

DATE: November 21, 1985
TO: Bill Punch, Property Department
FROM: City Attorney
SUBJECT: New Boat Construction and Final Rigging for
Boats Transported to Leased Premises - Mission
Bay Marina

By memorandum dated October 10, 1985, you asked whether the City can legally allow the lessee of the Mission Bay Marina to build new boats on a portion of its leasehold as well as to install "final rigging" on boats which have been built elsewhere. The questions arise as a result of the fact that the leasehold area is within a dedicated public park.

Dedicated public parks must be used solely and exclusively for park and recreation purposes. Constructing boats or installing "final rigging" on boats would generally not be considered a park and recreation use. However, since Mission Bay is an "aquatic" park it may be legally allowable to build boats in a small portion of the park if additional facilities are constructed by the lessee which allow and encourage the public to view the various stages of the boat building process.

For example, if a public viewing ramp were installed around the boat construction area, it would appear that a park and recreation purpose would be served in providing the public with an opportunity to watch the construction and rigging of boats as such processes occur.

If the lessee is unwilling to provide substantial public access and viewing facilities, however, we would have to conclude that boat building and rigging would not by itself qualify as a park and recreation use.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug
Deputy City Attorney

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