

SHIP



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MANAGEMENT

I N T E R N A T I O N A L



Who will be
the ship
owner of the
future?

Reports alone are not enough

Stuart Munro, CEO of Transport Intermediaries Club (ITIC), explains why ship managers should ensure that important information and recommendations about deficiencies are confirmed in writing

ITIC regularly deals with claims against ship managers involving the poor condition of a vessel and allegations of how the defects had not been drawn to owners' attention. Owners will then claim that, if they had been told about the issues, the problems would have been dealt with earlier and at less cost.

Managers will frequently respond that the owners were aware of the problems but didn't provide the necessary funds. On a more detailed review of the managers' position, one or both of the following two arguments are often put forward. First, the managers allege that they told the owners about the defects at a routine meeting and that the remedial work was not done because of spending and maintenance restrictions. Secondly, the managers point out that the defects were referred to in reports sent to the owners.

Managers should make sure that important information and recommendations about deficiencies are confirmed in writing. Sometimes, people are reluctant to highlight negative issues but, without a written record, it is much harder to defend the manager's position.

If the managers have not provided a specific written warning about the defects in question, they will often point out that the owners had received a report from which those defects could have been ascertained. This was one of the issues in a claim recently handled by ITIC.

The ship managers acted as managers of a vessel for a number of years until it was sold. When it was delivered in Northern Europe to the buyers, Class suspended the vessel's approvals due to the state of its ballast tanks.

The sellers faced a claim from the buyers, which was settled. They then turned their attention to the managers and issued proceedings in which they alleged that they had not been kept sufficiently informed about the condition of the vessel's ballast tanks. In addition, they claimed that the managers had failed to have the ballast tanks repaired during drydocking in South Africa six months earlier.

The claimed amount was the difference in repair costs (and steel replacement) between undertaking the repairs in Durban and in Northern Europe six months later.

The managers defended the claim on the basis that they had reasonably relied upon survey reports obtained during the drydocking in South Africa and that the owners had received copies of this and previous reports over the years. A report by a court-appointed expert stated that the survey reports provided to the owners showed deterioration in the ballast water tanks over a number of years and that these should have been investigated. If this had been done, the repairs would have been undertaken earlier at less cost.

The expert concluded that it was not enough that the owners had received copies of the reports, and maintained that the managers were under a duty to bring the future need for substantial steel renewals clearly and unequivocally to the attention of the owner. A negotiated settlement of \$700,000 was reached.

The result in this case does not mean that owners can ignore information sent to them. The outcome of claims will depend on their individual facts. There is a world of difference between a report which contains information that, if considered, would alert the reader to the need to ask questions, and one that highlights defects. A manager does, however, need to make sure that bad news is adequately drawn to the owner's attention. ●

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