

Liability in Charting

In 2001 the Danish Hydrographic Office (HO) was claimed for damages by the owner of a yacht that ran aground and claimed for damages. The owner claimed that the grounding was due to an error on the chart.

Although hydrographers and cartographers do their utmost in collecting and presenting accurate information, it can sometimes go wrong and the surveying or charting company is sued. In cases of negligence, it does however not always mean that all of the damages are fully recovered. In Denmark, a thirty-year old forgotten detail in a chart, recently led to the grounding of a yacht and a claim followed.

The Sewer Construction

In 1969 a sewer was constructed in the Svendborg Sound. The pipeline was buried in the seabed with the exception of a part, where it was placed in an underwater embankment crossing a hollow in the seabed. Thus the depth in the area was reduced from about 4 metres to only 1.2 metres.

The municipality of Svendborg informed the Danish Hydrographic Office and forwarded drafts and positions of the pipeline and the embankment. The drafts showed clearly that the depth would be reduced in the area where the sewer was placed in the embankment. The Hydrographic Office warned about the construction and position of the pipeline and how it was buoyed during the construction period with a temporary Danish Notice to Mariners.

On completion of the construction the municipality informed the Hydrographic Office again and how it was marked by fixed beacons. Upon this information, the Hydrographic Office updated the chart of Svendborg Sound with the two beacons and the pipeline position now shown on the chart. The shallower depth over the embankment however was forgotten and not presented, as can be seen on the copy of the "old" chart.

The Liability

In 2001 a yacht grounded on the underwater embankment and was damaged. The owner claimed off the Hydrographic Office for their damages.

According to Danish law the Hydrographic Office can be held liable for damages, when it has acted negligently. This will be the case, when the Hydrographic Office has information about depths or other facts relevant for navigation that are not charted. Otherwise, the Hydrographic Office will not be held liable when some relevant information for navigation is not charted, because it is unknown to the Hydrographic Office, and therefore ignorance of the information is not due to negligence.

In spite of the fact that the Hydrographic Office may have acted negligently, the Office may in some cases not be held liable to pay damages or may only be partly liable. That is the case, when the grounding also is due to the sailor's fault, e.g. where he has navigated in an area, where other information indicated that the area was dangerous to navigation.

The Damages Paid

In the case of the grounding of the yacht in Svendborg Sound it seemed doubtless that the Hydrographic Office was liable. The municipality of Svendborg and the Hydrographic Office had corresponded a number of times during the construction, and the Hydrographic Office had got all information needed to change the chart, including the depth of 1.2 meters above the embankment. Therefore the Hydrographic Office paid damages to the owner of the yacht.

After the grounding of the yacht, the Hydrographic Office corrected the chart, now showing a depth figure of 1.2 metres on the position of the embankment (see Figure 2).

The amount of money paid - about 9,000 dkr. - compensated the owner's expenses for repairs of the yacht. The main expenses were paid by the insurance. Further, half of his expenses for renting another boat, while his yacht was being repaired, were compensated for, because his yacht was partly put to commercial use.