TOWN OF CANMORE AGENDA

Subdivision & Development Appeal Board Hearing Council Chambers at the Civic Centre, 902 – 7 Avenue Thursday, June 27, 2024 at 1:30 p.m.

A. CALL TO ORDER AND APPROVAL OF AGENDA

- 1. Board and Administration Introductions
- 2. Agenda for the June 27, 2024 Subdivision & Development Appeal Board Hearing

B. APPEAL HEARING

CEZONE202300011

133 Wapiti Close

Lot 76, Block 2, Plan 9811923

Operation of a Tourist Home without a Development Permit Appeal against a stop order issued by the Canmore Development Authority

- (1) Procedural Matters
- (2) Introduction of Appellant
- (3) Hearing Process Outline
- (4) Development Authority Presentation
- (5) Appellant Presentation
- (6) Public Verbal Submissions
- (7) Public Written Submissions
- (8) Questions for Clarification
- (9) Closing Comments

C. CONCLUSION



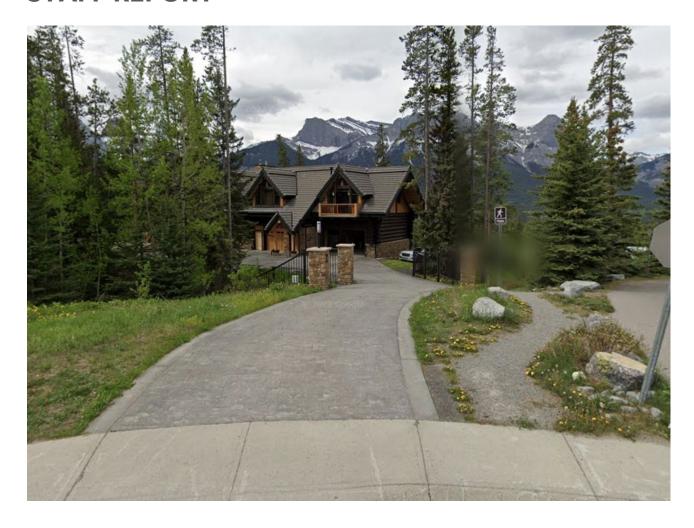
NOTICE OF APPEAL Application Form

To help expedite processing your application, the submission of this form using the fillable fields is greatly appreciated.

PROPERTY INFOR	MATION							
Municipal Address		De	velopment Permit/S	Subdivision Ap	plication File I	Number		
•			•	'	•			
APPELLANT INFO	RMATION							
Name of Appellant		Age	ent Name (If applica	ıble)				
Mailing Address (for notif	fication purposes)							
City	Province	Pos	stal Code					
Phone Number (Day)		Em	ail					
rnone Number (Day)			dii					
The appellant/ager	nt, gives authoriza	ation for electron	ic communication	by the Clerk,	using the em	ail provided o	n this Notice	e of Appeal
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Refusal		Refusal						
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SUBDIVISION AND DEVELOPMENT APPEAL BOARD

STAFF REPORT



DATE OF HEARING: JUNE 12, 2024

REASON FOR APPEAL: APPEAL OF A STOP ORDER (UNAUTHORIZED TOURIST

HOME)

LEGAL DESCRIPTION: LOT 76, BLOCK 2, PLAN 9811923

CIVIC ADDRESS: 133 WAPITI CLOSE

FILE NO. CEZONE202300011

EXECUTIVE SUMMARY

On April 26, 2024, Town of Canmore administration issued a Stop Order to the registered owner of 133 Wapiti Close (the property), pursuant to Section 645 of the Municipal Government Act, for the operation of a Tourist Home without an approved Development Permit.

Through the process of investigating numerous public complaints concerning this property, the Town has discovered the property being advertised on AirBNB and VRBO (attachment 4), as evidence of use of the property as a vacation rental (Tourist Home), rather than a dwelling unit.

The Planning Department recommends the Subdivision and Appeal Board uphold the Stop Order for 133 Wapiti Close. A copy of the issued Stop Order, including requirements to bring the property into compliance with the Land Use Bylaw, are included in Attachment 1 of this report.

BACKGROUND

Municipal Government Act

The authority to regulate the use and development of land and buildings is found within Division 5 of the MGA. With respect to a development land use or use of a building is not in accordance with the Town's Land Use Bylaw, section 645 of the MGA provides the municipality the ability to impose an Order to achieve compliance with the Land Use Bylaw:

645(1) ... if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval, the development authority may act under subsection (2).

645(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

Included in Attachment I of this report includes a copy of the Stop Order issued to the applicant.

An applicant's right to appeal a Stop Order is noted in section 645(3) of the MGA. Grounds for Appeal is contained in section 685 of the MGA, and process and procedure pertaining to an appeal received to a Stop Order is outlined in section 686. Specific details pertaining to the hearing and decision of the SDAB are found in section 687 of the MGA, which are outlined in the "Options for Consideration" section of this report.

Municipal Development Plan

The Municipal Development Plan (MDP) provides broad direction on the growth and development within the community. Included in the MDP are brief descriptions of neighbourhood categories.

The Neighbourhood Residential category is described as "lands for current and future neighbourhood development of which the primary use is residential. These areas may also contain neighbourhood supporting developments such as local commercial, parks, utilities, and institutional uses."

The subject property is located in a "Neighborhood Residential" category, as reflected in the map below taken from the Municipal Development Plan:

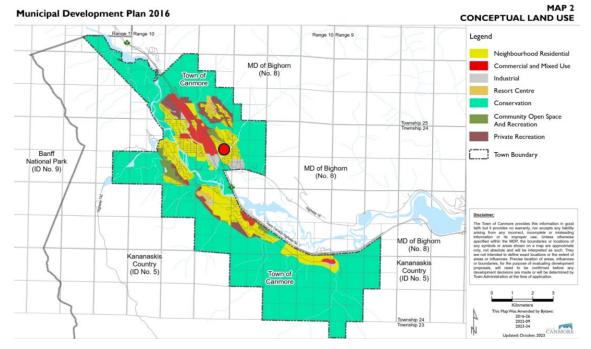


Figure 1: Conceptual Land Use Map from the Municipal Development Plan, 2016. The red dot in the Neighborhood Residential district reflects the approximate location of 133 Wapiti Close.

Land Use Bylaw

The Land Use Bylaw (LUB) provides general regulation of development, determines the Land Use Districts for properties within the Town and permitted and discretionary uses within those districts. The Land Use Bylaw also defines specific Land Uses in section 13.

Within the LUB, a Tourist Home is a defined use for select land use districts. Section 1.8.0.2 of the Land Use Bylaw states:

A Tourist Home constitutes a separate and additional development of a Dwelling Unit and requires a Development Permit for its operation.

Further, section 1.8.0.1 of Land Use Bylaw 2018-22 states:

Except as provided in this Bylaw, no person shall undertake any development unless:

- a. A Development Permit has first been issued pursuant to this Bylaw; and
- b. The development is proceeded with in accordance with the conditions of the Development Permit issued; or
- c. The development is exempted in accordance with Subsection 1.9 and is otherwise in conformance with this Bylaw.

Section 1.4.0.2 also notes that "no person shall commence development within the Town of Canmore except in compliance with (the Land Use) Bylaw."

In addition to the requirement for a Development Permit, the LUB also contains a use-specific subsection (section 8.6) dedicated to technical and operational parameters that must be respected by Tourist Home operators to ensure continued compliance with the Land Use Bylaw.

Provided below are relevant terms and their respective definitions from the Land Use Bylaw:

Dwelling Unit means a self-contained room or suite of rooms not available for public use, which normally provide sleeping, washing, sanitary and kitchen facilities, and which is intended for residential use, as opposed to vacation use. A Dwelling Unit shall not include more than one room which, due to its design, plumbing, equipment, and furnishings is or may be used primarily as a kitchen. Examples of this include upper cupboards, a full size fridge, a stove using 220V, and other aspects that may define a kitchen. A Dwelling Unit is characterized as a place in which a person or persons may reside as their primary or secondary residence, with the intent and ability to arrive and leave at their discretion, with the intent to remain for an undetermined or indefinite period (except in accordance with a tenancy agreement under the Residential Tenancies Act or the Mobile Home Sites Tenancies Act) and with the intent to return to the Dwelling Unit following absences for such reasons as vacations. A Dwelling Unit does not include a Shared Ownership Accommodation.

Residential Use residential use means the use of a property for the purpose of a residence by a person or persons, and does not include use of the property for commercial purposes. A residential use is one where the occupant has exclusive use of the specific property for an indefinite amount of time except in accordance with a tenancy agreement under the Residential Tenancies Act or the Mobile Homes Site Tenancies Act and for the use of which GST is not payable in accordance with the requirements in the Excise Tax Act of Canada.

Tourist Home means a dwelling unit operated as a temporary place to stay, with or without compensation, and includes all vacation rentals of a dwelling unit. The characteristics that distinguish a tourist home from a dwelling unit used as a residence may include any of the following:

- a. the intent of the occupant to stay for short term vacation purposes rather than use the property as a residence; and/or
- b. the commercial nature of a tourist home; and/or
- the management or advertising of the dwelling unit as a tourist home or "vacation property";
 and/or
- d. the use of a system of reservations, deposits, confirmations, credit cards or other forms of electronic payment.

These examples do not represent an exhaustive list of operating practices that may constitute a tourist home.

Section 1.10.0.4 of the LUB notes that "the Development Authority shall not approve a Development Permit for a use that is not listed as a Permitted or Discretionary Use in the relevant Land Use District."

Previous Enforcement History

The Town's investigation into the use of this property as a Tourist Home dates to 2017. The Town issued a Stop Order in 2018 which was appealed to and upheld by the SDAB (see attachment 2). At this same time violation tickets for operating a Tourist Home were issued and appealed to Provincial Court. Subsequently the Stop Order and enforcement file for the property were closed. Previous evidence of advertising collected for the property is included in attachments 4, 5 and 6, and show continuity of advertising of the property dating back to 2017.

The Town has continued to receive public reports related to this property and has observed the same online advertisements being reposted and has therefore restarted enforcement action against the property.

EXISTING SITE

The subject site is within the RI – Residential Detached District. The purpose of the district is:

"to provide for Detached Dwelling units on standard lots with provisions to allow for Accessory Dwelling Units and other compatible residential neighbourhood uses."

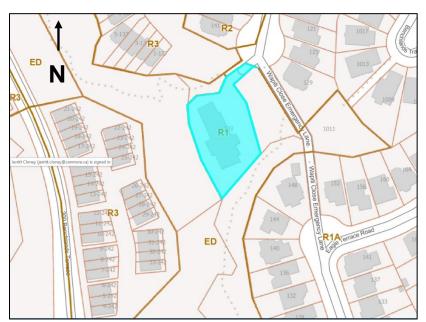


Figure 2: Land Use District Map highlighting the Subject Property.

As the property is zoned RI, Tourist Homes are neither permitted nor discretionary use in the RI district. (See figure 3 below.)

Section 1.10.0.4 of the LUB notes that "the Development Authority shall not approve a Development Permit for a use that is not listed as a Permitted or Discretionary Use in the relevant Land Use District." Therefore the property is not eligible for approval as a Tourist Home.

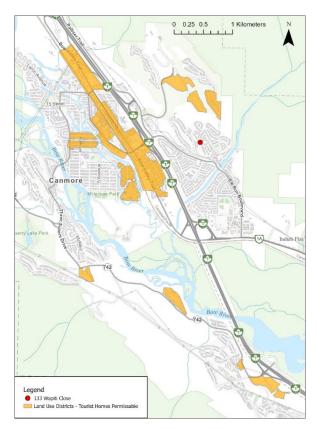


Figure 3: A map denoting different land use districts that may operate Tourist Homes, and the location of 133 Wapiti Close.

The subject property was approved to construct a detached dwelling in 2008, as part of Development Permit 2008-124 and Building Permit 2008-062. From a review of Town records, at no point was the use of a Tourist Home approved by the Development Authority.

Adjacent uses include a variety of residential dwellings, including townhomes, duplexes and detached dwellings. To the south and west portions of the subject property is Environmental District land.

BYLAW CONFORMANCE DISCUSSION

The Town began receiving recent complaints of the subject property operating as a Tourist Home in spring of 2023. Over the following months, the Town investigated this matter, which included reviewing online postings for the subject property on AirBnB and VRBO (attachment 4), and resident-submitted photographs and reports (selected photographs included in attachment 7).

The advertisements indicate use of the property in a manner which is consistent with the definition of Tourist Home in the Land Use Bylaw. Specifically, the intent of occupants to stay for short-term vacation purposes (nightly rental), the use of a system of reservations, commercial nature of use, and advertising as a vacation property. Neighbourhood reports of a pattern of use involving short-term vacation stays also helped to confirm the use of the property as Tourist Home.

On April 26, 2024, the Town issued a Stop Order for the operation of an unpermitted Tourist Home at the subject property. The Stop Order was issued via the following means:

- I) A copy of the Stop Order was issued via Registered Mail to the registered owner and address noted on the Certificate of Title for 133 Wapiti Close. This Stop Order was returned to the sender, and a new copy of the Order was issued via registered mail to an alternate mailing address on file with Town.
- 2) A copy of the Stop Order was also issued via registered mail to the subject property. This Order was also returned to the sender.
- 3) A copy of the Stop Order was hand-delivered (posted on-site) to the subject property.

OPTIONS FOR CONSIDERATION

Section 687 of the MGA provides that, in making a decision on an appeal to a Stop Order, the board:

- May confirm, revoke or vary the order, decision or development permit or any condition
 - to any of them or make or substitute an order, decision or permit of its own;
- may make an order or decision or issue or confirm the issue of a development permit even though

the proposed development does not comply with the Land Use Bylaw if, in its opinion,

o the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of

 \circ the proposed development conforms with the use prescribed for that land or building in it.

The Planning Department proposes that the SDAB consider the following options:

- I. Confirm the Stop Order.
- 2. Confirm the Stop Order issued, while adding to, removing, or modifying the remedies for compliance, or the dates to achieve compliance, outlined in the issued Stop Order.
- 3. Revoke the Stop Order.
- 4. Postpone the application, pending submission of any additional details requested by the SDAB.

RECOMMENDATION

Planning recommends that the Subdivision & Development Appeal Board CONFIRM the Stop Order for I33 Wapiti Close and order the appellant to take mitigating measures on this matter, as described in Attachment 2.

ATTACHMENTS:

Attachment I: Stop Order (2024)

Attachment 2: Previous Board Order for Appeal No. 2018-005

Attachment 3: Certificate of Title

Attachment 4: Copies of advertising gathered April 11, 2024

Attachment 5: Copies of advertising gathered 2019 Attachment 6: Copies of advertising gathered 2017

Attachment 7: Select photographs supplied by the public

Eric Bjorge

Planning and Development Supervisor

Jerritt Cloney
Planning Technician



Planning & Development Department

Town of Canmore 902 - 7th Avenue Canmore, AB, T1W 3K1 www.canmore.ca

File: CEZONE202300011

STOP ORDER

(Section 645 of the *Municipal Government Act*)

Issued on April 26, 2024

Issued to Hans Herchen by Registered Mail 15419 Whitemud Road Edmonton, AB, T6H 4N5

Issued to the Occupiers of: 133 Wapiti Close Lot: 76, Block 2, Plan 9811923 Canmore, AB T1W 3B2 by hand delivery and registered mail

Re: Operation of a Tourist Home without a Development Permit 133 Wapiti Close

Lot 76, Block 2, Plan 9811923 (the "Property")

The Development Authority of the Town of Canmore hereby issues this Stop Order pursuant to section 645 of the *Municipal Government Act*, RSA 2000, c M-26 with respect to the Property described above.

Bylaw Contravention: Unpermitted Tourist Home

The Development Authority has identified an unpermitted Tourist Home in operation on the Property which is in contravention of Town of Canmore Land Use Bylaw (LUB) 2018-22.

The dwelling unit on the Property was found to be advertising as a Tourist Home on the following websites:

- o www.airbnb.ca ("Rocky Mountain Estate")
- o www.vrbo.com ("Stunning Rocky Mountain Retreat w/ Breathtaking mountain Views; Safe and Private")

Section 1.8.0.1 of Land Use Bylaw 2018-22 states:

Except as provided in this Bylaw, no person shall undertake any development unless:

- a. A Development Permit has first been issued pursuant to this Bylaw; and
- b. The development is proceeded with in accordance with the conditions of the Development Permit issued; or
- c. The development is exempted in accordance with Subsection 1.9 and is otherwise in conformance with this Bylaw.

In addition, section 1.8.0.2 of the Land Use Bylaw states:

A Tourist Home constitutes a separate and additional development of a Dwelling Unit and requires a Development Permit for its operation.

A Tourist Home is defined in Section 13 of the Land Use Bylaw as:

Tourist Home means a dwelling unit operated as a temporary place to stay, with or without compensation, and includes all vacation rentals of a dwelling unit. The characteristics that distinguish a tourist home from a dwelling unit used as a residence may include any of the following:

- a. the intent of the occupant to stay for short term vacation purposes rather than use the property as a residence; and/or
- b. the commercial nature of a tourist home; and/or
- c. the management or advertising of the dwelling unit as a tourist home or "vacation property"; and/or
- d. the use of a system of reservations, deposits, confirmations, credit cards or other forms of electronic payment.

These examples do not represent an exhaustive list of operating practices that may constitute a tourist home.

The property falls within the R1 Residential Detached District. A Development Permit (permit no. DP2008-124) was issued on May 8, 2008 for a single detached dwelling. A Development Permit has <u>not</u> been issued to operate a Tourist Home on the Property. Additionally, a "Tourist Home" is not a use contained within either sections 3.1.1 & 3.1.2 of the Land Use Bylaw, which provide permitted or discretionary uses for the R1 Residential Detached District.

Stop Order

Section 645 of the Municipal Government Act states:

- (1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
 - (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
 - the development authority may act under subsection (2).
- (2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
 - (a) stop the development or use of the land or building in whole or in part as directed by the notice.
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

Remedies to Stop Order

Pursuant to Section 645(2) of the *Municipal Government Act*, on or before May 18, 2024 you are hereby ordered to take the following actions:

- 1. Cease all use of the lands and buildings on the Property as a Tourist Home.
- 2. Provide the Town with evidence that you have ceased all operation and advertisement of the property as a Tourist Home by:

- a. Consenting to an inspection of the Property (including the lands and within all buildings) and photographs to be taken thereof. The inspection is to take place no later than one week from May 18, 2024, that being on or before May 25, 2024; or,
- b. Preparing and submitting a Statutory Declaration by the owner(s) of the Property declaring a Tourist Home, as defined by the Town of Canmore Land Use Bylaw 2018-22, will not be operated or advertised at the Property. The Statutory Declaration shall be completed and submitted to the Development Authority no later than one week from May 18, 2024, that being on or before May 25, 2024.
- 3. Provide the Town with evidence, to the satisfaction of the Development Authority, that all reservations after May 18, 2024 to use the property as a Tourist Home, have been cancelled.

Enforcement of Stop Order

Please be advised that failure to comply with this Stop Order may result in the Town taking steps at your expense (including paying for the Town's legal expenses) to enforce this Stop Order pursuant to s. 646 of the *Municipal Government Act* or other legal action permissible by law.

Further, Part 17 of the MGA and section 1.22 of the LUB allow for the issuance of a Stop Order where a development or use of land or buildings does not comply with the MGA and the LUB. As detailed in Appendix B, these steps can apply against your property.

Please be advised that pursuant to Section 646 of the *Municipal Government Act*, in the event a person fails to comply with this Order, the Town may, in accordance with section 542, "enter on the land or building and take any action necessary to carry out the order". Section 646 also authorizes the Town to register a caveat under the *Land Titles Act* in respect of this order against the title for the Property.

Section 553 of the *Municipal Government Act* allows the Town to add the costs and expenses of carrying out an order to the tax roll of the Property.

Right of Appeal

Please be advised that pursuant to Section 685 of the *Municipal Government Act*, you have the right to appeal this Stop Order to the Subdivision and Development Appeal Board (SDAB). If you wish to exercise this right, written notice of an appeal must be received by the Secretary of the Subdivision and Development Appeal Board by emailing sdab@canmore.ca within 21 days after the date the order was made. Please note there is a \$500 fee to submit an appeal. For additional information on submitting an appeal, please visit canmore.ca/sdab.

Remedies described above are subject to the decisions made by the SDAB. Should an appeal be heard, the SDAB has the authority to add, remove or adjust remedies described within this Stop Order.

Contact

If you have any questions about this Stop Order, please do not hesitate to contact Jerritt Cloney using the contact information provided below.

Sincerely,

Jerritt Cloney

J Cloney

Development Officer, Planning and Development - Town of Canmore

P: 403.678.8935

E: jerritt.cloney@canmore.ca

Town of Canmore

902 7th Avenue

Canmore, Alberta T1W 3K1

Phone: 403.678.1500 | Fax: 403.678.1534

www.canmore.ca



SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

APPEAL NO. 2018-005 BE 2017-128

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED FEBRUARY 06, 2018

(Board Members Hearing the Appeal: Councillor Vi Sandford, Mr. Ron Casey, Mr. Greg Birch, Ms. Rochelle Harding, Mr. Harry Scott)

AND IN THE MATTER of the Municipal Government Act Revised Statues of Alberta 2000, Chapter M-26, as amended;

AND IN THE MATTER of an appeal by Hans Herchen against a non-conforming use; illegal tourist home – appeal of stop order for BE2017-128.

This appeal hearing having been duly opened before the Subdivision & Development Appeal Board on February 06, 2018.

AND UPON hearing oral submissions from the Development Officer.

AND UPON hearing oral and written submissions from the public.

AND UPON having regard to the Town of Canmore Land Use Bylaw No. 22 of 2010 (Bylaw), the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, as amended and other relevant planning documents;

DECISION

BE2017-128 133 Wapiti Close Lot 76 Block 2 plan 981 1923 Non-Conforming Use: Illegal Tourist Home

Appeal against a Stop Order

FINDINGS OF FACT

- 1. The subject property is in an R1 district and tourist homes are neither a permitted nor a discretionary use.
- 2. At the time the Stop Order was issued, there was an advertisement on a website listing the property as a vacation home.

- 3. The advertising of 133 Wapiti Close for short-term vacation purposes is consistent with the definition of a tourist home in Section 16 of the Land Use Bylaw 22-2010.
- 4. Two adjacent property owners spoke in opposition to the appeal.

THE BOARD THEREFORE ORDERS THAT

The appeal be DENIED and the Stop Order be UPHELD.

REASONS:

- 1. The property as of December 21, 2017 was being advertised as a tourist home.
- 2. Tourist home use in a R1 district is neither a permitted nor a discretionary use.
- 3. The Board accepts the evidence provided by adjacent property owners that the tourist home is having an adverse effect on neighbourhood amenities.

Date Signed

CHAIRPERSON RON CASEY

SUBDIVISION & DEVELOPMENT APPEAL

A decision of the Subdivision and Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon or qu'estions of Jurisdiction or law pursuant Section 688 (1) & (2) of the Municipal Government Act Statutes of Alberta, 1994, Chapter M-26.1, as amended.

An application for leave to appeal to the Court of Queens Bench shall be made:

a) to a judge of the Appellant Division, and; within 30 days after the issue of the order, decision, permit or approval sought to be appeal.



LAND TITLE CERTIFICATE

s

LINC SHORT LEGAL TITLE NUMBER 0027 543 009 9811923;2;76 131 013 517

LEGAL DESCRIPTION
PLAN 9811923
BLOCK 2
LOT 76

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE

ATS REFERENCE: 5;10;24;33;NE

MUNICIPALITY: TOWN OF CANMORE

REFERENCE NUMBER: 061 252 084

REGISTERED OWNER(S)

REGISTRATION DATE (DMY) DOCUMENT TYPE VALUE CONSIDERATION

131 013 517 15/01/2013 TRANSFER OF LAND \$2,800,000 SETTLEMENT

OWNERS

HANS HERCHEN
OF 15419 WHITEMUD ROAD
EDMONTON
ALBERTA T6H 4N5

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

981 206 221 13/07/1998 CAVEAT

RE : RESTRICTIVE COVENANT

981 206 225 13/07/1998 UTILITY RIGHT OF WAY

GRANTEE - THE TOWN OF CANMORE.
AS TO PORTION OR PLAN: 9811924

981 206 227 13/07/1998 RESTRICTIVE COVENANT

AS TO PORTION OR PLAN: 9811925

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
REGISTRATION # 131 013 517

NUMBER DATE (D/M/Y) PARTICULARS

131 013 518 15/01/2013 RELEASE OF DOWER RIGHTS

BY - NONI HERCHEN

211 004 922 08/01/2021 CAVEAT

RE : AGREEMENT CHARGING LAND CAVEATOR - BANK OF MONTREAL.

865 HARRINGTON COURT

BURLINGTON

ONTARIO L7N3P3

AGENT - HEATHER HEENAN

TOTAL INSTRUMENTS: 005

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN ACCURATE REPRODUCTION OF THE CERTIFICATE OF TITLE REPRESENTED HEREIN THIS 5 DAY OF JUNE, 2024 AT 04:17 P.M.

ORDER NUMBER: 50713193

CUSTOMER FILE NUMBER: 133 Wapiti

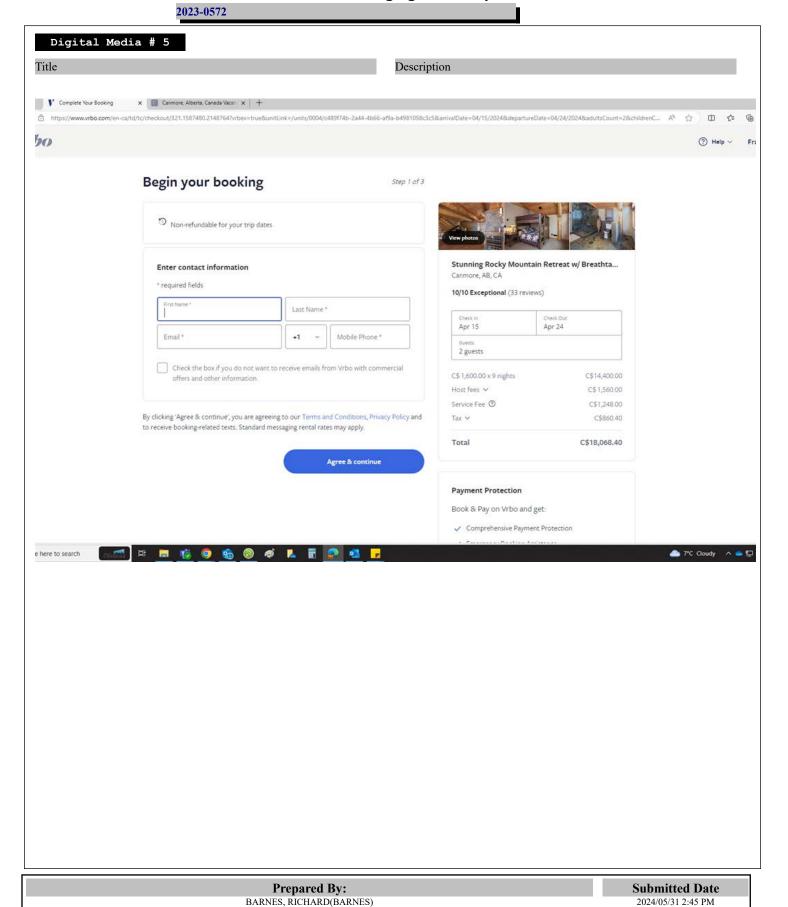
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END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER, SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

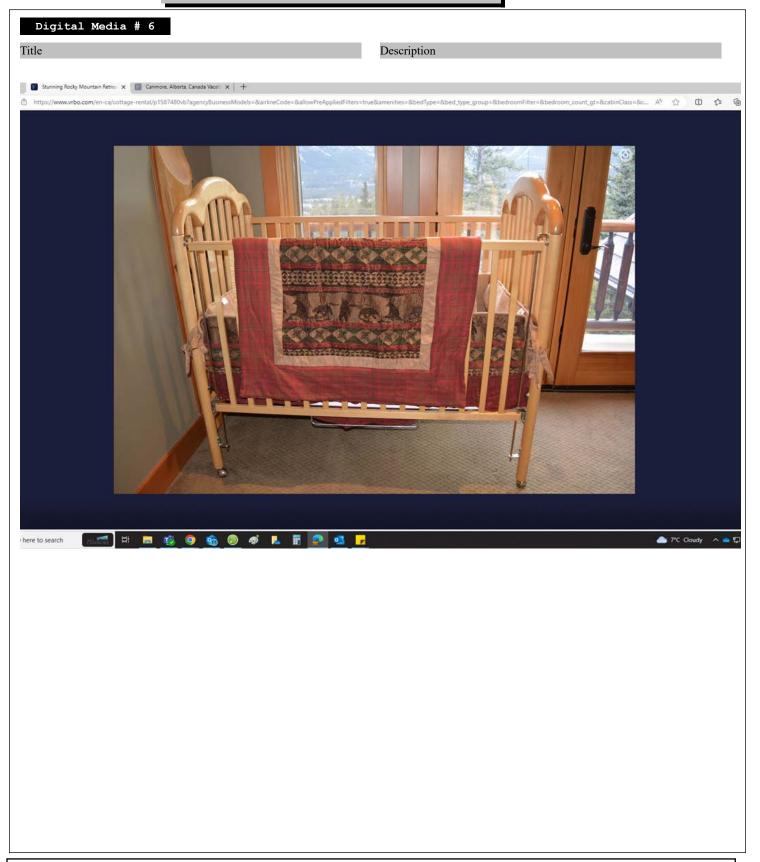
THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION, APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

Attachment 4: Screenshots from Airbnb and VRBO listings, gathered April 11, 2024

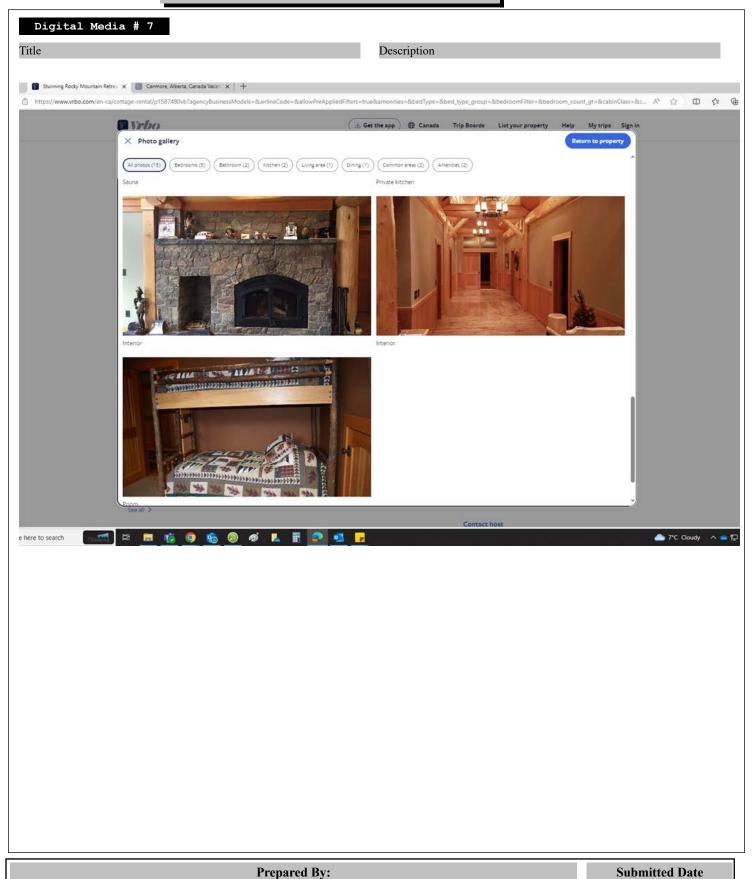


Signature

Reviewed By/Date



Prepared By: BARNES, RICHARD(BARNES)	Submitted Date 2024/05/31 2:45 PM
Signature	Reviewed By/Date

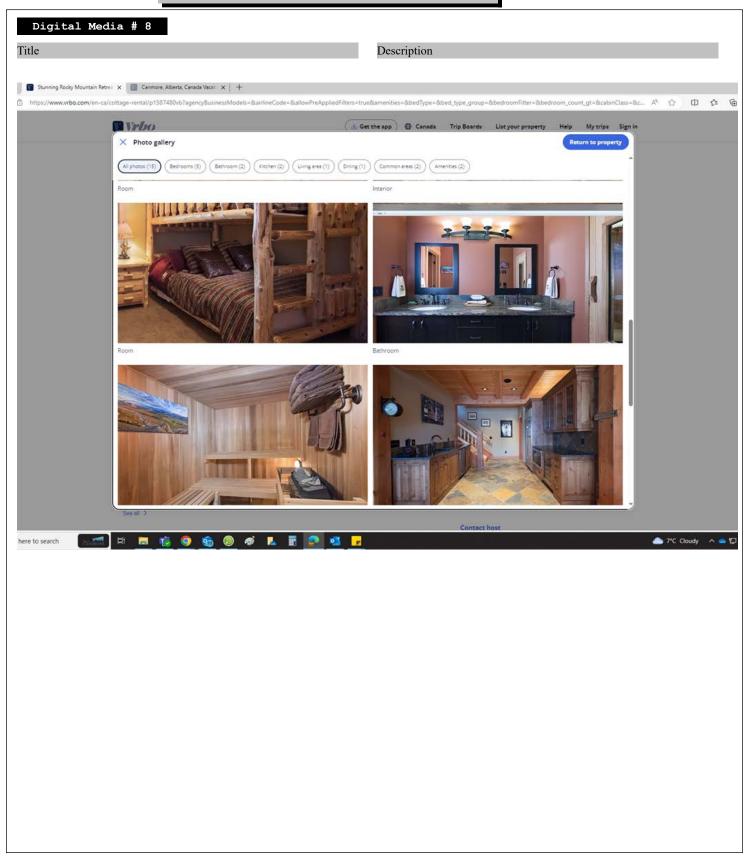


Signature

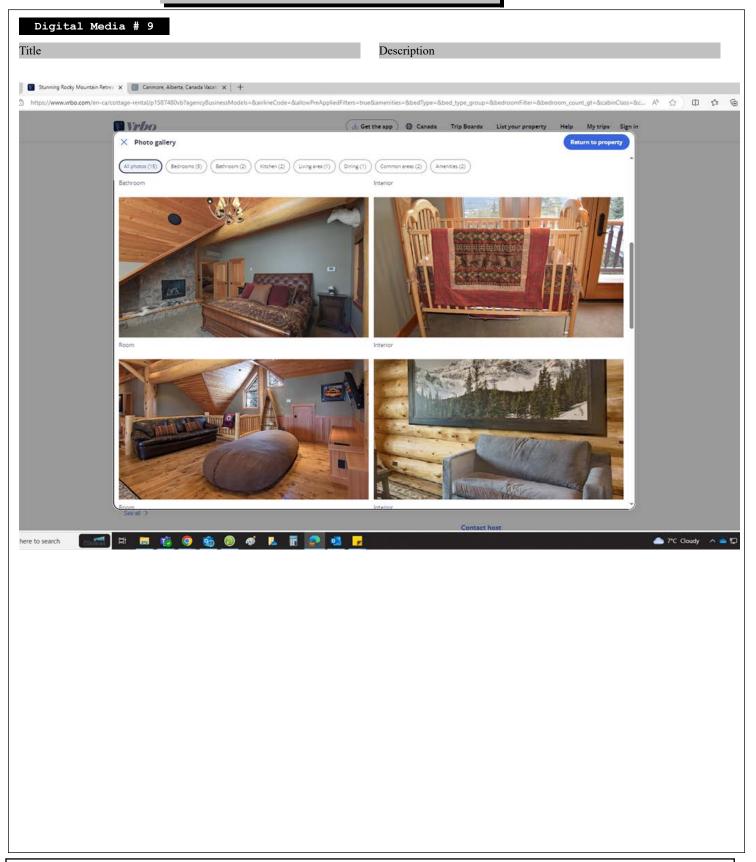
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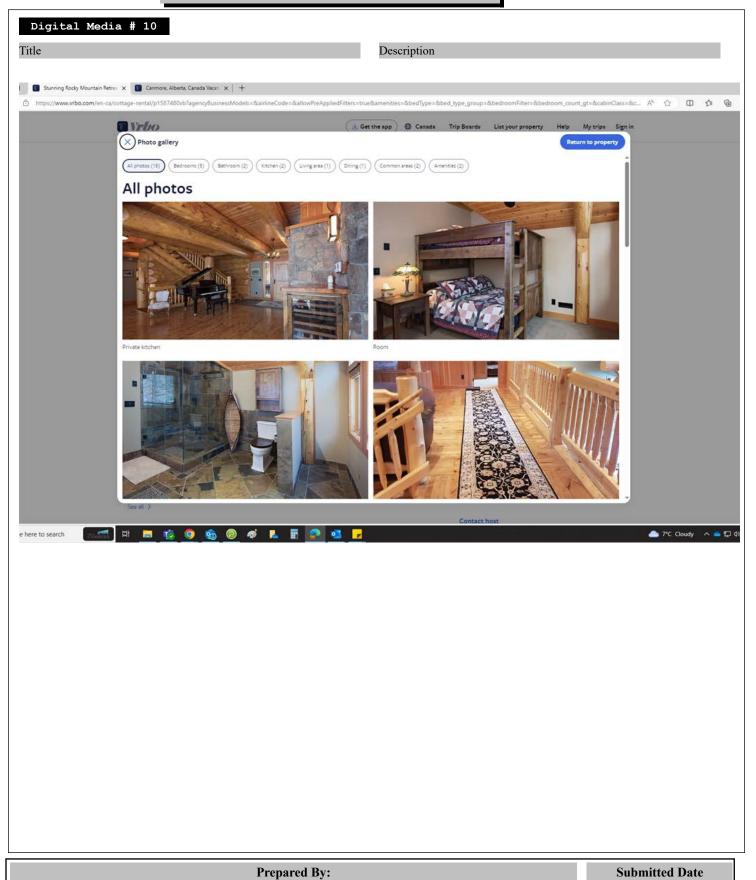
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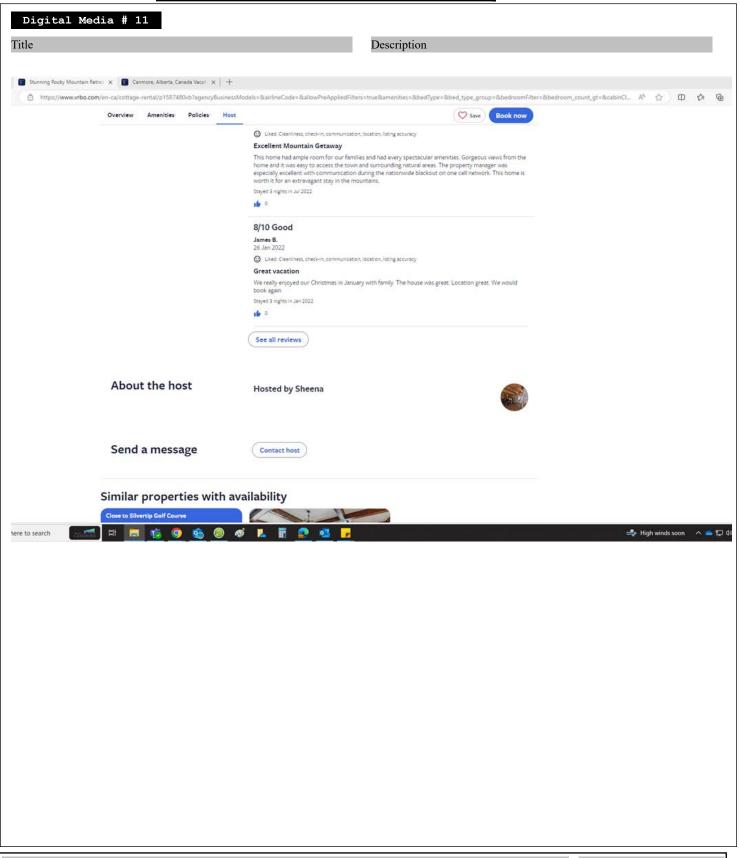


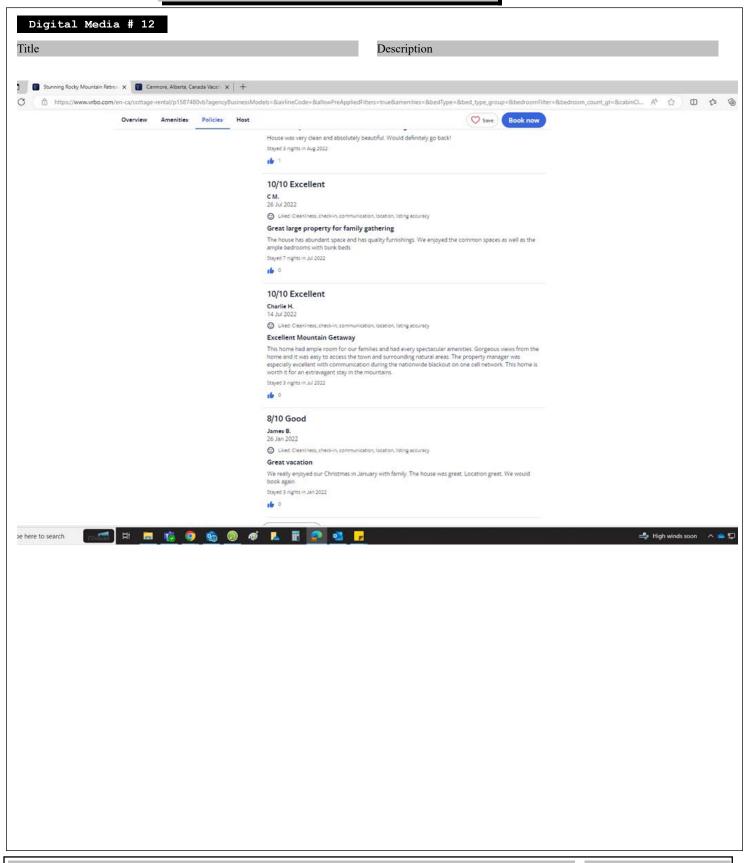
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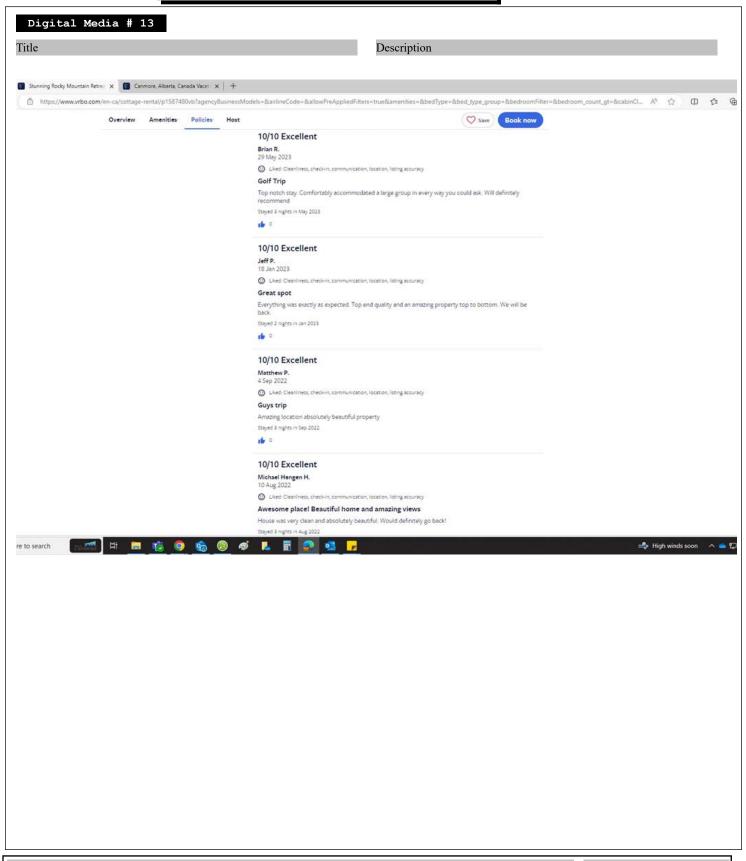
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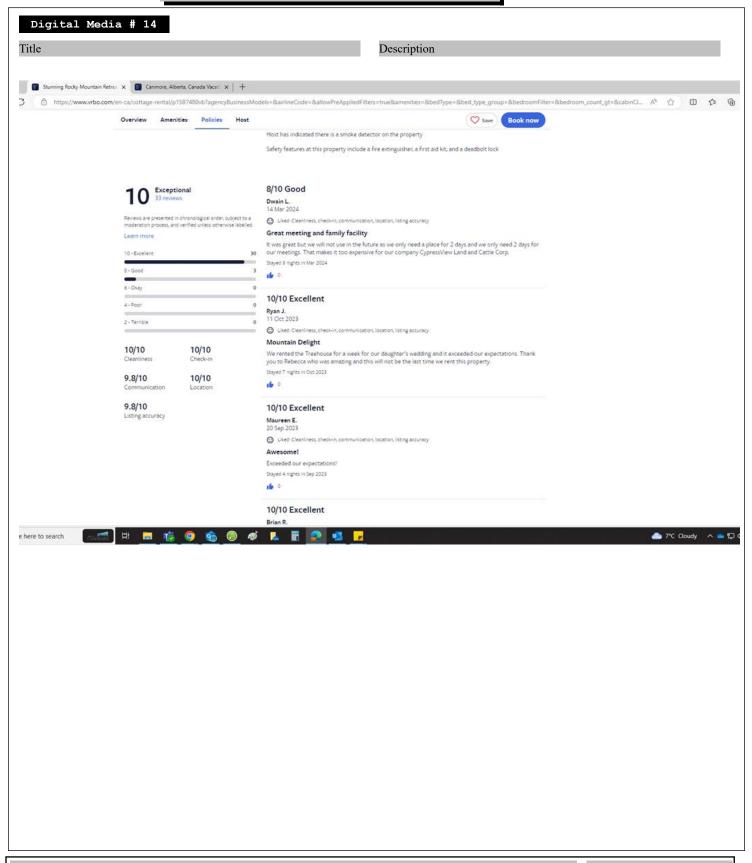
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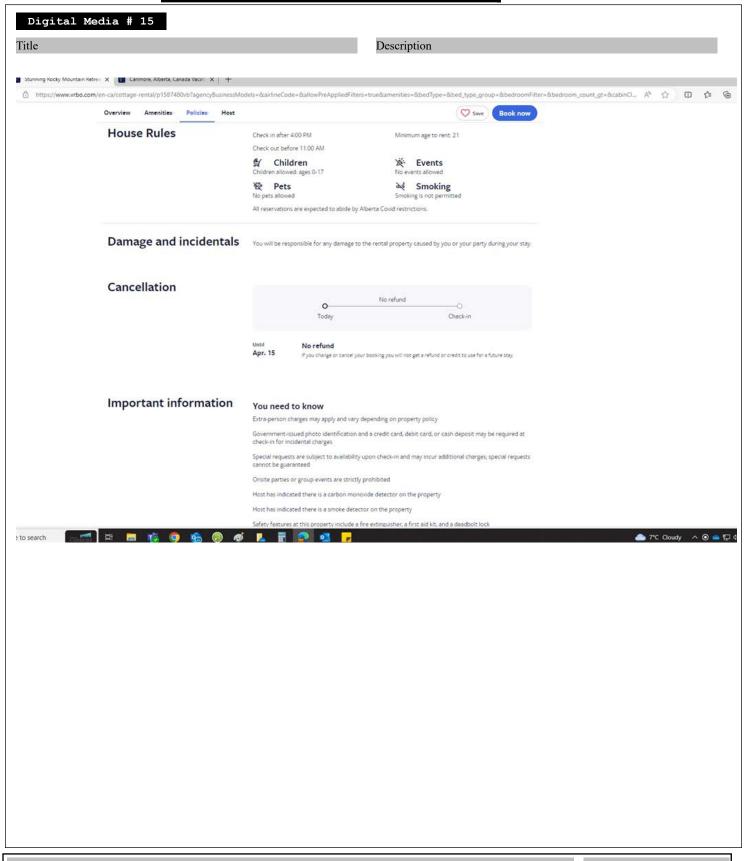
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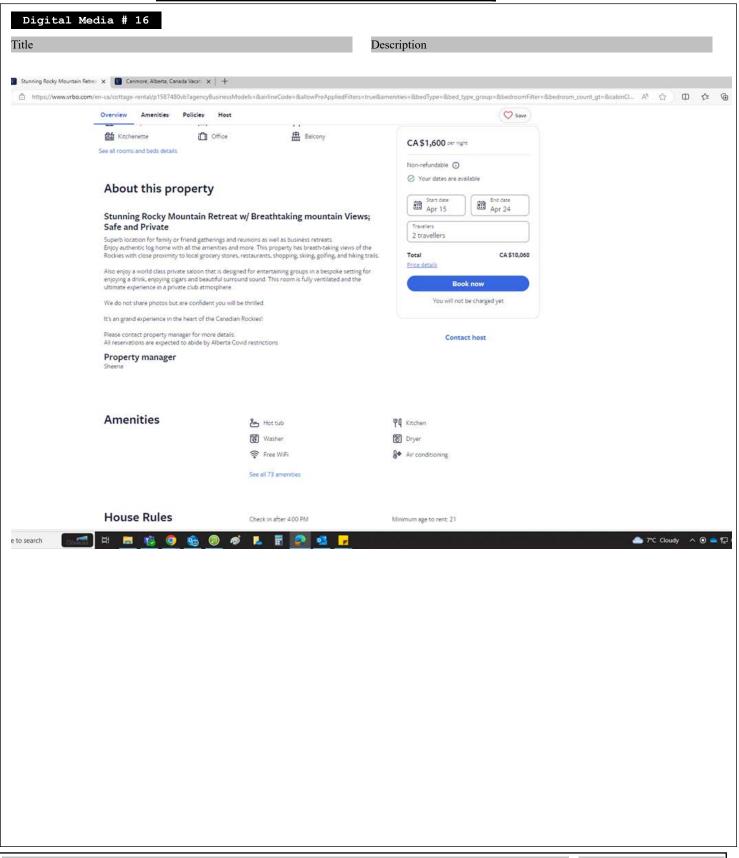


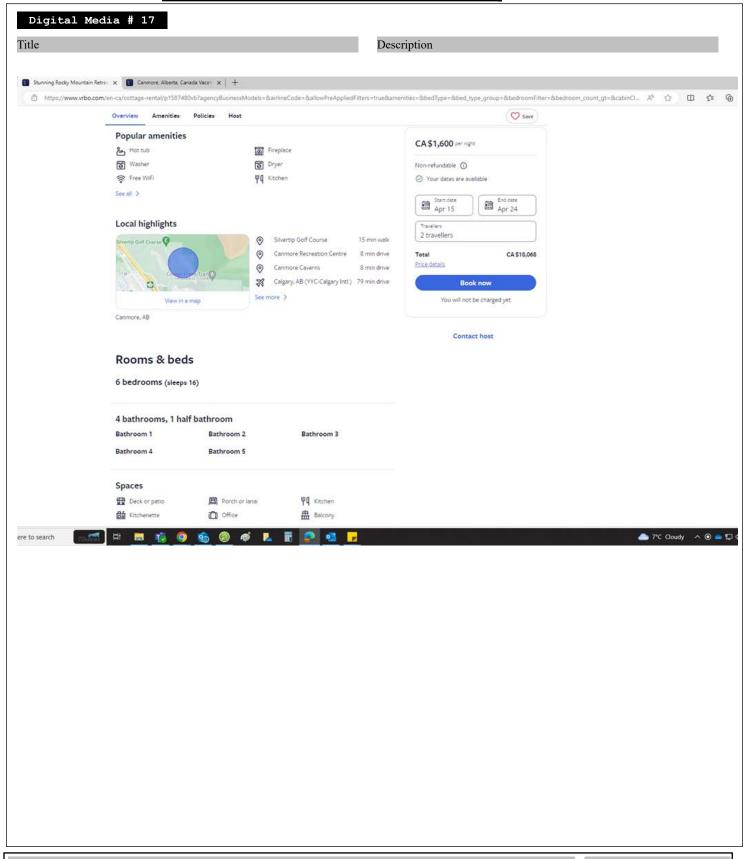


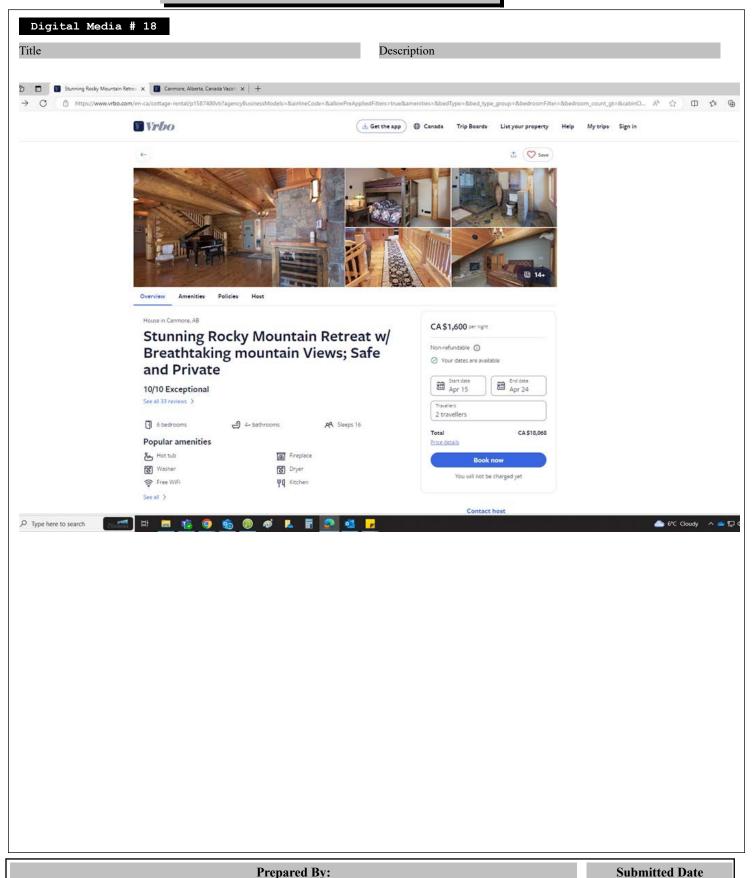










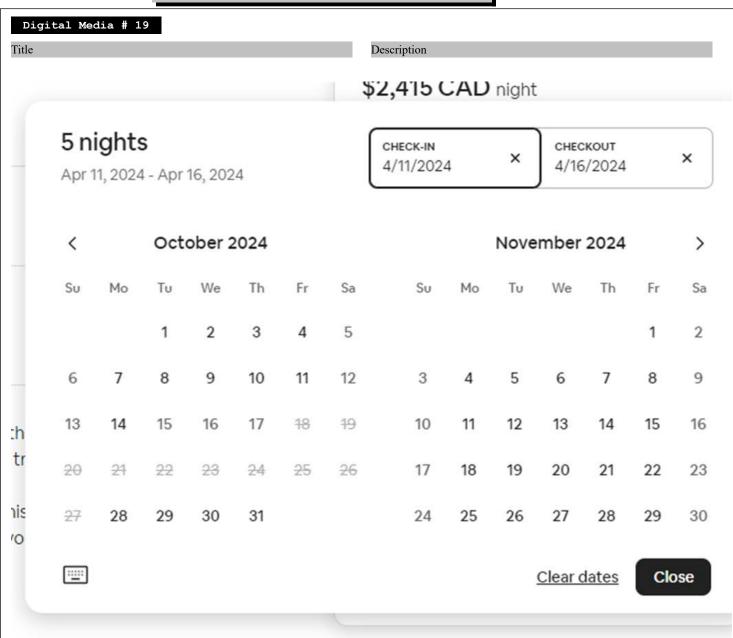


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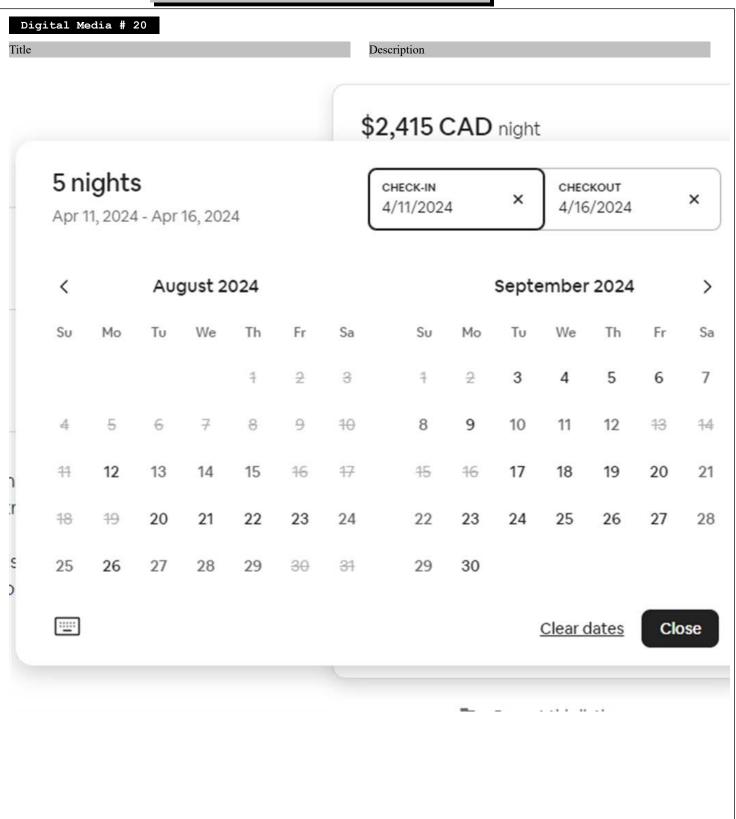
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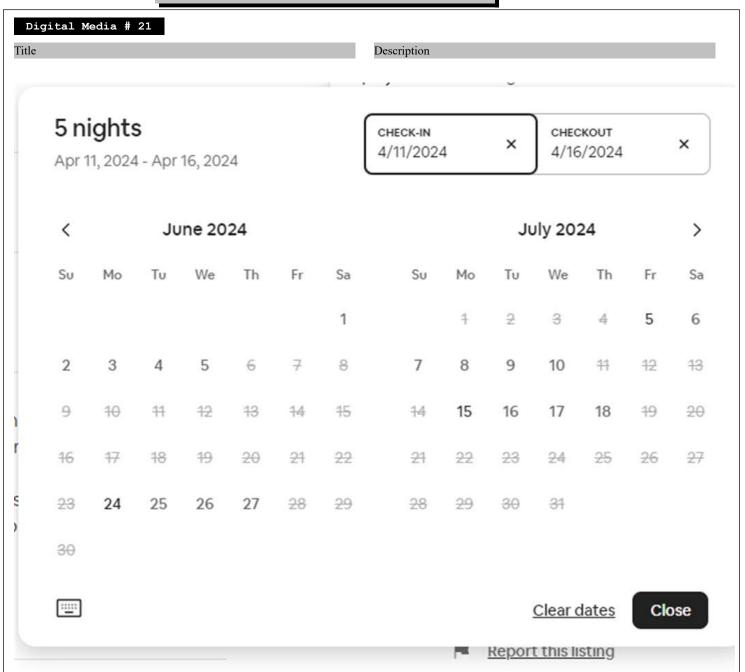


Report this listing

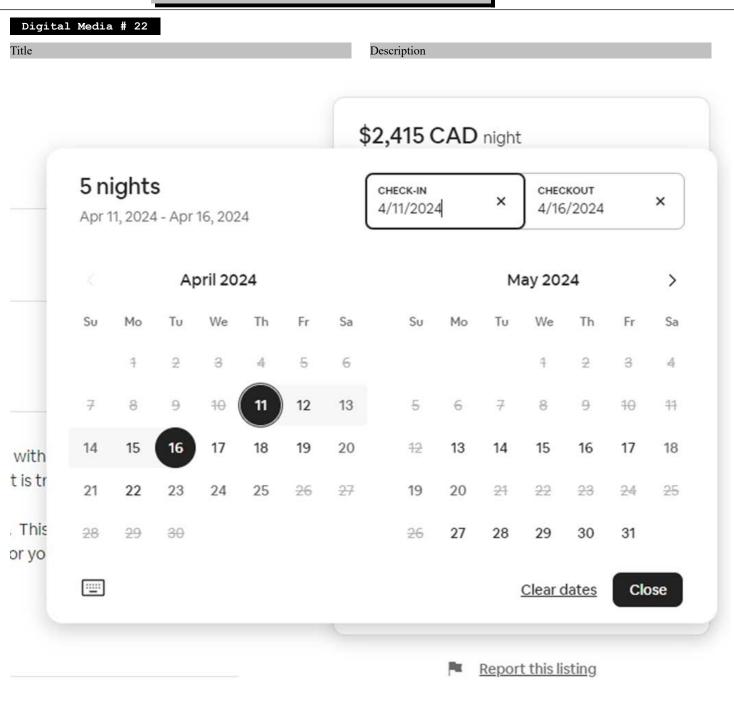
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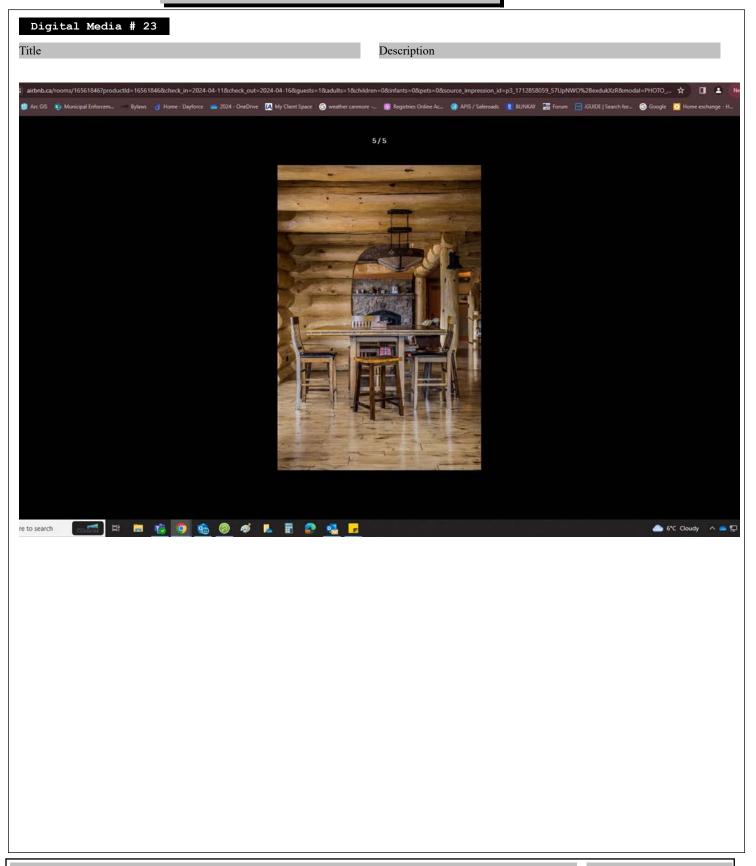
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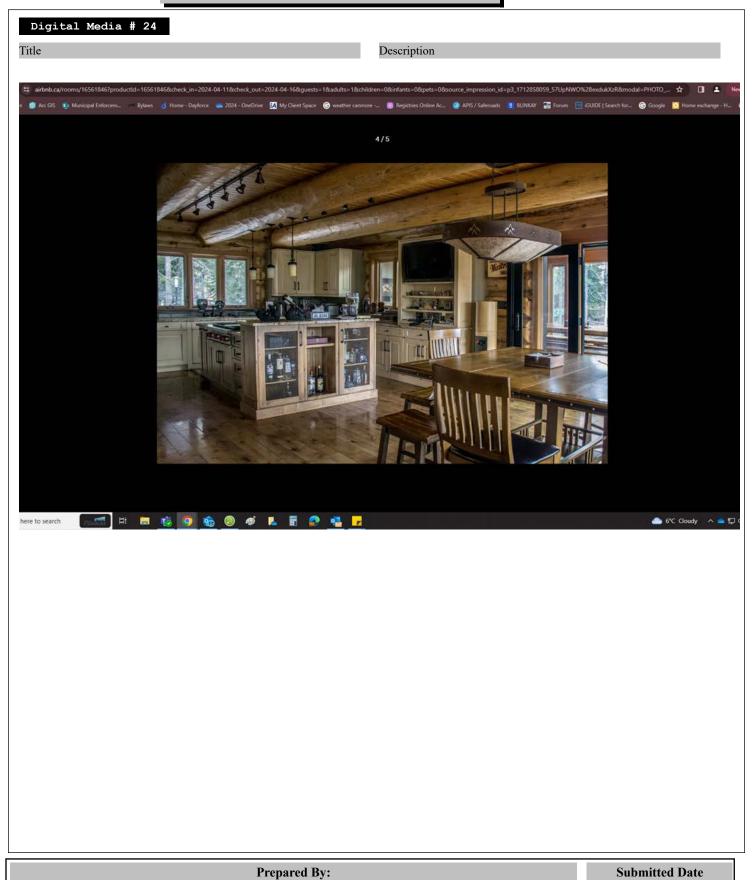


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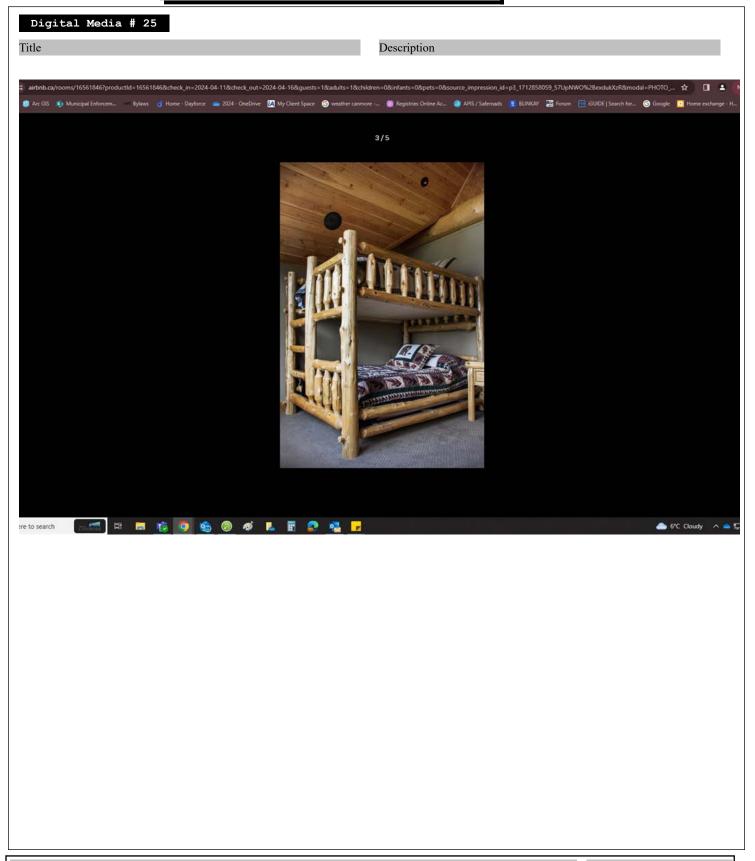


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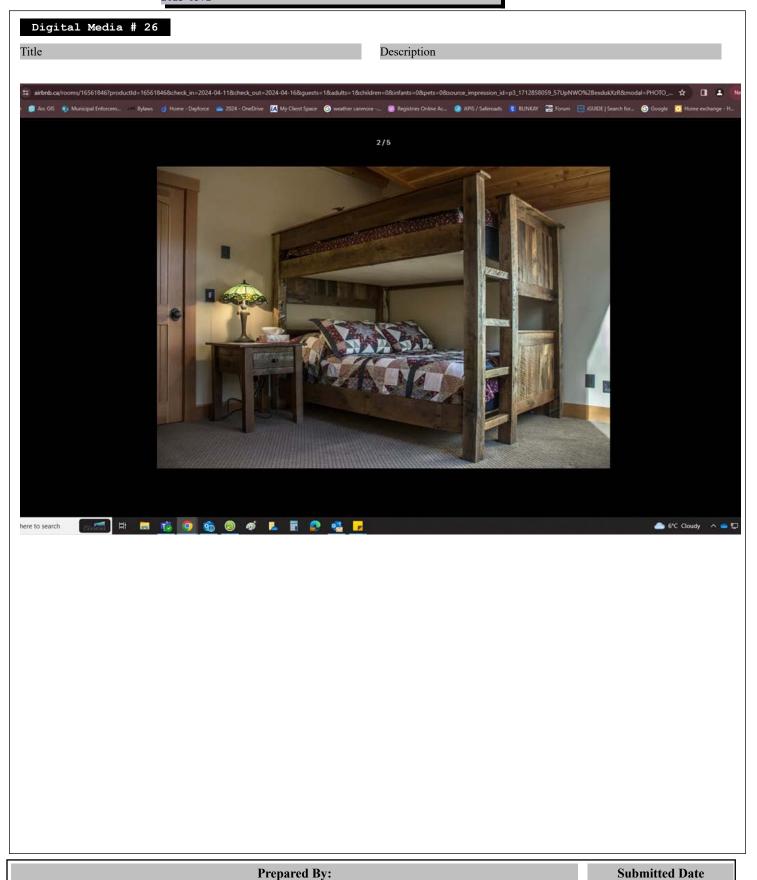
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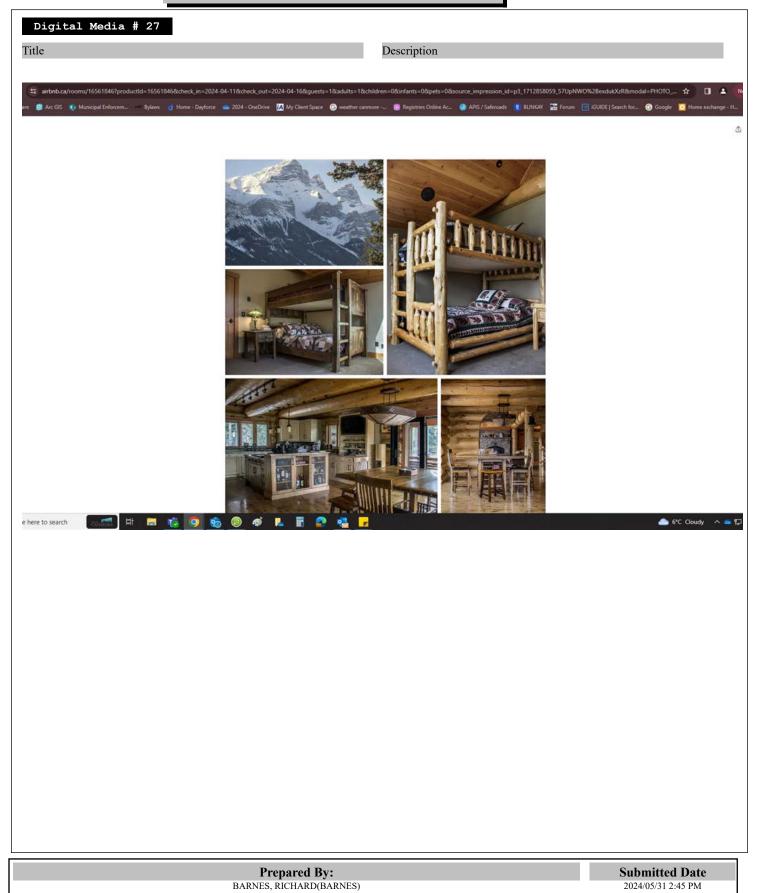
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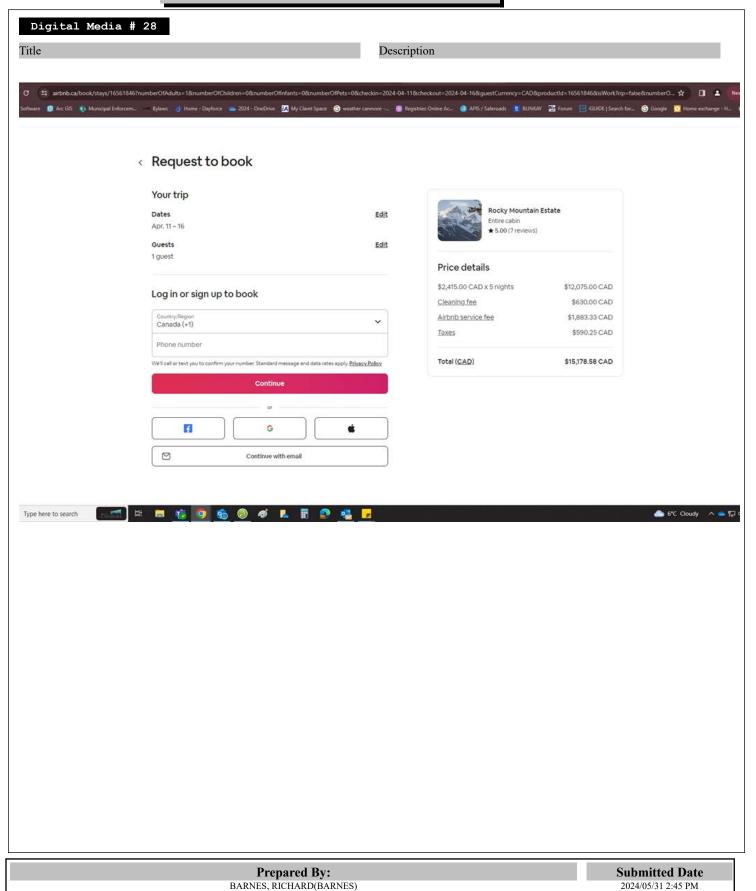
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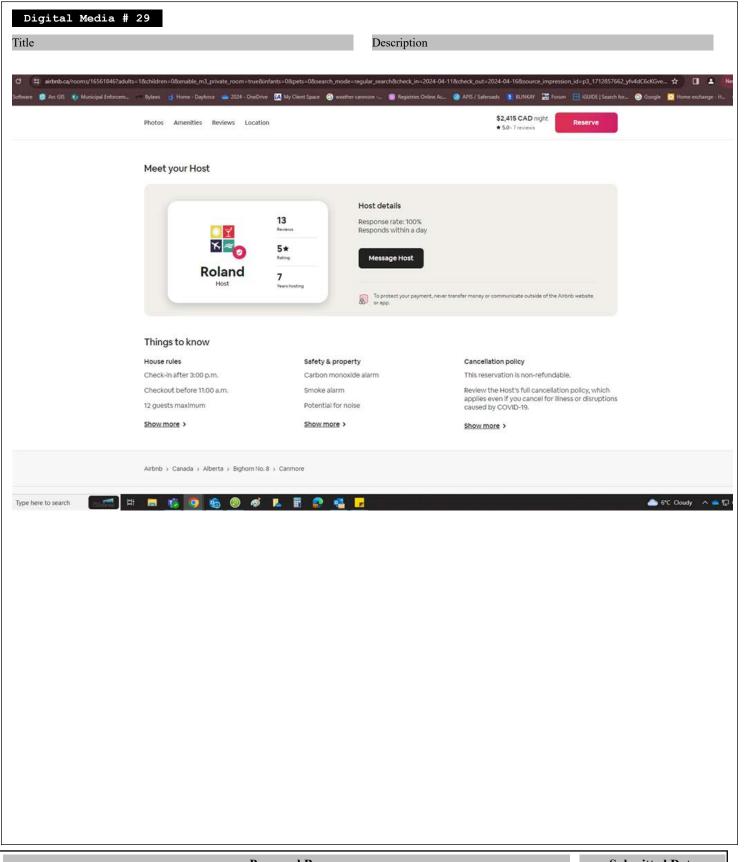
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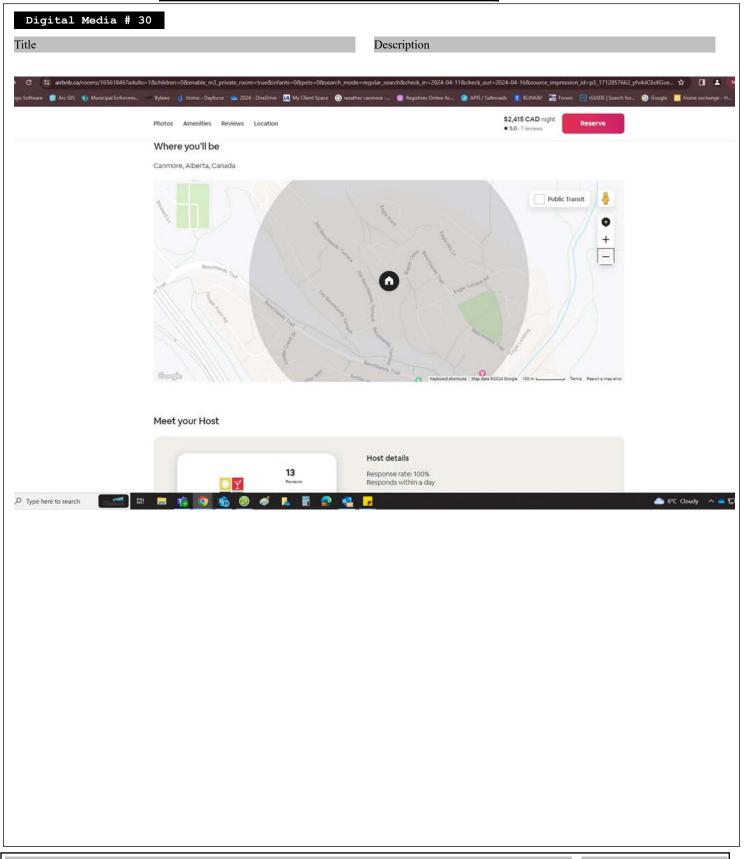


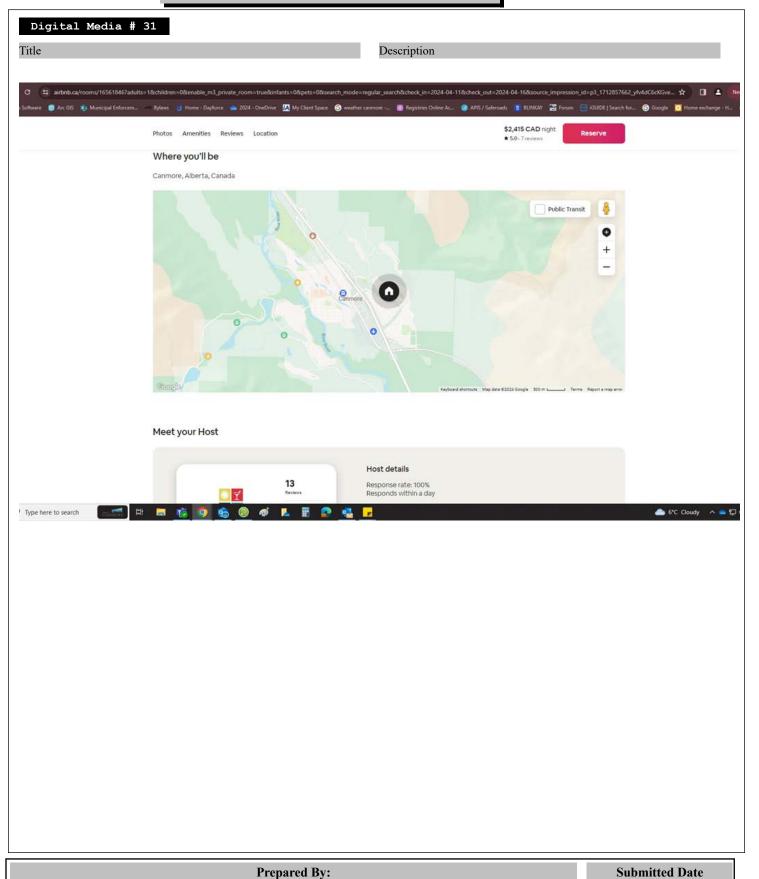
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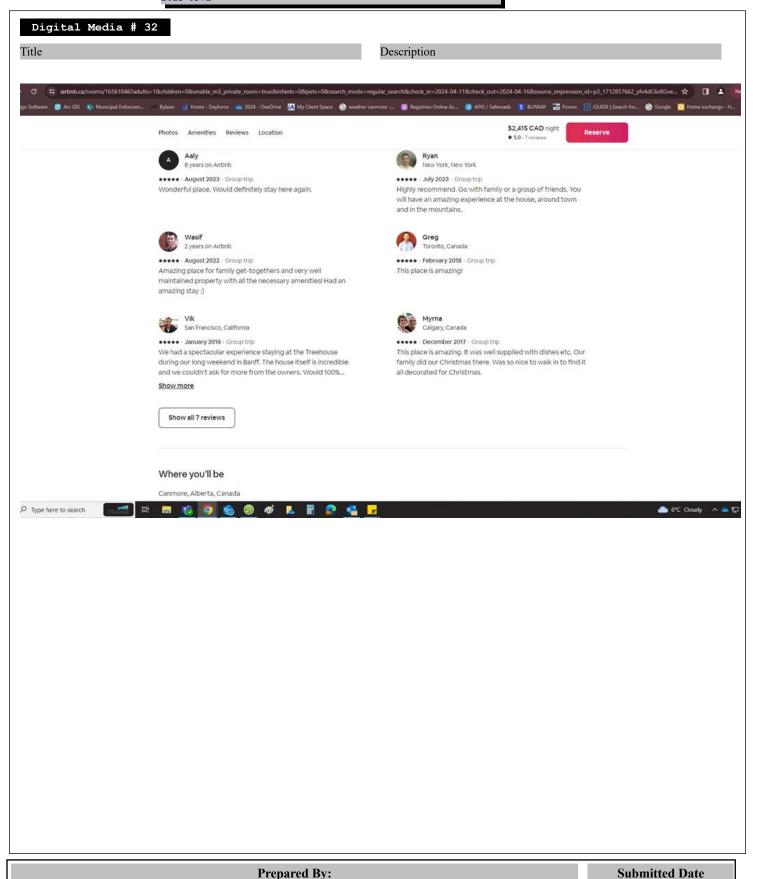


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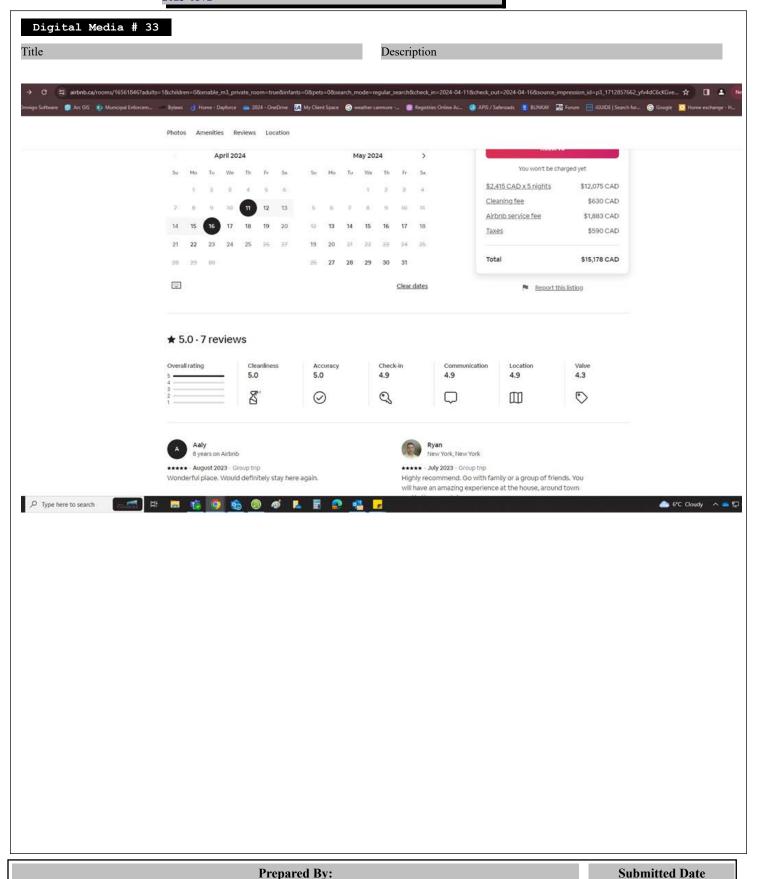




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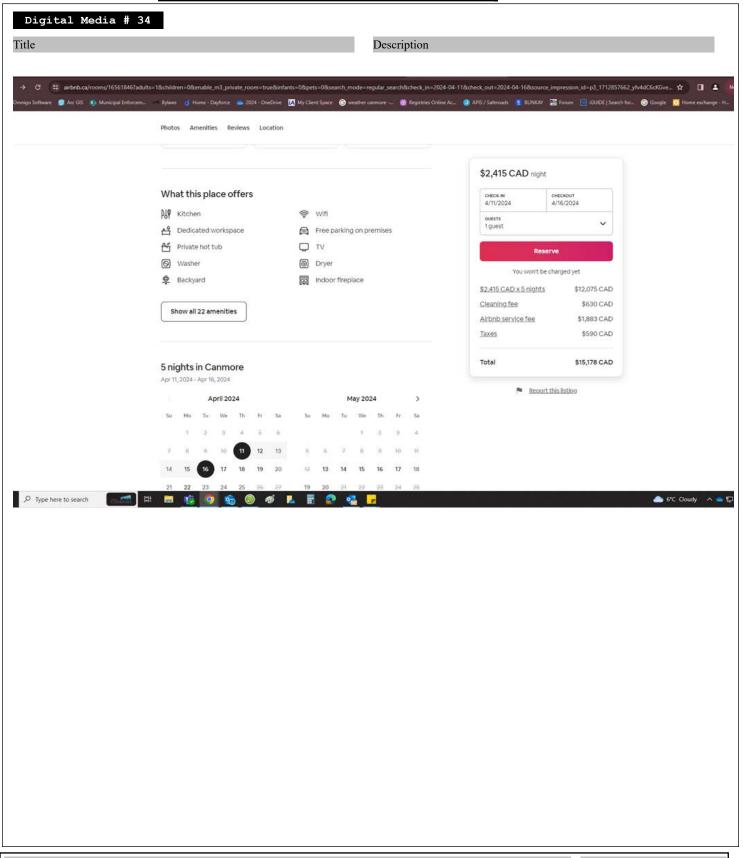
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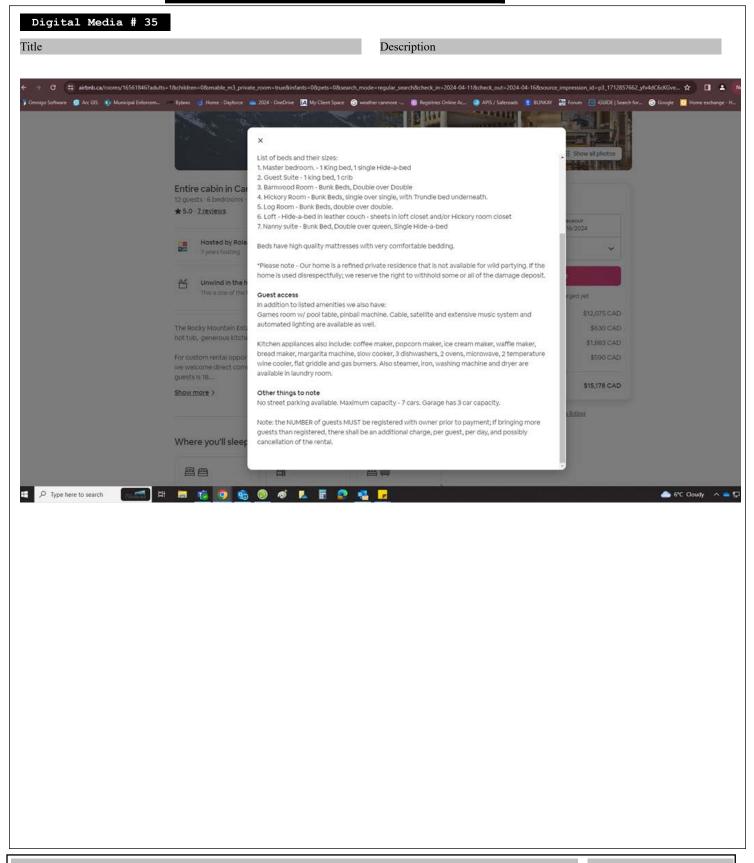


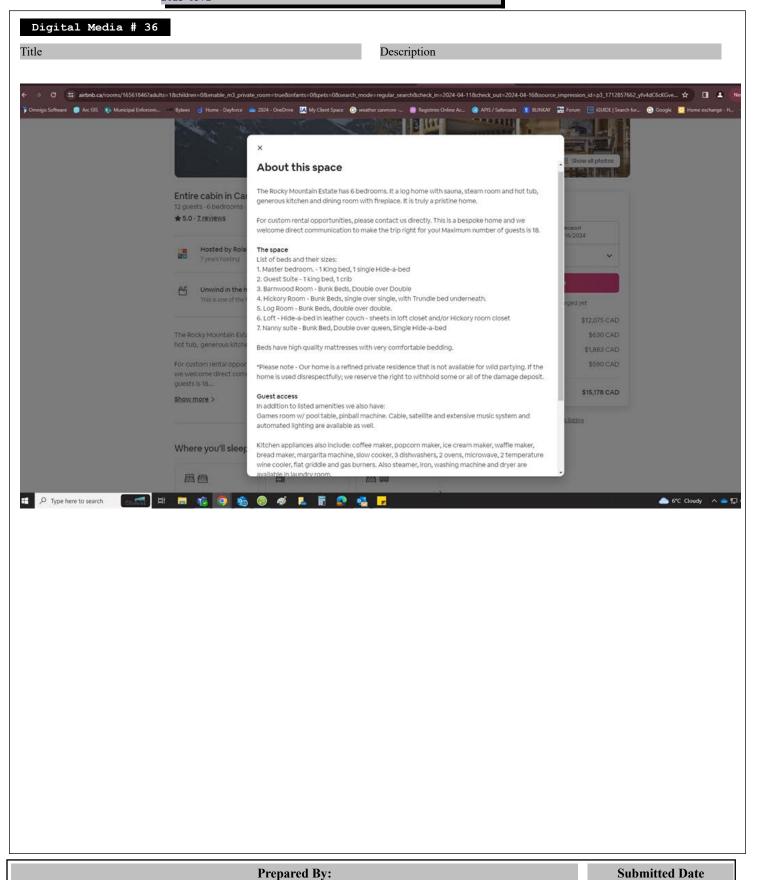
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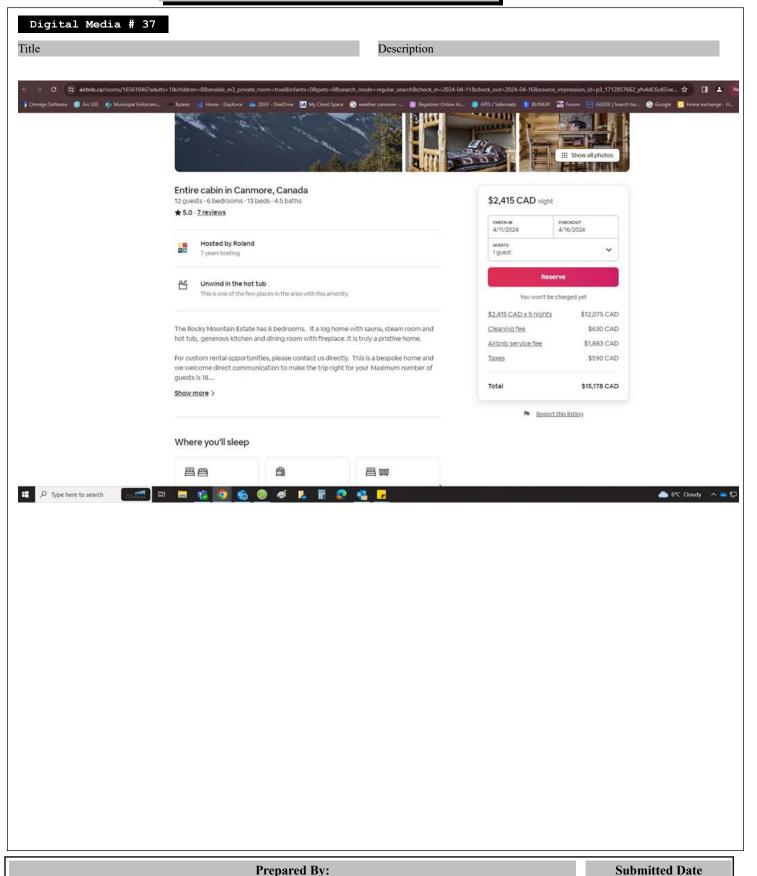
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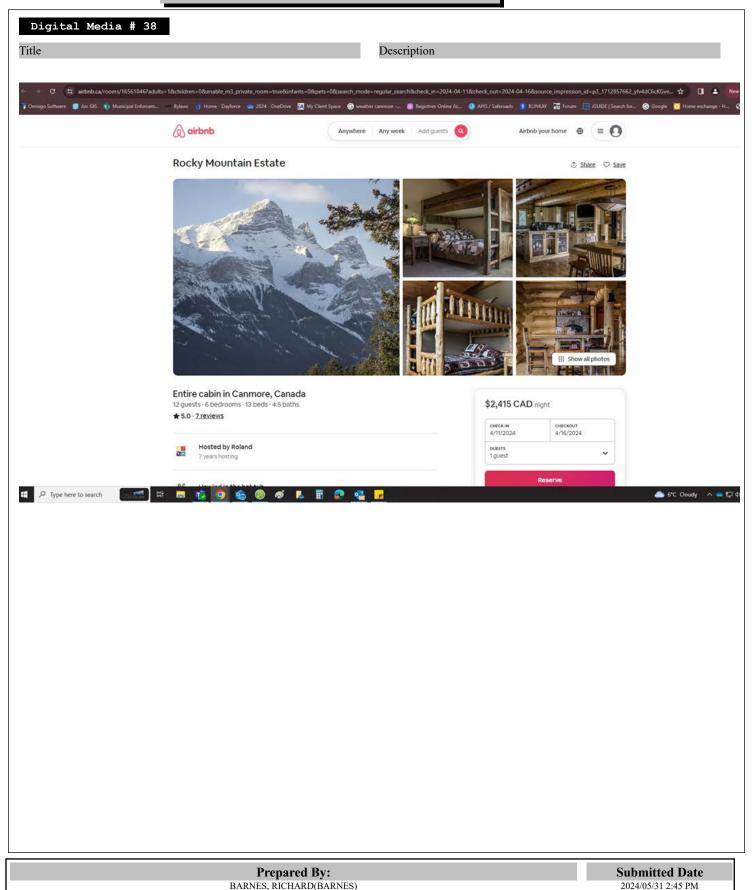
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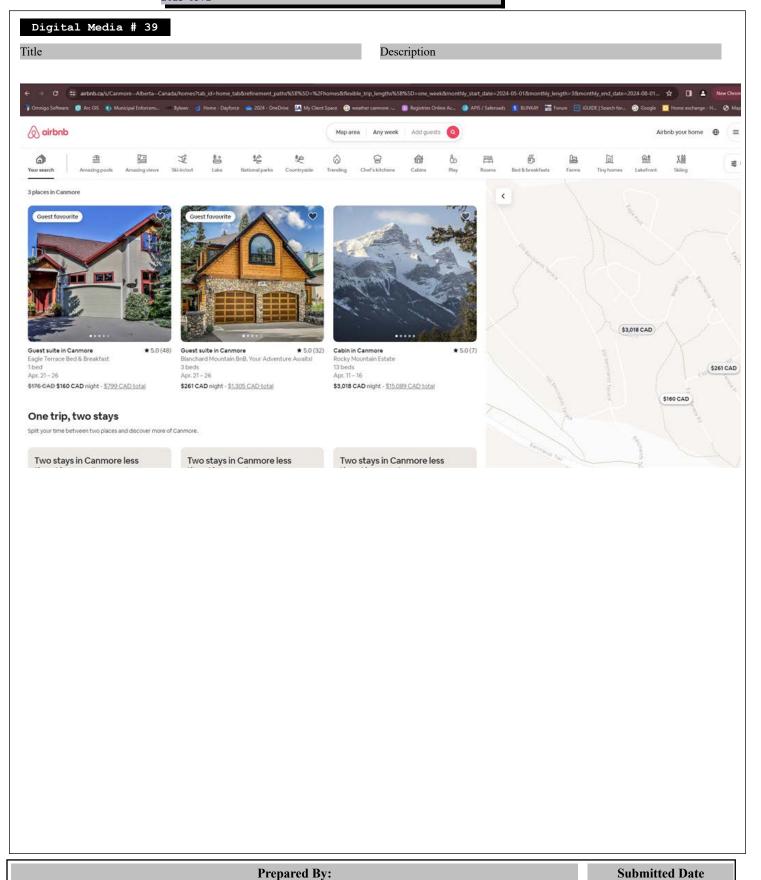






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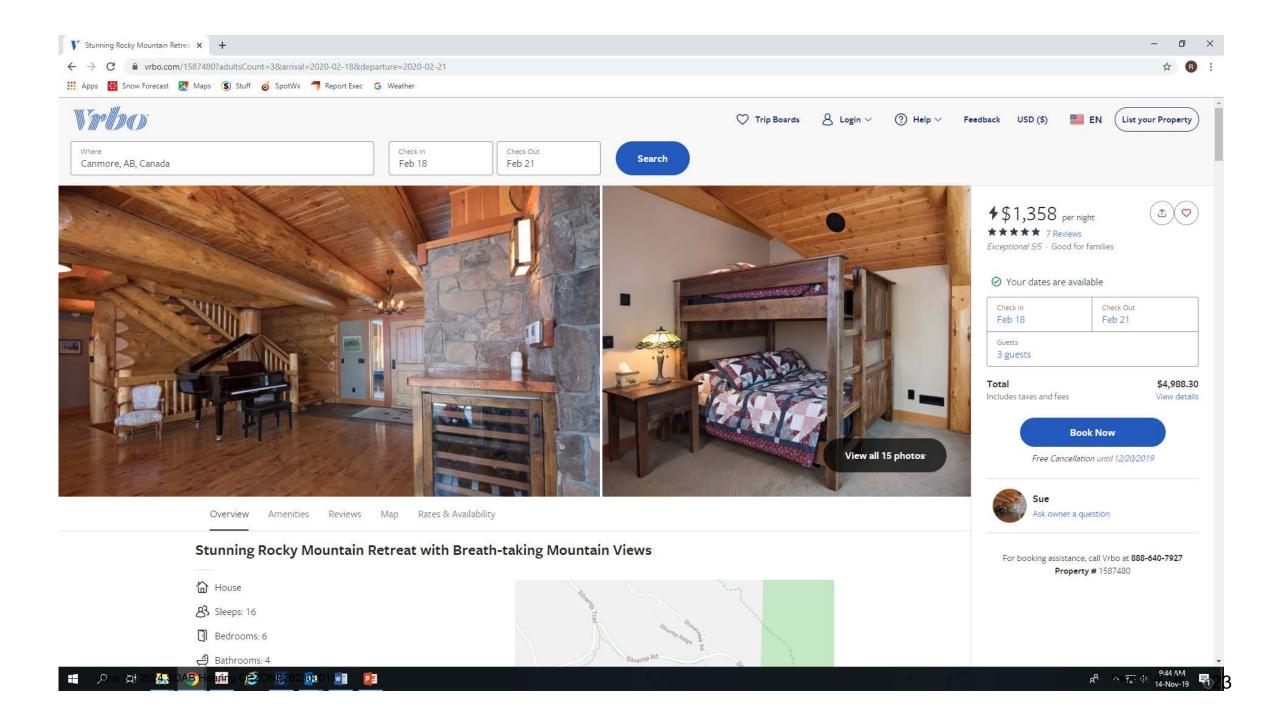
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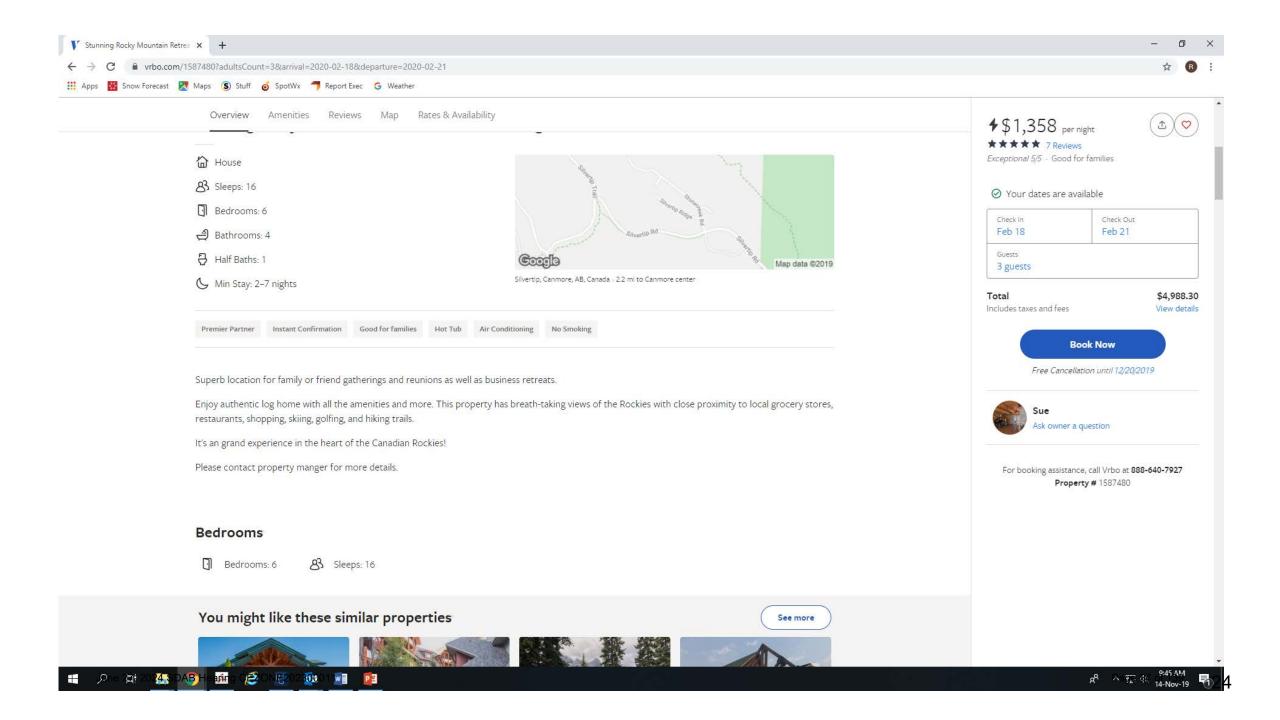
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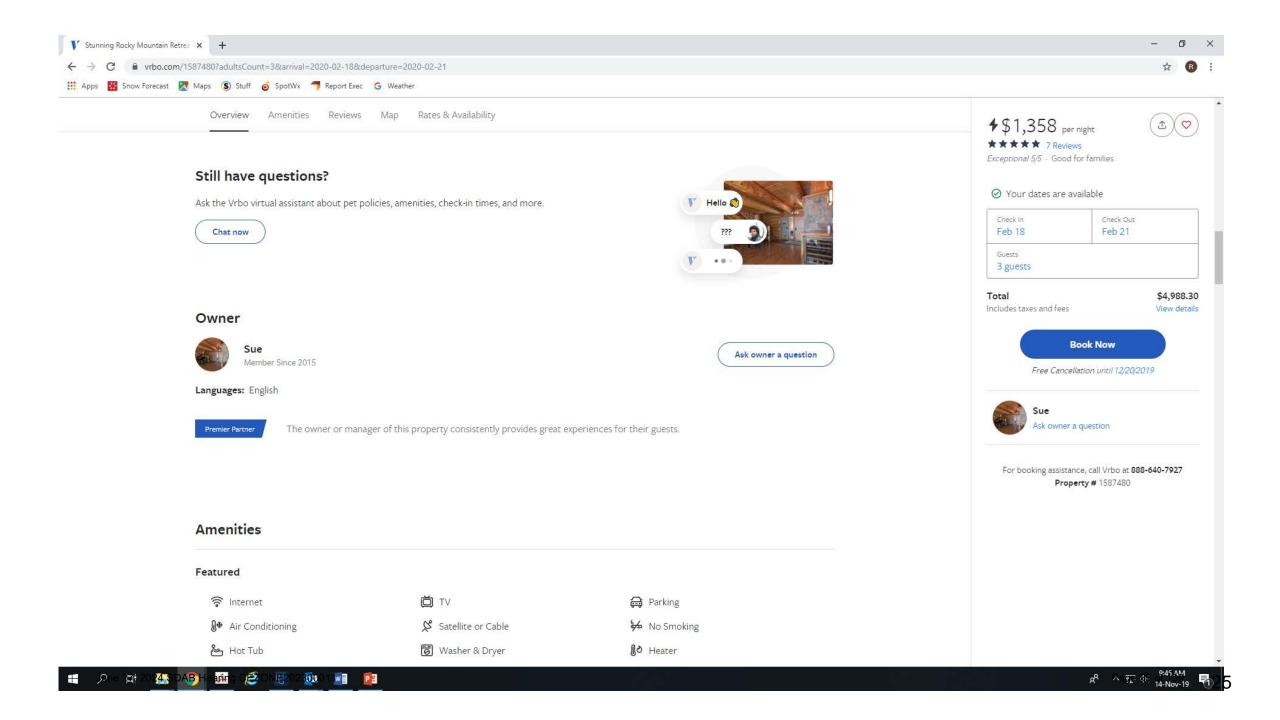
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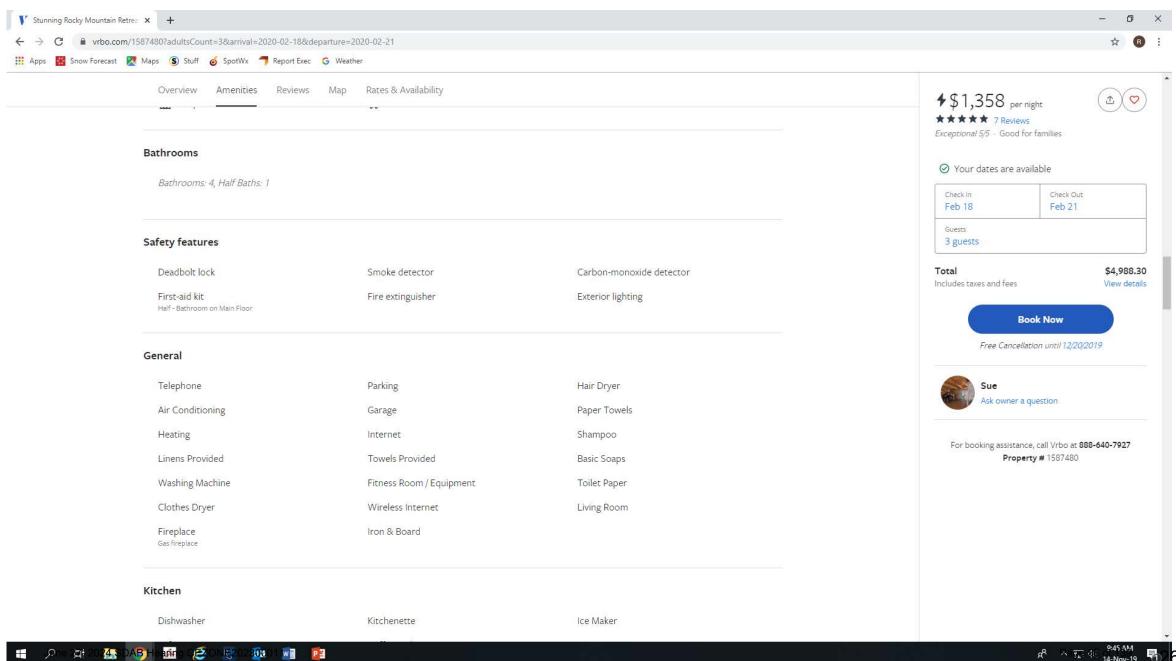
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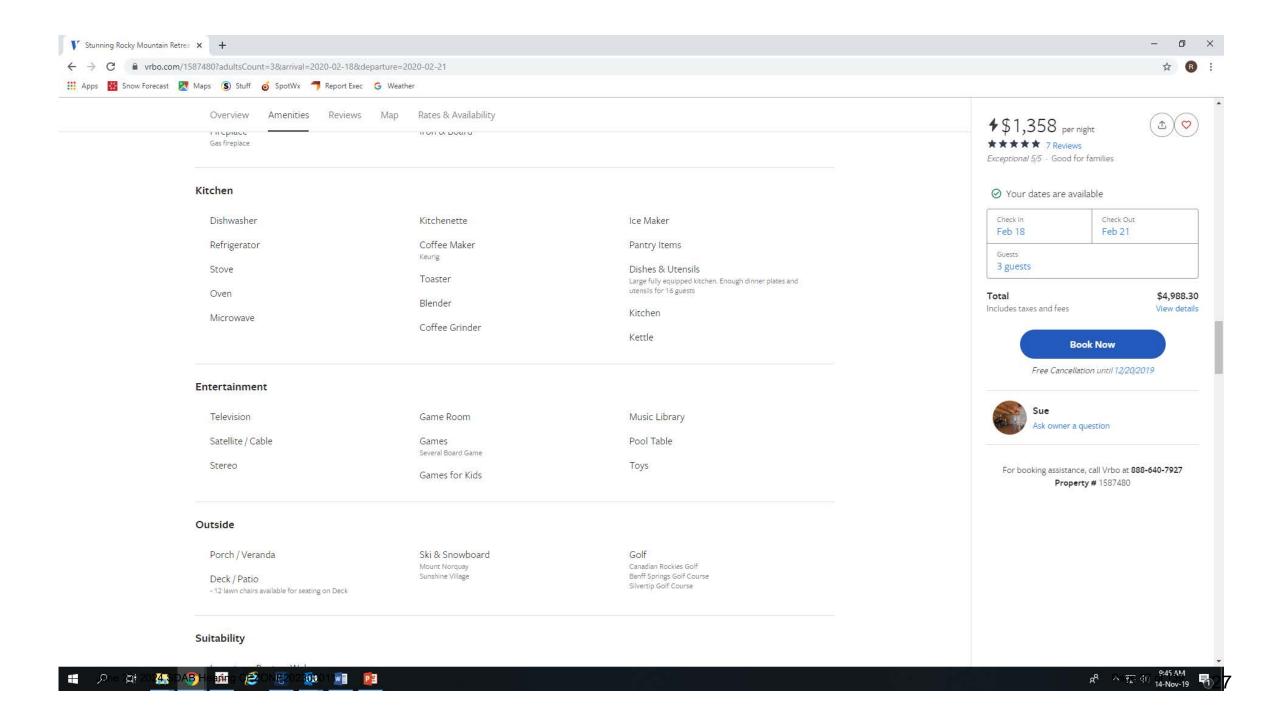
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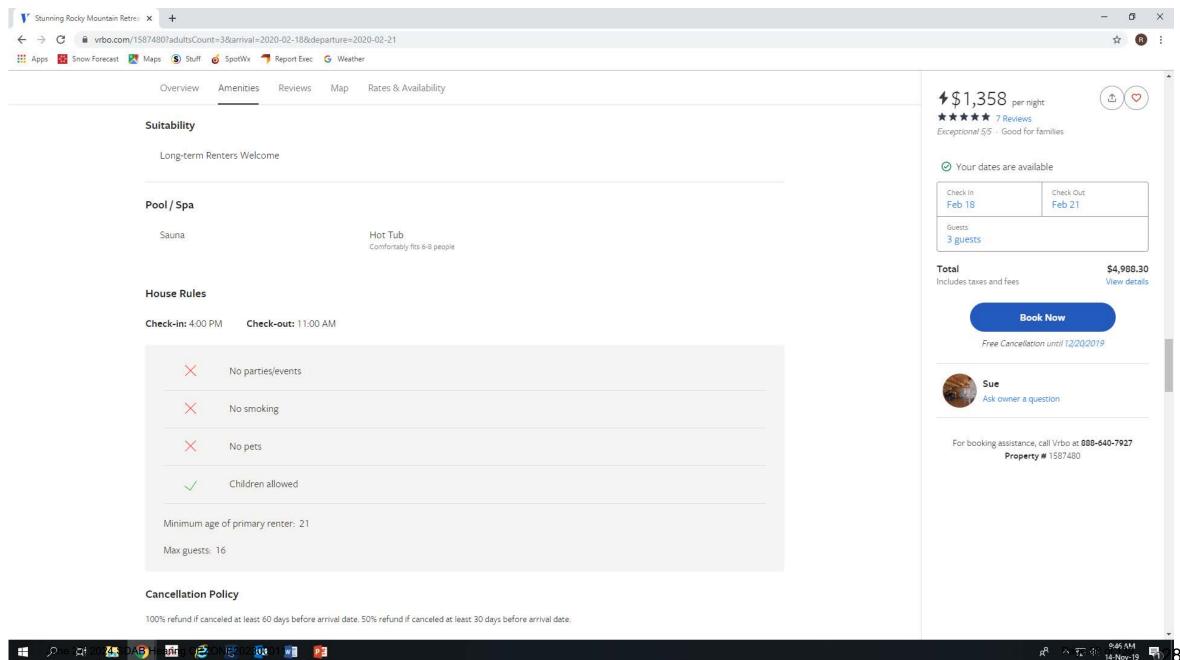


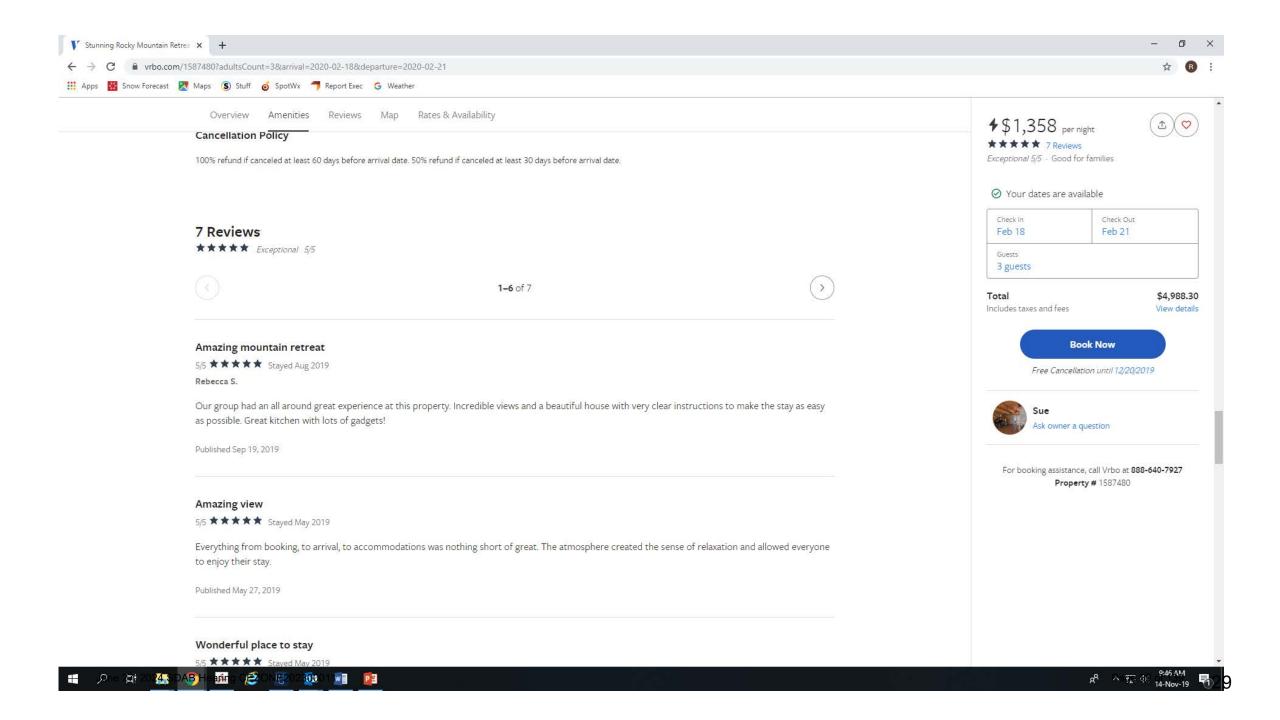


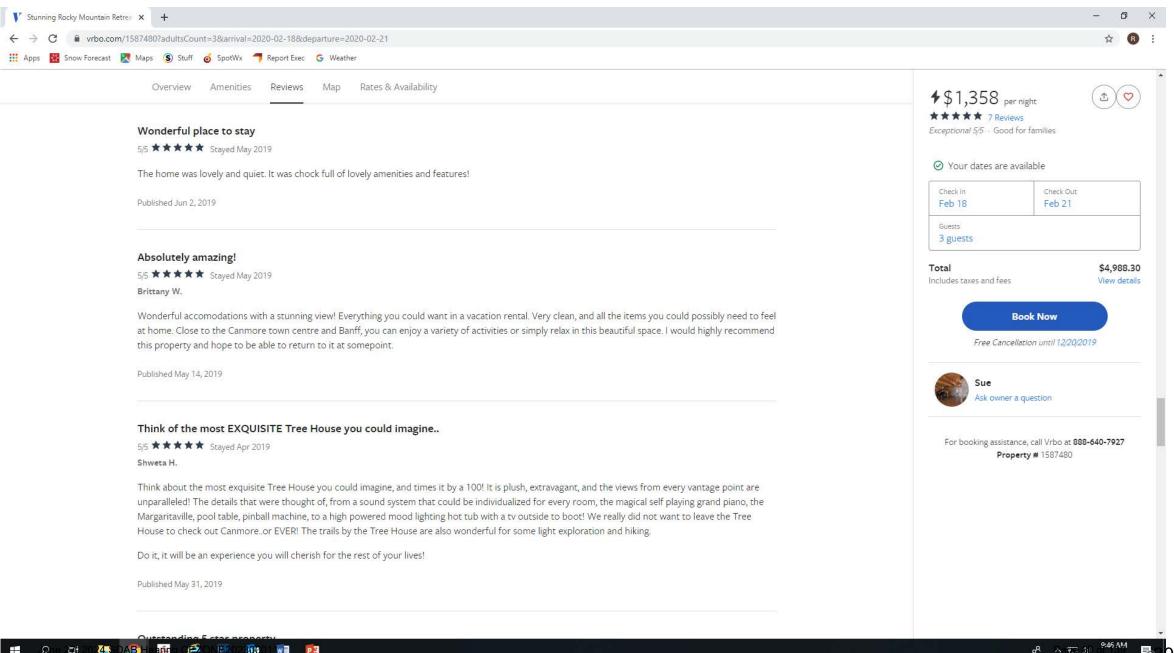












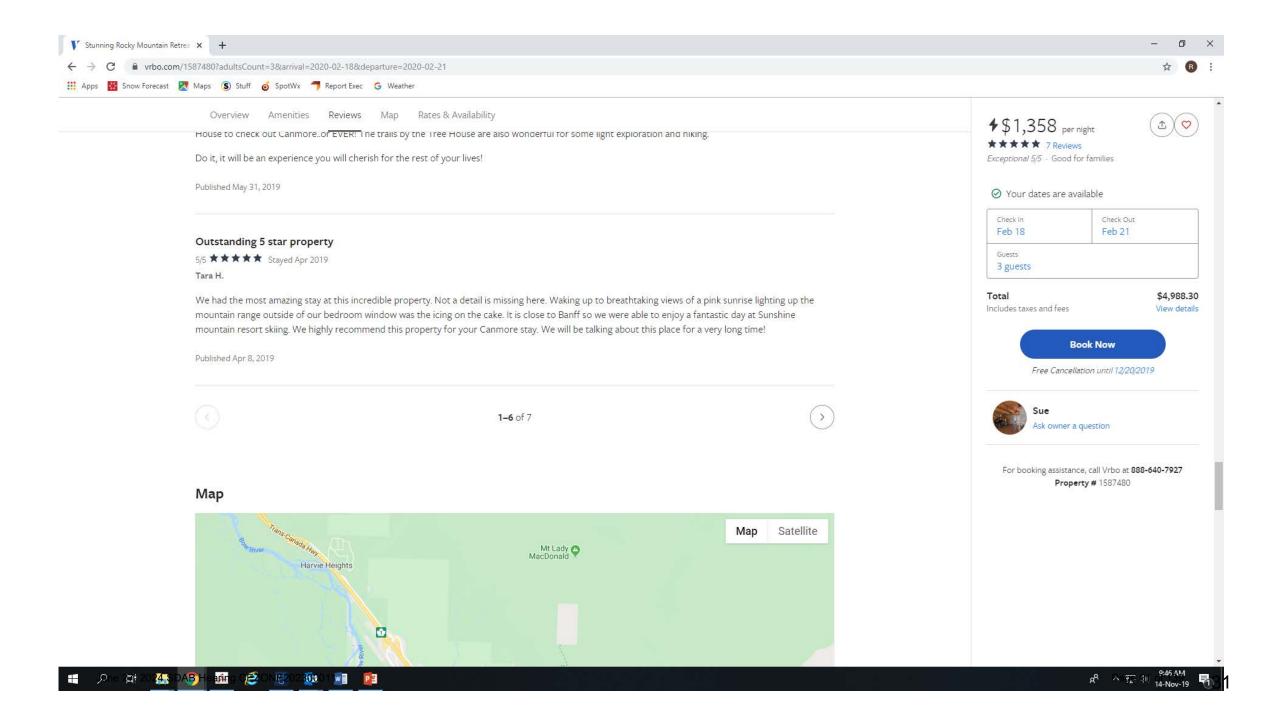


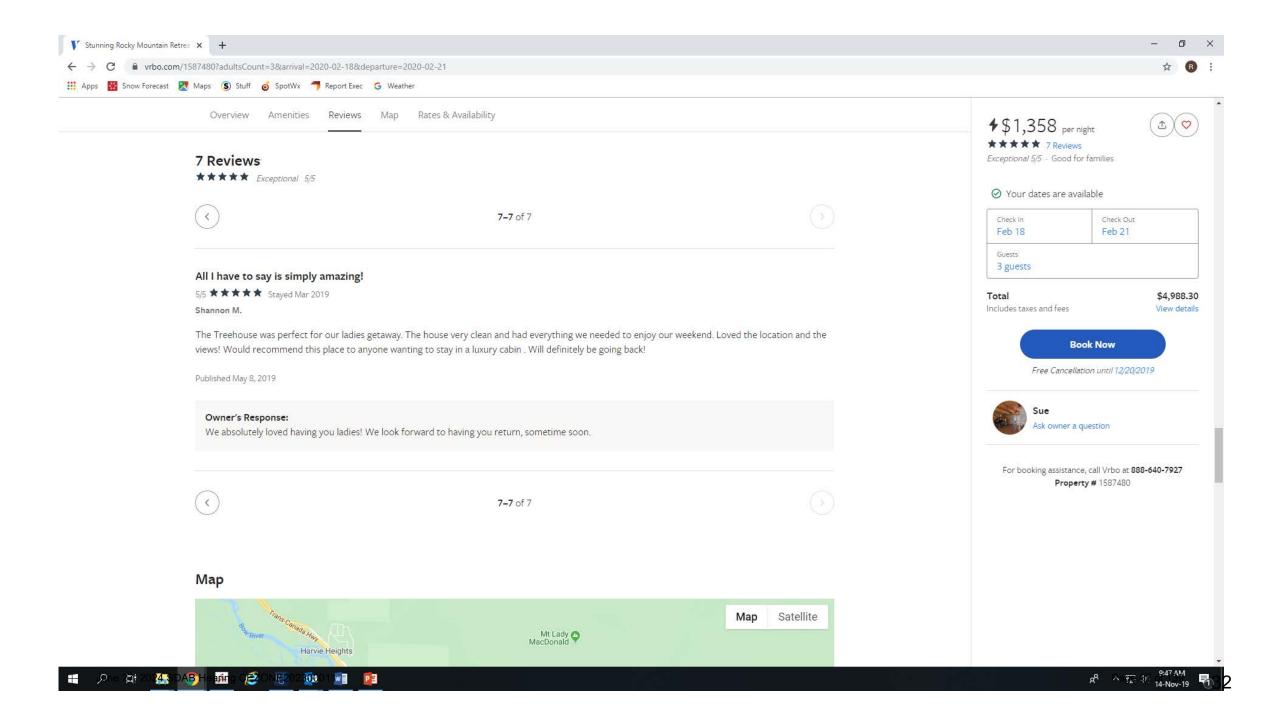


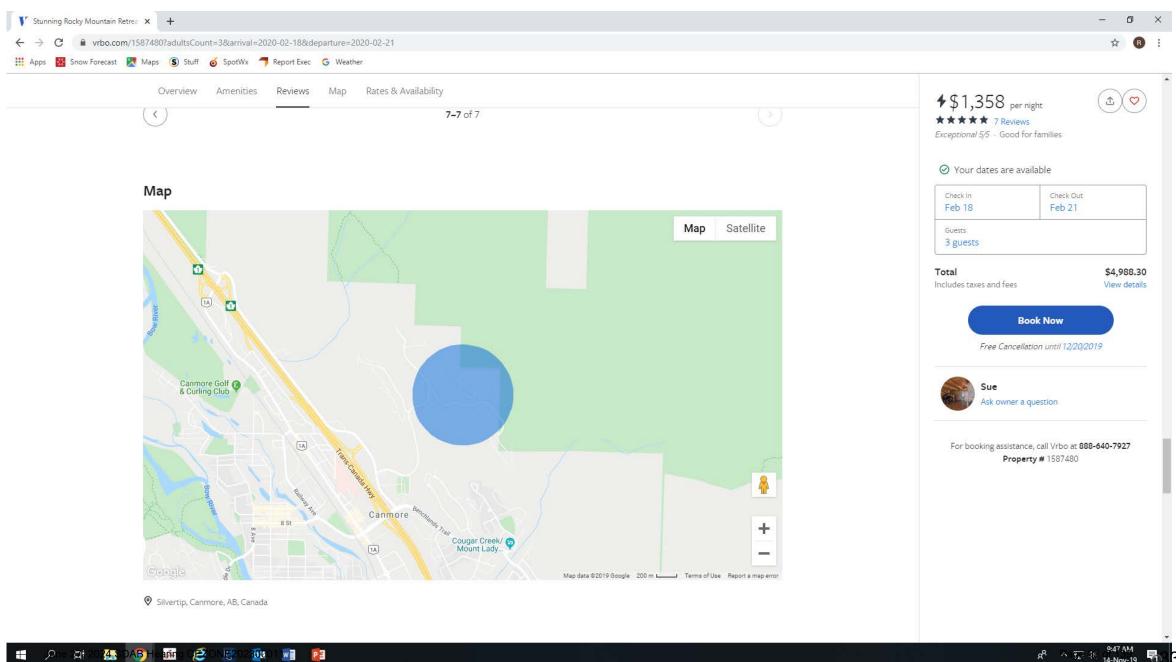


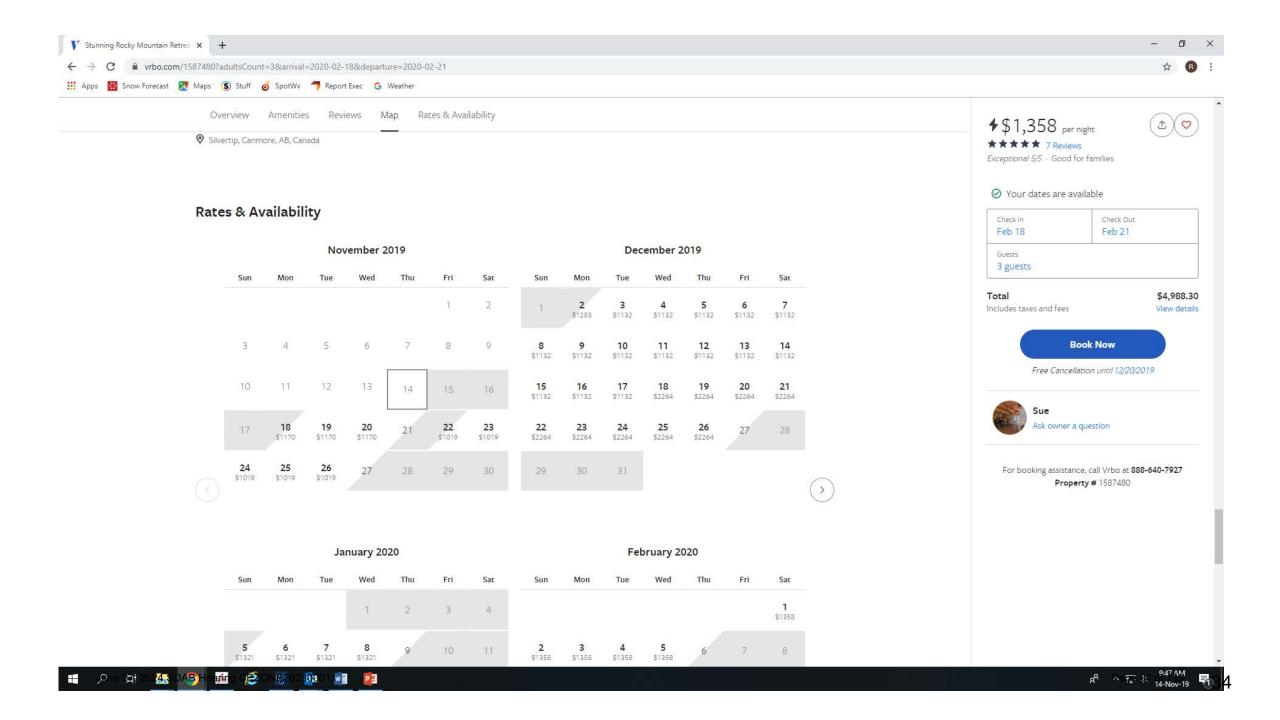


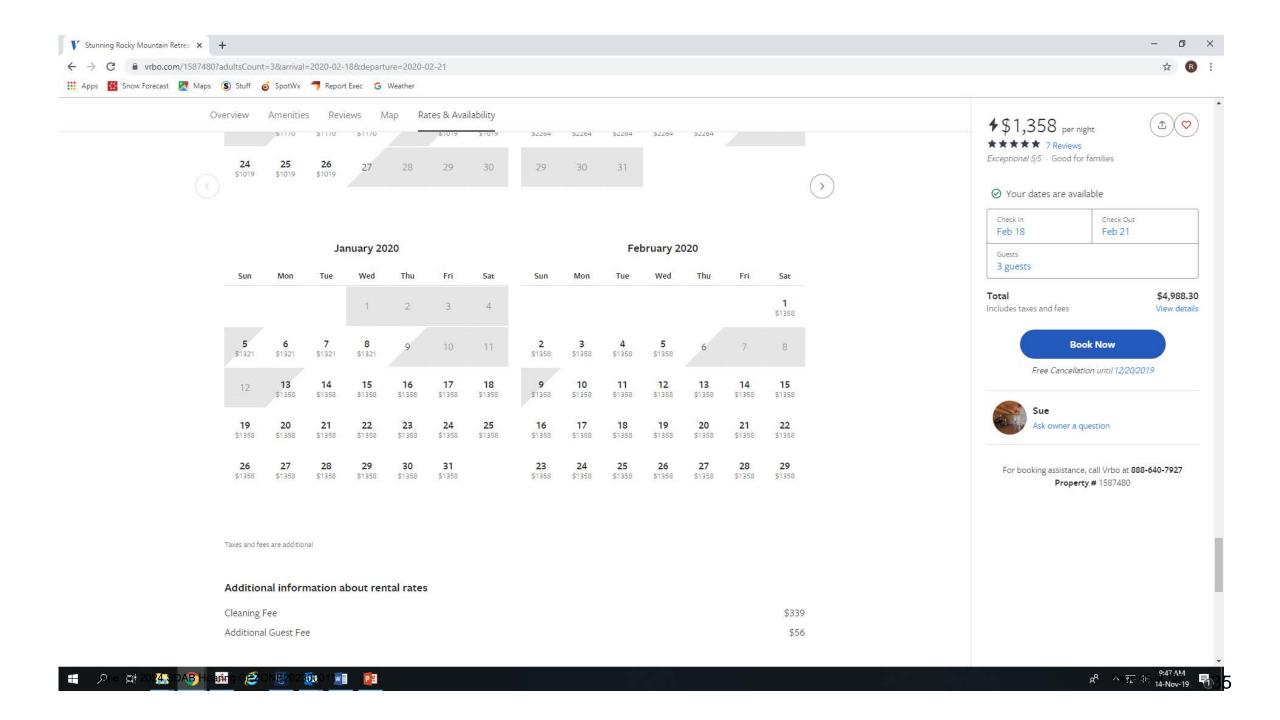


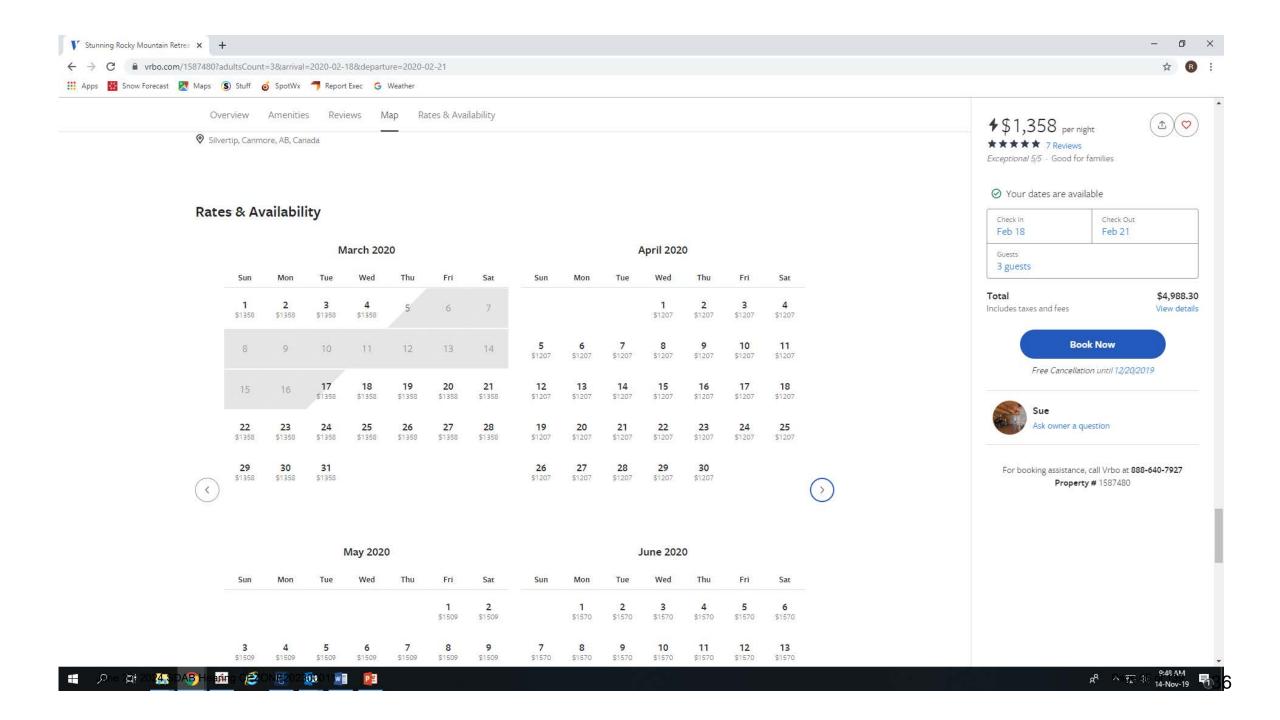


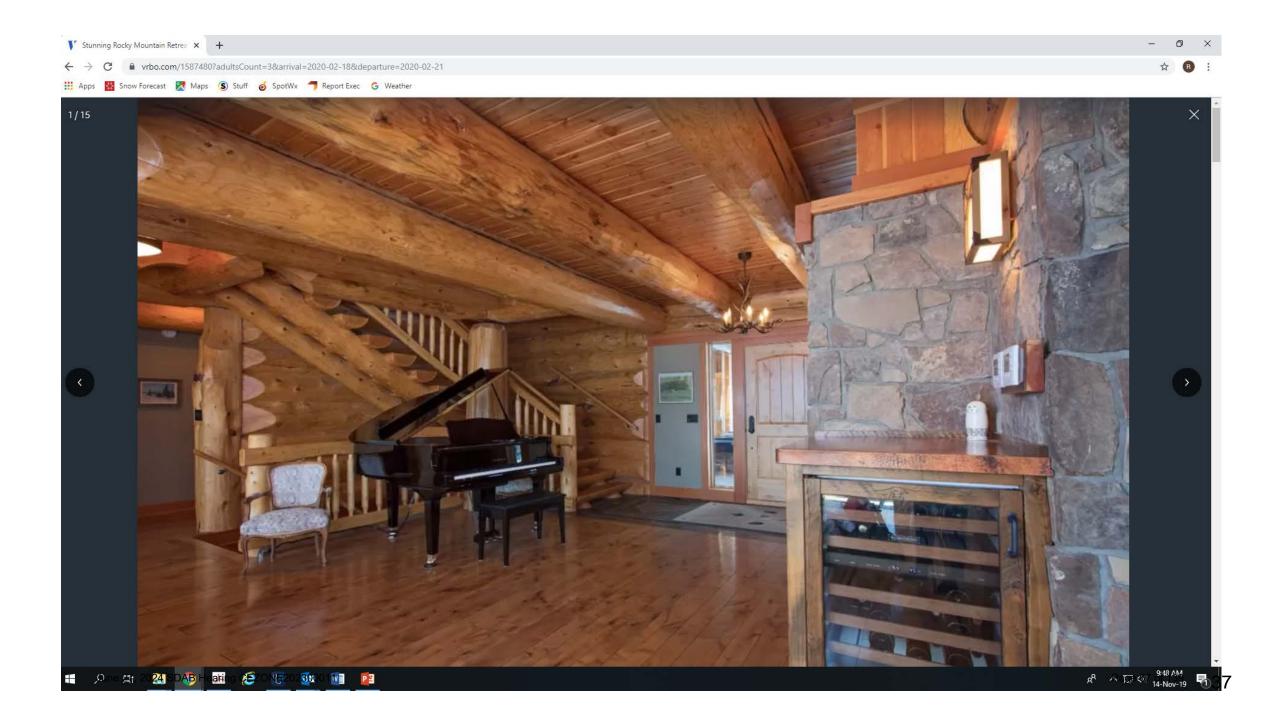


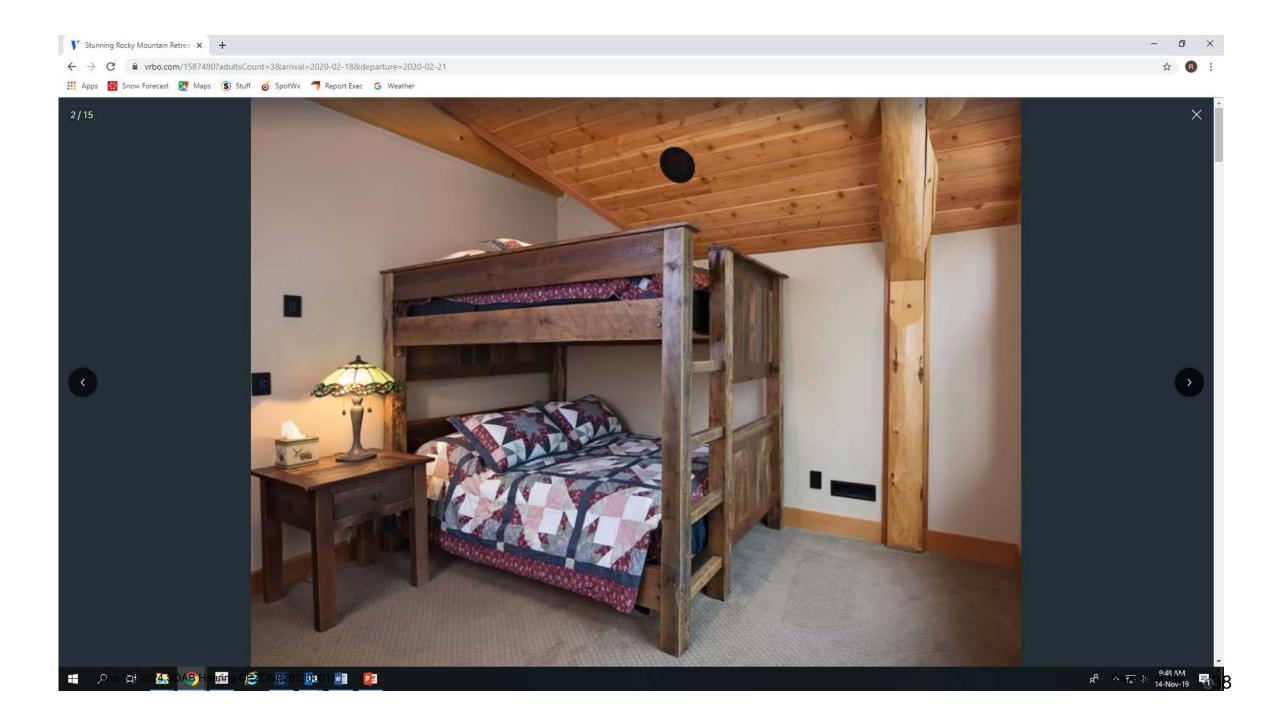


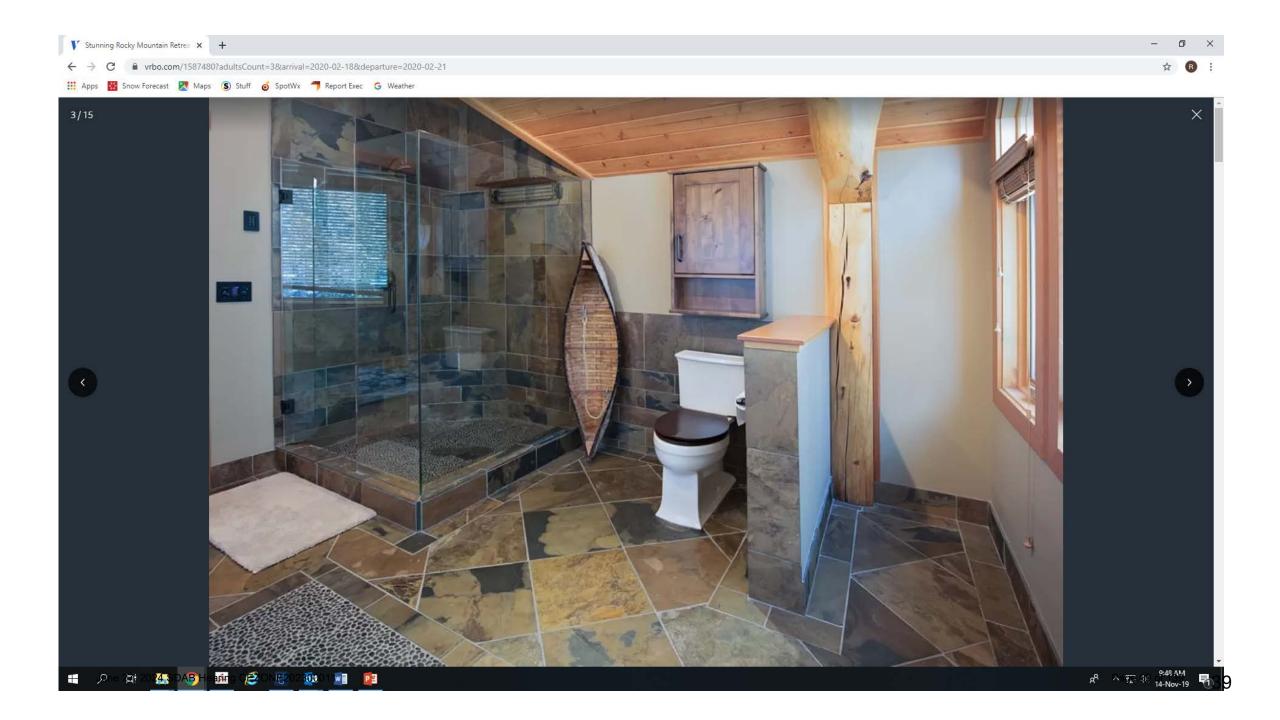


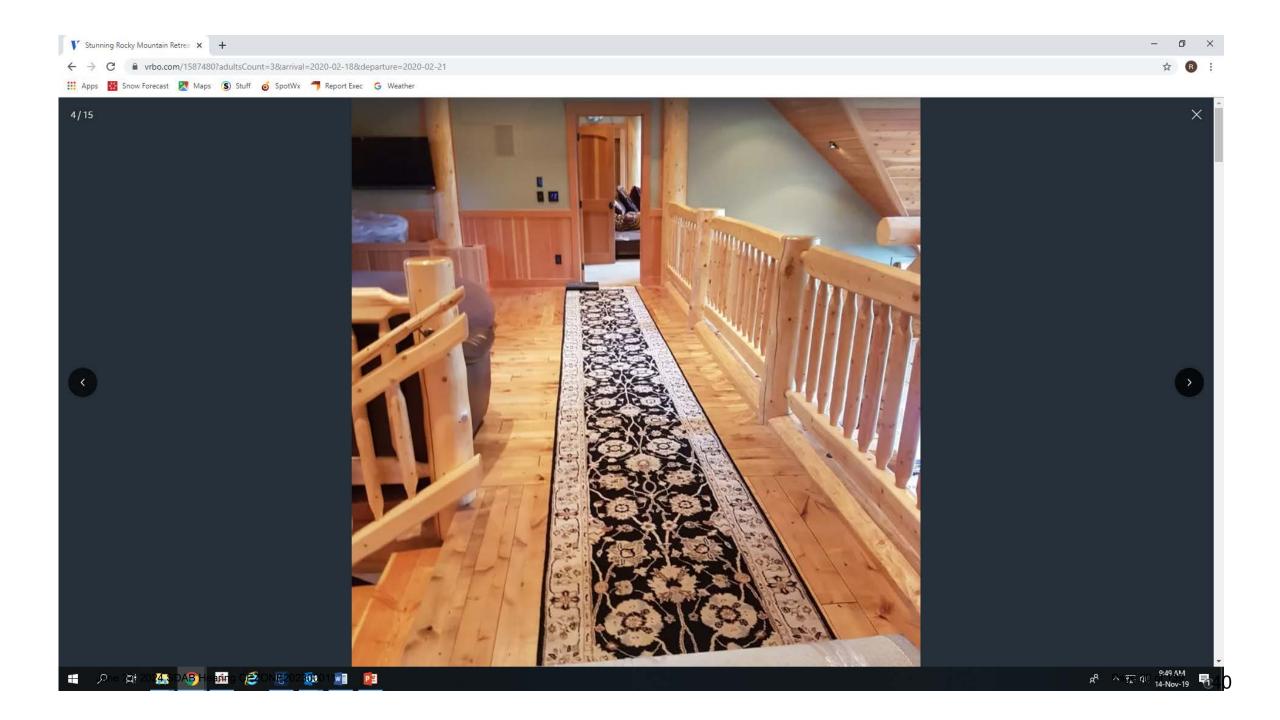


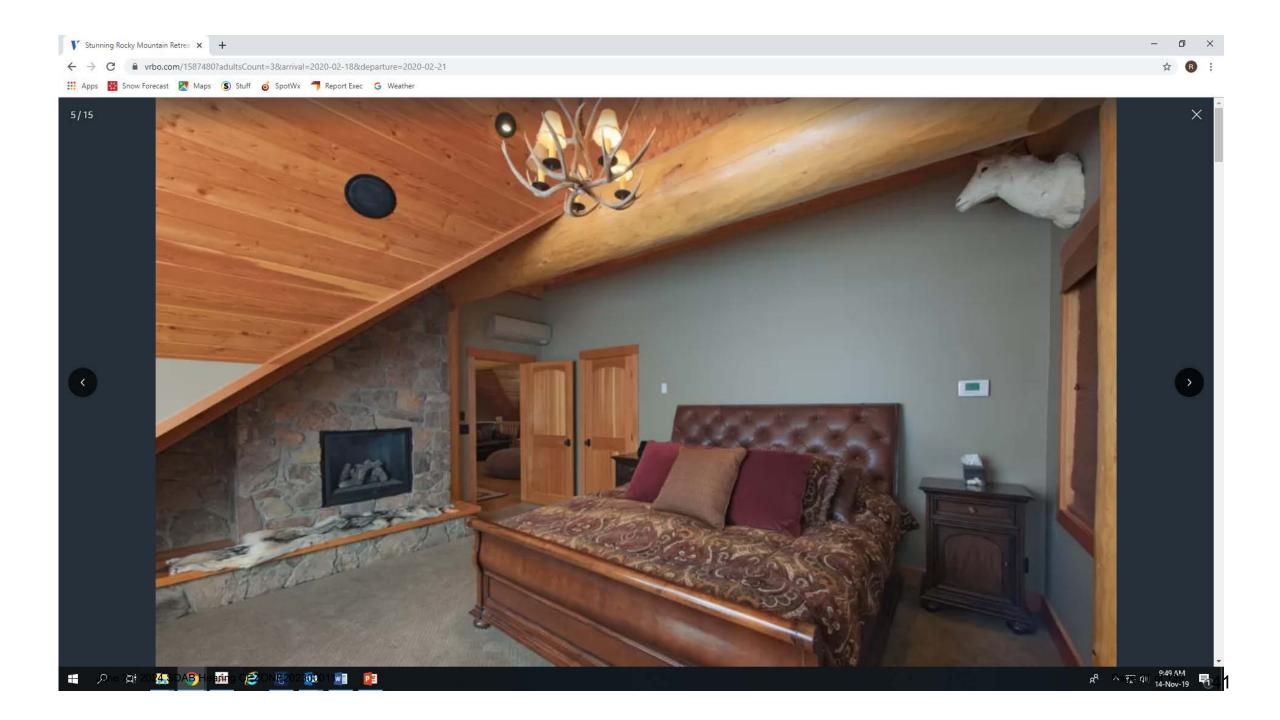


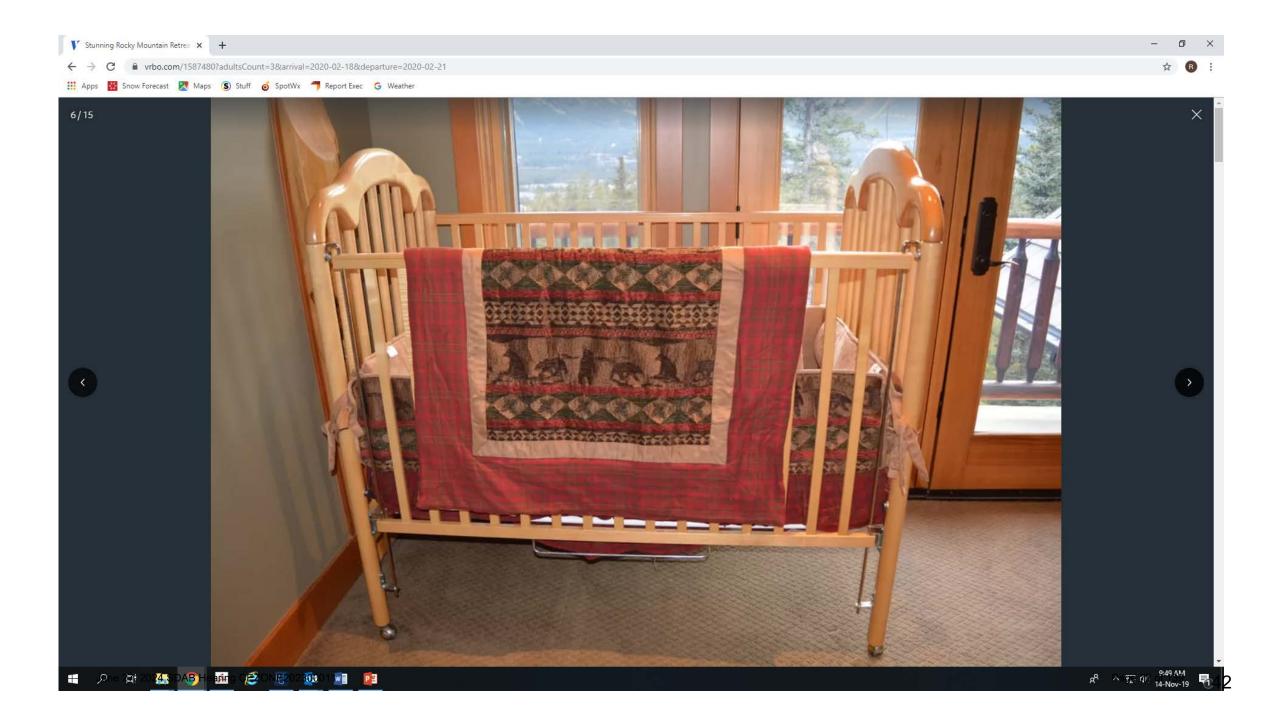


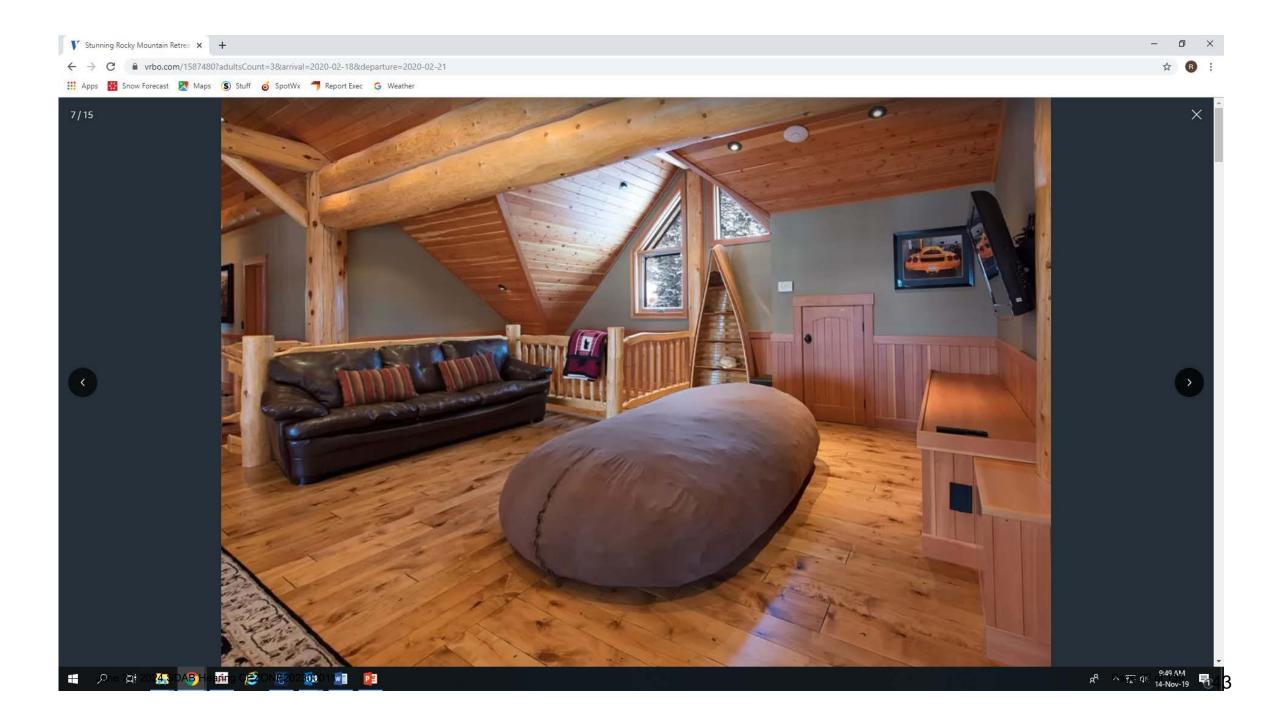


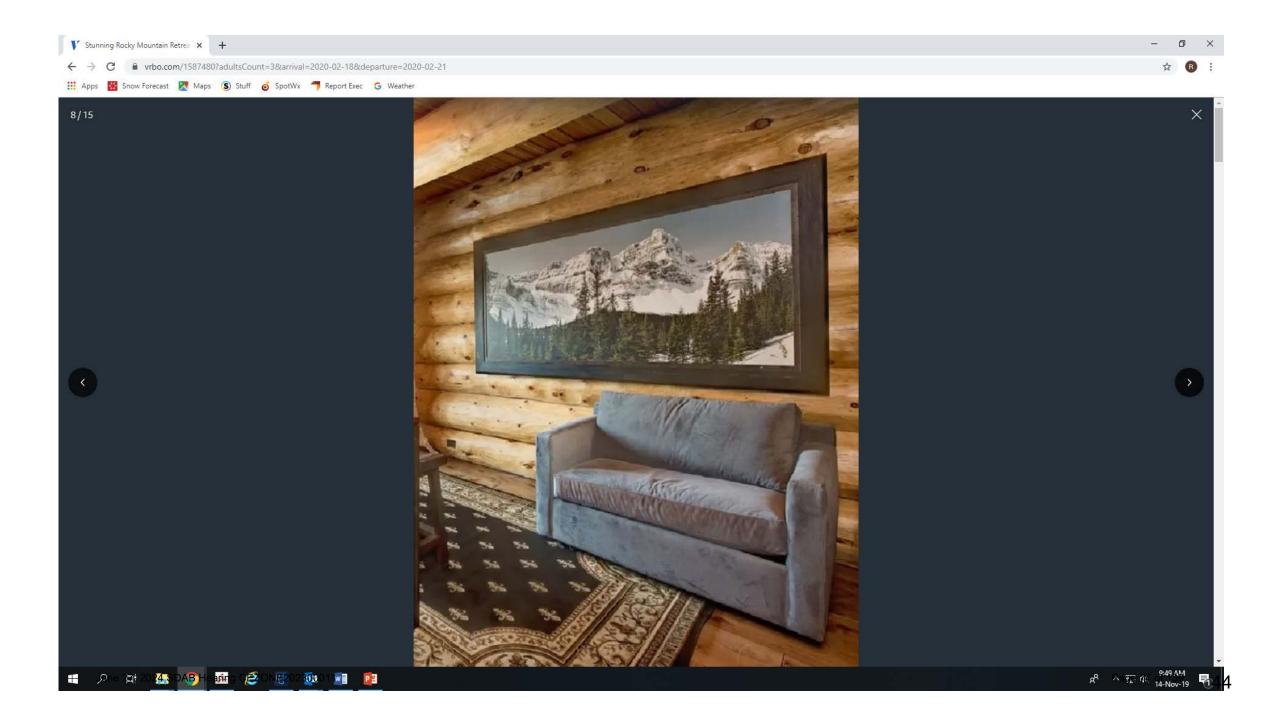


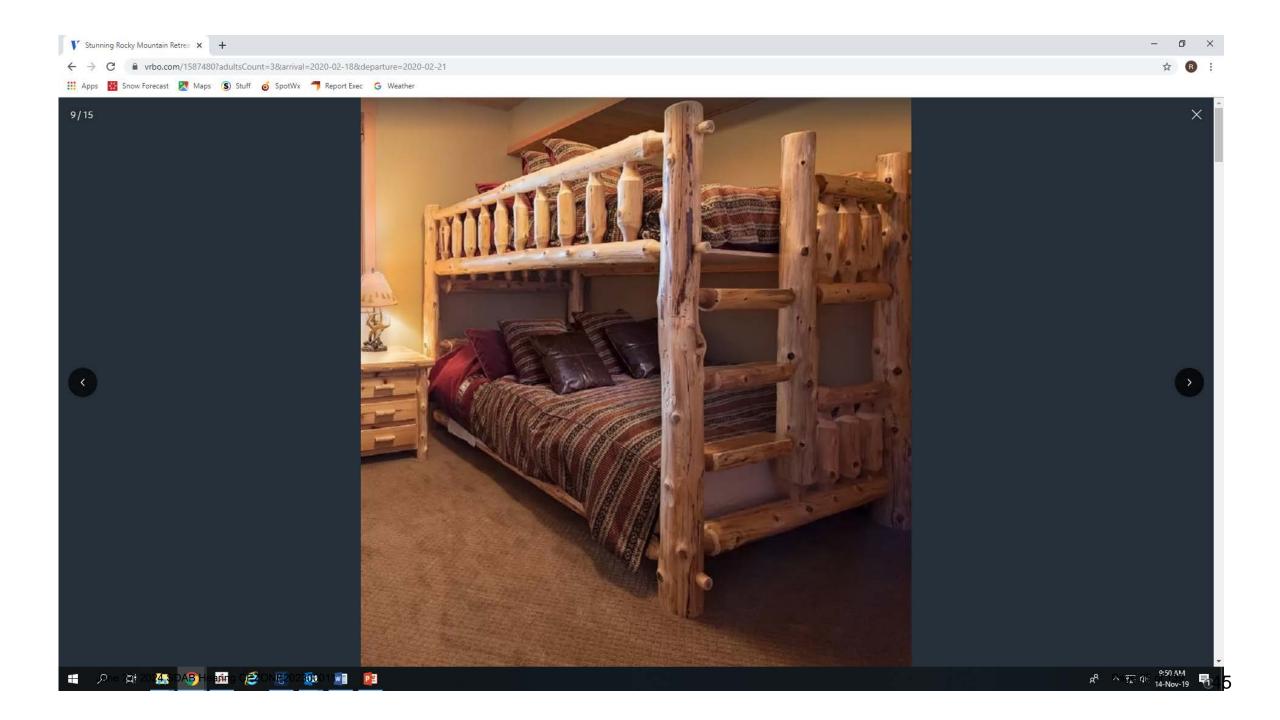


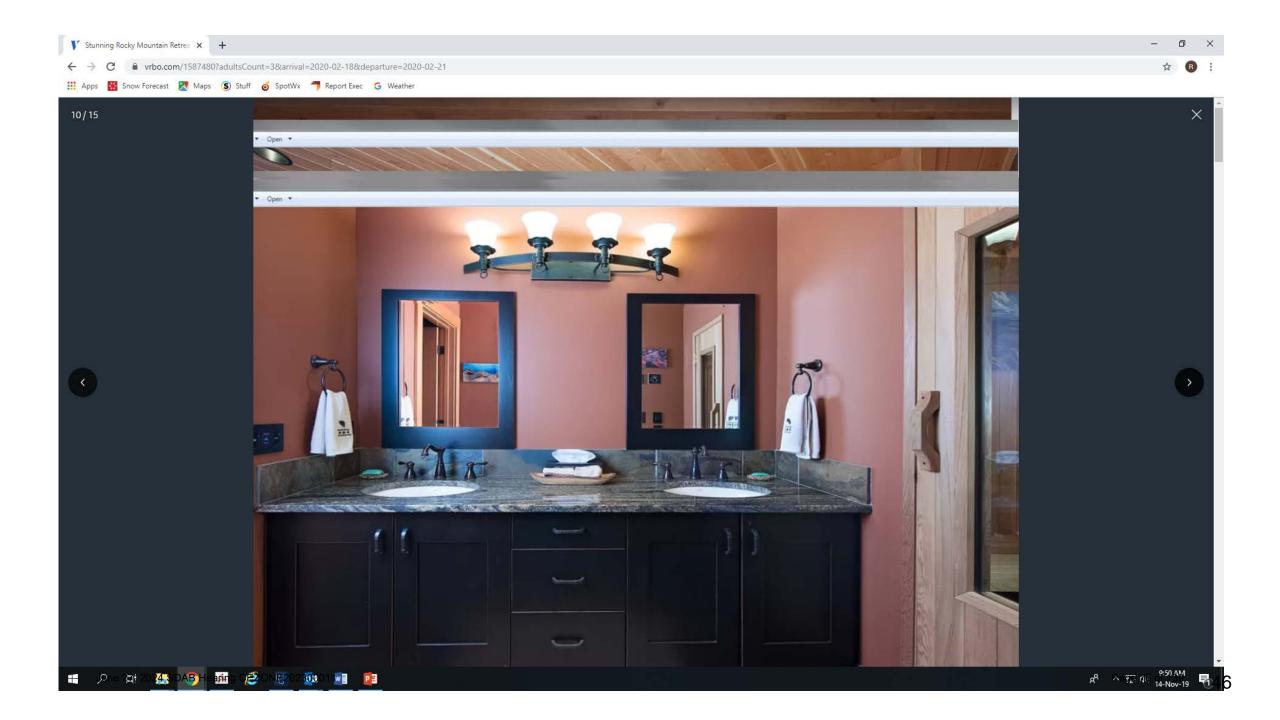


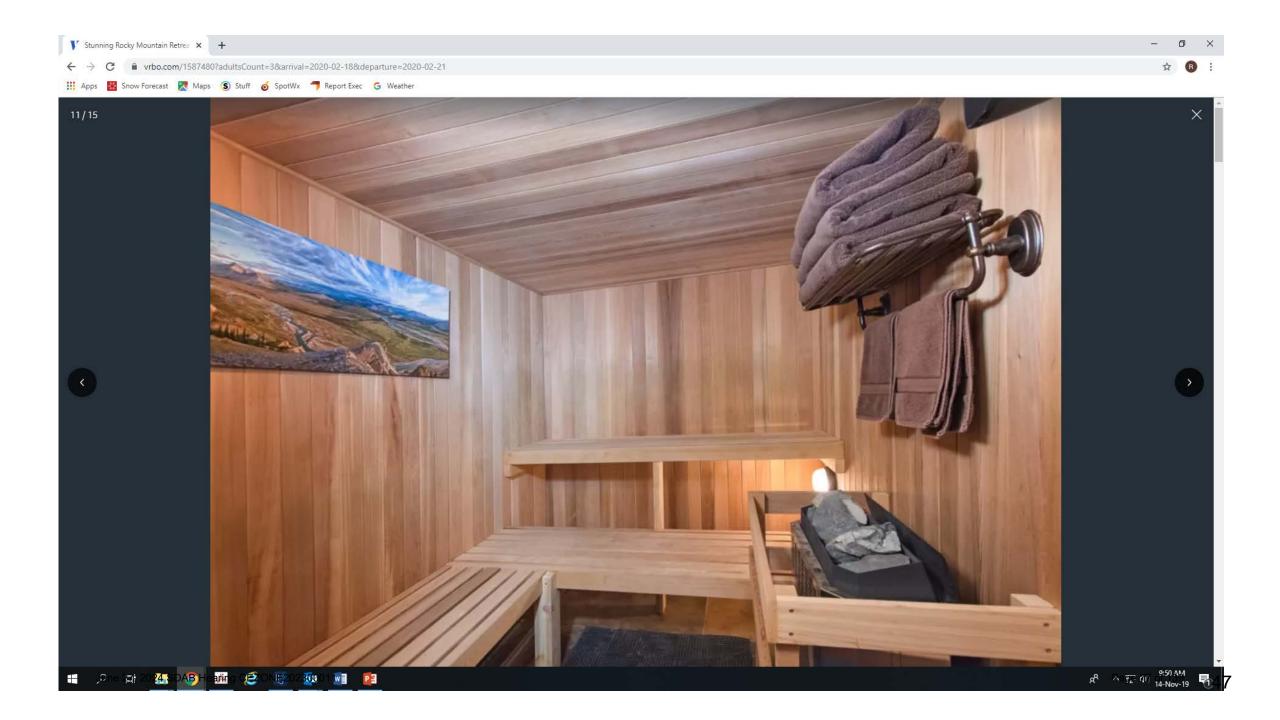


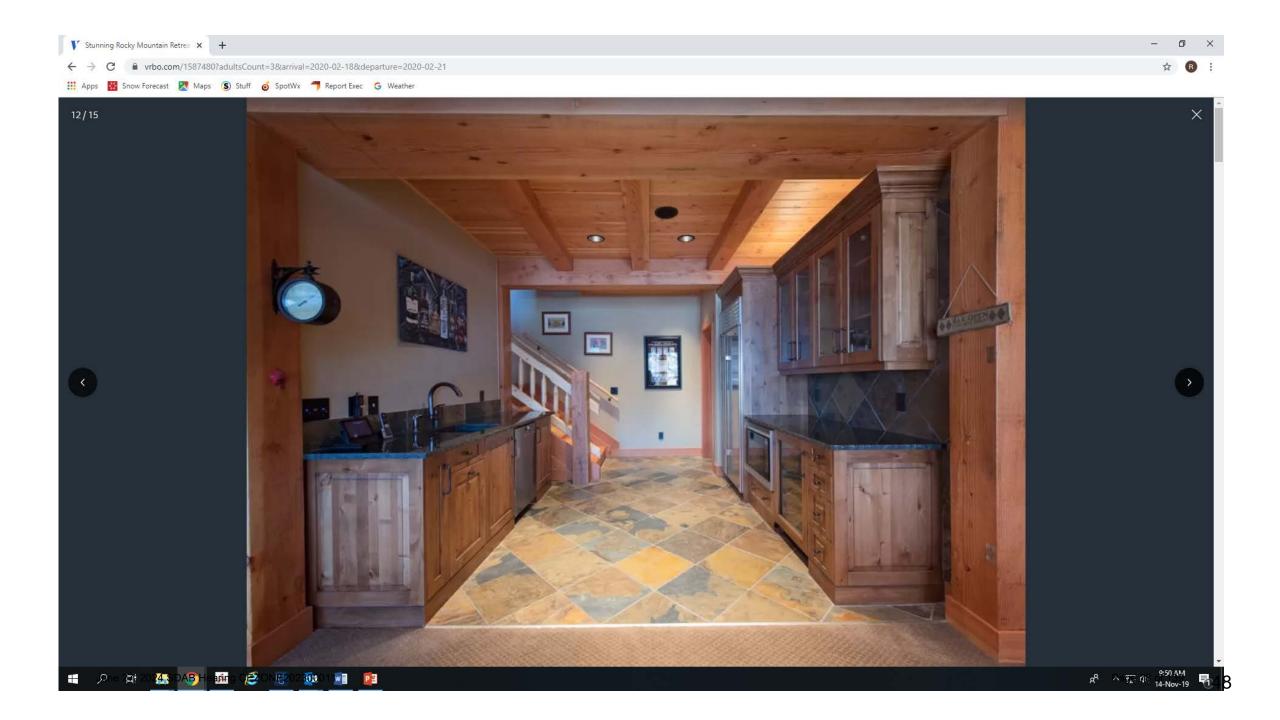


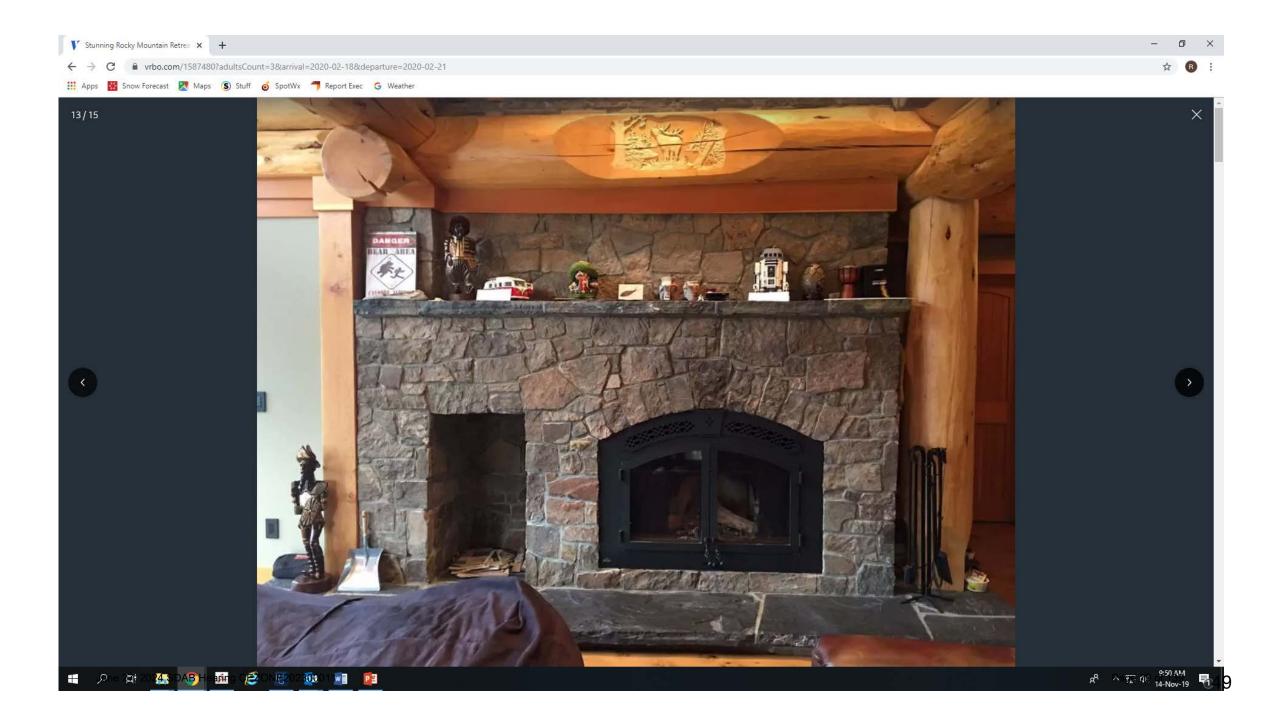


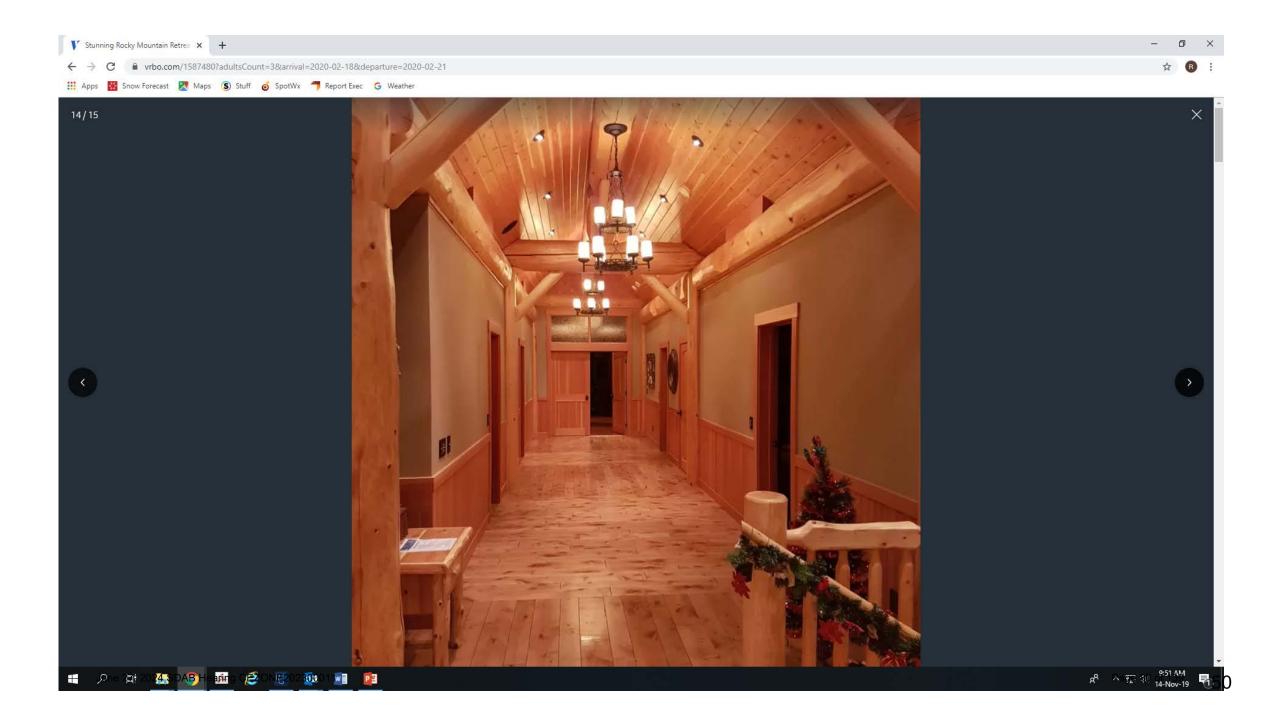


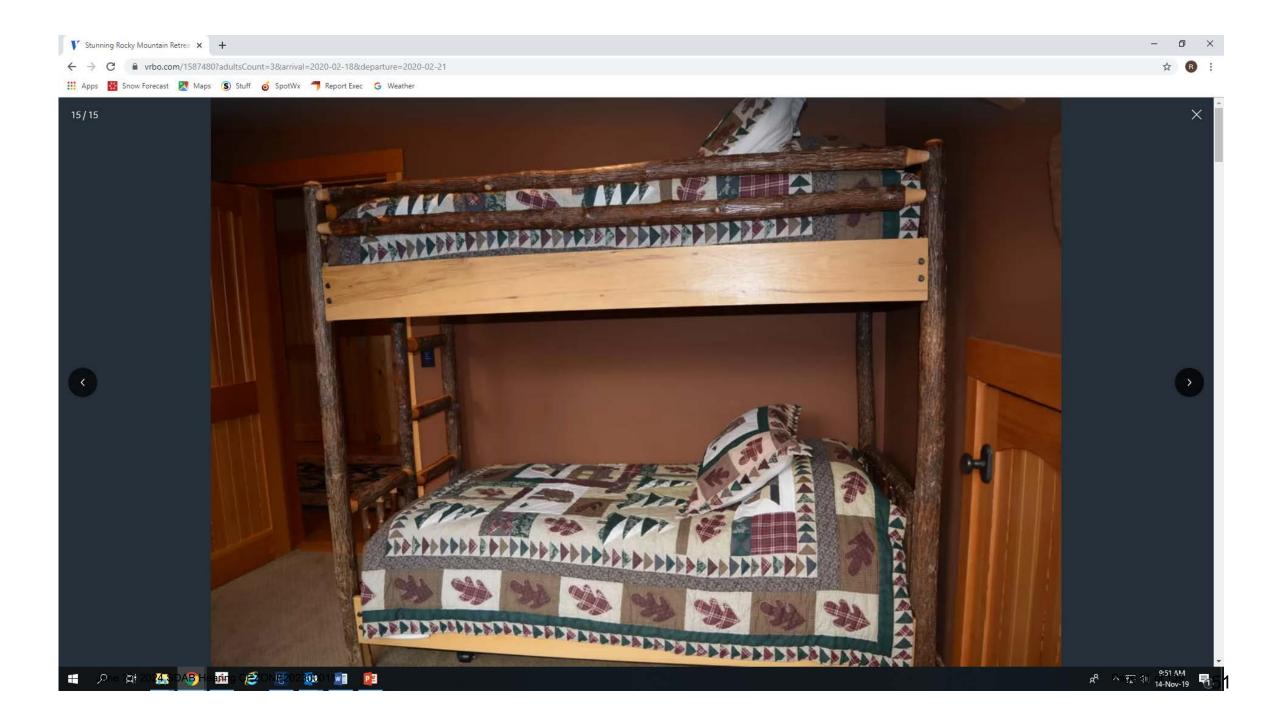












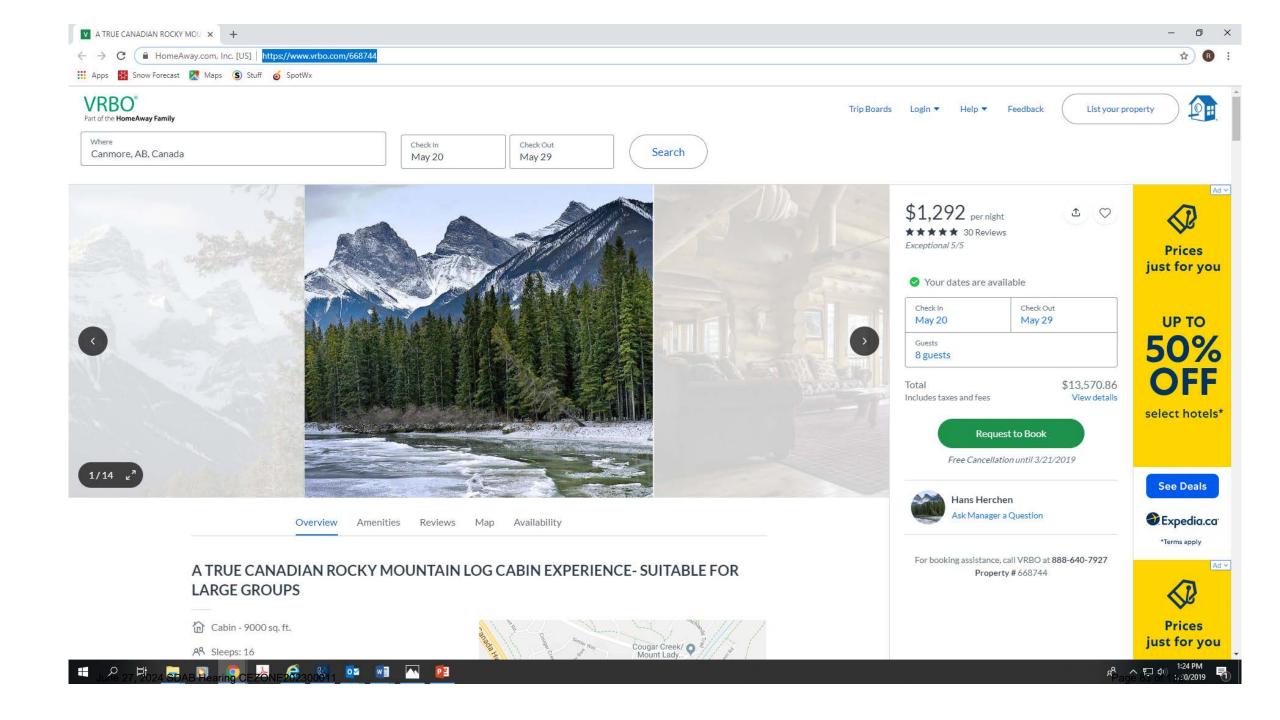
Richard Williams, DO

30 January 2019 – 1.20p.m.

133 Wapiti Close, Canmore

https://www.vrbo.com/668744

VRBO Listing No. 668744





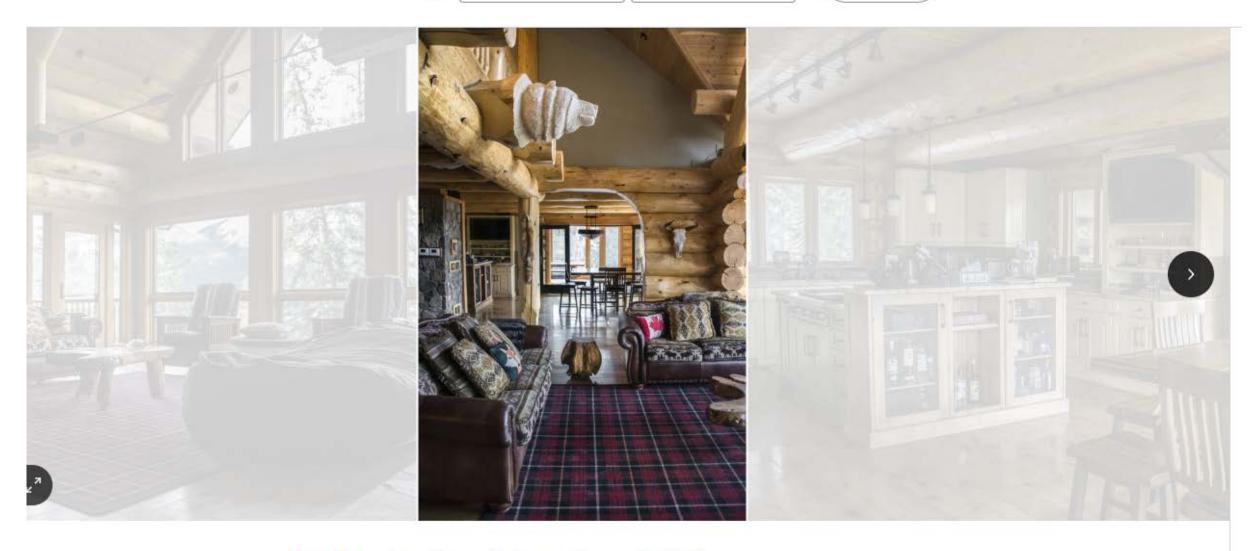
Amenities

Reviews

Map

Availability

A TRUE CANADIAN ROCKY MOUNTAIN LOG CABIN EXPERIENCE- SUITABLE FOR LARGE GROUPS



Amenities

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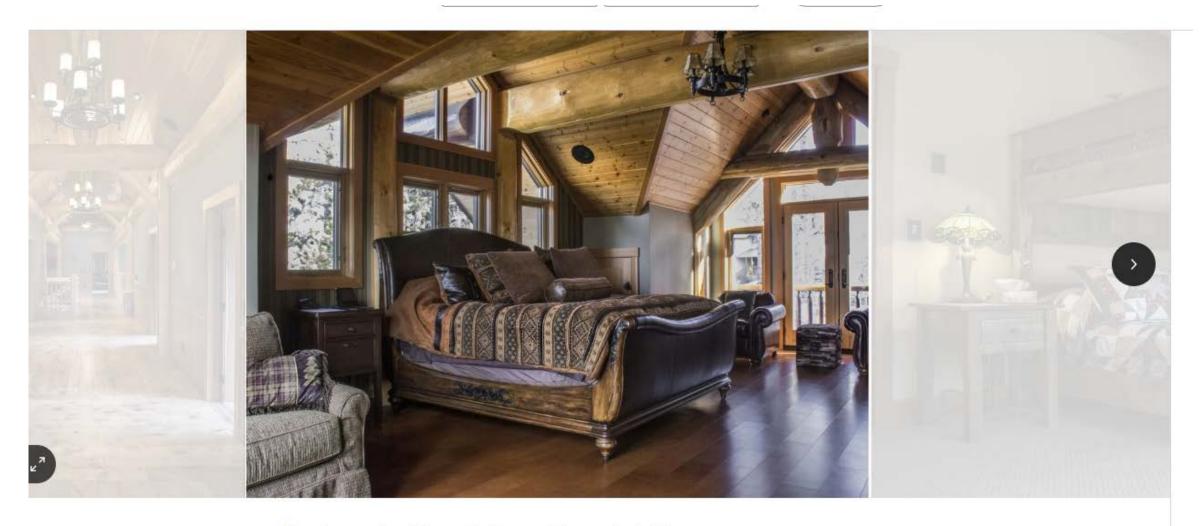
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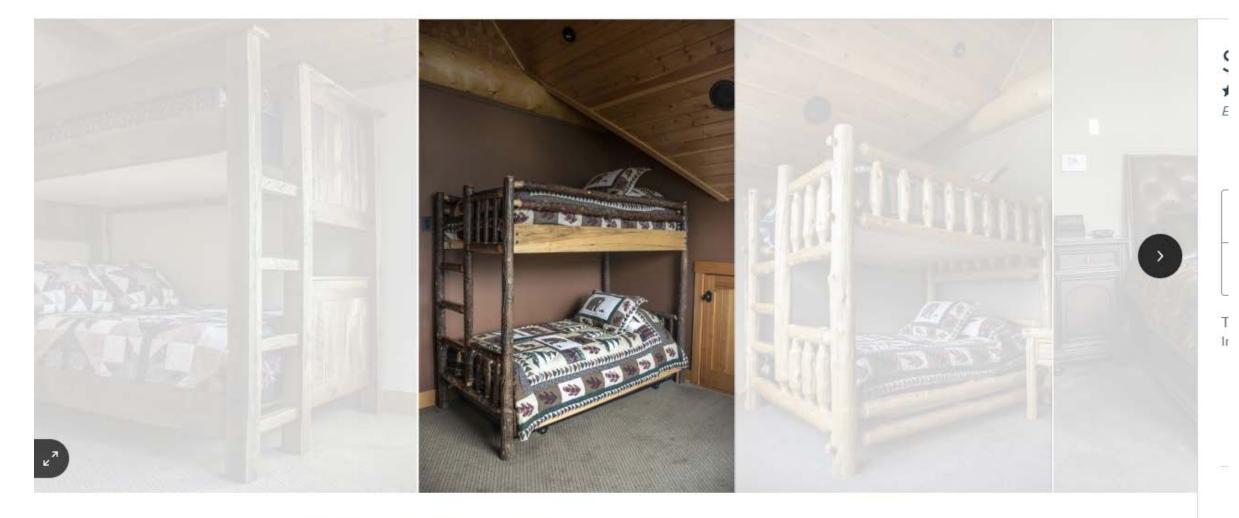
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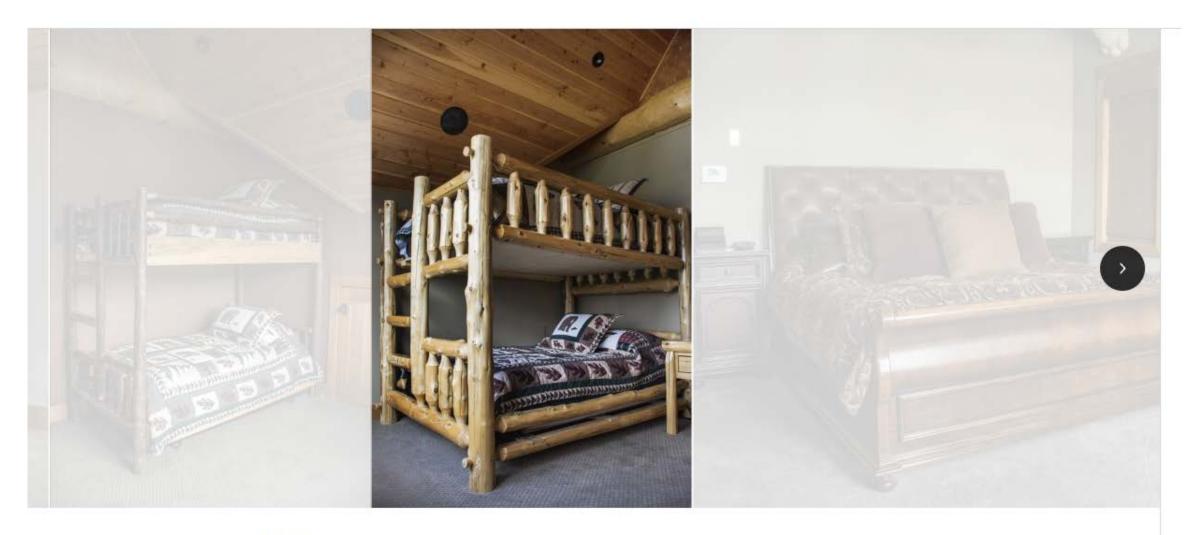
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A TRUE CANADIAN ROCKY MOUNTAIN LOG CABIN EXPERIENCE- SUITABLE FOR



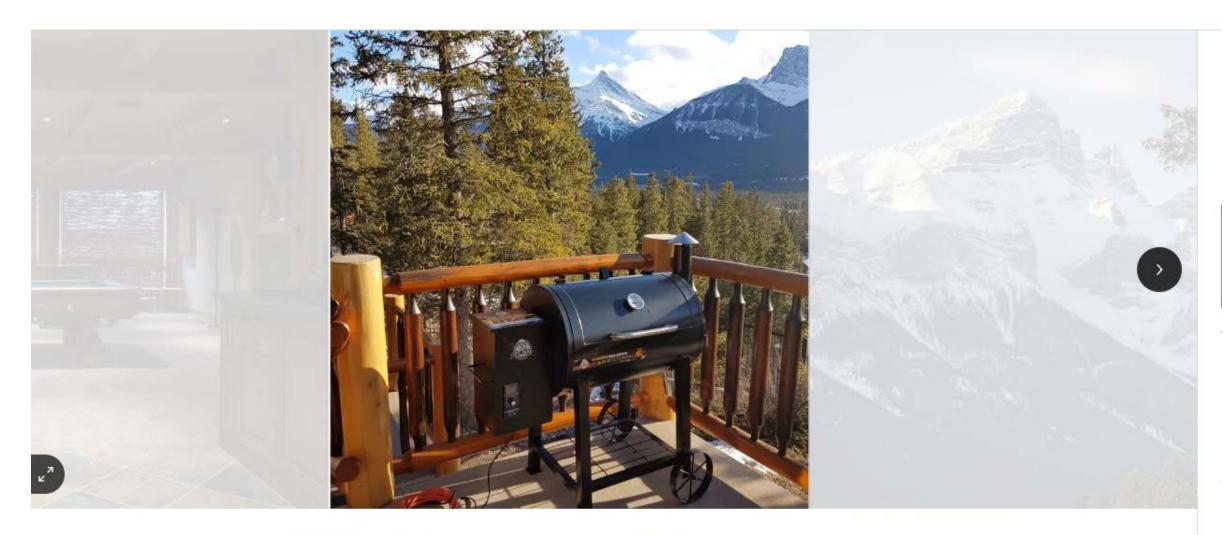
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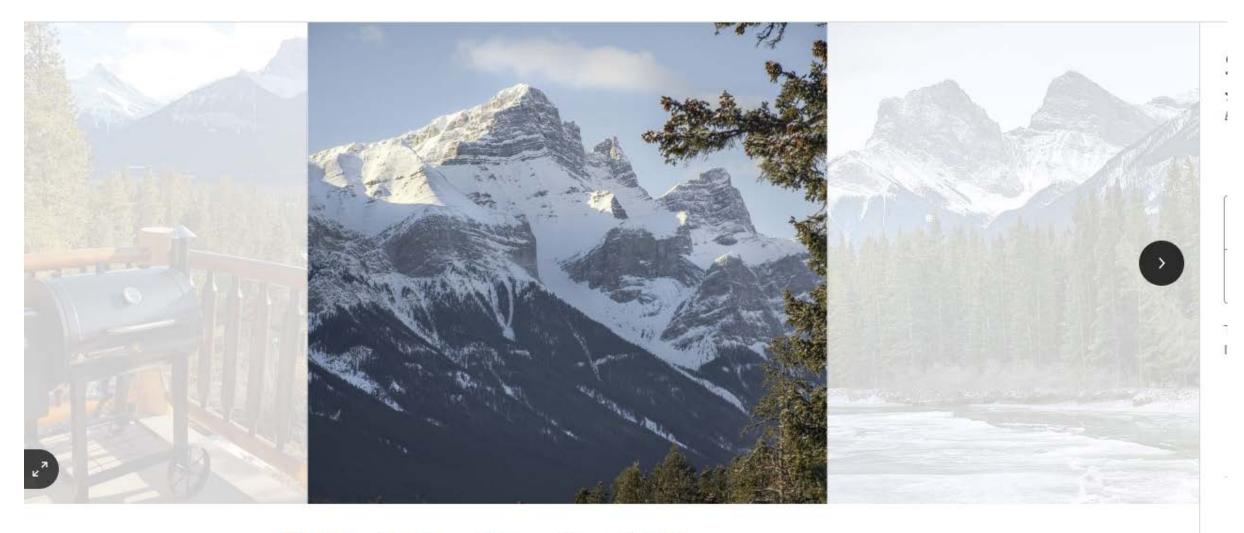
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LARGE GROUPS
June 27, 2024 SDAB Hearing CEZONE202300011



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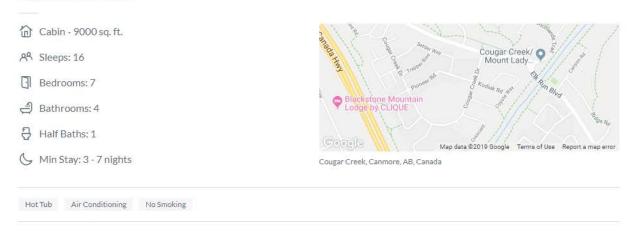
Map

Availability

Reviews

Amenities

Overview



Beautiful Mountain Reviews & Magical Place to Retreat

The house that has 6 bedrooms; plus loft. It is a true log home, with vaulted ceilings, wide hallways, spa area with sauna, steam room and hot tub, generous kitchen, generous dining room with fireplace, 5 fireplaces in total, extensive decks overlooking valley, 3 balconies, basement kitchen, and is definitely on the upper end of the market.

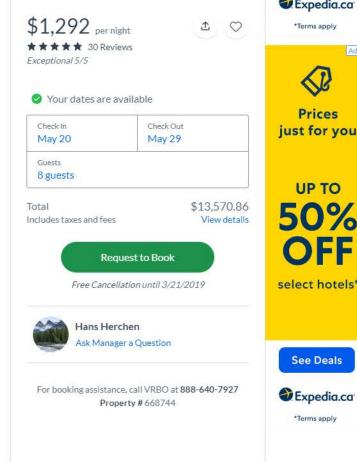
- For custom rental opportunities, please contact us directly. This is a bespoke home and we welcome direct communication to make the trip right for you!

*Please note - Our home is a refined private residence that is not available for wild partying. If the home is used disrespectfully; we reserve the right to withhold some or all of the damage deposit.

In addition to listed amenities we also have:

Games room - pool table, pinball machine. Cable, satellite and extensive music system and automated lighting are available as well. Also a den with full computer, printer, fax and scanner abilities.

Kitchen appliances also include: coffee maker, popcorn maker, ice cream maker, waffle maker, bread maker, margarita machine, slow cooker, 3 dishwashers, 2 ovens, microwave, 2 temperature wine cooler, flat griddle and gas burners. Also steamer, iron, washing machine





















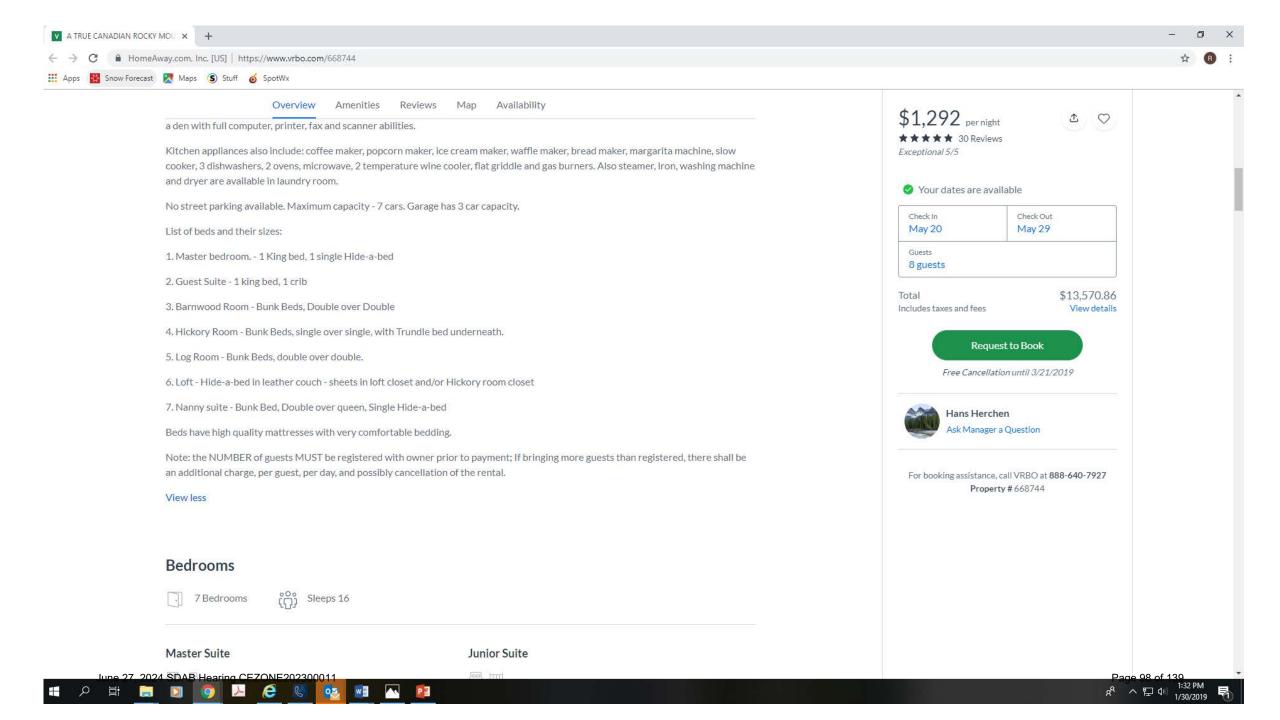


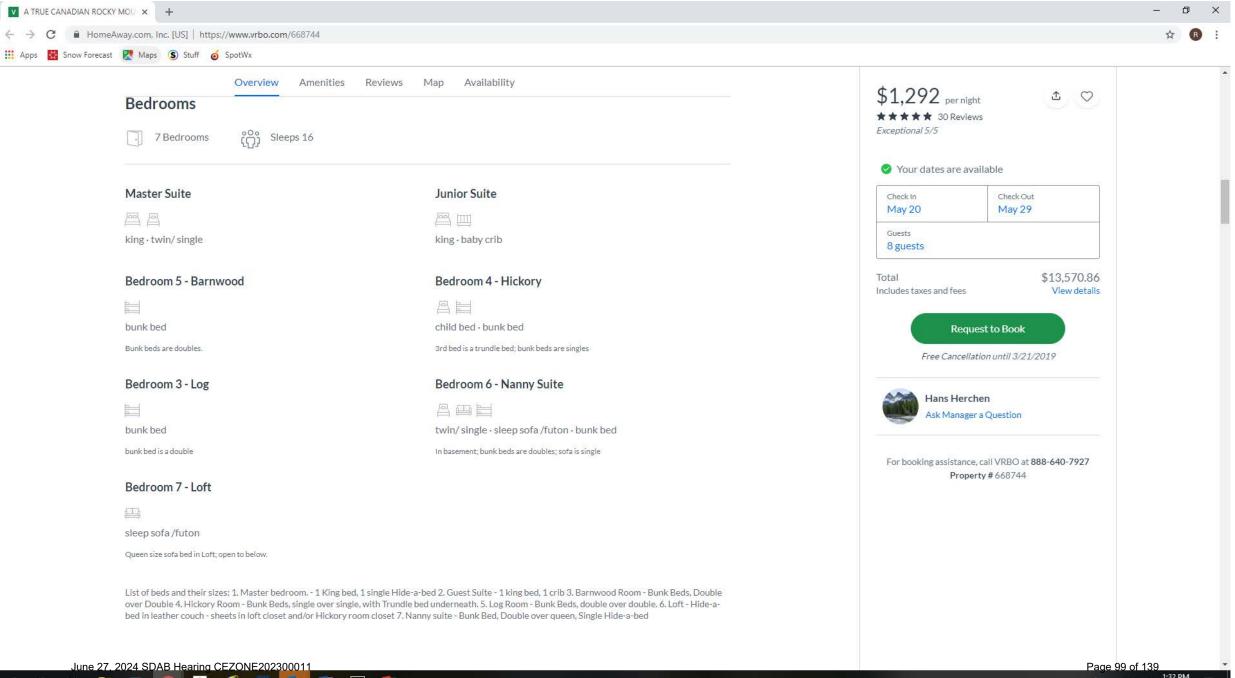






Prices













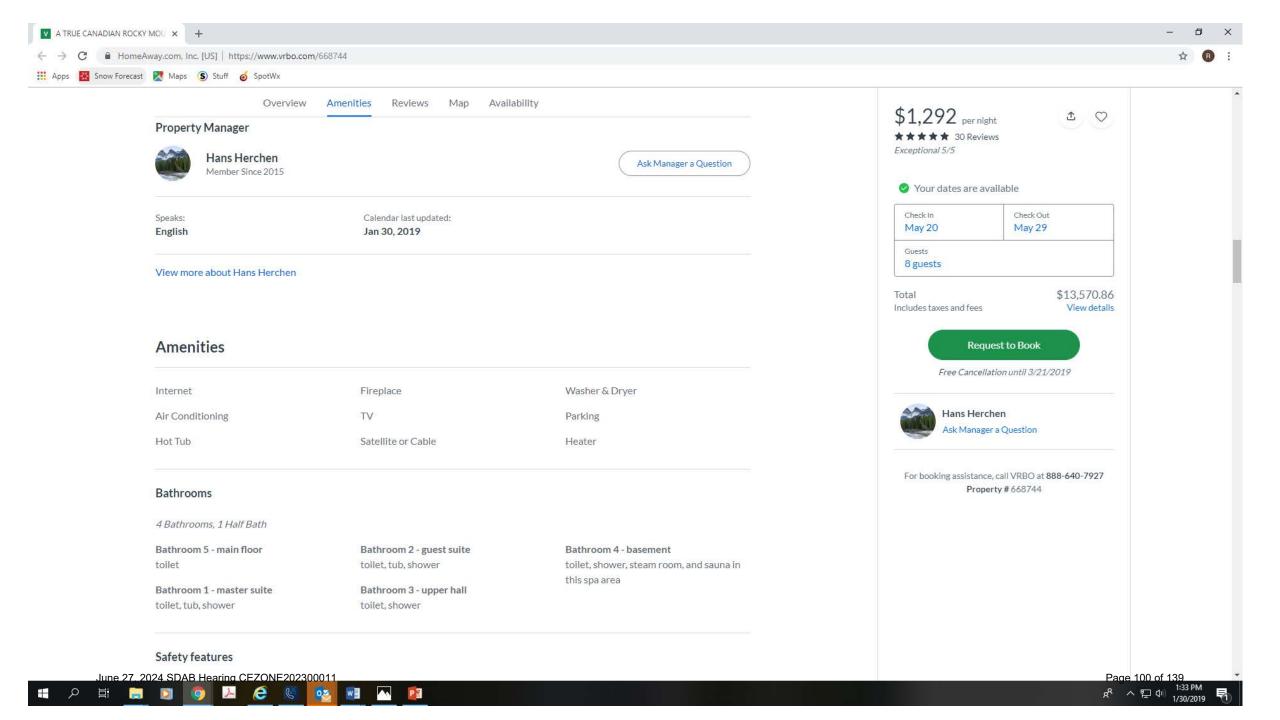


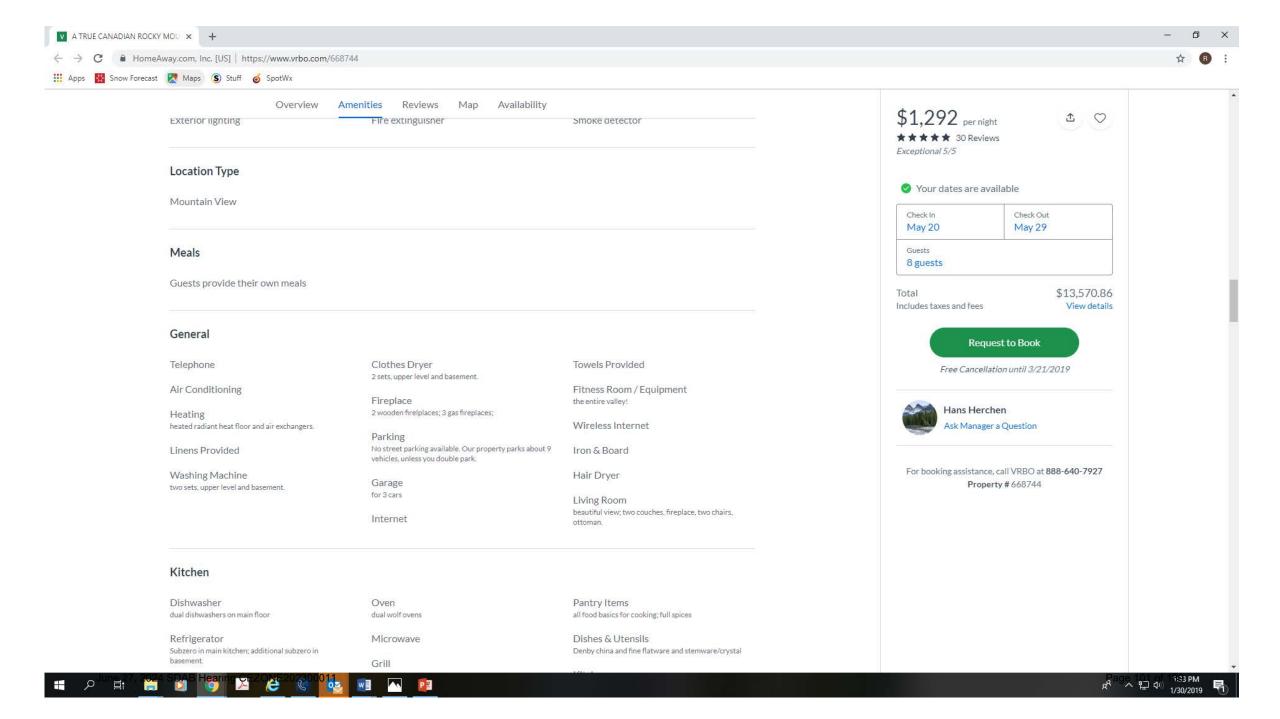


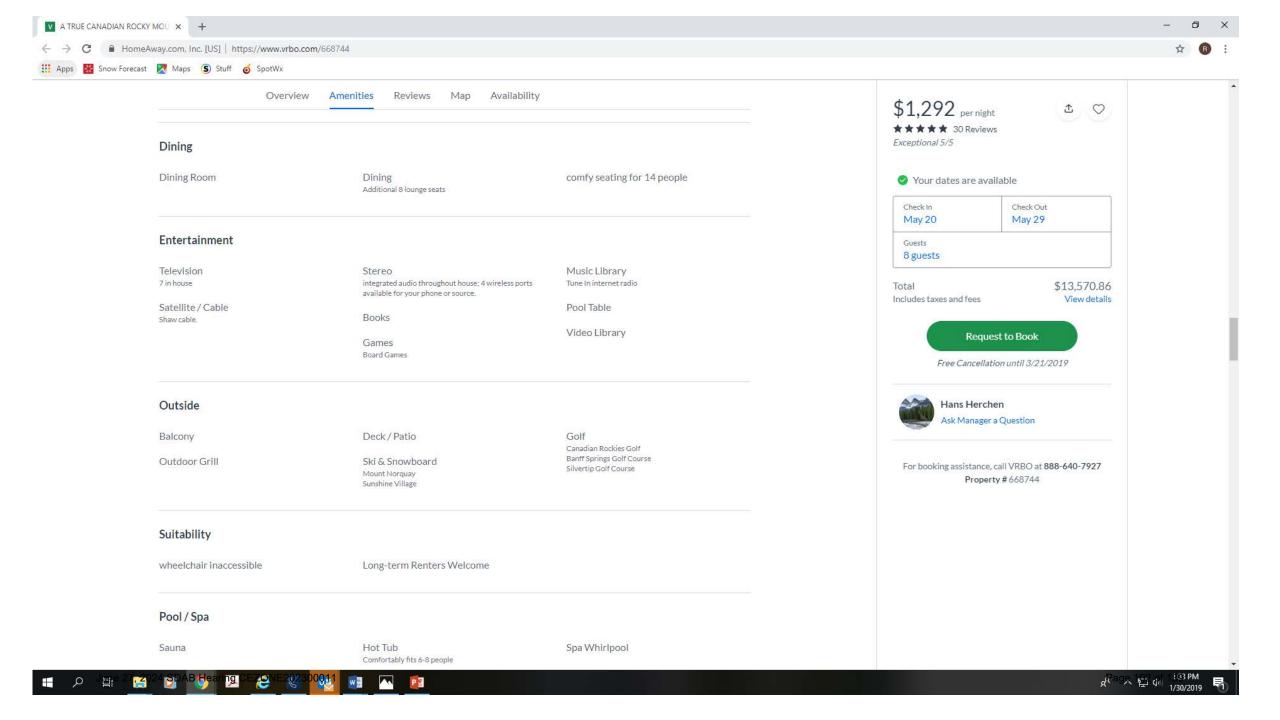


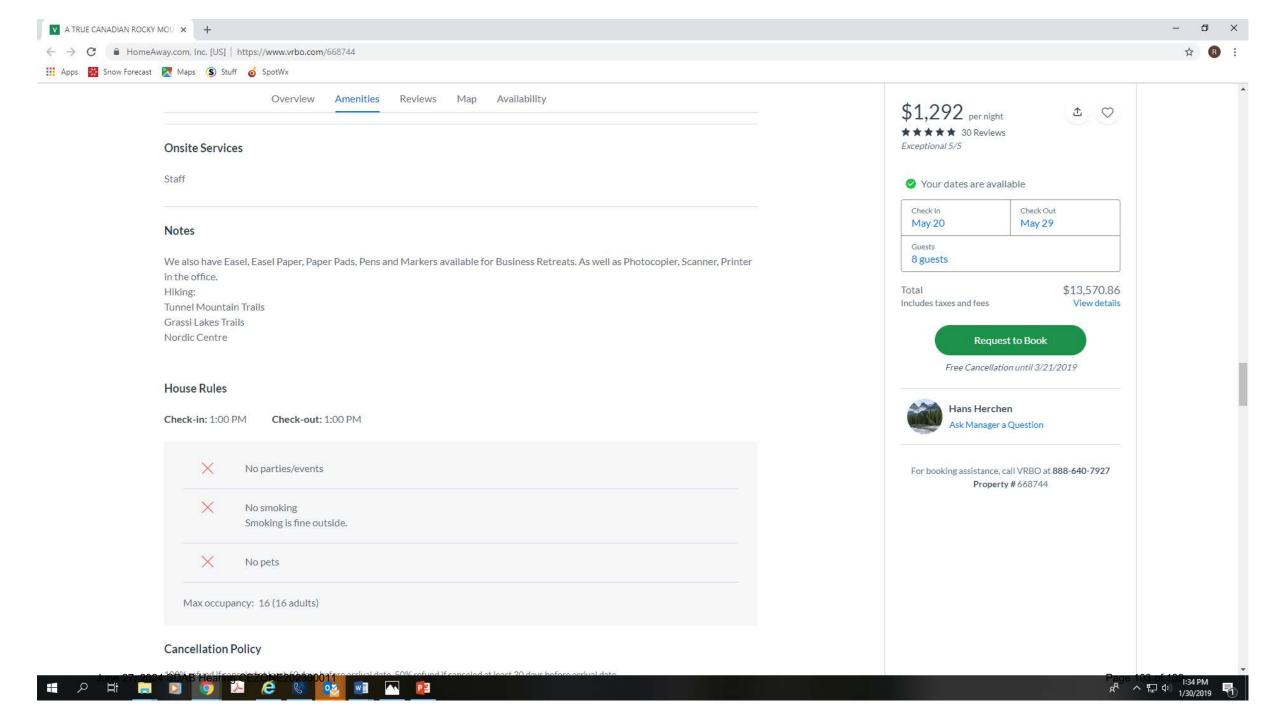


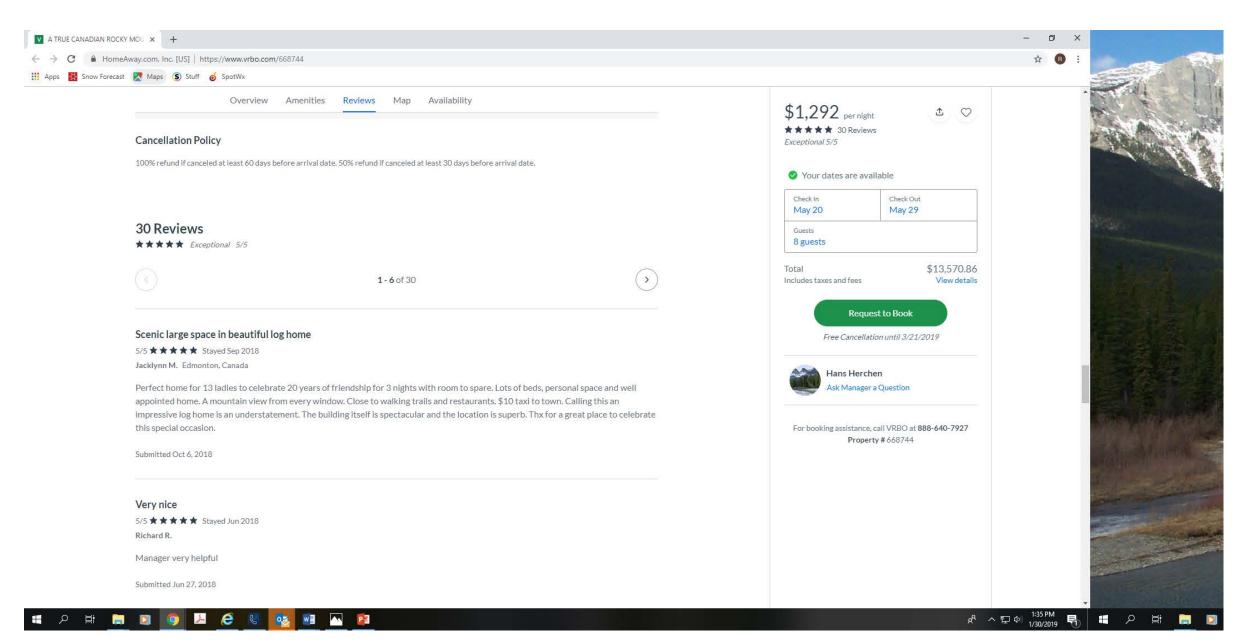


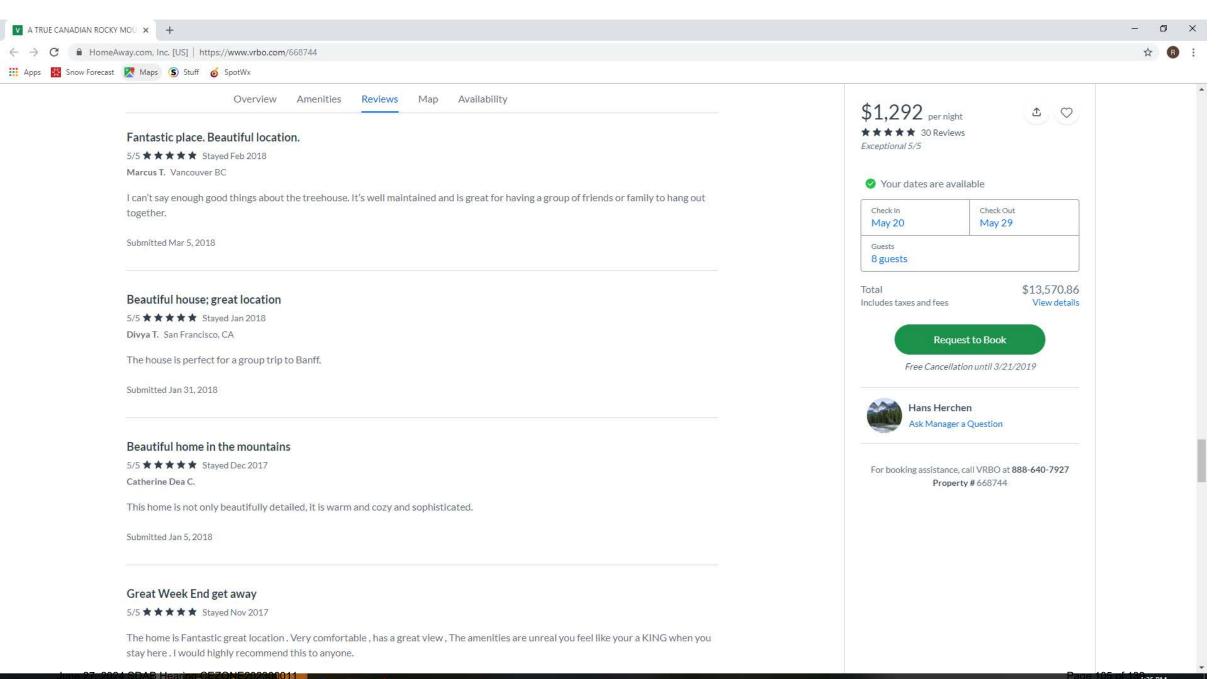


























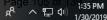


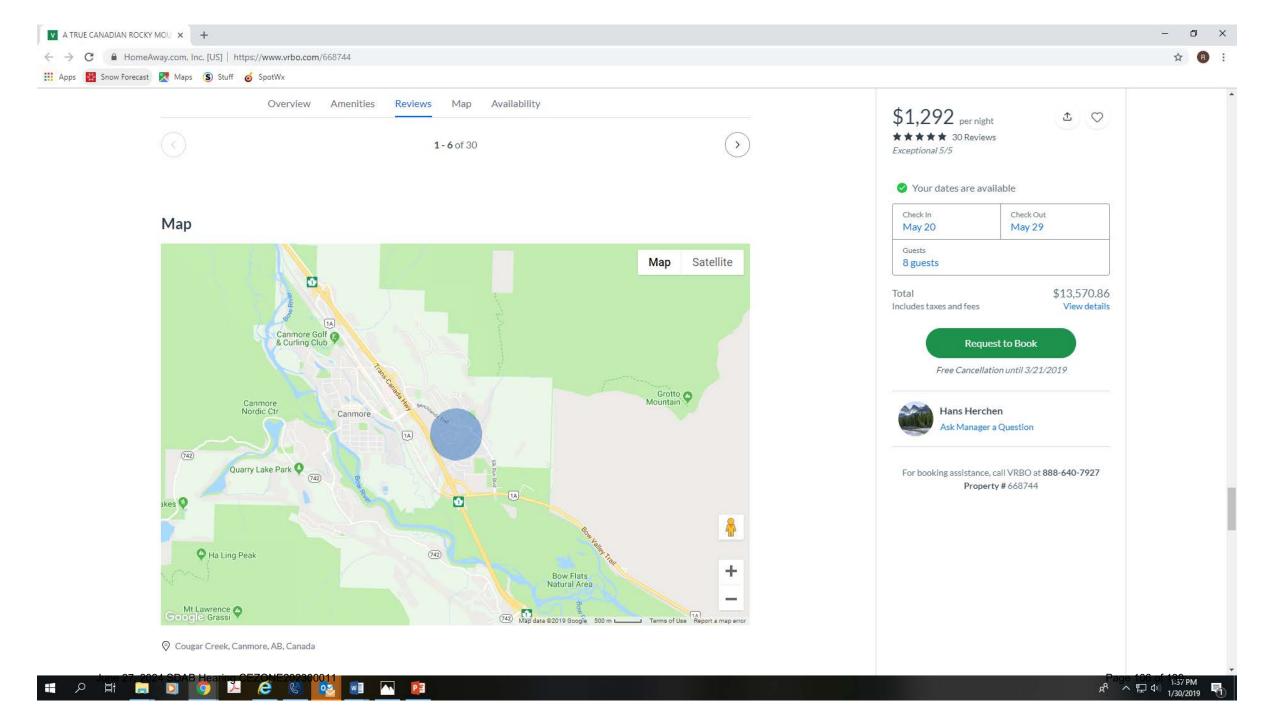


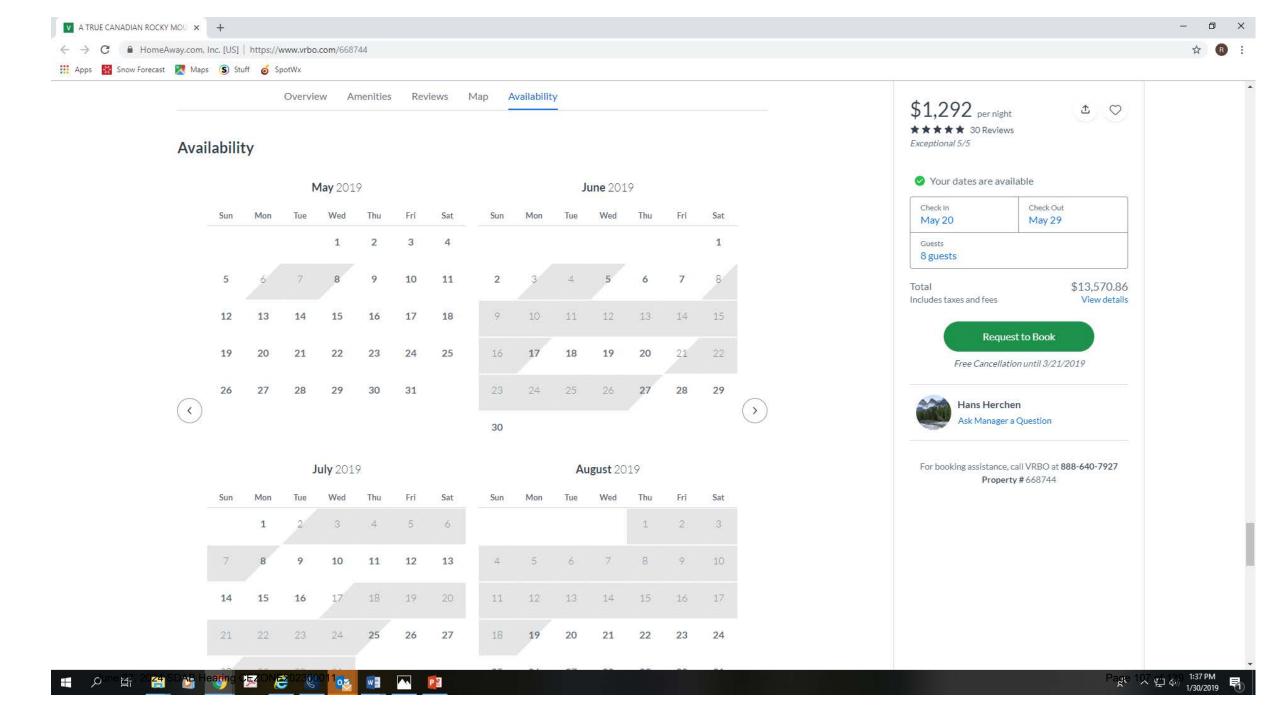


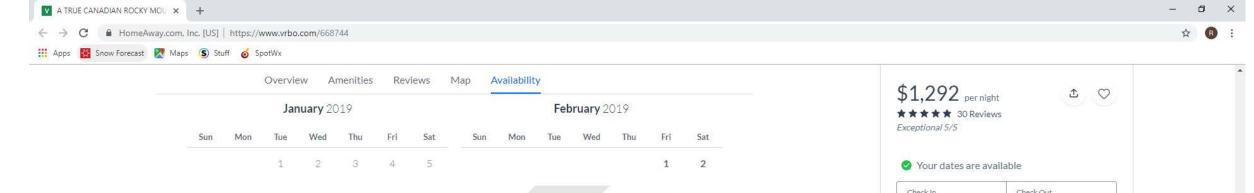












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March 2019

April 2019

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

Check Out Check In May 20 May 29 Guests 8 guests Total \$13,570.86 Includes taxes and fees View details Request to Book Free Cancellation until 3/21/2019 Hans Herchen Ask Manager a Question For booking assistance, call VRBO at 888-640-7927 Property # 668744

















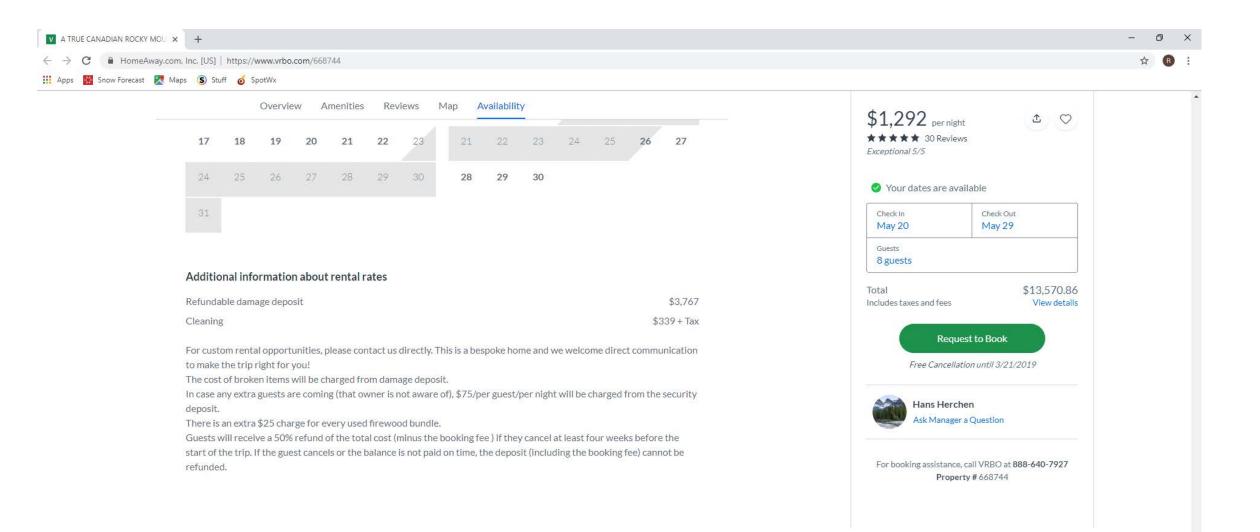


















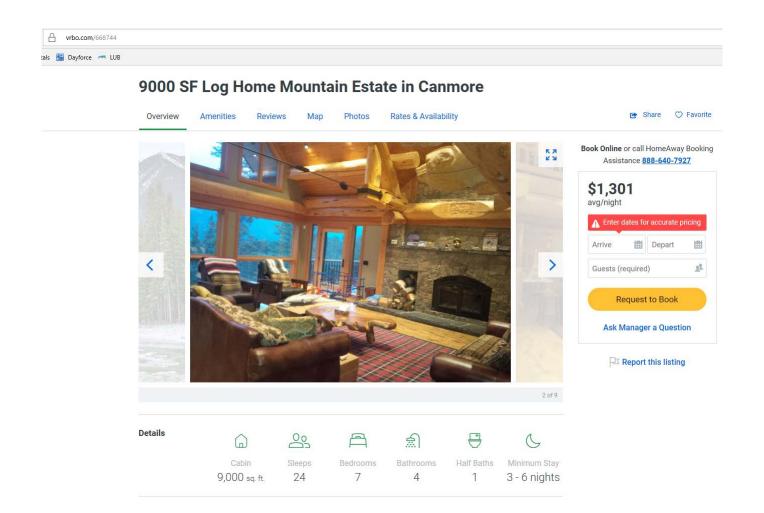


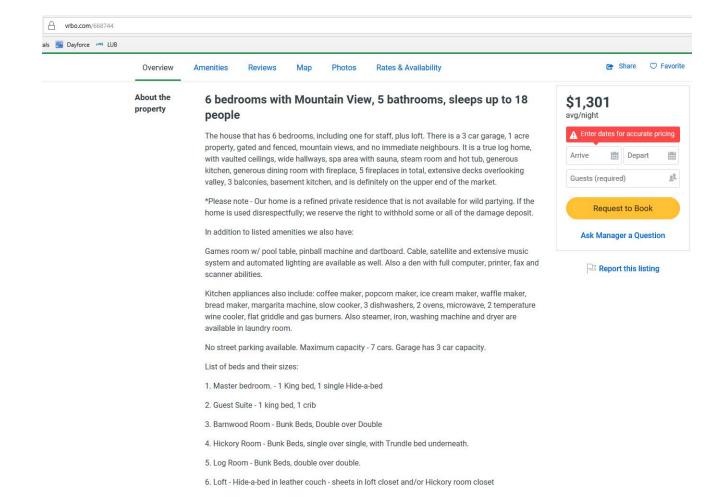


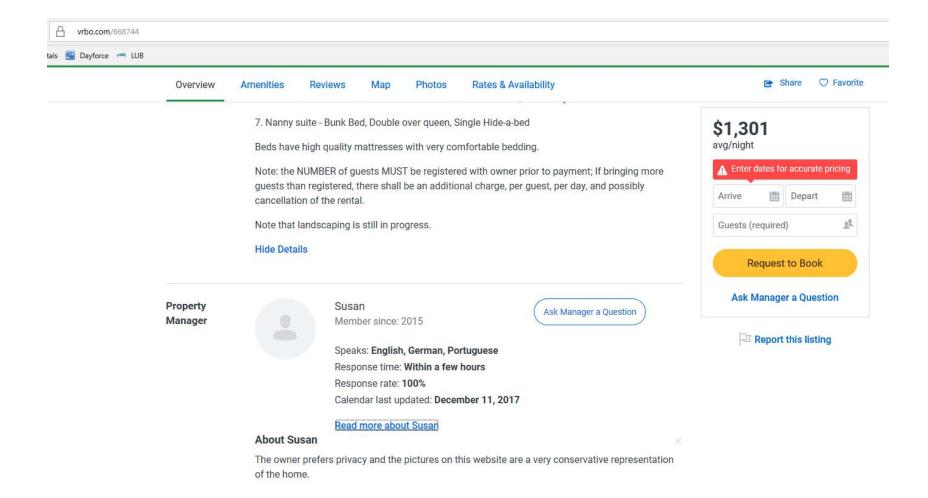


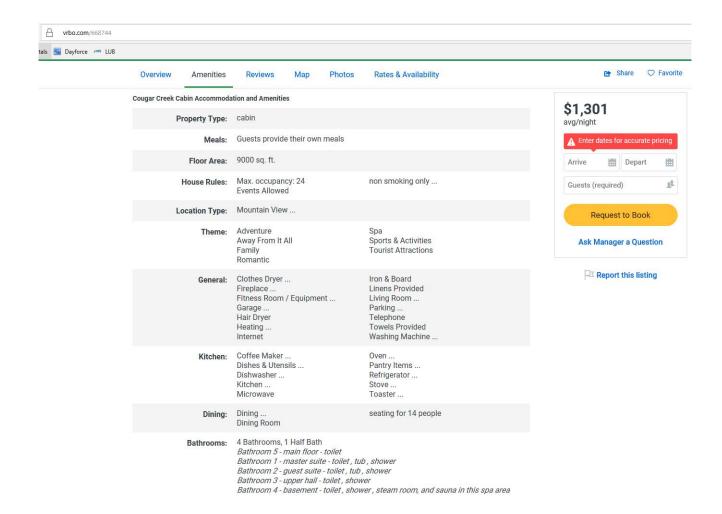
Kyle Sloan
Land Use Enforcement, Town of Canmore
11 December 2017
11:33am

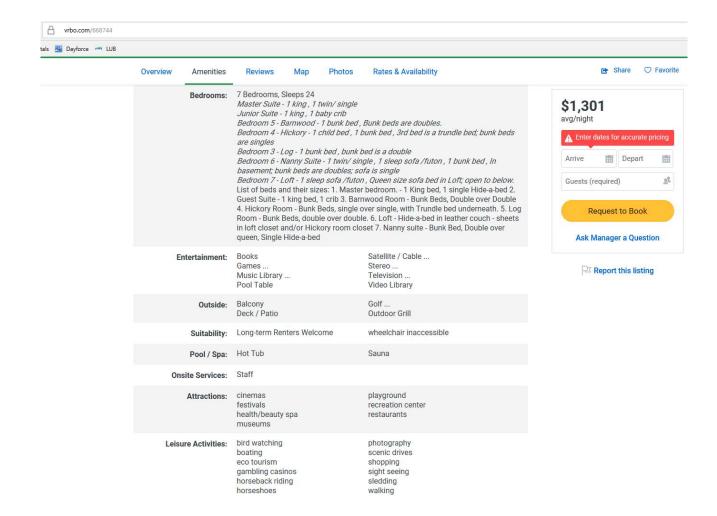
Information obtained from: https://www.vrbo.com/668744

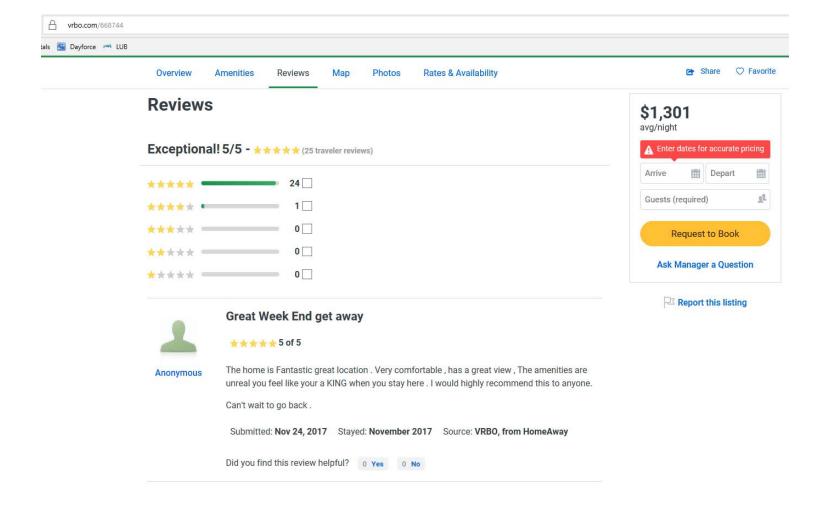


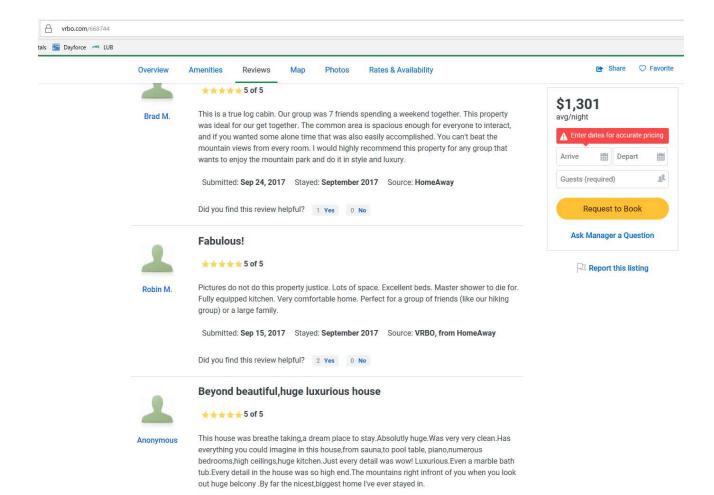




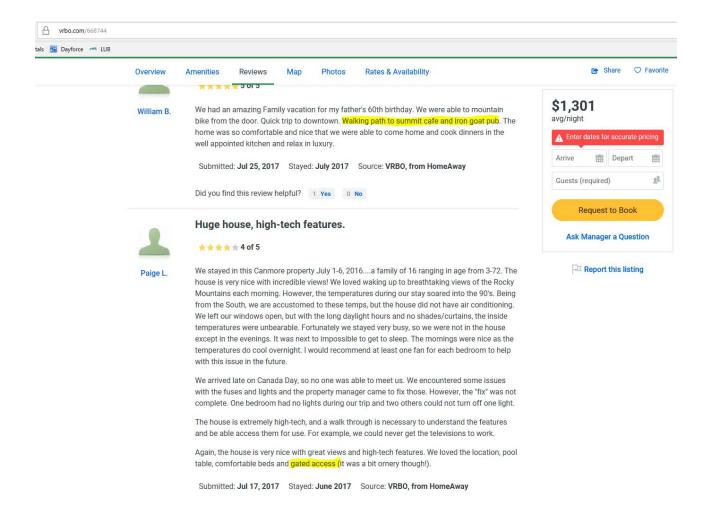


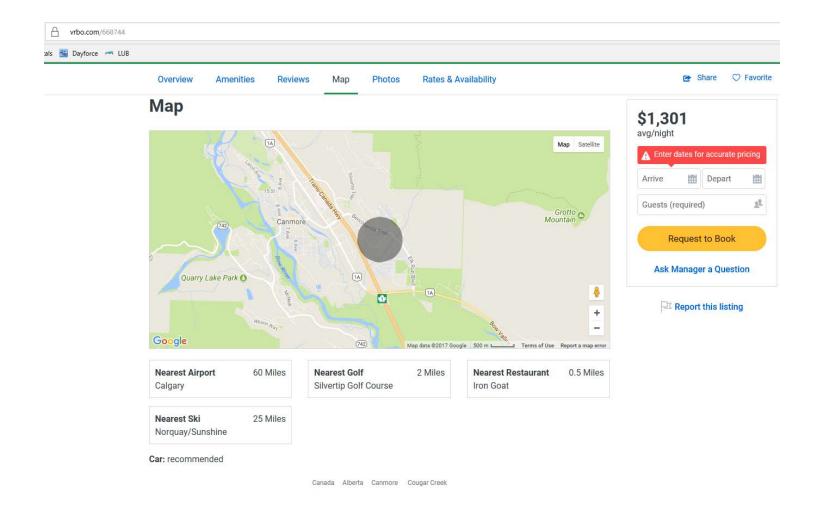




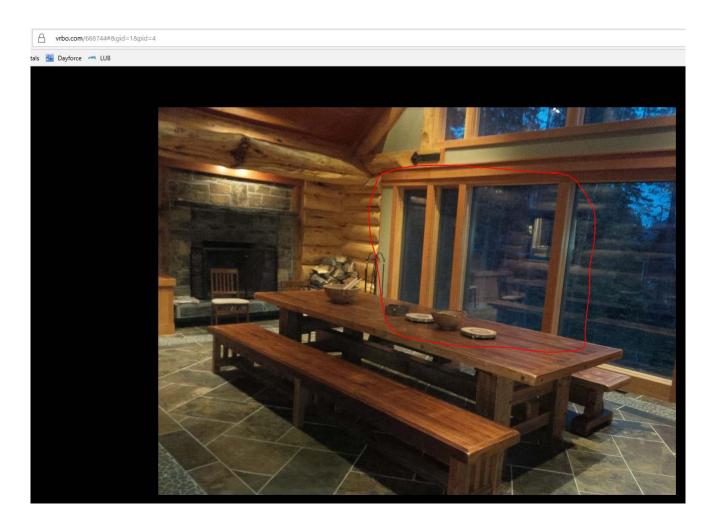


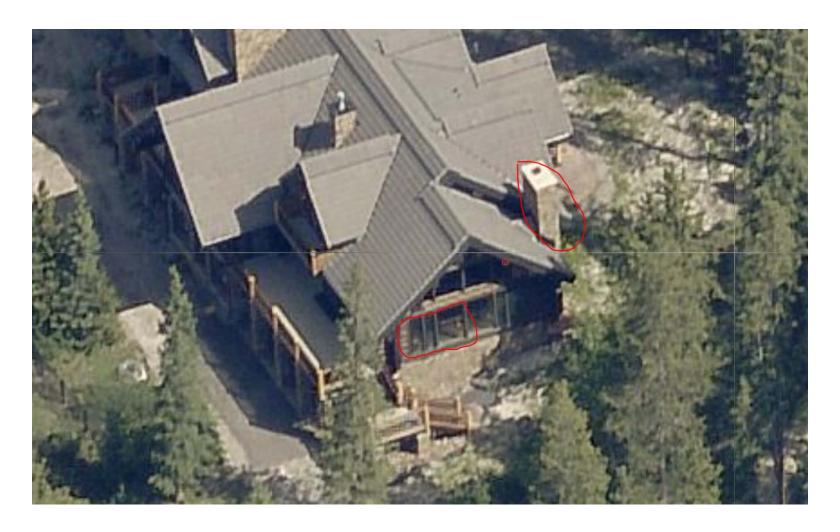
Note the highlighted parts. The gate is visible from Streetview and the path is shown on ToC maps.





This window is a match to what is shown in Pictometry. Also note the location of the fireplace and compare with next slide.





June 27, 2024 SDAB Hearing CEZONE202300011



Submission: Concerns of short-term rental being operated at 133 Wapiti Close. Emails included a link to VRBO posting (provided May 27, 2023) and the following photo, submitted September 2, 2022:





Additional photos provided to the Town, submitted on June 5th, 2023. The first photo is dated for May 5th, 2023, and the second for May 13th, 2023.









Photos received May 27th, 2023. Comment from resident includes: "lots of occupants - 5 cars in the house parking area and two on the street."











Photo submission received from member of the public on June 5th, 2023.





Photos submitted by member of the public, dated June 22, 2023, and July 2, 2023, respectively.





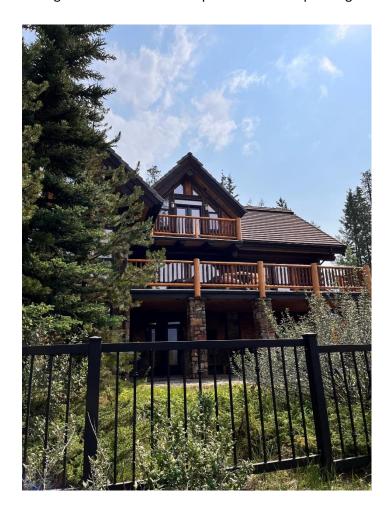


July 2, 2023





Submission: Several photos provided to the Town, where a Town resident claims the photo with the crib from the VRBO posting matches the exterior of 133 Wapiti Close (double doors, deck, distinct wooden railing), along with the views matching between the crib photo and the view that can be seen behind 133 Wapiti Close. Email with photos received June 15, 2023. Note that a portion of the eave can be matched between the right hand side of the crib photo and corresponding exterior photo.



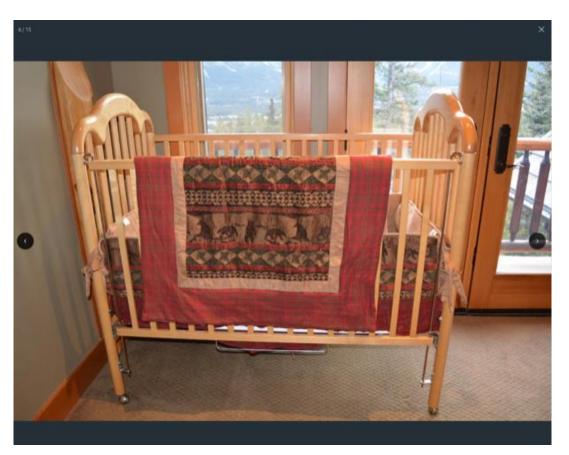




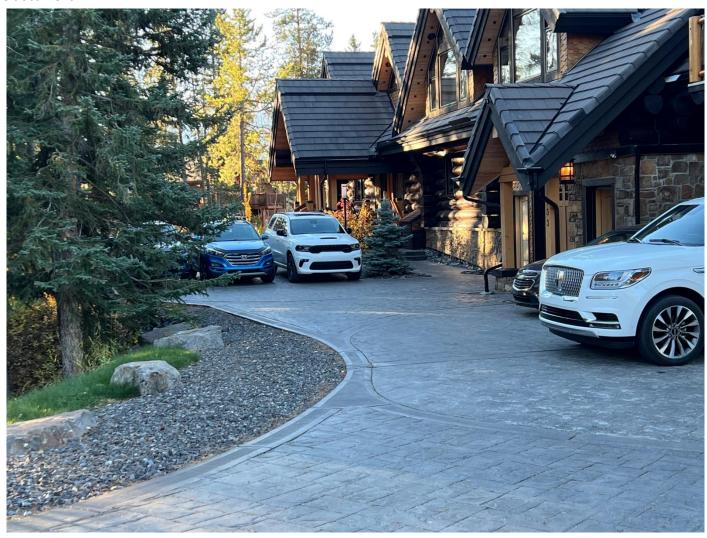
Photo submission from the public: Photo taken September 13th (2023) the group left Sunday the 17th - a party of around 16 - some cars in the garage and a bevy of cabs leaving the place.





Picture taken October 08, 2023

Caption from resident: There are 5 cars in the driveway and at least one hidden in the garage. Saskatchewan plates on at least three vehicles. Please document.



Attention: Sara Jones Clerk, Subdivision & Development Appeal Board

Re: Subdivision & Development Appeal
CEZONE202300011
133 Wapiti Close
Lot 76,Block2 Plan 9811923
Operation of a Tourist Home without a Development Permit

Appeal against a stop order issued by the Canmore Development Authority

Submission by: Andrew Barron and Rosemary Neil 25-242 Benchlands Terrace Canmore AB T1W1E9

As home owners directly below this property we have experienced numerous times when loud music and partying has occurred . The units in our development have back balconies and bedrooms which directly face this property

After a summer storm a couple of years ago, a number of trees had fallen and town crews did a cleanup, therefore there was even less of a natural buffer zone previously provided by the foliage to reduce noise disturbance between our properties. We have at times been forced to close our bedroom windows, on very hot evenings, to muffle the volume as we tried to sleep.

On other occasions residents from our condo units have approached the occupants and asked them to please lower the volume. The RCMP were made aware of the noise issue on at least one occasion when the By-Law office was closed, and attended the residence requesting the noise level to be reduced.

We understand that 133 Wapiti Close is owned by an Edmonton resident and not a full time resident of the town, and parties other than the owner use this residence.

This been an ongoing issue as illustrated by the following article in the Rock Mountain Outlook May 31, 2018 (see below)

https://www.rmoutlook.com/local-news/court-asked-to-overturn-decision-on-illegal-tourist-home-1572512

It is sincerely hoped that the Town Council decides to help maintain our residential area as one that is aligned with both the expectations of community living and abiding to the bylaws of our town.

Yours sincerely

Andrew Barron and Rosemary Neil

Court asked to overturn decision on illegal tourist home

CANMORE - A man whose Canmore hor	ne was determined to be an illegal tourist
home has applied to the Court of Appeal of	of Alberta to appeal the local decision.

CANMORE - A man whose Canmore home was determined to be an illegal tourist home has applied to the Court of Appeal of Alberta to appeal the local decision.

Hans Herchen has applied to the court for permission to appeal the decision of the Subdivision and Development Appeal Board in February to uphold a stop work order issued by the municipality to the alleged illegal tourist home.

A hearing is set for Aug. 14 for him to make the argument to court of why he should be allowed to appeal the decision.

Herchen owned one of two homes subject to an appeal hearing and did not appear in front of the quasijudicial municipal planning appeal board for the hearing about his property 133 Wapiti Close

His neighbours, on the other hand, did show up for the hearing and made submissions to the appeal board that the home was being run as an illegal nightly rental contrary to the Land Use Bylaw.

A member of the condo board for Golden Eagle Estates, Percy Strong, told the board the six-bedroom, five-bathroom gated luxury log home in Eagle Terrace has been a major problem in the neighbourhood.

"It has been a very bad example of a neighbour in the area in the sense that it has increased traffic and there have been a number of incidents ... where the RCMP have been called to that address to shut down parties that were very noisy," he said.

"One of the problems with allowing a place like 133 to be a tourist home is that it sets a very poor precedent for our own complex in the sense that three-quarters are only weekenders and they could easily put their places up (for short term rental) and indeed one or two units have."

Listed at \$1,301 a night online with multiple reviews from those who have rented the 9,000 square foot home, Kyle Sloan, enforcement officer for the municipality, said there was sufficient evidence the property was being used as an illegal tourist home.

In addition to the stop work order, Herchen was handed a \$2,500 ticket as well. A second offence under the bylaw could increase the fine to \$5,000.

In court documents filed by Herchen, he claims the SDAB erred in law or jurisdiction when it determined the homeowner contravened the Land Use Bylaw without conducting a proper inspection or investigation; that it exceeded its jurisdiction to determine the stop order satisfied the legal burden of determining the property was an illegal tourist home and failed to comply with the rules of natural justice by not providing notice that evidence would be presented at the hearing that would be adverse in interest to the applicant.

The appeal hearing was publicly advertised and notice given to affected neighbours to the subject property.

When SDAB chair Ron Casey opened the floor for public comment, neighbours spoke up regarding how the use of the property affects them and their ability to enjoy their residential dwelling units.

But because Herchen was not present to defend himself, he claims the right to appeal the decision in front of the court of appeal.

First, Herchen will have to satisfy the court that he has sufficient legal grounds upon which to appeal, to be determined after submissions at the August hearing.

 From:
 bruce mathews

 To:
 Shared.MunicipalClerk

 Cc:
 nbm@shaw.ca

Subject: Subdivision and Development Appeal CEZONE202300011

Date: June 10, 2024 2:17:57 PM

[Re: CEZONE202300011, 133 Wapiti Close

Submission by: Bruce Mathews and Nancy Fraser

31-242 Benchlands Terrace

Canmore,AB T1W3L8

We are writing to express our concerns regarding the use of the above address as a tourist home. We have lived below this house for the past 6 years and have been directly impacted by the noise from this property many times each year.

We recognize that sound in the Bow Valley travels and have chosen to accept when the music is loud during the early evening hours. While this makes it unpleasant to enjoy our own deck at our residence (not our vacation property) we take it as part of living here.

However, when guests of 133 Wapiti close are outside in the later evening, early morning hours it is untenable. What is key to note is that Units 22 - 33 of 242 Benchlands Terrace all have their master bedrooms facing this property and as such we bear the brunt of the noise.

We have been awakened at 0300 and 0400 hours on numerous occasions to noise so loud that we can actually make out the entire conversation that is occurring above us. It is literally like they are sitting in our bedroom.

These incidents are not restricted to summer time but occur throughout the year. While it is easier to close the window during the winter months our units do not have air conditioning making sleeping with windows closed during the summer unbearable. Furthermore closing the windows at times only mutes the noise.

And while we have on one occasion contacted the RCMP we do not feel that the onus should be on us to do this. It is a sad testament that the owner of this property has little regard for those who also share the neighbourhood. We too deserve a good nights sleep in the home that we own.

We sincerely hope that Town Council decides to uphold the rights of all residents and town bylaws.

If an opportunity presents we would be happy to appear in person.

Sincerely,

Bruce Mathews and Nancy Fraser

Sent from my iPad

From: Rob Owens

To: <u>Shared.MunicipalClerk</u>

Subject: 133 Wapiti Close: Impact on community statement

Date: June 5, 2024 9:33:08 AM

Attn Canmore Subdivision and Development Appeal Board,

I am writing as a resident of Wapiti Close to share how my family and most of my neighbours feel negatively impacted by the currently illegal operation of a tourist home at 133 Wapiti Close.

For several years, this house has been highlighted, without the address listed nor the exterior shown, on sites including Air BnB and VBRO. There has been communications between multiple visitors and local community members confirming that they are renters and not owners nor friends of the property owner. There are regular large party renters of this property that are significantly disruptive to the community, including excessive noise in the hours between 10 pm and 4 am and illegal (in front of the adjacent stop sign, blocking fire access road, etc) and excessive parking of vehicles in the quiet cul-de-sac that we all reside. There are currently 11 children 12 years and under living at Wapiti Close, and the excessive traffic and disregard for speed limits that come from some of these visitors is also a risk.

There is also a lack of infrastructure to support a tourist home designation in this neighbourhood. The needed amenities, such as a grocery store and pharmacy, are not easily accessible by foot, especially for visitors who lack a bike or insight into local amenities and pathways to even the Summit Cafe area. Compared to the regions zoned adequately for Spring Creek and Bow Valley Trail tourist homes, this tourist home doesn't make sense. Compared to a smaller basement Air BnB or a traditionally managed B&B this large home that is advertised to sleep up to eighteen is too much for our cul-de-sac to handle.

The quality of life living on Wapiti Close has been lowered by many residents who did not buy a home here with the knowledge of the disruption that comes from this rental. The current owner has been arrogant and deceitful in his communications when confronted by locals about the concerns we have with his illegal operations.

I am asking for this property's tourist home designation to be denied and for it to be monitored and fined regularly should illegal operations continue.

Thanks for listening,

Rob Owens

Rob Owens (he/him)

President, Onwardup

Glen & Irene Phillips

129 Wapiti Close Canmore, Alberta, Canada T1W 3B

June 05, 2024

Town of Canmore Development Appeal Board

Re: CE Zone 202300011 Lot 76, Block 2, Plan 9811923 Operation of a Tourist Home without a Development Permit

Attn: Municipal.clerk@canmore.ca

We have resided at 129 Wapiti Close for 20 years - I have submitted multiple complaints complete with photos over the last 10 years to enforcement Canmore regarding Hans Herchen's illegal rentals of the property located at 133 Wapiti Close. As his closest immediate neighbour, we have been subjected to multiple noisy weekend party's - male stags and female stagette's involving groups more than 20 people. It is a constant parade of cars and people, most summer weekends - some respectful - some not. When you pay the fee of over \$2,000/night, many renters feel entitled to illegally park on the street, have fires when there are fire bans, and generally disrupt the entire neighbourhood. We have very many small children under 14 years of age, at least a dozen who play on the street. The multiple cars and trucks entering and leaving 133 Wapiti Close are a hazard to these kids.

We are not zoned for short term rentals and this needs to be shut down. It sets a bad example for others that will do the same thing if Hans continues to rent. I am happy to testify if necessary. Two weeks ago, I talked to Hans who rarely shows up at his own house as there were a good 8 pickup trucks in his driveway. As you are aware, he denies renting and says they are all his good friends - yet I did show him a picture of a so-called friend and he was unable to identify her. Possibly because she was a stripper going to perform at a stag. His ads advertising his place for rent which he says is in Silvertip is up and running. His renters need to sign a nondisclosure agreement that will not allow them to post pictures of the outside of his place on social media. They are not given an actual address until just before check in. He is slick. We sincerely hope that the Town of Canmore will not let this opportunity get away on a technicality this time.

Yours traly.

From: <u>Barb Pigott</u>

To: Shared.MunicipalClerk

Subject: Submission for the Appeal at 133 Wapiti Close

Date: June 6, 2024 8:48:29 AM

Good morning,

Apologies for the last minute submission however we just closed on the purchase of our new property at 141 Wapiti Close. We just learned of the appeal as we are moving from Ontario. Super excited by the way!

We had heard all about the illegal Air BNB at 133 Wapiti Close however we weren't concerned as we had been told by several people that the town was shutting it down. As it definitely should be. We have learned from speaking with a few of our new neighbours exactly what happens when the property is rented out including the fact that the owner requires them not to post on social media! We are now extremely concerned for our neighbourhood along with other neighbourhoods in Canmore should the zoning be changed to Tourist Home.

It is of great concern that an owner of a property not designated Tourist Home can continue to ignore it, pay the fine, continue and then get the rezoning approved! This would set a HUGE precedent for example to all of the owners of the Silvertip residents who just vacation there. If this goes through you are basically allowing all of the Silvertip owners the ability to make their properties short term rentals! And it will continue to grow in other neighbourhoods in Canmore.

The town should also increase the fine exponentially because it obviously is not a deterrent to the property owner.

Thank you for considering our submission.

Regards, Barb and Paul Pigott 141 Wapiti Close