



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849

VOICE (802) 863-0442

FAX: (802) 652-4221

MEMORANDUM

TO: Development Review Board

FROM: Jeanne Francis, Zoning Specialist, City of Burlington

DATE: June 17, 2014

RE: Appeal of Administrative Decision; regarding Notice of Violation
269613; 17 Eastman Way

LOCATION: 17 Eastman Way

TAX LOT # 056-2-021-000

APPELLANT/REPRESENTATIVE:

Lois Helland/Randy Amis
400 Fox Moor Lane
Eau Claire, WI 54701

DESCRIPTION OF PROPERTY:

- Single family home.
- Built in 2005
- 6 Rooms; 2 bedrooms, 2 Bath
- Gross SF: 5,292
- Finished SF: 2564
- ZONE: WRL
- WARD 5

NOTICE OF VIOLATION #269613:

Change of use: conversion of single family residence to a hotel without an approved zoning permit.

DETERMINATION BY THE CITY OF INVESTIGATION UNDER APPEAL

- June 25, 2013 property owner transferred to Lois Helland; property sold as a single family home.
- Property is listed on the Air BnB Website for \$325 per night.
- August 2013, comment from a guest. This supports claim that the illegal rental of the lodging has occurred at least since that time.
- November/December 2013 neighbors started filing complaints with the Code Enforcement Office that Premises was being rented out on a nightly/weekly basis that resulted in excessive noise.
- December 4, 2013 a notification/warning letter was sent to Lois Helland, owner of property, informing her of complaints from neighbors and providing an opportunity to refute the allegations.
- December 12, 2013 received a response from Mark Helland asking for an additional week to refute the allegations; one week extension was granted.
- December –additional complaints continued.
- April 2014 Advertisement on Air BnB website, confirmed premises remained rented on a day by day basis (with a minimum 3 day stay); calendar indicates Premises is fully booked until August 2015.
- April 2014 Air B&B discloses that Brooke and Alissa Monte manage the property and live nearby.
- The structure is being used as a “hotel” based on the Comprehensive Development Ordinance definition of a “Hotel, Inn or Motel”:

***Hotel, Inn or Motel:** An establishment providing for a fee three or more temporary guest rooms and customary lodging services, and subject to the Vermont rooms and meals tax.*

- Owner does not have a zoning permit to operate a hotel at Premises.
- A hotel, motel or Inn is not a permitted use in the WRL (waterfront residential low density) zoning district.

APPEAL:

Appeal of an Administrative Decision; i.e. Appeal of Notice of Violation 269613 (through Code Enforcement Office) pertaining to the following:

- Notice of Violation 269613 issued May 5, 2014
- Appeal Date: May 20, 2014; appeal filed on May 15, 2014
- Appeal filed in accordance with Article 12.2.2 of the CDO

APPELLANT Postion (see attached appeal statement):

1. Use of property is a permitted use, single family residence, in a WRL district
2. Use is inconsistent with Hotel, Inn or Motel; as defined in Article 13 Sec. 13.1.2 of the CDO
3. Residence is one dwelling unit, not 3, or rooms.
4. There is no hotel lodging servies such as maid service, room serivce, valet parking, concierge services or other “customary lodging services” provided
5. Owner isn’t occupying the premises at the time of the rentals nor is a manager
6. There is nothing to distinguish the use being made of the property now from any other rental of a single family residence on the lake.

7. The ordinance definition of a hotel does not apply to the use of this property.
8. Appellant request a determination that there is no zoning violation in this matter.

RESPONSE:

1. Agree single family residence in a WRL district is a permitted use.
2. Residence is advertised/rented out on daily or weekly basis. Guests are short-term (less than 30-days) and pay for occupancy at Premises. Comments in Advertisement refer to as many as 6 people renting at any given time (see Airbnb comments below). Lodging services are provided (see #4 below). Accommodations are subject to Vermont rooms and meals tax. Some Airbnb listed accommodations specifically state whether tax is included or not. This particular advertisement does not; therefore, not known if they have paid the required rooms and meals taxes.
3. Residence is a single dwelling unit with 6 rooms (listed in City records as 2 bedrooms – Airbnb advertisement is for 3 bedrooms offering the den as a 3rd bedroom option). Note that it has not been determined that the den meets minimum life safety codes for use as a rental bedroom – for example does it have the required hard wired individual smoke/CO2 detectors or egress windows?). Comments in advertisement state as many as 6 (unrelated) people can and have stayed there at one time. This does not comply with the allowable occupancy of a single family unit in the WRL zone.
4. The appellant's position that "customary lodging services" are not provided does not take into account the present variety of short term lodgings that can now be found all over the world. All hotels range in services from the very basic bed and TV, to luxury hotels with a great variety of services. The current situation certainly provides more services than one would find in house rentals. Many smaller lodgings that are now of the norm do not provide maid service on a daily basis nor room service. Advertisement does indicate fresh linens are provided prior to arrival, coffee is provided, kitchen is stocked, land line phone is available for incoming/outgoing calls, shampoo is provided, bottle of wine. Managers are available via phone (similar to picking up the phone in a hotel room). The advertisement does not indicate whether customers are responsible for cleaning the house prior to leaving the Premises, thus it appears that the managers provide this service (i.e. maid service). Advertisement also states managers greet customers upon arrival, open the door, show the house, and leave the key (similar services to a concierge). These services are not required for a single family home being used as neither a "family" nor a rental unit. See Airbnb Web Site comments below.
5. Agree, owner is not occupying home, managers live up the street; but when there are guests, managers are available by phone, same as a hotel; i.e. pick up the phone to call front desk.
6. A major issue is that if, as the appellants claim, it is being rented as any other single family rental, then it needs to meet minimum housing codes, and occupancy must be limited to a "family" as defined in the CDO. This limits the number of unrelated occupants. Renting to unrelated, unknown individuals for a short time for a fee may be construed as a public building.

7. The City believes the short term compensated use complies with the Hotel definition. It is an establishment rented for a fee,, allowing up to six short-term unrelated guests to stay at one time, customary lodging services are provided, and the use, less than 30-days is subject to Vermont Rooms and Meals Tax (no evidence if the tax is paid).

Web address: <https://www.airbnb.com/rooms/1200930?s=xCaJ>

RELIEF REQUESTED BY APPELLANT:

A determination from the DRB that there are no zoning violations in this matter.

CITY SUBMITTALS

- Appeal
- Air BnB Advertisement – see below
- Notice of Violation

CONCLUSION:

- **CDO definitions:**
 - ***Bed and Breakfast:*** *An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests. Residence is not owner-occupied, does comply with short-term lodging, morning meals are not served.*
 - ***Boarding House:*** *A building or premises where rooms are let to individuals for compensation for a period of time greater than thirty (30) days, and where meals may be regularly served in a common dining area. Hotels, motels, apartment houses, bed and breakfasts, dormitories, sorority, fraternities and historic inns, shall not be considered boarding houses. Individual rooms are not rented for compensation, the entire structure is. In this case, the period of rental is less than 30 days with the entire house rented. There is no common dining room for meals..*
 - ***Commercial:*** *Any activity involving the purchase, sale, storage, or other transaction regarding the disposition of any article, substance, commodity, or services for consideration and profit; and the maintenance or conduct of offices, professions, dwelling rooms and units, or recreational or amusement enterprises conducted for profit. This definition supports a change in use, residential use to commercial use as the unit is conducted for profit.*
 - ***Dwelling Unit, Single Detached:*** *Free standing residential structure containing a single dwelling unit occupied by a "family." and where rooms are not let to individuals. Also known as a single family residence (SFR). (See definition of Family). Existing use does not correspond to "Family" definition. Definition does not allow for income producing short-term lodging.*

- **Family:** One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:
- Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).
- A “functional family unit” as defined below.
- Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the “Fair Housing Amendments Act of 1988”.
- A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4412(5), as the same may be amended from time to time.
- No more than four unrelated adults and their minor children.

For purposes of this definition of family, a group of adults living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods shall be regarded as a “functional family unit” and shall also qualify as a family hereunder. There is no consistency with tenants. According to the comments listed within the advertisement, at times there up to six unrelated occupants.

- **Owner Occupied:** Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year. Owner does not occupying dwelling for at least 50% of the year. Her primary residence is in Eau Claire, WI. **Public Use:** A use that is owned and operated by a public agency, or by a private/non-profit entity for use by the general public without unreasonable restriction. This dwelling unit is privately owned and used by the general public without unreasonable restrictions.
- **Rental Dwelling Unit:** Any dwelling unit which is made available to a non-owner by another for compensation, pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied. Chapter 18 of the Burlington Code of Ordinances does not recognize the unit as a rental if rented for less than a 30-day period.
- **Residential:** Regularly used by its occupants as a permanent abode, which is made one’s home as opposed to one’s place of business and which has housekeeping and cooking facilities for its occupants only. The current use does not meet the definition of Residential because occupants do not use it as a permanent abode and Owners are compensated for occupants to temporary use the house.
- **Rooming Unit:** as defined by Chapter 18 of the Burlington Code of Ordinances. Examples include dormitories, fraternities, sororities, and boarding houses. This shall not include units for the temporary occupancy of patients or guests in a hospital, hotel, motel or convalescent facility. Any four (4) “rooming units” shall be considered a single housing unit in calculating **Article 13: Definitions** v. 09.10.12 **Comprehensive Development Ordinance** p. 13-36 City of Burlington, VT. Rooming Unit, as defined by Chapter 18 of the Burlington Code of Ordinances, shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping,

but not for cooking or eating purposes. Current use allows occupants to cook and eat in the unit.

Calendar listing available dates for renting the unit is located at <https://www.airbnb.com/rooms/1200930?s=046D>

Some hosts set custom pricing for certain days on their calendar, like weekends or holidays. The rates listed are per day and do not include any cleaning fee or rates for extra people the host may have for this listing.

Appellant's house, located at 17 Eastman Way, differs from a single family residence. The dwelling unit serves the public, for a profit, and does not comply with the family definition of the CDO; thus does not comply with the the single detached dwelling unit definition. An advertisement is posted on the AirBnB web site for any member of the public to use for compensation. Included in the fee is a fully furnished 3 bedroom house (6-rooms), fully stocked kitchen, clean linens, complimentary bottle of wine, and use of a land-line phone. Customers are met at the house upon arrival, door is opened, a tour of the house is provided, and phone number should maintenance and/or other normal hotel concierge services are needed. When customer leaves, managers provide "maid services" by cleaning the house and replenishing used items, in preparation for the next guests.

Unlike a single family house, there is no stability. Guests change from day to day, week to week, month to month. There is no opportunity to be part of a neighborhood as an owner occupied dwelling unit would with the names and faces changing constantly. Guests treat the house as a vacation home and as such continuously hold parties that don't respect the quietness of a residential neighborhood. If the unit were to be rented to the same residents over 30 days per year, the use would be considered permanent and considered a rental. This requires registration as a rental with the Code Enforcement Office under Section 18 of the Citywide Ordinance. As such it must be inspected to insure that it meets minimum housing/life safety standards.

Appellant is not permitted to use the premises for a hotel, which is not allowed in the WRL zone; operation of the hotel without a permit violates the zoning ordinance. They do not possess a Lodging Establishment License with the State of Vermont to operate a hotel; it is unknown whether or not they pay room and meals taxes, advertisement does not state if rooms and taxes are included with the price. The State of Vermont requires rooms and meals taxes on lodging for profit if leased for 15 or more days/year; if rented over 30 days to the same resident, it is considered permanent rental. There is concern with the health, safety and welfare of the public as adopted regulations have not been met. Further, in offering wine a liquor license may well be required and this may be an additional violation of state law.

RECOMMENDATION:

The DRB is requested to uphold the issuance of the NOV and the determination that property located at 17 Eastman Way has violated the provisions of the Zoning Ordinance by providing lodging to the public for compensation without a zoning permit; and as such is a hotel and not a single detached dwelling unit.

It is further requested that the Board to order Appellant to cease and desist operation of the “hotel” immediately and comply with the “Family Definition of the City’s zoning ordinance (Article 13). Remove the advertisement from the *AirBnB* web site and any other place of advertisement. Any unpaid rooms and meals taxes shall be paid immediately, and that the provision of alcohol to guests is be reported to the appropriate authorities. Documentation for the discontinued use must be submitted to the Code Enforcement Office within 30 days from date of DRB decision to verify compliance. .

Information accessed from Assessor's Property Data:

Property Details

Grade	EXCELLENT	Heat Type	HOT WATER	Heat Fuel	GAS
Acres	0.2566	Gross Area	5,292	Finished Area	2,564
Building Type	CAPE COD	Year Built	2005	Units	1
Rooms	6	Bedrooms	2	Baths (Full/Half)	2 / 0
Zoning	RLW	Foundation	S	Depreciation	0.00 %



Air BnB Advertisement Description:

The Space

Wake up to shimmering Lake Champlain in Burlington Vermont! The Eastman house is a magnificent post and beam architectural gem, spectacular in the winter. It boasts cathedral ceilings in the dining area and the master suite, a wonderful gas fireplace and radiant heat. The entire house has large southern facing windows overlooking the lake/Shelburne Bay. A large walk out patio leads to a screened gazebo and to a fenced in lawn that butts against the lake shore. It has a modern kitchen stocked with everything you would need and an attached garage. The master suite is loft style with a full bathroom, queen bed and a daybed. There is a downstairs bedroom with a queen bed next to a full bath and a den that is easily converted into a third bedroom. (Please note: not everyone gets great cell service here, but there is a land line you are free to use for all outgoing and incoming calls.) Our house is in a quiet neighborhood and the neighbors are quite close. Parks and walking trails are within walking distance. The bike path is two blocks away. The shops and restaurants of Burlington are a 15 minute bicycle ride, 5-10 minute drive, and a 45 minute walk. It is also a short drive to I89 and Rte 7 for easy access to other places in Vermont.

Room type: Entire home/apt

Accommodates: 6

Bedrooms: 3

Bathrooms: 2

Beds: 2

Extra people: No Charge

Minimum Stay: 3 nights

Weekly Price: \$2000 /week

Country: [United States](#)

City: [Burlington](#)

Cancellation: [Flexible](#)

Air BnB Web Site Comments from Guests Who Stayed at Premises:

- I stayed here with a **group of 6 ladies** for a wedding weekend. The house is perfect! It's even better than the pictures show. The location is beautiful and it's a quick ride into

town. I would recommend going with close friends or family as the 2nd floor loft and bathroom are open (no ceiling on the bathroom). We had a blast and I hope to return!

April 2014

- What a beautiful home and a great place to spend a holiday weekend while visiting VT. The home is stunning, as are the views of Lake Champlain. **The hosts were gracious enough to leave some goodies in the fridge, lots of clean towels and a binder of suggestions for the area.** The home was clean, the lay-out bright and spacious, and it felt like home-away-from-home in every sense of the word. **The kitchen was well-supplies with cooking utensils and such, so we were able to cook a delicious birthday dinner for my husband instead of going out.** The fireplace in the living room was the coziest gathering place in the house, and spent much of our time there, visiting with our friends. For those who care about these things: the water pressure in the showers was outstanding! :) We were also glad to be able to use the washing machine/dryer to do weekend laundry. The hosts were in touch with us, available for questions during the booking process and gave us plenty of time to arrive and leave. We would absolutely book their home again, and can't say enough about what a great experience we had. Oh! And right before we left we saw an American Bald Eagle in the yard! Within 20 feet of the house, in a tree. It was the perfect ending to a perfect weekend!

January 2014

- Brooke and Alissa's house is lovely. **The kitchen is fully stocked** and the view on the lake is stunning. **The house has everything you need to have a comfortable stay, from towels to a great indoor fireplace.** However, the open loft layout which is awesome during the day becomes a problem at night if people go to bed at different times; sound travels too well.

November 2013

- Very nice. close to Burlington and highway. **My two sisters stayed upstairs and shared a bed. One brother stayed upstairs in his own room. My father had his own room on the ground floor. I slept in the tv room on a pullout couch and my other brother slept on a blowup mattress. All were comfortable.** Neighbors are close but friendly. beach area a very short walk. pretty views. kitchen area perfect just needs a few more pots and pans if you want to do large dinners which we did...Large table in living room was perfect and extended out. Some of us had a problem with our cell phones but once you located the right place , they worked fine. internet I could not connect to and I didn't bother to call owner for help. home phone was a help since cells did not always work. House was very clean and pretty much beautiful. I suggested shades and or curtains since the windows are everywhere and the neighbors on one side was pretty close and my sisters like to walk around in their pajamas....Overall rate excellent.

September 2013

- We had such a lovely experience here! The house was a dream, with a lovely view of Lake Champlain and within minutes of all the fun things to do in Burlington. **Our hosts went above and beyond by providing extras like a welcome bottle of wine and snacks (so appreciated by the travel weary) and coffee for the morning so we didn't have to run to the grocery store on our first night. All of the amenities of the house were luxurious (down to the bedding and shampoo) for an exceptional vacation experience. This was an excellent value for the money and we're already planning return trips. I highly recommend this house for your vacation. We had 5 adults (no children), and would have been comfortable with 6.**

August 2013

Amenities:

• Smoking Allowed	• Pets Allowed	• TV
• Cable TV	• Internet	• Wireless Internet
• Air Conditioning	• Heating	• Elevator in Building
• Wheelchair Accessible	• Pool	• Kitchen
• Free parking on premises	• Doorman	• Gym
• Hot Tub	• Shampoo	• Indoor Fireplace
• Buzzer/Wireless Intercom	• Breakfast	• Family/Kid Friendly
• Suitable for Events	• Washer	• Dryer
• Smoke Detector	• CO Detector	• First Aid Kit
• Safety Card	• Fire Extinguisher	•



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195

www.burlingtonvt.gov/pz

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MAY 15 2014

DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 17 Eastman Way, Burlington, Vermont

Subject Property Owner: Lois Helland

Appellant: Lois Helland

Agent/Representative: L. Randolph Amis, Esq.

Mailing Address: PO Box 238

City, St, Zip: Burlington, VT 05402-0238

Day Phone: 802-658-8900 Email: LRA@LRandolphAmis.com

Appellant Signature: Lois Helland
by L. Randolph Amis, Esq. Date: May 15, 2014

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- The Appeal fee of \$250;
Description of the decision under appeal;
Description of the property subject to the appeal;
Reference to the regulatory provisions applicable to the appeal;
Relief requested by the appellant;
Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 9330 Amount Paid \$250 Zoning Permit # 14-1089A

L. Randolph Amis, ESQ., PC.
ATTORNEYS AT LAW

110 Main Street, Suite 3A Telephone 802.658.8900
P.O. Box 238 Facsimile 802.658.6900
Burlington, VT 05402-0238 LRA@LRandolphAmis.com
www.LRandolphAmis.com

L. Randolph Amis, Esq.
Robert J. Perry, Esq., of Counsel
Nancy L. Benson, Legal Assistant

May 15, 2014

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415

Dear Sir or Madam:

Enclosed please find an Appeal of an Administrative Decision Request, Appeal of Notice of Violation and check for \$250.00 for the appeal fee.

Sincerely



L. Randolph Amis, Esq.

LRA/nlb
Enclosures

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MAY 15 2014

DEPARTMENT OF
PLANNING & ZONING

CITY OF BURLINGTON
PLANNING AND ZONING DEPARTMENT

APPEAL OF NOTICE OF VIOLATION

In RE: Zoning Violation# 269613
17 EASTMAN WAY, BURLINGTON, VT
TAX LOT #056-2-021-000

Lois Helland, owner of the property described above, by and through her attorney, L. Randolph Amis, Esq., appeals the Notice of Violation in this matter dated May 5, 2014, a copy of which is attached.

The basis of Ms. Helland's appeal is that the use of the property is a permitted use, namely single family residence, in the district in which it is located. The basis of the violation is that the use is as a hotel. The definition as a hotel is, as stated in the Burlington Comprehensive Development Ordinance, Article 13 Definitions, Section 13.1.2:

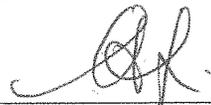
Hotel, Inn or Motel: An establishment providing for a fee three or more temporary guest rooms and customary lodging services, and subject to the Vermont rooms and meals tax.

The single family residence is one dwelling unit, not 3 units, or rooms. There are no hotel lodging services such as maid service, room service, valet parking, concierge services or other "customary lodging services" provided. The owner is not occupying the premises at the time of the rentals, nor is a manager. There is nothing to distinguish the use being made of the property now from any other rental of a single family residence on the lake. The ordinance definition of a hotel does not apply to the use of this property.

Ms. Helland requests a determination that there is no zoning violation in this matter.

Dated at Burlington, Vermont, this 15th day of May, 2014.

LOIS HELLAND

By: 

L. Randolph Amis, Esq.
110 Main Street, Suite 3A
PO Box 238
Burlington, VT 05402-0238

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MAY 15 2014

DEPARTMENT OF
PLANNING & ZONING



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

NOTICE OF ZONING VIOLATION (NOV)

May 5, 2014

Mailed Certified Mail 7010 0780 0001 2226 1148
And FIRST CLASS MAIL

LOIS HELLAND
400 FOX MOOR LN
EAU CLAIRE, WI 54701

NOTICE OF VIOLATION AT:
17 EASTMAN WAY, BURLINGTON, VT
TAX LOT #056-2-021-000

Zoning Violation# 269613

Dear MS HELLAND,

It has come to the attention of this office that a zoning violation exists at 17 Eastman Way.

Description of Violation: Change of use: conversion of single family residence to a hotel without an approved zoning permit. See attached documents.

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 12, 13 and 24 VSA §4451.

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars (\$200.00) for each day that a violation continues. You may submit an application to attempt correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

This correspondence serves as a formal notice of a zoning violation pursuant to 24 V.S.A §4451. You have seven (7) days from receipt of this notice to cure the referenced violation. Additional warnings for the violation are not required and will not be forthcoming. In the event that the violation is not cured or remedied as provided for in this notice, the City will pursue enforcement of the violation as provided for by law.

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV i.e. May 20, 2014 and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Appeal fee and complete application shall be filed with the City's Planning and Zoning Office (City Hall, 149 Church Street) by 4 pm on **May 20, 2014**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call me at (802) 864-8518.

Sincerely,

Jeanne Francis, Zoning Specialist

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 056-2-021-000

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MAY 15 2014

DEPARTMENT OF
PLANNING & ZONING

VIOLATION DETAILS

LOCATION: 17 EASTMAN WAY

ZONE: WRL (waterfront residential low density) Zoning District.

DECISION DATE: May 5, 2014

VIOLATION DESCRIPTION: Change of use: single family home converted to a hotel without an approved zoning permit.

FINDINGS:

- June 25, 2013 property owner transferred to Lois Helland; property sold as a single family home.
- Property is listed on the Air B&B Website for \$325 per night.
- First comment from a guest was dated August 2013.
- November/December 2013 neighbors started issuing complaints to the Code Enforcement Office that Premises was being rented out nightly/weekly.
- December 4, 2013 a notification letter was sent to Lois Helland, owner of property, informing her of complaints from neighbors and was given the opportunity to refute the allegations.
- December 12, 2013 received a response from Mark Helland asking for an additional week to refute the allegations; one week extension was granted.
- December – Today additional complaints received.
- April 2014 Advertisement on Air B&B website; confirmed premises is being rented on a day by day basis (minimum 3 day stay); calendar indicates Premises is fully booked until August 2015.
- April 2014 Air B&B discloses that Brooke and Alissa Monte manage the property and live about ten minutes from 17 Eastman Way; Owner Lois Helland is Alissa's mother.
- The structure is being used as a "hotel" based on the Comprehensive Development Ordinance definition of a "Hotel, Inn or Motel":
Hotel, Inn or Motel: An establishment providing for a fee three or more temporary guest rooms and customary lodging services, and subject to the Vermont rooms and meals tax.
- Owner does not have a zoning permit to operate a hotel at Premises.
- A hotel, motel or Inn is not a permitted use in the WRL (waterfront residential low density) zoning district.

REMEDY OPTIONS:

Within seven (7) days from receipt of this notice you may cure the violation by:

- 1) Removing the hotel use(renting by the day and/or week but less than 30 days) and complying with the CDO "Family" definition. Hotel use is not a permitted use in the WRL zone and must cease and desist immediately. All advertisement for

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MAY 15 2014

DEPARTMENT OF
PLANNING & ZONING

short-term renting (i.e. hotel use as defined in the CDO) must be discontinued immediately. Documentation for the discontinuance must be submitted to the Code Enforcement Office to verify compliance prior to closing the violation folder and releasing the notice of violation from the City's land records.

- 2) A hotel is not a permissible use in the City's CDO WRL zone. Should the single-family house become a long-term rental, rented for a period above 30 days, it must be registered with the Code Enforcement Office and is subject to inspection regarding minimum housing standards.

**APPEAL
RIGHTS:**

You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days from the date of this notice. The deadline for filing an appeal is 4 pm on May 20, 2014. Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

**REGULATION
CITATION:**

CDO Article(s): 2, 3, 5, 12, 13 and 24 VSA §4451

Copy of Air B&B Advertisement Attached

RECEIVED
MAY 15 2014

DEPARTMENT OF
PLANNING & ZONING

RECEIVED
MAY 15 2014

Where are you going?

BROWSE

HELP LIST YOUR SPACE (ROOMS/NEW)

SIGN UP (SIGNUP_LOGIN?REDIRECT_PARAMS[ACTION]=SHOW&REDIRECT_PARAMS[CONTROLLER]=ROOMS&REDIRECT_PARAMS[ID]=1200930&REDIRECT_PARAMS[S]=GZ9)

LOG IN (LOGIN?REDIRECT_PARAMS[ACTION]=SHOW&REDIRECT_PARAMS[CONTROLLER]=ROOMS&REDIRECT_PARAMS[ID]=1200930&REDIRECT_PARAMS[S]=GZ9)

DEPARTMENT OF
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8+1

Like 11

Burlington VT On the Waterfront

House (/s/Burlington--VT?type=house) - Entire home/apt - Eastman Way Dr, Burlington, VT 05401, United States

All Booked
Up until
July 2015

Photos Maps Calendar

Select Month July 2015

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1

Available

Unavailable

Past

The calendar is updated every five minutes and is only an approximation of availability.

Some hosts set custom pricing for certain days on their calendar, like weekends or holidays. The rates listed are per day and do not include any cleaning fee or rates for extra people the host may have for this listing. Please refer to the listing's Description tab for more details.

We suggest that you contact the host to confirm availability and rates before submitting a reservation request.

Per Night \$325

From

\$325

Check in

Check out

mm/dd/yyyy

mm/dd/yyyy

Su	Mo	Tu	We	Th
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25	26	27	28	29

Book It Instant Book

Contact Me

Save to Wish List

Saved 110 times

Description Amenities House Rules

The Space

Wake up to shimmering Lake Champlain in Burlington Vermont!

The Eastman house is a magnificent post and beam architectural gem, spectacular in the winter. It boasts cathedral ceilings in the dining area and the master suite, a wonderful gas fireplace and radiant heat. The entire house has large southern facing windows overlooking the lake/Shelburne Bay. A large walk out patio leads to a screened gazebo and to a fenced in lawn that butts against the lake shore. It has a modern kitchen stocked with everything you would need and an attached garage.

The master suite is loft style with a full bathroom, queen bed and a daybed. There is a downstairs bedroom with a queen bed next to a full bath and a den that is easily converted into a third bedroom. (Please note: not everyone gets great cell service here, but there is a land line you are free to use for all outgoing and incoming calls.)

Our house is in a quiet neighborhood and the neighbors are quite close. Parks and walking trails are within walking distance. The bike path is two blocks away. The shops and restaurants of Burlington are a 15 minute bicycle ride, 5-10 minute drive, and a 45 minute walk. It is also a short drive to I89 and Rte 7 for easy access to other places in Vermont.

Room type: Entire home/apt

Accommodates: 6

Bedrooms: 3

Bathrooms: 2

Beds: 2

Extra people: No Charge

Minimum Stay: 3 nights

Weekly Price: \$2000 Aweek

Country: United States (/s/United-States)

City: Burlington (/s/Burlington-VT)

Cancellation: Flexible (/home/cancellation_policies/flexible)



Brooke And Alissa
(/users/show/6559869)

More about the host Less about the host

Languages
English, Español

About

Alissa and Brooke Monte live in Burlington about ten minutes from 17 Eastman Way. Alissa's parents own this property as a second home until her mom retires as a biology professor. Lois and Mark mostly live in Wisconsin, so Alissa and Brooke are the local contacts! Brooke is an artist specializing in fine art oil painting. Alissa works at a nearby yoga studio/ physical therapy office.

Reviews (12) Friends (0)

Overall Guest Satisfaction

★★★★★

Accuracy ★★★★★

★★★★★

Cleanliness ★★★★★

★★★★★

Check In ★★★★★

Communication ★★★★★

★★★★★

Location ★★★★★

★★★★★

Value ★★★★★

★★★★★

★★★★★



Bree (users/show/6200101)

I stayed here with a group of 6 ladies for a wedding weekend. The house is perfect! It's even better than the pictures show. The location is beautiful and it's a quick ride into town. I would recommend going with close friends or family as the 2nd floor loft and bathroom are open (no ceiling on the bathroom). We had a blast and I hope to return!

April 2014



Russell (users/show/2454725)

Met with Brooke at our arrival - very nice guy who gave us a quick tour and then got out of the way for us to take over. The house was amazing! Everything was clean, organized and functional. We loved the fireplace and radiant heating. The lake was frozen so we got to skate around on it even though it was bumpy and we were nearly blown over by the wind that day. Fun stuff.

Great time for the 6 of us! Absolutely no complaints. Would stay again! Thank you!

March 2014



Susan (users/show/11928517)

Brooke and Alissa have a beautiful home! We were able to visit with friends we haven't seen in 15 years. The kitchen was well equipped, the rooms were comfortable and the setting was so pretty we rarely ventured out. We had a delightful time just sitting in the living room with a fire lit, reminiscing and catching up.

February 2014



Ashley (users/show/5037691)

Lovely house and lovely hospitality. Recommend for any season!

February 2014



Erika (users/show/7931289)

What a beautiful home and a great place to spend a holiday weekend while visiting VT. The home is stunning, as are the views of Lake Champlain. The hosts were gracious enough to leave some goodies in the fridge, lots of clean towels and a binder of suggestions for the area. The home was clean, the lay-out bright and spacious, and it felt like home-away-from-home in every sense of the word. The kitchen was well-supplied with cooking utensils and such, so we were able to cook a delicious birthday dinner for my husband instead of going out. The fireplace in the living room was the coziest gathering place in the house, and spent much of our time there, visiting with our friends. For those who care about these things: the water pressure in the showers was outstanding! We were also glad to be able to use the washing machine/dryer to do weekend laundry. The hosts were in touch with us, available for questions during the booking process and gave us plenty of time to arrive and leave. We would absolutely book their home again, and can't say enough about what a great experience we had. Oh! And right before we left we saw an American Bald Eagle in the yard! Within 20 feet of the house, in a tree. It was the perfect ending to a perfect weekend!

January 2014



Christie (users/show/700638)

Brooke and Alissa's house is lovely. The kitchen is fully stocked and the view on the lake is stunning. The house has everything you need to have a comfortable stay, from towels to a great indoor fireplace. However, the open loft layout which is awesome during the day becomes a problem at night if people go to bed at different times; sound travels too well.

November 2013

View full profile (users/show/553899)

RECEIVED

MAY 15 2014

Response Rate 60%

Response Time a few days or more

Calendar Updated 2 weeks ago

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 3Fredirect_params%
 5Baction%5D%3Dshow%
 26redirect_params%
 5Bcontroller%5D%
 3Drooms%
 26redirect_params%
 5Bfb_login%5D%3D1%
 26redirect_params%5Bbid%
 5D%3D1200930%26ref%
 3Dfb_p3side&scope=email%
 2Cuser_birthday%
 2Cuser_likes%
 2Cuser_education_history%
 2Cuser_hometown%
 2Cuser_interests%
 2Cuser_activities%
 2Cuser_location)

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2.4mi away
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 \$80 per night

4.0mi away
 (rooms/1114496)
 \$120 per night

1.9mi away (rooms/229018)
 \$119 per night



Emilia (users/show/3090744)

What a beautiful and luxurious house. Amazing spot in front of the lake and close to the bike route. Brooke And Alissa were the best hosts.

October 2013



Jay (users/show/1900019)

What an amazing house! We had a great time at Brooke and Alissa's place. Alissa was very responsive to our pre-visit emails and walked us through the house when we arrived. The house is a wonderfully designed timber frame with radiant floor heating, elegant and comfortable furnishings, great artwork and has a view of Lake Champlain. We also enjoyed walking around the neighborhood, our daughter really liked going to the giant treehouse at nearby Oakledge Park. I would highly recommend this place to anyone seeking a high class get away and I hope to get back there with my family again sometime soon.

October 2013



Charles (users/show/8133634)

Very nice, close to Burlington and highway. My two sisters stayed upstairs and shared a bed. One brother stayed upstairs in his own room. My father had his own room on the ground floor. I slept in the tv room on a pullout couch and my other brother slept on a blowup mattress. All were comfortable. Neighbors are close but friendly, beach area a very short walk, pretty views, kitchen area perfect just needs a few more pots and pans if you want to do large dinners which we did...Large table in living room was perfect and extended out. Some of us had a problem with our cell phones but once you located the right place, they worked fine. internet I could not connect to and I didn't bother to call owner for help, home phone was a help since cells did not always work. House was very clean and pretty much beautiful. I suggested shades and or curtains since the windows are everywhere and the neighbors on one side was pretty close and my sisters like to walk around in their pajamas....Overall rate excellent.

September 2013



John (users/show/7332452)

What a beautiful home in a lovely location! Alissa met us (even though it was late when we arrived) and gave us a tour of the house. She told us of an event going on downtown that we knew about but if we hadn't it would have been a great tip. The house was quiet, comfortable and nicely furnished; there was nothing we lacked. We carried our kayaks down to the neighborhood beach and discovered just how close to downtown we were. This is a prime location for activities in downtown Burlington. We wished we could have launched our kayaks right from the yard but that was a bit tricky with the stone wall. But the neighborhood beach is just three houses away. The bike path is literally right in the neighborhood and it is just a 2.5 mile ride into downtown. This is a home that is well worth staying at!

September 2013



2.3mi away
 (/rooms/1849881)
 \$129 per night



4.1mi away
 (/rooms/1168083)
 \$80 per night

(/rooms/253288)

2.6mi away
 (/rooms/2532882)
 \$55 per night

(/rooms/758889)

2.4mi away (/rooms/758889)
 \$40 per night

(/rooms/155253)

2.4mi away
 (/rooms/1552537)
 \$50 per night

(/rooms/216065)

4.0mi away
 (/rooms/2160658)
 \$60 per night

(/rooms/248910)

2.5mi away
 (/rooms/2489105)
 \$45 per night

1 (/rooms/this_hosting_reviews/1200930?reviews_page=1&s=_gz9)

2 (/rooms/this_hosting_reviews/1200930?reviews_page=2&s=_gz9)

Next → (/rooms/this_hosting_reviews/1200930?reviews_page=2&s=_gz9)

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English ▾

USD ▾

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