



Campbell River Harbour Authority

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An information letter from the Board of Directors, CRHA, to the home port vessel owners, Fisherman's Wharf, Campbell River.

This year has been one of mixed blessings. On the positive side, this year's phenomenal sockeye return brought a flurry of activity and vibrancy to the fishing fleet that use our harbour which has sadly been lacking in the last few years. At a slower pace, our plan of improvements to the harbour infrastructure continued to move forward. And, once again, the summer visitors brought revenue to the harbour and enjoyed our facilities.

On the less than positive side, for the last eight months the CRHA management staff and the Board of Directors have been embroiled in a disturbing dispute with a handful of disgruntled harbour users. To date, the directors have been advised to hold their counsel pending several court proceedings – but we now feel the need to communicate to our home port harbour users the Boards' actions in these matters.

On February 17, 2010, the CRHA acting harbour manager was involved in a very unpleasant incident with a former harbour liveaboard, Mr. E. G. da Costa Duarte. The executive of the Board reviewed the incident log and the witness statement and deemed the event threatening to the safety and the ability of the staff to perform their duties. The following day a written request was delivered to Mr. Duarte to remove his vessel, the "Acor", from the harbour by the end of the month. To protect our staff the Directors instructed that a maritime lawyer be retained to get a court order to have the vessel removed if it did not leave voluntarily.

The immediate response by Mr. Duarte did not attempt to address or deal with the original incident. Instead, in a letter to the Board, dated February 18, 2010, he made a series of demands for information and records with an accompanying threat of investigation by Corporations Canada and the local Judicial Authority. While the Board considered the correct response to what it viewed as demands with menaces and was seeking legal advice, Mr. Duarte swore and filed a private information seeking the approval of criminal charges at the Campbell River courthouse on February 23, 2010, accusing the President of the CRHA of a number of serious crimes including forgery, libel, contravening of an Act of Parliament and committing public mischief.

The Directors felt that the charges made by Mr. Duarte were totally without merit and were a blatant attempt to sully the reputations of the Board members and the acting harbour manager with the threat of criminal prosecution. At the end of February, the "Acor" was still berthed in the harbour and on March 1, 2010, a letter was delivered to Mr. Duarte informing him that a process to have his vessel removed from the harbour would be initiated and that from that day on he would be charged berthage and electricity at the transient daily rate. Following this action Mr. Duarte filed at the court further private information, dated March 9, 2010 accusing the CRHA Board of Directors of a number of fraudulent acts.

The Harbour Authority carries insurance and the insurers were contacted. A Victoria legal firm was engaged by the insurers to represent the CRHA in any criminal proceedings against its directors or staff. To ensure that the Harbour Authority was being properly advised, the Board sought the advice of local lawyers and also continued to work with the maritime lawyer in Vancouver.

On March 18, 2010 Mr. Duarte presented his case at the Campbell River courthouse asking the Court to approve the criminal charges he sought to be laid. That hearing was adjourned to enable the Court to review documents. Over a period of months, Mr. Duarte would continue to make a number of court appearances seeking the approval of the charges.

The process of removal also proceeded at a slow pace but on July 12, 2010 an eviction order against Mr. Duarte and his vessel "Acor" was obtained from in the Federal Court in Vancouver by our maritime lawyer.

In the middle of that month the pressure on the directors was ramped up. Over the weekend of July 17/18, 2010, notices were prominently displayed on CRHA property, selected vessels and at least one local business citing the criminal charges made by Mr. Duarte at the Campbell River Courthouse and a new accusation of impropriety and theft levelled against a director with respect to contract work on floats in the South Harbour. The notice was signed by Mr. Duarte and two members of CRHA and publicly posted on a Sunday, timed for the weekly farmers market – obviously with the intent of causing maximum discomfort to the directors and staff of the CRHA. What had been until then a relatively private matter between harbour officials and a few disgruntled harbour users suddenly became very public.

The Directors continued to feel that the threatened charges of criminal conduct were unfounded and that the new alleged charge of theft was not only wrong but made without the effort to research the terms of the contract. At the time, the Board felt very strongly that a public response was needed both to clear the directors and staff of the unwarranted and injurious charges but also to inform the members of both the financial cost and the stresses that were being imposed by these actions. However, the Board was advised to await the outcome of the legal proceedings before making a statement.

On July 20, 2010, as a result of the Federal Court eviction order, the "Acor" left the harbour. Subsequently, Mr. Duarte filed an appeal against the eviction. On August 25, 2010 the Federal Court dismissed the appeal and upheld the original eviction notice. The Court also awarded costs of \$500 to the CRHA.

Then on August 26, 2010, in Campbell River, Judge Saunders denied approval of the private information seeking the approval of criminal charges that was advanced by Mr. Duarte. Following these decisions in favour of the CRHA, the board members and staff heaved a collective sigh of relief and hoped that the business of running a successful harbour could continue without further threat of legal action.

Our optimism was short lived. On October 25, 2010, Mr. Duarte filed an application at the Campbell River courthouse seeking an order granting the winding-up of the Campbell River Harbour Authority. The hearing will take place on November 15, 2010.

Once again, this is an action against the Board of directors – the same charges of mismanagement, fiscal wrongdoing, the shredding of documents and the charge of theft levelled against an individual director – but this time made in the context of winding up the Harbour Authority. And, once again, your directors are confident that these charges are inaccurate and unfounded and will not succeed.

However, we the directors, and you the home port vessel owners, must take the threat to dissolve our Harbour Authority seriously. What would replace it? Would a new group of harbour supporters be prepared to spend the time and effort to create a new corporation, negotiate a new lease, and draw up a new set of by-laws to represent the best interests of all harbour users? Would Small Craft Harbours (a division of DFO) agree to lease the harbour to a new group and corporation? Or would the management of the harbour revert to DFO – long distance management from Vancouver or Ottawa?

As this latest attempt to frustrate the efforts of the CRHA and discredit its staff and directors winds its way through the courts I ask our home port vessel owners to support the staff and directors who work on your behalf.

In the run-up to our AGM we ask you to consider what this year of dispute has cost the CRHA. Beyond the stress to staff and directors of working under threat of criminal prosecution there are the legal costs incurred – in excess of \$18,000 to date – to defend against the charges brought by Mr. Duarte and to remove his vessel from the harbour.

This dispute has clearly shown the difficulties that staff and the directors face when dealing with some of the harbour users whose behaviour or actions work to undermine the CHRA, balanced against working successfully with the majority of users who support the efforts of the CRHA to continually improve our facility with cost-effective and orderly management.

With that in mind, the directors have formed a sub-committee to examine our current policies and practices, looking for ways to improve our management and if necessary develop the tools to more easily remove a vessel from the harbour if its owner refuses to pay its bills or abide by the terms of the standard moorage agreement. Recommended changes will be brought to the AGM for approval by the membership.

The directors encourage our harbour users to provide input to these discussions through the monthly "Visions" meetings which are held at 5pm on the last Thursday of each month at the Redden Net building or, by contact with the staff or directors. Letters to the Board are read into the correspondence section of the monthly meetings and can provide a basis for discussion.

In closing, I thank all those who have expressed their support for the staff and directors during this difficult time.



Tom Forge
for the CRHA Board of Directors.