

# Report to Council



**Date:** July 22, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Business Licence Application Reconsideration  
**Department:** Development Services

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## **Recommendation:**

THAT Council uphold the decision of the Licence Inspector to refuse the issuance of a Business Licence for a "Rooming House, Private" business on the subject property located at 911 Bernard Avenue Kelowna, BC, on April 24, 2023

## **Purpose:**

To hear a request for reconsideration of business licence application No. 4092136 for a "Rooming House, Private" business on the subject property.

## **Background:**

Section 60(5) of the *Community Charter* requires that where a municipal officer or employee exercises a delegated authority to grant, refuse, suspend or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have Council reconsider the matter.

The City of Kelowna Business Licence and Regulation Bylaw No. 12585, which delegates the authority to issue, refuse, cancel and suspend City business licences to the Licence Inspector, sets out procedures for this type of hearing:

7.14 An applicant or licence holder who wishes Council to reconsider the Licence Inspector's decision to refuse, suspend, or cancel a licence must, within ten (10) business days of the date of the refusal, suspension, or cancellation, deliver to the Corporate Officer of the City a written request stating the grounds upon which the request is based.

7.15 The Corporate Officer must refer a request made under Section 7.14 to a regular or special Council meeting and notify the applicant or licence holder of the time and place at which Council will reconsider the decision of the Licence Inspector.

7.16 If Council elects to uphold the Licence Inspector's decision to refuse, suspend, cancel, or place conditions on the applicant or licence holder, the Corporate Officer will provide the

applicant or licence holder with written notice of Council's decision, and the applicant or licence holder must comply with any terms, restrictions, and requirements imposed by Council.

**Discussion:**

The property owner had been issued an annual business licence for a Rooming House, Private business on the subject property from 2010 when he purchased the property until the end of 2021. This type of business was permitted under the principal use of "boarding or lodging houses" in the former Zoning Bylaw No. 8000, RM4 zone. When Zoning Bylaw No. 12375 came into effect on September 26, 2022, the property was rezoned to MF2 and "boarding or lodging houses" were no longer permitted, except as a lawful non-conforming use in a case where such a business had commenced prior to the zoning change and continues.

The Rooming House business licence was not renewed by the owner for the 2022 calendar year. As a result, Bylaw staff began investigation and enforcement steps to determine if the business was continuing to operate without a licence, and through these investigations discovered that each of the boarding units had been unlawfully converted into individual apartments with their own kitchens, without building permits. It was also determined that the owner had been using the units for short-term rentals since 2010, contrary to the terms of the business licence which only allowed a boarding or lodging house use. Sleeping units in boarding or lodging houses may not contain kitchens and short-term rentals are not permitted in boarding or lodging houses. Since no lawful boarding or lodging house use was actually occurring at the time the Zoning Bylaw was updated in September 2022, the property does not have lawful non-conforming status for this use and is fully subject to Zoning Bylaw No. 12375.

The owner continues to advertise and operate a nightly rental business on the property without a business licence and contrary to land use restrictions, resulting in Bylaw enforcement action. As a result of this ticketing the owner made a new application for a business licence for a Rooming House on the subject property in December 2022. This new business licence application was rejected as the Rooming House, Private business does not fall under any permitted use in the MF2 - Townhouse Housing zone. Staff advised the owner of the rejection in December 2022. Subsequently, the owner applied again for a business licence for a boarding or lodging house in spring 2023. This was rejected for the same reasons and is the subject of the current reconsideration request.

The owner has expressed concerns that the property was marketed and sold to him without disclosure of the fact that the apartment units were unlawful. These representations were made by third parties and the City cannot be responsible for them. A submission from the applicant has been circulated to Council.

The property owner may apply for building permits and rezoning, to either regularize the suites or remove the kitchens and permit lawful business of a corresponding type. Staff have attempted to work with the property owner for two years to bring the use of the property into conformance with the Zoning Bylaw. To date the owner has rejected the staff recommendations and instead continues to unlawfully use the property for a short-term rental business with no licence. Unless and until the owner pursues and completes these permitting steps, no business licence can properly be issued.

**Internal Circulation:**

Business Licencing  
Office of the City Clerk

Submitted by: Dean Strachan, Manager, Community Planning and Development

**Reviewed By:** Graham March, Licensing & System Improvement Supervisor

**Approved for inclusion:** Ryan Smith, Divisional Director of Planning & Development Services

**Attachments:**

1. Attachment 1 - Business Licence Application
2. Attachment 2 - Business Licence Refusal Letter, April 24, 2023
3. Attachment 3 - Zoning Bylaw No. 8000, Section 13.10 and Definitions
4. Attachment 4 - Zoning Bylaw No. 12375, Section 13