration:**

I, the undersigned, confirm as the business owner(s)/operators(s) that the above noted information is true and will comply with ALL relevant provisions of the *Short-Term Rental Regulation Bylaw No. 18-036* and all other applicable City Bylaws. Further, failure to meet these obligations may result in the business licence being suspended or reported to City Council for possible revocation. **I understand I cannot commence business until such time as a Short-Term Rental Business Licence has been approved, paid in full, and issued.**

Operator's Name (*Individual completing form*):

Francois Dosthuizen

Operator's Signature:

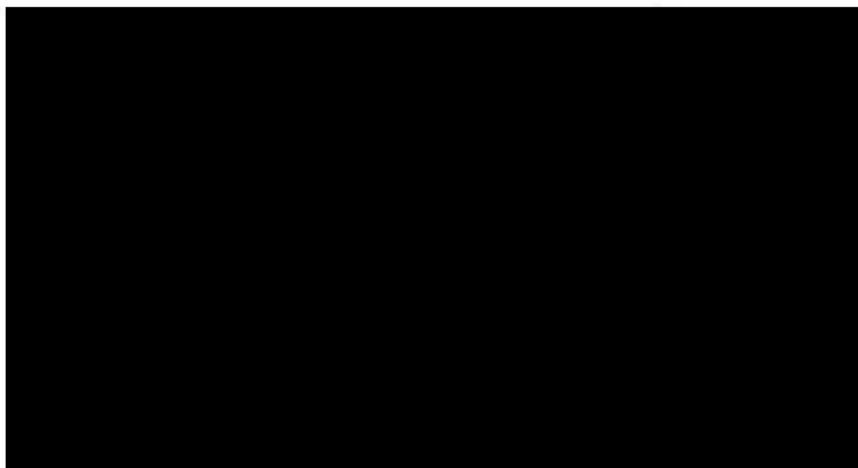


Date Signed:

15-12-2021

Licence # (office use only)

Date Stamp (office use only)





D K [REDACTED]

---

**Fwd: 105-1234 WHARF STREET**

---

**Francois Oosthuizen** [REDACTED]

Tue, Apr 26, 2022 at 7:56 AM

To: [REDACTED]

----- Forwarded message -----

From: **Cheryl Smith** [REDACTED]

Date: Mon, Apr 25, 2022 at 9:48 AM

Subject: [105-1234 WHARF STREET](#)

To: [REDACTED]

Dr. Oosthuizen,

As a follow-up to our discussion over the phone on April 22, 2022, you were informed that operating with a Short-Term Rental-Principal Resident Operator licence is not permitted and you are in violation of operating requirements because the rental unit had been converted into a self-contained suite during rentals. This rental then does not conform to the eligibility requirements which state that if a Short-Term rental is a Principal residence then the rental must be the whole home on occasion (for example, when you are on vacation or up to two bedrooms in your home with a shared kitchen and living spaces. Having a locked and separated living space for yourself, which then makes a self-contained dwelling space for Short-Term rental is not permitted as per the operating requirements. The Principal Resident Short-Term Licence #1033368 was issued under the belief the requirements were being met. With further inspection this was found to be not the case. The advertisement for less than 30 days was then asked to be removed. Another option if you wish to rent, is a Long-Term rental-30 nights minimum booking. This would require you to apply for the new licence type; Non-Transient One Bedroom. The fee for this licence is \$ 15 per unit.

I have attached three links for your information and review if you wish.

You can advertise your listing with an approved Non-Transient Business Licence, as long as it is listed for 30 days or more and displayed in your listing. Otherwise, a listing for less than 30 days without a Short-Term Rental Business licence would be a violation of the City's *Short-Term Regulation Bylaw*.

3 (1) A person must not carry on business as a short-term rental operator unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence Bylaw.

As you mentioned, you have removed your listing and will cease Short-Term rentals while you review your options. If you have any further questions, please contact me at 250-686-2472 and I will do my best to assist you.

[BUSINESS LICENCE APPLICATION \(victoria.ca\)](#)

[Short-Term Rentals | Victoria](#)

[Short-term Rentals Info DIGITAL.pdf \(victoria.ca\)](#)

Regards,

Cheryl Smith

Bylaw Officer #1007, Bylaw & Licensing Services  
Legislative and Regulatory Services Department

City of Victoria

#12 Centennial Square

Victoria, BC V8W 1P7

**T** 250.361.0215 **C** 250.686.2472



The City of Victoria is located on the homelands of the Songhees and Esquimalt People.

LAND TITLE OFFICE  
**STATE OF TITLE CERTIFICATE**  
Certificate Number: STSR3610958

Daniel Korchinski  
108 - 2661 Deville Rd  
Victoria BC V9B0G6  
Pick up by: Daniel Korchinski

A copy of this State of Title Certificate held by the land title office can be viewed for a period of one year at <https://apps.ltsa.ca/cert> (access code 730476).

I certify this to be an accurate reproduction of title number **CA3592269** at 19:51 this 16th day of July, 2022.

  
\_\_\_\_\_  
REGISTRAR OF LAND TITLES



---

<b>Title Issued Under</b>	STRATA PROPERTY ACT (Section 249)
<b>Land Title District</b> Land Title Office	VICTORIA VICTORIA
<b>Title Number</b> From Title Number	CA3592269 EH70
<b>Application Received</b>	2014-02-14
<b>Application Entered</b>	2014-08-22
<b>Registered Owner in Fee Simple</b> Registered Owner/Mailing Address:	FRANCOIS OOSTHUIZEN, FAMILY PHYSICIAN 105 1234 WHARF STREET VICTORIA, BC V8W 3H9
<b>Taxation Authority</b>	Victoria, The Corporation of the City of

LAND TITLE OFFICE  
**STATE OF TITLE CERTIFICATE**

Certificate Number: STSR3610958

**Description of Land**

Parcel Identifier: 000-847-577

**Legal Description:**

STRATA LOT 7, OF LOTS 200A, 200B, 201 AND 203, VICTORIA CITY, STRATA PLAN 962, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM 1

**Legal Notations**

TO PART FORMERLY PART OF LOT 2, PLAN 5326, EXCEPT THAT PART IN PLAN 27127, IS ANNEXED EASEMENT 118034G OVER LOT 3, PLAN 5326

HERETO IS ANNEXED, INTER ALIA, EASEMENT K66937 OVER PART OF FORMER LOT 203, VICTORIA CITY, SHOWN INCLUDED WITHIN THE HEAVY BLACK LINE ON PLAN 35972 09.07.1981

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE EV1444

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE EX17634

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB389415

**Charges, Liens and Interests**

Nature: EASEMENT  
Registration Number: E10856  
Registration Date and Time: 1975-12-09 14:56  
Remarks: PART, INTER ALIA, FORMERLY PART OF LOT 1, PLAN 28188, APPURTENANT TO LOT 3, PLAN 5326

Nature: EASEMENT  
Registration Number: K71251  
Registration Date and Time: 1981-07-10 10:26  
Remarks: PART INTER ALIA, APPURTENANT TO STRATA LOTS 1, 2 AND 3, STRATA PLAN 490, AND LOT 2, PLAN 28188

Nature: MORTGAGE  
Registration Number: CA5963961  
Registration Date and Time: 2017-05-01 10:09  
Registered Owner: ROYAL BANK OF CANADA

**Duplicate Indefeasible Title**

NONE OUTSTANDING

**Transfers**

NONE

LAND TITLE OFFICE  
**STATE OF TITLE CERTIFICATE**

Certificate Number: STSR3610958

**Pending Applications**

NONE

*This certificate is to be read subject to the provisions of section 23(2) of the Land Title Act(R.S.B.C. 1996 Chapter 250) and may be affected by sections 50 and 55-58 of the Land Act (R.S.B.C. 1996 Chapter 245).*