

Georgia Straight Talk

Aquarium lease linked to expansion

By *charlie smith*

Publish Date: 14-Sep-2006

A Vancouver park commissioner says that if the aquarium expands, the park board can increase the annual rent charged for the use of Stanley Park. The Vancouver Aquarium Marine Science Centre pays \$40,000 per year under its lease with the Vancouver park board. The lease expires in 2015.

COPE Comm. **Loretta Woodcock** told the *Straight* that the lease only covers land now occupied by the aquarium, which has proposed increasing its size by 50 percent, or an additional 0.6 hectares. If this expansion is approved, it will occupy land not covered under the lease.

"The only way we can open up that lease is if they decided to expand outside of their footprint," Woodcock said. "It allows us to look at the \$40,000-a-year rent that they pay us."

The Vancouver Aquarium Marine Science Centre, a registered charity, generated \$24 million in revenue in 2004, according to documents filed with the Canada Revenue Agency. The lease only allows the aquarium to import cetaceans caught in the wild before September 16, 1996—echoing the language of a 1996 park-board bylaw.

Under the lease, the park board is prohibited from interfering with the "day-to-day administration" of the aquarium. In the past, park-board officials have claimed that the park board cannot amend the bylaw regarding cetaceans because it is written into the lease.

Woodcock, however, suggested that if the aquarium alters its footprint in Stanley Park, this would reopen the lease negotiations and the park board could amend its bylaw concerning whales and dolphins. "First of all, it means we can revise the bylaw and tighten it up," she said.

Denis Howarth, legislative consultant for a group called No Whales in Captivity, told the *Straight* earlier this month that the park board could amend the bylaw without reopening the lease. "It's established in administrative law that a government cannot fetter its legislative discretion by contract," Howarth claimed. "This lease doesn't fetter the park board's legislative discretion. There is nothing wrong with the way the city lawyers drew it. If it did fetter the park board's discretion to amend the bylaw, a court would simply sever those provisions."

On September 11, the park board voted not to participate in a public-consultation process with the aquarium on its \$80-million expansion plan.