

MARINE OCCURRENCE REPORT

TAKING ON WATER AND EVACUATION OF PASSENGERS

OF THE CHARTER VESSEL "VANCOUVER SPIRIT"

OFF WEST VANCOUVER, BRITISH COLUMBIA

11 JUNE 1995

REPORT NUMBER M95W0023

The Transportation Safety Board of Canada (TSB) investigated this occurrence for the purpose of advancing transportation safety. It is not the function of the Board to assign fault or determine civil or criminal liability.

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Summary

The charter vessel "VANCOUVER SPIRIT" departed False Creek, B.C., outbound to Bowen Island, B.C., with 24 passengers and three crew on board. The vessel started taking on water off the coast of West Vancouver in the vicinity of Grebe Islets and rocks. The passengers were transferred to another charter vessel, the "SUMMER SUN", which was in the vicinity. Portable pumps were used to control the ingress of water into the engine space, and the "VANCOUVER SPIRIT" was towed to shelter for subsequent lifting out and repairs.

Ce rapport est également disponible en français.

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The word "passenger(s)" is used to indicate members of the public, other than the crew.

Other Factual Information

Particulars of the Vessel

Name	"VANCOUVER SPIRIT"
Port of Registry	Vancouver, B.C.
Flag	Canadian
Official Number	320222
Type	Yacht
Gross Tonnage	82.1
Crew	3
Passengers	24
Length	20.8 m
Draught (max.)	1.22 m
Built	1947, Wood construction, Québec, Que.
Propulsion	Twin screw
Owners	Real Holdings Ltd. Vancouver, B.C.

The "VANCOUVER SPIRIT" is fitted with two passenger decks, each with steering controls at the forward end, with the main steering and manoeuvring controls on the lower deck. The passenger seating and entertainment area is located at the lower deck level and the dining lounge is at the upper deck level. A flush manhole in the lower deck provides access to the engine space. Embarkation is carried out at the after end of the lower deck.

At about noon on 11 June 1995, 24 passengers, comprising adults and children, boarded the "VANCOUVER SPIRIT" for an excursion. The trip was part of the entertainment activities arranged by the management of a computer manufacturing company for the families and friends of its employees. The company had hired a public relations firm, which arranges such activities, to manage the excursion. The latter had engaged the services of the "VANCOUVER SPIRIT" for this purpose.

The three crew, including the skipper, were not certificated nor were they required to be by regulations. Nonetheless, the mate had Marine Emergency Duties Part A1 and A2 training. A pre-departure safety announcement comprising the location of lifejackets and other safety equipment on board was made by one of the crew over the public address (PA) system. The boat then departed False Creek for Bowen Island. The vessel participated in the Vessel Traffic Services (VTS), routinely reporting to the Vancouver Marine Communications and Traffic Services (MCTS) over the very high frequency radiotelephone.

After passing Point Atkinson, the vessel turned north toward Grebe light off Indian Bluff, West Vancouver. The skipper was at the helm,

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All times are PDT (Coordinated Universal Time (UTC) minus seven hours) unless otherwise stated.

steering by local knowledge, monitoring the progress of the vessel and maintaining a look-out. The mate was attending to the passengers. There was no provision for fixing the vessel's position from the steering console as the radar was inoperable. The passengers were taking part in a game of identifying features ashore.

At about 1340, when the vessel was in proximity of Grebe light, a loud tearing sound was heard over the music playing on the PA system. The sound was heard once again and the steering of the boat became sluggish.

On investigating, the skipper found that water was entering the engine space through the rudder area. It was reported to the MCTS and to other vessels that the "VANCOUVER SPIRIT" had apparently struck a rock. At that time, no mention was made of the possibility of the vessel striking, or of the existence of, a deadhead either to the MCTS or to other vessels which had proceeded to assist. However, it was later indicated that the vessel had possibly struck a deadhead. Other boats in the vicinity saw the "VANCOUVER SPIRIT" very close to the rocks of Grebe Islets. Some of the rocks were covered by water.

The skipper hailed the charter vessel "SUMMER SUN", which was in the vicinity. When she came alongside, the passengers of the "VANCOUVER SPIRIT" were transferred. A Canadian Coast Guard (CCG) cutter and a hovercraft also attended, as did a response boat from the owners of the "VANCOUVER SPIRIT". Additional pumps were used to pump out the water while the leak in the hull was temporarily plugged and the boat towed to safety where she was lifted out of the water for repairs.

History of the Vessel

The vessel is registered as a "yacht" in the ship's registry, but is listed as a "passenger vessel" in the Transport Canada Ship Inspection Registration System. Since 1991, the vessel has been inspected on five occasions and she had been issued an inspection certificate (SIC) 16. The vessel had last been inspected by Transport Canada (TC) Marine Safety on 08 December 1994. The attending surveyor only issued a short-termed SIC 16 due to expire on 07 January 1995 because the work to correct previously identified conditions which compromised vessel safety had not been completed to the surveyor's satisfaction. The work to be performed included the installation of an approved bilge pumping system. At the time of the occurrence, the vessel was operating without a valid inspection certificate.

According to TC Marine Safety, the "VANCOUVER SPIRIT" had a "Charter Party Agreement". The letter agreement between the public relations

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Until 01 April 1995, TC Marine Safety was the Ship Safety Branch of the Canadian Coast Guard. To ensure consistency, the term TC Marine Safety is used throughout this report.

firm and the owners of the "VANCOUVER SPIRIT" set out the departure and arrival times from Granville Island, the price per person and a list of food and beverages to be served on the trip. No seaworthiness or safety requirements were included in the agreement.

Analysis

Since the radar was not operational and there was no other means to fix the vessel's position from the steering console, there was no plotting regime in place. Consequently, the precise position of the vessel was not established. Instead, the skipper relied on local knowledge; this despite the fact that the vessel was being operated in close proximity to rocks. As the skipper was alone on the bridge and engaged in a multitude of tasks, a proper look-out was not maintained.

Charter Vessels

The nature of the charter boat industry has been shrouded in controversy on the West Coast of Canada. In 1986, TC Marine Safety (formerly the CCG) put in place a voluntary compliance programme called the "Passenger Vessel Compliance Programme". However, it met with limited success as some owners felt it had been inconsistently applied, and it was discontinued in 1989. There has been some friction between the owners who spent considerable sums of money to comply with the programme and those who did not.

A "charter vessel" is not defined in the *Canada Shipping Act* (CSA). A "pleasure yacht" is defined in the Act as "... a ship that is used exclusively for pleasure and does not carry passengers", and "passenger" is defined by exclusion.

A recent court ruling highlighted shortfalls in the application of the current legislative provisions to charter vessels. Basically, charter arrangements where the persons on board do not pay, or contribute directly to the payment of the vessel, are considered to be pleasure craft, and the people carried are not passengers within the meaning of the Act. This means that persons carried on these vessels are not being afforded the same safety standards as people transported on "passenger vessels".

Until the definition of "passenger" and "passenger ship" are broadened to apply to pleasure craft like the "VANCOUVER SPIRIT", uncertificated vessels will continue to carry people in circumstances that may not

⁴ See Appendix A for excerpts from the *Canada Shipping Act*.

⁵ REGINA V. 43172 B.C. Inc. Ltd. being the owner of the "DESTINY I" et al., a B.C. decision rendered by the Provincial Court of B.C. in May 1995

be as safe as those afforded to passenger vessels. In most circumstances, these people are unaware of the differences in safety requirements.

Charter-Party Agreements

Many charterers are also unaware of the safety considerations in chartering a vessel. In most instances, it is their expectation that they are only responsible to the owners for monetary compensation for the persons carried and that the owners will provide them with a vessel that is seaworthy and in compliance with all appropriate safety features required for a vessel of her size and type. As a result, charterers rarely ensure that their agreements clearly define seaworthiness and safety standards and who is responsible for maintaining the standards.

Seaworthiness of the Vessel

"Seaworthy" as "applied to a vessel signifies that she is properly constructed, prepared, manned, equipped, and provided, for the voyage intended.... A warranty of seaworthiness extends not only to the condition of the structure of the ship itself, but requires that it be properly laden, and provided with a competent master, a sufficient number of competent officers and seamen ... for the voyage."

The "VANCOUVER SPIRIT" was operating without certificated crew. Further, she continued to operate without replacing the unapproved and ineffective bilge pumping system, which was a pre-condition for the renewal of her inspection certificate.

Findings

1. The current definitions of "passenger" and passenger ship" in the *Canada Shipping Act* allowed the "VANCOUVER SPIRIT" to operate without a valid inspection certificate and without certificated crew.
2. The general public and potential charterers may not fully appreciate the ramifications of chartering a pleasure craft, and the safety of persons carried on charter vessels may be compromised
3. The last inspection certificate issued to the "VANCOUVER SPIRIT" had expired some six months before the occurrence.
4. The certificate was short-termed because outstanding safety

recommendations had not been addressed by the owners.

5. The lack of efficiency of the vessel's bilge pumping system effectively compromised the vessel's seaworthiness and the safety of the passengers and crew.
6. The radar on board was inoperable and there was no systematic plotting regime in place while the vessel was being operated in the vicinity of rocks, and no proper look-out was maintained.
7. The boat struck an underwater object, probably a rock, and started taking on water in the vicinity of Grebe Islets.

Causes and Contributing Factors

The "VANCOUVER SPIRIT" took on water as a result of striking a submerged object, probably a rock, in the vicinity of Grebe Islets. Contributing factors were that a proper look-out was not maintained and the vessel's position was not plotted. Passengers were evacuated safely when it became evident that the bilge pumping system was unable to cope with the ingress of water.

Safety Action Taken

TC has proposed to change the definition of "passenger" in the *Canada Shipping Act*. The new definition will include guests of a charterer as passengers. The proposal received Cabinet approval in May 1996.

This report concludes the Transportation Safety Board's investigation into this occurrence. Consequently, the Board, consisting of Chairperson Benoît Bouchard and members Maurice Harquail, Charles Simpson, and W.A. Tadros, authorized the release of this report on 23 December 1996.